

Tab 1	SB 150 by Steube (CO-INTRODUCERS) Baxley, Passidomo, Artilles, Mayfield; (Compare to CS/H 00477) Controlled Substances						
423494	D	S	RCS	CJ, Steube	Delete everything after	04/03 05:34 PM	
626444	AA	S	RCS	CJ, Bracy	btw L.1523 - 1524:	04/03 05:34 PM	
164354	AA	S	RCS	CJ, Bracy	btw L.2067 - 2068:	04/03 05:34 PM	
Tab 2	SB 476 by Bean; (Similar to H 00457) Terrorism and Terrorist Activities						
629468	A	S	RCS	CJ, Bean	Delete L.118 - 199:	04/03 05:34 PM	
Tab 3	SB 684 by Baxley; (Similar to CS/H 00699) Internet Identifiers						
102584	D	S	RCS	CJ, Baxley	Delete everything after	04/03 05:34 PM	
Tab 4	SB 686 by Baxley; (Similar to CS/H 00701) Public Records/Internet Identifiers						
351510	D	S	RS	CJ, Baxley	Delete everything after	04/03 05:34 PM	
800428	SD	S	RCS	CJ, Baxley	Delete everything after	04/03 05:34 PM	
Tab 5	SB 766 by Rodriguez; (Compare to CS/H 00343) Payment Card Offenses						
432620	D	S	RCS	CJ, Rodriguez	Delete everything after	04/03 05:34 PM	
Tab 6	SB 918 by Simmons; Driving Under the Influence						
636140	D	S	RCS	CJ, Simmons	Delete everything after	04/03 05:34 PM	
826562	AA	S	RCS	CJ, Simmons	Delete L.99 - 104:	04/03 05:34 PM	
Tab 7	SB 970 by Bracy; (Similar to CS/CS/CS/H 01167) Florida Compensation Trust Fund for Survivors of Human Trafficking/Department of Law Enforcement						
149896	D	S	RS	CJ, Bracy	Delete everything after	04/17 02:19 PM	
635414	SD	S	RCS	CJ, Bracy	Delete everything after	04/17 02:19 PM	
Tab 8	SB 972 by Bracy; (Compare to CS/CS/CS/H 01165) Human Trafficking						
228352	D	S	RS	CJ, Bracy	Delete everything after	04/17 02:36 PM	
176364	SD	S	RCS	CJ, Bracy	Delete everything after	04/17 02:37 PM	
129704	ASA	S	WD	CJ, Rouson	btw L.5 - 6:	04/17 02:37 PM	
Tab 9	SB 1228 by Gainer; (Similar to H 01031) Marine Turtle Protection Act						
Tab 10	SB 1564 by Garcia; (Similar to H 01385) Domestic Violence						
Tab 11	SB 1622 by Passidomo (CO-INTRODUCERS) Torres; (Identical to H 01239) School Bus Safety						
Tab 12	SB 1788 by Bracy; (Similar to CS/H 01417) Public Records/Victim of Human Trafficking						
491246	D	S	RS	CJ, Bracy	Delete everything after	04/17 02:43 PM	
744366	SD	S	RCS	CJ, Bracy	Delete everything after	04/17 02:43 PM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Bracy, Chair
Senator Baxley, Vice Chair

MEETING DATE: Monday, April 3, 2017
TIME: 1:30—3:30 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	SB 150 Steube (Compare CS/H 477)	Controlled Substances; Requiring a mandatory minimum term of imprisonment for specified violations related to controlled substances which are committed in a dwelling; creating a criminal penalty for possession with intent to distribute a controlled substance under certain circumstances; creating the criminal penalties of "trafficking in fentanyl" and "trafficking in synthetic drugs", etc. CJ 04/03/2017 Fav/CS JU ACJ AP	Fav/CS Yeas 6 Nays 0
2	SB 476 Bean (Similar H 457)	Terrorism and Terrorist Activities; Extending the applicability of the definition of the term "terrorism" to other sections of ch. 775, F.S.; prohibiting a person from using, attempting to use, or conspiring to use military-type training received from a designated foreign terrorist organization for certain purposes; prohibiting a person from providing material support or resources, or engaging in other specified actions, to violate specified criminal provisions, etc. CJ 04/03/2017 Fav/CS MS ACJ AP	Fav/CS Yeas 6 Nays 1
3	SB 684 Baxley (Similar CS/H 699, Compare CS/H 701, Linked S 686)	Internet Identifiers; Requiring a sexual predator to register each Internet identifier's corresponding website homepage or application software name with the Department of Law Enforcement through the sheriff's office; requiring a sexual offender, upon initial registration, to report in person at the sheriff's office; requiring a sexual offender to report any change to certain information after initial in-person registration in a specified manner, etc. CJ 04/03/2017 Fav/CS ACJ AP	Fav/CS Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, April 3, 2017, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 686 Baxley (Similar CS/H 701, Compare CS/H 699, Linked S 684)	Public Records/Internet Identifiers; Requiring that electronic mail addresses and Internet identifiers of sexual predators or sexual offenders reported pursuant to specified laws be exempt from public record requirements unless otherwise ordered by a court; providing for future review and repeal of the exemption; providing a statement of public necessity, etc. CJ 04/03/2017 Fav/CS GO AP	Fav/CS Yeas 6 Nays 0
5	SB 766 Rodriguez (Compare CS/H 343)	Payment Card Offenses; Prohibiting the possession of a scanning device with intent to defraud; providing criminal penalties, etc. CJ 04/03/2017 Fav/CS ACJ AP	Fav/CS Yeas 6 Nays 0
6	SB 918 Simmons	Driving Under the Influence; Providing penalties for a first-time refusal of a chemical or physical test of a person's breath, blood, or urine; providing that a subsequent refusal by a person who has previously had a license suspension for a prior refusal is a misdemeanor of the first degree; prohibiting a court from suspending, deferring, or withholding adjudication of guilt or the imposition of a sentence or penalty for a specified offense, etc. CJ 04/03/2017 Fav/CS TR AP RC	Fav/CS Yeas 6 Nays 0
7	SB 970 Bracy (Similar CS/H 1167, Compare CS/H 1165, Linked S 972)	Florida Compensation Trust Fund for Survivors of Human Trafficking/Department of Law Enforcement; Creating the Florida Compensation Trust Fund for Survivors of Human Trafficking within the Department of Law Enforcement; providing for future review and termination or re-creation of the trust fund, etc. CJ 04/03/2017 Temporarily Postponed JU AP	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, April 3, 2017, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
8	SB 972 Bracy (Compare CS/H 1165, CS/H 1167, CS/H 1417, Linked S 970, S 1788)	Human Trafficking; Citing this act as the "Civil Action Against Human Trafficking of Minors and Survivors Compensation Fund Act"; creating a civil cause of action for minors who are victims of human trafficking; authorizing such minors to recover actual and punitive damages; providing for recovery by a prevailing victim or the Florida Compensation Trust Fund for Survivors of Human Trafficking of attorney fees, investigative expenses, court costs, economic and noneconomic damages, forfeited personal and real property, and other applicable civil penalties, etc. CJ 04/03/2017 Temporarily Postponed JU AP	Temporarily Postponed
9	SB 1228 Gainer (Similar H 1031)	Marine Turtle Protection Act; Adding the existing offense of possession of any marine turtle species or hatchling, or parts thereof, or nests to level 3 of the offense severity ranking chart for the purpose of increasing sentencing points for conviction of the offense, etc. CJ 04/03/2017 Favorable EP AP	Favorable Yeas 7 Nays 0
10	SB 1564 Garcia (Similar H 1385)	Domestic Violence; Specifying that a person must complete a batterers' intervention program ordered as a condition of probation in certain circumstances; increasing the minimum terms of imprisonment for domestic violence; prohibiting the award of attorney fees in specified domestic violence proceedings, etc. CJ 04/03/2017 Favorable ACJ AP	Favorable Yeas 6 Nays 0
11	SB 1622 Passidomo (Identical H 1239)	School Bus Safety; Citing this act as the "Cameron Mayhew Act"; providing mandatory noncriminal penalties for certain violations resulting in serious bodily injury to or death of another person, etc. CJ 04/03/2017 Favorable TR RC	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, April 3, 2017, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
12	SB 1788 Bracy (Similar CS/H 1417, Compare CS/H 1165, Linked S 972)	Public Records/Victim of Human Trafficking; Providing an exemption from public records requirements for specified redacted and sealed information identifying a victim of human trafficking; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. CJ 04/03/2017 Temporarily Postponed GO AP	Temporarily Postponed

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.flsenate.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/SB 150

INTRODUCER: Criminal Justice Committee and Senator Steube and others

SUBJECT: Controlled Substances

DATE: April 5, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 150 addresses scheduling for controlled substances and punishment for controlled substance offenses. The bill also provides for prison diversion of certain nonviolent offenders who are convicted of a drug possession offense or whose criminal behavior is related to substance abuse and who are amenable to treatment. Specifically, the bill:

- Provides that a person 18 years of age or older commits felony murder if he or she unlawfully distributes any specified controlled substance, including a specified fentanyl-related substance, and the distribution is proven to be the proximate cause of the death of the user of the substance;
- Includes in Schedule I a class of fentanyl derivatives and five substances that were originally developed for legitimate research but that have now emerged in the illicit drug market;
- Punishes unlawful possession of 10 grams or more of certain Schedule II substances, including certain fentanyl-related substances;
- Adds codeine, an isomer of hydrocodone, to a current provision punishing trafficking in hydrocodone, and adds additional phenethylamines and phencyclidines to current provisions punishing trafficking in phencyclidine and phenethylamine;
- Punishes trafficking in fentanyl, synthetic cannabinoids, and n-benzyl phenethylamines, including mandatory minimum terms of imprisonment and mandatory fines;
- Authorizes a court to depart from a mandatory minimum sentence for drug trafficking after evaluating the defendant's crime, history, character, and chances for successful rehabilitation,

if the court finds compelling reasons on the record that the mandatory minimum sentence is not necessary to protect the public;

- Authorizes certain crime laboratory personnel to possess, store, and administer emergency opioid antagonists used to treat opioid overdoses;
- Provides that cross-references throughout the Florida Statutes to the Florida Comprehensive Drug Abuse Prevention and Control Act (ch. 893, F.S.), or any portion thereof, include all subsequent amendments to the act;
- Requires that certain offenders convicted of simple possession of a controlled substance receive a nonstate prison sanction unless such sentence could present a danger to the public;
- Restores a circumstance for mitigating (reducing) a sentence based on substance abuse or addiction and amenability to treatment; and
- Requires diversion through drug court, residential drug treatment, or drug offender probation for certain nonviolent felony offenders who are amenable to substance abuse treatment.

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation has not yet reviewed the provisions of the bill involving felony murder by drug distribution, controlled substances scheduling, and controlled substance offenses. However, those provisions are identical to provisions in CS/HB 477, which the CJIC estimates will have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds). See Section V. Fiscal Impact Statement.

The CJIC has not reviewed the provision of the bill authorizing a court to depart from a mandatory minimum sentence for a drug trafficking offense. However, the CJIC reviewed SB 1436, which, in part, authorizes departures for trafficking in hydrocodone and oxycodone, and estimates that bill would have a “negative indeterminate” prison bed impact. See Section V. Fiscal Impact Statement.

The CJIC has not reviewed prison diversion provisions of the bill. However, these provisions are identical to provisions in CS/SB 290. The CJIC estimates that prison diversion for certain drug possession offenders will result in a cumulative decrease of 1,001 prison beds over 5 years (FY 2017-2018 to FY 2021-2022) with a cumulative cost avoidance of \$131,965,742. Other prison diversion provisions are estimated to have a “negative indeterminate” prison bed impact (an unquantifiable decrease in prison beds). The actual impact associated with passage of the bill will differ depending on a number of factors including the existing inventory of prison beds. See Section V. Fiscal Impact Statement.

The Office of the State Courts Administrator estimates the prison diversion provisions of CS/SB 290 will have an indeterminate fiscal impact due to an anticipated increase in judicial time and workload as a result of increased sentencing hearing time. See Section V. Fiscal Impact Statement.

The Department of Corrections has also provided preliminary impact estimates for prison diversion provisions of CS/SB 290. See Section V. Fiscal Impact Statement.

II. Present Situation:

Florida's Controlled Substance Schedules

Section 893.03, F.S., classifies controlled substances into five categories, known as schedules. These schedules regulate the manufacture, distribution, preparation, and dispensing of the substances listed in the statute. The most important factors in determining which schedule may apply to a substance are the “potential for abuse”¹ of the substance and whether there is a currently accepted medical use for the substance.² The controlled substance schedules are described as follows:

- Schedule I substances (s. 893.03(1), F.S.) have a high potential for abuse and have no currently accepted medical use in the United States. This schedule includes cannabis and heroin.
- Schedule II substances (s. 893.03(2), F.S.) have a high potential for abuse and have a currently accepted but severely restricted medical use in the United States. This schedule includes cocaine, codeine, and fentanyl.
- Schedule III substances (s. 893.03(3), F.S.) have a potential for abuse less than the substances contained in Schedules I and II and have a currently accepted medical use in the United States. This schedule includes stimulants and anabolic steroids.
- Schedule IV substances (s. 893.03(4), F.S.) have a low potential for abuse relative to the substances in Schedule III and have a currently accepted medical use in the United States. This schedule includes benzodiazepines and barbiturates.
- Schedule V substances (s. 893.03(5), F.S.) have a low potential for abuse relative to the substances in Schedule IV and have a currently accepted medical use in the United States. This schedule includes mixtures that contain small quantities of opiates and codeine.

Punishment of Prohibited Drug Acts

Section 893.13, F.S., in part, punishes unlawful possession, sale, purchase, manufacture, and delivery of a controlled substance. The penalty for violating s. 893.13, F.S., depends on the act committed, the substance and quantity of the substance involved in the act, and the location in which the violation occurred. For example, selling a controlled substance listed in s. 893.03(1)(c), F.S., which includes many synthetic controlled substances, is a third degree felony.³ However, if that substance is sold within 1,000 feet of the real property of a child care facility or secondary school, the violation is a second degree felony.⁴

Drug trafficking, which is punished in s. 893.135, F.S., consists of knowingly selling, purchasing, manufacturing, delivering, or bringing into this state, or knowingly being in actual or

¹ Pursuant to s. 893.035(3)(a), F.S., “potential for abuse” means a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: (1) used in amounts that create a hazard to the user’s health or the safety of the community; (2) diverted from legal channels and distributed through illegal channels; or (3) taken on the user’s own initiative rather than on the basis of professional medical advice.

² See s. 893.03, F.S.

³ Section 893.13(1)(a)2., F.S. A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or both. Sections 775.082 and 775.083, F.S.

⁴ Section 893.13(1)(c)2., F.S. A second degree felony is punishable by up to 15 years in state prison, a fine of up to \$10,000, or both. *Id.*

constructive possession of, certain controlled substances in a statutorily-specified quantity. The statute only applies to a limited number of controlled substances. The quantity of the substance must meet a specified weight threshold. Most drug trafficking offenses are first degree felonies⁵ and are subject to a mandatory minimum term and a mandatory fine, which is determined by the weight range applicable to the quantity of the substance involved in the trafficking.

Fentanyl and Related Drugs

Fentanyl is a Schedule II controlled substance.⁶ Some fentanyl analogs⁷ or derivatives⁸, such as alfentanil,⁹ carfentanil,¹⁰ and sufentanil¹¹ are also Schedule II controlled substances.¹² It is a second degree felony to possess alfentanil, carfentanil, or fentanyl with the intent to sell, manufacture, or deliver them, or to unlawfully sell, manufacture, or deliver any of these substances.¹³

“Fentanyl is a powerful synthetic opioid analgesic that is similar to morphine but is 50 to 100 times more potent.”¹⁴ When prescribed by a physician, fentanyl is typically used to treat patients

⁵ A first degree felony is generally punishable by up to 30 years in state prison and a fine of up to \$10,000. However, when specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. *Id.*

⁶ Section 893.03(2)(b)9., F.S.

⁷ “An analog is a drug whose structure is related to that of another drug but whose chemical and biological properties may be quite different.” Chemistry-Dictionary.com, available at <http://www.chemistry-dictionary.com/definition/analog.php> (last visited on March 28, 2017).

⁸ A “derivative” is “a chemical compound that may be produced from another compound of similar structure in one or more steps, as in replacement of H by an alkyl, acyl, or amino group.” Drugs.com, available at <https://www.drugs.com/dict/derivative.html> (last visited on March 28, 2017).

⁹ Alfentanil is “a short-acting opioid anesthetic and analgesic derivative of [fentanyl]. It produces an early peak analgesic effect and fast recovery of consciousness. Alfentanil is effective as an anesthetic during surgery, for supplementation of analgesia during surgical procedures, and as an analgesic for critically ill patients.” “Alfentanil,” MeSH, National Center for Biotechnology Information, U.S. National Library of Medicine, available at <https://www.ncbi.nlm.nih.gov/mesh/?term=alfentanil> (last visited on March 28, 2017).

¹⁰ Carfentanil is a fentanyl derivative. “Fentanyl drug profile,” European Monitoring Centre for Drug and Drug Addiction, available at <http://www.emcdda.europa.eu/publications/drug-profiles/fentanyl> (last visited on March 28, 2017). The drug “is one of the most potent opioids known (also the most potent opioid used commercially).” “Carfentanil,” National Center for Biotechnology Information, U.S. National Library of Medicine, available at <https://pubchem.ncbi.nlm.nih.gov/compound/carfentanil#section=Top> (last visited on March 28, 2017). The drug “has a quantitative potency approximately 10,000 times that of morphine and 100 times that of fentanyl, with activity in humans starting at about 1 microgram. It is marketed ... as a general anesthetic agent for large animals. Carfentanil is intended for large-animal use only as its extreme potency makes it inappropriate for use in humans. Currently sufentanil, approximately 10-20 times less potent (500 to 1000 times the efficacy of morphine per weight) than carfentanil, is the maximum strength fentanyl analog for use in humans.” *Id.*

¹¹ Sufentanil is a fentanyl derivative. “Fentanyl drug profile,” European Monitoring Centre for Drug and Drug Addiction, available at <http://www.emcdda.europa.eu/publications/drug-profiles/fentanyl> (last visited on March 28, 2017). The drug “is an opioid analgesic that is used as an adjunct in anesthesia, in balanced anesthesia, and as a primary anesthetic agent.” “Sufentanil,” National Center for Biotechnology Information, U.S. National Library of Medicine, available at <https://pubchem.ncbi.nlm.nih.gov/compound/41693> (last visited on March 28, 2017).

¹² Section 893.03(2)(b)1., 6., and 29., F.S.

¹³ Section 893.13(1)(a)1., F.S.

¹⁴ “DrugFacts” (revised June 2016), National Institute on Drug Abuse, available at <https://www.drugabuse.gov/publications/drugfacts/fentanyl> (last visited on March 28, 2017). “The estimated lethal dose of fentanyl in humans is 2 mg.” “Fentanyl drug profile,” European Monitoring Centre for Drug and Drug Addiction, available at <http://www.emcdda.europa.eu/publications/drug-profiles/fentanyl> (last visited on March 28, 2017).

with severe pain or to manage pain after surgery and is administered via injection, transdermal patch, or in lozenges.¹⁵ Although prescription fentanyl can be misused, most overdoses and related deaths have been linked to illicitly-manufactured fentanyl, including fentanyl analogs.¹⁶ Illicitly-manufactured fentanyl is produced in clandestine laboratories and may be sold as a powder, spiked on blotter paper, mixed with heroin, or as tablets made to look like other, less potent opioids.¹⁷ Fentanyl and its analogs may be mixed into other drugs and sold without the customer's knowledge of the presence of fentanyl.¹⁸

According to a recent report by the Centers for Disease Control and Prevention, during 2013–2014, fentanyl submissions¹⁹ increased 494 percent in Florida (from 33 to 196), concurrent with a 115 percent increase in fentanyl deaths in Florida (from 185 to 397).²⁰ Fentanyl analogs were specifically implicated in 49 drug overdose deaths in Florida between January and June 2015.²¹ According to the 2015 Annual Report (dated September 2016) of the Florida Medical Examiners, there were 911 deaths in which fentanyl was present (206) or deemed the cause of death (705).²² Further, 99 of the deaths associated with fentanyl only had that drug in their system, while the rest were in combination with another drug.²³

Illicit Use of Compounds Developed for Forensic and Research Applications

Compounds are often developed for legitimate forensic and research applications. However, some of these compounds later emerge in the illicit drug market. The following substances are examples of those substances:

- W-15, 4-chloro-N- [1- (2-phenylethyl) -2-piperidinylidene] -benzenesulfonamide.
- W-18, 4-chloro-N- [1-[2-(4-nitrophenyl) ethyl] -2-piperidinylidene] -benzenesulfonamide.
- AH-7921, 3, 4-dichloro-N- [(1-dimethylamino) cyclohexyl]methyl] -benzamide.
- U47700, trans-3, 4-dichloro-N- [2-(dimethylamino) cyclohexyl] -N-methyl-benzamide.
- MT-45,1-cyclohexyl-4- (1,2-diphenylethyl) -piperazine, dihydrochloride.

¹⁵ *Id.*

¹⁶ “Increases in Fentanyl-Related Overdose Deaths-Florida and Ohio, 2013-2015,” *Morbidity and Mortality Weekly Report* (August 26, 2016), Centers for Disease Control and Prevention, available at

<https://www.cdc.gov/mmwr/volumes/65/wr/mm6533a3.htm> (last visited on March 28, 2017).

¹⁷ “DrugFacts” (revised June 2016), National Institute on Drug Abuse, available at

<https://www.drugabuse.gov/publications/drugfacts/fentanyl> (last visited on March 28, 2017).

¹⁸ For example, the National Institute on Drug Abuse has noted that “it is likely that carfentanil is being added to mixtures of heroin and other street drugs.” “Alert Issued in Ohio for Human Use of Animal Sedative Carfentanil, with Cases Also Seen in Florida” (August 23, 2016), National Institute on Drug Abuse, available at <https://www.drugabuse.gov/drugs-abuse/emerging-trends-alerts> (last visited on March 28, 2017).

¹⁹ In this context, “submissions” means “drug products obtained by law enforcement that tested positive for fentanyl.” *Id.*

²⁰ “Increases in Fentanyl-Related Overdose Deaths-Florida and Ohio, 2013-2015,” *Morbidity and Mortality Weekly Report* (August 26, 2016), Centers for Disease Control and Prevention, available at

<https://www.cdc.gov/mmwr/volumes/65/wr/mm6533a3.htm> (last visited on March 28, 2017).

²¹ *Id.*

²² *Drugs Identified in Deceased Persons* (2015 Annual Report) (September 2016), p. 3, Florida Medical Examiners Commission, available at <http://www.fdle.state.fl.us/cms/MEC/Publications-and-Forms.aspx> (last visited on March 28, 2017).

²³ *Id.* at p. 30.

W-15 and W-18 are “two of a series of drugs with analgesic properties of unknown origin synthesized in Canada in 1981.”²⁴ AH-7921 is an experimental opioid agonist developed and patented by the former pharmaceutical company Allen & Hanburys.²⁵ U-47700 “is an opioid analgesic drug developed by the pharmaceutical company Upjohn in the 1970s and is structurally related to AH-7921[.]”²⁶ “MT-45 is a piperazine derivate originally synthesized by a pharmaceutical company in the 1970s.”²⁷

U-47700 is currently a Schedule I controlled substance pursuant to emergency rule²⁸ of the Florida Attorney General’s Office.²⁹

Emergency Treatment for Suspected Opioid Overdose

In addition to being deadly to drug users, fentanyl-related drugs pose a dangerous threat to first responders and law enforcement, because a lethal dose can be accidentally inhaled or absorbed through the skin.³⁰ The U.S. Drug Enforcement Administration has warned laboratory personnel to take measures to protect themselves from accidental exposure and to immediately administer Naloxone, a drug used to treat opioid overdoses, in the event of exposure.³¹

Section 381.887, F.S., authorizes certain emergency responders³² to possess, store, and administer emergency opioid antagonists as clinically indicated. Crime laboratory personnel are not referenced in the statute.

Synthetic Cannabinoids, Cathinones, and Phenethylamines

Section 893.03(1)(c), F.S., lists numerous substances described as “hallucinogenic substances.” Many of them appear to be synthetic cannabinoids, cathinone derivatives, and phenethylamines.

²⁴ Mohr, A., Friscia, M., Papsun, D., Kacinko, S., Buzby, D., and Logan, B., “Analysis of Novel Synthetic Opioids U-47700, U-50488 and Furanyl Fentanyl by LC–MS/MS in Postmortem Casework” (2016) 40(9): 709, 716 (footnote and citation omitted), *Journal of Analytical Toxicology*, available at <https://academic.oup.com/jat/article/40/9/709/2527448/Analysis-of-Novel-Synthetic-Opioids-U-47700-U> (last visited on March 28, 2017). “Emerging evidence suggests that W-18 is not an opioid.” “Novel Synthetic Opioids in Counterfeit Pharmaceuticals and other Illicit Street Drugs” (June 2016), *CCENDU Bulletin*, Canadian Centre on Substance Abuse, available at <http://www.ohrdp.ca/ccendu-bulletin-novel-synthetic-opioids-in-counterfeit-pharmaceuticals-and-other-illicit-street-drugs/> (last visited on March 28, 2017).

²⁵ Kjellgren, A., Jacobsson K., and Soussan C., “The Quest for Well-Being and Pleasure: Experiences of the Novel Synthetic Opioids AH-7921 and MT-45, as Reported by Anonymous Users Online” (2016) 7(4): 1 (footnote and citation omitted), *Journal of Addiction Research & Therapy*, available at <https://www.omicsonline.org/open-access/the-quest-for-wellbeing-and-pleasure-experiences-of-the-novel-syntheticopioids-ah7921-and-mt45-as-reported-by-anonymous-users-onli-2155-6105-1000287.php?aid=77568> (last visited on March 28, 2017).

²⁶ See footnote 24.

²⁷ *Id.* (footnote and citation omitted).

²⁸ Section 893.035(7), F.S.

²⁹ Notice of Emergency Rule, 2ER16-1 (“Addition of U-47700 (3,4-dichloro-N-(2-(dimethylamino)cyclohexyl)-N-methylbenzamide) [t]o Schedule I, Subsection 893.03(1)(a), F.S.”) and Certification of Department of Legal Affairs Emergency Rule Filed with the Department of State (filed September 27, 2016), Department of Legal Affairs (on file with the Senate Committee on Criminal Justice).

³⁰ “DEA Issues Carfentanil Warning to Police and Public” (September 22, 2016), U.S. Drug Enforcement Administration, available at <https://www.dea.gov/divisions/hq/2016/hq092216.shtml> (last visited on March 28, 2017).

³¹ *Id.*

³² Emergency responders include, but are not limited to, law enforcement officers, paramedics, and emergency medical technicians. Section 381.887(4), F.S.

“Synthetic [c]annabinoids are chemicals that act as cannabinoid receptor agonists. Chemically they are not similar to cannabinoids but ... they are cannabinoid-like in their activity.”³³

Cathinone is a Schedule I controlled substance.³⁴ The “molecular architecture” of cathinone “can be altered to produce a series of different compounds which are closely structurally related to cathinone. Together these are known as the ‘cathinones’ or ‘cathinone derivatives.’”³⁵

“Phenethylamines” is a broad category of “psychoactive substances.”³⁶ Probably the most well-known phenethylamine is 3,4-Methylenedioxymethamphetamine (MDMA), which is often referred to by the street name “Ecstasy.” Phenethylamines include “the ‘2C’ series of hallucinogenic phenethylamines” (referring to “the chemical structure consisting of two carbon atoms between the phenyl and amine moieties”).³⁷ A new group of 2C compounds, referred to as the “N-methoxybenzyl-substituted phenethylamines (NBOMe)” have emerged on the illicit drug market.³⁸ These compounds were “[i]nitially synthesized for research purposes,” and “are thought to be more potent than some of the conventional hallucinogens.”³⁹

Felony Murder by Drug Distribution

Section 782.04(1)(a)3., F.S., provides that if a person 18 years of age or older unlawfully distributes certain controlled substances that are later proven to be the proximate cause of the death of a drug user, the distributor commits murder in the first degree, a capital felony.⁴⁰ The controlled substances currently included in this subparagraph are:

- A substance controlled under s. 893.03(1), F.S.;
- Cocaine;
- Opium or any synthetic or natural salt, compound, derivative, or preparation of opium; and
- Methadone.

Under s. 782.04(1)(a)3., F.S., a defendant does not need to intend an act of homicide, have knowledge of a drug overdose, or be present when it occurs. In order to be guilty of this offense, the defendant need only intend to unlawfully distribute one of the prohibited drugs that results in a death caused by the drug.⁴¹

³³ “Synthetic Cannabinoids Drug Information,” Redwood Toxicology Laboratory, *available at* https://www.redwoodtoxicology.com/resources/drug_info/synthetic_cannabinoids (last visited on March 28, 2017).

³⁴ Section 893.03(1)(c)8. F.S.

³⁵ *Consideration of the cathinones* (March 2010), p. 6, Advisory Council on the Misuse of Drugs, United Kingdom, *available at* https://www.gov.uk/government/uploads/system/uploads/attachment_data/file/119173/acmd-cathinodes-report-2010.pdf (last visited on March 28, 2017).

³⁶ Sanders B., Lankenau S., Bloom J., and Hathazi D., “‘Research chemicals’: Tryptamine and Phenethylamine Use Among High Risk Youth” (2008) 43(3-4): 389, *Substance Use & Misuse*, *available at* <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC2536767/> (last visited on March 28, 2017).

³⁷ “NBOMe Drugs,” *CALL US* ... (official newsletter) (Spring 2015) 13(2), California Poison Control System, *available at* <http://www.calpoison.org/hcp/2015/callusvol13no2.htm> (last visited on March 28, 2017).

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ A capital felony is generally punishable by life imprisonment or a death sentence as provided in s. 921.141, F.S. “First-degree murder by drug distribution has been a recognized offense since 1972. *See* ch. 76-141, § 1, Laws of Fla.; ch. 72-724, § 3, Laws of Fla.” *Pena v. State*, 829 So. 2d 289, 291 (Fla. 2d 2002), approved *Pena v. State*, 901 So. 2d 781 (Fla. 2005), rehearing denied *Pena v. State*, 2005 Fla. LEXIS 994 (Fla. Apr. 25, 2005).

⁴¹ *Pena v. State*, 829 So. 2d at 294.

Criminal Punishment Code

In 1997, the Legislature enacted the Criminal Punishment Code⁴² (Code) as Florida's "primary sentencing policy."⁴³ Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).⁴⁴ Points are assigned and accrue based upon the level ranking assigned to the primary offense, additional offenses, and prior offenses.⁴⁵ Sentence points escalate as the level escalates. Points may also be added or multiplied for other factors such as victim injury. The lowest permissible sentence is any nonstate prison sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent. Absent mitigation,⁴⁶ the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.⁴⁷

Mandatory Minimum Sentences and Departures

Mandatory minimum terms of imprisonment limit judicial discretion in Code sentencing: "If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence."⁴⁸ Generally, the sentencing range under the Code is the scored lowest permissible sentence up to and including the statutory maximum penalty. However, if there is a mandatory minimum sentence that is longer than the scored lowest permissible sentence, the sentencing range is narrowed: the mandatory minimum sentence up to and including the statutory maximum penalty.

There are limited circumstances in which departure from a mandatory minimum term is authorized: the defendant is a youthful offender;⁴⁹ the state attorney waives a "10/20/Life" mandatory minimum term;⁵⁰ the state attorney moves to reduce or suspend a sentence based on substantial assistance rendered;⁵¹ and a departure from a mandatory minimum term for a

⁴² Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

⁴³ *Florida's Criminal Punishment Code: A Comparative Assessment (FY 2012-2013)* (Executive Summary), Florida Department of Corrections, available at http://www.dc.state.fl.us/pub/sg_annual/1213/executives.html (last visited on March 28, 2017).

⁴⁴ Offenses are either ranked in the offense severity level ranking chart in s. 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in s. 921.0023, F.S.

⁴⁵ Section 921.0024, F.S. Unless otherwise noted, information on the Code is from this source.

⁴⁶ The court may "mitigate" or "depart downward" from the scored lowest permissible sentence if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

⁴⁷ If the scored lowest permissible sentence exceeds the maximum penalty in s. 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment.

⁴⁸ Fla. R. Crim. P. 3.704(d)(26). See *State v. Vanderhoff*, 14 So.3d 1185, 1189 (Fla. 5th DCA 2009) ("the parties incorrectly assumed that a mitigating factor that would justify a downward departure under the Criminal Punishment Code, could also allow the trial court to waive a mandatory sentence").

⁴⁹ Section 958.04, F.S.

⁵⁰ Section 27.366, F.S.

⁵¹ Sections 790.163(2), 790.164(2), and 893.135(4), F.S.

violation s. 316.027(2)(c), F.S. (driver involved in a fatal crash fails to stop and remain at the scene of a crash).⁵²

Section 893.135, F.S., contains the most mandatory minimum terms (47) for felonies.

Departure from a Code Sentence When Total Sentence Points are 22 Points or Fewer

An exception to typical Code sentencing is found in s. 775.082(10), F.S. Under this subsection, if a defendant is sentenced for an offense committed on or after July 1, 2009, which is a third degree felony but not a forcible felony,⁵³ and if the total sentence points pursuant to s. 921.0024, F.S., are 22 points or fewer, the court must sentence the offender to a nonstate prison sanction. However, if the court makes written findings that a nonstate prison sanction could present a danger to the public, the court may sentence the offender to a state correctional facility.

Sentence Mitigating Circumstances

As previously noted, the permissible sentencing range under the Code is generally the scored lowest permissible sentence up to and including the maximum penalty provided under s. 775.082, F.S. However, the court may “depart downward” from the scored lowest permissible sentence if the court finds there is a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.⁵⁴

Relevant to the bill, pre-Code sentencing guidelines provided for the following mitigating circumstance: “The defendant requires specialized treatment for addiction, mental disorder, or physical disability, and the defendant is amenable to treatment.”⁵⁵

With the enactment of the Code, this mitigating circumstance was modified.⁵⁶ As modified, the mitigating circumstance read: “The defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction or for a physical disability, and the defendant is amenable to treatment.”⁵⁷ The Code also specified that the defendant’s “substance abuse or addiction, including intoxication,⁵⁸ at the time of the offense” was not a mitigating

⁵² Section 316.027(2)(g), F.S.

⁵³ Section 776.08, F.S., defines a “forcible felony” as treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; burglary; arson; kidnapping; aggravated assault; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; and any other felony which involves the use or threat of physical force or violence against any individual.

⁵⁴ Section 921.0026(4)(d), F.S., specifies that mitigating circumstances include, but are not limited to, the mitigating circumstances specified in that section.

⁵⁵ Section 921.0016, F.S. (1996). In 1993, the Legislature codified this mitigating factor which was created by the Florida Supreme Court in 1987. Chapter 93-406, s. 13, L.O.F.; *Barbera v. State*, 505 So.2d 413 (Fla. 1987). In *Barbera*, the court was persuaded that intoxication and drug dependency could mitigate a sentence because the defense of intoxication could be used by a jury to justify convicting a defendant of a lesser offense. In 1999, the Legislature eliminated the voluntary intoxication defense. Chapter 99-174, L.O.F.; s. 775.051, F.S.

⁵⁶ Chapter 97-194, s. 8, L.O.F.

⁵⁷ Section 921.0026(2)(d), F.S. (1997).

⁵⁸ While s. 775.051, F.S., provides that voluntary intoxication resulting from the consumption, injection, or other use of alcohol or other controlled substances (except those legally prescribed) is not a defense to any offense, this does not necessarily preclude the Legislature from addressing substance abuse or addiction, including intoxication, as a mitigating circumstance. For example, while a defendant may not raise as a defense that the victim was a willing participant in the

factor and did “not, under any circumstance, justify a downward departure from the permissible sentencing range.”⁵⁹

In 2009, the Legislature created a mitigating circumstance in which substance abuse or addiction could be considered: “The defendant’s offense is a nonviolent felony, the defendant’s Criminal Punishment Code scoresheet total sentence points under s. 921.0024 are 52 points or fewer, and the court determines that the defendant is amenable to the services of a postadjudicatory treatment-based drug court program and is otherwise qualified to participate in the program as part of the sentence.”⁶⁰ The only subsequent change to this mitigating circumstance occurred in 2011 when the Legislature increased total sentence points from 52 points to 60 points.⁶¹ Further, since the 2009 change, the law specifies that, except for this mitigating circumstance, the defendant’s substance abuse or addiction, including intoxication, is not a mitigating factor.⁶²

Drug Court Diversion for Certain Nonviolent Felony Offenders

Section 948.01, F.S., in part, authorizes a court to place a defendant into a postadjudicatory treatment-based drug court program if the defendant’s offense is a nonviolent felony⁶³ committed on or after July 1, 2009, the defendant’s Code scoresheet total sentence points under s. 921.0024, F.S., are 60 points or fewer, the defendant is amenable to substance abuse treatment, and the defendant otherwise qualifies under s. 397.334(3), F.S.⁶⁴

The satisfactory completion of the program is a required condition of the defendant’s probation or community control. The defendant must be fully advised of the purpose of the program and must agree to enter the program. The original sentencing court must relinquish jurisdiction of the defendant’s case to the postadjudicatory drug court program until the defendant is no longer active in the program, the case is returned to the sentencing court due to the defendant’s termination from the program for failure to comply with the terms thereof, or the defendant’s sentence is completed.

III. Effect of Proposed Changes:

The bill, which takes effect October 1, 2017, addresses scheduling for controlled substances and punishment for controlled substance offenses. The bill also provides for prison diversion of

crime, the Legislature has authorized mitigation of a Code sentence based on this circumstance. Section 921.0026(2)(f), F.S.; *State v. Rife*, 789 So.2d 288 (Fla. 2001).

⁵⁹ Section 921.0026(3), F.S. (1997).

⁶⁰ Section 921.0026(2)(m) and (3), F.S.; ch. 2009-64, s. 2, L.O.F. The term “nonviolent felony” has the same meaning as provided in s. 948.08(6), F.S., which defines “nonviolent felony” as a third degree felony violation of ch. 810, F.S., or any other felony offense that is not a forcible felony as defined in s. 776.08, F.S.

⁶¹ Chapter 2011-33, s. 2, L.O.F.

⁶² Section 921.0026(3), F.S. Further, while current law provides for a mitigating circumstance based on the defendant requiring specialized treatment for a mental disorder if the defendant is amenable to treatment, that mental disorder cannot be related to substance abuse or addiction or for a physical disability. Section 921.0026(2)(d), F.S.

⁶³ “Nonviolent felony” has the same meaning as provided in s. 948.08(6), F.S.

⁶⁴ Section 948.01(7), F.S. Section 397.334(3)(a), F.S., provides that entry into any postadjudicatory treatment-based drug court program as a condition of probation or community control pursuant to s. 948.01, F.S., s. 948.06, F.S., or s. 948.20, F.S., must be based upon the sentencing court’s assessment of the defendant’s criminal history, substance abuse screening outcome, amenability to the services of the program, total sentence points, the recommendation of the state attorney and the victim, if any, and the defendant’s agreement to enter the program.

certain nonviolent offenders who are convicted of a drug possession offense or whose criminal behavior is related to substance abuse and who are amenable to treatment. A full description of the provisions of the bill is provided below.

Emergency Treatment for Suspected Opioid Overdose (Section 1)

Section 1 of the bill amends s. 381.887, F.S., to add certain crime laboratory personnel to the group of persons authorized to possess, store, and administer emergency opioid antagonists as clinically indicated. These crime laboratory personnel include, but are not limited to:

- Analysts;
- Evidence intake personnel; and
- Their supervisors.

Crime laboratory personnel will be authorized to administer the medication without a prescription, allowing them to respond in the event of accidental exposure in the course of their job performance.

Felony Murder by Drug Distribution (Section 2)

Section 2 of the bill amends s. 782.04(1)(a)3., F.S., to add four substances to the offense of felony murder by drug distribution. As a result of this change, a person 18 years of age or older commits felony murder if he or she unlawfully distributes any of the following substances and the distribution of the substance is proven to be the proximate cause of the death of the user of the substance:

- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil; or
- A controlled substance analog, as described in s. 893.0356, F.S.,⁶⁵ of any described substance (or a substance currently listed this subparagraph),⁶⁶ and mixtures containing any of those substances.

Cross-References to the Florida Comprehensive Drug Abuse Prevention and Control Act (Section 3)

Currently, there are numerous specific references to sections contained in ch. 893, F.S. There is no statute allowing such specific references to automatically incorporate subsequent amendments. Section 3 of the bill creates s. 893.015, F.S., to specify that the purpose of ch. 893, F.S., is to comprehensively address drug abuse prevention and control in this state, and, as such,

⁶⁵ A “controlled substance analog” is a substance which, due to its chemical structure and potential for abuse, if the substance: (1) is substantially similar to that of a Schedule I or Schedule II controlled substance; and (2) has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II. Section 893.0356(2)(a), F.S.

⁶⁶ Those substances are: a substance controlled under s. 893.03(1)(c), F.S.; cocaine; opium or any synthetic or natural salt, compound, or derivative, or preparation of opium; and methadone.

unless expressly provided otherwise, a specific reference to ch. 893, F.S., or any section thereof incorporates all subsequent amendments to ch. 893, F.S., or any section thereof.⁶⁷

Scheduling of Controlled Substances (Section 4)

Section 4 of the bill amends s. 893.03(1)(a), F.S., to add fentanyl derivatives to Schedule I, including:

- A general class by chemical structure (a 4-anilidopiperidine structure or “core”) and a description of chemical substitutions that can be made to the structure to remain an illicit member of the structure family;⁶⁸
- Twenty-three substances specifically identified as fentanyl derivatives; and
- An exclusion for alfentanil, carfentanil, fentanyl, and sufentanil so as to not alter their current placement in Schedule II.

The bill amends s. 893.03(1)(c), F.S., to add five new substances to Schedule I. These substances, which have emerged in the illicit drug market, were originally developed for forensic and research applications:

- W-15, 4-chloro-N- [1- (2-phenylethyl) -2-piperidinylidene] -benzenesulfonamide;
- W-18, 4-chloro-N- [1- [2-(4-nitrophenyl) ethyl] -2-piperidinylidene] -benzenesulfonamide;
- AH-7921, 3, 4-dichloro-N- [1-(dimethylamino) cyclohexyl] methyl] -benzamide;
- U47700, trans-3, 4-dichloro-N- [2-(dimethylamino) cyclohexyl] -N-methyl-benzamide; and
- MT-45, 1-cyclohexyl-4- (1, 2-diphenylethyl) -piperazine, dihydrochloride.

Unlawful Drug Acts Involving Certain Schedule II Controlled Substances (Section 5)

Section 5 of the bill amends s. 893.13(6)(c), F.S., which currently provides that it is a first degree felony to possess more than 10 grams of certain Schedule I controlled substances, to include certain Schedule II substances (substances listed in s. 893.03(2)(b), F.S., which includes fentanyl and fentanyl derivatives).

Trafficking in Codeine (Section 6)

Section 6 of the bill amends s. 893.135(1)(c)2., F.S., which currently punishes “trafficking in hydrocodone,” to add a specific scheduling reference for hydrocodone and to:

⁶⁷ “Legislative enactments frequently incorporate portions of the Florida Statutes by reference. A cross-reference to a general body of law (without reference to a specific statute) incorporates the referenced law and any subsequent amendments to or repeal of the referenced law.” Preface to the official 2016 Florida Statutes, p. viii (case citations omitted). “In contrast, as a general rule, a cross-reference to a specific statute incorporates only the language of the referenced statute as it existed at that time, unaffected by any subsequent amendments to or repeal of the incorporated statute.” *Id.* To avoid the necessity of reenacting specific references to sections within certain chapters of law, the Legislature has codified provisions that allow for all specific references to sections of law within certain chapters to automatically incorporate all subsequent amendments. Such chapters of law include ch. 435, F.S. (“Employment Screening”) and ch. 938, F.S. (“Court Costs.”). *See* ss. 435.01 and 938.31, F.S.

⁶⁸ For example “[w]ith or without substitution of the piperidine ring for a pyrrolidine ring, perhydroazepine ring, or azepine ring.”

- Add codeine,⁶⁹ a Schedule II substance⁷⁰ and an isomer⁷¹ of hydrocodone,⁷² to the controlled substances punishable under this subparagraph; and
- Remove “derivative, isomer, or salt of an isomer” related to hydrocodone from those punishable under this subparagraph.⁷³

By adding codeine to the trafficking in hydrocodone provision, codeine becomes subject to current penalties for trafficking in hydrocodone. Currently, trafficking in 14 grams or more of hydrocodone is generally a first degree felony and is subject to the following mandatory minimum terms of imprisonment and mandatory fines:

- A 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000, if the quantity involved is 14 grams or more, but less than 28 grams;
- A 7-year mandatory minimum term of imprisonment and a mandatory fine of \$100,000, if the quantity involved is 28 grams or more, but less than 50 grams;
- A 15-year mandatory minimum term of imprisonment and a mandatory fine of \$500,000, if the quantity involved is 50 grams or more, but less than 200 grams; and
- A 25-year mandatory minimum term of imprisonment and a mandatory fine of \$750,000, if the quantity involved is 200 grams or more, but less than 30 kilograms.⁷⁴

Further, trafficking in 30 kilograms or more of hydrocodone is “trafficking in illegal drugs,” a first degree felony punishable by life imprisonment.⁷⁵ However, a person commits the capital felony⁷⁶ of “trafficking in illegal drugs,” which is also punishable by a mandatory fine of \$500,000, if:

- The court determines that, in addition to committing the act:
 - The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or
 - The person’s conduct in committing that act led to a natural, though not inevitable, lethal result.⁷⁷
- A person knowingly brings into Florida 60 kilograms or more of hydrocodone (or any another specified substance), knowing that the probable result of such importation would be the death of any person.⁷⁸

⁶⁹ Codeine is an opioid, typically prescribed as a pain reliever and cough suppressant, which has a high potential for addiction. “The Effects of Codeine Use,” DrugAbuse.com, available at <http://drugabuse.com/library/the-effects-of-codeine-use/> (last visited on March 28, 2017).

⁷⁰ Section 893.03(2)(a)1.g., F.S.

⁷¹ An isomer is “one of two or more compounds, radicals, or ions that contain the same number of atoms of the same elements but differ in structural arrangement and properties.” Merriam-Webster (online dictionary), available at <https://www.merriam-webster.com/dictionary/isomer> (last visited on March 28, 2017).

⁷² Email from Michelle DePaola, Chemistry Technical Leader, Florida Department of Law Enforcement, to staff of the House Criminal Justice Subcommittee (February 23, 2017) (on file with the Senate Committee on Criminal Justice).

⁷³ *Id.* This language is removed because codeine is the only known isomer of hydrocodone and is specifically scheduled in s. 893.03(2)(a)1.g., F.S.

⁷⁴ Section 893.135(1)(c)2.a.-d., F.S.

⁷⁵ Section 893.135(1)(c)4., F.S.

⁷⁶ A capital drug trafficking felony is punishable by life imprisonment or a death sentence as provided in s. 921.142, F.S.

⁷⁷ Section 893.135(1)(c)4., F.S. (“trafficking in illegal drugs”).

⁷⁸ Section 893.135(1)(c)5., F.S. (“capital importation of illegal drugs”).

Trafficking in Oxycodone (Section 6)

Section 6 of the bill amends s. 893.135(1)(c)3., F.S., which currently punishes “trafficking in oxycodone,” to add a specific scheduling reference for oxycodone and to remove the words “derivative, isomer, or salt of an isomer,” which currently appear in this subparagraph, because there have not been any drugs identified as a derivative, isomer, or salt of an isomer of oxycodone.⁷⁹

Trafficking in Fentanyl (Section 6)

Section 6 of the bill creates s. 893.135(1)(c)4., F.S., which punishes “trafficking in fentanyl.” Trafficking in fentanyl, a first degree felony, is knowingly selling, purchasing, manufacturing, delivering, or bringing into Florida, or knowingly being in actual or constructive possession of, 4 grams or more of:

- Alfentanil;
- Carfentanil;
- Fentanyl;
- Sufentanil;
- A fentanyl derivative as described in s. 893.03(1)(a)62., F.S. (added by Section 1 of the bill);
- A controlled substance analog, as described in s. 893.0356, F.S., of any described substance; or
- A mixture containing any described substance.

This offense includes mandatory minimum terms of imprisonment and mandatory fines, which are based on the quantity involved in the trafficking:

- A 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000, if the quantity involved is 4 grams or more, but less than 14 grams;
- A 15-year mandatory minimum term of imprisonment and a mandatory fine of \$100,000, if the quantity involved is 14 grams or more, but less than 28 grams; and
- A 25-year mandatory minimum term of imprisonment and a mandatory fine of \$500,000, if the quantity involved is 28 grams or more.

Trafficking in Phencyclidine (Section 6)

Section 6 of the bill amends s. 893.135(1)(d), F.S., which currently punishes “trafficking in phencyclidine,” to add a specific scheduling reference for phencyclidine and to add the following substances to those currently punishable under this paragraph:

- A substance identified as a “substituted phenylcyclohexylamine” in s. 893.03(1)(c)195., F.S.;⁸⁰
- Five analogs of phencyclidine described in s. 893(1)(c)13., 32., 38., 103., and 146., F.S.; and

⁷⁹ Email from Michelle DePaola, Chemistry Technical Leader, Florida Department of Law Enforcement to staff of the House Criminal Justice Subcommittee (February 23, 2017) (on file with the Senate Committee on Criminal Justice).

⁸⁰ Phenylcyclohexylamine is a relative of phencyclidine. The term “substituted” is a general term that means a portion of the chemical structure is removed and replaced with a different chemical structure. There are many permutations. The term “substituted phenylcyclohexylamine” can have many different substitutions but the base structure is that of phenylcyclohexylamine. E-mail from staff of the Florida Department of Law Enforcement to staff of the Senate Committee on Criminal Justice (March 28, 2017) (on file with the Senate Committee on Criminal Justice).

- A mixture containing any described substance.

By adding these substances to the trafficking in phencyclidine provision, these substances become subject to current penalties for trafficking in phencyclidine. Currently, trafficking in 28 grams or more of phencyclidine is generally a first degree felony and is subject to the following mandatory minimum terms of imprisonment and mandatory fines:

- A 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000, if the quantity involved is 28 grams or more, but less than 200 grams;
- A 7-year mandatory minimum term of imprisonment and a mandatory fine of \$100,000, if the quantity involved is 200 grams or more, but less than 400 grams; and
- A 15-year mandatory minimum term of imprisonment and a mandatory fine of \$250,000, if the quantity involved is 400 grams or more.⁸¹

Further, a person commits a capital felony, which is also punishable by a mandatory fine of \$250,000, if the person knowingly brings into Florida 800 grams or more of phencyclidine, knowing that the probable result of such importation would be the death of any person.⁸²

Trafficking in Phenethylamines (Section 6)

Section 6 of the bill amends s. 893.135(1)(k), F.S., which currently punishes “trafficking in phenethylamines.” This paragraph currently lists a number of phenethylamines described in s. 893.03(1)(c), F.S. The bill removes these listed substances and refers to them by their specific scheduling reference in s. 893.03(1)(c), F.S. The bill also adds the following substances:

- A substance described in s. 893.03(1)(c)21., 43.-45., 58., 72.-80., 81.-86., 90.-102., 104.-108., 110.-113., 143.-145., 148.-150., 160.-163., or 187.-189., F.S., which include phenethylamines and cathinones;
- A substituted cathinone described in s. 893.03(1)(c)191., F.S.;
- A substituted phenethylamine described in s. 893.03(1)(c)192., F.S.; and
- A mixture containing any described substance or containing the salts, isomers, esters, or ethers, and salts of isomers, esters, or ethers of any described substance.

By adding these substances to the trafficking in phenethylamines provision, these substances become subject to current penalties for trafficking in phenethylamines. Trafficking in 10 grams or more of any listed substance is generally a first degree felony and is subject to the following mandatory minimum terms of imprisonment and mandatory fines:

- A 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000, if the quantity involved is 10 grams or more, but less than 200 grams;
- A 7-year mandatory minimum term of imprisonment and a mandatory fine of \$100,000, if the quantity involved is 200 grams or more, but less than 400 grams.
- A 15-year mandatory minimum term of imprisonment and a mandatory fine of \$250,000, if the quantity involved is 400 grams or more.⁸³

⁸¹ Section 893.13(1)(d)1.a.-c., F.S.

⁸² Section 893.13(1)(d)2., F.S.

⁸³ Section 893.135(1)(k)2., F.S.

Further, a person commits a capital felony, which is also punishable by a mandatory fine of \$250,000, if the person knowingly manufactures or brings into Florida 30 kilograms or more of any previously-described substance, knowing that the probable result of such manufacture or importation would be the death of any person.⁸⁴

Trafficking in Synthetic Cannabinoids (Section 6)

Section 6 of the bill creates s. 893.135(1)(m), F.S., which punishes “trafficking in synthetic cannabinoids.” Trafficking in synthetic cannabinoids, which is a first degree felony, is knowingly selling, purchasing, manufacturing, delivering, or bringing into Florida, or knowingly being in actual or constructive possession of, 280 grams or more of:

- A substance described in s. 893.03(1)(c)30., 46.-50., 114.-142., 151.-156., 166.-173., or 176.-186., F.S. (synthetic cannabinoids);
- A synthetic cannabinoid described in s. 893.03(1)(c)190., F.S.; or
- A mixture containing any described substance.

This offense includes mandatory minimum terms of imprisonment and mandatory fines, which are based on the quantity involved in the trafficking:

- A 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000, if the quantity involved is 280 grams or more, but less than 500 grams;
- A 7-year mandatory minimum term of imprisonment and a mandatory fine of \$100,000, if the quantity involved is 500 grams or more, but less than 1,000 grams;
- A 15-year mandatory minimum term of imprisonment and a mandatory fine of \$200,000, if the quantity involved is 1,000 grams or more, but less than 30 kilograms; and
- A 25-year mandatory minimum term of imprisonment and a mandatory fine of \$750,000, if the quantity involved is 30 kilograms or more.

Trafficking in N-benzyl Phenethylamines (Section 6)

Section 6 of the bill creates s. 893.135(1)(n), F.S., which punishes “trafficking in n-benzyl phenethylamines.” Trafficking in n-benzyl phenethylamines, which is a first degree felony, is knowingly selling, purchasing, manufacturing, delivering, or bringing into Florida, or knowingly being in actual or constructive possession of, 14 grams or more of:

- A substance described in s. 893.03(1)(c)164., 174., or 175., F.S. (n-benzyl phenethylamines);
- A n-benzyl phenethylamine compound, as described in s. 893.03(1)(c)193., F.S.; or
- A mixture containing any described substance.

This offense includes mandatory minimum terms of imprisonment and mandatory fines, which are based on the quantity involved in the trafficking:

- A 3-year mandatory minimum term of imprisonment and a mandatory fine of \$50,000, if the quantity involved is 14 grams or more, but less than 100 grams;
- A 7-year mandatory minimum term of imprisonment and a mandatory fine of \$100,000, if the quantity involved is 100 grams or more, but less than 200 grams; and
- A 15-year mandatory minimum term of imprisonment and a mandatory fine of \$500,000, if the quantity involved is 200 grams or more.

⁸⁴ Section 893.135(1)(k)3., F.S

Further, a person commits a capital felony, which is also punishable by a mandatory fine of \$500,000, if the person knowingly manufactures or brings into Florida 400 grams or more of a n-benzyl phenethylamine compound, knowing that the probable result of such importation would be the death of any person.

Departure from a Drug Trafficking Mandatory Minimum Sentence (Section 6)

Section 6 of the bill creates s. 893.135(8), F.S., which authorizes a departure from a mandatory minimum sentence for drug trafficking. For an offense listed under s. 893.135, F.S., which is committed on or after October 1, 2017, and which carries a mandatory minimum sentence, a court may depart from the applicable mandatory minimum sentence if, in giving due regard to the nature of the defendant's crime, history, and character and chances for successful rehabilitation, the court finds compelling reasons on the record that imposition of the mandatory minimum is not necessary for the protection of the public. Each month, a court must submit to the Legislature's Office of Economic and Demographic Research the written reasons in each case in which the court departed from the mandatory minimum sentence.

Ranking Trafficking Offenses (Section 7)

Section 7 of the bill amends s. 921.0022, F.S., the offense severity ranking chart of the Criminal Punishment Code, to rank trafficking offenses that are created by the bill (described below).

The following trafficking offenses are ranked in Level 7:

- Trafficking in fentanyl (4 grams or more, but less than 14 grams);
- Trafficking in synthetic cannabinoids (280 grams or more, but less than 500 grams);
- Trafficking in synthetic cannabinoids (500 grams or more, but less than 1,000 grams); and
- Trafficking in n-benzyl phenethylamines, (14 grams or more, but less than 100 grams).

The following trafficking offenses are ranked in Level 8:

- Trafficking in fentanyl (14 grams or more, but less than 28 grams);
- Trafficking in synthetic cannabinoids (1,000 grams or more, but less than 30 kilograms); and
- Trafficking in n-benzyl phenethylamines (100 grams or more, but less than 200 grams).

The following trafficking offenses are ranked in Level 9:

- Trafficking in fentanyl (28 grams or more);
- Trafficking in synthetic cannabinoids (30 kilograms or more); and
- Trafficking in n-benzyl phenethylamines (200 grams or more).

The bill also makes technical corrections to language describing some current trafficking offenses ranked in the chart.

Prison Diversion for Certain Drug Possession Offenders (Section 8)

Section 8 of the bill requires that certain offenders convicted of simple possession of a controlled substance receive a nonstate prison sanction unless such sentence could present a danger to the public. Section 775.082(10), F.S., currently provides that a court must sentence a defendant to a

nonstate prison sanction if the defendant is sentenced for a third degree felony that is not a forcible felony and total sentence points under the Code are 22 points or fewer, unless the court determines such sentence could present a danger to the public.

The bill amends s. 775.082, F.S., to provide that if a defendant is sentenced for a primary offense of possession of a controlled substance committed on or after October 1, 2017, and if the total sentence points under the Code are 60 points or fewer, the court must sentence the offender to a nonstate prison sanction. However, if the court makes written findings that a nonstate prison sanction could present a danger to the public, the court may sentence the offender to a state correctional facility.

The bill defines “possession of a controlled substance” as possession of a controlled substance in violation of s. 893.13, F.S., but does not include possession with intent to sell, manufacture, or deliver a controlled substance or possession of a controlled substance in violation of s. 893.135, F.S., which punishes drug trafficking.

Staff notes that this diversion provision could apply to a defendant who has a prior record, which might include a prior violent offense. For example, a defendant with a current offense of possession of a controlled substance and a prior offense of aggravated assault would score fewer than 60 total points. However, under the bill, the court could elect not to divert this defendant from prison if it found that the diversion could present a danger to the public.

Sentence Mitigating Circumstances (Section 9)

Section 9 of the bill restores a circumstance for mitigating (reducing) a Code sentence. This mitigating circumstance, which was authorized under the pre-Code sentencing guidelines until it was removed in 1997, was based on the defendant’s substance abuse or addiction and amenability to treatment.

The bill amends s. 921.0026, F.S., to add the following circumstance for mitigation of a scored lowest permissible sentence under the Code: For an offense committed on or after October 1, 2017, the defendant requires specialized treatment for addiction, a mental disorder, or a physical disability, and the defendant is amenable to treatment.

Drug Court, Treatment, or Probation for Certain Nonviolent Felony Offenders (Section 10)

Section 10 of the bill *requires* diversion through drug court, residential drug treatment, or drug offender probation for certain nonviolent felony offenders who are amenable to substance abuse treatment. Section 948.01, F.S., in part, currently *authorizes* a court to place a defendant into a postadjudicatory treatment-based drug court program if the defendant’s offense is a nonviolent felony committed on or after July 1, 2009, total sentence points under the Code are 60 points or fewer, the defendant is amenable to substance abuse treatment, and the defendant otherwise qualifies under s. 397.334(3), F.S. (criteria for entry into a post adjudicatory treatment-based drug court program).

The bill amends s. 948.01(7), F.S., to *require* a court to place a defendant into a postadjudicatory treatment-based drug court program, residential drug treatment, or drug offender probation if the

defendant committed a nonviolent felony offense on or after October 1, 2017, the defendant's Code scoresheet total sentence points are 60 points or fewer, the defendant is amenable to substance abuse treatment, the defendant's criminal behavior is related to substance abuse or addiction, and the defendant otherwise qualifies under s. 397.334(3), F.S. The satisfactory completion of the program is a required condition of the defendant's probation or community control.

Reenactments (Sections 11 to 29)

Sections 11 to 29 reenact, respectively, ss. 775.08435, 921.002, 921.00265, 394.47892, 397.334, 910.035, 921.187, 943.04352, 39.806, 63.089, 95.11, 775.082, 775.0823, 921.16, 948.06, 948.062, 985.265, 1012.315, and 1012.467, F.S., for the purpose of incorporating amendments made by the bill to various statutes.

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:

Felony Murder by Drug Distribution, Controlled Substance Scheduling, and Controlled Substance Offenses (Sections 2, 4, and 5 to 7)

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation has not reviewed the provisions of the bill involving felony murder by drug distribution (Section 2), controlled substances scheduling (Section 4), and controlled substance offenses (Sections 5 to 7). However, those provisions are identical to provisions in CS/HB 477, which the CJIC estimates will

have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds).⁸⁵

Per the Department of Corrections (DOC), one person was charged and sentenced to prison for drug-related first degree murder (sentence length of 24 months). Per the Florida Department of Law Enforcement (FDLE), in FY 2015-2016, one person was arrested for selling fentanyl, and two people received a conviction/adjudication withheld. DOC does not track the number of admissions to prison for fentanyl, so that population is not known. Per the FDLE, citing the Florida Medical Examiners’ 2015 Annual Report,⁸⁶ there were 911 deaths in which fentanyl was present or deemed the cause of death. Further, 99 of the deaths associated with fentanyl only had that in their system, while the rest were in combination with another drug.

Per the DOC, in FY 2015-2016, there were 44 (adj.)⁸⁷ offenders sentenced for trafficking in hydrocodone and oxycodone, and 34 (adj.) were sentenced to prison (mean sentence length of 70.5 months and an incarceration rate of 77.3 percent adj. and 75.7 percent unadj.). However, the changes in the bill should not affect these offenses.

Per the DOC, in FY 2015-2016, there were 487 (adj.) offenders sentenced for trafficking offenses similar to fentanyl (heroin included) between 4 and 14 grams. There were 363 (adj.) sentenced to prison (mean sentence length of 62.1 months and an incarceration rate of 74.6 percent adj. and 74.5 percent unadj.). There were 126 (adj.) offenders sentenced for trafficking between 14 and 28 grams, and 102 (adj.) of these offenders were sentenced to prison (mean sentence length of 94.6 months and an incarceration rate of 81.0 percent adj and 81. percent unadj.). There were 81 (adj.) offenders sentenced for trafficking between 28 grams and 30 kilograms, and 64 (adj.) of these offenders were sentenced to prison (mean sentence length of 144.5 months and an incarceration rate of 79.0 percent adj. and 79.1 percent unadj.). No offenders were sentenced above 30 kilograms.

Per the DOC, in FY 2015-2016, there were two (adj.) offenders sentenced for trafficking in phencyclidine between 28 and 200 grams, and both offenders received a prison sentence (mean sentence length of 96.0 months and an incarceration rate of 100 percent). There was one offender sentenced for trafficking between 400 and 800 grams, but that person did not receive a prison sentence.

The only other current trafficking offenses that exist out of s. 893.03(1)(c), F.S., are MDMA and phenethylamines, both of them combined in the DOC’s data. Per the DOC,

⁸⁵ E-mail, dated March 28, 2017, to staff of the Senate Committee on Criminal Justice from staff of the Office of Economic and Demographic Research (on file with the Senate Committee on Criminal Justice). All information in this section of the analysis regarding CJIC estimates of provisions of the bill addressing felony murder by drug distribution, controlled substance scheduling, controlled substance offenses, and departures from mandatory minimum sentences for drug trafficking offenses is from this source.

⁸⁶ *Drugs Identified in Deceased Persons* (2015 Annual Report) (September 2016), p. 3, Florida Medical Examiners Commission, available at <http://www.fdle.state.fl.us/cms/MEC/Publications-and-Forms.aspx> (last visited on March 28, 2017).

⁸⁷ The abbreviation “adj.” means “adjusted.” The abbreviation “unadj.” means “unadjusted.” Sentencing data from the DOC is incomplete, which means that the numbers the EDR receives are potentially lower than what the actual numbers are. The EDR adjusts these numbers by the percentage of scoresheets received for the applicable fiscal year.

in FY 2015-2016, there were 41 (adj.) offenders sentenced for trafficking between 10 and 200 grams of these drugs. There were 26 (adj.) sentenced to prison (mean sentence length of 45.6 months and an incarceration rate of 63.4 percent adj. and 64.7 percent unadj.). There were two offenders sentenced for trafficking between 200 and 400 grams of these drugs, and none of those offenders were sentenced to prison. There was also one (adj.) offender sentenced for trafficking in over 400 grams of these drugs in FY 2015-2016, and that offender was sentenced to prison (sentence length of 84.0 months and incarceration rate of 100 percent). No offenders were sentenced above 30 kilograms.

Departure from a Drug Trafficking Mandatory Minimum Sentence (Section 6)

The CJIC has not reviewed the part of Section 6 of the bill which authorizes a court to depart from a mandatory minimum sentence for a drug trafficking offense. However, the CJIC reviewed SB 1436, which, in part, authorizes departures for trafficking in hydrocodone and oxycodone, and estimates the bill will have a “negative indeterminate” prison bed impact.

Prison Diversion (Sections 8 to 10)

The CJIC has not reviewed Sections 8 to 10 of the bill, which address prison diversion. However, Sections 8 to 10 are identical to prison diversion provisions in CS/SB 290, which the CJIC did review (see below).⁸⁸

The DOC provided preliminary estimates (see below) of the prison diversion provisions of SB 290, which are identical to Sections 8 to 10 of this bill.⁸⁹ The DOC noted that if a significant number of defendants that otherwise would have been sentenced to prison are diverted to supervision under these provisions, there would be a critical need for additional probation staff to manage the additional workload. There would also be a need for additional co-occurring beds and funding for offenders who are in need of outpatient substance abuse treatment services, including assessment, individual counseling, group counseling, treatment plan review, and aftercare services.

The Office of the State Courts Administrator (OSCA) states that the prison diversion provisions of SB 290 would likely lead to an increase in judicial workload because there will be much lengthier sentencing hearings as defendants will attempt to prove to the judge that they have a drug problem and that they are amenable to treatment. However, the fiscal impact is indeterminate because the OSCA does not currently have data needed to quantifiably establish the increase in judicial time and workload as a result of increased sentencing hearing time. Trial court judicial workload is measured using a case weighting

⁸⁸ “Narrative Analyses of Adopted Impacts” (updated through March 2, 2017), Criminal Justice Impact Conference, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/adoptedimpacts.cfm> (last visited on March 29, 2017). Unless otherwise noted, all information in this section of the analysis regarding prison diversion provisions of the bill is from this source. If the bill were to become law, the actual impact associated with the bill would differ depending on a number of factors including the existing inventory of prison beds.

⁸⁹ 2017 Legislative Bill Analysis (SB 290) (February 16, 2017) (on file with the Senate Committee on Criminal Justice). Unless otherwise noted, all information in this section of the analysis regarding DOC estimates of the prison diversion provisions is from this source.

system that calculates the amount of time that it takes for a judge to dispose of a case. Passage of these provisions may impact the case weighting system. The number of case filings using the case weighting system is used to determine the needs for additional judicial resources each year. Any judicial workload increases in the future as a result of these provisions would be reflected in the Supreme Court’s annual opinion In re: Certification of Need for Additional Judges.⁹⁰

Prison Diversion for Certain Drug Possession Offenders

Section 8 of the bill requires that certain offenders convicted of simple possession of a controlled substance receive a nonstate prison sanction unless such sentence could present a danger to the public. The CJIC estimates that an identical prison diversion provision in CS/SB 290 will result in a cumulative decrease of 1,001 prison beds over 5 years (FY 2017-2018 to FY 2021-2022) with a cumulative cost avoidance of \$131,965,742 (\$64,993,112 in operating costs⁹¹ and \$66,972,630 in fixed capital outlay costs⁹²).⁹³The complete breakdown of projected annual prison bed reductions and cost savings is provided in the table below:

Fiscal Year	Projected Cumulative Prison Beds Required	Projected Additional Annual Prison Beds Required	FUNDS REQUIRED			
			Annual Operating Costs	Annual Fixed Capital Outlay Costs	TOTAL Annual Funds	TOTAL Cumulative Funds
2017-2018	-155	-155	(\$1,580,380)	(\$36,210,390)	(\$37,790,770)	(\$37,790,770)
2018-2019	-570	-415	(\$7,569,725)	(\$16,015,650)	(\$23,585,375)	(\$61,376,145)
2019-2020	-815	-245	(\$14,807,728)	(\$8,475,390)	(\$23,283,118)	(\$84,659,263)
2020-2021	-941	-126	(\$19,243,126)	(\$4,144,860)	(\$23,387,986)	(\$108,047,249)
2021-2022	-1,001	-60	(\$21,792,153)	(\$2,126,340)	(\$23,918,493)	(\$131,965,742)
Total	-1,001	-1,001	(\$64,993,112)	(\$66,972,630)	(\$131,965,742)	(\$131,965,742)

Prepared by Florida Legislature, Office of Economic and Demographic Research, January 10, 2017.

The DOC’s preliminary estimate is that this diversion provision will impact the end of year prison population along with a corresponding increase to the supervised population. The chart provided below estimates impact based on certain percentages of the affected population being diverted from prison to supervision and drug treatment pursuant to this diversion provision. For example, for FY 2017-2018 to FY 2021-2022, the entire population that could be affected (100 percent) is estimated to be 5,287 persons. If five

⁹⁰ Information provided by the Office of the State Courts Administrator (January 23, 2017) (on file with the Senate Committee on Criminal Justice). All information in this section of the analysis regarding OSCA estimates is from this source.

⁹¹ FY 2015-2016 operating costs per inmate were obtained from the DOC. The \$53.49 per diem (\$19,524 annual cost) is for all department facilities (excluding private institutions and approximately 150 beds in PRCs) and includes operations, health services, and education services. It does not include debt service costs. It also does not include indirect and administrative costs of \$3.34 per inmate (state facilities). Operating costs in future years were increased by the change in the CPI from the National Economic Estimating Conference. “PRCs” means probation and restitution centers.

⁹² FY 2006-2007 capital costs per bed were based on the DOC’s cost to build Suwanee CI (\$94,000,000 for 2,003 lawful capacity beds) as reported at the CJIC on February 23, 2010. Capital costs in later years were increased by the change in the chained price index for state and local construction spending obtained from Global Insight, Inc.

⁹³ “Narrative Analyses of Adopted Impacts” (updated through March 2, 2017), Criminal Justice Impact Conference, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/adoptedimpacts.cfm> (last visited on March 29, 2017). All information in this section of the analysis regarding prison diversion provisions of the bill is from this source.

percent of this population (264 persons) were incarcerated, it would cost \$2,610,122. If, instead, these persons were diverted under this provision, the cost of supervision would be \$536,729. The “total cost to implement” (\$2,610,122 minus \$536,729) is a cost savings of \$2,073,383.

FY 2017-2018 to FY 2021-2022				
% of Inmates Affected	Affected Population	Inmate Costs	Supervision Costs	Total Cost to Implement
5%	264	(\$2,610,112)	\$536,729	(\$2,073,383)
10%	528	(\$5,220,223)	\$1,073,360	(\$4,146,863)
15%	792	(\$7,830,335)	\$1,610,088	(\$6,220,247)
20%	1,059	(\$10,469,510)	\$2,152,872	(\$8,316,638)
25%	1,321	(\$13,062,186)	\$2,685,569	(\$10,376,617)
50%	2,646	(\$26,159,244)	\$5,379,103	(\$20,780,141)
75%	3,966	(\$39,209,801)	\$8,062,551	(\$31,147,250)
100%	5,287	(\$52,271,986)	\$10,748,119	(\$41,523,867)

Data from the Florida Department of Corrections, February 10, 2017.⁹⁴

Restoring a Sentence Mitigating Circumstance

Section 9 of the bill restores a previous mitigating circumstance based on the defendant’s substance abuse or addiction and amenability to treatment. The CJIC estimates that an identical mitigating circumstance provision in CS/SB 290 will have a “negative indeterminate” prison bed impact. The available data does not have the information necessary to determine which offenders entering prison might require specialized treatment for addiction. Per the DOC, in FY 2015-2016, there were 54,444 (adj.) offenders sentenced for a nonviolent felony with total sentencing points between 22 and 60 points, and 12,929 (adj.) of these offenders were sentenced to prison (mean sentence length of 26.1 months and an incarceration rate of 23.8 percent adj and 23.8 percent unadj.). However, it cannot be determined what sentencing patterns judges might adopt with this new factor at their disposal.

The DOC’s preliminary estimate is that restoring the mitigating circumstance will have an indeterminate impact.⁹⁵

Requiring Drug Court, Treatment, or Probation for Certain Nonviolent Felony Offenders

Section 10 of the bill requires the court to place certain nonviolent felony offenders into a drug court program, residential drug treatment, or drug offender probation if certain criteria are met. The CJIC estimates that an identical provision in CS/SB 290 will have a “negative indeterminate” prison bed impact: The available data does not have the information necessary to determine which offenders entering prison might be amenable to substance abuse treatment, nor can it be determined if an offender’s criminal behavior was related to substance abuse or addiction.

⁹⁴ This data is on file with the Senate Committee on Criminal Justice.

⁹⁵ “Although the bill changes the factors that a court may consider in imposing a downward departure sentence, such sentences remain discretionary. As a result the projected impact of these changes is indeterminate.”

Because the DOC does not have the ability to predict how many defendants are “amenable to treatment” and whose “criminal behavior is related to substance abuse or addiction,” the DOC’s preliminary estimate is that the diversion provision will have an indeterminate impact.

The chart provided below estimates impact based on certain percentages of the affected population being diverted from prison to supervision and drug treatment pursuant to this diversion provision. For example, for FY 2017-2018 to FY 2021-2022, the entire population that could be affected (100 percent) is estimated to be 24,607 persons. If five percent of this population (1,230 persons) were incarcerated, it would cost \$24,014,335. If, instead, these persons were diverted under this diversion provision, the total cost of supervision and drug treatment would be \$15,618,678 (\$2,499,538 for supervision plus \$13,119,141 for treatment). The “total cost to implement” (\$24,014,335 minus \$15,618,678) would be a cost savings of \$8,395,656.

FY 2017-2018 to FY 2021-2022					
% of Inmates Affected	Affected Population	Inmate Costs	Supervision Costs	Drug Treatment Costs	Total Cost to Implement
5%	1,230	(\$24,014,335)	\$2,499,538	\$13,119,141	(\$8,395,656)
10%	2,462	(\$48,067,719)	\$5,003,212	\$26,238,281	(\$16,826,226)
15%	3,692	(\$72,082,055)	\$7,502,751	\$39,357,422	(\$25,221,882)
20%	4,921	(\$96,076,866)	\$10,000,223	\$52,476,564	(\$33,600,079)
25%	6,152	(\$120,110,725)	\$12,501,777	\$65,595,704	(\$42,013,244)
50%	12,305	(\$240,240,975)	\$25,005,817	\$131,191,408	(\$84,043,750)
75%	18,456	(\$360,332,176)	\$37,505,579	\$196,787,112	(\$126,039,485)
100%	24,607	(\$480,423,376)	\$50,005,434	\$262,382,817	(\$168,035,125)

Data from the Florida Department of Corrections, February 10, 2017.⁹⁶

VI. Technical Deficiencies:

Section 9 of the bill restores a circumstance for mitigating (reducing) a Code sentence. This mitigating circumstance, which was authorized under the pre-Code sentencing guidelines until it was removed in 1997, was based on the defendant’s substance abuse or addiction and amenability to treatment.

Section 9 is based on a provision of CS/SB 290, which included the mitigating circumstance for substance abuse but also included another mitigating circumstance for nonviolent felony offenders. When SB 150 was amended, the mitigating circumstance for substance abuse was included in the committee substitute; the mitigating circumstance for nonviolent felony offenders was not included. However, new language relating to the mitigating circumstance for nonviolent offenders was inadvertently included and incorporated in the committee substitute. This technical error should be corrected by deleting the following underlined language on lines 2233 and 2234:

For an offense committed on or after October 1, 1998, but before October 1, 2017,

⁹⁶ This data is on file with the Senate Committee on Criminal Justice.

VII. Related Issues:

Section 6, in part, authorizes a court to depart from a mandatory minimum sentence for drug trafficking after evaluating the defendant's crime, history, character, and chances for successful rehabilitation, if the court finds compelling reasons on the record that the mandatory minimum sentence is not necessary to protect the public. Each month, a court must submit to the Legislature's Office of Economic and Demographic Research (EDR) the written reasons in each case in which the court departed from the mandatory minimum sentence. The bill does not specify what the EDR is supposed to do with this information.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.887, 775.082, 782.04, 893.03, 893.13, 893.135, 921.0022, 921.0026, and 948.01.

This bill creates section 893.015 of the Florida Statutes.

The bill reenacts ss. 39.806, 63.089, 95.11, 394.47892, 397.334, 775.082, 775.0823, 775.08435, 910.035, 921.002, 921.00265, 921.16, 921.187, 943.04352, 948.06, 948.062, 985.265, 1012.315, and 1012.467, F.S., for the purpose of incorporating amendments made by the bill to various statutes.

IX. Additional Information:

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

CS by Criminal Justice on April 3, 2017:

The committee substitute:

- Provides that a person 18 years of age or older commits felony murder if he or she unlawfully distributes any specified controlled substance, including a specified fentanyl-related substance, and the distribution is proven to be the proximate cause of the death of the user of the substance;
- Includes in Schedule I a class of fentanyl derivatives and five substances that were originally developed for legitimate research but that have now emerged in the illicit drug market;
- Punishes unlawful possession of 10 grams or more of certain Schedule II substances, including certain fentanyl-related substances;
- Adds codeine, an isomer of hydrocodone, to a current provision punishing trafficking in hydrocodone, and adds additional phenethylamines and phencyclidines to current provisions punishing trafficking in phencyclidine and phenethylamine;
- Revises the new offense of trafficking in fentanyl;
- Punishes trafficking in synthetic cannabinoids, and n-benzyl phenethylamines, including mandatory minimum terms of imprisonment and mandatory fines;
- Authorizes a court to depart from a mandatory minimum sentence for drug trafficking after evaluating the defendant's crime, history, character, and chances for successful

rehabilitation, if the court finds compelling reasons on the record that the mandatory minimum sentence is not necessary to protect the public;

- Ranks new offenses for trafficking in fentanyl, synthetic cannabinoids, and n-benzyl phenethylamines in the Code offense severity ranking chart;
- Removes a new offense of committing a drug act in a dwelling;
- Removes the ranking of a LSD trafficking offense in the Code offense severity ranking chart;
- Authorizes certain crime laboratory personnel to possess, store, and administer emergency opioid antagonists used to treat opioid overdoses;
- Provides that cross-references throughout the Florida Statutes to the Florida Comprehensive Drug Abuse Prevention and Control Act (ch. 893, F.S.), or any portion thereof, include all subsequent amendments to the act;
- Requires that certain offenders convicted of simple possession of a controlled substance receive a nonstate prison sanction unless such sentence could present a danger to the public;
- Restores a circumstance for mitigating (reducing) a sentence based on substance abuse or addiction and amenability to treatment; and
- Requires diversion through drug court, residential drug treatment, or drug offender probation for certain nonviolent felony offenders who are amenable to substance abuse treatment.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
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	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (4) of section 381.887, Florida
Statutes, is amended to read:

381.887 Emergency treatment for suspected opioid overdose.-

(4) The following persons ~~Emergency responders, including,~~
~~but not limited to, law enforcement officers, paramedics, and~~
~~emergency medical technicians,~~ are authorized to possess, store,



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11 and administer emergency opioid antagonists as clinically
12 indicated:

13 (a) Emergency responders, including, but not limited to,
14 law enforcement officers, paramedics, and emergency medical
15 technicians.

16 (b) Crime laboratory personnel for the statewide criminal
17 analysis laboratory system as described in s. 943.32, including,
18 but not limited to, analysts, evidence intake personnel, and
19 their supervisors.

20 Section 2. Paragraph (a) of subsection (1) of section
21 782.04, Florida Statutes, is amended to read:

22 782.04 Murder.—

23 (1) (a) The unlawful killing of a human being:

24 1. When perpetrated from a premeditated design to effect
25 the death of the person killed or any human being;

26 2. When committed by a person engaged in the perpetration
27 of, or in the attempt to perpetrate, any:

28 a. Trafficking offense prohibited by s. 893.135(1),

29 b. Arson,

30 c. Sexual battery,

31 d. Robbery,

32 e. Burglary,

33 f. Kidnapping,

34 g. Escape,

35 h. Aggravated child abuse,

36 i. Aggravated abuse of an elderly person or disabled adult,

37 j. Aircraft piracy,

38 k. Unlawful throwing, placing, or discharging of a

39 destructive device or bomb,



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- 40 1. Carjacking,
41 m. Home-invasion robbery,
42 n. Aggravated stalking,
43 o. Murder of another human being,
44 p. Resisting an officer with violence to his or her person,
45 q. Aggravated fleeing or eluding with serious bodily injury
46 or death,
47 r. Felony that is an act of terrorism or is in furtherance
48 of an act of terrorism,
49 s. Human trafficking; or
50 3. Which resulted from the unlawful distribution by a
51 person 18 years of age or older of any of the following
52 substances, or mixture containing any of the following
53 substances ~~substance controlled under s. 893.03(1), cocaine as~~
54 ~~described in s. 893.03(2)(a)4., opium or any synthetic or~~
55 ~~natural salt, compound, derivative, or preparation of opium, or~~
56 ~~methadone by a person 18 years of age or older, when such~~
57 substance or mixture ~~drug~~ is proven to be the proximate cause of
58 the death of the user:
59 a. A substance controlled under s. 893.03(1);
60 b. Cocaine as described in s. 893.03(2)(a)4.;
61 c. Opium or any synthetic or natural salt, compound,
62 derivative, or preparation of opium;
63 d. Methadone;
64 e. Alfentanil, as described in s. 893.03(2)(b)1.;
65 f. Carfentanil, as described in s. 893.03(2)(b)6.;
66 g. Fentanyl, as described in s. 893.03(2)(b)9.;
67 h. Sufentanil, as described in s. 893.03(2)(b)29.; or
68 i. A controlled substance analog, as described in s.



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69 893.0356, of any substance specified in sub-subparagraphs a.-h.,
70
71 is murder in the first degree and constitutes a capital felony,
72 punishable as provided in s. 775.082.

73 Section 3. Section 893.015, Florida Statutes, is created to
74 read:

75 893.015 Statutory references.—The purpose of this chapter
76 is to comprehensively address drug abuse prevention and control
77 in this state. To this end, unless expressly provided otherwise,
78 a reference in any section of the Florida Statutes to chapter
79 893 or to any section or portion of a section of chapter 893
80 includes all subsequent amendments to chapter 893 or to the
81 referenced section or portion of a section.

82 Section 4. Paragraphs (a) and (c) of subsection (1) of
83 section 893.03, Florida Statutes, are amended to read:

84 893.03 Standards and schedules.—The substances enumerated
85 in this section are controlled by this chapter. The controlled
86 substances listed or to be listed in Schedules I, II, III, IV,
87 and V are included by whatever official, common, usual,
88 chemical, trade name, or class designated. The provisions of
89 this section shall not be construed to include within any of the
90 schedules contained in this section any excluded drugs listed
91 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
92 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
93 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
94 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
95 Anabolic Steroid Products."

96 (1) SCHEDULE I.—A substance in Schedule I has a high
97 potential for abuse and has no currently accepted medical use in



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98 treatment in the United States and in its use under medical
99 supervision does not meet accepted safety standards. The
100 following substances are controlled in Schedule I:

101 (a) Unless specifically excepted or unless listed in
102 another schedule, any of the following substances, including
103 their isomers, esters, ethers, salts, and salts of isomers,
104 esters, and ethers, whenever the existence of such isomers,
105 esters, ethers, and salts is possible within the specific
106 chemical designation:

- 107 1. Acetyl-alpha-methylfentanyl.
- 108 2. Acetylmethadol.
- 109 3. Allylprodine.
- 110 4. Alphacetylmethadol (except levo-alphacetylmethadol, also
111 known as levo-alpha-acetylmethadol, levomethadyl acetate, or
112 LAAM).
- 113 5. Alphamethadol.
- 114 6. Alpha-methylfentanyl (N-[1-(alpha-methyl-betaphenyl)
115 ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-
116 (N-propanilido) piperidine).
- 117 7. Alpha-methylthiofentanyl.
- 118 8. Alphameprodine.
- 119 9. Benzethidine.
- 120 10. Benzylfentanyl.
- 121 11. Betacetylmethadol.
- 122 12. Beta-hydroxyfentanyl.
- 123 13. Beta-hydroxy-3-methylfentanyl.
- 124 14. Betameprodine.
- 125 15. Betamethadol.
- 126 16. Betaprodine.



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- 127 17. Clonitazene.
- 128 18. Dextromoramide.
- 129 19. Diampromide.
- 130 20. Diethylthiambutene.
- 131 21. Difenoxin.
- 132 22. Dimenoxadol.
- 133 23. Dimepheptanol.
- 134 24. Dimethylthiambutene.
- 135 25. Dioxaphetyl butyrate.
- 136 26. Dipipanone.
- 137 27. Ethylmethylthiambutene.
- 138 28. Etonitazene.
- 139 29. Etoxeridine.
- 140 30. Flunitrazepam.
- 141 31. Furethidine.
- 142 32. Hydroxypethidine.
- 143 33. Ketobemidone.
- 144 34. Levomoramide.
- 145 35. Levophenacymorphan.
- 146 36. Desmethylprodine (1-Methyl-4-Phenyl-4-
- 147 Propionoxypiperidine).
- 148 37. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
- 149 piperidyl]-N-phenylpropanamide).
- 150 38. 3-Methylthiofentanyl.
- 151 39. Morpheridine.
- 152 40. Noracymethadol.
- 153 41. Norlevorphanol.
- 154 42. Normethadone.
- 155 43. Norpipanone.



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- 156 44. Para-Fluorofentanyl.
157 45. Phenadoxone.
158 46. Phenampromide.
159 47. Phenomorphan.
160 48. Phenoperidine.
161 49. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-
162 Acetyloxypiperidine).
163 50. Piritramide.
164 51. Proheptazine.
165 52. Properidine.
166 53. Propiram.
167 54. Racemoramide.
168 55. Thenylfentanyl.
169 56. Thiofentanyl.
170 57. Tilidine.
171 58. Trimeperidine.
172 59. Acetylfentanyl.
173 60. Butyrylfentanyl.
174 61. Beta-Hydroxythiofentanyl.
175 62. Fentanyl derivatives. Unless specifically excepted,
176 listed in another schedule, or contained within a pharmaceutical
177 product approved by the United States Food and Drug
178 Administration, any material, compound, mixture, or preparation,
179 including its salts, isomers, esters, or ethers, and salts of
180 isomers, esters, or ethers, whenever the existence of such salts
181 is possible within any of the following specific chemical
182 designations containing a 4-anilidopiperidine structure:
183 a. With or without substitution at the carbonyl of the
184 aniline moiety with alkyl, alkenyl, carboalkoxy, cycloalkyl,



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185 methoxyalkyl, cyanoalkyl, or aryl groups, or furanyl,
186 dihydrofuranyl, benzyl moiety, or rings containing heteroatoms
187 sulfur, oxygen, or nitrogen;

188 b. With or without substitution at the piperidine amino
189 moiety with a phenethyl, benzyl, alkylaryl (including
190 heteroaromatics), alkyltetrazolyl ring, or an alkyl or
191 carbomethoxy group, whether or not further substituted in the
192 ring or group;

193 c. With or without substitution or addition to the
194 piperidine ring to any extent with one or more methyl,
195 carbomethoxy, methoxy, methoxymethyl, aryl, allyl, or ester
196 groups;

197 d. With or without substitution of one or more hydrogen
198 atoms for halogens, or methyl, alkyl, or methoxy groups, in the
199 aromatic ring of the anilide moiety;

200 e. With or without substitution at the alpha or beta
201 position of the piperidine ring with alkyl, hydroxyl, or methoxy
202 groups;

203 f. With or without substitution of the benzene ring of the
204 anilide moiety for an aromatic heterocycle; and

205 g. With or without substitution of the piperidine ring for
206 a pyrrolidine ring, perhydroazepine ring, or azepine ring;

207
208 excluding, Alfentanil, Carfentanil, Fentanyl, and Sufentanil;
209 including, but not limited to:

210 (I) Acetyl-alpha-methylfentanyl.

211 (II) Alpha-methylfentanyl (N-[1-(alpha-methyl-beta-phenyl)
212 ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-
213 (N-propanilido) piperidine).



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- 214 (III) Alpha-methylthiofentanyl.
- 215 (IV) Benzylfentanyl.
- 216 (V) Beta-hydroxyfentanyl.
- 217 (VI) Beta-hydroxy-3-methylfentanyl.
- 218 (VII) 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
- 219 piperidyl]-N-phenylpropanamide).
- 220 (VIII) 3-Methylthiofentanyl.
- 221 (IX) Para-Fluorofentanyl.
- 222 (X) Thenylfentanyl or Thienyl fentanyl.
- 223 (XI) Thiofentanyl.
- 224 (XII) Acetylfentanyl.
- 225 (XIII) Butyrylfentanyl.
- 226 (XIV) Beta-Hydroxythiofentanyl.
- 227 (XV) Lofentanil.
- 228 (XVI) Ocfentanil.
- 229 (XVII) Ohmfentanyl.
- 230 (XVIII) Benzodioxolefentanyl.
- 231 (XIX) Furanyl fentanyl.
- 232 (XX) Pentanoyl fentanyl.
- 233 (XXI) Cyclopentyl fentanyl.
- 234 (XXII) Isobutyryl fentanyl.
- 235 (XXIII) Remifentanil.
- 236 (c) Unless specifically excepted or unless listed in
- 237 another schedule, any material, compound, mixture, or
- 238 preparation that contains any quantity of the following
- 239 hallucinogenic substances or that contains any of their salts,
- 240 isomers, including optical, positional, or geometric isomers,
- 241 homologues, nitrogen-heterocyclic analogs, esters, ethers, and
- 242 salts of isomers, homologues, nitrogen-heterocyclic analogs,



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- 243 esters, or ethers, if the existence of such salts, isomers, and
244 salts of isomers is possible within the specific chemical
245 designation or class description:
- 246 1. Alpha-Ethyltryptamine.
 - 247 2. 4-Methylaminorex (2-Amino-4-methyl-5-phenyl-2-
248 oxazoline).
 - 249 3. Aminorex (2-Amino-5-phenyl-2-oxazoline).
 - 250 4. DOB (4-Bromo-2,5-dimethoxyamphetamine).
 - 251 5. 2C-B (4-Bromo-2,5-dimethoxyphenethylamine).
 - 252 6. Bufotenine.
 - 253 7. Cannabis.
 - 254 8. Cathinone.
 - 255 9. DET (Diethyltryptamine).
 - 256 10. 2,5-Dimethoxyamphetamine.
 - 257 11. DOET (4-Ethyl-2,5-Dimethoxyamphetamine).
 - 258 12. DMT (Dimethyltryptamine).
 - 259 13. PCE (N-Ethyl-1-phenylcyclohexylamine) (Ethylamine analog
260 of phencyclidine).
 - 261 14. JB-318 (N-Ethyl-3-piperidyl benzilate).
 - 262 15. N-Ethylamphetamine.
 - 263 16. Fenethylamine.
 - 264 17. 3,4-Methylenedioxy-N-hydroxyamphetamine.
 - 265 18. Ibogaine.
 - 266 19. LSD (Lysergic acid diethylamide).
 - 267 20. Mescaline.
 - 268 21. Methcathinone.
 - 269 22. 5-Methoxy-3,4-methylenedioxyamphetamine.
 - 270 23. PMA (4-Methoxyamphetamine).
 - 271 24. PMMA (4-Methoxymethamphetamine).



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- 272 25. DOM (4-Methyl-2,5-dimethoxyamphetamine).
273 26. MDEA (3,4-Methylenedioxy-N-ethylamphetamine).
274 27. MDA (3,4-Methylenedioxyamphetamine).
275 28. JB-336 (N-Methyl-3-piperidyl benzilate).
276 29. N,N-Dimethylamphetamine.
277 30. Parahexyl.
278 31. Peyote.
279 32. PCPY (N-(1-Phenylcyclohexyl)-pyrrolidine) (Pyrrolidine
280 analog of phencyclidine).
281 33. Psilocybin.
282 34. Psilocyn.
283 35. *Salvia divinorum*, except for any drug product approved
284 by the United States Food and Drug Administration which contains
285 *Salvia divinorum* or its isomers, esters, ethers, salts, and
286 salts of isomers, esters, and ethers, if the existence of such
287 isomers, esters, ethers, and salts is possible within the
288 specific chemical designation.
289 36. Salvinorin A, except for any drug product approved by
290 the United States Food and Drug Administration which contains
291 Salvinorin A or its isomers, esters, ethers, salts, and salts of
292 isomers, esters, and ethers, if the existence of such isomers,
293 esters, ethers, and salts is possible within the specific
294 chemical designation.
295 37. Xylazine.
296 38. TCP (1-[1-(2-Thienyl)-cyclohexyl]-piperidine)
297 (Thiophene analog of phencyclidine).
298 39. 3,4,5-Trimethoxyamphetamine.
299 40. Methylone (3,4-Methylenedioxymethcathinone).
300 41. MDPV (3,4-Methylenedioxypropylone).



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- 301 42. Methylenmethcathinone.
- 302 43. Methoxymethcathinone.
- 303 44. Fluoromethcathinone.
- 304 45. Methylethcathinone.
- 305 46. CP 47,497 (2-(3-Hydroxycyclohexyl)-5-(2-methyloctan-2-
- 306 yl)phenol) and its dimethyloctyl (C8) homologue.
- 307 47. HU-210 [(6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-
- 308 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol].
- 309 48. JWH-018 (1-Pentyl-3-(1-naphthoyl)indole).
- 310 49. JWH-073 (1-Butyl-3-(1-naphthoyl)indole).
- 311 50. JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-
- 312 naphthoyl)indole).
- 313 51. BZP (Benzylpiperazine).
- 314 52. Fluorophenylpiperazine.
- 315 53. Methylphenylpiperazine.
- 316 54. Chlorophenylpiperazine.
- 317 55. Methoxyphenylpiperazine.
- 318 56. DBZP (1,4-Dibenzylpiperazine).
- 319 57. TFMPP (Trifluoromethylphenylpiperazine).
- 320 58. MBDB (Methylbenzodioxolylbutanamine) or (3,4-
- 321 Methylenedioxy-N-methylbutanamine).
- 322 59. 5-Hydroxy-AMT (5-Hydroxy-alpha-methyltryptamine).
- 323 60. 5-Hydroxy-N-methyltryptamine.
- 324 61. 5-MeO-MiPT (5-Methoxy-N-methyl-N-isopropyltryptamine).
- 325 62. 5-MeO-AMT (5-Methoxy-alpha-methyltryptamine).
- 326 63. Methyltryptamine.
- 327 64. 5-MeO-DMT (5-Methoxy-N,N-dimethyltryptamine).
- 328 65. 5-Me-DMT (5-Methyl-N,N-dimethyltryptamine).
- 329 66. Tyramine (4-Hydroxyphenethylamine).



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- 330 67. 5-MeO-DiPT (5-Methoxy-N,N-Diisopropyltryptamine).
- 331 68. DiPT (N,N-Diisopropyltryptamine).
- 332 69. DPT (N,N-Dipropyltryptamine).
- 333 70. 4-Hydroxy-DiPT (4-Hydroxy-N,N-diisopropyltryptamine).
- 334 71. 5-MeO-DALT (5-Methoxy-N,N-Diallyltryptamine).
- 335 72. DOI (4-Iodo-2,5-dimethoxyamphetamine).
- 336 73. DOC (4-Chloro-2,5-dimethoxyamphetamine).
- 337 74. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).
- 338 75. 2C-T-4 (4-Isopropylthio-2,5-dimethoxyphenethylamine).
- 339 76. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).
- 340 77. 2C-T (4-Methylthio-2,5-dimethoxyphenethylamine).
- 341 78. 2C-T-2 (4-Ethylthio-2,5-dimethoxyphenethylamine).
- 342 79. 2C-T-7 (4-(n)-Propylthio-2,5-dimethoxyphenethylamine).
- 343 80. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).
- 344 81. Butylone (3,4-Methylenedioxy-alpha-
- 345 methylaminobutyrophenone).
- 346 82. Ethcathinone.
- 347 83. Ethylone (3,4-Methylenedioxy-N-ethylcathinone).
- 348 84. Naphyrone (Naphthylpyrovalerone).
- 349 85. Dimethylone (3,4-Methylenedioxy-N,N-dimethylcathinone).
- 350 86. 3,4-Methylenedioxy-N,N-diethylcathinone.
- 351 87. 3,4-Methylenedioxy-propiofenone.
- 352 88. 3,4-Methylenedioxy-alpha-bromopropiofenone.
- 353 89. 3,4-Methylenedioxy-propiofenone-2-oxime.
- 354 90. 3,4-Methylenedioxy-N-acetylcathinone.
- 355 91. 3,4-Methylenedioxy-N-acetylmethcathinone.
- 356 92. 3,4-Methylenedioxy-N-acetylethcathinone.
- 357 93. Bromomethcathinone.
- 358 94. Buphedrone (alpha-Methylamino-butyrophenone).



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- 359 95. Eutylone (3,4-Methylenedioxy-alpha-
360 ethylaminobutyrophenone).
361 96. Dimethylcathinone.
362 97. Dimethylmethcathinone.
363 98. Pentylone (3,4-Methylenedioxy-alpha-
364 methylaminovalerophenone).
365 99. MDPPP (3,4-Methylenedioxy-alpha-
366 pyrrolidinopropiophenone).
367 100. MDPBP (3,4-Methylenedioxy-alpha-
368 pyrrolidinobutyrophenone).
369 101. MOPPP (Methoxy-alpha-pyrrolidinopropiophenone).
370 102. MPHP (Methyl-alpha-pyrrolidinohexanophenone).
371 103. BTCP (Benzothiophenylcyclohexylpiperidine) or BCP
372 (Benocyclidine).
373 104. F-MABP (Fluoromethylaminobutyrophenone).
374 105. MeO-PBP (Methoxypyrrolidinobutyrophenone).
375 106. Et-PBP (Ethylpyrrolidinobutyrophenone).
376 107. 3-Me-4-MeO-MCAT (3-Methyl-4-Methoxymethcathinone).
377 108. Me-EABP (Methylethylaminobutyrophenone).
378 109. Etizolam.
379 110. PPP (Pyrrolidinopropiophenone).
380 111. PBP (Pyrrolidinobutyrophenone).
381 112. PVP (Pyrrolidinovalerophenone) or
382 (Pyrrolidinopentiophenone).
383 113. MPPP (Methyl-alpha-pyrrolidinopropiophenone).
384 114. JWH-007 (1-Pentyl-2-methyl-3-(1-naphthoyl)indole).
385 115. JWH-015 (1-Propyl-2-methyl-3-(1-naphthoyl)indole).
386 116. JWH-019 (1-Hexyl-3-(1-naphthoyl)indole).
387 117. JWH-020 (1-Heptyl-3-(1-naphthoyl)indole).



- 388 118. JWH-072 (1-Propyl-3-(1-naphthoyl)indole).
389 119. JWH-081 (1-Pentyl-3-(4-methoxy-1-naphthoyl)indole).
390 120. JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).
391 121. JWH-133 ((6aR,10aR)-6,6,9-Trimethyl-3-(2-methylpentan-
392 2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).
393 122. JWH-175 (1-Pentyl-3-(1-naphthylmethyl)indole).
394 123. JWH-201 (1-Pentyl-3-(4-methoxyphenylacetyl)indole).
395 124. JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl)indole).
396 125. JWH-210 (1-Pentyl-3-(4-ethyl-1-naphthoyl)indole).
397 126. JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl)indole).
398 127. JWH-251 (1-Pentyl-3-(2-methylphenylacetyl)indole).
399 128. JWH-302 (1-Pentyl-3-(3-methoxyphenylacetyl)indole).
400 129. JWH-398 (1-Pentyl-3-(4-chloro-1-naphthoyl)indole).
401 130. HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-
402 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-
403 ol).
404 131. HU-308 ([(1R,2R,5R)-2-[2,6-Dimethoxy-4-(2-methyloctan-
405 2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-enyl]
406 methanol).
407 132. HU-331 (3-Hydroxy-2-[(1R,6R)-3-methyl-6-(1-
408 methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-
409 1,4-dione).
410 133. CB-13 (4-Pentyloxy-1-(1-naphthoyl)naphthalene).
411 134. CB-25 (N-Cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-
412 undecanamide).
413 135. CB-52 (N-Cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-
414 undecanamide).
415 136. CP 55,940 (2-[3-Hydroxy-6-propanol-cyclohexyl]-5-(2-
416 methyloctan-2-yl)phenol).



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- 417 137. AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole).
418 138. AM-2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl)indole).
419 139. RCS-4 (1-Pentyl-3-(4-methoxybenzoyl)indole).
420 140. RCS-8 (1-(2-Cyclohexylethyl)-3-(2-
421 methoxyphenylacetyl)indole).
422 141. WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-
423 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
424 naphthalenylmethanone).
425 142. WIN55,212-3 ([(3S)-2,3-Dihydro-5-methyl-3-(4-
426 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
427 naphthalenylmethanone).
428 143. Pentedrone (alpha-Methylaminovalerophenone).
429 144. Fluoroamphetamine.
430 145. Fluoromethamphetamine.
431 146. Methoxetamine.
432 147. Methiopropamine.
433 148. Methylbuphedrone (Methyl-alpha-
434 methylaminobutyrophenone).
435 149. APB ((2-Aminopropyl)benzofuran).
436 150. APDB ((2-Aminopropyl)-2,3-dihydrobenzofuran).
437 151. UR-144 (1-Pentyl-3-(2,2,3,3-
438 tetramethylcyclopropanoyl)indole).
439 152. XLR11 (1-(5-Fluoropentyl)-3-(2,2,3,3-
440 tetramethylcyclopropanoyl)indole).
441 153. Chloro UR-144 (1-(Chloropentyl)-3-(2,2,3,3-
442 tetramethylcyclopropanoyl)indole).
443 154. AKB48 (N-Adamant-1-yl 1-pentylindazole-3-carboxamide).
444 155. AM-2233 (1-[(N-Methyl-2-piperidinyl)methyl]-3-(2-
445 iodobenzoyl)indole).



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- 446 156. STS-135 (N-Adamant-1-yl 1-(5-fluoropentyl)indole-3-
447 carboxamide).
- 448 157. URB-597 ((3'-(Aminocarbonyl)[1,1'-biphenyl]-3-yl)-
449 cyclohexylcarbamate).
- 450 158. URB-602 ([1,1'-Biphenyl]-3-yl-carbamic acid,
451 cyclohexyl ester).
- 452 159. URB-754 (6-Methyl-2-[(4-methylphenyl)amino]-1-
453 benzoxazin-4-one).
- 454 160. 2C-D (4-Methyl-2,5-dimethoxyphenethylamine).
- 455 161. 2C-H (2,5-Dimethoxyphenethylamine).
- 456 162. 2C-N (4-Nitro-2,5-dimethoxyphenethylamine).
- 457 163. 2C-P (4-(n)-Propyl-2,5-dimethoxyphenethylamine).
- 458 164. 25I-NBOMe (4-Iodo-2,5-dimethoxy-[N-(2-
459 methoxybenzyl)]phenethylamine).
- 460 165. MDMA (3,4-Methylenedioxymethamphetamine).
- 461 166. PB-22 (8-Quinoliny 1-pentylindole-3-carboxylate).
- 462 167. Fluoro PB-22 (8-Quinoliny 1-(fluoropentyl)indole-3-
463 carboxylate).
- 464 168. BB-22 (8-Quinoliny 1-(cyclohexylmethyl)indole-3-
465 carboxylate).
- 466 169. Fluoro AKB48 (N-Adamant-1-yl 1-(fluoropentyl)indazole-
467 3-carboxamide).
- 468 170. AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-
469 pentylindazole-3-carboxamide).
- 470 171. AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-
471 (4-fluorobenzyl)indazole-3-carboxamide).
- 472 172. ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-
473 1-pentylindazole-3-carboxamide).
- 474 173. Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-



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475 yl)-1-(fluoropentyl)indole-3-carboxamide).
476 174. 25B-NBOMe (4-Bromo-2,5-dimethoxy-[N-(2-
477 methoxybenzyl)]phenethylamine).
478 175. 25C-NBOMe (4-Chloro-2,5-dimethoxy-[N-(2-
479 methoxybenzyl)]phenethylamine).
480 176. AB-CHMINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-
481 (cyclohexylmethyl)indazole-3-carboxamide).
482 177. FUB-PB-22 (8-Quinolinyll 1-(4-fluorobenzyl)indole-3-
483 carboxylate).
484 178. Fluoro-NNEI (N-Naphthalen-1-yl 1-(fluoropentyl)indole-
485 3-carboxamide).
486 179. Fluoro-AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-
487 (fluoropentyl)indazole-3-carboxamide).
488 180. THJ-2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl)indazole).
489 181. AM-855 ((4aR,12bR)-8-Hexyl-2,5,5-trimethyl-
490 1,4,4a,8,9,10,11,12b-octahydronaphtho[3,2-c]isochromen-12-ol).
491 182. AM-905 ((6aR,9R,10aR)-3-[(E)-Hept-1-enyl]-9-
492 (hydroxymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-
493 hexahydrobenzo[c]chromen-1-ol).
494 183. AM-906 ((6aR,9R,10aR)-3-[(Z)-Hept-1-enyl]-9-
495 (hydroxymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-
496 hexahydrobenzo[c]chromen-1-ol).
497 184. AM-2389 ((6aR,9R,10aR)-3-(1-Hexyl-cyclobut-1-yl)-
498 6a,7,8,9,10,10a-hexahydro-6,6-dimethyl-6H-dibenzo[b,d]pyran-1,9
499 diol).
500 185. HU-243 ((6aR,8S,9S,10aR)-9-(Hydroxymethyl)-6,6-
501 dimethyl-3-(2-methyloctan-2-yl)-8,9-ditritio-7,8,10,10a-
502 tetrahydro-6aH-benzo[c]chromen-1-ol).
503 186. HU-336 ((6aR,10aR)-6,6,9-Trimethyl-3-pentyl-



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504 6a,7,10,10a-tetrahydro-1H-benzo[c]chromene-1,4(6H)-dione).
505 187. MAPB ((2-Methylaminopropyl)benzofuran).
506 188. 5-IT (2-(1H-Indol-5-yl)-1-methyl-ethylamine).
507 189. 6-IT (2-(1H-Indol-6-yl)-1-methyl-ethylamine).
508 190. Synthetic Cannabinoids.—Unless specifically excepted
509 or unless listed in another schedule or contained within a
510 pharmaceutical product approved by the United States Food and
511 Drug Administration, any material, compound, mixture, or
512 preparation that contains any quantity of a synthetic
513 cannabinoid found to be in any of the following chemical class
514 descriptions, or homologues, nitrogen-heterocyclic analogs,
515 isomers (including optical, positional, or geometric), esters,
516 ethers, salts, and salts of homologues, nitrogen-heterocyclic
517 analogs, isomers, esters, or ethers, whenever the existence of
518 such homologues, nitrogen-heterocyclic analogs, isomers, esters,
519 ethers, salts, and salts of isomers, esters, or ethers is
520 possible within the specific chemical class or designation.
521 Since nomenclature of these synthetically produced cannabinoids
522 is not internationally standardized and may continually evolve,
523 these structures or the compounds of these structures shall be
524 included under this subparagraph, regardless of their specific
525 numerical designation of atomic positions covered, if it can be
526 determined through a recognized method of scientific testing or
527 analysis that the substance contains properties that fit within
528 one or more of the following categories:
529 a. Tetrahydrocannabinols.—Any tetrahydrocannabinols
530 naturally contained in a plant of the genus *Cannabis*, the
531 synthetic equivalents of the substances contained in the plant
532 or in the resinous extracts of the genus *Cannabis*, or synthetic



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533 substances, derivatives, and their isomers with similar chemical
534 structure and pharmacological activity, including, but not
535 limited to, Delta 9 tetrahydrocannabinols and their optical
536 isomers, Delta 8 tetrahydrocannabinols and their optical
537 isomers, Delta 6a,10a tetrahydrocannabinols and their optical
538 isomers, or any compound containing a tetrahydrobenzo[c]chromene
539 structure with substitution at either or both the 3-position or
540 9-position, with or without substitution at the 1-position with
541 hydroxyl or alkoxy groups, including, but not limited to:

542 (I) Tetrahydrocannabinol.

543 (II) HU-210 ((6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-
544 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-
545 ol).

546 (III) HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-
547 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-
548 ol).

549 (IV) JWH-051 ((6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-
550 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).

551 (V) JWH-133 ((6aR,10aR)-6,6,9-Trimethyl-3-(2-methylpentan-
552 2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).

553 (VI) JWH-057 ((6aR,10aR)-6,6,9-Trimethyl-3-(2-methyloctan-
554 2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).

555 (VII) JWH-359 ((6aR,10aR)-1-Methoxy-6,6,9-trimethyl-3-(2,3-
556 dimethylpentan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).

557 (VIII) AM-087 ((6aR,10aR)-3-(2-Methyl-6-bromohex-2-yl)-
558 6,6,9-trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol).

559 (IX) AM-411 ((6aR,10aR)-3-(1-Adamantyl)-6,6,9-trimethyl-
560 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol).

561 (X) Parahexyl.



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562 b. Naphthoylindoles, Naphthoylindazoles,
563 Naphthoylcarbazoles, Naphthylmethylindoles,
564 Naphthylmethylindazoles, and Naphthylmethylcarbazoles.—Any
565 compound containing a naphthoylindole, naphthoylindazole,
566 naphthoylcarbazole, naphthylmethylindole,
567 naphthylmethylindazole, or naphthylmethylcarbazole structure,
568 with or without substitution on the indole, indazole, or
569 carbazole ring to any extent, whether or not substituted on the
570 naphthyl ring to any extent, including, but not limited to:
571 (I) JWH-007 (1-Pentyl-2-methyl-3-(1-naphthoyl)indole).
572 (II) JWH-011 (1-(1-Methylhexyl)-2-methyl-3-(1-
573 naphthoyl)indole).
574 (III) JWH-015 (1-Propyl-2-methyl-3-(1-naphthoyl)indole).
575 (IV) JWH-016 (1-Butyl-2-methyl-3-(1-naphthoyl)indole).
576 (V) JWH-018 (1-Pentyl-3-(1-naphthoyl)indole).
577 (VI) JWH-019 (1-Hexyl-3-(1-naphthoyl)indole).
578 (VII) JWH-020 (1-Heptyl-3-(1-naphthoyl)indole).
579 (VIII) JWH-022 (1-(4-Pentenyl)-3-(1-naphthoyl)indole).
580 (IX) JWH-071 (1-Ethyl-3-(1-naphthoyl)indole).
581 (X) JWH-072 (1-Propyl-3-(1-naphthoyl)indole).
582 (XI) JWH-073 (1-Butyl-3-(1-naphthoyl)indole).
583 (XII) JWH-080 (1-Butyl-3-(4-methoxy-1-naphthoyl)indole).
584 (XIII) JWH-081 (1-Pentyl-3-(4-methoxy-1-naphthoyl)indole).
585 (XIV) JWH-098 (1-Pentyl-2-methyl-3-(4-methoxy-1-
586 naphthoyl)indole).
587 (XV) JWH-116 (1-Pentyl-2-ethyl-3-(1-naphthoyl)indole).
588 (XVI) JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).
589 (XVII) JWH-149 (1-Pentyl-2-methyl-3-(4-methyl-1-
590 naphthoyl)indole).



- 591 (XVIII) JWH-164 (1-Pentyl-3-(7-methoxy-1-naphthoyl)indole).
- 592 (XIX) JWH-175 (1-Pentyl-3-(1-naphthylmethyl)indole).
- 593 (XX) JWH-180 (1-Propyl-3-(4-propyl-1-naphthoyl)indole).
- 594 (XXI) JWH-182 (1-Pentyl-3-(4-propyl-1-naphthoyl)indole).
- 595 (XXII) JWH-184 (1-Pentyl-3-[(4-methyl)-1-
- 596 naphthylmethyl]indole).
- 597 (XXIII) JWH-193 (1-[2-(4-Morpholinyl)ethyl]-3-(4-methyl-1-
- 598 naphthoyl)indole).
- 599 (XXIV) JWH-198 (1-[2-(4-Morpholinyl)ethyl]-3-(4-methoxy-1-
- 600 naphthoyl)indole).
- 601 (XXV) JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-
- 602 naphthoyl)indole).
- 603 (XXVI) JWH-210 (1-Pentyl-3-(4-ethyl-1-naphthoyl)indole).
- 604 (XXVII) JWH-387 (1-Pentyl-3-(4-bromo-1-naphthoyl)indole).
- 605 (XXVIII) JWH-398 (1-Pentyl-3-(4-chloro-1-naphthoyl)indole).
- 606 (XXIX) JWH-412 (1-Pentyl-3-(4-fluoro-1-naphthoyl)indole).
- 607 (XXX) JWH-424 (1-Pentyl-3-(8-bromo-1-naphthoyl)indole).
- 608 (XXXI) AM-1220 (1-[(1-Methyl-2-piperidinyl)methyl]-3-(1-
- 609 naphthoyl)indole).
- 610 (XXXII) AM-1235 (1-(5-Fluoropentyl)-6-nitro-3-(1-
- 611 naphthoyl)indole).
- 612 (XXXIII) AM-2201 (1-(5-Fluoropentyl)-3-(1-
- 613 naphthoyl)indole).
- 614 (XXXIV) Chloro JWH-018 (1-(Chloropentyl)-3-(1-
- 615 naphthoyl)indole).
- 616 (XXXV) Bromo JWH-018 (1-(Bromopentyl)-3-(1-
- 617 naphthoyl)indole).
- 618 (XXXVI) AM-2232 (1-(4-Cyanobutyl)-3-(1-naphthoyl)indole).
- 619 (XXXVII) THJ-2201 (1-(5-Fluoropentyl)-3-(1-



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620 naphthoyl)indazole).

621 (XXXVIII) MAM-2201 (1-(5-Fluoropentyl)-3-(4-methyl-1-

622 naphthoyl)indole).

623 (XXXIX) EAM-2201 (1-(5-Fluoropentyl)-3-(4-ethyl-1-

624 naphthoyl)indole).

625 (XL) EG-018 (9-Pentyl-3-(1-naphthoyl)carbazole).

626 (XLI) EG-2201 (9-(5-Fluoropentyl)-3-(1-

627 naphthoyl)carbazole).

628 c. Naphthoylpyrroles.—Any compound containing a

629 naphthoylpyrrole structure, with or without substitution on the

630 pyrrole ring to any extent, whether or not substituted on the

631 naphthyl ring to any extent, including, but not limited to:

632 (I) JWH-030 (1-Pentyl-3-(1-naphthoyl)pyrrole).

633 (II) JWH-031 (1-Hexyl-3-(1-naphthoyl)pyrrole).

634 (III) JWH-145 (1-Pentyl-5-phenyl-3-(1-naphthoyl)pyrrole).

635 (IV) JWH-146 (1-Heptyl-5-phenyl-3-(1-naphthoyl)pyrrole).

636 (V) JWH-147 (1-Hexyl-5-phenyl-3-(1-naphthoyl)pyrrole).

637 (VI) JWH-307 (1-Pentyl-5-(2-fluorophenyl)-3-(1-

638 naphthoyl)pyrrole).

639 (VII) JWH-309 (1-Pentyl-5-(1-naphthalenyl)-3-(1-

640 naphthoyl)pyrrole).

641 (VIII) JWH-368 (1-Pentyl-5-(3-fluorophenyl)-3-(1-

642 naphthoyl)pyrrole).

643 (IX) JWH-369 (1-Pentyl-5-(2-chlorophenyl)-3-(1-

644 naphthoyl)pyrrole).

645 (X) JWH-370 (1-Pentyl-5-(2-methylphenyl)-3-(1-

646 naphthoyl)pyrrole).

647 d. Naphthylmethylenindenes.—Any compound containing a

648 naphthylmethylenindene structure, with or without substitution



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649 at the 3-position of the indene ring to any extent, whether or
650 not substituted on the naphthyl ring to any extent, including,
651 but not limited to, JWH-176 (3-Pentyl-1-
652 (naphthylmethylene)indene).

653 e. Phenylacetylindoles and Phenylacetylindazoles.—Any
654 compound containing a phenylacetylindole or phenylacetylindazole
655 structure, with or without substitution on the indole or
656 indazole ring to any extent, whether or not substituted on the
657 phenyl ring to any extent, including, but not limited to:

- 658 (I) JWH-167 (1-Pentyl-3-(phenylacetyl)indole).
659 (II) JWH-201 (1-Pentyl-3-(4-methoxyphenylacetyl)indole).
660 (III) JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl)indole).
661 (IV) JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl)indole).
662 (V) JWH-251 (1-Pentyl-3-(2-methylphenylacetyl)indole).
663 (VI) JWH-302 (1-Pentyl-3-(3-methoxyphenylacetyl)indole).
664 (VII) Cannabipiperidiethanone.
665 (VIII) RCS-8 (1-(2-Cyclohexylethyl)-3-(2-
666 methoxyphenylacetyl)indole).

667 f. Cyclohexylphenols.—Any compound containing a
668 cyclohexylphenol structure, with or without substitution at the
669 5-position of the phenolic ring to any extent, whether or not
670 substituted on the cyclohexyl ring to any extent, including, but
671 not limited to:

- 672 (I) CP 47,497 (2-(3-Hydroxycyclohexyl)-5-(2-methyloctan-2-
673 yl)phenol).
674 (II) Cannabicyclohexanol (CP 47,497 dimethyloctyl (C8)
675 homologue).
676 (III) CP-55,940 (2-(3-Hydroxy-6-propanol-cyclohexyl)-5-(2-
677 methyloctan-2-yl)phenol).



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678 g. Benzoylindoles and Benzoylindazoles.—Any compound
679 containing a benzoylindole or benzoylindazole structure, with or
680 without substitution on the indole or indazole ring to any
681 extent, whether or not substituted on the phenyl ring to any
682 extent, including, but not limited to:

683 (I) AM-679 (1-Pentyl-3-(2-iodobenzoyl)indole).

684 (II) AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole).

685 (III) AM-1241 (1-[(N-Methyl-2-piperidinyl)methyl]-3-(2-
686 iodo-5-nitrobenzoyl)indole).

687 (IV) Pravadoline (1-[2-(4-Morpholinyl)ethyl]-2-methyl-3-(4-
688 methoxybenzoyl)indole).

689 (V) AM-2233 (1-[(N-Methyl-2-piperidinyl)methyl]-3-(2-
690 iodobenzoyl)indole).

691 (VI) RCS-4 (1-Pentyl-3-(4-methoxybenzoyl)indole).

692 (VII) RCS-4 C4 homologue (1-Butyl-3-(4-
693 methoxybenzoyl)indole).

694 (VIII) AM-630 (1-[2-(4-Morpholinyl)ethyl]-2-methyl-6-iodo-
695 3-(4-methoxybenzoyl)indole).

696 h. Tetramethylcyclopropanoylindoles and
697 Tetramethylcyclopropanoylindazoles.—Any compound containing a
698 tetramethylcyclopropanoylindole or
699 tetramethylcyclopropanoylindazole structure, with or without
700 substitution on the indole or indazole ring to any extent,
701 whether or not substituted on the tetramethylcyclopropyl group
702 to any extent, including, but not limited to:

703 (I) UR-144 (1-Pentyl-3-(2,2,3,3-
704 tetramethylcyclopropanoyl)indole).

705 (II) XLR11 (1-(5-Fluoropentyl)-3-(2,2,3,3-
706 tetramethylcyclopropanoyl)indole).



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- 707 (III) Chloro UR-144 (1-(Chloropentyl)-3-(2,2,3,3-
708 tetramethylcyclopropanoyl)indole).
- 709 (IV) A-796,260 (1-[2-(4-Morpholinyl)ethyl]-3-(2,2,3,3-
710 tetramethylcyclopropanoyl)indole).
- 711 (V) A-834,735 (1-[4-(Tetrahydropyranyl)methyl]-3-(2,2,3,3-
712 tetramethylcyclopropanoyl)indole).
- 713 (VI) M-144 (1-(5-Fluoropentyl)-2-methyl-3-(2,2,3,3-
714 tetramethylcyclopropanoyl)indole).
- 715 (VII) FUB-144 (1-(4-Fluorobenzyl)-3-(2,2,3,3-
716 tetramethylcyclopropanoyl)indole).
- 717 (VIII) FAB-144 (1-(5-Fluoropentyl)-3-(2,2,3,3-
718 tetramethylcyclopropanoyl)indazole).
- 719 (IX) XLR12 (1-(4,4,4-Trifluorobutyl)-3-(2,2,3,3-
720 tetramethylcyclopropanoyl)indole).
- 721 (X) AB-005 (1-[(1-Methyl-2-piperidinyl)methyl]-3-(2,2,3,3-
722 tetramethylcyclopropanoyl)indole).
- 723 i. Adamantoylindoles, Adamantoylindazoles, Adamantylindole
724 carboxamides, and Adamantylindazole carboxamides.—Any compound
725 containing an adamantoyl indole, adamantoyl indazole, adamantyl
726 indole carboxamide, or adamantyl indazole carboxamide structure,
727 with or without substitution on the indole or indazole ring to
728 any extent, whether or not substituted on the adamantyl ring to
729 any extent, including, but not limited to:
- 730 (I) AKB48 (N-Adamant-1-yl 1-pentylindazole-3-carboxamide).
731 (II) Fluoro AKB48 (N-Adamant-1-yl 1-(fluoropentyl)indazole-
732 3-carboxamide).
- 733 (III) STS-135 (N-Adamant-1-yl 1-(5-fluoropentyl)indole-3-
734 carboxamide).
- 735 (IV) AM-1248 (1-(1-Methylpiperidine)methyl-3-(1-



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736 adamantoyl)indole).

737 (V) AB-001 (1-Pentyl-3-(1-adamantoyl)indole).

738 (VI) APICA (N-Adamant-1-yl 1-pentylindole-3-carboxamide).

739 (VII) Fluoro AB-001 (1-(Fluoropentyl)-3-(1-

740 adamantoyl)indole).

741 j. Quinolinyndolecarboxylates,

742 Quinolinyndazolecarboxylates, Quinolinyndolecarboxamides,

743 and Quinolinyndazolecarboxamides.—Any compound containing a

744 quinolinyndole carboxylate, quinolinyndazole carboxylate,

745 isoquinolinyndole carboxylate, isoquinolinyndazole

746 carboxylate, quinolinyndole carboxamide, quinolinyndazole

747 carboxamide, isoquinolinyndole carboxamide, or

748 isoquinolinyndazole carboxamide structure, with or without

749 substitution on the indole or indazole ring to any extent,

750 whether or not substituted on the quinoline or isoquinoline ring

751 to any extent, including, but not limited to:

752 (I) PB-22 (8-Quinolinyndyl 1-pentylindole-3-carboxylate).

753 (II) Fluoro PB-22 (8-Quinolinyndyl 1-(fluoropentyl)indole-3-

754 carboxylate).

755 (III) BB-22 (8-Quinolinyndyl 1-(cyclohexylmethyl)indole-3-

756 carboxylate).

757 (IV) FUB-PB-22 (8-Quinolinyndyl 1-(4-fluorobenzyl)indole-3-

758 carboxylate).

759 (V) NPB-22 (8-Quinolinyndyl 1-pentylindazole-3-carboxylate).

760 (VI) Fluoro NPB-22 (8-Quinolinyndyl 1-(fluoropentyl)indazole-

761 3-carboxylate).

762 (VII) FUB-NPB-22 (8-Quinolinyndyl 1-(4-fluorobenzyl)indazole-

763 3-carboxylate).

764 (VIII) THJ (8-Quinolinyndyl 1-pentylindazole-3-carboxamide).



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765 (IX) Fluoro THJ (8-Quinoliny 1-(fluoropentyl)indazole-3-
766 carboxamide).

767 k. Naphthylindolecarboxylates and
768 Naphthylindazolecarboxylates.—Any compound containing a
769 naphthylindole carboxylate or naphthylindazole carboxylate
770 structure, with or without substitution on the indole or
771 indazole ring to any extent, whether or not substituted on the
772 naphthyl ring to any extent, including, but not limited to:

773 (I) NM-2201 (1-Naphthalenyl 1-(5-fluoropentyl)indole-3-
774 carboxylate).

775 (II) SDB-005 (1-Naphthalenyl 1-pentylindazole-3-
776 carboxylate).

777 (III) Fluoro SDB-005 (1-Naphthalenyl 1-
778 (fluoropentyl)indazole-3-carboxylate).

779 (IV) FDU-PB-22 (1-Naphthalenyl 1-(4-fluorobenzyl)indole-3-
780 carboxylate).

781 (V) 3-CAF (2-Naphthalenyl 1-(2-fluorophenyl)indazole-3-
782 carboxylate).

783 1. Naphthylindole carboxamides and Naphthylindazole
784 carboxamides.—Any compound containing a naphthylindole
785 carboxamide or naphthylindazole carboxamide structure, with or
786 without substitution on the indole or indazole ring to any
787 extent, whether or not substituted on the naphthyl ring to any
788 extent, including, but not limited to:

789 (I) NNEI (N-Naphthalen-1-yl 1-pentylindole-3-carboxamide).

790 (II) Fluoro-NNEI (N-Naphthalen-1-yl 1-(fluoropentyl)indole-
791 3-carboxamide).

792 (III) Chloro-NNEI (N-Naphthalen-1-yl 1-
793 (chloropentyl)indole-3-carboxamide).



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794 (IV) MN-18 (N-Naphthalen-1-yl 1-pentylindazole-3-
795 carboxamide).

796 (V) Fluoro MN-18 (N-Naphthalen-1-yl 1-
797 (fluoropentyl)indazole-3-carboxamide).

798 m. Alkylcarbonyl indole carboxamides, Alkylcarbonyl
799 indazole carboxamides, Alkylcarbonyl indole carboxylates, and
800 Alkylcarbonyl indazole carboxylates.-Any compound containing an
801 alkylcarbonyl group, including 1-amino-3-methyl-1-oxobutan-2-yl,
802 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-amino-1-oxo-3-
803 phenylpropan-2-yl, 1-methoxy-1-oxo-3-phenylpropan-2-yl, with an
804 indole carboxamide, indazole carboxamide, indole carboxylate, or
805 indazole carboxylate, with or without substitution on the indole
806 or indazole ring to any extent, whether or not substituted on
807 the alkylcarbonyl group to any extent, including, but not
808 limited to:

809 (I) ADBICA, (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-
810 pentylindole-3-carboxamide).

811 (II) Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-
812 yl)-1-(fluoropentyl)indole-3-carboxamide).

813 (III) Fluoro ABICA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-
814 (fluoropentyl)indole-3-carboxamide).

815 (IV) AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-
816 pentylindazole-3-carboxamide).

817 (V) Fluoro AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-
818 1-(fluoropentyl)indazole-3-carboxamide).

819 (VI) ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-
820 1-pentylindazole-3-carboxamide).

821 (VII) Fluoro ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-
822 oxobutan-2-yl)-1-(fluoropentyl)indazole-3-carboxamide).



- 823 (VIII) AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-
824 (4-fluorobenzyl)indazole-3-carboxamide).
- 825 (IX) ADB-FUBINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-
826 yl)-1-(4-fluorobenzyl)indazole-3-carboxamide).
- 827 (X) AB-CHMINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-
828 (cyclohexylmethyl)indazole-3-carboxamide).
- 829 (XI) MA-CHMINACA (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-
830 (cyclohexylmethyl)indazole-3-carboxamide).
- 831 (XII) MAB-CHMINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-
832 yl)-1-(cyclohexylmethyl)indazole-3-carboxamide).
- 833 (XIII) AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-
834 pentylindazole-3-carboxamide).
- 835 (XIV) Fluoro-AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-
836 (fluoropentyl)indazole-3-carboxamide).
- 837 (XV) FUB-AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-(4-
838 fluorobenzyl)indazole-3-carboxamide).
- 839 (XVI) MDMB-CHMINACA (N-(1-Methoxy-3,3-dimethyl-1-oxobutan-
840 2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide).
- 841 (XVII) MDMB-FUBINACA (N-(1-Methoxy-3,3-dimethyl-1-oxobutan-
842 2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide).
- 843 (XVIII) MDMB-CHMICA (N-(1-Methoxy-3,3-dimethyl-1-oxobutan-
844 2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide).
- 845 (XIX) PX-1 (N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-(5-
846 fluoropentyl)indole-3-carboxamide).
- 847 (XX) PX-2 (N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-(5-
848 fluoropentyl)indazole-3-carboxamide).
- 849 (XXI) PX-3 (N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-
850 (cyclohexylmethyl)indazole-3-carboxamide).
- 851 (XXII) PX-4 (N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-(4-



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852 fluorobenzyl)indazole-3-carboxamide).

853 (XXIII) MO-CHMINACA (N-(1-Methoxy-3,3-dimethyl-1-oxobutan-

854 2-yl)-1-(cyclohexylmethyl)indazole-3-carboxylate).

855 n. Cumylindolecarboxamides and Cumylindazolecarboxamides.-

856 Any compound containing a N-(2-phenylpropan-2-yl) indole

857 carboxamide or N-(2-phenylpropan-2-yl) indazole carboxamide

858 structure, with or without substitution on the indole or

859 indazole ring to any extent, whether or not substituted on the

860 phenyl ring of the cumyl group to any extent, including, but not

861 limited to:

862 (I) CUMYL-PICA (N-(2-Phenylpropan-2-yl)-1-pentylindole-3-

863 carboxamide).

864 (II) Fluoro CUMYL-PICA (N-(2-Phenylpropan-2-yl)-1-

865 (fluoropentyl)indole-3-carboxamide).

866 o. Other Synthetic Cannabinoids.-Any material, compound,

867 mixture, or preparation that contains any quantity of a

868 Synthetic Cannabinoid, as described in sub-subparagraphs a.-n.:

869 (I) With or without modification or replacement of a

870 carbonyl, carboxamide, alkylene, alkyl, or carboxylate linkage

871 between either two core rings, or linkage between a core ring

872 and group structure, with or without the addition of a carbon or

873 replacement of a carbon;

874 (II) With or without replacement of a core ring or group

875 structure, whether or not substituted on the ring or group

876 structures to any extent; and

877 (III) Is a cannabinoid receptor agonist, unless

878 specifically excepted or unless listed in another schedule or

879 contained within a pharmaceutical product approved by the United

880 States Food and Drug Administration.



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881 191. Substituted Cathinones.—Unless specifically excepted,
882 listed in another schedule, or contained within a pharmaceutical
883 product approved by the United States Food and Drug
884 Administration, any material, compound, mixture, or preparation,
885 including its salts, isomers, esters, or ethers, and salts of
886 isomers, esters, or ethers, whenever the existence of such salts
887 is possible within any of the following specific chemical
888 designations:

889 a. Any compound containing a 2-amino-1-phenyl-1-propanone
890 structure;

891 b. Any compound containing a 2-amino-1-naphthyl-1-propanone
892 structure; or

893 c. Any compound containing a 2-amino-1-thiophenyl-1-
894 propanone structure,
895 whether or not the compound is further modified:

896 (I) With or without substitution on the ring system to any
897 extent with alkyl, alkylthio, thio, fused alkylenedioxy, alkoxy,
898 haloalkyl, hydroxyl, nitro, fused furan, fused benzofuran, fused
899 dihydrofuran, fused tetrahydropyran, fused alkyl ring, or halide
900 substituents;

901 (II) With or without substitution at the 3-propanone
902 position with an alkyl substituent or removal of the methyl
903 group at the 3-propanone position;

904 (III) With or without substitution at the 2-amino nitrogen
905 atom with alkyl, dialkyl, acetyl, or benzyl groups, whether or
906 not further substituted in the ring system; or

907 (IV) With or without inclusion of the 2-amino nitrogen atom
908 in a cyclic structure, including, but not limited to:

909 (A) Methcathinone.



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- 910 (B) Ethcathinone.
- 911 (C) Methylone (3,4-Methylenedioxy-methcathinone).
- 912 (D) 2,3-Methylenedioxy-methcathinone.
- 913 (E) MDPV (3,4-Methylenedioxy-pyrovalerone).
- 914 (F) Methylmethcathinone.
- 915 (G) Methoxymethcathinone.
- 916 (H) Fluoromethcathinone.
- 917 (I) Methylethcathinone.
- 918 (J) Butylone (3,4-Methylenedioxy-alpha-
- 919 methylaminobutyrophenone).
- 920 (K) Ethylone (3,4-Methylenedioxy-N-ethylcathinone).
- 921 (L) BMDP (3,4-Methylenedioxy-N-benzylcathinone).
- 922 (M) Naphyrone (Naphthylpyrovalerone).
- 923 (N) Bromomethcathinone.
- 924 (O) Buphedrone (alpha-Methylaminobutyrophenone).
- 925 (P) Eutylone (3,4-Methylenedioxy-alpha-
- 926 ethylaminobutyrophenone).
- 927 (Q) Dimethylcathinone.
- 928 (R) Dimethylmethcathinone.
- 929 (S) Pentylone (3,4-Methylenedioxy-alpha-
- 930 methylaminovalerophenone).
- 931 (T) Pentedrone (alpha-Methylaminovalerophenone).
- 932 (U) MDPPP (3,4-Methylenedioxy-alpha-
- 933 pyrrolidinopropiophenone).
- 934 (V) MDPBP (3,4-Methylenedioxy-alpha-
- 935 pyrrolidinobutyrophenone).
- 936 (W) MPPP (Methyl-alpha-pyrrolidinopropiophenone).
- 937 (X) PPP (Pyrrolidinopropiophenone).
- 938 (Y) PVP (Pyrrolidinovalerophenone) or



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939 (Pyrrolidinopentiophenone).
940 (Z) MOPPP (Methoxy-alpha-pyrrolidinopropiophenone).
941 (AA) MPHP (Methyl-alpha-pyrrolidinohexanophenone).
942 (BB) F-MABP (Fluoromethylaminobutyrophenone).
943 (CC) Me-EABP (Methylethylaminobutyrophenone).
944 (DD) PBP (Pyrrolidinobutyrophenone).
945 (EE) MeO-PBP (Methoxypyrrolidinobutyrophenone).
946 (FF) Et-PBP (Ethylpyrrolidinobutyrophenone).
947 (GG) 3-Me-4-MeO-MCAT (3-Methyl-4-Methoxymethcathinone).
948 (HH) Dimethylone (3,4-Methylenedioxy-N,N-
949 dimethylcathinone).
950 (II) 3,4-Methylenedioxy-N,N-diethylcathinone.
951 (JJ) 3,4-Methylenedioxy-N-acetylcathinone.
952 (KK) 3,4-Methylenedioxy-N-acetylmethcathinone.
953 (LL) 3,4-Methylenedioxy-N-acetylethcathinone.
954 (MM) Methylbuphedrone (Methyl-alpha-
955 methylaminobutyrophenone).
956 (NN) Methyl-alpha-methylaminohexanophenone.
957 (OO) N-Ethyl-N-methylcathinone.
958 (PP) PHP (Pyrrolidinohexanophenone).
959 (QQ) PV8 (Pyrrolidinoheptanophenone).
960 (RR) Chloromethcathinone.
961 (SS) 4-Bromo-2,5-dimethoxy-alpha-aminoacetophenone.
962 192. Substituted Phenethylamines.—Unless specifically
963 excepted or unless listed in another schedule, or contained
964 within a pharmaceutical product approved by the United States
965 Food and Drug Administration, any material, compound, mixture,
966 or preparation, including its salts, isomers, esters, or ethers,
967 and salts of isomers, esters, or ethers, whenever the existence



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968 of such salts is possible within any of the following specific
969 chemical designations, any compound containing a phenethylamine
970 structure, without a beta-keto group, and without a benzyl group
971 attached to the amine group, whether or not the compound is
972 further modified with or without substitution on the phenyl ring
973 to any extent with alkyl, alkylthio, nitro, alkoxy, thio,
974 halide, fused alkylenedioxy, fused furan, fused benzofuran,
975 fused dihydrofuran, or fused tetrahydropyran substituents,
976 whether or not further substituted on a ring to any extent, with
977 or without substitution at the alpha or beta position by any
978 alkyl substituent, with or without substitution at the nitrogen
979 atom, and with or without inclusion of the 2-amino nitrogen atom
980 in a cyclic structure, including, but not limited to:

- 981 a. 2C-B (4-Bromo-2,5-dimethoxyphenethylamine).
- 982 b. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).
- 983 c. 2C-T-4 (4-Isopropylthio-2,5-dimethoxyphenethylamine).
- 984 d. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).
- 985 e. 2C-T (4-Methylthio-2,5-dimethoxyphenethylamine).
- 986 f. 2C-T-2 (4-Ethylthio-2,5-dimethoxyphenethylamine).
- 987 g. 2C-T-7 (4-(n)-Propylthio-2,5-dimethoxyphenethylamine).
- 988 h. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).
- 989 i. 2C-D (4-Methyl-2,5-dimethoxyphenethylamine).
- 990 j. 2C-H (2,5-Dimethoxyphenethylamine).
- 991 k. 2C-N (4-Nitro-2,5-dimethoxyphenethylamine).
- 992 l. 2C-P (4-(n)-Propyl-2,5-dimethoxyphenethylamine).
- 993 m. MDMA (3,4-Methylenedioxyamphetamine).
- 994 n. MBDB (Methylbenzodioxolylbutanamine) or (3,4-
995 Methylenedioxy-N-methylbutanamine).
- 996 o. MDA (3,4-Methylenedioxyamphetamine).



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- 997 p. 2,5-Dimethoxyamphetamine.
- 998 q. Fluoroamphetamine.
- 999 r. Fluoromethamphetamine.
- 1000 s. MDEA (3,4-Methylenedioxy-N-ethylamphetamine).
- 1001 t. DOB (4-Bromo-2,5-dimethoxyamphetamine).
- 1002 u. DOC (4-Chloro-2,5-dimethoxyamphetamine).
- 1003 v. DOET (4-Ethyl-2,5-dimethoxyamphetamine).
- 1004 w. DOI (4-Iodo-2,5-dimethoxyamphetamine).
- 1005 x. DOM (4-Methyl-2,5-dimethoxyamphetamine).
- 1006 y. PMA (4-Methoxyamphetamine).
- 1007 z. N-Ethylamphetamine.
- 1008 aa. 3,4-Methylenedioxy-N-hydroxyamphetamine.
- 1009 bb. 5-Methoxy-3,4-methylenedioxyamphetamine.
- 1010 cc. PMMA (4-Methoxymethamphetamine).
- 1011 dd. N,N-Dimethylamphetamine.
- 1012 ee. 3,4,5-Trimethoxyamphetamine.
- 1013 ff. 4-APB (4-(2-Aminopropyl)benzofuran).
- 1014 gg. 5-APB (5-(2-Aminopropyl)benzofuran).
- 1015 hh. 6-APB (6-(2-Aminopropyl)benzofuran).
- 1016 ii. 7-APB (7-(2-Aminopropyl)benzofuran).
- 1017 jj. 4-APDB (4-(2-Aminopropyl)-2,3-dihydrobenzofuran).
- 1018 kk. 5-APDB (5-(2-Aminopropyl)-2,3-dihydrobenzofuran).
- 1019 ll. 6-APDB (6-(2-Aminopropyl)-2,3-dihydrobenzofuran).
- 1020 mm. 7-APDB (7-(2-Aminopropyl)-2,3-dihydrobenzofuran).
- 1021 nn. 4-MAPB (4-(2-Methylaminopropyl)benzofuran).
- 1022 oo. 5-MAPB (5-(2-Methylaminopropyl)benzofuran).
- 1023 pp. 6-MAPB (6-(2-Methylaminopropyl)benzofuran).
- 1024 qq. 7-MAPB (7-(2-Methylaminopropyl)benzofuran).
- 1025 rr. 5-EAPB (5-(2-Ethylaminopropyl)benzofuran).



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1026 ss. 5-MAPDB (5-(2-Methylaminopropyl)-2,3-
1027 dihydrobenzofuran),

1028
1029 which does not include phenethylamine, mescaline as described in
1030 subparagraph 20., substituted cathinones as described in
1031 subparagraph 191., N-Benzyl phenethylamine compounds as
1032 described in subparagraph 193., or methamphetamine as described
1033 in subparagraph (2)(c)4.

1034 193. N-Benzyl Phenethylamine Compounds.—Unless specifically
1035 excepted or unless listed in another schedule, or contained
1036 within a pharmaceutical product approved by the United States
1037 Food and Drug Administration, any material, compound, mixture,
1038 or preparation, including its salts, isomers, esters, or ethers,
1039 and salts of isomers, esters, or ethers, whenever the existence
1040 of such salts is possible within any of the following specific
1041 chemical designations, any compound containing a phenethylamine
1042 structure without a beta-keto group, with substitution on the
1043 nitrogen atom of the amino group with a benzyl substituent, with
1044 or without substitution on the phenyl or benzyl ring to any
1045 extent with alkyl, alkoxy, thio, alkylthio, halide, fused
1046 alkylenedioxy, fused furan, fused benzofuran, or fused
1047 tetrahydropyran substituents, whether or not further substituted
1048 on a ring to any extent, with or without substitution at the
1049 alpha position by any alkyl substituent, including, but not
1050 limited to:

1051 a. 25B-NBOMe (4-Bromo-2,5-dimethoxy-[N-(2-
1052 methoxybenzyl)]phenethylamine).

1053 b. 25B-NBOH (4-Bromo-2,5-dimethoxy-[N-(2-
1054 hydroxybenzyl)]phenethylamine).



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- 1055 c. 25B-NBF (4-Bromo-2,5-dimethoxy-[N-(2-
1056 fluorobenzyl)]phenethylamine) .
- 1057 d. 25B-NBMD (4-Bromo-2,5-dimethoxy-[N-(2,3-
1058 methylenedioxybenzyl)]phenethylamine) .
- 1059 e. 25I-NBOMe (4-Iodo-2,5-dimethoxy-[N-(2-
1060 methoxybenzyl)]phenethylamine) .
- 1061 f. 25I-NBOH (4-Iodo-2,5-dimethoxy-[N-(2-
1062 hydroxybenzyl)]phenethylamine) .
- 1063 g. 25I-NBF (4-Iodo-2,5-dimethoxy-[N-(2-
1064 fluorobenzyl)]phenethylamine) .
- 1065 h. 25I-NBMD (4-Iodo-2,5-dimethoxy-[N-(2,3-
1066 methylenedioxybenzyl)]phenethylamine) .
- 1067 i. 25T2-NBOMe (4-Methylthio-2,5-dimethoxy-[N-(2-
1068 methoxybenzyl)]phenethylamine) .
- 1069 j. 25T4-NBOMe (4-Isopropylthio-2,5-dimethoxy-[N-(2-
1070 methoxybenzyl)]phenethylamine) .
- 1071 k. 25T7-NBOMe (4-(n)-Propylthio-2,5-dimethoxy-[N-(2-
1072 methoxybenzyl)]phenethylamine) .
- 1073 l. 25C-NBOMe (4-Chloro-2,5-dimethoxy-[N-(2-
1074 methoxybenzyl)]phenethylamine) .
- 1075 m. 25C-NBOH (4-Chloro-2,5-dimethoxy-[N-(2-
1076 hydroxybenzyl)]phenethylamine) .
- 1077 n. 25C-NBF (4-Chloro-2,5-dimethoxy-[N-(2-
1078 fluorobenzyl)]phenethylamine) .
- 1079 o. 25C-NBMD (4-Chloro-2,5-dimethoxy-[N-(2,3-
1080 methylenedioxybenzyl)]phenethylamine) .
- 1081 p. 25H-NBOMe (2,5-Dimethoxy-[N-(2-
1082 methoxybenzyl)]phenethylamine) .
- 1083 q. 25H-NBOH (2,5-Dimethoxy-[N-(2-



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1084 hydroxybenzyl)]phenethylamine).

1085 r. 25H-NBF (2,5-Dimethoxy-[N-(2-
1086 fluorobenzyl)]phenethylamine).

1087 s. 25D-NBOMe (4-Methyl-2,5-dimethoxy-[N-(2-
1088 methoxybenzyl)]phenethylamine),

1089

1090 which does not include substituted cathinones as described in
1091 subparagraph 191.

1092 194. Substituted Tryptamines.—Unless specifically excepted
1093 or unless listed in another schedule, or contained within a
1094 pharmaceutical product approved by the United States Food and
1095 Drug Administration, any material, compound, mixture, or
1096 preparation containing a 2-(1H-indol-3-yl)ethanamine, for
1097 example tryptamine, structure with or without mono- or di-
1098 substitution of the amine nitrogen with alkyl or alkenyl groups,
1099 or by inclusion of the amino nitrogen atom in a cyclic
1100 structure, whether or not substituted at the alpha position with
1101 an alkyl group, whether or not substituted on the indole ring to
1102 any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy
1103 groups, including, but not limited to:

1104 a. Alpha-Ethyltryptamine.

1105 b. Bufotenine.

1106 c. DET (Diethyltryptamine).

1107 d. DMT (Dimethyltryptamine).

1108 e. MET (N-Methyl-N-ethyltryptamine).

1109 f. DALT (N,N-Diallyltryptamine).

1110 g. EiPT (N-Ethyl-N-isopropyltryptamine).

1111 h. MiPT (N-Methyl-N-isopropyltryptamine).

1112 i. 5-Hydroxy-AMT (5-Hydroxy-alpha-methyltryptamine).



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- 1113 j. 5-Hydroxy-N-methyltryptamine.
- 1114 k. 5-MeO-MiPT (5-Methoxy-N-methyl-N-isopropyltryptamine).
- 1115 l. 5-MeO-AMT (5-Methoxy-alpha-methyltryptamine).
- 1116 m. Methyltryptamine.
- 1117 n. 5-MeO-DMT (5-Methoxy-N,N-dimethyltryptamine).
- 1118 o. 5-Me-DMT (5-Methyl-N,N-dimethyltryptamine).
- 1119 p. 5-MeO-DiPT (5-Methoxy-N,N-Diisopropyltryptamine).
- 1120 q. DiPT (N,N-Diisopropyltryptamine).
- 1121 r. DPT (N,N-Dipropyltryptamine).
- 1122 s. 4-Hydroxy-DiPT (4-Hydroxy-N,N-diisopropyltryptamine).
- 1123 t. 5-MeO-DALT (5-Methoxy-N,N-Diallyltryptamine).
- 1124 u. 4-AcO-DMT (4-Acetoxy-N,N-dimethyltryptamine).
- 1125 v. 4-AcO-DiPT (4-Acetoxy-N,N-diisopropyltryptamine).
- 1126 w. 4-Hydroxy-DET (4-Hydroxy-N,N-diethyltryptamine).
- 1127 x. 4-Hydroxy-MET (4-Hydroxy-N-methyl-N-ethyltryptamine).
- 1128 y. 4-Hydroxy-MiPT (4-Hydroxy-N-methyl-N-
- 1129 isopropyltryptamine).
- 1130 z. Methyl-alpha-ethyltryptamine.
- 1131 aa. Bromo-DALT (Bromo-N,N-diallyltryptamine),
- 1132

1133 which does not include tryptamine, psilocyn as described in
1134 subparagraph 34., or psilocybin as described in subparagraph 33.

1135 195. Substituted Phenylcyclohexylamines.—Unless
1136 specifically excepted or unless listed in another schedule, or
1137 contained within a pharmaceutical product approved by the United
1138 States Food and Drug Administration, any material, compound,
1139 mixture, or preparation containing a phenylcyclohexylamine
1140 structure, with or without any substitution on the phenyl ring,
1141 any substitution on the cyclohexyl ring, any replacement of the



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1142 phenyl ring with a thiophenyl or benzothiophenyl ring, with or
1143 without substitution on the amine with alkyl, dialkyl, or alkoxy
1144 substituents, inclusion of the nitrogen in a cyclic structure,
1145 or any combination of the above, including, but not limited to:

1146 a. BTCP (Benzothiophenylcyclohexylpiperidine) or BCP
1147 (Benocyclidine).

1148 b. PCE (N-Ethyl-1-phenylcyclohexylamine) (Ethylamine analog
1149 of phencyclidine).

1150 c. PCPY (N-(1-Phenylcyclohexyl)-pyrrolidine) (Pyrrolidine
1151 analog of phencyclidine).

1152 d. PCPr (Phenylcyclohexylpropylamine).

1153 e. TCP (1-[1-(2-Thienyl)-cyclohexyl]-piperidine) (Thiophene
1154 analog of phencyclidine).

1155 f. PCEEA (Phenylcyclohexyl(ethoxyethylamine)).

1156 g. PCMPA (Phenylcyclohexyl(methoxypropylamine)).

1157 h. Methoxetamine.

1158 i. 3-Methoxy-PCE ((3-Methoxyphenyl)cyclohexylethylamine).

1159 j. Bromo-PCP ((Bromophenyl)cyclohexylpiperidine).

1160 k. Chloro-PCP ((Chlorophenyl)cyclohexylpiperidine).

1161 l. Fluoro-PCP ((Fluorophenyl)cyclohexylpiperidine).

1162 m. Hydroxy-PCP ((Hydroxyphenyl)cyclohexylpiperidine).

1163 n. Methoxy-PCP ((Methoxyphenyl)cyclohexylpiperidine).

1164 o. Methyl-PCP ((Methylphenyl)cyclohexylpiperidine).

1165 p. Nitro-PCP ((Nitrophenyl)cyclohexylpiperidine).

1166 q. Oxo-PCP ((Oxophenyl)cyclohexylpiperidine).

1167 r. Amino-PCP ((Aminophenyl)cyclohexylpiperidine).

1168 196. W-15, 4-chloro-N-[1-(2-phenylethyl)-2-
1169 piperidinylidene]-benzenesulfonamide.

1170 197. W-18, 4-chloro-N-[1-[2-(4-nitrophenyl)ethyl]-2-



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1171 piperidinylidene]-benzenesulfonamide.

1172 198. AH-7921, 3,4-dichloro-N-[[1-
1173 (dimethylamino)cyclohexyl]methyl]-benzamide.

1174 199. U47700, trans-3,4-dichloro-N-[2-
1175 (dimethylamino)cyclohexyl]-N-methyl-benzamide.

1176 200. MT-45, 1-cyclohexyl-4-(1,2-diphenylethyl)-piperazine,
1177 dihydrochloride.

1178 Section 5. Paragraph (c) of subsection (6) of section
1179 893.13, Florida Statutes, is amended to read:

1180 893.13 Prohibited acts; penalties.—

1181 (6)

1182 (c) Except as provided in this chapter, a person may not
1183 possess more than 10 grams of any substance named or described
1184 in s. 893.03(1)(a), ~~or~~ (1)(b), or (2)(b), or any combination
1185 thereof, or any mixture containing any such substance. A person
1186 who violates this paragraph commits a felony of the first
1187 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1188 775.084.

1189 Section 6. Paragraphs (c), (d), and (k) of subsection (1)
1190 of section 893.135, Florida Statutes, are amended, and
1191 paragraphs (m) and (n) are added to that subsection, to read:

1192 893.135 Trafficking; mandatory sentences; suspension or
1193 reduction of sentences; conspiracy to engage in trafficking.—

1194 (1) Except as authorized in this chapter or in chapter 499
1195 and notwithstanding the provisions of s. 893.13:

1196 (c)1. A person who knowingly sells, purchases,
1197 manufactures, delivers, or brings into this state, or who is
1198 knowingly in actual or constructive possession of, 4 grams or
1199 more of any morphine, opium, hydromorphone, or any salt,



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1200 derivative, isomer, or salt of an isomer thereof, including
1201 heroin, as described in s. 893.03(1)(b), (2)(a), (3)(c)3., or
1202 (3)(c)4., or 4 grams or more of any mixture containing any such
1203 substance, but less than 30 kilograms of such substance or
1204 mixture, commits a felony of the first degree, which felony
1205 shall be known as "trafficking in illegal drugs," punishable as
1206 provided in s. 775.082, s. 775.083, or s. 775.084. If the
1207 quantity involved:

1208 a. Is 4 grams or more, but less than 14 grams, such person
1209 shall be sentenced to a mandatory minimum term of imprisonment
1210 of 3 years and shall be ordered to pay a fine of \$50,000.

1211 b. Is 14 grams or more, but less than 28 grams, such person
1212 shall be sentenced to a mandatory minimum term of imprisonment
1213 of 15 years and shall be ordered to pay a fine of \$100,000.

1214 c. Is 28 grams or more, but less than 30 kilograms, such
1215 person shall be sentenced to a mandatory minimum term of
1216 imprisonment of 25 years and shall be ordered to pay a fine of
1217 \$500,000.

1218 2. A person who knowingly sells, purchases, manufactures,
1219 delivers, or brings into this state, or who is knowingly in
1220 actual or constructive possession of, 14 grams or more of
1221 hydrocodone, as described in s. 893.03(2)(a)1.j., codeine, as
1222 described in s. 893.03(2)(a)1.g., or any salt, ~~derivative,~~
1223 ~~isomer, or salt of an isomer~~ thereof, or 14 grams or more of any
1224 mixture containing any such substance, commits a felony of the
1225 first degree, which felony shall be known as "trafficking in
1226 hydrocodone," punishable as provided in s. 775.082, s. 775.083,
1227 or s. 775.084. If the quantity involved:

1228 a. Is 14 grams or more, but less than 28 grams, such person



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1229 shall be sentenced to a mandatory minimum term of imprisonment
1230 of 3 years and shall be ordered to pay a fine of \$50,000.

1231 b. Is 28 grams or more, but less than 50 grams, such person
1232 shall be sentenced to a mandatory minimum term of imprisonment
1233 of 7 years and shall be ordered to pay a fine of \$100,000.

1234 c. Is 50 grams or more, but less than 200 grams, such
1235 person shall be sentenced to a mandatory minimum term of
1236 imprisonment of 15 years and shall be ordered to pay a fine of
1237 \$500,000.

1238 d. Is 200 grams or more, but less than 30 kilograms, such
1239 person shall be sentenced to a mandatory minimum term of
1240 imprisonment of 25 years and shall be ordered to pay a fine of
1241 \$750,000.

1242 3. A person who knowingly sells, purchases, manufactures,
1243 delivers, or brings into this state, or who is knowingly in
1244 actual or constructive possession of, 7 grams or more of
1245 oxycodone, as described in s. 893.03(2)(a)1.o., or any salt,
1246 ~~derivative, isomer, or salt of an isomer~~ thereof, or 7 grams or
1247 more of any mixture containing any such substance, commits a
1248 felony of the first degree, which felony shall be known as
1249 "trafficking in oxycodone," punishable as provided in s.
1250 775.082, s. 775.083, or s. 775.084. If the quantity involved:

1251 a. Is 7 grams or more, but less than 14 grams, such person
1252 shall be sentenced to a mandatory minimum term of imprisonment
1253 of 3 years and shall be ordered to pay a fine of \$50,000.

1254 b. Is 14 grams or more, but less than 25 grams, such person
1255 shall be sentenced to a mandatory minimum term of imprisonment
1256 of 7 years and shall be ordered to pay a fine of \$100,000.

1257 c. Is 25 grams or more, but less than 100 grams, such



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1258 person shall be sentenced to a mandatory minimum term of
1259 imprisonment of 15 years and shall be ordered to pay a fine of
1260 \$500,000.

1261 d. Is 100 grams or more, but less than 30 kilograms, such
1262 person shall be sentenced to a mandatory minimum term of
1263 imprisonment of 25 years and shall be ordered to pay a fine of
1264 \$750,000.

1265 4.a. A person who knowingly sells, purchases, manufactures,
1266 delivers, or brings into this state, or who is knowingly in
1267 actual or constructive possession of, 4 grams or more of:

1268 (I) Alfentanil, as described in s. 893.03(2)(b)1.;

1269 (II) Carfentanil, as described in s. 893.03(2)(b)6.;

1270 (III) Fentanyl, as described in s. 893.03(2)(b)9.;

1271 (IV) Sufentanil, as described in s. 893.03(2)(b)29.;

1272 (V) A fentanyl derivative, as described in s.

1273 893.03(1)(a)62.;

1274 (VI) A controlled substance analog, as described in s.

1275 893.0356, of any substance described in sub-sub-subparagraphs

1276 (I)-(V); or

1277 (VII) A mixture containing any substance described in sub-
1278 sub-subparagraphs (I)-(VI),

1279

1280 commits a felony of the first degree, which felony shall be
1281 known as "trafficking in fentanyl," punishable as provided in s.
1282 775.082, s. 775.083, or s. 775.084.

1283 b. If the quantity involved under sub-subparagraph a.:

1284 (I) Is 4 grams or more, but less than 14 grams, such person
1285 shall be sentenced to a mandatory minimum term of imprisonment
1286 of 3 years, and shall be ordered to pay a fine of \$50,000.



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1287 (II) Is 14 grams or more, but less than 28 grams, such
1288 person shall be sentenced to a mandatory minimum term of
1289 imprisonment of 15 years, and shall be ordered to pay a fine of
1290 \$100,000.

1291 (III) Is 28 grams or more, such person shall be sentenced
1292 to a mandatory minimum term of imprisonment of 25 years, and
1293 shall be ordered to pay a fine of \$500,000.

1294 ~~5.4.~~ A person who knowingly sells, purchases, manufactures,
1295 delivers, or brings into this state, or who is knowingly in
1296 actual or constructive possession of, 30 kilograms or more of
1297 any morphine, opium, oxycodone, hydrocodone, codeine,
1298 hydromorphone, or any salt, derivative, isomer, or salt of an
1299 isomer thereof, including heroin, as described in s.
1300 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 30 kilograms or
1301 more of any mixture containing any such substance, commits the
1302 first degree felony of trafficking in illegal drugs. A person
1303 who has been convicted of the first degree felony of trafficking
1304 in illegal drugs under this subparagraph shall be punished by
1305 life imprisonment and is ineligible for any form of
1306 discretionary early release except pardon or executive clemency
1307 or conditional medical release under s. 947.149. However, if the
1308 court determines that, in addition to committing any act
1309 specified in this paragraph:

1310 a. The person intentionally killed an individual or
1311 counseled, commanded, induced, procured, or caused the
1312 intentional killing of an individual and such killing was the
1313 result; or

1314 b. The person's conduct in committing that act led to a
1315 natural, though not inevitable, lethal result,



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1316
1317 such person commits the capital felony of trafficking in illegal
1318 drugs, punishable as provided in ss. 775.082 and 921.142. A
1319 person sentenced for a capital felony under this paragraph shall
1320 also be sentenced to pay the maximum fine provided under
1321 subparagraph 1.

1322 ~~6.5.~~ A person who knowingly brings into this state 60
1323 kilograms or more of any morphine, opium, oxycodone,
1324 hydrocodone, codeine, hydromorphone, or any salt, derivative,
1325 isomer, or salt of an isomer thereof, including heroin, as
1326 described in s. 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or
1327 60 kilograms or more of any mixture containing any such
1328 substance, and who knows that the probable result of such
1329 importation would be the death of a person, commits capital
1330 importation of illegal drugs, a capital felony punishable as
1331 provided in ss. 775.082 and 921.142. A person sentenced for a
1332 capital felony under this paragraph shall also be sentenced to
1333 pay the maximum fine provided under subparagraph 1.

1334 (d)1. Any person who knowingly sells, purchases,
1335 manufactures, delivers, or brings into this state, or who is
1336 knowingly in actual or constructive possession of, 28 grams or
1337 more of phencyclidine, as described in s. 893.03(2)(b)23., a
1338 substituted phenylcyclohexylamine, as described in s.
1339 893.03(1)(c)195., or a substance described in s.
1340 893.03(1)(c)13., 32., 38., 103., or 146., or of any mixture
1341 containing phencyclidine, as described in s. 893.03(2)(b)23.
1342 ~~893.03(2)(b)~~, a substituted phenylcyclohexylamine, as described
1343 in s. 893.03(1)(c)195., or a substance described in s.
1344 893.03(1)(c)13., 32., 38., 103., or 146.,



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1345 commits a felony of the first degree, which felony shall be
1346 known as "trafficking in phencyclidine," punishable as provided
1347 in s. 775.082, s. 775.083, or s. 775.084. If the quantity
1348 involved:

1349 a. Is 28 grams or more, but less than 200 grams, such
1350 person shall be sentenced to a mandatory minimum term of
1351 imprisonment of 3 years, and the defendant shall be ordered to
1352 pay a fine of \$50,000.

1353 b. Is 200 grams or more, but less than 400 grams, such
1354 person shall be sentenced to a mandatory minimum term of
1355 imprisonment of 7 years, and the defendant shall be ordered to
1356 pay a fine of \$100,000.

1357 c. Is 400 grams or more, such person shall be sentenced to
1358 a mandatory minimum term of imprisonment of 15 calendar years
1359 and pay a fine of \$250,000.

1360 2. Any person who knowingly brings into this state 800
1361 grams or more of phencyclidine, as described in s.
1362 893.03(2)(b)23., a substituted phenylcyclohexylamine, as
1363 described in s. 893.03(1)(c)195., or a substance described in s.
1364 893.03(1)(c)13., 32., 38., 103., or 146., or of any mixture
1365 containing phencyclidine, as described in s. 893.03(2)(b)23.
1366 ~~893.03(2)(b),~~ a substituted phenylcyclohexylamine, as described
1367 in s. 893.03(1)(c)195., or a substance described in s.
1368 893.03(1)(c)13., 32., 38., 103., or 146., and who knows that the
1369 probable result of such importation would be the death of any
1370 person commits capital importation of phencyclidine, a capital
1371 felony punishable as provided in ss. 775.082 and 921.142. Any
1372 person sentenced for a capital felony under this paragraph shall
1373 also be sentenced to pay the maximum fine provided under



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1374 subparagraph 1.

1375 (k)1. A person who knowingly sells, purchases,
1376 manufactures, delivers, or brings into this state, or who is
1377 knowingly in actual or constructive possession of, 10 grams or
1378 more of a any of the following substances described in s.

1379 ~~893.03(1)(c):~~

1380 a. Substance described in s. 893.03(1)(c)4., 5., 10., 11.,
1381 15., 17., 21.-27., 29., 39., 40.-45., 58., 72.-80., 81.-86.,
1382 90.-102., 104.-108., 110.-113., 143.-145., 148.-150., 160.-163.,
1383 165., or 187.-189., a substituted cathinone, as described in s.
1384 893.03(1)(c)191., or substituted phenethylamine, as described in
1385 s. 893.03(1)(c)192.;

1386 b. Mixture containing any substance described in sub-
1387 subparagraph a.; or

1388 c. Salt, isomer, ester, or ether or salt of an isomer,
1389 ester, or ether of a substance described in sub-subparagraph a.,

1390 a. (MDMA) 3,4-Methylenedioxyamphetamine;

1391 b. DOB (4-Bromo-2,5-dimethoxyamphetamine);

1392 e. 2C-B (4-Bromo-2,5-dimethoxyphenethylamine);

1393 d. 2,5-Dimethoxyamphetamine;

1394 e. DOET (4-Ethyl-2,5-dimethoxyamphetamine);

1395 f. N-ethylamphetamine;

1396 g. 3,4-Methylenedioxy-N-hydroxyamphetamine;

1397 h. 5-Methoxy-3,4-methylenedioxyamphetamine;

1398 i. PMA (4-methoxyamphetamine);

1399 j. PMMA (4-methoxymethamphetamine);

1400 k. DOM (4-Methyl-2,5-dimethoxyamphetamine);

1401 l. MDEA (3,4-Methylenedioxy-N-ethylamphetamine);

1402 m. MDA (3,4-Methylenedioxyamphetamine);



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1403 ~~n. N,N-dimethylamphetamine;~~
1404 ~~o. 3,4,5-Trimethoxyamphetamine;~~
1405 ~~p. Methyldone (3,4-Methylenedioxyamphetaminone);~~
1406 ~~q. MDPV (3,4-Methylenedioxypropylamphetamine); or~~
1407 ~~r. Methyldone,~~
1408
1409 ~~individually or analogs thereto or isomers thereto or in any~~
1410 ~~combination of or any mixture containing any substance listed in~~
1411 ~~sub-subparagraphs a.-r.,~~ commits a felony of the first degree,
1412 which felony shall be known as "trafficking in phenethylamines,"
1413 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
1414 2. If the quantity involved under subparagraph 1.:
1415 a. Is 10 grams or more, but less than 200 grams, such
1416 person shall be sentenced to a mandatory minimum term of
1417 imprisonment of 3 years and shall be ordered to pay a fine of
1418 \$50,000.
1419 b. Is 200 grams or more, but less than 400 grams, such
1420 person shall be sentenced to a mandatory minimum term of
1421 imprisonment of 7 years and shall be ordered to pay a fine of
1422 \$100,000.
1423 c. Is 400 grams or more, such person shall be sentenced to
1424 a mandatory minimum term of imprisonment of 15 years and shall
1425 be ordered to pay a fine of \$250,000.
1426 3. A person who knowingly manufactures or brings into this
1427 state 30 kilograms or more of a substance described in sub-
1428 subparagraph 1.a., a mixture described in sub-subparagraph 1.b.,
1429 or a salt, isomer, ester, or ether or a salt of an isomer,
1430 ester, or ether described in sub-subparagraph 1.c., any of the
1431 following substances described in s. 893.03(1)(c):



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1432 a. ~~MDMA (3,4-Methylenedioxymethamphetamine);~~
1433 b. ~~DOB (4-Bromo-2,5-dimethoxyamphetamine);~~
1434 c. ~~2C-B (4-Bromo-2,5-dimethoxyphenethylamine);~~
1435 d. ~~2,5-Dimethoxyamphetamine;~~
1436 e. ~~DOET (4-Ethyl-2,5-dimethoxyamphetamine);~~
1437 f. ~~N-ethylamphetamine;~~
1438 g. ~~N-Hydroxy-3,4-methylenedioxyamphetamine;~~
1439 h. ~~5-Methoxy-3,4-methylenedioxyamphetamine;~~
1440 i. ~~PMA (4-methoxyamphetamine);~~
1441 j. ~~PMMA (4-methoxymethamphetamine);~~
1442 k. ~~DOM (4-Methyl-2,5-dimethoxyamphetamine);~~
1443 l. ~~MDEA (3,4-Methylenedioxy-N-ethylamphetamine);~~
1444 m. ~~MDA (3,4-Methylenedioxyamphetamine);~~
1445 n. ~~N,N-dimethylamphetamine;~~
1446 o. ~~3,4,5-Trimethoxyamphetamine;~~
1447 p. ~~Mephedrone (3,4-Methylenedioxyamphetaminone);~~
1448 q. ~~MDPV (3,4-Methylenedioxypropylone);~~ or
1449 r. ~~Methylmethcathinone,~~
1450
1451 ~~individually or analogs thereto or isomers thereto or in any~~
1452 ~~combination of or any mixture containing any substance listed in~~
1453 ~~sub-subparagraphs a.-r.,~~ and who knows that the probable result
1454 of such manufacture or importation would be the death of any
1455 person commits capital manufacture or importation of
1456 phenethylamines, a capital felony punishable as provided in ss.
1457 775.082 and 921.142. A person sentenced for a capital felony
1458 under this paragraph shall also be sentenced to pay the maximum
1459 fine ~~provided~~ under subparagraph 2. 1.
1460 (m)1. A person who knowingly sells, purchases,



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1461 manufactures, delivers, or brings into this state, or who is
1462 knowingly in actual or constructive possession of, 280 grams or
1463 more of a:

1464 a. Substance described in s. 893.03(1)(c)30., 46.-50.,
1465 114.-142., 151.-156., 166.-173., or 176.-186. or a synthetic
1466 cannabinoid, as described in s. 893.03(1)(c)190.; or

1467 b. Mixture containing any substance described in sub-
1468 subparagraph a.,

1469
1470 commits a felony of the first degree, which felony shall be
1471 known as "trafficking in synthetic cannabinoids," punishable as
1472 provided in s. 775.082, s. 775.083, or s. 775.084.

1473 2. If the quantity involved under subparagraph 1.:

1474 a. Is 280 grams or more, but less than 500 grams, such
1475 person shall be sentenced to a mandatory minimum term of
1476 imprisonment of 3 years, and the defendant shall be ordered to
1477 pay a fine of \$50,000.

1478 b. Is 500 grams or more, but less than 1,000 grams, such
1479 person shall be sentenced to a mandatory minimum term of
1480 imprisonment of 7 years, and the defendant shall be ordered to
1481 pay a fine of \$100,000.

1482 c. Is 1,000 grams or more, but less than 30 kilograms such
1483 person shall be sentenced to a mandatory minimum term of
1484 imprisonment of 15 years, and the defendant shall be ordered to
1485 pay a fine of \$200,000.

1486 d. Is 30 kilograms or more, such person shall be sentenced
1487 to a mandatory minimum term of imprisonment of 25 years, and the
1488 defendant shall be ordered to pay a fine of \$750,000.

1489 (n)1. A person who knowingly sells, purchases,



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1490 manufactures, delivers, or brings into this state, or who is
1491 knowingly in actual or constructive possession of, 14 grams or
1492 more of:

1493 a. A substance described in s. 893.03(1)(c)164., 174., or
1494 175., a n-benzyl phenethylamine compound, as described in s.
1495 893.03(1)(c)193.; or

1496 b. A mixture containing any substance described in sub-
1497 subparagraph a.,

1498
1499 commits a felony of the first degree, which felony shall be
1500 known as "trafficking in n-benzyl phenethylamines," punishable
1501 as provided in s. 775.082, s. 775.083, or s. 775.084.

1502 2. If the quantity involved under subparagraph 1.:

1503 a. Is 14 grams or more, but less than 100 grams, such
1504 person shall be sentenced to a mandatory minimum term of
1505 imprisonment of 3 years, and the defendant shall be ordered to
1506 pay a fine of \$50,000.

1507 b. Is 100 grams or more, but less than 200 grams, such
1508 person shall be sentenced to a mandatory minimum term of
1509 imprisonment of 7 years, and the defendant shall be ordered to
1510 pay a fine of \$100,000.

1511 c. Is 200 grams or more, such person shall be sentenced to
1512 a mandatory minimum term of imprisonment of 15 years , and the
1513 defendant shall be ordered to pay a fine of \$500,000.

1514 3. A person who knowingly manufactures or brings into this
1515 state 400 grams or more of a substance described in sub-
1516 subparagraph 1.a. or a mixture described in sub-subparagraph
1517 1.b., and who knows that the probable result of such manufacture
1518 or importation would be the death of any person commits capital



1519 manufacture or importation of a n-benzyl phenethylamine
1520 compound, a capital felony punishable as provided in ss. 775.082
1521 and 921.142. A person sentenced for a capital felony under this
1522 paragraph shall also be sentenced to pay the maximum fine under
1523 subparagraph 2.

1524 Section 7. For the purpose of incorporating the amendments
1525 made by this act to sections 893.03, 893.13, and 893.135,
1526 Florida Statutes, in references thereto, paragraphs (a), (b),
1527 (c), (d), and (e) subsection (3) of section 921.0022, Florida
1528 Statutes, are reenacted; and paragraphs (g), (h), and (i) of
1529 subsection (3) of section 921.0022, Florida Statutes, are
1530 amended to read:

1531 921.0022 Criminal Punishment Code; offense severity ranking
1532 chart.-

1533 (3) OFFENSE SEVERITY RANKING CHART

1534 (a) LEVEL 1

1535
1536

Florida Statute	Felony Degree	Description
24.118(3)(a)	3rd	Counterfeit or altered state lottery ticket.
212.054(2)(b)	3rd	Discretionary sales surtax; limitations, administration, and collection.
212.15(2)(b)	3rd	Failure to remit sales taxes,

1537

1538

1539



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1540			amount greater than \$300 but less than \$20,000.
1541	316.1935 (1)	3rd	Fleeing or attempting to elude law enforcement officer.
1542	319.30 (5)	3rd	Sell, exchange, give away certificate of title or identification number plate.
1543	319.35 (1) (a)	3rd	Tamper, adjust, change, etc., an odometer.
1544	320.26 (1) (a)	3rd	Counterfeit, manufacture, or sell registration license plates or validation stickers.
1545	322.212 (1) (a) - (c)	3rd	Possession of forged, stolen, counterfeit, or unlawfully issued driver license; possession of simulated identification.
1546	322.212 (4)	3rd	Supply or aid in supplying unauthorized driver license or identification card.
	322.212 (5) (a)	3rd	False application for driver license or identification card.



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1547	414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than \$200.
1548	443.071(1)	3rd	False statement or representation to obtain or increase reemployment assistance benefits.
1549	509.151(1)	3rd	Defraud an innkeeper, food or lodging value greater than \$300.
1550	517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
1551	562.27(1)	3rd	Possess still or still apparatus.
1552	713.69	3rd	Tenant removes property upon which lien has accrued, value more than \$50.
1553	812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).



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1554	812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
1555	815.04(5)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
1556	817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
1557	817.569(2)	3rd	Use of public record or public records information or providing false information to facilitate commission of a felony.
1558	826.01	3rd	Bigamy.
1559	828.122(3)	3rd	Fighting or baiting animals.
1560	831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
1561	831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled



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1562			substances, all but s. 893.03(5) drugs.
1563	832.041(1)	3rd	Stopping payment with intent to defraud \$150 or more.
1564	832.05(2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks \$150 or more or obtaining property in return for worthless check \$150 or more.
1565	838.15(2)	3rd	Commercial bribe receiving.
1566	838.16	3rd	Commercial bribery.
1567	843.18	3rd	Fleeing by boat to elude a law enforcement officer.
1568	847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
1569	849.01	3rd	Keeping gambling house.
	849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money



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1570			by means of lottery.
1571	849.23	3rd	Gambling-related machines; "common offender" as to property rights.
1572	849.25 (2)	3rd	Engaging in bookmaking.
1573	860.08	3rd	Interfere with a railroad signal.
1574	860.13 (1) (a)	3rd	Operate aircraft while under the influence.
1575	893.13 (2) (a) 2.	3rd	Purchase of cannabis.
1576	893.13 (6) (a)	3rd	Possession of cannabis (more than 20 grams).
1577	934.03 (1) (a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.
1578			
1579	(b) LEVEL 2		
1580			
1581			
	Florida	Felony	Description
	Statute	Degree	



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1582	379.2431 (1) (e) 3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
1583	379.2431 (1) (e) 4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
1584	403.413 (6) (c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
1585	517.07 (2)	3rd	Failure to furnish a prospectus meeting requirements.
1586	590.28 (1)	3rd	Intentional burning of lands.
1587	784.05 (3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
1588	787.04 (1)	3rd	In violation of court order, take, entice, etc., minor



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1589			beyond state limits.
	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
1590			
	810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
1591			
	810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
1592			
	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
1593			
	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
1594			
	812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
1595			



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1596	817.234 (1) (a) 2.	3rd	False statement in support of insurance claim.
1597	817.481 (3) (a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
1598	817.52 (3)	3rd	Failure to redeliver hired vehicle.
1599	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
1600	817.60 (5)	3rd	Dealing in credit cards of another.
1601	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
1602	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
1603	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.



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1604	831.01	3rd	Forgery.
1605	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
1606	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
1607	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
1608	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
1609	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
1610	832.05 (3) (a)	3rd	Cashing or depositing item with intent to defraud.
1611	843.08	3rd	False personation.
	893.13 (2) (a) 2.	3rd	Purchase of any s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5.,



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(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) drugs
other than cannabis.

1612

893.147(2) 3rd Manufacture or delivery of drug
paraphernalia.

1613

1614

1615 (c) LEVEL 3

1616

1617

Florida Statute	Felony Degree	Description
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1618

119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
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1619

316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
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1620

316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
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1621

316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
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1622

319.30(4)	3rd	Possession by junkyard of motor
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1623			vehicle with identification number plate removed.
	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
1624			
	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
1625			
	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
1626			
	327.35(2)(b)	3rd	Felony BUI.
1627			
	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
1628			
	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
1629			
	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.



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1630

379.2431 3rd Taking, disturbing, mutilating,
(1) (e) 5. destroying, causing to be
destroyed, transferring,
selling, offering to sell,
molesting, or harassing marine
turtles, marine turtle eggs, or
marine turtle nests in
violation of the Marine Turtle
Protection Act.

1631

379.2431 3rd Soliciting to commit or
(1) (e) 6. conspiring to commit a
violation of the Marine Turtle
Protection Act.

1632

400.9935 (4) (a) 3rd Operating a clinic, or offering
or (b) services requiring licensure,
without a license.

1633

400.9935 (4) (e) 3rd Filing a false license
application or other required
information or failing to
report information.

1634

440.1051 (3) 3rd False report of workers'
compensation fraud or
retaliation for making such a
report.



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1635	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
1636	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
1637	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
1638	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
1639	697.08	3rd	Equity skimming.
1640	790.15 (3)	3rd	Person directs another to discharge firearm from a vehicle.
1641	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
1642	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of



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1643			duty.
	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
1644			
	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
1645			
	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
1646			
	815.04(5)(b)	2nd	Computer offense devised to defraud or obtain property.
1647			
	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
1648			
	817.233	3rd	Burning to defraud insurer.
1649			
	817.234 (8)(b) & (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
1650			
	817.234(11)(a)	3rd	Insurance fraud; property value



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			less than \$20,000.
1651	817.236	3rd	Filing a false motor vehicle insurance application.
1652	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
1653	817.413(2)	3rd	Sale of used goods as new.
1654	817.505(4)	3rd	Patient brokering.
1655	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
1656	831.28(2)(a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
1657	831.29	2nd	Possession of instruments for counterfeiting driver licenses or identification cards.
1658	838.021(3)(b)	3rd	Threatens unlawful harm to



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1659			public servant.
1660	843.19	3rd	Injure, disable, or kill police dog or horse.
1661	860.15(3)	3rd	Overcharging for repairs and parts.
1662	870.01(2)	3rd	Riot; inciting or encouraging.
1663	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
1664	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs within 1,000 feet of university.
	893.13(1)(f)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8.,



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1665			(2)(c)9., (3), or (4) drugs within 1,000 feet of public housing facility.
1666	893.13(4)(c)	3rd	Use or hire of minor; deliver to minor other controlled substances.
1667	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
1668	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
1669	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
1670	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by



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1671

chapter 893.

893.13(8)(a)1. 3rd Knowingly assist a patient,
other person, or owner of an
animal in obtaining a
controlled substance through
deceptive, untrue, or
fraudulent representations in
or related to the
practitioner's practice.

1672

893.13(8)(a)2. 3rd Employ a trick or scheme in the
practitioner's practice to
assist a patient, other person,
or owner of an animal in
obtaining a controlled
substance.

1673

893.13(8)(a)3. 3rd Knowingly write a prescription
for a controlled substance for
a fictitious person.

1674

893.13(8)(a)4. 3rd Write a prescription for a
controlled substance for a
patient, other person, or an
animal if the sole purpose of
writing the prescription is a
monetary benefit for the
practitioner.



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1675	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
1676	944.47 (1)(a)1. & 2.	3rd	Introduce contraband to correctional facility.
1677	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
1678	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
1679			
1680			
1681	(d) LEVEL 4		
1682			
1683			
	Florida Statute	Felony Degree	Description
1684	316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.



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1685	499.0051 (1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
1686	499.0051 (5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
1687	517.07 (1)	3rd	Failure to register securities.
1688	517.12 (1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
1689	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
1690	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
1691	784.075	3rd	Battery on detention or commitment facility staff.
1692	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
1693			



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1694	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
1695	784.081 (3)	3rd	Battery on specified official or employee.
1696	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
1697	784.083 (3)	3rd	Battery on code inspector.
1698	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
1699	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
1700	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering



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1701			to designated person.
1702	787.07	3rd	Human smuggling.
1703	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
1704	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
1705	790.115(2)(c)	3rd	Possessing firearm on school property.
1706	800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
1707	810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
1708	810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
	810.06	3rd	Burglary; possession of tools.



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1709	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
1710	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
1711	812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
1712	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
1713	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
1714	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
1715	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
1716	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent



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1717			breeding disability to any registered horse or cattle.
	837.02 (1)	3rd	Perjury in official proceedings.
1718			
	837.021 (1)	3rd	Make contradictory statements in official proceedings.
1719			
	838.022	3rd	Official misconduct.
1720			
	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
1721			
	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Families.
1722			
	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
1723			
	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
1724			
	843.15 (1) (a)	3rd	Failure to appear while on bail



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1725			for felony (bond estreature or bond jumping).
	847.0135 (5) (c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
1726			
	874.05 (1) (a)	3rd	Encouraging or recruiting another to join a criminal gang.
1727			
	893.13 (2) (a) 1.	2nd	Purchase of cocaine (or other s. 893.03(1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
1728			
	914.14 (2)	3rd	Witnesses accepting bribes.
1729			
	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
1730			
	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
1731			
	918.12	3rd	Tampering with jurors.
1732			
	934.215	3rd	Use of two-way communications device to facilitate commission



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of a crime.

1733
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1737

(e) LEVEL 5

Florida Statute	Felony Degree	Description
316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone

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1743



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crab traps, lines, or buoys;
illegal bartering, trading, or
sale, conspiring or aiding in
such barter, trade, or sale, or
supplying, agreeing to supply,
aiding in supplying, or giving
away stone crab trap tags or
certificates; making, altering,
forging, counterfeiting, or
reproducing stone crab trap
tags; possession of forged,
counterfeit, or imitation stone
crab trap tags; and engaging in
the commercial harvest of stone
crabs while license is
suspended or revoked.

1744

379.367(4) 3rd Willful molestation of a
commercial harvester's spiny
lobster trap, line, or buoy.

1745

379.407(5)(b)3. 3rd Possession of 100 or more
undersized spiny lobsters.

1746

381.0041(11)(b) 3rd Donate blood, plasma, or organs
knowing HIV positive.

1747

440.10(1)(g) 2nd Failure to obtain workers'
compensation coverage.



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1748	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
1749	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
1750	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
1751	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
1752	790.01 (2)	3rd	Carrying a concealed firearm.
1753	790.162	2nd	Threat to throw or discharge destructive device.
1754	790.163 (1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.
1755			



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1756	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
1757	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
1758	796.05 (1)	2nd	Live on earnings of a prostitute; 1st offense.
1759	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.
1760	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.
1761	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
1762	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and



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1763			one or more specified acts.
	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
1764			
	812.131(2)(b)	3rd	Robbery by sudden snatching.
1765			
	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
1766			
	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
1767			
	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
1768			
	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
1769			
	817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud,



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1770			\$5,000 or more or use of personal identification information of 10 or more persons.
	817.611 (2) (a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
1771			
	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
1772			
	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
1773			
	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
1774			
	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
1775			



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1776	839.13 (2) (b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
1777	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
1778	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
1779	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
1780	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
1781	874.05 (1) (b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
	874.05 (2) (a)	2nd	Encouraging or recruiting person under 13 years of age to join a criminal gang.



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1782

893.13(1)(a)1. 2nd Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

1783

893.13(1)(c)2. 2nd Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.

1784

893.13(1)(d)1. 1st Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.

1785

893.13(1)(e)2. 2nd Sell, manufacture, or deliver cannabis or other drug



1786			prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.
	893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility.
1787			
	893.13(4)(b)	2nd	Use or hire of minor; deliver to minor other controlled substance.
1788			
	893.1351(1)	3rd	Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.
1789			
1790			
1791	(g) LEVEL 7		
1792			
1793			
	Florida	Felony	Description



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	Statute	Degree	
1794	316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
1795	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
1796	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
1797	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
1798	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.
1799	409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
1800			



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1801	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
1802	456.065 (2)	3rd	Practicing a health care profession without a license.
1803	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
1804	458.327 (1)	3rd	Practicing medicine without a license.
1805	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
1806	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
1807	461.012 (1)	3rd	Practicing podiatric medicine without a license.
1808	462.17	3rd	Practicing naturopathy without a license.
	463.015 (1)	3rd	Practicing optometry without a license.



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1809	464.016(1)	3rd	Practicing nursing without a license.
1810	465.015(2)	3rd	Practicing pharmacy without a license.
1811	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
1812	467.201	3rd	Practicing midwifery without a license.
1813	468.366	3rd	Delivering respiratory care services without a license.
1814	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
1815	483.901(7)	3rd	Practicing medical physics without a license.
1816	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
1817	484.053	3rd	Dispensing hearing aids without a license.
1818			



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1819	494.0018 (2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
1820	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
1821	560.125 (5) (a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
1822	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
1823	775.21 (10) (a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.



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1824	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
1825	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
1826	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
1827	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
1828	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).



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1829	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1830	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
1831	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1832	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
1833	784.048 (7)	3rd	Aggravated stalking; violation of court order.
1834	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
1835	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.
1836	784.08 (2) (a)	1st	Aggravated battery on a person 65 years of age or older.
1837	784.081 (1)	1st	Aggravated battery on specified official or employee.



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1838	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
1839	784.083(1)	1st	Aggravated battery on code inspector.
1840	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
1841	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
1842	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
1843	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
1844	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
1845			



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- 1846 790.165(3) 2nd Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
- 1847 790.166(3) 2nd Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
- 1848 790.166(4) 2nd Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
- 1849 790.23 1st,PBL Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
- 1850 794.08(4) 3rd Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
- 1851 796.05(1) 1st Live on earnings of a prostitute; 2nd offense.



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1852	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
1853	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
1854	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
1855	800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
1856	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
1857	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
	810.02(3)(b)	2nd	Burglary of unoccupied



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1858			dwelling; unarmed; no assault or battery.
	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1859			
	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1860			
	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
1861			
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1862			
	812.014 (2) (b) 3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
1863			
	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.



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1864	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
1865	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
1866	812.131(2)(a)	2nd	Robbery by sudden snatching.
1867	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1868	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
1869	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1870	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
1871	817.234(11)(c)	1st	Insurance fraud; property value \$100,000 or more.
1872	817.2341	1st	Making false entries of



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1873	(2) (b) & (3) (b)		material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
1874	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
1875	817.611 (2) (b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
1876	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
1877	825.103 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
1878	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
	827.04 (3)	3rd	Impregnation of a child under



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1879			16 years of age by person 21 years of age or older.
	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1880			
	838.015	2nd	Bribery.
1881			
	838.016	2nd	Unlawful compensation or reward for official behavior.
1882			
	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
1883			
	838.22	2nd	Bid tampering.
1884			
	843.0855 (2)	3rd	Impersonation of a public officer or employee.
1885			
	843.0855 (3)	3rd	Unlawful simulation of legal process.
1886			
	843.0855 (4)	3rd	Intimidation of a public officer or employee.
1887			
	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.



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1888	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1889	872.06	2nd	Abuse of a dead human body.
1890	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
1891	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
1892	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
1893	893.13(1)(e)1.	1st	Sell, manufacture, or deliver



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			cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
1894	893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
1895	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
1896	893.135(1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1897	893.135(1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1898	893.135(1)(c)2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
1899	893.135	1st	Trafficking in hydrocodone, 28



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1900	(1) (c) 2.b.		grams or more, less than 50 grams.
	893.135	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
1901	(1) (c) 3.a.		
	893.135	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
1902	(1) (c) 3.b.		
	<u>893.135</u>	<u>1st</u>	<u>Trafficking in fentanyl, 4 grams or more, less than 14 grams.</u>
1903	(1) (c) 4.b. (I)		
	<u>893.135 (1) (d) 1.a.</u>	1st	Trafficking in phencyclidine, more than 28 grams <u>or more</u> , less than 200 grams.
1904	893.135 (1) (d) 1.		
	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams <u>or more</u> , less than 5 kilograms.
1905			
	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams <u>or more</u> , less than 28 grams.
1906			
	893.135	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14
	(1) (g) 1.a.		



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1907			grams.
1908	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1909	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
1910	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1911	<u>893.135 (1) (m) 2.a.</u>	<u>1st</u>	<u>Trafficking in synthetic cannabinoids, 280 grams or more, less than 500 grams.</u>
1912	<u>893.135 (1) (m) 2.b.</u>	<u>1st</u>	<u>Trafficking in synthetic cannabinoids, 500 grams or more, less than 1,000 grams.</u>
1913	<u>893.135 (1) (n) 2.a.</u>	<u>1st</u>	<u>Trafficking in n-benzyl phenethylamines, 14 grams or more, less than 100 grams.</u>
	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing



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1914			of controlled substance.
	896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1915			
	896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
1916			
	943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1917			
	943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1918			
	943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.
1919			
	943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or



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1920

conceal a sexual offender.

943.0435(14)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

1921

944.607(9)

3rd

Sexual offender; failure to comply with reporting requirements.

1922

944.607(10)(a)

3rd

Sexual offender; failure to submit to the taking of a digitized photograph.

1923

944.607(12)

3rd

Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.

1924

944.607(13)

3rd

Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.

1925

985.4815(10)

3rd

Sexual offender; failure to submit to the taking of a



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1926			digitized photograph.
	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1927			
	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1928			
1929			
1930	(h) LEVEL 8		
1931			
1932			
	Florida Statute	Felony Degree	Description
1933			
	316.193 (3) (c) 3.a.	2nd	DUI manslaughter.
1934			
	316.1935(4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
1935			
	327.35(3) (c) 3.	2nd	Vessel BUI manslaughter.
1936			



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1937	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
1938	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
1939	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
1940	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.
1941	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
1942	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
	782.04 (4)	2nd	Killing of human without design



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1943	782.051(2)	1st	when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb. Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).
1944	782.071(1)(b)	1st	Committing vehicular homicide and failing to render aid or give information.
1945	782.072(2)	1st	Committing vessel homicide and failing to render aid or give information.
1946	787.06(3)(a)1.	1st	Human trafficking for labor and services of a child.
1947	787.06(3)(b)	1st	Human trafficking using coercion for commercial sexual activity of an adult.
1948			



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1949	787.06(3)(c)2.	1st	Human trafficking using coercion for labor and services of an unauthorized alien adult.
1950	787.06(3)(e)1.	1st	Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.
1951	787.06(3)(f)2.	1st	Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state.
1952	790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
1953	794.011(5)(a)	1st	Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.
	794.011(5)(b)	2nd	Sexual battery; victim and



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1954			offender 18 years of age or older; offender does not use physical force likely to cause serious injury.
	794.011 (5) (c)	2nd	Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.
1955			
	794.011 (5) (d)	1st	Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.
1956			
	794.08 (3)	2nd	Female genital mutilation, removal of a victim younger than 18 years of age from this state.
1957			
	800.04 (4) (b)	2nd	Lewd or lascivious battery.
1958			
	800.04 (4) (c)	1st	Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.



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1959	806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
1960	810.02(2)(a)	1st,PBL	Burglary with assault or battery.
1961	810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
1962	810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
1963	812.014(2)(a)2.	1st	Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.
1964	812.13(2)(b)	1st	Robbery with a weapon.
1965	812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.
1966	817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.



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1967	817.535 (3) (a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.
1968	817.535 (4) (a) 1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.
1969	817.535 (5) (a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument.
1970	817.568 (6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.
1971	817.611 (2) (c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.
1972	825.102 (2)	1st	Aggravated abuse of an elderly person or disabled adult.
1973			



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1974	825.1025 (2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
1975	825.103 (3) (a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.
1976	837.02 (2)	2nd	Perjury in official proceedings relating to prosecution of a capital felony.
1977	837.021 (2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
1978	860.121 (2) (c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
1979	860.16	1st	Aircraft piracy.
1980	893.13 (1) (b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03 (1) (a) or (b).



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1981	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
1982	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
1983	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
1984	893.135(1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
1985	893.135(1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
1986	893.135(1)(c)2.c.	1st	Trafficking in hydrocodone, 50 grams or more, less than 200 grams.
1987	893.135(1)(c)3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.
	<u>893.135</u>	<u>1st</u>	<u>Trafficking in fentanyl, 14</u>



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	<u>(1) (c) 4.b. (II)</u>		<u>grams or more, less than 28</u> <u>grams.</u>
1988	893.135 (1) (d) 1.b.	1st	Trafficking in phencyclidine, more than 200 grams <u>or more</u> , less than 400 grams.
1989	893.135 (1) (e) 1.b.	1st	Trafficking in methaqualone, more than 5 kilograms <u>or more</u> , less than 25 kilograms.
1990	893.135 (1) (f) 1.b.	1st	Trafficking in amphetamine, more than 28 grams <u>or more</u> , less than 200 grams.
1991	893.135 (1) (g) 1.b.	1st	Trafficking in flunitrazepam, 14 grams or more, less than 28 grams.
1992	893.135 (1) (h) 1.b.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
1993	893.135 (1) (j) 1.b.	1st	Trafficking in 1,4-Butanediol, 5 kilograms or more, less than 10 kilograms.
1994	893.135	1st	Trafficking in Phenethylamines,



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1995	(1) (k) 2.b.		200 grams or more, less than 400 grams.
	<u>893.135(1) (m) 2.c.</u>	<u>1st</u>	<u>Trafficking in synthetic cannabinoids, 1,000 grams or more, less than 30 kilograms.</u>
1996	<u>893.135(1) (n) 2.b.</u>	<u>1st</u>	<u>Trafficking in n-benzyl phenethylamines, 100 grams or more, less than 200 grams.</u>
1997	893.1351(3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
1998	895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
1999	895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
2000	895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
2001			



2002	896.101(5)(b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.
	896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
2003			
2004			
2005	(i) LEVEL 9		
2006			
2007			
	Florida Statute	Felony Degree	Description
2008	316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
2009	327.35 (3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
2010	409.920 (2)(b)1.c.	1st	Medicaid provider fraud; \$50,000 or more.
2011	499.0051(8)	1st	Knowing sale or purchase of



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2012			contraband prescription drugs resulting in great bodily harm.
	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
2013			
	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
2014			
	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
2015			
	775.0844	1st	Aggravated white collar crime.
2016			
	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
2017			
	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified



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			felonies.
2018	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
2019	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
2020	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
2021	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
2022	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
2023	787.02(3)(a)	1st,PBL	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery,



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2024	787.06(3)(c)1.	1st	molestation, conduct, or exhibition. Human trafficking for labor and services of an unauthorized alien child.
2025	787.06(3)(d)	1st	Human trafficking using coercion for commercial sexual activity of an unauthorized adult alien.
2026	787.06(3)(f)1.	1st,PBL	Human trafficking for commercial sexual activity by the transfer or transport of any child from outside Florida to within the state.
2027	790.161	1st	Attempted capital destructive device offense.
2028	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
2029	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
2030			



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2031	794.011 (2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
2032	794.011 (4) (a)	1st, PBL	Sexual battery, certain circumstances; victim 12 years of age or older but younger than 18 years; offender 18 years or older.
2033	794.011 (4) (b)	1st	Sexual battery, certain circumstances; victim and offender 18 years of age or older.
2034	794.011 (4) (c)	1st	Sexual battery, certain circumstances; victim 12 years of age or older; offender younger than 18 years.
2035	794.011 (4) (d)	1st, PBL	Sexual battery, certain circumstances; victim 12 years of age or older; prior conviction for specified sex offenses.
	794.011 (8) (b)	1st, PBL	Sexual battery; engage in sexual conduct with minor 12 to



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2036			18 years by person in familial or custodial authority.
2037	794.08 (2)	1st	Female genital mutilation; victim younger than 18 years of age.
2038	800.04 (5) (b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
2039	812.13 (2) (a)	1st, PBL	Robbery with firearm or other deadly weapon.
2040	812.133 (2) (a)	1st, PBL	Carjacking; firearm or other deadly weapon.
2041	812.135 (2) (b)	1st	Home-invasion robbery with weapon.
2042	817.535 (3) (b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
	817.535 (4) (a) 2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or



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2043

under supervision.

817.535(5)(b) 1st Filing false lien or other
unauthorized document; second
or subsequent offense; owner of
the property incurs financial
loss as a result of the false
instrument.

2044

817.568(7) 2nd,
PBL Fraudulent use of personal
identification information of
an individual under the age of
18 by his or her parent, legal
guardian, or person exercising
custodial authority.

2045

827.03(2)(a) 1st Aggravated child abuse.

2046

847.0145(1) 1st Selling, or otherwise
transferring custody or
control, of a minor.

2047

847.0145(2) 1st Purchasing, or otherwise
obtaining custody or control,
of a minor.

2048

859.01 1st Poisoning or introducing
bacteria, radioactive
materials, viruses, or chemical



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2049			compounds into food, drink, medicine, or water with intent to kill or injure another person.
2050	893.135	1st	Attempted capital trafficking offense.
2051	893.135 (1) (a) 3.	1st	Trafficking in cannabis, more than 10,000 lbs.
2052	893.135 (1) (b) 1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
2053	893.135 (1) (c) 1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
2054	893.135 (1) (c) 2.d.	1st	Trafficking in hydrocodone, 200 grams or more, less than 30 kilograms.
2055	893.135 (1) (c) 3.d.	1st	Trafficking in oxycodone, 100 grams or more, less than 30 kilograms.
	<u>893.135</u> <u>(1) (c) 4.b. (III)</u>	<u>1st</u>	<u>Trafficking in fentanyl, 28</u> <u>grams or more.</u>



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2056	893.135 (1) (d) 1.c.	1st	Trafficking in phencyclidine, more than 400 grams <u>or more</u> .
2057	893.135 (1) (e) 1.c.	1st	Trafficking in methaqualone, more than 25 kilograms <u>or more</u> .
2058	893.135 (1) (f) 1.c.	1st	Trafficking in amphetamine, more than 200 grams <u>or more</u> .
2059	893.135 (1) (h) 1.c.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 10 kilograms or more.
2060	893.135 (1) (j) 1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
2061	893.135 (1) (k) 2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
2062	<u>893.135</u> <u>(1) (m) 2.d.</u>	<u>1st</u>	<u>Trafficking in synthetic</u> <u>cannabinoids, 30 kilograms or</u> <u>more.</u>
2063	<u>893.135 (1) (n) 2.c.</u>	<u>1st</u>	<u>Trafficking in n-benzyl</u> <u>phenethylamines, 200 grams or</u> <u>more.</u>
2064	896.101 (5) (c)	1st	Money laundering, financial



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instruments totaling or
exceeding \$100,000.

2065

896.104(4)(a)3. 1st Structuring transactions to
evade reporting or registration
requirements, financial
transactions totaling or
exceeding \$100,000.

2066

2067

2068 Section 8. For the purpose of incorporating the amendment
2069 made by this act to section 782.04, Florida Statutes, in a
2070 reference thereto, paragraph (d) of subsection (1) of section
2071 39.806, Florida Statutes, is reenacted to read:

2072 39.806 Grounds for termination of parental rights.—

2073 (1) Grounds for the termination of parental rights may be
2074 established under any of the following circumstances:

2075 (d) When the parent of a child is incarcerated and either:

2076 1. The period of time for which the parent is expected to
2077 be incarcerated will constitute a significant portion of the
2078 child's minority. When determining whether the period of time is
2079 significant, the court shall consider the child's age and the
2080 child's need for a permanent and stable home. The period of time
2081 begins on the date that the parent enters into incarceration;

2082 2. The incarcerated parent has been determined by the court
2083 to be a violent career criminal as defined in s. 775.084, a
2084 habitual violent felony offender as defined in s. 775.084, or a
2085 sexual predator as defined in s. 775.21; has been convicted of
2086 first degree or second degree murder in violation of s. 782.04



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2087 or a sexual battery that constitutes a capital, life, or first
2088 degree felony violation of s. 794.011; or has been convicted of
2089 an offense in another jurisdiction which is substantially
2090 similar to one of the offenses listed in this paragraph. As used
2091 in this section, the term "substantially similar offense" means
2092 any offense that is substantially similar in elements and
2093 penalties to one of those listed in this subparagraph, and that
2094 is in violation of a law of any other jurisdiction, whether that
2095 of another state, the District of Columbia, the United States or
2096 any possession or territory thereof, or any foreign
2097 jurisdiction; or

2098 3. The court determines by clear and convincing evidence
2099 that continuing the parental relationship with the incarcerated
2100 parent would be harmful to the child and, for this reason, that
2101 termination of the parental rights of the incarcerated parent is
2102 in the best interest of the child. When determining harm, the
2103 court shall consider the following factors:

2104 a. The age of the child.

2105 b. The relationship between the child and the parent.

2106 c. The nature of the parent's current and past provision
2107 for the child's developmental, cognitive, psychological, and
2108 physical needs.

2109 d. The parent's history of criminal behavior, which may
2110 include the frequency of incarceration and the unavailability of
2111 the parent to the child due to incarceration.

2112 e. Any other factor the court deems relevant.

2113 Section 9. For the purpose of incorporating the amendment
2114 made by this act to section 782.04, Florida Statutes, in a
2115 reference thereto, paragraph (b) of subsection (4) of section



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2116 63.089, Florida Statutes, is reenacted to read:

2117 63.089 Proceeding to terminate parental rights pending
2118 adoption; hearing; grounds; dismissal of petition; judgment.—

2119 (4) FINDING OF ABANDONMENT.—A finding of abandonment
2120 resulting in a termination of parental rights must be based upon
2121 clear and convincing evidence that a parent or person having
2122 legal custody has abandoned the child in accordance with the
2123 definition contained in s. 63.032. A finding of abandonment may
2124 also be based upon emotional abuse or a refusal to provide
2125 reasonable financial support, when able, to a birth mother
2126 during her pregnancy or on whether the person alleged to have
2127 abandoned the child, while being able, failed to establish
2128 contact with the child or accept responsibility for the child's
2129 welfare.

2130 (b) The child has been abandoned when the parent of a child
2131 is incarcerated on or after October 1, 2001, in a federal,
2132 state, or county correctional institution and:

2133 1. The period of time for which the parent has been or is
2134 expected to be incarcerated will constitute a significant
2135 portion of the child's minority. In determining whether the
2136 period of time is significant, the court shall consider the
2137 child's age and the child's need for a permanent and stable
2138 home. The period of time begins on the date that the parent
2139 enters into incarceration;

2140 2. The incarcerated parent has been determined by a court
2141 of competent jurisdiction to be a violent career criminal as
2142 defined in s. 775.084, a habitual violent felony offender as
2143 defined in s. 775.084, convicted of child abuse as defined in s.
2144 827.03, or a sexual predator as defined in s. 775.21; has been



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2145 convicted of first degree or second degree murder in violation
2146 of s. 782.04 or a sexual battery that constitutes a capital,
2147 life, or first degree felony violation of s. 794.011; or has
2148 been convicted of a substantially similar offense in another
2149 jurisdiction. As used in this section, the term "substantially
2150 similar offense" means any offense that is substantially similar
2151 in elements and penalties to one of those listed in this
2152 subparagraph, and that is in violation of a law of any other
2153 jurisdiction, whether that of another state, the District of
2154 Columbia, the United States or any possession or territory
2155 thereof, or any foreign jurisdiction; or

2156 3. The court determines by clear and convincing evidence
2157 that continuing the parental relationship with the incarcerated
2158 parent would be harmful to the child and, for this reason,
2159 termination of the parental rights of the incarcerated parent is
2160 in the best interests of the child.

2161 Section 10. For the purpose of incorporating the amendment
2162 made by this act to section 782.04, Florida Statutes, in a
2163 reference thereto, subsection (10) of section 95.11, Florida
2164 Statutes, is reenacted to read:

2165 95.11 Limitations other than for the recovery of real
2166 property.—Actions other than for recovery of real property shall
2167 be commenced as follows:

2168 (10) FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS
2169 DESCRIBED IN S. 782.04 OR S. 782.07.—Notwithstanding paragraph
2170 (4) (d), an action for wrongful death seeking damages authorized
2171 under s. 768.21 brought against a natural person for an
2172 intentional tort resulting in death from acts described in s.
2173 782.04 or s. 782.07 may be commenced at any time. This



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2174 subsection shall not be construed to require an arrest, the
2175 filing of formal criminal charges, or a conviction for a
2176 violation of s. 782.04 or s. 782.07 as a condition for filing a
2177 civil action.

2178 Section 11. For the purpose of incorporating the amendment
2179 made by this act to section 782.04, Florida Statutes, in
2180 references thereto, paragraph (b) of subsection (1) and
2181 paragraphs (a), (b), and (c) of subsection (3) of section
2182 775.082, Florida Statutes, are reenacted to read:

2183 775.082 Penalties; applicability of sentencing structures;
2184 mandatory minimum sentences for certain reoffenders previously
2185 released from prison.—

2186 (1)

2187 (b)1. A person who actually killed, intended to kill, or
2188 attempted to kill the victim and who is convicted under s.
2189 782.04 of a capital felony, or an offense that was reclassified
2190 as a capital felony, which was committed before the person
2191 attained 18 years of age shall be punished by a term of
2192 imprisonment for life if, after a sentencing hearing conducted
2193 by the court in accordance with s. 921.1401, the court finds
2194 that life imprisonment is an appropriate sentence. If the court
2195 finds that life imprisonment is not an appropriate sentence,
2196 such person shall be punished by a term of imprisonment of at
2197 least 40 years. A person sentenced pursuant to this subparagraph
2198 is entitled to a review of his or her sentence in accordance
2199 with s. 921.1402(2) (a).

2200 2. A person who did not actually kill, intend to kill, or
2201 attempt to kill the victim and who is convicted under s. 782.04
2202 of a capital felony, or an offense that was reclassified as a



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2203 capital felony, which was committed before the person attained
2204 18 years of age may be punished by a term of imprisonment for
2205 life or by a term of years equal to life if, after a sentencing
2206 hearing conducted by the court in accordance with s. 921.1401,
2207 the court finds that life imprisonment is an appropriate
2208 sentence. A person who is sentenced to a term of imprisonment of
2209 more than 15 years is entitled to a review of his or her
2210 sentence in accordance with s. 921.1402(2)(c).

2211 3. The court shall make a written finding as to whether a
2212 person is eligible for a sentence review hearing under s.
2213 921.1402(2)(a) or (c). Such a finding shall be based upon
2214 whether the person actually killed, intended to kill, or
2215 attempted to kill the victim. The court may find that multiple
2216 defendants killed, intended to kill, or attempted to kill the
2217 victim.

2218 (3) A person who has been convicted of any other designated
2219 felony may be punished as follows:

2220 (a)1. For a life felony committed before October 1, 1983,
2221 by a term of imprisonment for life or for a term of at least 30
2222 years.

2223 2. For a life felony committed on or after October 1, 1983,
2224 by a term of imprisonment for life or by a term of imprisonment
2225 not exceeding 40 years.

2226 3. Except as provided in subparagraph 4., for a life felony
2227 committed on or after July 1, 1995, by a term of imprisonment
2228 for life or by imprisonment for a term of years not exceeding
2229 life imprisonment.

2230 4.a. Except as provided in sub-subparagraph b., for a life
2231 felony committed on or after September 1, 2005, which is a



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2232 violation of s. 800.04(5)(b), by:

2233 (I) A term of imprisonment for life; or

2234 (II) A split sentence that is a term of at least 25 years'
2235 imprisonment and not exceeding life imprisonment, followed by
2236 probation or community control for the remainder of the person's
2237 natural life, as provided in s. 948.012(4).

2238 b. For a life felony committed on or after July 1, 2008,
2239 which is a person's second or subsequent violation of s.
2240 800.04(5)(b), by a term of imprisonment for life.

2241 5. Notwithstanding subparagraphs 1.-4., a person who is
2242 convicted under s. 782.04 of an offense that was reclassified as
2243 a life felony which was committed before the person attained 18
2244 years of age may be punished by a term of imprisonment for life
2245 or by a term of years equal to life imprisonment if the judge
2246 conducts a sentencing hearing in accordance with s. 921.1401 and
2247 finds that life imprisonment or a term of years equal to life
2248 imprisonment is an appropriate sentence.

2249 a. A person who actually killed, intended to kill, or
2250 attempted to kill the victim and is sentenced to a term of
2251 imprisonment of more than 25 years is entitled to a review of
2252 his or her sentence in accordance with s. 921.1402(2)(b).

2253 b. A person who did not actually kill, intend to kill, or
2254 attempt to kill the victim and is sentenced to a term of
2255 imprisonment of more than 15 years is entitled to a review of
2256 his or her sentence in accordance with s. 921.1402(2)(c).

2257 c. The court shall make a written finding as to whether a
2258 person is eligible for a sentence review hearing under s.
2259 921.1402(2)(b) or (c). Such a finding shall be based upon
2260 whether the person actually killed, intended to kill, or



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2261 attempted to kill the victim. The court may find that multiple
2262 defendants killed, intended to kill, or attempted to kill the
2263 victim.

2264 6. For a life felony committed on or after October 1, 2014,
2265 which is a violation of s. 787.06(3)(g), by a term of
2266 imprisonment for life.

2267 (b)1. For a felony of the first degree, by a term of
2268 imprisonment not exceeding 30 years or, when specifically
2269 provided by statute, by imprisonment for a term of years not
2270 exceeding life imprisonment.

2271 2. Notwithstanding subparagraph 1., a person convicted
2272 under s. 782.04 of a first degree felony punishable by a term of
2273 years not exceeding life imprisonment, or an offense that was
2274 reclassified as a first degree felony punishable by a term of
2275 years not exceeding life, which was committed before the person
2276 attained 18 years of age may be punished by a term of years
2277 equal to life imprisonment if the judge conducts a sentencing
2278 hearing in accordance with s. 921.1401 and finds that a term of
2279 years equal to life imprisonment is an appropriate sentence.

2280 a. A person who actually killed, intended to kill, or
2281 attempted to kill the victim and is sentenced to a term of
2282 imprisonment of more than 25 years is entitled to a review of
2283 his or her sentence in accordance with s. 921.1402(2)(b).

2284 b. A person who did not actually kill, intend to kill, or
2285 attempt to kill the victim and is sentenced to a term of
2286 imprisonment of more than 15 years is entitled to a review of
2287 his or her sentence in accordance with s. 921.1402(2)(c).

2288 c. The court shall make a written finding as to whether a
2289 person is eligible for a sentence review hearing under s.



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2290 921.1402(2) (b) or (c). Such a finding shall be based upon
2291 whether the person actually killed, intended to kill, or
2292 attempted to kill the victim. The court may find that multiple
2293 defendants killed, intended to kill, or attempted to kill the
2294 victim.

2295 (c) Notwithstanding paragraphs (a) and (b), a person
2296 convicted of an offense that is not included in s. 782.04 but
2297 that is an offense that is a life felony or is punishable by a
2298 term of imprisonment for life or by a term of years not
2299 exceeding life imprisonment, or an offense that was reclassified
2300 as a life felony or an offense punishable by a term of
2301 imprisonment for life or by a term of years not exceeding life
2302 imprisonment, which was committed before the person attained 18
2303 years of age may be punished by a term of imprisonment for life
2304 or a term of years equal to life imprisonment if the judge
2305 conducts a sentencing hearing in accordance with s. 921.1401 and
2306 finds that life imprisonment or a term of years equal to life
2307 imprisonment is an appropriate sentence. A person who is
2308 sentenced to a term of imprisonment of more than 20 years is
2309 entitled to a review of his or her sentence in accordance with
2310 s. 921.1402(2) (d).

2311 Section 12. For the purpose of incorporating the amendment
2312 made by this act to section 782.04, Florida Statutes, in
2313 references thereto, subsections (1) and (2) of section 775.0823,
2314 Florida Statutes, are reenacted to read:

2315 775.0823 Violent offenses committed against law enforcement
2316 officers, correctional officers, state attorneys, assistant
2317 state attorneys, justices, or judges.—The Legislature does
2318 hereby provide for an increase and certainty of penalty for any



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2319 person convicted of a violent offense against any law
2320 enforcement or correctional officer, as defined in s. 943.10(1),
2321 (2), (3), (6), (7), (8), or (9); against any state attorney
2322 elected pursuant to s. 27.01 or assistant state attorney
2323 appointed under s. 27.181; or against any justice or judge of a
2324 court described in Art. V of the State Constitution, which
2325 offense arises out of or in the scope of the officer's duty as a
2326 law enforcement or correctional officer, the state attorney's or
2327 assistant state attorney's duty as a prosecutor or investigator,
2328 or the justice's or judge's duty as a judicial officer, as
2329 follows:

2330 (1) For murder in the first degree as described in s.
2331 782.04(1), if the death sentence is not imposed, a sentence of
2332 imprisonment for life without eligibility for release.

2333 (2) For attempted murder in the first degree as described
2334 in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083,
2335 or s. 775.084.

2336
2337 Notwithstanding the provisions of s. 948.01, with respect to any
2338 person who is found to have violated this section, adjudication
2339 of guilt or imposition of sentence shall not be suspended,
2340 deferred, or withheld.

2341 Section 13. For the purpose of incorporating the amendment
2342 made by this act to section 782.04, Florida Statutes, in a
2343 reference thereto, subsection (1) of section 921.16, Florida
2344 Statutes, is reenacted to read:

2345 921.16 When sentences to be concurrent and when
2346 consecutive.—

2347 (1) A defendant convicted of two or more offenses charged



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2348 in the same indictment, information, or affidavit or in
2349 consolidated indictments, informations, or affidavits shall
2350 serve the sentences of imprisonment concurrently unless the
2351 court directs that two or more of the sentences be served
2352 consecutively. Sentences of imprisonment for offenses not
2353 charged in the same indictment, information, or affidavit shall
2354 be served consecutively unless the court directs that two or
2355 more of the sentences be served concurrently. Any sentence for
2356 sexual battery as defined in chapter 794 or murder as defined in
2357 s. 782.04 must be imposed consecutively to any other sentence
2358 for sexual battery or murder which arose out of a separate
2359 criminal episode or transaction.

2360 Section 14. For the purpose of incorporating the amendment
2361 made by this act to section 782.04, Florida Statutes, in a
2362 reference thereto, paragraph (c) of subsection (8) of section
2363 948.06, Florida Statutes, is reenacted to read:

2364 948.06 Violation of probation or community control;
2365 revocation; modification; continuance; failure to pay
2366 restitution or cost of supervision.-

2367 (8)

2368 (c) For purposes of this section, the term "qualifying
2369 offense" means any of the following:

2370 1. Kidnapping or attempted kidnapping under s. 787.01,
2371 false imprisonment of a child under the age of 13 under s.
2372 787.02(3), or luring or enticing a child under s. 787.025(2)(b)
2373 or (c).

2374 2. Murder or attempted murder under s. 782.04, attempted
2375 felony murder under s. 782.051, or manslaughter under s. 782.07.

2376 3. Aggravated battery or attempted aggravated battery under



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- 2377 s. 784.045.
- 2378 4. Sexual battery or attempted sexual battery under s.
2379 794.011(2), (3), (4), or (8)(b) or (c).
- 2380 5. Lewd or lascivious battery or attempted lewd or
2381 lascivious battery under s. 800.04(4), lewd or lascivious
2382 molestation under s. 800.04(5)(b) or (c)2., lewd or lascivious
2383 conduct under s. 800.04(6)(b), lewd or lascivious exhibition
2384 under s. 800.04(7)(b), or lewd or lascivious exhibition on
2385 computer under s. 847.0135(5)(b).
- 2386 6. Robbery or attempted robbery under s. 812.13, carjacking
2387 or attempted carjacking under s. 812.133, or home invasion
2388 robbery or attempted home invasion robbery under s. 812.135.
- 2389 7. Lewd or lascivious offense upon or in the presence of an
2390 elderly or disabled person or attempted lewd or lascivious
2391 offense upon or in the presence of an elderly or disabled person
2392 under s. 825.1025.
- 2393 8. Sexual performance by a child or attempted sexual
2394 performance by a child under s. 827.071.
- 2395 9. Computer pornography under s. 847.0135(2) or (3),
2396 transmission of child pornography under s. 847.0137, or selling
2397 or buying of minors under s. 847.0145.
- 2398 10. Poisoning food or water under s. 859.01.
- 2399 11. Abuse of a dead human body under s. 872.06.
- 2400 12. Any burglary offense or attempted burglary offense that
2401 is either a first degree felony or second degree felony under s.
2402 810.02(2) or (3).
- 2403 13. Arson or attempted arson under s. 806.01(1).
- 2404 14. Aggravated assault under s. 784.021.
- 2405 15. Aggravated stalking under s. 784.048(3), (4), (5), or



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2406 (7).

2407 16. Aircraft piracy under s. 860.16.

2408 17. Unlawful throwing, placing, or discharging of a
2409 destructive device or bomb under s. 790.161(2), (3), or (4).

2410 18. Treason under s. 876.32.

2411 19. Any offense committed in another jurisdiction which
2412 would be an offense listed in this paragraph if that offense had
2413 been committed in this state.

2414 Section 15. For the purpose of incorporating the amendment
2415 made by this act to section 782.04, Florida Statutes, in a
2416 reference thereto, paragraph (a) of subsection (1) of section
2417 948.062, Florida Statutes, is reenacted to read:

2418 948.062 Reviewing and reporting serious offenses committed
2419 by offenders placed on probation or community control.—

2420 (1) The department shall review the circumstances related
2421 to an offender placed on probation or community control who has
2422 been arrested while on supervision for the following offenses:

2423 (a) Any murder as provided in s. 782.04;

2424 Section 16. For the purpose of incorporating the amendment
2425 made by this act to section 782.04, Florida Statutes, in a
2426 reference thereto, paragraph (b) of subsection (3) of section
2427 985.265, Florida Statutes, is reenacted to read:

2428 985.265 Detention transfer and release; education; adult
2429 jails.—

2430 (3)

2431 (b) When a juvenile is released from secure detention or
2432 transferred to nonsecure detention, detention staff shall
2433 immediately notify the appropriate law enforcement agency,
2434 school personnel, and victim if the juvenile is charged with



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2435 committing any of the following offenses or attempting to commit
2436 any of the following offenses:

- 2437 1. Murder, under s. 782.04;
- 2438 2. Sexual battery, under chapter 794;
- 2439 3. Stalking, under s. 784.048; or
- 2440 4. Domestic violence, as defined in s. 741.28.

2441 Section 17. For the purpose of incorporating the amendment
2442 made by this act to section 782.04, Florida Statutes, in a
2443 reference thereto, paragraph (d) of subsection (1) of section
2444 1012.315, Florida Statutes, is reenacted to read:

2445 1012.315 Disqualification from employment.—A person is
2446 ineligible for educator certification, and instructional
2447 personnel and school administrators, as defined in s. 1012.01,
2448 are ineligible for employment in any position that requires
2449 direct contact with students in a district school system,
2450 charter school, or private school that accepts scholarship
2451 students under s. 1002.39 or s. 1002.395, if the person,
2452 instructional personnel, or school administrator has been
2453 convicted of:

2454 (1) Any felony offense prohibited under any of the
2455 following statutes:

2456 (d) Section 782.04, relating to murder.

2457 Section 18. For the purpose of incorporating the amendment
2458 made by this act to section 782.04, Florida Statutes, in a
2459 reference thereto, paragraph (g) of subsection (2) of section
2460 1012.467, Florida Statutes, is reenacted to read:

2461 1012.467 Noninstructional contractors who are permitted
2462 access to school grounds when students are present; background
2463 screening requirements.—



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2464 (2)
2465 (g) A noninstructional contractor for whom a criminal
2466 history check is required under this section may not have been
2467 convicted of any of the following offenses designated in the
2468 Florida Statutes, any similar offense in another jurisdiction,
2469 or any similar offense committed in this state which has been
2470 redesignated from a former provision of the Florida Statutes to
2471 one of the following offenses:

2472 1. Any offense listed in s. 943.0435(1)(h)1., relating to
2473 the registration of an individual as a sexual offender.

2474 2. Section 393.135, relating to sexual misconduct with
2475 certain developmentally disabled clients and the reporting of
2476 such sexual misconduct.

2477 3. Section 394.4593, relating to sexual misconduct with
2478 certain mental health patients and the reporting of such sexual
2479 misconduct.

2480 4. Section 775.30, relating to terrorism.

2481 5. Section 782.04, relating to murder.

2482 6. Section 787.01, relating to kidnapping.

2483 7. Any offense under chapter 800, relating to lewdness and
2484 indecent exposure.

2485 8. Section 826.04, relating to incest.

2486 9. Section 827.03, relating to child abuse, aggravated
2487 child abuse, or neglect of a child.

2488 Section 19. This act shall take effect October 1, 2017.

2489
2490 ===== T I T L E A M E N D M E N T =====

2491 And the title is amended as follows:

2492 Delete everything before the enacting clause



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2493 and insert:

2494 A bill to be entitled
2495 An act relating to controlled substances; amending s.
2496 381.887, F.S.; providing that certain emergency
2497 responders and crime laboratory personnel may possess,
2498 store, and administer emergency opioid antagonists;
2499 amending s. 782.04, F.S.; providing that unlawful
2500 distribution of specified controlled substances and
2501 analogs or mixtures thereof by an adult which
2502 proximately cause a death is murder; providing
2503 criminal penalties; creating s. 893.015, F.S.;
2504 specifying purpose relating to drug abuse prevention
2505 and control; providing that a reference to ch. 893,
2506 F.S., or to any section or portion thereof, includes
2507 all subsequent amendments; amending s. 893.03, F.S.;
2508 adding certain synthetic opioid substitute compounds
2509 to the list of Schedule I controlled substances;
2510 amending s. 893.13, F.S.; prohibiting possession of
2511 more than 10 grams of specified substances; providing
2512 criminal penalties; amending s. 893.135, F.S.;
2513 revising the substances that constitute the offenses
2514 of trafficking and capital trafficking in, and capital
2515 importation of, hydrocodone and oxycodone; creating
2516 the offense of trafficking in fentanyl; providing
2517 penalties and specifying minimum terms of imprisonment
2518 and fines based on the quantity involved in the
2519 offense; revising the substances that constitute the
2520 offenses of trafficking in phencyclidine and capital
2521 importation of phencyclidine; revising the substances



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2522 that constitute trafficking in phenethylamines and
2523 capital manufacture or importation of phenethylamines;
2524 creating the offense of trafficking in synthetic
2525 cannabinoids; providing penalties and specifying
2526 minimum terms of imprisonment and fines based on the
2527 quantity involved in the offense; creating the
2528 offenses of trafficking in n-benzyl phenethylamines
2529 and capital manufacture or importation of a n-benzyl
2530 phenethylamine compound; providing penalties and
2531 specifying minimum terms of imprisonment and fines
2532 based on the quantity involved in the offense;
2533 reenacting and amending s. 921.0022, F.S.; ranking
2534 offenses on the offense severity ranking chart of the
2535 Criminal Punishment Code; incorporating the amendments
2536 made by the act in cross-references to amended
2537 provisions; reenacting ss. 39.806(1)(d), 63.089(4)(b),
2538 95.11(10), 775.082(1)(b) and (3)(a), (b), and (c),
2539 775.0823(1) and (2), 921.16(1), 948.06(8)(c),
2540 948.062(1)(a), 985.265(3)(b), 1012.315(1)(d), and
2541 1012.467(2)(g), relating to grounds for termination of
2542 parental rights, proceeding to terminate parental
2543 rights pending adoption, limitations other than for
2544 the recovery of real property, penalties, when
2545 sentences to be concurrent and when consecutive,
2546 violent offenses committed against specified
2547 officials, violation of probation or community
2548 control, reviewing and reporting serious offenses
2549 committed by offenders placed on probation or
2550 community control, detention transfer and release,



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2551 disqualification from employment, and noninstructional
2552 contractors who are permitted access to school grounds
2553 when students are present, respectively, to
2554 incorporate the amendments made by the act in cross-
2555 references to amended provisions; providing an
2556 effective date.



626444

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
	.	
	.	
	.	

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

1 **Senate Amendment to Amendment (423494) (with directory and**
2 **title amendments)**

3
4 Between lines 1523 and 1524
5 insert:

6 (8) For an offense listed under this section committed on
7 or after October 1, 2017, which carries a mandatory minimum
8 sentence, a court may depart from the applicable mandatory
9 minimum sentence if, in giving due regard to the nature of the
10 crime, history, and character of the defendant, and the



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11 defendant's chances of successful rehabilitation, the court
12 finds compelling reasons on the record that imposition of the
13 mandatory minimum is not necessary for the protection of the
14 public. Each month, a court shall submit to the Office of
15 Economic and Demographic Research of the Legislature the written
16 reasons in each case in which the court departed from the
17 mandatory minimum sentence.

18
19 ===== D I R E C T O R Y C L A U S E A M E N D M E N T =====

20 And the directory clause is amended as follows:

21 Delete lines 1189 - 1191

22 and insert:

23 Section 6. Paragraphs (c), (d), and (k) of subsection (1)
24 of section 893.135, Florida Statutes, are amended, and
25 paragraphs (m) and (n) are added to that subsection, and a new
26 subsection (8) is added to that section, to read:

27
28 ===== T I T L E A M E N D M E N T =====

29 And the title is amended as follows:

30 Between lines 2532 and 2533

31 insert:

32 authorizing a court to depart from a mandatory minimum
33 sentence for drug trafficking if the court finds
34 compelling reasons that the mandatory minimum sentence
35 is not necessary for the protection of the public;
36 requiring a court to submit written reasons for such
37 departure to the Office of Economic and Demographic
38 Research;



164354

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
	.	
	.	
	.	

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

1 **Senate Amendment to Amendment (423494) (with title**
2 **amendment)**

3
4 Between lines 2067 and 2068
5 insert:

6 Section 8. Present subsection (11) of section 775.082,
7 Florida Statutes, is redesignated as subsection (12), and a new
8 subsection (11) is added to that section, to read:

9 775.082 Penalties; applicability of sentencing structures;
10 mandatory minimum sentences for certain reoffenders previously



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11 released from prison.-

12 (11) If a defendant is sentenced for a primary offense of
13 possession of a controlled substance committed on or after
14 October 1, 2017, and if the total sentence points pursuant to s.
15 921.0024 are 60 points or fewer, the court must sentence the
16 offender to a nonstate prison sanction. However, if the court
17 makes written findings that a nonstate prison sanction could
18 present a danger to the public, the court may sentence the
19 offender to a state correctional facility pursuant to this
20 section. As used in this subsection, the term "possession of a
21 controlled substance" means possession of a controlled substance
22 in violation of s. 893.13, but does not include possession with
23 intent to sell, manufacture, or deliver a controlled substance
24 or possession of a controlled substance in violation of s.
25 893.135.

26 Section 9. Section 921.0026, Florida Statutes, is amended
27 to read:

28 921.0026 Mitigating circumstances.—This section applies to
29 any felony offense, except any capital felony, committed on or
30 after October 1, 1998.

31 (1) A downward departure from the lowest permissible
32 sentence, as calculated according to the total sentence points
33 pursuant to s. 921.0024, is prohibited unless there are
34 circumstances or factors that reasonably justify the downward
35 departure. Mitigating factors to be considered include, but are
36 not limited to, those listed in subsection (2). The imposition
37 of a sentence below the lowest permissible sentence is subject
38 to appellate review under chapter 924, but the extent of
39 downward departure is not subject to appellate review.



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40 (2) Mitigating circumstances under which a departure from
41 the lowest permissible sentence is reasonably justified include,
42 but are not limited to:

43 (a) The departure results from a legitimate, uncoerced plea
44 bargain.

45 (b) The defendant was an accomplice to the offense and was
46 a relatively minor participant in the criminal conduct.

47 (c) The capacity of the defendant to appreciate the
48 criminal nature of the conduct or to conform that conduct to the
49 requirements of law was substantially impaired.

50 (d) For an offense committed on or after October 1, 1998,
51 but before October 1, 2017, the defendant requires specialized
52 treatment for a mental disorder that is unrelated to substance
53 abuse or addiction or for a physical disability, and the
54 defendant is amenable to treatment.

55 (e) For an offense committed on or after October 1, 2017,
56 the defendant requires specialized treatment for an addiction, a
57 mental disorder, or a physical disability, and the defendant is
58 amenable to treatment.

59 ~~(f)-(e)~~ The need for payment of restitution to the victim
60 outweighs the need for a prison sentence.

61 ~~(g)-(f)~~ The victim was an initiator, willing participant,
62 aggressor, or provoker of the incident.

63 ~~(h)-(g)~~ The defendant acted under extreme duress or under
64 the domination of another person.

65 ~~(i)-(h)~~ Before the identity of the defendant was determined,
66 the victim was substantially compensated.

67 ~~(j)-(i)~~ The defendant cooperated with the state to resolve
68 the current offense or any other offense.



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69 ~~(k)-(j)~~ The offense was committed in an unsophisticated
70 manner and was an isolated incident for which the defendant has
71 shown remorse.

72 ~~(l)-(k)~~ At the time of the offense the defendant was too
73 young to appreciate the consequences of the offense.

74 ~~(m)-(l)~~ The defendant is to be sentenced as a youthful
75 offender.

76 ~~(n)-(m)~~ For an offense committed on or after October 1,
77 1998, but before October 1, 2017, the defendant's offense is a
78 nonviolent felony, the defendant's Criminal Punishment Code
79 scoresheet total sentence points under s. 921.0024 are 60 points
80 or fewer, and the court determines that the defendant is
81 amenable to the services of a postadjudicatory treatment-based
82 drug court program and is otherwise qualified to participate in
83 the program as part of the sentence. Except as provided in this
84 paragraph, the defendant's substance abuse or addiction,
85 including intoxication at the time of the offense, is not a
86 mitigating factor for an offense committed on or after October
87 1, 1998, but before October 1, 2017, and does not, under any
88 circumstance, justify a downward departure from the permissible
89 sentencing range ~~For purposes of this paragraph, the term~~
90 ~~"nonviolent felony" has the same meaning as provided in s.~~
91 ~~948.08(6).~~

92 ~~(o)-(n)~~ The defendant was making a good faith effort to
93 obtain or provide medical assistance for an individual
94 experiencing a drug-related overdose.

95 (3) As used in subsection (2), the term "nonviolent felony"
96 has the same meaning as provided in s. 948.08 ~~Except as provided~~
97 ~~in paragraph (2) (m), the defendant's substance abuse or~~



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98 ~~addiction, including intoxication at the time of the offense, is~~
99 ~~not a mitigating factor under subsection (2) and does not, under~~
100 ~~any circumstances, justify a downward departure from the~~
101 ~~permissible sentencing range.~~

102 Section 10. Subsection (7) of section 948.01, Florida
103 Statutes, is amended to read:

104 948.01 When court may place defendant on probation or into
105 community control.—

106 (7) (a) Notwithstanding s. 921.0024 and effective for
107 offenses committed on or after July 1, 2009, the sentencing
108 court may place the defendant into a postadjudicatory treatment-
109 based drug court program if the defendant's Criminal Punishment
110 Code scoresheet total sentence points under s. 921.0024 are 60
111 points or fewer, the offense is a nonviolent felony, the
112 defendant is amenable to substance abuse treatment, and the
113 defendant otherwise qualifies under s. 397.334(3). The
114 satisfactory completion of the program shall be a condition of
115 the defendant's probation or community control. ~~As used in this~~
116 ~~subsection, the term "nonviolent felony" means a third degree~~
117 ~~felony violation under chapter 810 or any other felony offense~~
118 ~~that is not a forcible felony as defined in s. 776.08.~~

119 (b) Notwithstanding s. 921.0024 and effective for offenses
120 committed on or after October 1, 2017, the sentencing court must
121 place the defendant into a postadjudicatory treatment-based drug
122 court program, into residential drug treatment, or on drug
123 offender probation if the defendant's Criminal Punishment Code
124 scoresheet total sentence points under s. 921.0024 are 60 points
125 or fewer, the offense is a nonviolent felony, the defendant is
126 amenable to substance abuse treatment, the defendant's criminal



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127 behavior is related to substance abuse or addiction, and the
128 defendant otherwise qualifies under s. 397.334(3). The
129 satisfactory completion of the program must be a condition of
130 the defendant's probation or community control.

131 (c) ~~(b)~~ In order to be placed in a postadjudicatory
132 treatment-based drug court program under paragraph (a) or
133 paragraph (b), the defendant must be fully advised of the
134 purpose of the program, and the defendant must agree to enter
135 the program. The original sentencing court shall relinquish
136 jurisdiction of the defendant's case to the postadjudicatory
137 drug court program until the defendant is no longer active in
138 the program, the case is returned to the sentencing court due to
139 the defendant's termination from the program for failure to
140 comply with the terms thereof, or the defendant's sentence is
141 completed.

142 (d) As used in this subsection, the term "nonviolent
143 felony" means a third degree felony violation under chapter 810
144 or any other felony offense that is not a forcible felony as
145 defined in s. 776.08.

146 Section 11. For the purpose of incorporating the amendment
147 made by this act to section 921.0026, Florida Statutes, in
148 references thereto, paragraphs (b) and (c) of subsection (1) of
149 section 775.08435, Florida Statutes, are reenacted to read:

150 775.08435 Prohibition on withholding adjudication in felony
151 cases.—

152 (1) Notwithstanding the provisions of s. 948.01, the court
153 may not withhold adjudication of guilt upon the defendant for:

154 (b) A second degree felony offense unless:

155 1. The state attorney requests in writing that adjudication



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156 be withheld; or

157 2. The court makes written findings that the withholding of
158 adjudication is reasonably justified based on circumstances or
159 factors in accordance with those set forth in s. 921.0026.

160

161 Notwithstanding any provision of this section, no adjudication
162 of guilt shall be withheld for a second degree felony offense if
163 the defendant has a prior withholding of adjudication for a
164 felony that did not arise from the same transaction as the
165 current felony offense.

166 (c) A third degree felony offense if the defendant has a
167 prior withholding of adjudication for a felony offense that did
168 not arise from the same transaction as the current felony
169 offense unless:

170 1. The state attorney requests in writing that adjudication
171 be withheld; or

172 2. The court makes written findings that the withholding of
173 adjudication is reasonably justified based on circumstances or
174 factors in accordance with those set forth in s. 921.0026.

175

176 Notwithstanding any provision of this section, no adjudication
177 of guilt shall be withheld for a third degree felony offense if
178 the defendant has two or more prior withholdings of adjudication
179 for a felony that did not arise from the same transaction as the
180 current felony offense.

181 Section 12. For the purpose of incorporating the amendment
182 made by this act to section 921.0026, Florida Statutes, in a
183 reference thereto, subsection (3) of section 921.002, Florida
184 Statutes, is reenacted to read:



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185 921.002 The Criminal Punishment Code.—The Criminal
186 Punishment Code shall apply to all felony offenses, except
187 capital felonies, committed on or after October 1, 1998.

188 (3) A court may impose a departure below the lowest
189 permissible sentence based upon circumstances or factors that
190 reasonably justify the mitigation of the sentence in accordance
191 with s. 921.0026. The level of proof necessary to establish
192 facts supporting the mitigation of a sentence is a preponderance
193 of the evidence. When multiple reasons exist to support the
194 mitigation, the mitigation shall be upheld when at least one
195 circumstance or factor justifies the mitigation regardless of
196 the presence of other circumstances or factors found not to
197 justify mitigation. Any sentence imposed below the lowest
198 permissible sentence must be explained in writing by the trial
199 court judge.

200 Section 13. For the purpose of incorporating the amendment
201 made by this act to section 921.0026, Florida Statutes, in a
202 reference thereto, subsection (1) of section 921.00265, Florida
203 Statutes, is reenacted to read:

204 921.00265 Recommended sentences; departure sentences;
205 mandatory minimum sentences.—This section applies to any felony
206 offense, except any capital felony, committed on or after
207 October 1, 1998.

208 (1) The lowest permissible sentence provided by
209 calculations from the total sentence points pursuant to s.
210 921.0024(2) is assumed to be the lowest appropriate sentence for
211 the offender being sentenced. A departure sentence is prohibited
212 unless there are mitigating circumstances or factors present as
213 provided in s. 921.0026 which reasonably justify a departure.



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214 Section 14. For the purpose of incorporating the amendment
215 made by this act to section 948.01, Florida Statutes, in
216 references thereto, subsection (2) and paragraph (a) of
217 subsection (4) of section 394.47892, Florida Statutes, are
218 reenacted to read:

219 394.47892 Mental health court programs.—

220 (2) Mental health court programs may include pretrial
221 intervention programs as provided in ss. 948.08, 948.16, and
222 985.345, postadjudicatory mental health court programs as
223 provided in ss. 948.01 and 948.06, and review of the status of
224 compliance or noncompliance of sentenced defendants through a
225 mental health court program.

226 (4) (a) Entry into a postadjudicatory mental health court
227 program as a condition of probation or community control
228 pursuant to s. 948.01 or s. 948.06 must be based upon the
229 sentencing court's assessment of the defendant's criminal
230 history, mental health screening outcome, amenability to the
231 services of the program, and total sentence points; the
232 recommendation of the state attorney and the victim, if any; and
233 the defendant's agreement to enter the program.

234 Section 15. For the purpose of incorporating the amendment
235 made by this act to section 948.01, Florida Statutes, in
236 references thereto, paragraph (a) of subsection (3) and
237 subsection (5) of section 397.334, Florida Statutes, are
238 reenacted to read:

239 397.334 Treatment-based drug court programs.—

240 (3) (a) Entry into any postadjudicatory treatment-based drug
241 court program as a condition of probation or community control
242 pursuant to s. 948.01, s. 948.06, or s. 948.20 must be based



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243 upon the sentencing court's assessment of the defendant's
244 criminal history, substance abuse screening outcome, amenability
245 to the services of the program, total sentence points, the
246 recommendation of the state attorney and the victim, if any, and
247 the defendant's agreement to enter the program.

248 (5) Treatment-based drug court programs may include
249 pretrial intervention programs as provided in ss. 948.08,
250 948.16, and 985.345, treatment-based drug court programs
251 authorized in chapter 39, postadjudicatory programs as provided
252 in ss. 948.01, 948.06, and 948.20, and review of the status of
253 compliance or noncompliance of sentenced offenders through a
254 treatment-based drug court program. While enrolled in a
255 treatment-based drug court program, the participant is subject
256 to a coordinated strategy developed by a drug court team under
257 subsection (4). The coordinated strategy may include a protocol
258 of sanctions that may be imposed upon the participant for
259 noncompliance with program rules. The protocol of sanctions may
260 include, but is not limited to, placement in a substance abuse
261 treatment program offered by a licensed service provider as
262 defined in s. 397.311 or in a jail-based treatment program or
263 serving a period of secure detention under chapter 985 if a
264 child or a period of incarceration within the time limits
265 established for contempt of court if an adult. The coordinated
266 strategy must be provided in writing to the participant before
267 the participant agrees to enter into a treatment-based drug
268 court program.

269 Section 16. For the purpose of incorporating the amendment
270 made by this act to section 948.01, Florida Statutes, in a
271 reference thereto, paragraph (a) of subsection (5) of section



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272 910.035, Florida Statutes, is reenacted to read:

273 910.035 Transfer from county for plea, sentence, or
274 participation in a problem-solving court.—

275 (5) TRANSFER FOR PARTICIPATION IN A PROBLEM-SOLVING COURT.—

276 (a) For purposes of this subsection, the term “problem-
277 solving court” means a drug court pursuant to s. 948.01, s.
278 948.06, s. 948.08, s. 948.16, or s. 948.20; a military veterans’
279 and servicemembers’ court pursuant to s. 394.47891, s. 948.08,
280 s. 948.16, or s. 948.21; a mental health court program pursuant
281 to s. 394.47892, s. 948.01, s. 948.06, s. 948.08, or s. 948.16;
282 or a delinquency pretrial intervention court program pursuant to
283 s. 985.345.

284 Section 17. For the purpose of incorporating the amendment
285 made by this act to section 948.01, Florida Statutes, in a
286 reference thereto, paragraph (c) of subsection (1) of section
287 921.187, Florida Statutes, is reenacted to read:

288 921.187 Disposition and sentencing; alternatives;
289 restitution.—

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

295 (c) Place the offender on probation with or without an
296 adjudication of guilt pursuant to s. 948.01.

297 Section 18. For the purpose of incorporating the amendment
298 made by this act to section 948.01, Florida Statutes, in a
299 reference thereto, section 943.04352, Florida Statutes, is
300 reenacted to read:



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301 943.04352 Search of registration information regarding
302 sexual predators and sexual offenders required when placement on
303 misdemeanor probation.—When the court places a defendant on
304 misdemeanor probation pursuant to ss. 948.01 and 948.15, the
305 public or private entity providing probation services must
306 conduct a search of the probationer's name or other identifying
307 information against the registration information regarding
308 sexual predators and sexual offenders maintained by the
309 Department of Law Enforcement under s. 943.043. The probation
310 services provider may conduct the search using the Internet site
311 maintained by the Department of Law Enforcement. Also, a
312 national search must be conducted through the Dru Sjodin
313 National Sex Offender Public Website maintained by the United
314 States Department of Justice.

315
316 ===== T I T L E A M E N D M E N T =====

317 And the title is amended as follows:

318 Delete line 2537

319 and insert:

320 provisions; amending s. 775.082, F.S.; requiring that
321 a court sentence a defendant who is convicted of a
322 primary offense of possession of a controlled
323 substance committed on or after a specified date to a
324 nonstate prison sanction under certain circumstances;
325 defining the term "possession of a controlled
326 substance"; amending s. 921.0026, F.S.; revising the
327 mitigating circumstances under which a departure from
328 the lowest permissible sentence is reasonably
329 justified; making technical changes; amending s.



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330 948.01, F.S.; requiring a sentencing court to place
331 certain defendants who commit an offense on or after a
332 specified date into a postadjudicatory treatment-based
333 drug court program, into residential drug treatment,
334 or on drug offender probation; making technical
335 changes; reenacting ss. 775.08435(1)(b) and (c),
336 921.002(3), and 921.00265(1), F.S., relating to the
337 prohibition on withholding adjudication in felony
338 cases, the Criminal Punishment Code, and recommended
339 and departure sentences, respectively, to incorporate
340 the amendment made to s. 921.0026, F.S., in references
341 thereto; reenacting ss. 394.47892(2) and (4)(a),
342 397.334(3)(a) and (5), 910.035(5)(a), 921.187(1)(c),
343 and 943.04352, F.S., relating to mental health court
344 programs, treatment-based drug court programs,
345 transfer for participation in a problem-solving court,
346 offender probation with or without adjudication of
347 guilt, and court placement of a defendant on
348 misdemeanor probation, respectively, to incorporate
349 the amendment made to s. 948.01, F.S., in references
350 thereto; reenacting ss. 39.806(1)(d), 63.089(4)(b),

By Senator Steube

23-00203-17

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1 A bill to be entitled
 2 An act relating to controlled substances; amending s.
 3 893.13, F.S.; requiring a mandatory minimum term of
 4 imprisonment for specified violations related to
 5 controlled substances which are committed in a
 6 dwelling; creating a criminal penalty for possession
 7 with intent to distribute a controlled substance under
 8 certain circumstances; amending s. 893.135, F.S.;
 9 creating the criminal penalty of "trafficking in
 10 fentanyl"; requiring mandatory minimum terms of
 11 imprisonment and fines for specified quantities of
 12 fentanyl; adding a minimum specified quantity of
 13 fentanyl to the crime of trafficking in illegal drugs;
 14 creating the criminal penalty of "trafficking in
 15 synthetic drugs"; requiring mandatory minimum terms of
 16 imprisonment and fines for specified quantities of
 17 certain controlled substances; amending s. 921.0022,
 18 F.S.; adding offenses relating to trafficking in LSD
 19 and synthetic drugs to the offense severity ranking
 20 chart; reenacting ss. 112.0455(8)(s), 397.451(4)(b),
 21 435.07(2), 775.084(1)(a), 831.311(1), 893.138(3),
 22 921.187(1)(l), F.S., relating to the Drug-Free
 23 Workplace Act, background checks of service provider
 24 personnel, exemptions from disqualification from
 25 employment, habitual felony offenders, counterfeit-
 26 resistant prescription blanks for controlled
 27 substances, abatement of a declared public nuisance,
 28 and alternatives to a state prison sentence,
 29 respectively, to incorporate the amendment made to s.
 30 893.13, F.S., in references thereto; reenacting ss.
 31 373.6055(3)(c), 397.451(6), 414.095(1), 775.087(2)(a)
 32 and (3)(a), 782.04(1)(a), (3), and (4), 893.03(3)(c),

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33 907.041(4)(c), 921.0024(1)(b), 943.0585, and 943.059,
 34 F.S., relating to criminal history checks for certain
 35 water management district employees and others,
 36 disqualification from receiving state funds,
 37 determining eligibility for temporary cash assistance,
 38 minimum term of imprisonment for conviction of a
 39 felony or attempting to commit a felony, murder,
 40 Schedule III controlled substances, pretrial detention
 41 and release, Criminal Punishment Code worksheet
 42 computations, court-ordered expunction of criminal
 43 history records, and court-ordered sealing of criminal
 44 history records, respectively, to incorporate the
 45 amendment made to s. 893.135, F.S., in references
 46 thereto; reenacting ss. 772.12(2), 810.02(3),
 47 812.014(2)(c), 893.1351(1) and (2), and 903.133, F.S.,
 48 relating to the Drug Dealer Liability Act; burglary;
 49 theft; owning, leasing, renting, or possessing for
 50 trafficking in or manufacturing a controlled
 51 substance; and the prohibition of bail on appeal for
 52 certain felony convictions, respectively, to
 53 incorporate the amendments made to ss. 893.13 and
 54 893.135, F.S., in references thereto; providing an
 55 effective date.

56
57 Be It Enacted by the Legislature of the State of Florida:

58
59 Section 1. Paragraph (a) of subsection (1) of section
 60 893.13, Florida Statutes, is amended, paragraph (d) of
 61 subsection (8) of that section is republished, and subsection

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62 (11) is added to that section, to read:
 63 893.13 Prohibited acts; penalties.—
 64 (1) (a) Except as authorized by this chapter and chapter
 65 499, a person may not sell, manufacture, or deliver, or possess
 66 with intent to sell, manufacture, or deliver, a controlled
 67 substance. A person who violates this provision with respect to:
 68 1. A controlled substance named or described in s.
 69 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.
 70 commits a felony of the second degree, punishable as provided in
 71 s. 775.082, s. 775.083, or s. 775.084. A person who violates
 72 this subparagraph in a dwelling, as defined in s. 810.011, shall
 73 be sentenced to a mandatory minimum term of imprisonment of 3
 74 years.
 75 2. A controlled substance named or described in s.
 76 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6.,
 77 (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) commits a felony of
 78 the third degree, punishable as provided in s. 775.082, s.
 79 775.083, or s. 775.084.
 80 3. A controlled substance named or described in s.
 81 893.03(5) commits a misdemeanor of the first degree, punishable
 82 as provided in s. 775.082 or s. 775.083.
 83 (8)
 84 (d) Notwithstanding paragraph (c), if a prescribing
 85 practitioner has violated paragraph (a) and received \$1,000 or
 86 more in payment for writing one or more prescriptions or, in the
 87 case of a prescription written for a controlled substance
 88 described in s. 893.135, has written one or more prescriptions
 89 for a quantity of a controlled substance which, individually or
 90 in the aggregate, meets the threshold for the offense of

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91 trafficking in a controlled substance under s. 893.135, the
 92 violation is reclassified as a felony of the second degree and
 93 ranked in level 4 of the Criminal Punishment Code.
 94 (11) A person who knowingly and intentionally possesses
 95 with intent to distribute a quantity of a substance or mixture
 96 containing detectable amounts of a controlled substance named or
 97 described in s. 893.03(2) (a) 4. and (2) (b) 9., the use of which
 98 results in death, commits a felony of the third degree,
 99 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 100 Section 2. Paragraph (c) of subsection (1) of section
 101 893.135, Florida Statutes, is amended, and paragraph (m) is
 102 added to that subsection, to read:
 103 893.135 Trafficking; mandatory sentences; suspension or
 104 reduction of sentences; conspiracy to engage in trafficking.—
 105 (1) Except as authorized in this chapter or in chapter 499
 106 and notwithstanding the provisions of s. 893.13:
 107 (c) 1. A person who knowingly sells, purchases,
 108 manufactures, delivers, or brings into this state, or who is
 109 knowingly in actual or constructive possession of, 4 grams or
 110 more of any morphine, opium, hydromorphone, or any salt,
 111 derivative, isomer, or salt of an isomer thereof, including
 112 heroin, as described in s. 893.03(1) (b), (2) (a), (3) (c) 3., or
 113 (3) (c) 4., or 4 grams or more of any mixture containing any such
 114 substance, but less than 30 kilograms of such substance or
 115 mixture, commits a felony of the first degree, which felony
 116 shall be known as "trafficking in illegal drugs," punishable as
 117 provided in s. 775.082, s. 775.083, or s. 775.084. If the
 118 quantity involved:
 119 a. Is 4 grams or more, but less than 14 grams, such person

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120 shall be sentenced to a mandatory minimum term of imprisonment
121 of 3 years and shall be ordered to pay a fine of \$50,000.

122 b. Is 14 grams or more, but less than 28 grams, such person
123 shall be sentenced to a mandatory minimum term of imprisonment
124 of 15 years and shall be ordered to pay a fine of \$100,000.

125 c. Is 28 grams or more, but less than 30 kilograms, such
126 person shall be sentenced to a mandatory minimum term of
127 imprisonment of 25 years and shall be ordered to pay a fine of
128 \$500,000.

129 2. A person who knowingly sells, purchases, manufactures,
130 delivers, or brings into this state, or who is knowingly in
131 actual or constructive possession of, 14 grams or more of
132 hydrocodone, or any salt, derivative, isomer, or salt of an
133 isomer thereof, or 14 grams or more of any mixture containing
134 any such substance, commits a felony of the first degree, which
135 felony shall be known as "trafficking in hydrocodone,"
136 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
137 If the quantity involved:

138 a. Is 14 grams or more, but less than 28 grams, such person
139 shall be sentenced to a mandatory minimum term of imprisonment
140 of 3 years and shall be ordered to pay a fine of \$50,000.

141 b. Is 28 grams or more, but less than 50 grams, such person
142 shall be sentenced to a mandatory minimum term of imprisonment
143 of 7 years and shall be ordered to pay a fine of \$100,000.

144 c. Is 50 grams or more, but less than 200 grams, such
145 person shall be sentenced to a mandatory minimum term of
146 imprisonment of 15 years and shall be ordered to pay a fine of
147 \$500,000.

148 d. Is 200 grams or more, but less than 30 kilograms, such

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149 person shall be sentenced to a mandatory minimum term of
150 imprisonment of 25 years and shall be ordered to pay a fine of
151 \$750,000.

152 3. A person who knowingly sells, purchases, manufactures,
153 delivers, or brings into this state, or who is knowingly in
154 actual or constructive possession of, 7 grams or more of
155 oxycodone, or any salt, derivative, isomer, or salt of an isomer
156 thereof, or 7 grams or more of any mixture containing any such
157 substance, commits a felony of the first degree, which felony
158 shall be known as "trafficking in oxycodone," punishable as
159 provided in s. 775.082, s. 775.083, or s. 775.084. If the
160 quantity involved:

161 a. Is 7 grams or more, but less than 14 grams, such person
162 shall be sentenced to a mandatory minimum term of imprisonment
163 of 3 years and shall be ordered to pay a fine of \$50,000.

164 b. Is 14 grams or more, but less than 25 grams, such person
165 shall be sentenced to a mandatory minimum term of imprisonment
166 of 7 years and shall be ordered to pay a fine of \$100,000.

167 c. Is 25 grams or more, but less than 100 grams, such
168 person shall be sentenced to a mandatory minimum term of
169 imprisonment of 15 years and shall be ordered to pay a fine of
170 \$500,000.

171 d. Is 100 grams or more, but less than 30 kilograms, such
172 person shall be sentenced to a mandatory minimum term of
173 imprisonment of 25 years and shall be ordered to pay a fine of
174 \$750,000.

175 4. A person who knowingly sells, purchases, manufactures,
176 delivers, or brings into this state, or who is knowingly in
177 actual or constructive possession of, 4 grams or more of

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178 fentanyl, or any salt, derivative, isomer, or salt of an isomer
 179 thereof, or 4 grams or more of any mixture containing any such
 180 substance, but less than 30 kilograms of such substance or
 181 mixture, commits a felony of the first degree, which felony
 182 shall be known as "trafficking in fentanyl," punishable as
 183 provided in s. 775.082, s. 775.083, or s. 775.084. If the
 184 quantity involved:

185 a. Is 4 grams or more, but less than 14 grams, such person
 186 shall be sentenced to a mandatory minimum term of imprisonment
 187 of 3 years and shall be ordered to pay a fine of \$50,000.

188 b. Is 14 grams or more, but less than 28 grams, such person
 189 shall be sentenced to a mandatory minimum term of imprisonment
 190 of 7 years and shall be ordered to pay a fine of \$100,000.

191 c. Is 28 grams or more, but less than 30 kilograms, such
 192 person shall be sentenced to a mandatory minimum term of
 193 imprisonment of 15 years and shall be ordered to pay a fine of
 194 \$500,000.

195 ~~5.4-~~ A person who knowingly sells, purchases, manufactures,
 196 delivers, or brings into this state, or who is knowingly in
 197 actual or constructive possession of, 30 kilograms or more of
 198 any morphine, opium, oxycodone, hydrocodone, hydromorphone, or
 199 any salt, derivative, isomer, or salt of an isomer thereof,
 200 including heroin, as described in s. 893.03(1)(b), (2)(a),
 201 (3)(c)3., or (3)(c)4., or 30 kilograms or more of fentanyl as
 202 described in s. 893.03(2)(b)9., or 30 kilograms or more of any
 203 mixture containing any such substance, commits the first degree
 204 felony of trafficking in illegal drugs. A person who has been
 205 convicted of the first degree felony of trafficking in illegal
 206 drugs under this subparagraph shall be punished by life

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207 imprisonment and is ineligible for any form of discretionary
 208 early release except pardon or executive clemency or conditional
 209 medical release under s. 947.149. However, if the court
 210 determines that, in addition to committing any act specified in
 211 this paragraph:

212 a. The person intentionally killed an individual or
 213 counseled, commanded, induced, procured, or caused the
 214 intentional killing of an individual and such killing was the
 215 result; or

216 b. The person's conduct in committing that act led to a
 217 natural, though not inevitable, lethal result,

218 such person commits the capital felony of trafficking in illegal
 219 drugs, punishable as provided in ss. 775.082 and 921.142. A
 220 person sentenced for a capital felony under this paragraph shall
 221 also be sentenced to pay the maximum fine provided under
 222 subparagraph 1.

224 ~~6.5-~~ A person who knowingly brings into this state 60
 225 kilograms or more of any morphine, opium, oxycodone,
 226 hydrocodone, hydromorphone, or any salt, derivative, isomer, or
 227 salt of an isomer thereof, including heroin, as described in s.
 228 893.03(1)(b), (2)(a), (3)(c)3., or (3)(c)4., or 60 kilograms or
 229 more of any mixture containing any such substance, and who knows
 230 that the probable result of such importation would be the death
 231 of a person, commits capital importation of illegal drugs, a
 232 capital felony punishable as provided in ss. 775.082 and
 233 921.142. A person sentenced for a capital felony under this
 234 paragraph shall also be sentenced to pay the maximum fine
 235 provided under subparagraph 1.

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236 (m) A person who knowingly sells, purchases, manufactures,
 237 delivers, or brings into this state, or who is knowingly in
 238 actual or constructive possession of, 250 grams or more of a
 239 controlled substance described in s. 893.03(1)(c)46.-50., 114.-
 240 142., 151.-159., or 166.-173., or any mixture containing those
 241 substances, commits a felony of the first degree, which felony
 242 shall be known as "trafficking in synthetic drugs," punishable
 243 as provided in s. 775.082, s. 775.083, or s. 775.084. If the
 244 quantity involved:
 245 1. Is 250 grams or more, but less than 500 grams, such
 246 person shall be sentenced to a mandatory minimum term of
 247 imprisonment of 3 years and shall be ordered to pay a fine of
 248 \$25,000.
 249 2. Is 500 grams or more, but less than 1,000 grams, such
 250 person shall be sentenced to a mandatory minimum term of
 251 imprisonment of 7 years and shall be ordered to pay a fine of
 252 \$50,000.
 253 3. Is 1,000 grams or more, but less than 30 kilograms, such
 254 person shall be sentenced to a mandatory minimum term of
 255 imprisonment of 15 years and shall be ordered to pay a fine of
 256 \$200,000.
 257 4. Is 30 kilograms or more, such person shall be sentenced
 258 to a mandatory minimum term of imprisonment of 25 years and
 259 shall be ordered to pay a fine of \$750,000.
 260 Section 3. Paragraphs (g) and (i) of subsection (3) of
 261 section 921.0022, Florida Statutes, are amended, and paragraph
 262 (e) of subsection (3) of that section is republished, to read:
 263 921.0022 Criminal Punishment Code; offense severity ranking
 264 chart.-

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265 (3) OFFENSE SEVERITY RANKING CHART
 266 (e) LEVEL 5
 267

Florida Statute	Felony Degree	Description
268 316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
269 316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
270 316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
271 322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
272 327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
273		

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	379.365(2)(c)1.	3rd	Violation of rules relating to: willful molestation of stone crab traps, lines, or buoys; illegal bartering, trading, or sale, conspiring or aiding in such barter, trade, or sale, or supplying, agreeing to supply, aiding in supplying, or giving away stone crab trap tags or certificates; making, altering, forging, counterfeiting, or reproducing stone crab trap tags; possession of forged, counterfeit, or imitation stone crab trap tags; and engaging in the commercial harvest of stone crabs while license is suspended or revoked.
274	379.367(4)	3rd	Willful molestation of a commercial harvester's

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			spiny lobster trap, line, or buoy.
275	379.407(5)(b)3.	3rd	Possession of 100 or more undersized spiny lobsters.
276	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
277	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
278	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
279	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
280	624.401(4)(b)2.	2nd	Transacting insurance

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			without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.	
281	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.	
282	790.01(2)	3rd	Carrying a concealed firearm.	
283	790.162	2nd	Threat to throw or discharge destructive device.	
284	790.163(1)	2nd	False report of bomb, explosive, weapon of mass destruction, or use of firearms in violent manner.	
285	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.	
286	790.23	2nd	Felons in possession of firearms, ammunition, or	

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			electronic weapons or devices.	
287	796.05(1)	2nd	Live on earnings of a prostitute; 1st offense.	
288	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years of age.	
289	800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years of age or older.	
290	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.	
291	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.	
292	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.	
293				

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	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
294			
	812.131(2)(b)	3rd	Robbery by sudden snatching.
295			
	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
296			
	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
297			
	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
298			
	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
299			
	817.568(2)(b)	2nd	Fraudulent use of personal identification

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			information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more persons.
300			
	817.611(2)(a)	2nd	Traffic in or possess 5 to 14 counterfeit credit cards or related documents.
301			
	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
302			
	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
303			
	827.071(4)	2nd	Possess with intent to promote any photographic material, motion

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picture, etc., which includes sexual conduct by a child.

304

827.071(5)

3rd

Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.

305

839.13(2)(b)

2nd

Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

306

843.01

3rd

Resist officer with violence to person; resist arrest with violence.

307

847.0135(5)(b)

2nd

Lewd or lascivious exhibition using computer; offender 18 years or older.

308

847.0137
(2) & (3)

3rd

Transmission of pornography by

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electronic device or equipment.

309

847.0138
(2) & (3)

3rd

Transmission of material harmful to minors to a minor by electronic device or equipment.

310

874.05(1)(b)

2nd

Encouraging or recruiting another to join a criminal gang; second or subsequent offense.

311

874.05(2)(a)

2nd

Encouraging or recruiting person under 13 years of age to join a criminal gang.

312

893.13(1)(a)1.

2nd

Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).

313

893.13(1)(c)2.

2nd

Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c),

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(2) (c) 1., (2) (c) 2.,
 (2) (c) 3., (2) (c) 5.,
 (2) (c) 6., (2) (c) 7.,
 (2) (c) 8., (2) (c) 9., (3),
 or (4) drugs) within
 1,000 feet of a child
 care facility, school,
 or state, county, or
 municipal park or
 publicly owned
 recreational facility or
 community center.

314

893.13(1) (d) 1.

1st

Sell, manufacture, or
 deliver cocaine (or
 other s. 893.03(1) (a),
 (1) (b), (1) (d), (2) (a),
 (2) (b), or (2) (c) 4.
 drugs) within 1,000 feet
 of university.

315

893.13(1) (e) 2.

2nd

Sell, manufacture, or
 deliver cannabis or
 other drug prohibited
 under s. 893.03(1) (c),
 (2) (c) 1., (2) (c) 2.,
 (2) (c) 3., (2) (c) 5.,
 (2) (c) 6., (2) (c) 7.,
 (2) (c) 8., (2) (c) 9., (3),

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or (4) within 1,000 feet
 of property used for
 religious services or a
 specified business site.

316

893.13(1) (f) 1.

1st

Sell, manufacture, or
 deliver cocaine (or
 other s. 893.03(1) (a),
 (1) (b), (1) (d), or
 (2) (a), (2) (b), or
 (2) (c) 4. drugs) within
 1,000 feet of public
 housing facility.

317

893.13(4) (b)

2nd

Use or hire of minor;
 deliver to minor other
 controlled substance.

318

893.1351(1)

3rd

Ownership, lease, or
 rental for trafficking
 in or manufacturing of
 controlled substance.

319

320

321

(g) LEVEL 7

Florida
 Statute

Felony
 Degree

Description

322

316.027(2) (c)

1st

Accident involving death,

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			failure to stop; leaving scene.	
323	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.	
324	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.	
325	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.	
326	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.	
327	409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.	

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328	409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.	
329	456.065(2)	3rd	Practicing a health care profession without a license.	
330	456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.	
331	458.327(1)	3rd	Practicing medicine without a license.	
332	459.013(1)	3rd	Practicing osteopathic medicine without a license.	
333	460.411(1)	3rd	Practicing chiropractic medicine without a license.	
334	461.012(1)	3rd	Practicing podiatric medicine without a license.	
335				

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	462.17	3rd	Practicing naturopathy without a license.
336			
	463.015(1)	3rd	Practicing optometry without a license.
337			
	464.016(1)	3rd	Practicing nursing without a license.
338			
	465.015(2)	3rd	Practicing pharmacy without a license.
339			
	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
340			
	467.201	3rd	Practicing midwifery without a license.
341			
	468.366	3rd	Delivering respiratory care services without a license.
342			
	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
343			
	483.901(7)	3rd	Practicing medical physics without a license.

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344	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.
345			
	484.053	3rd	Dispensing hearing aids without a license.
346			
	494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
347			
	560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
348			
	560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
349			
	655.50(10)(b)1.	3rd	Failure to report

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	23-00203-17		2017150__	financial transactions exceeding \$300 but less than \$20,000 by financial institution.
350	775.21(10)(a)	3rd		Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
351	775.21(10)(b)	3rd		Sexual predator working where children regularly congregate.
352	775.21(10)(g)	3rd		Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
353	782.051(3)	2nd		Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
354	782.07(1)	2nd		Killing of a human being by the act, procurement,

	23-00203-17		2017150__	or culpable negligence of another (manslaughter).
355	782.071	2nd		Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
356	782.072	2nd		Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
357	784.045(1)(a)1.	2nd		Aggravated battery; intentionally causing great bodily harm or disfigurement.
358	784.045(1)(a)2.	2nd		Aggravated battery; using deadly weapon.
359	784.045(1)(b)	2nd		Aggravated battery; perpetrator aware victim pregnant.
360	784.048(4)	3rd		Aggravated stalking; violation of injunction or

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				court order.
361	784.048(7)	3rd		Aggravated stalking; violation of court order.
362	784.07(2)(d)	1st		Aggravated battery on law enforcement officer.
363	784.074(1)(a)	1st		Aggravated battery on sexually violent predators facility staff.
364	784.08(2)(a)	1st		Aggravated battery on a person 65 years of age or older.
365	784.081(1)	1st		Aggravated battery on specified official or employee.
366	784.082(1)	1st		Aggravated battery by detained person on visitor or other detainee.
367	784.083(1)	1st		Aggravated battery on code inspector.
368	787.06(3)(a)2.	1st		Human trafficking using coercion for labor and

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				services of an adult.
369	787.06(3)(e)2.	1st		Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
370	790.07(4)	1st		Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
371	790.16(1)	1st		Discharge of a machine gun under specified circumstances.
372	790.165(2)	2nd		Manufacture, sell, possess, or deliver hoax bomb.
373	790.165(3)	2nd		Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
374	790.166(3)	2nd		Possessing, selling,

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375	790.166(4)	2nd		Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
376	790.23	1st,PBL		Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
377	794.08(4)	3rd		Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
378	796.05(1)	1st		Live on earnings of a prostitute; 2nd offense.
379	796.05(1)	1st		Live on earnings of a prostitute; 3rd and subsequent offense.

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380	800.04(5)(c)1.	2nd		Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
381	800.04(5)(c)2.	2nd		Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
382	800.04(5)(e)	1st		Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
383	806.01(2)	2nd		Maliciously damage structure by fire or explosive.
384	810.02(3)(a)	2nd		Burglary of occupied dwelling; unarmed; no assault or battery.

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385	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
386	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
387	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.
388	812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
389	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
390	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.

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391	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
392	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
393	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
394	812.131(2)(a)	2nd	Robbery by sudden snatching.
395	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
396	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
397	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims

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			with intent to defraud.	
398	817.234 (9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.	
399	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.	
400	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.	
401	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.	
402	817.611 (2) (b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.	
403	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult	

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			causing great bodily harm, disability, or disfigurement.	
404	825.103 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.	
405	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.	
406	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.	
407	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.	
408	838.015	2nd	Bribery.	
409	838.016	2nd	Unlawful compensation or reward for official	

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				behavior.
410	838.021(3)(a)	2nd		Unlawful harm to a public servant.
411	838.22	2nd		Bid tampering.
412	843.0855(2)	3rd		Impersonation of a public officer or employee.
413	843.0855(3)	3rd		Unlawful simulation of legal process.
414	843.0855(4)	3rd		Intimidation of a public officer or employee.
415	847.0135(3)	3rd		Solicitation of a child, via a computer service, to commit an unlawful sex act.
416	847.0135(4)	2nd		Traveling to meet a minor to commit an unlawful sex act.
417	872.06	2nd		Abuse of a dead human body.
418	874.05(2)(b)	1st		Encouraging or recruiting

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				person under 13 to join a criminal gang; second or subsequent offense.
419	874.10	1st,PBL		Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
420	893.13(1)(c)1.	1st		Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
421	893.13(1)(e)1.	1st		Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b),

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			(1) (d), (2) (a), (2) (b), or (2) (c) 4., within 1,000 feet of property used for religious services or a specified business site.	
422	893.13(4) (a)	1st	Use or hire of minor; deliver to minor other controlled substance.	
423	893.135(1) (a) 1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.	
424	893.135 (1) (b) 1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.	
425	893.135 (1) (c) 1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.	
426	893.135 (1) (c) 2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.	
427	893.135 (1) (c) 2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.	

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428	893.135 (1) (c) 3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.	
429	893.135 (1) (c) 3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.	
430	893.135(1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.	
431	893.135(1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.	
432	893.135(1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.	
433	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.	
434	893.135 (1) (h) 1.a.	1st	Trafficking in gamma- hydroxybutyric acid (GHB),	

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				1 kilogram or more, less than 5 kilograms.
435	893.135	1st		Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
	(1)(j)1.a.			
436	893.135	1st		Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
	(1)(k)2.a.			
437	<u>893.135</u>	<u>1st</u>		<u>Trafficking in LSD, 1 gram or more, less than 5 grams.</u>
	<u>(1)(l)1.a.</u>			
438	<u>893.135(1)(m)1.</u>	<u>1st</u>		<u>Trafficking in synthetic drugs, 250 grams or more, less than 500 grams.</u>
439	<u>893.135(1)(m)2.</u>	<u>1st</u>		<u>Trafficking in synthetic drugs, 500 grams or more, less than 1,000 grams.</u>
440	893.1351(2)	2nd		Possession of place for trafficking in or manufacturing of controlled substance.

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441	896.101(5)(a)	3rd		Money laundering, financial transactions exceeding \$300 but less than \$20,000.
442	896.104(4)(a)1.	3rd		Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
443	943.0435(4)(c)	2nd		Sexual offender vacating permanent residence; failure to comply with reporting requirements.
444	943.0435(8)	2nd		Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
445	943.0435(9)(a)	3rd		Sexual offender; failure to comply with reporting requirements.
446	943.0435(13)	3rd		Failure to report or

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			providing false	
			information about a sexual	
			offender; harbor or	
447			conceal a sexual offender.	
	943.0435 (14)	3rd	Sexual offender; failure	
			to report and reregister;	
			failure to respond to	
			address verification;	
			providing false	
448			registration information.	
	944.607 (9)	3rd	Sexual offender; failure	
			to comply with reporting	
			requirements.	
449	944.607 (10) (a)	3rd	Sexual offender; failure	
			to submit to the taking of	
			a digitized photograph.	
450	944.607 (12)	3rd	Failure to report or	
			providing false	
			information about a sexual	
			offender; harbor or	
			conceal a sexual offender.	
451	944.607 (13)	3rd	Sexual offender; failure	
			to report and reregister;	
			failure to respond to	

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			address verification;	
			providing false	
			registration information.	
452	985.4815 (10)	3rd	Sexual offender; failure	
			to submit to the taking of	
			a digitized photograph.	
453	985.4815 (12)	3rd	Failure to report or	
			providing false	
			information about a sexual	
			offender; harbor or	
			conceal a sexual offender.	
454	985.4815 (13)	3rd	Sexual offender; failure	
			to report and reregister;	
			failure to respond to	
			address verification;	
			providing false	
			registration information.	
455				
456	(i) LEVEL 9			
457				
	Florida	Felony		
	Statute	Degree	Description	
458	316.193	1st	DUI manslaughter; failing	
	(3) (c) 3.b.		to render aid or give	
			information.	

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459	327.35	1st	BUI manslaughter; failing to render aid or give information.
	(3) (c) 3.b.		
460	409.920	1st	Medicaid provider fraud; \$50,000 or more.
	(2) (b) 1.c.		
461	499.0051(8)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
462	560.123(8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
463	560.125(5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
464	655.50(10) (b) 3.	1st	Failure to report financial transactions

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			totaling or exceeding \$100,000 by financial institution.
465	775.0844	1st	Aggravated white collar crime.
466	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
467	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, aggravated fleeing or eluding with serious bodily injury or death, and other specified felonies.
468	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
469	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.

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470	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
471	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
472	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
473	787.02(3)(a)	1st,PBL	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
474	787.06(3)(c)1.	1st	Human trafficking for labor and services of an unauthorized alien child.
475	787.06(3)(d)	1st	Human trafficking using

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			coercion for commercial sexual activity of an unauthorized adult alien.
476	787.06(3)(f)1.	1st,PBL	Human trafficking for commercial sexual activity by the transfer or transport of any child from outside Florida to within the state.
477	790.161	1st	Attempted capital destructive device offense.
478	790.166(2)	1st,PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
479	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
480	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.

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794.011(4)(a) 1st,PBL Sexual battery, certain circumstances; victim 12 years of age or older but younger than 18 years; offender 18 years or older.

482

794.011(4)(b) 1st Sexual battery, certain circumstances; victim and offender 18 years of age or older.

483

794.011(4)(c) 1st Sexual battery, certain circumstances; victim 12 years of age or older; offender younger than 18 years.

484

794.011(4)(d) 1st,PBL Sexual battery, certain circumstances; victim 12 years of age or older; prior conviction for specified sex offenses.

485

794.011(8)(b) 1st,PBL Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial

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486

authority.

794.08(2) 1st Female genital mutilation; victim younger than 18 years of age.

487

800.04(5)(b) Life Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.

488

812.13(2)(a) 1st,PBL Robbery with firearm or other deadly weapon.

489

812.133(2)(a) 1st,PBL Carjacking; firearm or other deadly weapon.

490

812.135(2)(b) 1st Home-invasion robbery with weapon.

491

817.535(3)(b) 1st Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.

492

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493	817.535(4)(a)2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
494	817.535(5)(b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a result of the false instrument.
495	817.568(7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
496	827.03(2)(a)	1st	Aggravated child abuse.
	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.

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497	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
498	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
499	893.135	1st	Attempted capital trafficking offense.
500	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
501	893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
502	893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
503	893.135	1st	Trafficking in

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 (1) (c) 2.d. hydrocodone, 200 grams or
 more, less than 30
 kilograms.
 504
 893.135 1st Trafficking in oxycodone,
 (1) (c) 3.d. 100 grams or more, less
 than 30 kilograms.
 505
 893.135 1st Trafficking in
 (1) (d) 1.c. phencyclidine, more than
 400 grams.
 506
 893.135 1st Trafficking in
 (1) (e) 1.c. methaqualone, more than
 25 kilograms.
 507
 893.135 1st Trafficking in
 (1) (f) 1.c. amphetamine, more than
 200 grams.
 508
 893.135 1st Trafficking in gamma-
 (1) (h) 1.c. hydroxybutyric acid
 (GHB), 10 kilograms or
 more.
 509
 893.135 1st Trafficking in 1,4-
 (1) (j) 1.c. Butanediol, 10 kilograms
 or more.
 510

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 893.135 1st Trafficking in
 (1) (k) 2.c. Phenethylamines, 400
 grams or more.
 511
893.135 1st Trafficking in synthetic
(1) (m) 4. drugs, 30 kilograms or
more.
 512
 896.101(5) (c) 1st Money laundering,
 financial instruments
 totaling or exceeding
 \$100,000.
 513
 896.104(4) (a) 3. 1st Structuring transactions
 to evade reporting or
 registration
 requirements, financial
 transactions totaling or
 exceeding \$100,000.
 514
 515 Section 4. For the purpose of incorporating the amendment
 516 made by this act to section 893.13, Florida Statutes, in a
 517 reference thereto, paragraph (s) of subsection (8) of section
 518 112.0455, Florida Statutes, is reenacted to read:
 519 112.0455 Drug-Free Workplace Act.—
 520 (8) PROCEDURES AND EMPLOYEE PROTECTION.—All specimen
 521 collection and testing for drugs under this section shall be
 522 performed in accordance with the following procedures:
 523 (s) An employer may not discharge, discipline, or

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524 discriminate against an employee solely upon voluntarily seeking
 525 treatment, while under the employ of the employer, for a drug-
 526 related problem if the employee has not previously tested
 527 positive for drug use, entered an employee assistance program
 528 for drug-related problems, or entered an alcohol and drug
 529 rehabilitation program. However, special risk employees may be
 530 subject to discharge or disciplinary action when the presence of
 531 illicit drugs, pursuant to s. 893.13, is confirmed.

532 Section 5. For the purpose of incorporating the amendment
 533 made by this act to section 893.13, Florida Statutes, in a
 534 reference thereto, paragraph (b) of subsection (4) of section
 535 397.451, Florida Statutes, is reenacted to read:

536 397.451 Background checks of service provider personnel.—

537 (4) EXEMPTIONS FROM DISQUALIFICATION.—

538 (b) Since rehabilitated substance abuse impaired persons
 539 are effective in the successful treatment and rehabilitation of
 540 individuals with substance use disorders, for service providers
 541 which treat adolescents 13 years of age and older, service
 542 provider personnel whose background checks indicate crimes under
 543 s. 817.563, s. 893.13, or s. 893.147 may be exempted from
 544 disqualification from employment pursuant to this paragraph.

545 Section 6. For the purpose of incorporating the amendment
 546 made by this act to section 893.13, Florida Statutes, in a
 547 reference thereto, subsection (2) of section 435.07, Florida
 548 Statutes, is reenacted to read:

549 435.07 Exemptions from disqualification.—Unless otherwise
 550 provided by law, the provisions of this section apply to
 551 exemptions from disqualification for disqualifying offenses
 552 revealed pursuant to background screenings required under this

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553 chapter, regardless of whether those disqualifying offenses are
 554 listed in this chapter or other laws.

555 (2) Persons employed, or applicants for employment, by
 556 treatment providers who treat adolescents 13 years of age and
 557 older who are disqualified from employment solely because of
 558 crimes under s. 817.563, s. 893.13, or s. 893.147 may be
 559 exempted from disqualification from employment pursuant to this
 560 chapter without application of the waiting period in
 561 subparagraph (1)(a)1.

562 Section 7. For the purpose of incorporating the amendment
 563 made by this act to section 893.13, Florida Statutes, in a
 564 reference thereto, paragraph (a) of subsection (1) of section
 565 775.084, Florida Statutes, is reenacted to read:

566 775.084 Violent career criminals; habitual felony offenders
 567 and habitual violent felony offenders; three-time violent felony
 568 offenders; definitions; procedure; enhanced penalties or
 569 mandatory minimum prison terms.—

570 (1) As used in this act:

571 (a) "Habitual felony offender" means a defendant for whom
 572 the court may impose an extended term of imprisonment, as
 573 provided in paragraph (4)(a), if it finds that:

574 1. The defendant has previously been convicted of any
 575 combination of two or more felonies in this state or other
 576 qualified offenses.

577 2. The felony for which the defendant is to be sentenced
 578 was committed:

579 a. While the defendant was serving a prison sentence or
 580 other sentence, or court-ordered or lawfully imposed supervision
 581 that is imposed as a result of a prior conviction for a felony

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582 or other qualified offense; or

583 b. Within 5 years of the date of the conviction of the
584 defendant's last prior felony or other qualified offense, or
585 within 5 years of the defendant's release from a prison
586 sentence, probation, community control, control release,
587 conditional release, parole or court-ordered or lawfully imposed
588 supervision or other sentence that is imposed as a result of a
589 prior conviction for a felony or other qualified offense,
590 whichever is later.

591 3. The felony for which the defendant is to be sentenced,
592 and one of the two prior felony convictions, is not a violation
593 of s. 893.13 relating to the purchase or the possession of a
594 controlled substance.

595 4. The defendant has not received a pardon for any felony
596 or other qualified offense that is necessary for the operation
597 of this paragraph.

598 5. A conviction of a felony or other qualified offense
599 necessary to the operation of this paragraph has not been set
600 aside in any postconviction proceeding.

601 Section 8. For the purpose of incorporating the amendment
602 made by this act to section 893.13, Florida Statutes, in a
603 reference thereto, subsection (1) of section 831.311, Florida
604 Statutes, is reenacted to read:

605 831.311 Unlawful sale, manufacture, alteration, delivery,
606 uttering, or possession of counterfeit-resistant prescription
607 blanks for controlled substances.-

608 (1) It is unlawful for any person having the intent to
609 injure or defraud any person or to facilitate any violation of
610 s. 893.13 to sell, manufacture, alter, deliver, utter, or

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611 possess with intent to injure or defraud any person, or to
612 facilitate any violation of s. 893.13, any counterfeit-resistant
613 prescription blanks for controlled substances, the form and
614 content of which are adopted by rule of the Department of Health
615 pursuant to s. 893.065.

616 Section 9. For the purpose of incorporating the amendment
617 made by this act to section 893.13, Florida Statutes, in a
618 reference thereto, subsection (3) of section 893.138, Florida
619 Statutes, is reenacted to read:

620 893.138 Local administrative action to abate drug-related,
621 prostitution-related, or stolen-property-related public
622 nuisances and criminal gang activity.-

623 (3) Any pain-management clinic, as described in s. 458.3265
624 or s. 459.0137, which has been used on more than two occasions
625 within a 6-month period as the site of a violation of:

626 (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,
627 relating to assault and battery;

628 (b) Section 810.02, relating to burglary;

629 (c) Section 812.014, relating to theft;

630 (d) Section 812.131, relating to robbery by sudden
631 snatching; or

632 (e) Section 893.13, relating to the unlawful distribution
633 of controlled substances,

634
635 may be declared to be a public nuisance, and such nuisance may
636 be abated pursuant to the procedures provided in this section.

637 Section 10. For the purpose of incorporating the amendment
638 made by this act to section 893.13, Florida Statutes, in a
639 reference thereto, paragraph (1) of subsection (1) of section

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640 921.187, Florida Statutes, is reenacted to read:

641 921.187 Disposition and sentencing; alternatives;
642 restitution.—

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

648 (1)1. Require the offender who violates any criminal
649 provision of chapter 893 to pay an additional assessment in an
650 amount up to the amount of any fine imposed, pursuant to ss.
651 938.21 and 938.23.

652 2. Require the offender who violates any provision of s.
653 893.13 to pay an additional assessment in an amount of \$100,
654 pursuant to ss. 938.055 and 943.361.

655 Section 11. For the purpose of incorporating the amendment
656 made by this act to section 893.135, Florida Statutes, in a
657 reference thereto, paragraph (c) of subsection (3) of section
658 373.6055, Florida Statutes, is reenacted to read:

659 373.6055 Criminal history checks for certain water
660 management district employees and others.—

661 (3)

662 (c) In addition to other requirements for employment or
663 access established by any water management district pursuant to
664 its water management district's security plan for buildings,
665 facilities, and structures, each water management district's
666 security plan shall provide that:

667 1. Any person who has within the past 7 years been
668 convicted, regardless of whether adjudication was withheld, for

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669 a forcible felony as defined in s. 776.08; an act of terrorism
670 as defined in s. 775.30; planting of a hoax bomb as provided in
671 s. 790.165; any violation involving the manufacture, possession,
672 sale, delivery, display, use, or attempted or threatened use of
673 a weapon of mass destruction or hoax weapon of mass destruction
674 as provided in s. 790.166; dealing in stolen property; any
675 violation of s. 893.135; any violation involving the sale,
676 manufacturing, delivery, or possession with intent to sell,
677 manufacture, or deliver a controlled substance; burglary;
678 robbery; any felony violation of s. 812.014; any violation of s.
679 790.07; any crime an element of which includes use or possession
680 of a firearm; any conviction for any similar offenses under the
681 laws of another jurisdiction; or conviction for conspiracy to
682 commit any of the listed offenses may not be qualified for
683 initial employment within or authorized regular access to
684 buildings, facilities, or structures defined in the water
685 management district's security plan as restricted access areas.

686 2. Any person who has at any time been convicted of any of
687 the offenses listed in subparagraph 1. may not be qualified for
688 initial employment within or authorized regular access to
689 buildings, facilities, or structures defined in the water
690 management district's security plan as restricted access areas
691 unless, after release from incarceration and any supervision
692 imposed as a sentence, the person remained free from a
693 subsequent conviction, regardless of whether adjudication was
694 withheld, for any of the listed offenses for a period of at
695 least 7 years prior to the employment or access date under
696 consideration.

697 Section 12. For the purpose of incorporating the amendment

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698 made by this act to section 893.135, Florida Statutes, in a
699 reference thereto, subsection (6) of section 397.451, Florida
700 Statutes, is reenacted to read:

701 397.451 Background checks of service provider personnel.—

702 (6) DISQUALIFICATION FROM RECEIVING STATE FUNDS.—State
703 funds may not be disseminated to any service provider owned or
704 operated by an owner, director, or chief financial officer who
705 has been convicted of, has entered a plea of guilty or nolo
706 contendere to, or has had adjudication withheld for, a violation
707 of s. 893.135 pertaining to trafficking in controlled
708 substances, or a violation of the law of another state, the
709 District of Columbia, the United States or any possession or
710 territory thereof, or any foreign jurisdiction which is
711 substantially similar in elements and penalties to a trafficking
712 offense in this state, unless the owner's or director's civil
713 rights have been restored.

714 Section 13. For the purpose of incorporating the amendment
715 made by this act to section 893.135, Florida Statutes, in a
716 reference thereto, subsection (1) of section 414.095, Florida
717 Statutes, is reenacted to read:

718 414.095 Determining eligibility for temporary cash
719 assistance.—

720 (1) ELIGIBILITY.—An applicant must meet eligibility
721 requirements of this section before receiving services or
722 temporary cash assistance under this chapter, except that an
723 applicant shall be required to register for work and engage in
724 work activities in accordance with s. 445.024, as designated by
725 the local workforce development board, and may receive support
726 services or child care assistance in conjunction with such

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727 requirement. The department shall make a determination of
728 eligibility based on the criteria listed in this chapter. The
729 department shall monitor continued eligibility for temporary
730 cash assistance through periodic reviews consistent with the
731 food assistance eligibility process. Benefits may not be denied
732 to an individual solely based on a felony drug conviction,
733 unless the conviction is for trafficking pursuant to s. 893.135.
734 To be eligible under this section, an individual convicted of a
735 drug felony must be satisfactorily meeting the requirements of
736 the temporary cash assistance program, including all substance
737 abuse treatment requirements. Within the limits specified in
738 this chapter, the state opts out of the provision of Pub. L. No.
739 104-193, s. 115, that eliminates eligibility for temporary cash
740 assistance and food assistance for any individual convicted of a
741 controlled substance felony.

742 Section 14. For the purpose of incorporating the amendment
743 made by this act to section 893.135, Florida Statutes, in a
744 reference thereto, paragraph (a) of subsection (2) and paragraph
745 (a) of subsection (3) of section 775.087, Florida Statutes, are
746 reenacted to read:

747 775.087 Possession or use of weapon; aggravated battery;
748 felony reclassification; minimum sentence.—

749 (2)(a)1. Any person who is convicted of a felony or an
750 attempt to commit a felony, regardless of whether the use of a
751 weapon is an element of the felony, and the conviction was for:

- 752 a. Murder;
- 753 b. Sexual battery;
- 754 c. Robbery;
- 755 d. Burglary;

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756 e. Arson;
 757 f. Aggravated battery;
 758 g. Kidnapping;
 759 h. Escape;
 760 i. Aircraft piracy;
 761 j. Aggravated child abuse;
 762 k. Aggravated abuse of an elderly person or disabled adult;
 763 l. Unlawful throwing, placing, or discharging of a
 764 destructive device or bomb;
 765 m. Carjacking;
 766 n. Home-invasion robbery;
 767 o. Aggravated stalking;
 768 p. Trafficking in cannabis, trafficking in cocaine, capital
 769 importation of cocaine, trafficking in illegal drugs, capital
 770 importation of illegal drugs, trafficking in phencyclidine,
 771 capital importation of phencyclidine, trafficking in
 772 methaqualone, capital importation of methaqualone, trafficking
 773 in amphetamine, capital importation of amphetamine, trafficking
 774 in flunitrazepam, trafficking in gamma-hydroxybutyric acid
 775 (GHB), trafficking in 1,4-Butanediol, trafficking in
 776 Phenethylamines, or other violation of s. 893.135(1); or
 777 q. Possession of a firearm by a felon
 778
 779 and during the commission of the offense, such person actually
 780 possessed a "firearm" or "destructive device" as those terms are
 781 defined in s. 790.001, shall be sentenced to a minimum term of
 782 imprisonment of 10 years, except that a person who is convicted
 783 for possession of a firearm by a felon or burglary of a
 784 conveyance shall be sentenced to a minimum term of imprisonment

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785 of 3 years if such person possessed a "firearm" or "destructive
 786 device" during the commission of the offense. However, if an
 787 offender who is convicted of the offense of possession of a
 788 firearm by a felon has a previous conviction of committing or
 789 attempting to commit a felony listed in s. 775.084(1)(b)1. and
 790 actually possessed a firearm or destructive device during the
 791 commission of the prior felony, the offender shall be sentenced
 792 to a minimum term of imprisonment of 10 years.
 793 2. Any person who is convicted of a felony or an attempt to
 794 commit a felony listed in sub-subparagraphs (a)1.a.-p.,
 795 regardless of whether the use of a weapon is an element of the
 796 felony, and during the course of the commission of the felony
 797 such person discharged a "firearm" or "destructive device" as
 798 defined in s. 790.001 shall be sentenced to a minimum term of
 799 imprisonment of 20 years.
 800 3. Any person who is convicted of a felony or an attempt to
 801 commit a felony listed in sub-subparagraphs (a)1.a.-p.,
 802 regardless of whether the use of a weapon is an element of the
 803 felony, and during the course of the commission of the felony
 804 such person discharged a "firearm" or "destructive device" as
 805 defined in s. 790.001 and, as the result of the discharge, death
 806 or great bodily harm was inflicted upon any person, the
 807 convicted person shall be sentenced to a minimum term of
 808 imprisonment of not less than 25 years and not more than a term
 809 of imprisonment of life in prison.
 810 (3)(a)1. Any person who is convicted of a felony or an
 811 attempt to commit a felony, regardless of whether the use of a
 812 firearm is an element of the felony, and the conviction was for:
 813 a. Murder;

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814 b. Sexual battery;

815 c. Robbery;

816 d. Burglary;

817 e. Arson;

818 f. Aggravated battery;

819 g. Kidnapping;

820 h. Escape;

821 i. Sale, manufacture, delivery, or intent to sell,

822 manufacture, or deliver any controlled substance;

823 j. Aircraft piracy;

824 k. Aggravated child abuse;

825 l. Aggravated abuse of an elderly person or disabled adult;

826 m. Unlawful throwing, placing, or discharging of a

827 destructive device or bomb;

828 n. Carjacking;

829 o. Home-invasion robbery;

830 p. Aggravated stalking; or

831 q. Trafficking in cannabis, trafficking in cocaine, capital

832 importation of cocaine, trafficking in illegal drugs, capital

833 importation of illegal drugs, trafficking in phencyclidine,

834 capital importation of phencyclidine, trafficking in

835 methaqualone, capital importation of methaqualone, trafficking

836 in amphetamine, capital importation of amphetamine, trafficking

837 in flunitrazepam, trafficking in gamma-hydroxybutyric acid

838 (GHB), trafficking in 1,4-Butanediol, trafficking in

839 Phenethylamines, or other violation of s. 893.135(1);

840

841 and during the commission of the offense, such person possessed

842 a semiautomatic firearm and its high-capacity detachable box

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843 magazine or a machine gun as defined in s. 790.001, shall be

844 sentenced to a minimum term of imprisonment of 15 years.

845 2. Any person who is convicted of a felony or an attempt to

846 commit a felony listed in subparagraph (a)1., regardless of

847 whether the use of a weapon is an element of the felony, and

848 during the course of the commission of the felony such person

849 discharged a semiautomatic firearm and its high-capacity box

850 magazine or a "machine gun" as defined in s. 790.001 shall be

851 sentenced to a minimum term of imprisonment of 20 years.

852 3. Any person who is convicted of a felony or an attempt to

853 commit a felony listed in subparagraph (a)1., regardless of

854 whether the use of a weapon is an element of the felony, and

855 during the course of the commission of the felony such person

856 discharged a semiautomatic firearm and its high-capacity box

857 magazine or a "machine gun" as defined in s. 790.001 and, as the

858 result of the discharge, death or great bodily harm was

859 inflicted upon any person, the convicted person shall be

860 sentenced to a minimum term of imprisonment of not less than 25

861 years and not more than a term of imprisonment of life in

862 prison.

863 Section 15. For the purpose of incorporating the amendment

864 made by this act to section 893.135, Florida Statutes, in a

865 reference thereto, paragraph (a) of subsection (1), subsection

866 (3), and subsection (4) of section 782.04, Florida Statutes, are

867 reenacted to read:

868 782.04 Murder.—

869 (1) (a) The unlawful killing of a human being:

870 1. When perpetrated from a premeditated design to effect

871 the death of the person killed or any human being;

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872 2. When committed by a person engaged in the perpetration
 873 of, or in the attempt to perpetrate, any:
 874 a. Trafficking offense prohibited by s. 893.135(1),
 875 b. Arson,
 876 c. Sexual battery,
 877 d. Robbery,
 878 e. Burglary,
 879 f. Kidnapping,
 880 g. Escape,
 881 h. Aggravated child abuse,
 882 i. Aggravated abuse of an elderly person or disabled adult,
 883 j. Aircraft piracy,
 884 k. Unlawful throwing, placing, or discharging of a
 885 destructive device or bomb,
 886 l. Carjacking,
 887 m. Home-invasion robbery,
 888 n. Aggravated stalking,
 889 o. Murder of another human being,
 890 p. Resisting an officer with violence to his or her person,
 891 q. Aggravated fleeing or eluding with serious bodily injury
 892 or death,
 893 r. Felony that is an act of terrorism or is in furtherance
 894 of an act of terrorism,
 895 s. Human trafficking; or
 896 3. Which resulted from the unlawful distribution of any
 897 substance controlled under s. 893.03(1), cocaine as described in
 898 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
 899 compound, derivative, or preparation of opium, or methadone by a
 900 person 18 years of age or older, when such drug is proven to be

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901 the proximate cause of the death of the user,
 902
 903 is murder in the first degree and constitutes a capital felony,
 904 punishable as provided in s. 775.082.
 905 (3) When a human being is killed during the perpetration
 906 of, or during the attempt to perpetrate, any:
 907 (a) Trafficking offense prohibited by s. 893.135(1),
 908 (b) Arson,
 909 (c) Sexual battery,
 910 (d) Robbery,
 911 (e) Burglary,
 912 (f) Kidnapping,
 913 (g) Escape,
 914 (h) Aggravated child abuse,
 915 (i) Aggravated abuse of an elderly person or disabled
 916 adult,
 917 (j) Aircraft piracy,
 918 (k) Unlawful throwing, placing, or discharging of a
 919 destructive device or bomb,
 920 (l) Carjacking,
 921 (m) Home-invasion robbery,
 922 (n) Aggravated stalking,
 923 (o) Murder of another human being,
 924 (p) Aggravated fleeing or eluding with serious bodily
 925 injury or death,
 926 (q) Resisting an officer with violence to his or her
 927 person, or
 928 (r) Felony that is an act of terrorism or is in furtherance
 929 of an act of terrorism,

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930
 931 by a person other than the person engaged in the perpetration of
 932 or in the attempt to perpetrate such felony, the person
 933 perpetrating or attempting to perpetrate such felony commits
 934 murder in the second degree, which constitutes a felony of the
 935 first degree, punishable by imprisonment for a term of years not
 936 exceeding life or as provided in s. 775.082, s. 775.083, or s.
 937 775.084.

938 (4) The unlawful killing of a human being, when perpetrated
 939 without any design to effect death, by a person engaged in the
 940 perpetration of, or in the attempt to perpetrate, any felony
 941 other than any:

942 (a) Trafficking offense prohibited by s. 893.135(1),

943 (b) Arson,

944 (c) Sexual battery,

945 (d) Robbery,

946 (e) Burglary,

947 (f) Kidnapping,

948 (g) Escape,

949 (h) Aggravated child abuse,

950 (i) Aggravated abuse of an elderly person or disabled
 951 adult,

952 (j) Aircraft piracy,

953 (k) Unlawful throwing, placing, or discharging of a
 954 destructive device or bomb,

955 (l) Unlawful distribution of any substance controlled under
 956 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or
 957 opium or any synthetic or natural salt, compound, derivative, or
 958 preparation of opium by a person 18 years of age or older, when

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959 such drug is proven to be the proximate cause of the death of
 960 the user,

961 (m) Carjacking,

962 (n) Home-invasion robbery,

963 (o) Aggravated stalking,

964 (p) Murder of another human being,

965 (q) Aggravated fleeing or eluding with serious bodily
 966 injury or death,

967 (r) Resisting an officer with violence to his or her
 968 person, or

969 (s) Felony that is an act of terrorism or is in furtherance
 970 of an act of terrorism,

971
 972 is murder in the third degree and constitutes a felony of the
 973 second degree, punishable as provided in s. 775.082, s. 775.083,
 974 or s. 775.084.

975 Section 16. For the purpose of incorporating the amendment
 976 made by this act to section 893.135, Florida Statutes, in a
 977 reference thereto, paragraph (c) of subsection (3) of section
 978 893.03, Florida Statutes, is reenacted to read:

979 893.03 Standards and schedules.—The substances enumerated
 980 in this section are controlled by this chapter. The controlled
 981 substances listed or to be listed in Schedules I, II, III, IV,
 982 and V are included by whatever official, common, usual,
 983 chemical, trade name, or class designated. The provisions of
 984 this section shall not be construed to include within any of the
 985 schedules contained in this section any excluded drugs listed
 986 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
 987 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical

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988 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
989 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
990 Anabolic Steroid Products."

991 (3) SCHEDULE III.—A substance in Schedule III has a
992 potential for abuse less than the substances contained in
993 Schedules I and II and has a currently accepted medical use in
994 treatment in the United States, and abuse of the substance may
995 lead to moderate or low physical dependence or high
996 psychological dependence or, in the case of anabolic steroids,
997 may lead to physical damage. The following substances are
998 controlled in Schedule III:

999 (c) Unless specifically excepted or unless listed in
1000 another schedule, any material, compound, mixture, or
1001 preparation containing limited quantities of any of the
1002 following controlled substances or any salts thereof:

1003 1. Not more than 1.8 grams of codeine per 100 milliliters
1004 or not more than 90 milligrams per dosage unit, with an equal or
1005 greater quantity of an isoquinoline alkaloid of opium.

1006 2. Not more than 1.8 grams of codeine per 100 milliliters
1007 or not more than 90 milligrams per dosage unit, with recognized
1008 therapeutic amounts of one or more active ingredients which are
1009 not controlled substances.

1010 3. Not more than 300 milligrams of hydrocodone per 100
1011 milliliters or not more than 15 milligrams per dosage unit, with
1012 a fourfold or greater quantity of an isoquinoline alkaloid of
1013 opium.

1014 4. Not more than 300 milligrams of hydrocodone per 100
1015 milliliters or not more than 15 milligrams per dosage unit, with
1016 recognized therapeutic amounts of one or more active ingredients

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1017 that are not controlled substances.

1018 5. Not more than 1.8 grams of dihydrocodeine per 100
1019 milliliters or not more than 90 milligrams per dosage unit, with
1020 recognized therapeutic amounts of one or more active ingredients
1021 which are not controlled substances.

1022 6. Not more than 300 milligrams of ethylmorphine per 100
1023 milliliters or not more than 15 milligrams per dosage unit, with
1024 one or more active, nonnarcotic ingredients in recognized
1025 therapeutic amounts.

1026 7. Not more than 50 milligrams of morphine per 100
1027 milliliters or per 100 grams, with recognized therapeutic
1028 amounts of one or more active ingredients which are not
1029 controlled substances.

1030
1031 For purposes of charging a person with a violation of s. 893.135
1032 involving any controlled substance described in subparagraph 3.
1033 or subparagraph 4., the controlled substance is a Schedule III
1034 controlled substance pursuant to this paragraph but the weight
1035 of the controlled substance per milliliters or per dosage unit
1036 is not relevant to the charging of a violation of s. 893.135.
1037 The weight of the controlled substance shall be determined
1038 pursuant to s. 893.135(6).

1039 Section 17. For the purpose of incorporating the amendment
1040 made by this act to section 893.135, Florida Statutes, in a
1041 reference thereto, paragraph (c) of subsection (4) of section
1042 907.041, Florida Statutes, is reenacted to read:

1043 907.041 Pretrial detention and release.—

1044 (4) PRETRIAL DETENTION.—

1045 (c) The court may order pretrial detention if it finds a

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1046 substantial probability, based on a defendant's past and present
1047 patterns of behavior, the criteria in s. 903.046, and any other
1048 relevant facts, that any of the following circumstances exist:

1049 1. The defendant has previously violated conditions of
1050 release and that no further conditions of release are reasonably
1051 likely to assure the defendant's appearance at subsequent
1052 proceedings;

1053 2. The defendant, with the intent to obstruct the judicial
1054 process, has threatened, intimidated, or injured any victim,
1055 potential witness, juror, or judicial officer, or has attempted
1056 or conspired to do so, and that no condition of release will
1057 reasonably prevent the obstruction of the judicial process;

1058 3. The defendant is charged with trafficking in controlled
1059 substances as defined by s. 893.135, that there is a substantial
1060 probability that the defendant has committed the offense, and
1061 that no conditions of release will reasonably assure the
1062 defendant's appearance at subsequent criminal proceedings;

1063 4. The defendant is charged with DUI manslaughter, as
1064 defined by s. 316.193, and that there is a substantial
1065 probability that the defendant committed the crime and that the
1066 defendant poses a threat of harm to the community; conditions
1067 that would support a finding by the court pursuant to this
1068 subparagraph that the defendant poses a threat of harm to the
1069 community include, but are not limited to, any of the following:

1070 a. The defendant has previously been convicted of any crime
1071 under s. 316.193, or of any crime in any other state or
1072 territory of the United States that is substantially similar to
1073 any crime under s. 316.193;

1074 b. The defendant was driving with a suspended driver

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1075 license when the charged crime was committed; or

1076 c. The defendant has previously been found guilty of, or
1077 has had adjudication of guilt withheld for, driving while the
1078 defendant's driver license was suspended or revoked in violation
1079 of s. 322.34;

1080 5. The defendant poses the threat of harm to the community.
1081 The court may so conclude, if it finds that the defendant is
1082 presently charged with a dangerous crime, that there is a
1083 substantial probability that the defendant committed such crime,
1084 that the factual circumstances of the crime indicate a disregard
1085 for the safety of the community, and that there are no
1086 conditions of release reasonably sufficient to protect the
1087 community from the risk of physical harm to persons;

1088 6. The defendant was on probation, parole, or other release
1089 pending completion of sentence or on pretrial release for a
1090 dangerous crime at the time the current offense was committed;

1091 7. The defendant has violated one or more conditions of
1092 pretrial release or bond for the offense currently before the
1093 court and the violation, in the discretion of the court,
1094 supports a finding that no conditions of release can reasonably
1095 protect the community from risk of physical harm to persons or
1096 assure the presence of the accused at trial; or

1097 8.a. The defendant has ever been sentenced pursuant to s.
1098 775.082(9) or s. 775.084 as a prison releasee reoffender,
1099 habitual violent felony offender, three-time violent felony
1100 offender, or violent career criminal, or the state attorney
1101 files a notice seeking that the defendant be sentenced pursuant
1102 to s. 775.082(9) or s. 775.084, as a prison releasee reoffender,
1103 habitual violent felony offender, three-time violent felony

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1104 offender, or violent career criminal;

1105 b. There is a substantial probability that the defendant
1106 committed the offense; and

1107 c. There are no conditions of release that can reasonably
1108 protect the community from risk of physical harm or ensure the
1109 presence of the accused at trial.

1110 Section 18. For the purpose of incorporating the amendment
1111 made by this act to section 893.135, Florida Statutes, in a
1112 reference thereto, paragraph (b) of subsection (1) of section
1113 921.0024, Florida Statutes, is reenacted to read:

1114 921.0024 Criminal Punishment Code; worksheet computations;
1115 scoresheets.-

1116 (1)

1117 (b) WORKSHEET KEY:

1118

1119 Legal status points are assessed when any form of legal status
1120 existed at the time the offender committed an offense before the
1121 court for sentencing. Four (4) sentence points are assessed for
1122 an offender's legal status.

1123

1124 Community sanction violation points are assessed when a
1125 community sanction violation is before the court for sentencing.
1126 Six (6) sentence points are assessed for each community sanction
1127 violation and each successive community sanction violation,
1128 unless any of the following apply:

1129 1. If the community sanction violation includes a new
1130 felony conviction before the sentencing court, twelve (12)
1131 community sanction violation points are assessed for the
1132 violation, and for each successive community sanction violation

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1133 involving a new felony conviction.

1134 2. If the community sanction violation is committed by a
1135 violent felony offender of special concern as defined in s.
1136 948.06:

1137 a. Twelve (12) community sanction violation points are
1138 assessed for the violation and for each successive violation of
1139 felony probation or community control where:

1140 I. The violation does not include a new felony conviction;
1141 and

1142 II. The community sanction violation is not based solely on
1143 the probationer or offender's failure to pay costs or fines or
1144 make restitution payments.

1145 b. Twenty-four (24) community sanction violation points are
1146 assessed for the violation and for each successive violation of
1147 felony probation or community control where the violation
1148 includes a new felony conviction.

1149

1150 Multiple counts of community sanction violations before the
1151 sentencing court shall not be a basis for multiplying the
1152 assessment of community sanction violation points.

1153

1154 Prior serious felony points: If the offender has a primary
1155 offense or any additional offense ranked in level 8, level 9, or
1156 level 10, and one or more prior serious felonies, a single
1157 assessment of thirty (30) points shall be added. For purposes of
1158 this section, a prior serious felony is an offense in the
1159 offender's prior record that is ranked in level 8, level 9, or
1160 level 10 under s. 921.0022 or s. 921.0023 and for which the
1161 offender is serving a sentence of confinement, supervision, or

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1162 other sanction or for which the offender's date of release from
 1163 confinement, supervision, or other sanction, whichever is later,
 1164 is within 3 years before the date the primary offense or any
 1165 additional offense was committed.

1166
 1167 Prior capital felony points: If the offender has one or more
 1168 prior capital felonies in the offender's criminal record, points
 1169 shall be added to the subtotal sentence points of the offender
 1170 equal to twice the number of points the offender receives for
 1171 the primary offense and any additional offense. A prior capital
 1172 felony in the offender's criminal record is a previous capital
 1173 felony offense for which the offender has entered a plea of nolo
 1174 contendere or guilty or has been found guilty; or a felony in
 1175 another jurisdiction which is a capital felony in that
 1176 jurisdiction, or would be a capital felony if the offense were
 1177 committed in this state.

1178
 1179 Possession of a firearm, semiautomatic firearm, or machine gun:
 1180 If the offender is convicted of committing or attempting to
 1181 commit any felony other than those enumerated in s. 775.087(2)
 1182 while having in his or her possession: a firearm as defined in
 1183 s. 790.001(6), an additional eighteen (18) sentence points are
 1184 assessed; or if the offender is convicted of committing or
 1185 attempting to commit any felony other than those enumerated in
 1186 s. 775.087(3) while having in his or her possession a
 1187 semiautomatic firearm as defined in s. 775.087(3) or a machine
 1188 gun as defined in s. 790.001(9), an additional twenty-five (25)
 1189 sentence points are assessed.

1190

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1191 Sentencing multipliers:

1192

1193 Drug trafficking: If the primary offense is drug trafficking
 1194 under s. 893.135, the subtotal sentence points are multiplied,
 1195 at the discretion of the court, for a level 7 or level 8
 1196 offense, by 1.5. The state attorney may move the sentencing
 1197 court to reduce or suspend the sentence of a person convicted of
 1198 a level 7 or level 8 offense, if the offender provides
 1199 substantial assistance as described in s. 893.135(4).

1200

1201 Law enforcement protection: If the primary offense is a
 1202 violation of the Law Enforcement Protection Act under s.
 1203 775.0823(2), (3), or (4), the subtotal sentence points are
 1204 multiplied by 2.5. If the primary offense is a violation of s.
 1205 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
 1206 are multiplied by 2.0. If the primary offense is a violation of
 1207 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
 1208 Protection Act under s. 775.0823(10) or (11), the subtotal
 1209 sentence points are multiplied by 1.5.

1210

1211 Grand theft of a motor vehicle: If the primary offense is grand
 1212 theft of the third degree involving a motor vehicle and in the
 1213 offender's prior record, there are three or more grand thefts of
 1214 the third degree involving a motor vehicle, the subtotal
 1215 sentence points are multiplied by 1.5.

1216

1217 Offense related to a criminal gang: If the offender is convicted
 1218 of the primary offense and committed that offense for the
 1219 purpose of benefiting, promoting, or furthering the interests of

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1220 a criminal gang as defined in s. 874.03, the subtotal sentence
 1221 points are multiplied by 1.5. If applying the multiplier results
 1222 in the lowest permissible sentence exceeding the statutory
 1223 maximum sentence for the primary offense under chapter 775, the
 1224 court may not apply the multiplier and must sentence the
 1225 defendant to the statutory maximum sentence.

1226
 1227 Domestic violence in the presence of a child: If the offender is
 1228 convicted of the primary offense and the primary offense is a
 1229 crime of domestic violence, as defined in s. 741.28, which was
 1230 committed in the presence of a child under 16 years of age who
 1231 is a family or household member as defined in s. 741.28(3) with
 1232 the victim or perpetrator, the subtotal sentence points are
 1233 multiplied by 1.5.

1234
 1235 Adult-on-minor sex offense: If the offender was 18 years of age
 1236 or older and the victim was younger than 18 years of age at the
 1237 time the offender committed the primary offense, and if the
 1238 primary offense was an offense committed on or after October 1,
 1239 2014, and is a violation of s. 787.01(2) or s. 787.02(2), if the
 1240 violation involved a victim who was a minor and, in the course
 1241 of committing that violation, the defendant committed a sexual
 1242 battery under chapter 794 or a lewd act under s. 800.04 or s.
 1243 847.0135(5) against the minor; s. 787.01(3)(a)2. or 3.; s.
 1244 787.02(3)(a)2. or 3.; s. 794.011, excluding s. 794.011(10); s.
 1245 800.04; or s. 847.0135(5), the subtotal sentence points are
 1246 multiplied by 2.0. If applying the multiplier results in the
 1247 lowest permissible sentence exceeding the statutory maximum
 1248 sentence for the primary offense under chapter 775, the court

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1249 may not apply the multiplier and must sentence the defendant to
 1250 the statutory maximum sentence.

1251 Section 19. For the purpose of incorporating the amendment
 1252 made by this act to section 893.135, Florida Statutes, in a
 1253 reference thereto, section 943.0585, Florida Statutes, is
 1254 reenacted to read:

1255 943.0585 Court-ordered expunction of criminal history
 1256 records.—The courts of this state have jurisdiction over their
 1257 own procedures, including the maintenance, expunction, and
 1258 correction of judicial records containing criminal history
 1259 information to the extent such procedures are not inconsistent
 1260 with the conditions, responsibilities, and duties established by
 1261 this section. Any court of competent jurisdiction may order a
 1262 criminal justice agency to expunge the criminal history record
 1263 of a minor or an adult who complies with the requirements of
 1264 this section. The court shall not order a criminal justice
 1265 agency to expunge a criminal history record until the person
 1266 seeking to expunge a criminal history record has applied for and
 1267 received a certificate of eligibility for expunction pursuant to
 1268 subsection (2) or subsection (5). A criminal history record that
 1269 relates to a violation of s. 393.135, s. 394.4593, s. 787.025,
 1270 chapter 794, former s. 796.03, s. 800.04, s. 810.14, s. 817.034,
 1271 s. 825.1025, s. 827.071, chapter 839, s. 847.0133, s. 847.0135,
 1272 s. 847.0145, s. 893.135, s. 916.1075, a violation enumerated in
 1273 s. 907.041, or any violation specified as a predicate offense
 1274 for registration as a sexual predator pursuant to s. 775.21,
 1275 without regard to whether that offense alone is sufficient to
 1276 require such registration, or for registration as a sexual
 1277 offender pursuant to s. 943.0435, may not be expunged, without

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1278 regard to whether adjudication was withheld, if the defendant
 1279 was found guilty of or pled guilty or nolo contendere to the
 1280 offense, or if the defendant, as a minor, was found to have
 1281 committed, or pled guilty or nolo contendere to committing, the
 1282 offense as a delinquent act. The court may only order expunction
 1283 of a criminal history record pertaining to one arrest or one
 1284 incident of alleged criminal activity, except as provided in
 1285 this section. The court may, at its sole discretion, order the
 1286 expunction of a criminal history record pertaining to more than
 1287 one arrest if the additional arrests directly relate to the
 1288 original arrest. If the court intends to order the expunction of
 1289 records pertaining to such additional arrests, such intent must
 1290 be specified in the order. A criminal justice agency may not
 1291 expunge any record pertaining to such additional arrests if the
 1292 order to expunge does not articulate the intention of the court
 1293 to expunge a record pertaining to more than one arrest. This
 1294 section does not prevent the court from ordering the expunction
 1295 of only a portion of a criminal history record pertaining to one
 1296 arrest or one incident of alleged criminal activity.
 1297 Notwithstanding any law to the contrary, a criminal justice
 1298 agency may comply with laws, court orders, and official requests
 1299 of other jurisdictions relating to expunction, correction, or
 1300 confidential handling of criminal history records or information
 1301 derived therefrom. This section does not confer any right to the
 1302 expunction of any criminal history record, and any request for
 1303 expunction of a criminal history record may be denied at the
 1304 sole discretion of the court.

1305 (1) PETITION TO EXPUNGE A CRIMINAL HISTORY RECORD.—Each
 1306 petition to a court to expunge a criminal history record is

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1307 complete only when accompanied by:

1308 (a) A valid certificate of eligibility for expunction
 1309 issued by the department pursuant to subsection (2).

1310 (b) The petitioner's sworn statement attesting that the
 1311 petitioner:

1312 1. Has never, prior to the date on which the petition is
 1313 filed, been adjudicated guilty of a criminal offense or
 1314 comparable ordinance violation, or been adjudicated delinquent
 1315 for committing any felony or a misdemeanor specified in s.
 1316 943.051(3)(b).

1317 2. Has not been adjudicated guilty of, or adjudicated
 1318 delinquent for committing, any of the acts stemming from the
 1319 arrest or alleged criminal activity to which the petition
 1320 pertains.

1321 3. Has never secured a prior sealing or expunction of a
 1322 criminal history record under this section, s. 943.059, former
 1323 s. 893.14, former s. 901.33, or former s. 943.058, unless
 1324 expunction is sought of a criminal history record previously
 1325 sealed for 10 years pursuant to paragraph (2)(h) and the record
 1326 is otherwise eligible for expunction.

1327 4. Is eligible for such an expunction to the best of his or
 1328 her knowledge or belief and does not have any other petition to
 1329 expunge or any petition to seal pending before any court.

1330
 1331 Any person who knowingly provides false information on such
 1332 sworn statement to the court commits a felony of the third
 1333 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1334 775.084.

1335 (2) CERTIFICATE OF ELIGIBILITY FOR EXPUNCTION.—Prior to

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1336 petitioning the court to expunge a criminal history record, a
 1337 person seeking to expunge a criminal history record shall apply
 1338 to the department for a certificate of eligibility for
 1339 expunction. The department shall, by rule adopted pursuant to
 1340 chapter 120, establish procedures pertaining to the application
 1341 for and issuance of certificates of eligibility for expunction.
 1342 A certificate of eligibility for expunction is valid for 12
 1343 months after the date stamped on the certificate when issued by
 1344 the department. After that time, the petitioner must reapply to
 1345 the department for a new certificate of eligibility. Eligibility
 1346 for a renewed certification of eligibility must be based on the
 1347 status of the applicant and the law in effect at the time of the
 1348 renewal application. The department shall issue a certificate of
 1349 eligibility for expunction to a person who is the subject of a
 1350 criminal history record if that person:

1351 (a) Has obtained, and submitted to the department, a
 1352 written, certified statement from the appropriate state attorney
 1353 or statewide prosecutor which indicates:

1354 1. That an indictment, information, or other charging
 1355 document was not filed or issued in the case.

1356 2. That an indictment, information, or other charging
 1357 document, if filed or issued in the case, was dismissed or nolle
 1358 prosequi by the state attorney or statewide prosecutor, or was
 1359 dismissed by a court of competent jurisdiction, and that none of
 1360 the charges related to the arrest or alleged criminal activity
 1361 to which the petition to expunge pertains resulted in a trial,
 1362 without regard to whether the outcome of the trial was other
 1363 than an adjudication of guilt.

1364 3. That the criminal history record does not relate to a

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1365 violation of s. 393.135, s. 394.4593, s. 787.025, chapter 794,
 1366 former s. 796.03, s. 800.04, s. 810.14, s. 817.034, s. 825.1025,
 1367 s. 827.071, chapter 839, s. 847.0133, s. 847.0135, s. 847.0145,
 1368 s. 893.135, s. 916.1075, a violation enumerated in s. 907.041,
 1369 or any violation specified as a predicate offense for
 1370 registration as a sexual predator pursuant to s. 775.21, without
 1371 regard to whether that offense alone is sufficient to require
 1372 such registration, or for registration as a sexual offender
 1373 pursuant to s. 943.0435, where the defendant was found guilty
 1374 of, or pled guilty or nolo contendere to any such offense, or
 1375 that the defendant, as a minor, was found to have committed, or
 1376 pled guilty or nolo contendere to committing, such an offense as
 1377 a delinquent act, without regard to whether adjudication was
 1378 withheld.

1379 (b) Remits a \$75 processing fee to the department for
 1380 placement in the Department of Law Enforcement Operating Trust
 1381 Fund, unless such fee is waived by the executive director.

1382 (c) Has submitted to the department a certified copy of the
 1383 disposition of the charge to which the petition to expunge
 1384 pertains.

1385 (d) Has never, prior to the date on which the application
 1386 for a certificate of eligibility is filed, been adjudicated
 1387 guilty of a criminal offense or comparable ordinance violation,
 1388 or been adjudicated delinquent for committing any felony or a
 1389 misdemeanor specified in s. 943.051(3)(b).

1390 (e) Has not been adjudicated guilty of, or adjudicated
 1391 delinquent for committing, any of the acts stemming from the
 1392 arrest or alleged criminal activity to which the petition to
 1393 expunge pertains.

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1394 (f) Has never secured a prior sealing or expunction of a
 1395 criminal history record under this section, s. 943.059, former
 1396 s. 893.14, former s. 901.33, or former s. 943.058, unless
 1397 expunction is sought of a criminal history record previously
 1398 sealed for 10 years pursuant to paragraph (h) and the record is
 1399 otherwise eligible for expunction.

1400 (g) Is no longer under court supervision applicable to the
 1401 disposition of the arrest or alleged criminal activity to which
 1402 the petition to expunge pertains.

1403 (h) Has previously obtained a court order sealing the
 1404 record under this section, former s. 893.14, former s. 901.33,
 1405 or former s. 943.058 for a minimum of 10 years because
 1406 adjudication was withheld or because all charges related to the
 1407 arrest or alleged criminal activity to which the petition to
 1408 expunge pertains were not dismissed prior to trial, without
 1409 regard to whether the outcome of the trial was other than an
 1410 adjudication of guilt. The requirement for the record to have
 1411 previously been sealed for a minimum of 10 years does not apply
 1412 when a plea was not entered or all charges related to the arrest
 1413 or alleged criminal activity to which the petition to expunge
 1414 pertains were dismissed prior to trial.

1415 (3) PROCESSING OF A PETITION OR ORDER TO EXPUNGE.—

1416 (a) In judicial proceedings under this section, a copy of
 1417 the completed petition to expunge shall be served upon the
 1418 appropriate state attorney or the statewide prosecutor and upon
 1419 the arresting agency; however, it is not necessary to make any
 1420 agency other than the state a party. The appropriate state
 1421 attorney or the statewide prosecutor and the arresting agency
 1422 may respond to the court regarding the completed petition to

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1423 expunge.

1424 (b) If relief is granted by the court, the clerk of the
 1425 court shall certify copies of the order to the appropriate state
 1426 attorney or the statewide prosecutor and the arresting agency.
 1427 The arresting agency is responsible for forwarding the order to
 1428 any other agency to which the arresting agency disseminated the
 1429 criminal history record information to which the order pertains.
 1430 The department shall forward the order to expunge to the Federal
 1431 Bureau of Investigation. The clerk of the court shall certify a
 1432 copy of the order to any other agency which the records of the
 1433 court reflect has received the criminal history record from the
 1434 court.

1435 (c) For an order to expunge entered by a court prior to
 1436 July 1, 1992, the department shall notify the appropriate state
 1437 attorney or statewide prosecutor of an order to expunge which is
 1438 contrary to law because the person who is the subject of the
 1439 record has previously been convicted of a crime or comparable
 1440 ordinance violation or has had a prior criminal history record
 1441 sealed or expunged. Upon receipt of such notice, the appropriate
 1442 state attorney or statewide prosecutor shall take action, within
 1443 60 days, to correct the record and petition the court to void
 1444 the order to expunge. The department shall seal the record until
 1445 such time as the order is voided by the court.

1446 (d) On or after July 1, 1992, the department or any other
 1447 criminal justice agency is not required to act on an order to
 1448 expunge entered by a court when such order does not comply with
 1449 the requirements of this section. Upon receipt of such an order,
 1450 the department must notify the issuing court, the appropriate
 1451 state attorney or statewide prosecutor, the petitioner or the

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1452 petitioner's attorney, and the arresting agency of the reason
 1453 for noncompliance. The appropriate state attorney or statewide
 1454 prosecutor shall take action within 60 days to correct the
 1455 record and petition the court to void the order. No cause of
 1456 action, including contempt of court, shall arise against any
 1457 criminal justice agency for failure to comply with an order to
 1458 expunge when the petitioner for such order failed to obtain the
 1459 certificate of eligibility as required by this section or such
 1460 order does not otherwise comply with the requirements of this
 1461 section.

1462 (4) EFFECT OF CRIMINAL HISTORY RECORD EXPUNCTION.--Any
 1463 criminal history record of a minor or an adult which is ordered
 1464 expunged by a court of competent jurisdiction pursuant to this
 1465 section must be physically destroyed or obliterated by any
 1466 criminal justice agency having custody of such record; except
 1467 that any criminal history record in the custody of the
 1468 department must be retained in all cases. A criminal history
 1469 record ordered expunged that is retained by the department is
 1470 confidential and exempt from the provisions of s. 119.07(1) and
 1471 s. 24(a), Art. I of the State Constitution and not available to
 1472 any person or entity except upon order of a court of competent
 1473 jurisdiction. A criminal justice agency may retain a notation
 1474 indicating compliance with an order to expunge.

1475 (a) The person who is the subject of a criminal history
 1476 record that is expunged under this section or under other
 1477 provisions of law, including former s. 893.14, former s. 901.33,
 1478 and former s. 943.058, may lawfully deny or fail to acknowledge
 1479 the arrests covered by the expunged record, except when the
 1480 subject of the record:

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- 1481 1. Is a candidate for employment with a criminal justice
 1482 agency;
- 1483 2. Is a defendant in a criminal prosecution;
- 1484 3. Concurrently or subsequently petitions for relief under
 1485 this section, s. 943.0583, or s. 943.059;
- 1486 4. Is a candidate for admission to The Florida Bar;
- 1487 5. Is seeking to be employed or licensed by or to contract
 1488 with the Department of Children and Families, the Division of
 1489 Vocational Rehabilitation within the Department of Education,
 1490 the Agency for Health Care Administration, the Agency for
 1491 Persons with Disabilities, the Department of Health, the
 1492 Department of Elderly Affairs, or the Department of Juvenile
 1493 Justice or to be employed or used by such contractor or licensee
 1494 in a sensitive position having direct contact with children, the
 1495 disabled, or the elderly;
- 1496 6. Is seeking to be employed or licensed by the Department
 1497 of Education, any district school board, any university
 1498 laboratory school, any charter school, any private or parochial
 1499 school, or any local governmental entity that licenses child
 1500 care facilities;
- 1501 7. Is seeking to be licensed by the Division of Insurance
 1502 Agent and Agency Services within the Department of Financial
 1503 Services; or
- 1504 8. Is seeking to be appointed as a guardian pursuant to s.
 1505 744.3125.
- 1506 (b) Subject to the exceptions in paragraph (a), a person
 1507 who has been granted an expunction under this section, former s.
 1508 893.14, former s. 901.33, or former s. 943.058 may not be held
 1509 under any provision of law of this state to commit perjury or to

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1510 be otherwise liable for giving a false statement by reason of
 1511 such person's failure to recite or acknowledge an expunged
 1512 criminal history record.

1513 (c) Information relating to the existence of an expunged
 1514 criminal history record which is provided in accordance with
 1515 paragraph (a) is confidential and exempt from the provisions of
 1516 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1517 except that the department shall disclose the existence of a
 1518 criminal history record ordered expunged to the entities set
 1519 forth in subparagraphs (a)1., 4., 5., 6., 7., and 8. for their
 1520 respective licensing, access authorization, and employment
 1521 purposes, and to criminal justice agencies for their respective
 1522 criminal justice purposes. It is unlawful for any employee of an
 1523 entity set forth in subparagraph (a)1., subparagraph (a)4.,
 1524 subparagraph (a)5., subparagraph (a)6., subparagraph (a)7., or
 1525 subparagraph (a)8. to disclose information relating to the
 1526 existence of an expunged criminal history record of a person
 1527 seeking employment, access authorization, or licensure with such
 1528 entity or contractor, except to the person to whom the criminal
 1529 history record relates or to persons having direct
 1530 responsibility for employment, access authorization, or
 1531 licensure decisions. Any person who violates this paragraph
 1532 commits a misdemeanor of the first degree, punishable as
 1533 provided in s. 775.082 or s. 775.083.

1534 (5) EXCEPTION FOR LAWFUL SELF-DEFENSE.—Notwithstanding the
 1535 eligibility requirements prescribed in paragraph (1)(b) and
 1536 subsection (2), the department shall issue a certificate of
 1537 eligibility for expunction under this subsection to a person who
 1538 is the subject of a criminal history record if that person:

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1539 (a) Has obtained, and submitted to the department, on a
 1540 form provided by the department, a written, certified statement
 1541 from the appropriate state attorney or statewide prosecutor
 1542 which states whether an information, indictment, or other
 1543 charging document was not filed or was dismissed by the state
 1544 attorney, or dismissed by the court, because it was found that
 1545 the person acted in lawful self-defense pursuant to the
 1546 provisions related to justifiable use of force in chapter 776.

1547 (b) Each petition to a court to expunge a criminal history
 1548 record pursuant to this subsection is complete only when
 1549 accompanied by:

1550 1. A valid certificate of eligibility for expunction issued
 1551 by the department pursuant to this subsection.

1552 2. The petitioner's sworn statement attesting that the
 1553 petitioner is eligible for such an expunction to the best of his
 1554 or her knowledge or belief.

1555 Any person who knowingly provides false information on such
 1556 sworn statement to the court commits a felony of the third
 1557 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 1558 775.084.

1559 (c) This subsection does not confer any right to the
 1560 expunction of a criminal history record, and any request for
 1561 expunction of a criminal history record may be denied at the
 1562 discretion of the court.

1563 (d) Subsections (3) and (4) shall apply to expunction
 1564 ordered under this subsection.

1565 (e) The department shall, by rule adopted pursuant to
 1566 chapter 120, establish procedures pertaining to the application

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1568 for and issuance of certificates of eligibility for expunction
1569 under this subsection.

1570 (6) STATUTORY REFERENCES.—Any reference to any other
1571 chapter, section, or subdivision of the Florida Statutes in this
1572 section constitutes a general reference under the doctrine of
1573 incorporation by reference.

1574 Section 20. For the purpose of incorporating the amendment
1575 made by this act to section 893.135, Florida Statutes, in a
1576 reference thereto, section 943.059, Florida Statutes, is
1577 reenacted to read:

1578 943.059 Court-ordered sealing of criminal history records.—
1579 The courts of this state shall continue to have jurisdiction
1580 over their own procedures, including the maintenance, sealing,
1581 and correction of judicial records containing criminal history
1582 information to the extent such procedures are not inconsistent
1583 with the conditions, responsibilities, and duties established by
1584 this section. Any court of competent jurisdiction may order a
1585 criminal justice agency to seal the criminal history record of a
1586 minor or an adult who complies with the requirements of this
1587 section. The court shall not order a criminal justice agency to
1588 seal a criminal history record until the person seeking to seal
1589 a criminal history record has applied for and received a
1590 certificate of eligibility for sealing pursuant to subsection
1591 (2). A criminal history record that relates to a violation of s.
1592 393.135, s. 394.4593, s. 787.025, chapter 794, former s. 796.03,
1593 s. 800.04, s. 810.14, s. 817.034, s. 825.1025, s. 827.071,
1594 chapter 839, s. 847.0133, s. 847.0135, s. 847.0145, s. 893.135,
1595 s. 916.1075, a violation enumerated in s. 907.041, or any
1596 violation specified as a predicate offense for registration as a

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1597 sexual predator pursuant to s. 775.21, without regard to whether
1598 that offense alone is sufficient to require such registration,
1599 or for registration as a sexual offender pursuant to s.
1600 943.0435, may not be sealed, without regard to whether
1601 adjudication was withheld, if the defendant was found guilty of
1602 or pled guilty or nolo contendere to the offense, or if the
1603 defendant, as a minor, was found to have committed or pled
1604 guilty or nolo contendere to committing the offense as a
1605 delinquent act. The court may only order sealing of a criminal
1606 history record pertaining to one arrest or one incident of
1607 alleged criminal activity, except as provided in this section.
1608 The court may, at its sole discretion, order the sealing of a
1609 criminal history record pertaining to more than one arrest if
1610 the additional arrests directly relate to the original arrest.
1611 If the court intends to order the sealing of records pertaining
1612 to such additional arrests, such intent must be specified in the
1613 order. A criminal justice agency may not seal any record
1614 pertaining to such additional arrests if the order to seal does
1615 not articulate the intention of the court to seal records
1616 pertaining to more than one arrest. This section does not
1617 prevent the court from ordering the sealing of only a portion of
1618 a criminal history record pertaining to one arrest or one
1619 incident of alleged criminal activity. Notwithstanding any law
1620 to the contrary, a criminal justice agency may comply with laws,
1621 court orders, and official requests of other jurisdictions
1622 relating to sealing, correction, or confidential handling of
1623 criminal history records or information derived therefrom. This
1624 section does not confer any right to the sealing of any criminal
1625 history record, and any request for sealing a criminal history

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1626 record may be denied at the sole discretion of the court.

1627 (1) PETITION TO SEAL A CRIMINAL HISTORY RECORD.—Each
1628 petition to a court to seal a criminal history record is
1629 complete only when accompanied by:

1630 (a) A valid certificate of eligibility for sealing issued
1631 by the department pursuant to subsection (2).

1632 (b) The petitioner's sworn statement attesting that the
1633 petitioner:

1634 1. Has never, prior to the date on which the petition is
1635 filed, been adjudicated guilty of a criminal offense or
1636 comparable ordinance violation, or been adjudicated delinquent
1637 for committing any felony or a misdemeanor specified in s.
1638 943.051(3)(b).

1639 2. Has not been adjudicated guilty of or adjudicated
1640 delinquent for committing any of the acts stemming from the
1641 arrest or alleged criminal activity to which the petition to
1642 seal pertains.

1643 3. Has never secured a prior sealing or expunction of a
1644 criminal history record under this section, s. 943.0585, former
1645 s. 893.14, former s. 901.33, or former s. 943.058.

1646 4. Is eligible for such a sealing to the best of his or her
1647 knowledge or belief and does not have any other petition to seal
1648 or any petition to expunge pending before any court.

1649 Any person who knowingly provides false information on such
1650 sworn statement to the court commits a felony of the third
1651 degree, punishable as provided in s. 775.082, s. 775.083, or s.
1652 775.084.

1654 (2) CERTIFICATE OF ELIGIBILITY FOR SEALING.—Prior to

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1655 petitioning the court to seal a criminal history record, a
1656 person seeking to seal a criminal history record shall apply to
1657 the department for a certificate of eligibility for sealing. The
1658 department shall, by rule adopted pursuant to chapter 120,
1659 establish procedures pertaining to the application for and
1660 issuance of certificates of eligibility for sealing. A
1661 certificate of eligibility for sealing is valid for 12 months
1662 after the date stamped on the certificate when issued by the
1663 department. After that time, the petitioner must reapply to the
1664 department for a new certificate of eligibility. Eligibility for
1665 a renewed certification of eligibility must be based on the
1666 status of the applicant and the law in effect at the time of the
1667 renewal application. The department shall issue a certificate of
1668 eligibility for sealing to a person who is the subject of a
1669 criminal history record provided that such person:

1670 (a) Has submitted to the department a certified copy of the
1671 disposition of the charge to which the petition to seal
1672 pertains.

1673 (b) Remits a \$75 processing fee to the department for
1674 placement in the Department of Law Enforcement Operating Trust
1675 Fund, unless such fee is waived by the executive director.

1676 (c) Has never, prior to the date on which the application
1677 for a certificate of eligibility is filed, been adjudicated
1678 guilty of a criminal offense or comparable ordinance violation,
1679 or been adjudicated delinquent for committing any felony or a
1680 misdemeanor specified in s. 943.051(3)(b).

1681 (d) Has not been adjudicated guilty of or adjudicated
1682 delinquent for committing any of the acts stemming from the
1683 arrest or alleged criminal activity to which the petition to

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1684 seal pertains.

1685 (e) Has never secured a prior sealing or expunction of a
1686 criminal history record under this section, s. 943.0585, former
1687 s. 893.14, former s. 901.33, or former s. 943.058.

1688 (f) Is no longer under court supervision applicable to the
1689 disposition of the arrest or alleged criminal activity to which
1690 the petition to seal pertains.

1691 (3) PROCESSING OF A PETITION OR ORDER TO SEAL.—

1692 (a) In judicial proceedings under this section, a copy of
1693 the completed petition to seal shall be served upon the
1694 appropriate state attorney or the statewide prosecutor and upon
1695 the arresting agency; however, it is not necessary to make any
1696 agency other than the state a party. The appropriate state
1697 attorney or the statewide prosecutor and the arresting agency
1698 may respond to the court regarding the completed petition to
1699 seal.

1700 (b) If relief is granted by the court, the clerk of the
1701 court shall certify copies of the order to the appropriate state
1702 attorney or the statewide prosecutor and to the arresting
1703 agency. The arresting agency is responsible for forwarding the
1704 order to any other agency to which the arresting agency
1705 disseminated the criminal history record information to which
1706 the order pertains. The department shall forward the order to
1707 seal to the Federal Bureau of Investigation. The clerk of the
1708 court shall certify a copy of the order to any other agency
1709 which the records of the court reflect has received the criminal
1710 history record from the court.

1711 (c) For an order to seal entered by a court prior to July
1712 1, 1992, the department shall notify the appropriate state

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1713 attorney or statewide prosecutor of any order to seal which is
1714 contrary to law because the person who is the subject of the
1715 record has previously been convicted of a crime or comparable
1716 ordinance violation or has had a prior criminal history record
1717 sealed or expunged. Upon receipt of such notice, the appropriate
1718 state attorney or statewide prosecutor shall take action, within
1719 60 days, to correct the record and petition the court to void
1720 the order to seal. The department shall seal the record until
1721 such time as the order is voided by the court.

1722 (d) On or after July 1, 1992, the department or any other
1723 criminal justice agency is not required to act on an order to
1724 seal entered by a court when such order does not comply with the
1725 requirements of this section. Upon receipt of such an order, the
1726 department must notify the issuing court, the appropriate state
1727 attorney or statewide prosecutor, the petitioner or the
1728 petitioner's attorney, and the arresting agency of the reason
1729 for noncompliance. The appropriate state attorney or statewide
1730 prosecutor shall take action within 60 days to correct the
1731 record and petition the court to void the order. No cause of
1732 action, including contempt of court, shall arise against any
1733 criminal justice agency for failure to comply with an order to
1734 seal when the petitioner for such order failed to obtain the
1735 certificate of eligibility as required by this section or when
1736 such order does not comply with the requirements of this
1737 section.

1738 (e) An order sealing a criminal history record pursuant to
1739 this section does not require that such record be surrendered to
1740 the court, and such record shall continue to be maintained by
1741 the department and other criminal justice agencies.

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1742 (4) EFFECT OF CRIMINAL HISTORY RECORD SEALING.—A criminal
 1743 history record of a minor or an adult which is ordered sealed by
 1744 a court pursuant to this section is confidential and exempt from
 1745 the provisions of s. 119.07(1) and s. 24(a), Art. I of the State
 1746 Constitution and is available only to the person who is the
 1747 subject of the record, to the subject's attorney, to criminal
 1748 justice agencies for their respective criminal justice purposes,
 1749 which include conducting a criminal history background check for
 1750 approval of firearms purchases or transfers as authorized by
 1751 state or federal law, to judges in the state courts system for
 1752 the purpose of assisting them in their case-related
 1753 decisionmaking responsibilities, as set forth in s. 943.053(5),
 1754 or to those entities set forth in subparagraphs (a)1., 4., 5.,
 1755 6., 8., 9., and 10. for their respective licensing, access
 1756 authorization, and employment purposes.

1757 (a) The subject of a criminal history record sealed under
 1758 this section or under other provisions of law, including former
 1759 s. 893.14, former s. 901.33, and former s. 943.058, may lawfully
 1760 deny or fail to acknowledge the arrests covered by the sealed
 1761 record, except when the subject of the record:

- 1762 1. Is a candidate for employment with a criminal justice
 1763 agency;
- 1764 2. Is a defendant in a criminal prosecution;
- 1765 3. Concurrently or subsequently petitions for relief under
 1766 this section, s. 943.0583, or s. 943.0585;
- 1767 4. Is a candidate for admission to The Florida Bar;
- 1768 5. Is seeking to be employed or licensed by or to contract
 1769 with the Department of Children and Families, the Division of
 1770 Vocational Rehabilitation within the Department of Education,

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1771 the Agency for Health Care Administration, the Agency for
 1772 Persons with Disabilities, the Department of Health, the
 1773 Department of Elderly Affairs, or the Department of Juvenile
 1774 Justice or to be employed or used by such contractor or licensee
 1775 in a sensitive position having direct contact with children, the
 1776 disabled, or the elderly;

1777 6. Is seeking to be employed or licensed by the Department
 1778 of Education, a district school board, a university laboratory
 1779 school, a charter school, a private or parochial school, or a
 1780 local governmental entity that licenses child care facilities;

1781 7. Is attempting to purchase a firearm from a licensed
 1782 importer, licensed manufacturer, or licensed dealer and is
 1783 subject to a criminal history check under state or federal law;

1784 8. Is seeking to be licensed by the Division of Insurance
 1785 Agent and Agency Services within the Department of Financial
 1786 Services;

1787 9. Is seeking to be appointed as a guardian pursuant to s.
 1788 744.3125; or

1789 10. Is seeking to be licensed by the Bureau of License
 1790 Issuance of the Division of Licensing within the Department of
 1791 Agriculture and Consumer Services to carry a concealed weapon or
 1792 concealed firearm. This subparagraph applies only in the
 1793 determination of an applicant's eligibility under s. 790.06.

1794 (b) Subject to the exceptions in paragraph (a), a person
 1795 who has been granted a sealing under this section, former s.
 1796 893.14, former s. 901.33, or former s. 943.058 may not be held
 1797 under any provision of law of this state to commit perjury or to
 1798 be otherwise liable for giving a false statement by reason of
 1799 such person's failure to recite or acknowledge a sealed criminal

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1800 history record.

1801 (c) Information relating to the existence of a sealed
 1802 criminal record provided in accordance with the provisions of
 1803 paragraph (a) is confidential and exempt from the provisions of
 1804 s. 119.07(1) and s. 24(a), Art. I of the State Constitution,
 1805 except that the department shall disclose the sealed criminal
 1806 history record to the entities set forth in subparagraphs (a)1.,
 1807 4., 5., 6., 8., 9., and 10. for their respective licensing,
 1808 access authorization, and employment purposes. An employee of an
 1809 entity set forth in subparagraph (a)1., subparagraph (a)4.,
 1810 subparagraph (a)5., subparagraph (a)6., subparagraph (a)8.,
 1811 subparagraph (a)9., or subparagraph (a)10. may not disclose
 1812 information relating to the existence of a sealed criminal
 1813 history record of a person seeking employment, access
 1814 authorization, or licensure with such entity or contractor,
 1815 except to the person to whom the criminal history record relates
 1816 or to persons having direct responsibility for employment,
 1817 access authorization, or licensure decisions. A person who
 1818 violates the provisions of this paragraph commits a misdemeanor
 1819 of the first degree, punishable as provided in s. 775.082 or s.
 1820 775.083.

1821 (5) STATUTORY REFERENCES.—Any reference to any other
 1822 chapter, section, or subdivision of the Florida Statutes in this
 1823 section constitutes a general reference under the doctrine of
 1824 incorporation by reference.

1825 Section 21. For the purpose of incorporating the amendments
 1826 made by this act to sections 893.13 and 893.135, Florida
 1827 Statutes, in references thereto, subsection (2) of section
 1828 772.12, Florida Statutes, is reenacted to read:

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1829 772.12 Drug Dealer Liability Act.—

1830 (2) A person, including any governmental entity, has a
 1831 cause of action for threefold the actual damages sustained and
 1832 is entitled to minimum damages in the amount of \$1,000 and
 1833 reasonable attorney's fees and court costs in the trial and
 1834 appellate courts, if the person proves by the greater weight of
 1835 the evidence that:

1836 (a) The person was injured because of the defendant's
 1837 actions that resulted in the defendant's conviction for:

1838 1. A violation of s. 893.13, except for a violation of s.
 1839 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or
 1840 2. A violation of s. 893.135; and

1841 (b) The person was not injured by reason of his or her
 1842 participation in the same act or transaction that resulted in
 1843 the defendant's conviction for any offense described in
 1844 subparagraph (a)1.

1845 Section 22. For the purpose of incorporating the amendments
 1846 made by this act to sections 893.13 and 893.135, Florida
 1847 Statutes, in references thereto, subsection (3) of section
 1848 810.02, Florida Statutes, is reenacted to read:

1849 810.02 Burglary.—

1850 (3) Burglary is a felony of the second degree, punishable
 1851 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the
 1852 course of committing the offense, the offender does not make an
 1853 assault or battery and is not and does not become armed with a
 1854 dangerous weapon or explosive, and the offender enters or
 1855 remains in a:

1856 (a) Dwelling, and there is another person in the dwelling
 1857 at the time the offender enters or remains;

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1858 (b) Dwelling, and there is not another person in the
 1859 dwelling at the time the offender enters or remains;
 1860 (c) Structure, and there is another person in the structure
 1861 at the time the offender enters or remains;
 1862 (d) Conveyance, and there is another person in the
 1863 conveyance at the time the offender enters or remains;
 1864 (e) Authorized emergency vehicle, as defined in s. 316.003;
 1865 or
 1866 (f) Structure or conveyance when the offense intended to be
 1867 committed therein is theft of a controlled substance as defined
 1868 in s. 893.02. Notwithstanding any other law, separate judgments
 1869 and sentences for burglary with the intent to commit theft of a
 1870 controlled substance under this paragraph and for any applicable
 1871 possession of controlled substance offense under s. 893.13 or
 1872 trafficking in controlled substance offense under s. 893.135 may
 1873 be imposed when all such offenses involve the same amount or
 1874 amounts of a controlled substance.
 1875
 1876 However, if the burglary is committed within a county that is
 1877 subject to a state of emergency declared by the Governor under
 1878 chapter 252 after the declaration of emergency is made and the
 1879 perpetration of the burglary is facilitated by conditions
 1880 arising from the emergency, the burglary is a felony of the
 1881 first degree, punishable as provided in s. 775.082, s. 775.083,
 1882 or s. 775.084. As used in this subsection, the term "conditions
 1883 arising from the emergency" means civil unrest, power outages,
 1884 curfews, voluntary or mandatory evacuations, or a reduction in
 1885 the presence of or response time for first responders or
 1886 homeland security personnel. A person arrested for committing a

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1887 burglary within a county that is subject to such a state of
 1888 emergency may not be released until the person appears before a
 1889 committing magistrate at a first appearance hearing. For
 1890 purposes of sentencing under chapter 921, a felony offense that
 1891 is reclassified under this subsection is ranked one level above
 1892 the ranking under s. 921.0022 or s. 921.0023 of the offense
 1893 committed.
 1894 Section 23. For the purpose of incorporating the amendments
 1895 made by this act to sections 893.13 and 893.135, Florida
 1896 Statutes, in references thereto, paragraph (c) of subsection (2)
 1897 of section 812.014, Florida Statutes, is reenacted to read:
 1898 812.014 Theft.—
 1899 (2)
 1900 (c) It is grand theft of the third degree and a felony of
 1901 the third degree, punishable as provided in s. 775.082, s.
 1902 775.083, or s. 775.084, if the property stolen is:
 1903 1. Valued at \$300 or more, but less than \$5,000.
 1904 2. Valued at \$5,000 or more, but less than \$10,000.
 1905 3. Valued at \$10,000 or more, but less than \$20,000.
 1906 4. A will, codicil, or other testamentary instrument.
 1907 5. A firearm.
 1908 6. A motor vehicle, except as provided in paragraph (a).
 1909 7. Any commercially farmed animal, including any animal of
 1910 the equine, bovine, or swine class or other grazing animal; a
 1911 bee colony of a registered beekeeper; and aquaculture species
 1912 raised at a certified aquaculture facility. If the property
 1913 stolen is aquaculture species raised at a certified aquaculture
 1914 facility, then a \$10,000 fine shall be imposed.
 1915 8. Any fire extinguisher.

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1916 9. Any amount of citrus fruit consisting of 2,000 or more
 1917 individual pieces of fruit.

1918 10. Taken from a designated construction site identified by
 1919 the posting of a sign as provided for in s. 810.09(2)(d).

1920 11. Any stop sign.

1921 12. Anhydrous ammonia.

1922 13. Any amount of a controlled substance as defined in s.
 1923 893.02. Notwithstanding any other law, separate judgments and
 1924 sentences for theft of a controlled substance under this
 1925 subparagraph and for any applicable possession of controlled
 1926 substance offense under s. 893.13 or trafficking in controlled
 1927 substance offense under s. 893.135 may be imposed when all such
 1928 offenses involve the same amount or amounts of a controlled
 1929 substance.

1930

1931 However, if the property is stolen within a county that is
 1932 subject to a state of emergency declared by the Governor under
 1933 chapter 252, the property is stolen after the declaration of
 1934 emergency is made, and the perpetration of the theft is
 1935 facilitated by conditions arising from the emergency, the
 1936 offender commits a felony of the second degree, punishable as
 1937 provided in s. 775.082, s. 775.083, or s. 775.084, if the
 1938 property is valued at \$5,000 or more, but less than \$10,000, as
 1939 provided under subparagraph 2., or if the property is valued at
 1940 \$10,000 or more, but less than \$20,000, as provided under
 1941 subparagraph 3. As used in this paragraph, the term "conditions
 1942 arising from the emergency" means civil unrest, power outages,
 1943 curfews, voluntary or mandatory evacuations, or a reduction in
 1944 the presence of or the response time for first responders or

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1945 homeland security personnel. For purposes of sentencing under
 1946 chapter 921, a felony offense that is reclassified under this
 1947 paragraph is ranked one level above the ranking under s.
 1948 921.0022 or s. 921.0023 of the offense committed.

1949 Section 24. For the purpose of incorporating the amendments
 1950 made by this act to sections 893.13 and 893.135, Florida
 1951 Statutes, in references thereto, subsections (1) and (2) of
 1952 section 893.1351, Florida Statutes, are reenacted to read:

1953 893.1351 Ownership, lease, rental, or possession for
 1954 trafficking in or manufacturing a controlled substance.—

1955 (1) A person may not own, lease, or rent any place,
 1956 structure, or part thereof, trailer, or other conveyance with
 1957 the knowledge that the place, structure, trailer, or conveyance
 1958 will be used for the purpose of trafficking in a controlled
 1959 substance, as provided in s. 893.135; for the sale of a
 1960 controlled substance, as provided in s. 893.13; or for the
 1961 manufacture of a controlled substance intended for sale or
 1962 distribution to another. A person who violates this subsection
 1963 commits a felony of the third degree, punishable as provided in
 1964 s. 775.082, s. 775.083, or s. 775.084.

1965 (2) A person may not knowingly be in actual or constructive
 1966 possession of any place, structure, or part thereof, trailer, or
 1967 other conveyance with the knowledge that the place, structure,
 1968 or part thereof, trailer, or conveyance will be used for the
 1969 purpose of trafficking in a controlled substance, as provided in
 1970 s. 893.135; for the sale of a controlled substance, as provided
 1971 in s. 893.13; or for the manufacture of a controlled substance
 1972 intended for sale or distribution to another. A person who
 1973 violates this subsection commits a felony of the second degree,

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1974 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1975 Section 25. For the purpose of incorporating the amendments
1976 made by this act to sections 893.13 and 893.135, Florida
1977 Statutes, in references thereto, section 903.133, Florida
1978 Statutes, is reenacted to read:

1979 903.133 Bail on appeal; prohibited for certain felony
1980 convictions.—Notwithstanding the provisions of s. 903.132, no
1981 person adjudged guilty of a felony of the first degree for a
1982 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
1983 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
1984 violation of s. 794.011(2) or (3), shall be admitted to bail
1985 pending review either by posttrial motion or appeal.

1986 Section 26. 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 Apr 17

Meeting Date

150

Bill Number (if applicable)

Topic Controlled Substances

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe
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

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

4-3-17

Meeting Date

150

Bill Number (if applicable)

Topic Controlled Substances

Amendment Barcode (if applicable)

Name Jill Gran

Job Title Policy Director

Address 28108 Mahan Dr

Phone 850-278-2916

Street

Tallahassee FL 32308

Email jill@myfba.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Behavioral Health 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

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

4/3/17

Meeting Date

SB150

Bill Number (if applicable)

Topic Controlled Substances

Amendment Barcode (if applicable)

Name Andrew Fay

Job Title Special Counsel

Address PL 02 The Capitol

Phone 850-245-0155

Street Tallahassee FL

Email

City

State

Zip

Speaking: For Against Information

Waive Speaking: In Support Against

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

Representing Department of Legal Affairs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/2017

150

Meeting Date

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Sheriff Rick Wells

Job Title Sheriff of Manatee County

Address 600 301 Blvd. W. #202

Phone 941-747-3011

Street

Bradenton

FL

34205

Email _____

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

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

4/3/2017

150

Meeting Date

Bill Number (if applicable)

Topic Criminal Justice

Amendment Barcode (if applicable)

Name Sal Nuzzo

Job Title VP of Policy

Address 100 N Duval Street

Phone 850-322-9941

Street

Tallahassee

FL

32301

City

State

Zip

Email snuzzo@jamesmadison.org

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
APPEARANCE RECORD

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

4-3-17

Meeting Date

150

Bill Number (if applicable)

Topic Sentencing

Amendment Barcode (if applicable)

Name Greg Newburn

Job Title State Policy Director

Address PO Box 142933

Phone 352.682.2542

Street

Gainesville

City

FL

State

32614

Zip

Email gnewburn@fam.org

Speaking: For Against Information

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

Representing Families Against Mandatory Minimums

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-3-17

Meeting Date

150

Bill Number (if applicable)

Topic Sentencing

Amendment Barcode (if applicable)

Name Chelsea Murphy

Job Title Florida Director

Address 824 N. Duval St.

Phone 954.557.0016

Street

Tallahassee, FL

State

32303

Zip

Email cmurphy@texaspolicy.com

Speaking: For Against Information

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

Representing Right on Crime

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)

4/3/17

Meeting Date

150

Bill Number (if applicable)

Topic Controlled Substances

Amendment Barcode (if applicable)

Name Lisa M. Hurley

Job Title _____

Address 311 E. Park Ave

Phone 813.274.5081

Street Tallahassee FL 32301

Email lhurley@smithbrignandndyers.com

Speaking: For Against Information

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

Representing Florida Association 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17
Meeting Date

JB 150
Bill Number (if applicable)

Topic Drug Bill

Amendment Barcode (if applicable)

Name Dennis J. Knight

Job Title Captain

Address 2500 West Colonial Dr

Phone 321-436-6064

Street

Del

71

City

State

32825

Zip

Email

Speaking: For Against Information

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

Representing Orange County Sheriff's Office

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/2017

Meeting Date

150

Bill Number (if applicable)

164354

Amendment Barcode (if applicable)

Topic _____

Name Sheriff Rick Wells

Job Title Sheriff of Manatee County

Address 600 301 Blvd. W. #202

Street

Bradenton

City

FL

State

34205

Zip

Phone 941-747-3011

Email _____

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

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

April 3, 2017

Meeting Date

130

Bill Number (if applicable)

164354

Topic Controlled Substances

Amendment Barcode (if applicable)

Name Honorable Carlos Martinez

Job Title Public Defender, 11th Circuit

Address 1320 NW 14th Street

Phone 305-545-1600

Street

Miami

Florida

33125

Email cmartinez@pdmiami.com

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.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/13/17

Meeting Date

SB 150

Bill Number (if applicable)

164354

Amendment Barcode (if applicable)

Topic Controlled Substances

Name Andrew Fay

Job Title Special Counsel

Address Tallahassee FL

Street

Phone _____

City

State

Zip

Email _____

Speaking: For Against Information

Waive Speaking: In Support Against

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

Representing Department of Legal Affairs

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)

4/3/17
Meeting Date

SB 150
Bill Number (if applicable)

Topic Trafficking in Fentanyl

164354
Amendment Barcode (if applicable)

Name Buddy JACOBS

626444

Job Title General Counsel Fla. Prosecuting Attys Assoc.

Address 961687 Gateway Blvd.
Street

Phone 904-261-3693

Fernandina Bch FL 32034
City State Zip

Email bjacobs1@comcast.net

Speaking: For Against Information

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

Bill Amendments

Representing State Attorneys ~~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 Apr 17

Meeting Date

150

Bill Number (if applicable)

Topic Controlled Substances

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe St.

Phone 850.510.2922

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/2017

150

Meeting Date

Bill Number (if applicable)

626444

Amendment Barcode (if applicable)

Topic _____

Name Sheriff Rick Wells

Job Title Sheriff of Manatee County

Address 600 301 Blvd. W. #202

Phone 941-747-3011

Street

Bradenton

FL

34205

Email _____

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

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

4/13/17
Meeting Date

J-B 130
Bill Number (if applicable)
62644
Amendment Barcode (if applicable)

Topic Drug Bill

Name Dennis Strange

Job Title Captain

Address 2500 West Colonial Dr Phone 321-436-6064

Orl Fl 32825 Email _____
City State Zip

Speaking: For Against Information

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

Representing Orange County J.D.

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)

April 3, 2017

Meeting Date

150
Bill Number (if applicable)

626444

Amendment Barcode (if applicable)

Topic Controlled Substances

Name Honorable Carlos Martinez

Job Title Public Defender, 11th Circuit

Address 1320 NW 14th Street

Street

Miami

City

Florida

State

33125

Zip

Phone 305-545-1600

Email cmartinez@pdmiami.com

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/2017

Meeting Date

150

Bill Number (if applicable)

Topic Criminal Justice

626444

Amendment Barcode (if applicable)

Name Sal Nuzzo

Job Title VP 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
APPEARANCE RECORD

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

4-3-17

Meeting Date

150

Bill Number (if applicable)

626444

Amendment Barcode (if applicable)

Topic Sentencing

Name Chelsea Murphy

Job Title Florida Director

Address 824 N. Duval St.

Street

Tallahassee

City

FL

State

32303

Zip

Phone 954.557.0016

Email cmurphy@texaspolicy.com

Speaking: For Against Information

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

Representing Right on Crime

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17
Meeting Date

SB150

Bill Number (if applicable)

~~7677~~ 626444

Amendment Barcode (if applicable)

Topic Controlled Substances

Name Andrew Fay

Job Title Special Counsel

Address The Capitol

Phone _____

Street Tallahassee FL

Email _____

City _____ State _____ Zip _____

Speaking: For Against Information

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

Representing Department of Legal Affairs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

4-3-17

Meeting Date

150

Bill Number (if applicable)

626444

Amendment Barcode (if applicable)

Topic Sentencing

Name Greg Newbourn

Job Title State Policy Director

Address PO Box 142933

Street

Gainesville

City

FL

State

32614

Zip

Phone 352.682.2542

Email gnewbourn@famm.org

Speaking: For Against Information

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

Representing Families Against Mandatory Minimums

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 476

INTRODUCER: Criminal Justice Committee and Senator Bean

SUBJECT: Terrorism and Terrorist Activities

DATE: April 4, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 476 addresses terrorism by creating a crime of terrorism and by also creating crimes for:

- Receiving military-type training from a designated foreign terrorist organization and using that training to unlawfully harm another person or damage a critical infrastructure facility;
- Providing material support or resources to designated foreign terrorist organizations, including providing such support or materials to be used for carrying out specified crimes;
- Becoming a member of such terrorist organization and serving under its direction or control with the intent to further the organization’s illegal acts; and
- Engaging in agroterrorism.

The Criminal Justice Impact Conference estimates that the bill will have a positive indeterminate prison bed impact (an unquantifiable increase in prison beds).

II. Present Situation:

Florida Law on Terrorism

Florida does not have a crime of terrorism. Instead, Florida law defines the term “terrorism” and provides enhanced punishment for crimes that facilitated or furthered an act of terrorism.

Section 775.30(1), F.S., defines “terrorism” as an activity that:

- Involves a violent act or an act dangerous to human life which is a violation of criminal laws of this state or the United States or a violation of s. 815.06, F.S., which punishes unlawful acts against users of computers, computer systems, computer networks, or electronic devices; and
- Is intended to:
 - Intimidate, injure, or coerce a civilian population;
 - Influence the policy of a government by intimidation or coercion; or
 - Affect the conduct of government through destruction of property, assassination, murder, kidnapping, or aircraft piracy.

Section 775.31, F.S., provides that if a person is convicted of committing a felony or misdemeanor that facilitated or furthered any act of terrorism,¹ the court shall reclassify the felony or misdemeanor to the next higher degree as provided in this section. The reclassification is made in the following manner:

- In the case of a misdemeanor of the second degree, the offense is reclassified as a first degree misdemeanor.
- In the case of a first degree misdemeanor, the offense is reclassified as a third degree felony.
- In the case of a third degree felony, the offense is reclassified as a second degree felony.
- In the case of a second degree felony, the offense is reclassified as a first degree felony.
- In the case of a first degree felony or a first degree felony punishable by a term of imprisonment not exceeding life, the offense is reclassified as a life felony.

Reclassification of the degree of an offense has the effect of increasing the maximum sentence that a judge may impose for the offense. The maximum sentence for:

- A second degree misdemeanor is 60 days in jail and a \$500 fine;
- A first degree misdemeanor is 1 year in jail and a \$1,000 fine;
- A third degree felony is 5 years in state prison and a \$5,000 fine;
- A second degree felony is 15 years in state prison and a \$10,000 fine;
- A first degree felony is generally 30 years in state prison and a \$10,000 fine; and
- A life felony is generally a term of imprisonment for life or imprisonment for a term of years not exceeding life imprisonment and a \$15,000 fine.²

Additionally, felony reclassification may impact the scored lowest permissible sentence under the Criminal Punishment Code (Code). For example, a primary offense that is a second degree felony would typically score more sentence points than a primary offense that is a third degree felony.

For purposes of sentencing under the Code, the following offense severity ranking levels apply:

- An offense that is a first degree misdemeanor and that is reclassified as a third degree felony degree is ranked in Level 2 of s. 921.0022, the Code offense severity ranking chart.

¹ The definition of “terrorism” in s. 775.31, F.S., is identical to the definition of that term in s. 775.30, F.S.

² Sections 775.082 and 775.083, F.S.

- A felony offense that is reclassified is ranked one level above the ranking specified in s. 921.0022, F.S., or s. 921.0023, F.S., (providing an assigned level ranking for offenses not ranked in the Code offense severity ranking chart).

Federal Laws on Terrorism

Pursuant to 18 U.S.C. Section 2339A, it is unlawful to provide material support or resources or conceal or disguise the nature, location, source, or ownership of material support or resources, knowing or intending that they are to be used in preparation for, or in carrying out, any listed violation of federal law or in preparation for, or in carrying out, the concealment of an escape from the commission of any such violation, or attempts or conspires to do such an act.

For purposes of this section, the following definitions of terms are provided:

- “Material support or resources” means “any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training, expert advice or assistance, safehouses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel (1 or more individuals who may be or include oneself), and transportation, except medicine or religious materials”;
- “Training” means “instruction or teaching designed to impart a specific skill, as opposed to general knowledge”; and
- “Expert advice or assistance” means “advice or assistance derived from scientific, technical or other specialized knowledge.”

Pursuant to 18 U.S.C. Section 2339B, it is unlawful to provide material support or resources to a foreign terrorist organization, or attempt or conspire to do so. To commit this violation, a person must have knowledge that the organization:

- Is a designated terrorist organization;
- Has engaged or engages in terrorist activity as defined in Section 212(a)(3)(B) of the Immigration and Nationality Act (INA);³ or
- Has engaged or engages in terrorism as defined in Section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.⁴

The terms “material support or resources,” “training,” and “expert advice or assistance” have the same meaning as provided in Section 2339A. The term “terrorist organization” means an

³ 8 U.S.C. Section 1182. Section 212(a)(3)(B)(iii) of the INA (11 U.S.C. Section 1182(a)(3)(B)(iii)) defines “terrorist activity” as any activity which is unlawful under the laws of the place where it is committed (or which, if it had been committed in the United States, would be unlawful under the laws of the United States or any state) and which involves any of the following: (1) hijacking or sabotage of any conveyance (including an aircraft, vessel, or vehicle); (2) seizing or detaining, and threatening to kill, injure, or continue to detain, another individual in order to compel a third person (including a governmental organization) to do or abstain from doing any act as an explicit or implicit condition for the release of the individual seized or detained; (3) a violent attack upon an internationally protected person or upon the liberty of such a person; (4) an assassination; (5) the use of any biological agent, chemical agent, nuclear weapon or device, explosive, firearm, or other weapon or dangerous device (other than for mere personal monetary gain), with intent to endanger, directly or indirectly, the safety of one or more individuals or to cause substantial damage to property; or (6) a threat, attempt, or conspiracy to do any of the previously describe acts.

⁴ Public Law 100-204 (1987), available at <https://www.govtrack.us/congress/bills/100/hr1777/text/enr> (last visited on March 16, 2017).

organization designated as a terrorist organization under Section 219 of the INA.⁵ Section 219 of the INA authorizes the Secretary of State, in consultation with the Secretary of the Treasury and the Attorney General, to designate an organization as a foreign terrorist organization, in accordance with a process specified in that section, if the Secretary finds: (1) the organization is a foreign organization; (2) the organization engages in terrorist activity; and (3) the terrorist activity or terrorism of the organization threatens the security of United States nationals or the national security of the United States.

A person may not be prosecuted under 18 U.S.C. Section 2339B in connection with the term:

- “Personnel” unless that person has knowingly provided, attempted to provide, or conspired to provide a foreign terrorist organization with 1 or more individuals (who may be or include himself or herself) to work under that terrorist organization’s direction or control or to organize, manage, supervise, or otherwise direct the operation of that organization. Individuals who act entirely independently of the foreign terrorist organization to advance its goals or objectives are not considered to be working under the foreign terrorist organization’s direction and control; or
- “Personnel,” “training,” or “expert advice or assistance” if the provision of that material support or resources to a foreign terrorist organization was approved by the Secretary of State with the concurrence of the Attorney General.⁶

Pursuant to 18 U.S.C. Section 2339D, it is unlawful to knowingly receive military-type training from or on behalf of any organization designated at the time of the training by the Secretary of State under Section 219 of the INA as a foreign terrorist organization. To commit this violation, a person must have knowledge that the organization:

- Is a designated terrorist organization as defined in Section 219 of the INA;
- Has engaged or engages in terrorist activity as defined in Section 212 of the INA; or
- Has engaged or engages in terrorism as defined in Section 140(d)(2) of the Foreign Relations Authorization Act, Fiscal Years 1988 and 1989.

Section 2339D provides that “military-type training” includes training in means or methods that can cause death or serious bodily injury, destroy or damage property, or disrupt services to critical infrastructure, or training on the use, storage, production, or assembly of any explosive, firearm, or other weapon, including any weapon of mass destruction. The term “foreign terrorist organization” has the same meaning as the term “terrorist organization” in 18 U.S.C. Section 2339B.

Felony Murder

Section 782.04(1)(a)2., F.S., provides that it is first degree murder, a capital felony,⁷ to unlawfully kill a human being when the killing is committed by a person engaged in the perpetration of, or in the attempt to perpetrate, any of the listed offenses. One of those listed offenses is any felony that is an act of terrorism or is in furtherance of an act of terrorism.⁸

⁵ 8 U.S.C. Section 1189.

⁶ The Secretary of State may not approve the provision of any material support that may be used to carry out terrorist activity as defined in Section 212(a)(3)(B)(iii) of the INA.

⁷ A capital felony is generally punishable by life imprisonment or a death sentence. Sections 775.082 and 921.141, F.S.

⁸ Section 782.04(1)(a)2.r., F.S.

Section 782.04(3), F.S., provides that when a person is killed in the perpetration of, or in the attempt to perpetrate, any listed offense, by a person other than the person engaged in the perpetration of, or in the attempt to perpetrate, such offense, the person perpetrating or attempting to perpetrate such felony commits second degree murder, a first degree felony punishable by life imprisonment or by up to 30 years imprisonment.⁹ One of those listed offenses is any felony that is an act of terrorism or is in furtherance of an act of terrorism.¹⁰

Section 782.04(4), F.S., provides that the unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than a listed offense is third degree murder, a second degree felony punishable by up to 15 years imprisonment.¹¹ One of those listed offenses is any felony that is an act of terrorism or is in furtherance of an act of terrorism.¹²

III. Effect of Proposed Changes:

The bill, which takes effect October 1, 2017, addresses terrorism by creating a crime of terrorism and by also creating crimes for:

- Receiving military-type training from a designated foreign terrorist organization and using that training to unlawfully harm another person or damage a critical infrastructure facility;
- Providing material support or resources to designated foreign terrorist organizations, including providing such support or materials to be used for carrying out specified crimes;
- Becoming a member of such terrorist organization and serving under its direction or control with the intent to further the organization's illegal acts; and
- Engaging in agroterrorism.

The material support offenses and military-type training offense are patterned after federal terrorism statutes.

Crime of Terrorism (Section 1)

Section 1 of the bill amends s. 775.30, F.S., which defines the term "terrorism," to create a crime of terrorism. A person who violates any listed statute or statutory provision in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping, commits the crime of terrorism, a first degree felony. However, it is a life felony if this violation results in death or serious bodily injury.¹³

The listed statutes or statutory provisions are:

⁹ Section 775.082, F.S.

¹⁰ Section 782.04(3)(r), F.S.

¹¹ Section 775.082, F.S.

¹² Section 782.04(4)(s), F.S.

¹³ The bill defines "serious bodily injury" as an injury to a person that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or an organ. The term "serious bodily injury" has this same meaning when it is used in connection with other crimes created by the bill.

- Section 782.04(1)(a)1. or (2), F.S., which, respectively, punish first degree murder (premeditated design) and first degree murder (felony murder);
- Section 782.065, F.S., which punishes murder of a law enforcement officer;
- Section 782.07(1), F.S., which punishes manslaughter;
- Section 782.09, F.S., which punishes the killing of an unborn child by injury to the mother;
- Section 784.045, F.S., which punishes aggravated battery;
- Section 784.07, F.S., which punishes assault or battery on a law enforcement officer or other specified persons;
- Section 787.01, F.S., which punishes kidnapping;
- Section 787.02, F.S., which punishes false imprisonment;
- Section 787.07, F.S., which punishes human smuggling;
- Section 790.115, F.S., which punishes possessing or discharging a weapon or firearm at a school-sponsored event or on school property;
- Section 790.15, F.S., which punishes discharging a firearm in public or on residential property;
- Section 790.16, F.S., which punishes discharging a machine gun;
- Section 790.161, F.S., which punishes making, possessing, throwing, projecting, placing, or discharging a destructive device;
- Section 790.1615, F.S., which punishes throwing, projecting, placing, or discharging a destructive device or bomb resulting in injury to another;
- Section 790.162, F.S., which punishes threatening to throw, project, place, or discharge any destructive device;
- Section 790.166, F.S., which punishes manufacturing, possessing, selling, delivering, displaying, using, or attempting or threatening to use a weapon of mass destruction or a hoax weapon of mass destruction;
- Section 790.19, F.S., which punishes shooting or throwing a deadly missile into dwellings, public or private buildings, or designated vehicle;
- Section 806.01, F.S., which punishes arson;
- Section 806.031, F.S., which punishes arson resulting in injury to another person;
- Section 806.111, F.S., which punishes possessing, manufacturing, transporting, or disposing fire bombs;
- Section 815.06, F.S., which punishes unlawful acts against users of computers, computer systems, computer networks, or electronic devices;
- Section 815.061, F.S., which punishes unlawful acts against public utilities;
- Section 859.01, F.S., which punishes poisoning food or water; and
- Section 876.34, F.S., which punishes combinations by force to usurp or overturn state government or forcibly interfere in government administration.

Unlawful Use of Military-Type Training from a Designated Foreign Terrorist Organization (Section 3)

Section 3 of the bill creates s. 775.32, F.S., which provides that a person commits a second degree felony if he or she receives military-type training from a designated foreign terrorist organization and uses, attempts to use, or conspires to use such training with the intent to

unlawfully harm another person or damage critical infrastructure facilities.¹⁴ However, it is a first degree felony if this violation results in death or serious bodily injury.

“Military-type training” means training in means or methods that can cause the death of, or serious bodily injury to, another person, destroy or damage property or critical infrastructure facilities, or disrupt services to critical infrastructure; or training on the use, storage, production, or assembly of an explosive, a firearm, or any other weapon, including a weapon of mass destruction.¹⁵

“Designated foreign terrorist organization” means an organization designated as a terrorist organization under Section 219 of the INA.¹⁶

Providing Material Support or Resources for Terrorism or to a Designated Foreign Terrorist Organization (Section 4)

Section 4 of the bill creates s. 775.33, F.S., which includes two crimes relating to providing material support to foreign terrorist organizations. The bill creates s. 775.33(2), F.S., which is patterned after 18 U.S.C. Section 2339A. Subsection (2) provides that it is a first degree felony for a person to provide material support or resources or conceal or disguise the nature, location, source, or ownership of material support or resources, knowing or intending that the support or resources are to be used in preparation for or in carrying out a violation of any of the following listed statutes or statutory provisions:

- Section 775.30, F.S. (created by the bill), which includes the new crime of terrorism;
- Section 775.32, F.S. (created by the bill), which includes the new crime of unlawful use of military-type training from a designated foreign terrorist organization;
- Section 775.34, F.S. (created by the bill), which includes the new crime of membership in a designated foreign terrorist organization (discussed below);
- Section 775.35, F.S., which includes the new crime of agroterrorism (discussed below);
- Section 790.16, F.S., which punishes discharging a machine gun;
- Section 790.161(2), (3), or (4), F.S., which punishes making, possessing, throwing, projecting, placing, or discharging a destructive device if the act was perpetrated with the

¹⁴ “Critical infrastructure facility” is defined by reference to the definition of that term in s. 493.631, F.S. Section 493.631(1), F.S., defines a “critical infrastructure facility as any of the following if the facility employs measures such as fences, barriers, or guard posts that are designed to exclude unauthorized persons: (1) a chemical manufacturing facility; (2) a refinery; (3) an electrical power plant, including a substation, switching station, electrical control center, or electric transmission or distribution facility; (4) a water intake structure, water treatment facility, wastewater treatment plant, or pump station; (5) a natural gas transmission compressor station; (6) a liquid natural gas terminal or storage facility; (7) a telecommunications central switching office; (8) a deepwater port or railroad switching yard; or (9) a gas processing plant, including a plant used in the processing, treatment, or fractionation of natural gas.

¹⁵ “Weapons of mass destruction” is defined by reference to the definition of that term in s. 790.166, F.S. Section 790.166(1)(a), F.S., defines a “weapons of mass destruction” as any of the following: (1) any device or object that is designed or intended to cause death or serious bodily injury to any human or animal, or severe emotional or mental harm to any human, through the release, dissemination, or impact of toxic or poisonous chemicals, or their precursors; (2) any device or object involving a biological agent; or (3) any device or object that is designed or intended to release radiation or radioactivity at a level dangerous to human or animal life; or (4) any biological agent, toxin, vector, or delivery system. Section 790.166(8)(a), F.S., specifies authorized exceptions for possession or use.

¹⁶ The term “designated foreign terrorist organization” has this same meaning when it is used in connection with other crimes created by the bill.

intent to do bodily harm, damage property, or disrupt governmental operations, commerce, or a person's private affairs, or resulted in bodily harm or death;

- Section 790.166, F.S., which punishes manufacturing, possessing, selling, delivering, displaying, using, or attempting or threatening to use a weapon of mass destruction or a hoax weapon of mass destruction;
- Section 790.19, F.S., which punishes shooting or throwing a deadly missile into dwellings, public or private buildings, or designated vehicles;
- Section 815.06, F.S., which punishes unlawful acts against users of computers, computer systems, computer networks, or electronic devices;
- Section 859.01, F.S., which punishes poisoning food or water;
- Section 860.121, F.S., which punishes shooting at, throwing any object capable of causing death or great bodily harm at, or placing any object capable of causing death or great bodily harm in the path of any railroad train or other railroad vehicle;
- Section 860.16, F.S., which punishes aircraft piracy;
- Section 876.32, F.S., which punishes treason;
- Section 876.34, F.S., which punishes combinations by force to usurp or overturn state government or forcibly interfere in government administration; or
- Section 876.36, F.S., which punishes inciting insurrection.

Subsection (2) also provides that it is a first degree felony to conceal an escape from the commission of any of the above-described violations or to attempt or conspire to carry out any such violation.

For purposes of s. 775.33, F.S., "material support or resources" means any property, tangible or intangible, or service, including currency or monetary instruments or financial securities, financial services, lodging, training,¹⁷ expert advice or assistance,¹⁸ safe houses, false documentation or identification, communications equipment, facilities, weapons, lethal substances, explosives, personnel, or transportation. The term does not include medicine or religious materials.

The bill also creates s. 775.33(3), F.S., which is patterned after 18 U.S.C. Section 2339B. Subsection (3) provides that it is a first degree felony to knowingly provide material support or resources to a designated foreign terrorist organization, or to attempt or conspire to do so. To commit this offense, a person must have knowledge that the organization is a designated foreign terrorist organization or that the organization has engaged in or engages in terrorism or terrorist activity.

If a violation of s. 775.33(2) or (3), F.S., results in death or serious bodily injury, the violation is enhanced to a life felony.

For purposes of prosecuting a violation of s. 775.33(2) or (3), F.S., a person is deemed to provide material support or resources by providing personnel if the person knowingly provides, attempts to provide, or conspires to provide himself or herself or another person:

¹⁷ "Training" means instruction or teaching designed to impart a specific skill rather than general knowledge.

¹⁸ "Expert advice or assistance" means advice or assistance derived from scientific, technical, or other specialized knowledge.

- To a person engaged in, or intending to engage in, an act of terrorism to work under the direction and control of the person engaged in, or intending to engage in, an act of terrorism, or to organize, manage, supervise, or otherwise direct the operations of the person engaged in, or intending to engage in, an act of terrorism; or
- To work under the direction and control of a designated foreign terrorist organization, or to organize, manage, supervise, or otherwise direct the operation of that organization.¹⁹

Section 775.33, F.S., also:

- Specifies that an individual who acts entirely independently of the person engaged in, or intending to engage in, an act of terrorism or the designated foreign terrorist organization to advance the person's or organization's goals or objectives is not working under the direction and control of the person engaged in, or intending to engage in, an act of terrorism or the designated foreign terrorist organization;
- Prohibits prosecuting a person under s. 775.33, F.S., if his or her activity was authorized by a governmental or law enforcement agency of this state or of the United States in the agency's official capacity and pursuant to a lawful purpose;
- Provides that it is the intent of the Legislature that a violation of s. 775.33(2) or (3), F.S., be interpreted in a manner consistent with federal case law interpreting 18 U.S.C. Sections 2339A and 2339B;²⁰ and
- Requires the Florida Department of Law Enforcement,²¹ in consultation with the Office of the Attorney General, to create guidelines for law enforcement investigations conducted pursuant to this section to ensure the protection of privacy rights, civil rights, and civil liberties.

Membership in a Designated Foreign Terrorist Organization (Section 5)

Section 5 of the bill creates s. 775.34, F.S., which provides that it is a second degree felony to willfully become a member of a designated foreign terrorist organization and serve under the direction or control of that organization *with the intent to further the illegal acts of the organization*. As provided in the bill, membership alone does not constitute a crime.

¹⁹ A notable difference between the bill and federal law is that the prosecution language in the bill applies to s. 775.33(2), F.S., which is patterned after 18 U.S.C. Section 2339B, and to s. 775.33(3), F.S., which is patterned after 18 U.S.C. section 2339B. In contrast, the prosecution language in 18 U.S.C. Section 2339B only applies to that section. Another notable difference between the bill and federal law is that the prosecution language in the bill covers a person who provides himself or herself or another person to a person engaged in, or intending to engage in, an act of terrorism. The prosecution language in 18 U.S.C. Section 2339B does not cover such person.

²⁰ Section 775.33, F.S., does not contain a provision similar to 18 U.S.C. Section 2339B(i), which provides that nothing in 18 U.S.C. Section 2339B shall be construed or applied so as to abridge the exercise of rights guaranteed under the First Amendment. However, interpretation of s. 775.33(2) and (3), F.S., would presumably be consistent with this rule of construction of s. 775.33(2) or (3), F.S., because of legislative intent to interpret these subsections in a manner consistent with federal case law interpreting 18 U.S.C. Sections 2339A and 2339B.

²¹ The Florida Department of Law Enforcement (FDLE) coordinates and directs counterterrorism efforts for Florida. FDLE's Commissioner serves as incident commander for the state in the event of a terrorist incident, and the Special Agent in Charge of FDLE's Office of Statewide Investigative Services serves as Florida's Homeland Security Advisor. *Long-Range Program Plan FY 17-18 through 21-22* (September 30, 2016), p. 16, Florida Department of Law Enforcement, available at <http://floridafiscalportal.state.fl.us/Publications.aspx?AgyID=7100> (last visited on March 16, 2017).

Agroterrorism (Section 6)

Section 6 of the bill creates s. 775.35, F.S., which provides that it is a second degree felony for a person to intentionally disseminate or spread any type of contagious, communicable, or infectious disease among crops, poultry, livestock, or other animals. However, it is a life felony if this violation results in death or serious bodily injury.

It is an affirmative defense to this violation if the activity is consistent with a medically recognized procedure or if the activity is done in the course of legitimate, professional scientific research.

The elements of the new agroterrorism crime and affirmative defense are identical to Missouri's agroterrorism crime and affirmative defense.²²

Felony Murder (Section 7)

Section 7 of the bill amends the felony murder provisions of s. 782.04, F.S. Currently these provisions reference a felony that is an act of terrorism or is in furtherance of an act of terrorism as a predicate offense. The bill includes specific reference to a felony under s. 775.30, F.S., s. 775.32, F.S., s. 775.33, F.S. s. 775.34, F.S., or s. 775.35, F.S. These sections include the new crime of terrorism and new terrorism-related crimes created by the bill.

“Terroristic Activity” and Felony Degree Reclassification of Offenses Facilitating Terrorism (Sections 1 and 2)

Section 1 of the bill also amends the definition of “terrorism” in s. 775.30, F.S., to provide that the definition of this term also covers the term “terroristic activity.”

Section 2 of the bill amends s. 775.31, F.S., to specify that, as used in that section, the term “terrorism” has the same meaning as provided in s. 775.30(1), F.S. The bill also specifies that reclassification of offenses under s. 775.31, F.S., does not apply to s. 775.30, F.S., s. 775.32, F.S., s. 775.33, F.S., s. 775.34, F.S., or s. 775.35, F.S. These sections include the new crime of terrorism and new terrorism-related crimes created by the bill.

Reenactments (Sections 8-33)

Sections 8-33 of the bill reenact, respectively, ss. 373.6055, 381.95, 395.1056, 874.03, 907.041, 943.0312, 943.0321, 27.401, 39.806, 63.089, 95.11, 435.04, 435.07, 775.082, 775.0823, 782.051, 782.065, 903.133, 921.0022, 921.16, 947.146, 948.06, 948.062, 985.265, 1012.315, 1012.467, F.S., for the purpose of incorporating amendments to ss. 775.30 and 782.04, F.S.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

²² MO Rev. Stat. section 574.130 (2016).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

Most constitutional challenges to federal terrorism statutes appear to be directed at 18 U.S.C. Section 2339B²³ and involve First Amendment challenges to that statute (freedom of speech and association). One reason for the focus on this statute may be that “[u]nder Section 2339B, a person just has to attempt, conspire, or actually provide support to a *terrorist organization*, while under Section 2339A a person has to attempt, conspire, or actually provide support to a specific *terroristic act*.”²⁴

The leading case involving First Amendment challenges to 18 U.S.C. Section 2339B is *Holder v. Humanitarian Project*.²⁵ In this case, the U.S. Supreme Court considered a pre-enforcement challenge to the statute. The plaintiffs claimed that they wished to provide support for the humanitarian activities and political activities of two designated foreign terrorist organizations (FTOs) but could not do so for fear of prosecution under 18 U.S.C. Section 2339B. This support was to consist of monetary contributions, other tangible aid, legal training, and political advocacy. The plaintiffs claimed that the statute was unconstitutionally vague and violated their freedom of speech and association under the First Amendment because it criminalized their material support to the FTOs without requiring the government to prove the plaintiffs specifically intended to further illegal activities of the FTOs.

Before addressing the Plaintiffs’ vagueness, free speech, and free association claims, the U.S. Supreme Court considered and rejected the plaintiffs’ contention that the Court should interpret the statute, when applied to speech, to require proof that a defendant intended to further illegal activities of a FTO. The Court found that the text of the statute did not support this interpretation and that a case on which the plaintiffs had heavily relied for support, *Scales v. United States*,²⁶ did not apply to 18 U.S.C. Section 2339B: “Section 2339B does not criminalize mere membership in a designated foreign terrorist organization. It instead prohibits ‘material support’ to such a group.”²⁷ In *Scales*, the Court held that a person could not be convicted under a federal law which prohibited membership in a group advocating the violent overthrow of the government, unless the person had knowledge of the group’s illegal advocacy and a specific intent to violently overthrow the government.

²³ As previously noted, s. 775.33, F.S., which is created by the bill, is patterned after this statute.

²⁴ Tuley, Aaron. “*Holder v. Humanitarian Law Project*: Redefining Free Speech Protection In The War On Terror,” Vol. 49:579, No. 2 (2016), at p. 584 (footnotes omitted), *Indiana Law Review*, available at <https://journals.iupui.edu/index.php/inlawrev/article/view/21003> (last visited on March 17, 2017).

²⁵ 561 U.S. 1 (2010).

²⁶ 376 U.S. 203 (1961).

²⁷ *Holder*, 561 U.S. at 18.

The Court limited its analysis of the vagueness claim to addressing “whether the statute ‘provide[s] a person of ordinary intelligence fair notice of what is prohibited’”²⁸ The Court determined that the statute did provide fair notice to the plaintiffs. While acknowledging that the statute might not be clear in every application, the Court found that the statutory terms clearly applied to the plaintiffs’ proposed conduct. The Court’s findings that the terms “personnel” and “service” do not cover “independent advocacy” were important to its later analysis of the free speech claim.

Before addressing the free speech and association claims, the Court rejected the position of the plaintiffs that Congress had banned their political speech, finding that the statute does not prohibit communication on any topic or membership in a FTO. Instead, the statute prohibits providing material support. The court found that most often material support does not involve speech but when it does “the statute is carefully drawn to cover only a narrow category of speech to, under the direction of, or in coordination with foreign groups that the speaker knows to be terrorist organizations.”²⁹ The Court also rejected the government’s position that the only issue in the case was conduct, not speech. The Court found that the plaintiffs’ conduct “triggering coverage under the statute consists of communicating a message.”³⁰ Therefore, the question was whether the government could prohibit the plaintiffs from providing material support to the FTOs “in the form of speech.”³¹ The Court determined that the government could because it found a compelling governmental interest (national security) and Congress had taken action to address potential constitutional concerns.

In reaching this determination, the Court relied, in part, on a finding by Congress that FTOs were “so tainted by their criminal conduct” that any contribution to a FTO would further that conduct.³² The Court also relied on statements from a State Department official supporting this finding. The Court also found it “significant that Congress has been conscious of its own responsibility to consider how its actions may implicate constitutional concerns”: applying the statute only to FTOs; narrowing definitions and explaining knowledge required under the statute; indicating its intent not to abridge the First Amendment; creating limited exceptions to the material support ban (e.g., medicine and religious materials); and, most importantly, avoiding “any restriction on independent advocacy, or indeed any activities not directed to, coordinated with, or controlled by” FTOs.³³

²⁸ *Holder*, 561 U.S. at 20, quoting *United States v. Williams*, 553 U.S. 285, 304 (2008).

²⁹ *Holder*, 561 U.S. at 26 (footnote omitted).

³⁰ *Holder*, 561 U.S. at 28.

³¹ *Id.*

³² *Holder*, 561 U.S. at 29, quoting s. 301(a)(7) of the Antiterrorism and Effective Death Penalty Act of 1996, Public Law 104-132 (1996), available at <https://www.uscis.gov/sites/default/files/ocomm/ilink/0-0-0-8598.html#0-0-0-903>

³³ *Holder*, 561 U.S. at 36.

Finally, the Court disposed of the plaintiffs' free association claim. The Court found that the federal Ninth Circuit Court of Appeals had correctly rejected this claim because the statute does not penalize mere association with a FTO. Further, the Court found that any burden on the plaintiffs' freedom of association in regard to providing material support to the FTOs was justified for the same reasons the Court denied the plaintiffs' free speech challenge.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of criminal legislation, estimated that the original bill would have a "positive indeterminate" prison bed impact (an unquantifiable increase in prison beds).³⁴ The nominal changes to the original bill should not change that estimate.

Per the Department of Corrections, in FY 2015-2016, there were 2,603 prison admissions for the offenses specified for those that could be considered terrorism, given the intent described under the amended s. 775.30, F.S. The same number of admissions exist when the additional offenses are included under s. 775.33, F.S. It is not known how many of these offenses included the intent defined in this bill.

Per the FDLE, there were 12 arrests since 2011 under s. 775.31, F.S., for felonies facilitating or furthering terrorism. Few of these had a court record, but those that did were recorded as dismissed.

The FDLE is required to create certain guidelines, in consultation with the Attorney General, under the bill (Section 4); however, the FDLE reports that the bill will have no fiscal impact.³⁵

VI. Technical Deficiencies:

None.

³⁴ Impact information was provided by staff of the Office of Economic and Demographic Research on March 6, 2017, via e-mail (on file with the Senate Committee on Criminal Justice). All information in this section of the analysis is from this source.

³⁵ 2017 FDLE Legislative Bill Analysis (SB 476) (February 1, 2017) (on file with the Senate Committee on Criminal Justice).

VII. Related Issues:

The bill creates new second degree felonies, first degree felonies, and life felonies. Because the bill does not specifically rank the new offenses in s. 921.0022, F.S., the Code offense severity ranking chart, they are assigned the following ranking pursuant to s. 921.0023, F.S.:

- A second degree felony is ranked in level 4;
- A first degree felony is ranked in level 7; and
- A life felony is ranked in level 10.

Generally, a first-time offender with a Level 4 offense will not score a lowest permissible sentence of state prison but the court still has the discretion to impose a state prison sentence up to the statutory maximum in s. 775.082, F.S.³⁶ However, if the victim died or was severely injured as a result of the offense, this offender will score a lowest permissible sentence of state prison.³⁷ A first-time offender with a Level 7 or Level 10 offense will score a lowest permissible sentence of state prison, regardless of victim injury.³⁸

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.30, 775.31, and 782.04.

This bill creates the following sections of the Florida Statutes: 775.32, 775.33, 775.34, and 775.35.

This bill reenacts ss. 27.401, 39.806, 63.089, 95.11, 373.6055, 381.95, 395.1056, 435.04, 435.07, 775.082, 775.0823, 782.051, 782.065, 874.03, 903.133, 907.041, 921.0022, 921.16, 943.0312, 943.0321, 947.146, 948.06, 948.062, 985.265, 1012.315, and 1012.467, F.S., for the purpose of incorporating amendments to ss. 775.30 and 782.04, F.S.

IX. Additional Information:

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

CS by Criminal Justice on April 3, 2017:

The committee substitute:

- Revises the elements of the crime of terrorism to provide that a person commits this crime by violating any listed statute or statutory provision in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping.

³⁶ Section 921.0024, F.S.

³⁷ *Id.*

³⁸ *Id.*

- Revises the elements of the crime of unlawful use of military-type training from a designated foreign terrorist organization to provide that a person commits this crime if he or she receives military-type training from a designated foreign terrorist organization and uses, attempts to use, or conspires to use such training with the intent to *unlawfully* harm another person or damage critical infrastructure facilities.

B. Amendments:

None.

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



629468

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete lines 118 - 199

and insert:

859.01, or s. 876.34, in furtherance of intimidating or coercing the policy of a government, or in furtherance of affecting the conduct of a government by mass destruction, assassination, or kidnapping, commits the crime of terrorism, a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.



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11 (3) A person who commits a violation of subsection (2)
12 which results in death or serious bodily injury commits a life
13 felony, punishable as provided in s. 775.082, s. 775.083, or s.
14 775.084. As used in this subsection, the term "serious bodily
15 injury" means an injury to a person which creates a substantial
16 risk of death, serious personal disfigurement, or protracted
17 loss or impairment of the function of a bodily member or an
18 organ.

19 Section 2. Section 775.31, Florida Statutes, is amended to
20 read:

21 775.31 Facilitating or furthering terrorism; felony or
22 misdemeanor reclassification.—

23 (1) If a person is convicted of committing a felony or
24 misdemeanor that facilitated or furthered any act of terrorism,
25 the court shall reclassify the felony or misdemeanor to the next
26 higher degree as provided in this section. The reclassification
27 shall be made in the following manner:

28 (a) In the case of a misdemeanor of the second degree, the
29 offense is reclassified as a misdemeanor of the first degree.

30 (b) In the case of a misdemeanor of the first degree, the
31 offense is reclassified as a felony of the third degree.

32 (c) In the case of a felony of the third degree, the
33 offense is reclassified as a felony of the second degree.

34 (d) In the case of a felony of the second degree, the
35 offense is reclassified as a felony of the first degree.

36 (e) In the case of a felony of the first degree or a felony
37 of the first degree punishable by a term of imprisonment not
38 exceeding life, the offense is reclassified as a life felony.

39 (2) For purposes of sentencing under chapter 921, the



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40 following offense severity ranking levels apply:

41 (a) An offense that is a misdemeanor of the first degree
42 and that is reclassified under this section as a felony of the
43 third degree is ranked in level 2 of the offense severity
44 ranking chart.

45 (b) A felony offense that is reclassified under this
46 section is ranked one level above the ranking specified in s.
47 921.0022 or s. 921.0023 for the offense committed.

48 (3) As used in this section, the term "terrorism" has the
49 same meaning as provided in s. 775.30(1) ~~means an activity that:~~

50 ~~(a)1. Involves a violent act or an act dangerous to human~~
51 ~~life which is a violation of the criminal laws of this state or~~
52 ~~of the United States; or~~

53 ~~2. Involves a violation of s. 815.06; and~~

54 ~~(b) Is intended to:~~

55 ~~1. Intimidate, injure, or coerce a civilian population;~~

56 ~~2. Influence the policy of a government by intimidation or~~
57 ~~coercion; or~~

58 ~~3. Affect the conduct of government through destruction of~~
59 ~~property, assassination, murder, kidnapping, or aircraft piracy.~~

60 (4) The reclassification of offenses under this section
61 does not apply to s. 775.30, s. 775.32, s. 775.33, s. 775.34, or
62 s. 775.35.

63 Section 3. Section 775.32, Florida Statutes, is created to
64 read:

65 775.32 Use of military-type training provided by a
66 designated foreign terrorist organization.—

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

68 (a) "Critical infrastructure facility" has the same meaning



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69 as provided in s. 493.631.

70 (b) "Designated foreign terrorist organization" means an
71 organization designated as a terrorist organization under s. 219
72 of the Immigration and Nationality Act.

73 (c) "Military-type training" means training in means or
74 methods that can cause the death of, or serious bodily injury
75 to, another person, destroy or damage property or critical
76 infrastructure facilities, or disrupt services to critical
77 infrastructure facilities; or training on the use, storage,
78 production, or assembly of an explosive, a firearm, or any other
79 weapon, including a weapon of mass destruction.

80 (d) "Serious bodily injury" has the same meaning as
81 provided in s. 775.30(3).

82 (e) "Weapon of mass destruction" has the same meaning as
83 provided in s. 790.166.

84 (2) A person who has received military-type training from a
85 designated foreign terrorist organization may not use, attempt
86 to use, or conspire to use such military-type training with the
87 intent to unlawfully harm another person or damage critical
88 infrastructure

89
90 ===== T I T L E A M E N D M E N T =====

91 And the title is amended as follows:

92 Delete lines 7 - 10

93 and insert:

94 specified criminal provisions in furtherance of
95 certain objectives is a crime of terrorism; providing

By Senator Bean

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1 A bill to be entitled
 2 An act relating to terrorism and terrorist activities;
 3 amending s. 775.30, F.S.; extending the applicability
 4 of the definition of the term "terrorism" to other
 5 sections of ch. 775, F.S.; defining the term
 6 "terrorist activity"; providing that a violation of
 7 specified criminal provisions with the intent to
 8 influence or affect the conduct of government by
 9 intimidation or coercion, or to retaliate against
 10 government, is a crime of terrorism; providing
 11 penalties; providing increased penalties if the action
 12 results in death or serious bodily injury; defining
 13 the term "serious bodily injury"; amending s. 775.31,
 14 F.S.; redefining the term "terrorism"; providing
 15 applicability; creating s. 775.32, F.S.; defining
 16 terms; prohibiting a person from using, attempting to
 17 use, or conspiring to use military-type training
 18 received from a designated foreign terrorist
 19 organization for certain purposes; providing
 20 penalties; providing increased penalties if the
 21 actions result in death or serious bodily injury;
 22 creating s. 775.33, F.S.; defining terms; prohibiting
 23 a person from providing material support or resources,
 24 or engaging in other specified actions, to violate
 25 specified criminal provisions; providing penalties;
 26 prohibiting a person from attempting to provide,
 27 conspiring to provide, or knowingly providing material
 28 support or resources to a designated foreign terrorist
 29 organization; providing penalties; providing increased
 30 penalties if specified actions result in death or
 31 serious bodily injury; specifying the circumstances
 32 under which a person provides material support by

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

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33 providing personnel; prohibiting prosecution under
 34 certain circumstances; providing legislative intent;
 35 requiring the Department of Law Enforcement, in
 36 consultation with the Office of the Attorney General,
 37 to create specified guidelines; creating s. 775.34,
 38 F.S.; providing penalties for a person who willfully
 39 becomes a member of a designated foreign terrorist
 40 organization and serves under the direction or control
 41 of the organization with the intent to further the
 42 illegal acts of the organization; defining the term
 43 "designated foreign terrorist organization"; creating
 44 s. 775.35, F.S.; providing penalties for a person who
 45 intentionally disseminates or spreads any type of
 46 contagious, communicable, or infectious disease among
 47 crops, poultry, livestock, or other animals; providing
 48 an affirmative defense; providing increased penalties
 49 if specified actions result in death or serious bodily
 50 injury; defining the term "serious bodily injury";
 51 amending s. 782.04, F.S.; revising the provisions
 52 related to terrorism for murder in the first degree,
 53 murder in the second degree, and murder in the third
 54 degree to include the terrorism felonies created by
 55 this act; reenacting ss. 373.6055(3)(c), 381.95(1),
 56 395.1056(1)(a) and (2), 874.03(7), 907.041(4)(a),
 57 943.0312(2), and 943.0321(2), F.S., relating to the
 58 definition of the term "terrorism," to incorporate the
 59 amendment made to s. 775.30, F.S., in references
 60 thereto; reenacting ss. 27.401(2), 39.806(1)(d),
 61 63.089(4)(b), 95.11(10), 435.04(2)(e), 435.07(4)(c),

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62 775.082(1)(b) and (3)(a), (b), and (c), 775.0823(1),
 63 (2), (4), (5), (6), and (7), 782.051, 782.065,
 64 903.133, 921.0022(3)(h) and (i), 921.16(1),
 65 947.146(3)(i), 948.06(8)(c), 948.062(1),
 66 985.265(3)(b), and 1012.315(1)(d), F.S., relating to
 67 capital felonies, murder in the first degree, murder
 68 in the second degree, and murder in the third degree,
 69 to incorporate the amendment made to s. 782.04, F.S.,
 70 in references thereto; reenacting s. 1012.467(2)(g),
 71 F.S., relating to terrorism and murder, to incorporate
 72 the amendments made to ss. 775.30 and 782.04, F.S., in
 73 references thereto; providing an effective date.

74
 75 WHEREAS, the domestic security of the State of Florida and
 76 terrorism prevention within the state's borders are of paramount
 77 importance, and

78 WHEREAS, the threats to the domestic security of the State
 79 of Florida are constantly evolving and expanding, and

80 WHEREAS, it is incumbent upon officials of the State of
 81 Florida to prevent future acts of terrorism and to bring to
 82 justice those who attempt, solicit, support, commit, or conspire
 83 to commit acts of terrorism, and

84 WHEREAS, law enforcement officials in the State of Florida
 85 require adequate and appropriate authority to investigate and
 86 prevent potential acts of terrorism or acts of mass catastrophe
 87 in the state, and

88 WHEREAS, the constitutional rights of the residents of and
 89 visitors to the State of Florida are also of great importance,
 90 and those rights can be safeguarded through reasonable

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91 protections in appropriate law enforcement actions, NOW,
 92 THEREFORE,

93
 94 Be It Enacted by the Legislature of the State of Florida:

95
 96 Section 1. Section 775.30, Florida Statutes, is amended to
 97 read:

98 775.30 Terrorism; defined; penalties.—

99 (1) As used in this chapter and the Florida Criminal Code,
 100 the term "terrorism" or "terrorist activity" means an activity
 101 that:

102 ~~(1)~~(a) Involves a violent act or an act dangerous to human
 103 life which is a violation of the criminal laws of this state or
 104 of the United States; or

105 (b) Involves a violation of s. 815.06; and

106 (c)~~(2)~~ Is intended to:

107 1.~~(a)~~ Intimidate, injure, or coerce a civilian population;

108 2.~~(b)~~ Influence the policy of a government by intimidation
 109 or coercion; or

110 3.~~(e)~~ Affect the conduct of government through destruction
 111 of property, assassination, murder, kidnapping, or aircraft
 112 piracy.

113 (2) A person who violates s. 782.04(1)(a)1. or (2), s.
 114 782.065, s. 782.07(1), s. 782.09, s. 784.045, s. 784.07, s.
 115 787.01, s. 787.02, s. 787.07, s. 790.115, s. 790.15, s. 790.16,
 116 s. 790.161, s. 790.1615, s. 790.162, s. 790.166, s. 790.19, s.
 117 806.01, s. 806.031, s. 806.111, s. 815.06, s. 815.061, s.
 118 859.01, or s. 876.34, when intending to influence or affect by
 119 intimidation or coercion, or to retaliate against, the conduct

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 120 of government, commits the crime of terrorism, a felony of the
 121 first degree, punishable as provided in s. 775.082, s. 775.083,
 122 or s. 775.084.

123 (3) A person who commits a violation of subsection (2)
 124 which results in death or serious bodily injury commits a life
 125 felony, punishable as provided in s. 775.082, s. 775.083, or s.
 126 775.084. As used in this subsection, the term "serious bodily
 127 injury" means an injury to a person which creates a substantial
 128 risk of death, serious personal disfigurement, or protracted
 129 loss or impairment of the function of a bodily member or an
 130 organ.

131 Section 2. Section 775.31, Florida Statutes, is amended to
 132 read:

133 775.31 Facilitating or furthering terrorism; felony or
 134 misdemeanor reclassification.-

135 (1) If a person is convicted of committing a felony or
 136 misdemeanor that facilitated or furthered any act of terrorism,
 137 the court shall reclassify the felony or misdemeanor to the next
 138 higher degree as provided in this section. The reclassification
 139 shall be made in the following manner:

140 (a) In the case of a misdemeanor of the second degree, the
 141 offense is reclassified as a misdemeanor of the first degree.

142 (b) In the case of a misdemeanor of the first degree, the
 143 offense is reclassified as a felony of the third degree.

144 (c) In the case of a felony of the third degree, the
 145 offense is reclassified as a felony of the second degree.

146 (d) In the case of a felony of the second degree, the
 147 offense is reclassified as a felony of the first degree.

148 (e) In the case of a felony of the first degree or a felony

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 149 of the first degree punishable by a term of imprisonment not
 150 exceeding life, the offense is reclassified as a life felony.

151 (2) For purposes of sentencing under chapter 921, the
 152 following offense severity ranking levels apply:

153 (a) An offense that is a misdemeanor of the first degree
 154 and that is reclassified under this section as a felony of the
 155 third degree is ranked in level 2 of the offense severity
 156 ranking chart.

157 (b) A felony offense that is reclassified under this
 158 section is ranked one level above the ranking specified in s.
 159 921.0022 or s. 921.0023 for the offense committed.

160 (3) As used in this section, the term "terrorism" has the
 161 same meaning as provided in s. 775.30(1) means an activity that:

162 ~~(a) 1. Involves a violent act or an act dangerous to human~~
 163 ~~life which is a violation of the criminal laws of this state or~~
 164 ~~of the United States; or~~

165 ~~2. Involves a violation of s. 815.06; and~~

166 ~~(b) Is intended to:~~

167 ~~1. Intimidate, injure, or coerce a civilian population;~~

168 ~~2. Influence the policy of a government by intimidation or~~
 169 ~~coercion; or~~

170 ~~3. Affect the conduct of government through destruction of~~
 171 ~~property, assassination, murder, kidnapping, or aircraft piracy.~~

172 (4) The reclassification of offenses under this section
 173 does not apply to s. 775.30, s. 775.32, s. 775.33, s. 775.34, or
 174 s. 775.35.

175 Section 3. Section 775.32, Florida Statutes, is created to
 176 read:

177 775.32 Use of military-type training provided by a

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178 designated foreign terrorist organization.-

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

180 (a) "Critical infrastructure facility" has the same meaning
181 as provided in s. 493.631.

182 (b) "Designated foreign terrorist organization" means an
183 organization designated as a terrorist organization under s. 219
184 of the Immigration and Nationality Act.

185 (c) "Military-type training" means training in means or
186 methods that can cause the death of, or serious bodily injury
187 to, another person, destroy or damage property or critical
188 infrastructure facilities, or disrupt services to critical
189 infrastructure; or training on the use, storage, production, or
190 assembly of an explosive, a firearm, or any other weapon,
191 including a weapon of mass destruction.

192 (d) "Serious bodily injury" has the same meaning as
193 provided in s. 775.30(3).

194 (e) "Weapon of mass destruction" has the same meaning as
195 provided in s. 790.166.

196 (2) A person who has received military-type training from a
197 designated foreign terrorist organization may not use, attempt
198 to use, or conspire to use such military-type training with the
199 intent to harm another person or damage critical infrastructure
200 facilities.

201 (3) A person who commits a violation of subsection (2)
202 commits a felony of the second degree, punishable as provided in
203 s. 775.082, s. 775.083, or s. 775.084.

204 (4) A person who commits a violation of subsection (2)
205 which results in the death of, or serious bodily injury to, a
206 person commits a felony of the first degree, punishable as

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207 provided in s. 775.082, s. 775.083, or s. 775.084.

208 Section 4. Section 775.33, Florida Statutes, is created to
209 read:

210 775.33 Providing material support or resources for
211 terrorism or to terrorist organizations.-

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

213 (a) "Designated foreign terrorist organization" has the
214 same meaning as provided in s. 775.32.

215 (b) "Expert advice or assistance" means advice or
216 assistance derived from scientific, technical, or other
217 specialized knowledge.

218 (c) "Material support or resources" means any property,
219 tangible or intangible, or service, including currency or
220 monetary instruments or financial securities, financial
221 services, lodging, training, expert advice or assistance, safe
222 houses, false documentation or identification, communications
223 equipment, facilities, weapons, lethal substances, explosives,
224 personnel, or transportation. The term does not include medicine
225 or religious materials.

226 (d) "Serious bodily injury" has the same meaning as
227 provided in s. 775.30(3).

228 (e) "Training" means instruction or teaching designed to
229 impart a specific skill rather than general knowledge.

230 (2) A person who provides material support or resources or
231 conceals or disguises the nature, location, source, or ownership
232 of material support or resources, knowing or intending that the
233 support or resources are to be used in preparation for or in
234 carrying out a violation of s. 775.30, s. 775.32, s. 775.34, s.
235 775.35, s. 790.16, s. 790.161(2), (3), or (4), s. 790.166, s.

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 236 790.19, s. 815.06, s. 859.01, s. 860.121, s. 860.16, s. 876.32,
 237 s. 876.34, or s. 876.36; who conceals an escape from the
 238 commission of any such violation; or who attempts or conspires
 239 to carry out such violation commits a felony of the first
 240 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 241 775.084.

(3) A person who knowingly provides material support or
 243 resources to a designated foreign terrorist organization, or
 244 attempts or conspires to do so, commits a felony of the first
 245 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 246 775.084. To violate this subsection, a person must have
 247 knowledge that the organization is a designated foreign
 248 terrorist organization or that the organization has engaged in
 249 or engages in terrorism or terrorist activity.

(4) A person who commits a violation of subsection (2) or
 251 subsection (3) which results in death or serious bodily injury
 252 commits a life felony, punishable as provided in s. 775.082, s.
 253 775.083, or s. 775.084.

(5) (a) For purposes of prosecution under subsection (2) or
 255 subsection (3), a person is deemed to provide material support
 256 or resources by providing personnel if the person knowingly
 257 provides, attempts to provide, or conspires to provide himself
 258 or herself or another person:

1. To a person engaged in, or intending to engage in, an
 260 act of terrorism to work under the direction and control of the
 261 person engaged in, or intending to engage in, an act of
 262 terrorism, or to organize, manage, supervise, or otherwise
 263 direct the operations of the person engaged in, or intending to
 264 engage in, an act of terrorism; or

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 265 2. To work under the direction and control of a designated
 266 foreign terrorist organization, or to organize, manage,
 267 supervise, or otherwise direct the operation of that
 268 organization.

(b) An individual who acts entirely independently of the
 270 person engaged in, or intending to engage in, an act of
 271 terrorism or the designated foreign terrorist organization to
 272 advance the person's or organization's goals or objectives is
 273 not working under the direction and control of the person
 274 engaged in, or intending to engage in, an act of terrorism or
 275 the designated foreign terrorist organization.

(6) A person may not be prosecuted under this section if
 277 his or her activity was authorized by a governmental or law
 278 enforcement agency of this state or of the United States in the
 279 agency's official capacity and pursuant to a lawful purpose.

(7) It is the intent of the Legislature that subsections
 281 (2) and (3) be interpreted in a manner consistent with federal
 282 case law interpreting 18 U.S.C. ss. 2339A and 2339B,
 283 respectively.

(8) The Department of Law Enforcement, in consultation with
 285 the Office of the Attorney General, shall create guidelines for
 286 law enforcement investigations conducted pursuant to this
 287 section to ensure the protection of privacy rights, civil
 288 rights, and civil liberties.

Section 5. Section 775.34, Florida Statutes, is created to
 290 read:

775.34 Membership in a designated foreign terrorist
 292 organization.—A person who willfully becomes a member of a
 293 designated foreign terrorist organization and serves under the

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294 direction or control of that organization with the intent to
 295 further the illegal acts of the organization commits a felony of
 296 the second degree, punishable as provided in s. 775.082, s.
 297 775.083, or s. 775.084. As used in this section, the term
 298 "designated foreign terrorist organization" has the same meaning
 299 as provided in s. 775.32.

300 Section 6. Section 775.35, Florida Statutes, is created to
 301 read:

302 775.35 Agroterrorism; penalties.-

303 (1) A person who intentionally disseminates or spreads any
 304 type of contagious, communicable, or infectious disease among
 305 crops, poultry as defined in s. 583.01, livestock as defined in
 306 s. 588.13, or other animals commits a felony of the second
 307 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 308 775.084. It is an affirmative defense to this violation if the
 309 activity is consistent with a medically recognized procedure or
 310 if the activity is done in the course of legitimate,
 311 professional scientific research.

312 (2) A person who commits a violation of subsection (1)
 313 which results in death or serious bodily injury to a person
 314 commits a life felony, punishable as provided in s. 775.082, s.
 315 775.083, or s. 775.084. As used in this subsection, the term
 316 "serious bodily injury" has the same meaning as provided in s.
 317 775.30(3).

318 Section 7. Paragraph (a) of subsection (1) and subsections
 319 (3) and (4) of section 782.04, Florida Statutes, are amended to
 320 read:

321 782.04 Murder.-

322 (1) (a) The unlawful killing of a human being:

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323 1. When perpetrated from a premeditated design to effect
 324 the death of the person killed or any human being;
 325 2. When committed by a person engaged in the perpetration
 326 of, or in the attempt to perpetrate, any:
 327 a. Trafficking offense prohibited by s. 893.135(1),
 328 b. Arson,
 329 c. Sexual battery,
 330 d. Robbery,
 331 e. Burglary,
 332 f. Kidnapping,
 333 g. Escape,
 334 h. Aggravated child abuse,
 335 i. Aggravated abuse of an elderly person or disabled adult,
 336 j. Aircraft piracy,
 337 k. Unlawful throwing, placing, or discharging of a
 338 destructive device or bomb,
 339 l. Carjacking,
 340 m. Home-invasion robbery,
 341 n. Aggravated stalking,
 342 o. Murder of another human being,
 343 p. Resisting an officer with violence to his or her person,
 344 q. Aggravated fleeing or eluding with serious bodily injury
 345 or death,
 346 r. Felony that is an act of terrorism or is in furtherance
 347 of an act of terrorism, including a felony under s. 775.30, s.
 348 775.32, s. 775.33, s. 775.34, or s. 775.35, or
 349 s. Human trafficking; or
 350 3. Which resulted from the unlawful distribution of any
 351 substance controlled under s. 893.03(1), cocaine as described in

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352 s. 893.03(2)(a)4., opium or any synthetic or natural salt,
 353 compound, derivative, or preparation of opium, or methadone by a
 354 person 18 years of age or older, when such drug is proven to be
 355 the proximate cause of the death of the user,
 356
 357 is murder in the first degree and constitutes a capital felony,
 358 punishable as provided in s. 775.082.
 359 (3) When a human being is killed during the perpetration
 360 of, or during the attempt to perpetrate, any:
 361 (a) Trafficking offense prohibited by s. 893.135(1),
 362 (b) Arson,
 363 (c) Sexual battery,
 364 (d) Robbery,
 365 (e) Burglary,
 366 (f) Kidnapping,
 367 (g) Escape,
 368 (h) Aggravated child abuse,
 369 (i) Aggravated abuse of an elderly person or disabled
 370 adult,
 371 (j) Aircraft piracy,
 372 (k) Unlawful throwing, placing, or discharging of a
 373 destructive device or bomb,
 374 (l) Carjacking,
 375 (m) Home-invasion robbery,
 376 (n) Aggravated stalking,
 377 (o) Murder of another human being,
 378 (p) Aggravated fleeing or eluding with serious bodily
 379 injury or death,
 380 (q) Resisting an officer with violence to his or her

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381 person, or
 382 (r) Felony that is an act of terrorism or is in furtherance
 383 of an act of terrorism, including a felony under s. 775.30, s.
 384 775.32, s. 775.33, s. 775.34, or s. 775.35,
 385
 386 by a person other than the person engaged in the perpetration of
 387 or in the attempt to perpetrate such felony, the person
 388 perpetrating or attempting to perpetrate such felony commits
 389 murder in the second degree, which constitutes a felony of the
 390 first degree, punishable by imprisonment for a term of years not
 391 exceeding life or as provided in s. 775.082, s. 775.083, or s.
 392 775.084.
 393 (4) The unlawful killing of a human being, when perpetrated
 394 without any design to effect death, by a person engaged in the
 395 perpetration of, or in the attempt to perpetrate, any felony
 396 other than any:
 397 (a) Trafficking offense prohibited by s. 893.135(1),
 398 (b) Arson,
 399 (c) Sexual battery,
 400 (d) Robbery,
 401 (e) Burglary,
 402 (f) Kidnapping,
 403 (g) Escape,
 404 (h) Aggravated child abuse,
 405 (i) Aggravated abuse of an elderly person or disabled
 406 adult,
 407 (j) Aircraft piracy,
 408 (k) Unlawful throwing, placing, or discharging of a
 409 destructive device or bomb,

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410 (l) Unlawful distribution of any substance controlled under
 411 s. 893.03(1), cocaine as described in s. 893.03(2)(a)4., or
 412 opium or any synthetic or natural salt, compound, derivative, or
 413 preparation of opium by a person 18 years of age or older, when
 414 such drug is proven to be the proximate cause of the death of
 415 the user,

416 (m) Carjacking,

417 (n) Home-invasion robbery,

418 (o) Aggravated stalking,

419 (p) Murder of another human being,

420 (q) Aggravated fleeing or eluding with serious bodily
 421 injury or death,

422 (r) Resisting an officer with violence to his or her
 423 person, or

424 (s) Felony that is an act of terrorism or is in furtherance
 425 of an act of terrorism, including a felony under s. 775.30, s.
 426 775.32, s. 775.33, s. 775.34, or s. 775.35,

427

428 is murder in the third degree and constitutes a felony of the
 429 second degree, punishable as provided in s. 775.082, s. 775.083,
 430 or s. 775.084.

431 Section 8. For the purpose of incorporating the amendment
 432 made by this act to section 775.30, Florida Statutes, in a
 433 reference thereto, paragraph (c) of subsection (3) of section
 434 373.6055, Florida Statutes, is reenacted to read:

435 373.6055 Criminal history checks for certain water
 436 management district employees and others.—

437 (3)

438 (c) In addition to other requirements for employment or

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439 access established by any water management district pursuant to
 440 its water management district's security plan for buildings,
 441 facilities, and structures, each water management district's
 442 security plan shall provide that:

443 1. Any person who has within the past 7 years been
 444 convicted, regardless of whether adjudication was withheld, for
 445 a forcible felony as defined in s. 776.08; an act of terrorism
 446 as defined in s. 775.30; planting of a hoax bomb as provided in
 447 s. 790.165; any violation involving the manufacture, possession,
 448 sale, delivery, display, use, or attempted or threatened use of
 449 a weapon of mass destruction or hoax weapon of mass destruction
 450 as provided in s. 790.166; dealing in stolen property; any
 451 violation of s. 893.135; any violation involving the sale,
 452 manufacturing, delivery, or possession with intent to sell,
 453 manufacture, or deliver a controlled substance; burglary;
 454 robbery; any felony violation of s. 812.014; any violation of s.
 455 790.07; any crime an element of which includes use or possession
 456 of a firearm; any conviction for any similar offenses under the
 457 laws of another jurisdiction; or conviction for conspiracy to
 458 commit any of the listed offenses may not be qualified for
 459 initial employment within or authorized regular access to
 460 buildings, facilities, or structures defined in the water
 461 management district's security plan as restricted access areas.

462 2. Any person who has at any time been convicted of any of
 463 the offenses listed in subparagraph 1. may not be qualified for
 464 initial employment within or authorized regular access to
 465 buildings, facilities, or structures defined in the water
 466 management district's security plan as restricted access areas
 467 unless, after release from incarceration and any supervision

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468 imposed as a sentence, the person remained free from a
 469 subsequent conviction, regardless of whether adjudication was
 470 withheld, for any of the listed offenses for a period of at
 471 least 7 years prior to the employment or access date under
 472 consideration.

473 Section 9. For the purpose of incorporating the amendment
 474 made by this act to section 775.30, Florida Statutes, in a
 475 reference thereto, subsection (1) of section 381.95, Florida
 476 Statutes, is reenacted to read:

477 381.95 Medical facility information maintained for
 478 terrorism response purposes; confidentiality.-

479 (1) Any information identifying or describing the name,
 480 location, pharmaceutical cache, contents, capacity, equipment,
 481 physical features, or capabilities of individual medical
 482 facilities, storage facilities, or laboratories established,
 483 maintained, or regulated by the Department of Health as part of
 484 the state's plan to defend against an act of terrorism as
 485 defined in s. 775.30 is exempt from s. 119.07(1) and s. 24(a),
 486 Art. I of the State Constitution. This exemption is remedial in
 487 nature, and it is the intent of the Legislature that this
 488 exemption apply to information held by the Department of Health
 489 before, on, or after the effective date of this section.

490 Section 10. For the purpose of incorporating the amendment
 491 made by this act to section 775.30, Florida Statutes, in
 492 references thereto, paragraph (a) of subsection (1) and
 493 subsection (2) of section 395.1056, Florida Statutes, are
 494 reenacted to read:

495 395.1056 Plan components addressing a hospital's response
 496 to terrorism; public records exemption; public meetings

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497 exemption.-

498 (1) (a) Those portions of a comprehensive emergency
 499 management plan that address the response of a public or private
 500 hospital to an act of terrorism as defined by s. 775.30 held by
 501 the agency, a state or local law enforcement agency, a county or
 502 municipal emergency management agency, the Executive Office of
 503 the Governor, the Department of Health, or the Division of
 504 Emergency Management are confidential and exempt from s.
 505 119.07(1) and s. 24(a), Art. I of the State Constitution.

506 (2) Those portions of a comprehensive emergency management
 507 plan that address the response of a public hospital to an act of
 508 terrorism as defined by s. 775.30 held by that public hospital
 509 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 510 Constitution. Portions of a comprehensive emergency management
 511 plan that address the response of a public hospital to an act of
 512 terrorism include those portions addressing:

513 (a) Security systems or plans;

514 (b) Vulnerability analyses;

515 (c) Emergency evacuation transportation;

516 (d) Sheltering arrangements;

517 (e) Postdisaster activities, including provisions for
 518 emergency power, communications, food, and water;

519 (f) Postdisaster transportation;

520 (g) Supplies, including drug caches;

521 (h) Staffing;

522 (i) Emergency equipment; and

523 (j) Individual identification of residents, transfer of
 524 records, and methods of responding to family inquiries.

525 Section 11. For the purpose of incorporating the amendment

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526 made by this act to section 775.30, Florida Statutes, in a
 527 reference thereto, subsection (7) of section 874.03, Florida
 528 Statutes, is reenacted to read:

529 874.03 Definitions.—As used in this chapter:

530 (7) "Terrorist organization" means any organized group
 531 engaged in or organized for the purpose of engaging in terrorism
 532 as defined in s. 775.30. This definition shall not be construed
 533 to prevent prosecution under this chapter of individuals acting
 534 alone.

535 Section 12. For the purpose of incorporating the amendment
 536 made by this act to section 775.30, Florida Statutes, in a
 537 reference thereto, paragraph (a) of subsection (4) of section
 538 907.041, Florida Statutes, is reenacted to read:

539 907.041 Pretrial detention and release.—

540 (4) PRETRIAL DETENTION.—

541 (a) As used in this subsection, "dangerous crime" means any
 542 of the following:

- 543 1. Arson;
- 544 2. Aggravated assault;
- 545 3. Aggravated battery;
- 546 4. Illegal use of explosives;
- 547 5. Child abuse or aggravated child abuse;
- 548 6. Abuse of an elderly person or disabled adult, or
 549 aggravated abuse of an elderly person or disabled adult;
- 550 7. Aircraft piracy;
- 551 8. Kidnapping;
- 552 9. Homicide;
- 553 10. Manslaughter;
- 554 11. Sexual battery;

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555 12. Robbery;

556 13. Carjacking;

557 14. Lewd, lascivious, or indecent assault or act upon or in
 558 presence of a child under the age of 16 years;

559 15. Sexual activity with a child, who is 12 years of age or
 560 older but less than 18 years of age, by or at solicitation of
 561 person in familial or custodial authority;

562 16. Burglary of a dwelling;

563 17. Stalking and aggravated stalking;

564 18. Act of domestic violence as defined in s. 741.28;

565 19. Home invasion robbery;

566 20. Act of terrorism as defined in s. 775.30;

567 21. Manufacturing any substances in violation of chapter
 568 893; and

569 22. Attempting or conspiring to commit any such crime.

570 Section 13. For the purpose of incorporating the amendment
 571 made by this act to section 775.30, Florida Statutes, in a
 572 reference thereto, subsection (2) of section 943.0312, Florida
 573 Statutes, is reenacted to read:

574 943.0312 Regional domestic security task forces.—The
 575 Legislature finds that there is a need to develop and implement
 576 a statewide strategy to address prevention, preparation,
 577 protection, response, and recovery efforts by federal, state,
 578 and local law enforcement agencies, emergency management
 579 agencies, fire and rescue departments, first-responder personnel
 580 and others in dealing with potential or actual terrorist acts
 581 within or affecting this state.

582 (2) In accordance with the state's domestic security
 583 strategic goals and objectives, each task force shall coordinate

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584 efforts to counter terrorism, as defined by s. 775.30, among
 585 local, state, and federal resources to ensure that such efforts
 586 are not fragmented or unnecessarily duplicated; coordinate
 587 training for local and state personnel to counter terrorism as
 588 defined by s. 775.30; coordinate the collection and
 589 dissemination of investigative and intelligence information; and
 590 facilitate responses to terrorist incidents within or affecting
 591 each region. With the approval of the Chief of Domestic
 592 Security, the task forces may incorporate other objectives
 593 reasonably related to the goals of enhancing the state's
 594 domestic security and ability to detect, prevent, and respond to
 595 acts of terrorism within or affecting this state. Each task
 596 force shall take into account the variety of conditions and
 597 resources present within its region.

598 Section 14. For the purpose of incorporating the amendment
 599 made by this act to section 775.30, Florida Statutes, in a
 600 reference thereto, subsection (2) of section 943.0321, Florida
 601 Statutes, is reenacted to read:

602 943.0321 The Florida Domestic Security and Counter-
 603 Terrorism Intelligence Center and the Florida Domestic Security
 604 and Counter-Terrorism Database.—

605 (2) The intelligence center shall:

606 (a) Gather, document, and analyze active criminal
 607 intelligence and criminal investigative information related to
 608 terrorism, as defined in s. 775.30, including information
 609 related to individuals or groups that plot, plan, or coordinate
 610 acts of terrorism, as defined in s. 775.30, and that operate
 611 within this state or otherwise commit acts affecting this state;

612 (b) Maintain and operate the domestic security and counter-

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613 terrorism database; and

614 (c) Provide support and assistance to federal, state, and
 615 local law enforcement agencies and prosecutors that investigate
 616 or prosecute terrorism, as defined in s. 775.30.

617 Section 15. For the purpose of incorporating the amendment
 618 made by this act to section 782.04, Florida Statutes, in a
 619 reference thereto, subsection (2) of section 27.401, Florida
 620 Statutes, is reenacted to read:

621 27.401 Cross-Circuit Conflict Representation Pilot
 622 Program.—

623 (2) Notwithstanding ss. 27.40 and 27.5305:

624 (a) If the public defender in the Tenth Judicial Circuit is
 625 unable to provide representation to an indigent defendant
 626 charged with a crime under s. 782.04(2), (3), or (4) due to a
 627 conflict of interest and the criminal conflict and civil
 628 regional counsel of the Second Region is also unable to provide
 629 representation for the case due to a conflict of interest, the
 630 public defender in the Thirteenth Judicial Circuit shall be
 631 appointed. If the public defender in the Thirteenth Judicial
 632 Circuit is unable to provide representation for the case due to
 633 a conflict of interest, the criminal conflict and civil regional
 634 counsel in the Fifth Region shall be appointed. If the criminal
 635 conflict and civil regional counsel in the Fifth Region is
 636 unable to provide representation due to a conflict of interest,
 637 private counsel shall be appointed.

638 (b) If the public defender in the Thirteenth Judicial
 639 Circuit is unable to provide representation to an indigent
 640 defendant charged with a crime under s. 782.04(2), (3), or (4)
 641 due to a conflict of interest and the criminal conflict and

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642 civil regional counsel of the Second Region is also unable to
 643 provide representation for the case due to a conflict of
 644 interest, the public defender in the Tenth Judicial Circuit
 645 shall be appointed. If the public defender in the Tenth Judicial
 646 Circuit is unable to provide representation for the case due to
 647 a conflict of interest, the criminal conflict and civil regional
 648 counsel in the Fifth Region shall be appointed. If the criminal
 649 conflict and civil regional counsel in the Fifth Region is
 650 unable to provide representation due to a conflict of interest,
 651 private counsel shall be appointed.

652 Section 16. For the purpose of incorporating the amendment
 653 made by this act to section 782.04, Florida Statutes, in a
 654 reference thereto, paragraph (d) of subsection (1) of section
 655 39.806, Florida Statutes, is reenacted to read:

656 39.806 Grounds for termination of parental rights.—

657 (1) Grounds for the termination of parental rights may be
 658 established under any of the following circumstances:

659 (d) When the parent of a child is incarcerated and either:

660 1. The period of time for which the parent is expected to
 661 be incarcerated will constitute a significant portion of the
 662 child's minority. When determining whether the period of time is
 663 significant, the court shall consider the child's age and the
 664 child's need for a permanent and stable home. The period of time
 665 begins on the date that the parent enters into incarceration;

666 2. The incarcerated parent has been determined by the court
 667 to be a violent career criminal as defined in s. 775.084, a
 668 habitual violent felony offender as defined in s. 775.084, or a
 669 sexual predator as defined in s. 775.21; has been convicted of
 670 first degree or second degree murder in violation of s. 782.04

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671 or a sexual battery that constitutes a capital, life, or first
 672 degree felony violation of s. 794.011; or has been convicted of
 673 an offense in another jurisdiction which is substantially
 674 similar to one of the offenses listed in this paragraph. As used
 675 in this section, the term "substantially similar offense" means
 676 any offense that is substantially similar in elements and
 677 penalties to one of those listed in this subparagraph, and that
 678 is in violation of a law of any other jurisdiction, whether that
 679 of another state, the District of Columbia, the United States or
 680 any possession or territory thereof, or any foreign
 681 jurisdiction; or

682 3. The court determines by clear and convincing evidence
 683 that continuing the parental relationship with the incarcerated
 684 parent would be harmful to the child and, for this reason, that
 685 termination of the parental rights of the incarcerated parent is
 686 in the best interest of the child. When determining harm, the
 687 court shall consider the following factors:

688 a. The age of the child.

689 b. The relationship between the child and the parent.

690 c. The nature of the parent's current and past provision
 691 for the child's developmental, cognitive, psychological, and
 692 physical needs.

693 d. The parent's history of criminal behavior, which may
 694 include the frequency of incarceration and the unavailability of
 695 the parent to the child due to incarceration.

696 e. Any other factor the court deems relevant.

697 Section 17. For the purpose of incorporating the amendment
 698 made by this act to section 782.04, Florida Statutes, in a
 699 reference thereto, paragraph (b) of subsection (4) of section

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700 63.089, Florida Statutes, is reenacted to read:

701 63.089 Proceeding to terminate parental rights pending
702 adoption; hearing; grounds; dismissal of petition; judgment.—

703 (4) FINDING OF ABANDONMENT.—A finding of abandonment
704 resulting in a termination of parental rights must be based upon
705 clear and convincing evidence that a parent or person having
706 legal custody has abandoned the child in accordance with the
707 definition contained in s. 63.032. A finding of abandonment may
708 also be based upon emotional abuse or a refusal to provide
709 reasonable financial support, when able, to a birth mother
710 during her pregnancy or on whether the person alleged to have
711 abandoned the child, while being able, failed to establish
712 contact with the child or accept responsibility for the child's
713 welfare.

714 (b) The child has been abandoned when the parent of a child
715 is incarcerated on or after October 1, 2001, in a federal,
716 state, or county correctional institution and:

717 1. The period of time for which the parent has been or is
718 expected to be incarcerated will constitute a significant
719 portion of the child's minority. In determining whether the
720 period of time is significant, the court shall consider the
721 child's age and the child's need for a permanent and stable
722 home. The period of time begins on the date that the parent
723 enters into incarceration;

724 2. The incarcerated parent has been determined by a court
725 of competent jurisdiction to be a violent career criminal as
726 defined in s. 775.084, a habitual violent felony offender as
727 defined in s. 775.084, convicted of child abuse as defined in s.
728 827.03, or a sexual predator as defined in s. 775.21; has been

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729 convicted of first degree or second degree murder in violation
730 of s. 782.04 or a sexual battery that constitutes a capital,
731 life, or first degree felony violation of s. 794.011; or has
732 been convicted of a substantially similar offense in another
733 jurisdiction. As used in this section, the term "substantially
734 similar offense" means any offense that is substantially similar
735 in elements and penalties to one of those listed in this
736 subparagraph, and that is in violation of a law of any other
737 jurisdiction, whether that of another state, the District of
738 Columbia, the United States or any possession or territory
739 thereof, or any foreign jurisdiction; or

740 3. The court determines by clear and convincing evidence
741 that continuing the parental relationship with the incarcerated
742 parent would be harmful to the child and, for this reason,
743 termination of the parental rights of the incarcerated parent is
744 in the best interests of the child.

745 Section 18. For the purpose of incorporating the amendment
746 made by this act to section 782.04, Florida Statutes, in a
747 reference thereto, subsection (10) of section 95.11, Florida
748 Statutes, is reenacted to read:

749 95.11 Limitations other than for the recovery of real
750 property.—Actions other than for recovery of real property shall
751 be commenced as follows:

752 (10) FOR INTENTIONAL TORTS RESULTING IN DEATH FROM ACTS
753 DESCRIBED IN S. 782.04 OR S. 782.07.—Notwithstanding paragraph
754 (4) (d), an action for wrongful death seeking damages authorized
755 under s. 768.21 brought against a natural person for an
756 intentional tort resulting in death from acts described in s.
757 782.04 or s. 782.07 may be commenced at any time. This

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758 subsection shall not be construed to require an arrest, the
759 filing of formal criminal charges, or a conviction for a
760 violation of s. 782.04 or s. 782.07 as a condition for filing a
761 civil action.

762 Section 19. For the purpose of incorporating the amendment
763 made by this act to section 782.04, Florida Statutes, in a
764 reference thereto, paragraph (e) of subsection (2) of section
765 435.04, Florida Statutes, is reenacted to read:

766 435.04 Level 2 screening standards.—

767 (2) The security background investigations under this
768 section must ensure that no persons subject to the provisions of
769 this section have been arrested for and are awaiting final
770 disposition of, have been found guilty of, regardless of
771 adjudication, or entered a plea of nolo contendere or guilty to,
772 or have been adjudicated delinquent and the record has not been
773 sealed or expunged for, any offense prohibited under any of the
774 following provisions of state law or similar law of another
775 jurisdiction:

776 (e) Section 782.04, relating to murder.

777 Section 20. For the purpose of incorporating the amendment
778 made by this act to section 782.04, Florida Statutes, in a
779 reference thereto, paragraph (c) of subsection (4) of section
780 435.07, Florida Statutes, is reenacted to read:

781 435.07 Exemptions from disqualification.—Unless otherwise
782 provided by law, the provisions of this section apply to
783 exemptions from disqualification for disqualifying offenses
784 revealed pursuant to background screenings required under this
785 chapter, regardless of whether those disqualifying offenses are
786 listed in this chapter or other laws.

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787 (4)
788 (c) Disqualification from employment under this chapter may
789 not be removed from, and an exemption may not be granted to, any
790 current or prospective child care personnel, as defined in s.
791 402.302(3), and such a person is disqualified from employment as
792 child care personnel, regardless of any previous exemptions from
793 disqualification, if the person has been registered as a sex
794 offender as described in 42 U.S.C. s. 9858f(c)(1)(C) or has been
795 arrested for and is awaiting final disposition of, has been
796 convicted or found guilty of, or entered a plea of guilty or
797 nolo contendere to, regardless of adjudication, or has been
798 adjudicated delinquent and the record has not been sealed or
799 expunged for, any offense prohibited under any of the following
800 provisions of state law or a similar law of another
801 jurisdiction:

802 1. A felony offense prohibited under any of the following
803 statutes:

804 a. Chapter 741, relating to domestic violence.

805 b. Section 782.04, relating to murder.

806 c. Section 782.07, relating to manslaughter, aggravated
807 manslaughter of an elderly person or disabled adult, aggravated
808 manslaughter of a child, or aggravated manslaughter of an
809 officer, a firefighter, an emergency medical technician, or a
810 paramedic.

811 d. Section 784.021, relating to aggravated assault.

812 e. Section 784.045, relating to aggravated battery.

813 f. Section 787.01, relating to kidnapping.

814 g. Section 787.025, relating to luring or enticing a child.

815 h. Section 787.04(2), relating to leading, taking,

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816 enticing, or removing a minor beyond the state limits, or
 817 concealing the location of a minor, with criminal intent pending
 818 custody proceedings.

819 i. Section 787.04(3), relating to leading, taking,
 820 enticing, or removing a minor beyond the state limits, or
 821 concealing the location of a minor, with criminal intent pending
 822 dependency proceedings or proceedings concerning alleged abuse
 823 or neglect of a minor.

824 j. Section 794.011, relating to sexual battery.

825 k. Former s. 794.041, relating to sexual activity with or
 826 solicitation of a child by a person in familial or custodial
 827 authority.

828 l. Section 794.05, relating to unlawful sexual activity
 829 with certain minors.

830 m. Section 794.08, relating to female genital mutilation.

831 n. Section 806.01, relating to arson.

832 o. Section 826.04, relating to incest.

833 p. Section 827.03, relating to child abuse, aggravated
 834 child abuse, or neglect of a child.

835 q. Section 827.04, relating to contributing to the
 836 delinquency or dependency of a child.

837 r. Section 827.071, relating to sexual performance by a
 838 child.

839 s. Chapter 847, relating to child pornography.

840 t. Section 985.701, relating to sexual misconduct in
 841 juvenile justice programs.

842 2. A misdemeanor offense prohibited under any of the
 843 following statutes:

844 a. Section 784.03, relating to battery, if the victim of

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845 the offense was a minor.

846 b. Section 787.025, relating to luring or enticing a child.

847 c. Chapter 847, relating to child pornography.

848 3. A criminal act committed in another state or under
 849 federal law which, if committed in this state, constitutes an
 850 offense prohibited under any statute listed in subparagraph 1.
 851 or subparagraph 2.

852 Section 21. For the purpose of incorporating the amendment
 853 made by this act to section 782.04, Florida Statutes, in
 854 references thereto, paragraph (b) of subsection (1) and
 855 paragraphs (a), (b), and (c) of subsection (3) of section
 856 775.082, Florida Statutes, are reenacted to read:

857 775.082 Penalties; applicability of sentencing structures;
 858 mandatory minimum sentences for certain reoffenders previously
 859 released from prison.—

860 (1)

861 (b)1. A person who actually killed, intended to kill, or
 862 attempted to kill the victim and who is convicted under s.
 863 782.04 of a capital felony, or an offense that was reclassified
 864 as a capital felony, which was committed before the person
 865 attained 18 years of age shall be punished by a term of
 866 imprisonment for life if, after a sentencing hearing conducted
 867 by the court in accordance with s. 921.1401, the court finds
 868 that life imprisonment is an appropriate sentence. If the court
 869 finds that life imprisonment is not an appropriate sentence,
 870 such person shall be punished by a term of imprisonment of at
 871 least 40 years. A person sentenced pursuant to this subparagraph
 872 is entitled to a review of his or her sentence in accordance
 873 with s. 921.1402(2)(a).

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874 2. A person who did not actually kill, intend to kill, or
 875 attempt to kill the victim and who is convicted under s. 782.04
 876 of a capital felony, or an offense that was reclassified as a
 877 capital felony, which was committed before the person attained
 878 18 years of age may be punished by a term of imprisonment for
 879 life or by a term of years equal to life if, after a sentencing
 880 hearing conducted by the court in accordance with s. 921.1401,
 881 the court finds that life imprisonment is an appropriate
 882 sentence. A person who is sentenced to a term of imprisonment of
 883 more than 15 years is entitled to a review of his or her
 884 sentence in accordance with s. 921.1402(2)(c).

885 3. The court shall make a written finding as to whether a
 886 person is eligible for a sentence review hearing under s.
 887 921.1402(2)(a) or (c). Such a finding shall be based upon
 888 whether the person actually killed, intended to kill, or
 889 attempted to kill the victim. The court may find that multiple
 890 defendants killed, intended to kill, or attempted to kill the
 891 victim.

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

894 (a)1. For a life felony committed before October 1, 1983,
 895 by a term of imprisonment for life or for a term of at least 30
 896 years.

897 2. For a life felony committed on or after October 1, 1983,
 898 by a term of imprisonment for life or by a term of imprisonment
 899 not exceeding 40 years.

900 3. Except as provided in subparagraph 4., for a life felony
 901 committed on or after July 1, 1995, by a term of imprisonment
 902 for life or by imprisonment for a term of years not exceeding

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903 life imprisonment.

904 4.a. Except as provided in sub-subparagraph b., for a life
 905 felony committed on or after September 1, 2005, which is a
 906 violation of s. 800.04(5)(b), by:

907 (I) A term of imprisonment for life; or

908 (II) A split sentence that is a term of at least 25 years'
 909 imprisonment and not exceeding life imprisonment, followed by
 910 probation or community control for the remainder of the person's
 911 natural life, as provided in s. 948.012(4).

912 b. For a life felony committed on or after July 1, 2008,
 913 which is a person's second or subsequent violation of s.
 914 800.04(5)(b), by a term of imprisonment for life.

915 5. Notwithstanding subparagraphs 1.-4., a person who is
 916 convicted under s. 782.04 of an offense that was reclassified as
 917 a life felony which was committed before the person attained 18
 918 years of age may be punished by a term of imprisonment for life
 919 or by a term of years equal to life imprisonment if the judge
 920 conducts a sentencing hearing in accordance with s. 921.1401 and
 921 finds that life imprisonment or a term of years equal to life
 922 imprisonment is an appropriate sentence.

923 a. A person who actually killed, intended to kill, or
 924 attempted to kill the victim and is sentenced to a term of
 925 imprisonment of more than 25 years is entitled to a review of
 926 his or her sentence in accordance with s. 921.1402(2)(b).

927 b. A person who did not actually kill, intend to kill, or
 928 attempt to kill the victim and is sentenced to a term of
 929 imprisonment of more than 15 years is entitled to a review of
 930 his or her sentence in accordance with s. 921.1402(2)(c).

931 c. The court shall make a written finding as to whether a

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932 person is eligible for a sentence review hearing under s.
 933 921.1402(2)(b) or (c). Such a finding shall be based upon
 934 whether the person actually killed, intended to kill, or
 935 attempted to kill the victim. The court may find that multiple
 936 defendants killed, intended to kill, or attempted to kill the
 937 victim.

938 6. For a life felony committed on or after October 1, 2014,
 939 which is a violation of s. 787.06(3)(g), by a term of
 940 imprisonment for life.

941 (b)1. For a felony of the first degree, by a term of
 942 imprisonment not exceeding 30 years or, when specifically
 943 provided by statute, by imprisonment for a term of years not
 944 exceeding life imprisonment.

945 2. Notwithstanding subparagraph 1., a person convicted
 946 under s. 782.04 of a first degree felony punishable by a term of
 947 years not exceeding life imprisonment, or an offense that was
 948 reclassified as a first degree felony punishable by a term of
 949 years not exceeding life, which was committed before the person
 950 attained 18 years of age may be punished by a term of years
 951 equal to life imprisonment if the judge conducts a sentencing
 952 hearing in accordance with s. 921.1401 and finds that a term of
 953 years equal to life imprisonment is an appropriate sentence.

954 a. A person who actually killed, intended to kill, or
 955 attempted to kill the victim and is sentenced to a term of
 956 imprisonment of more than 25 years is entitled to a review of
 957 his or her sentence in accordance with s. 921.1402(2)(b).

958 b. A person who did not actually kill, intend to kill, or
 959 attempt to kill the victim and is sentenced to a term of
 960 imprisonment of more than 15 years is entitled to a review of

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961 his or her sentence in accordance with s. 921.1402(2)(c).

962 c. The court shall make a written finding as to whether a
 963 person is eligible for a sentence review hearing under s.
 964 921.1402(2)(b) or (c). Such a finding shall be based upon
 965 whether the person actually killed, intended to kill, or
 966 attempted to kill the victim. The court may find that multiple
 967 defendants killed, intended to kill, or attempted to kill the
 968 victim.

969 (c) Notwithstanding paragraphs (a) and (b), a person
 970 convicted of an offense that is not included in s. 782.04 but
 971 that is an offense that is a life felony or is punishable by a
 972 term of imprisonment for life or by a term of years not
 973 exceeding life imprisonment, or an offense that was reclassified
 974 as a life felony or an offense punishable by a term of
 975 imprisonment for life or by a term of years not exceeding life
 976 imprisonment, which was committed before the person attained 18
 977 years of age may be punished by a term of imprisonment for life
 978 or a term of years equal to life imprisonment if the judge
 979 conducts a sentencing hearing in accordance with s. 921.1401 and
 980 finds that life imprisonment or a term of years equal to life
 981 imprisonment is an appropriate sentence. A person who is
 982 sentenced to a term of imprisonment of more than 20 years is
 983 entitled to a review of his or her sentence in accordance with
 984 s. 921.1402(2)(d).

985 Section 22. For the purpose of incorporating the amendment
 986 made by this act to section 782.04, Florida Statutes, in
 987 references thereto, subsections (1), (2), (4), (5), (6), and (7)
 988 of section 775.0823, Florida Statutes, are reenacted to read:
 989 775.0823 Violent offenses committed against law enforcement

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990 officers, correctional officers, state attorneys, assistant
 991 state attorneys, justices, or judges.—The Legislature does
 992 hereby provide for an increase and certainty of penalty for any
 993 person convicted of a violent offense against any law
 994 enforcement or correctional officer, as defined in s. 943.10(1),
 995 (2), (3), (6), (7), (8), or (9); against any state attorney
 996 elected pursuant to s. 27.01 or assistant state attorney
 997 appointed under s. 27.181; or against any justice or judge of a
 998 court described in Art. V of the State Constitution, which
 999 offense arises out of or in the scope of the officer's duty as a
 1000 law enforcement or correctional officer, the state attorney's or
 1001 assistant state attorney's duty as a prosecutor or investigator,
 1002 or the justice's or judge's duty as a judicial officer, as
 1003 follows:

1004 (1) For murder in the first degree as described in s.
 1005 782.04(1), if the death sentence is not imposed, a sentence of
 1006 imprisonment for life without eligibility for release.

1007 (2) For attempted murder in the first degree as described
 1008 in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083,
 1009 or s. 775.084.

1010 (4) For murder in the second degree as described in s.
 1011 782.04(2) and (3), a sentence pursuant to s. 775.082, s.
 1012 775.083, or s. 775.084.

1013 (5) For attempted murder in the second degree as described
 1014 in s. 782.04(2) and (3), a sentence pursuant to s. 775.082, s.
 1015 775.083, or s. 775.084.

1016 (6) For murder in the third degree as described in s.
 1017 782.04(4), a sentence pursuant to s. 775.082, s. 775.083, or s.
 1018 775.084.

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1019 (7) For attempted murder in the third degree as described
 1020 in s. 782.04(4), a sentence pursuant to s. 775.082, s. 775.083,
 1021 or s. 775.084.

1022
 1023 Notwithstanding the provisions of s. 948.01, with respect to any
 1024 person who is found to have violated this section, adjudication
 1025 of guilt or imposition of sentence shall not be suspended,
 1026 deferred, or withheld.

1027 Section 23. For the purpose of incorporating the amendment
 1028 made by this act to section 782.04, Florida Statutes, in a
 1029 reference thereto, section 782.051, Florida Statutes, is
 1030 reenacted to read:

1031 782.051 Attempted felony murder.—

1032 (1) Any person who perpetrates or attempts to perpetrate
 1033 any felony enumerated in s. 782.04(3) and who commits, aids, or
 1034 abets an intentional act that is not an essential element of the
 1035 felony and that could, but does not, cause the death of another
 1036 commits a felony of the first degree, punishable by imprisonment
 1037 for a term of years not exceeding life, or as provided in s.
 1038 775.082, s. 775.083, or s. 775.084, which is an offense ranked
 1039 in level 9 of the Criminal Punishment Code. Victim injury points
 1040 shall be scored under this subsection.

1041 (2) Any person who perpetrates or attempts to perpetrate
 1042 any felony other than a felony enumerated in s. 782.04(3) and
 1043 who commits, aids, or abets an intentional act that is not an
 1044 essential element of the felony and that could, but does not,
 1045 cause the death of another commits a felony of the first degree,
 1046 punishable as provided in s. 775.082, s. 775.083, or s. 775.084,
 1047 which is an offense ranked in level 8 of the Criminal Punishment

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1048 Code. Victim injury points shall be scored under this
1049 subsection.

1050 (3) When a person is injured during the perpetration of or
1051 the attempt to perpetrate any felony enumerated in s. 782.04(3)
1052 by a person other than the person engaged in the perpetration of
1053 or the attempt to perpetrate such felony, the person
1054 perpetrating or attempting to perpetrate such felony commits a
1055 felony of the second degree, punishable as provided in s.
1056 775.082, s. 775.083, or s. 775.084, which is an offense ranked
1057 in level 7 of the Criminal Punishment Code. Victim injury points
1058 shall be scored under this subsection.

1059 Section 24. For the purpose of incorporating the amendment
1060 made by this act to section 782.04, Florida Statutes, in a
1061 reference thereto, section 782.065, Florida Statutes, is
1062 reenacted to read:

1063 782.065 Murder; law enforcement officer, correctional
1064 officer, correctional probation officer.—Notwithstanding ss.
1065 775.082, 775.0823, 782.04, 782.051, and chapter 921, a defendant
1066 shall be sentenced to life imprisonment without eligibility for
1067 release upon findings by the trier of fact that, beyond a
1068 reasonable doubt:

1069 (1) The defendant committed murder in the first degree in
1070 violation of s. 782.04(1) and a death sentence was not imposed;
1071 murder in the second or third degree in violation of s.
1072 782.04(2), (3), or (4); attempted murder in the first or second
1073 degree in violation of s. 782.04(1)(a)1. or (2); or attempted
1074 felony murder in violation of s. 782.051; and

1075 (2) The victim of any offense described in subsection (1)
1076 was a law enforcement officer, part-time law enforcement

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1077 officer, auxiliary law enforcement officer, correctional
1078 officer, part-time correctional officer, auxiliary correctional
1079 officer, correctional probation officer, part-time correctional
1080 probation officer, or auxiliary correctional probation officer,
1081 as those terms are defined in s. 943.10, engaged in the lawful
1082 performance of a legal duty.

1083 Section 25. For the purpose of incorporating the amendment
1084 made by this act to section 782.04, Florida Statutes, in a
1085 reference thereto, section 903.133, Florida Statutes, is
1086 reenacted to read:

1087 903.133 Bail on appeal; prohibited for certain felony
1088 convictions.—Notwithstanding the provisions of s. 903.132, no
1089 person adjudged guilty of a felony of the first degree for a
1090 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.
1091 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a
1092 violation of s. 794.011(2) or (3), shall be admitted to bail
1093 pending review either by posttrial motion or appeal.

1094 Section 26. For the purpose of incorporating the amendment
1095 made by this act to section 782.04, Florida Statutes, in
1096 references thereto, paragraphs (h) and (i) of subsection (3) of
1097 section 921.0022, Florida Statutes, are reenacted to read:

1098 921.0022 Criminal Punishment Code; offense severity ranking
1099 chart.—

1100 (3) OFFENSE SEVERITY RANKING CHART

1101 (h) LEVEL 8

1102

Florida	Felony	
Statute	Degree	Description

1103

	4-00492B-17		2017476__
	316.193	2nd	DUI manslaughter.
1104	(3) (c) 3.a.		
	316.1935 (4) (b)	1st	Aggravated fleeing or attempted eluding with serious bodily injury or death.
1105			
1106	327.35 (3) (c) 3.	2nd	Vessel BUI manslaughter.
	499.0051 (7)	1st	Knowing trafficking in contraband prescription drugs.
1107			
	499.0051 (8)	1st	Knowing forgery of prescription labels or prescription drug labels.
1108			
	560.123 (8) (b) 2.	2nd	Failure to report currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.
1109			
	560.125 (5) (b)	2nd	Money transmitter business by unauthorized person, currency or payment instruments

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			totaling or exceeding \$20,000, but less than \$100,000.
1110			
	655.50 (10) (b) 2.	2nd	Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.
1111			
	777.03 (2) (a)	1st	Accessory after the fact, capital felony.
1112			
	782.04 (4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.
1113			
	782.051 (2)	1st	Attempted felony murder while perpetrating or

	4-00492B-17		2017476__	attempting to perpetrate a felony not enumerated in s. 782.04(3).
1114	782.071(1)(b)	1st		Committing vehicular homicide and failing to render aid or give information.
1115	782.072(2)	1st		Committing vessel homicide and failing to render aid or give information.
1116	787.06(3)(a)1.	1st		Human trafficking for labor and services of a child.
1117	787.06(3)(b)	1st		Human trafficking using coercion for commercial sexual activity of an adult.
1118	787.06(3)(c)2.	1st		Human trafficking using coercion for labor and services of an unauthorized alien adult.
1119	787.06(3)(e)1.	1st		Human trafficking for

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	4-00492B-17		2017476__	labor and services by the transfer or transport of a child from outside Florida to within the state.
1120	787.06(3)(f)2.	1st		Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state.
1121	790.161(3)	1st		Discharging a destructive device which results in bodily harm or property damage.
1122	794.011(5)(a)	1st		Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury.
1123	794.011(5)(b)	2nd		Sexual battery; victim and offender 18 years of

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	4-00492B-17		2017476__	age or older; offender does not use physical force likely to cause serious injury.
1124	794.011(5)(c)	2nd		Sexual battery; victim 12 years of age or older; offender younger than 18 years; offender does not use physical force likely to cause injury.
1125	794.011(5)(d)	1st		Sexual battery; victim 12 years of age or older; offender does not use physical force likely to cause serious injury; prior conviction for specified sex offense.
1126	794.08(3)	2nd		Female genital mutilation, removal of a victim younger than 18 years of age from this state.
1127	800.04(4)(b)	2nd		Lewd or lascivious battery.
1128				

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	800.04(4)(c)	1st		Lewd or lascivious battery; offender 18 years of age or older; prior conviction for specified sex offense.
1129	806.01(1)	1st		Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
1130	810.02(2)(a)	1st,PBL		Burglary with assault or battery.
1131	810.02(2)(b)	1st,PBL		Burglary; armed with explosives or dangerous weapon.
1132	810.02(2)(c)	1st		Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage.
1133	812.014(2)(a)2.	1st		Property stolen; cargo valued at \$50,000 or more, grand theft in 1st degree.

1134	4-00492B-17		2017476__	
	812.13(2)(b)	1st	Robbery with a weapon.	
1135	812.135(2)(c)	1st	Home-invasion robbery, no firearm, deadly weapon, or other weapon.	
1136	817.535(2)(b)	2nd	Filing false lien or other unauthorized document; second or subsequent offense.	
1137	817.535(3)(a)	2nd	Filing false lien or other unauthorized document; property owner is a public officer or employee.	
1138	817.535(4)(a)1.	2nd	Filing false lien or other unauthorized document; defendant is incarcerated or under supervision.	
1139	817.535(5)(a)	2nd	Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the	

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	4-00492B-17		2017476__	false instrument.
1140	817.568(6)	2nd	Fraudulent use of personal identification information of an individual under the age of 18.	
1141	817.611(2)(c)	1st	Traffic in or possess 50 or more counterfeit credit cards or related documents.	
1142	825.102(2)	1st	Aggravated abuse of an elderly person or disabled adult.	
1143	825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.	
1144	825.103(3)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at \$50,000 or more.	
1145	837.02(2)	2nd	Perjury in official proceedings relating to prosecution of a capital	

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			felony.
1146	837.021(2)	2nd	Making contradictory statements in official proceedings relating to prosecution of a capital felony.
1147	860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
1148	860.16	1st	Aircraft piracy.
1149	893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
1150	893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
1151	893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s.

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			893.03(1)(a) or (b).
1152	893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
1153	893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
1154	893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
1155	893.135 (1)(c)2.c.	1st	Trafficking in hydrocodone, 50 grams or more, less than 200 grams.
1156	893.135 (1)(c)3.c.	1st	Trafficking in oxycodone, 25 grams or more, less than 100 grams.
1157	893.135 (1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
1158			

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	893.135	1st	Trafficking in
	(1) (e) 1.b.		methaqualone, more than 5 kilograms, less than 25 kilograms.
1159			
	893.135	1st	Trafficking in
	(1) (f) 1.b.		amphetamine, more than 28 grams, less than 200 grams.
1160			
	893.135	1st	Trafficking in
	(1) (g) 1.b.		flunitrazepam, 14 grams or more, less than 28 grams.
1161			
	893.135	1st	Trafficking in gamma-
	(1) (h) 1.b.		hydroxybutyric acid (GHB), 5 kilograms or more, less than 10 kilograms.
1162			
	893.135	1st	Trafficking in 1,4-
	(1) (j) 1.b.		Butanediol, 5 kilograms or more, less than 10 kilograms.
1163			
	893.135	1st	Trafficking in
	(1) (k) 2.b.		Phenethylamines, 200 grams or more, less than

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			400 grams.
1164			
	893.1351 (3)	1st	Possession of a place used to manufacture controlled substance when minor is present or resides there.
1165			
	895.03 (1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
1166			
	895.03 (2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
1167			
	895.03 (3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
1168			
	896.101 (5) (b)	2nd	Money laundering, financial transactions totaling or exceeding \$20,000, but less than \$100,000.

1169	4-00492B-17		2017476__
1170	896.104(4)(a)2.	2nd	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$20,000 but less than \$100,000.
1171	(i) LEVEL 9		
1172	Florida Statute	Felony Degree	Description
1173	316.193(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
1174	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
1175	409.920(2)(b)1.c.	1st	Medicaid provider fraud; \$50,000 or more.
1176	499.0051(8)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily

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1177	560.123(8)(b)3.	1st	harm. Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
1178	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
1179	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
1180	775.0844	1st	Aggravated white collar crime.
1181	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
1182	782.04(3)	1st,PBL	Accomplice to murder in

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 connection with arson,
 sexual battery, robbery,
 burglary, aggravated
 fleeing or eluding with
 serious bodily injury or
 death, and other
 specified felonies.

1183 782.051(1) 1st Attempted felony murder
 while perpetrating or
 attempting to perpetrate
 a felony enumerated in s.
 782.04(3).

1184 782.07(2) 1st Aggravated manslaughter
 of an elderly person or
 disabled adult.

1185 787.01(1)(a)1. 1st,PBL Kidnapping; hold for
 ransom or reward or as a
 shield or hostage.

1186 787.01(1)(a)2. 1st,PBL Kidnapping with intent to
 commit or facilitate
 commission of any felony.

1187 787.01(1)(a)4. 1st,PBL Kidnapping with intent to
 interfere with
 performance of any

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 governmental or political
 function.

1188 787.02(3)(a) 1st,PBL False imprisonment; child
 under age 13; perpetrator
 also commits aggravated
 child abuse, sexual
 battery, or lewd or
 lascivious battery,
 molestation, conduct, or
 exhibition.

1189 787.06(3)(c)1. 1st Human trafficking for
 labor and services of an
 unauthorized alien child.

1190 787.06(3)(d) 1st Human trafficking using
 coercion for commercial
 sexual activity of an
 unauthorized adult alien.

1191 787.06(3)(f)1. 1st,PBL Human trafficking for
 commercial sexual
 activity by the transfer
 or transport of any child
 from outside Florida to
 within the state.

1192 790.161 1st Attempted capital

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1193	790.166(2)	1st,PBL			Possessing, selling, using, or attempting to use a weapon of mass destruction.
1194	794.011(2)	1st			Attempted sexual battery; victim less than 12 years of age.
1195	794.011(2)	Life			Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
1196	794.011(4)(a)	1st,PBL			Sexual battery, certain circumstances; victim 12 years of age or older but younger than 18 years; offender 18 years or older.
1197	794.011(4)(b)	1st			Sexual battery, certain circumstances; victim and offender 18 years of age or older.

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1198	794.011(4)(c)	1st			Sexual battery, certain circumstances; victim 12 years of age or older; offender younger than 18 years.
1199	794.011(4)(d)	1st,PBL			Sexual battery, certain circumstances; victim 12 years of age or older; prior conviction for specified sex offenses.
1200	794.011(8)(b)	1st,PBL			Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
1201	794.08(2)	1st			Female genital mutilation; victim younger than 18 years of age.
1202	800.04(5)(b)	Life			Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
1203					

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1204	812.13(2)(a)	1st, PBL	Robbery with firearm or other deadly weapon.
	812.133(2)(a)	1st, PBL	Carjacking; firearm or other deadly weapon.
1205	812.135(2)(b)	1st	Home-invasion robbery with weapon.
1206	817.535(3)(b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; property owner is a public officer or employee.
1207	817.535(4)(a)2.	1st	Filing false claim or other unauthorized document; defendant is incarcerated or under supervision.
1208	817.535(5)(b)	1st	Filing false lien or other unauthorized document; second or subsequent offense; owner of the property incurs financial loss as a

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			result of the false instrument.
1209	817.568(7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.
1210	827.03(2)(a)	1st	Aggravated child abuse.
1211	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
1212	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
1213	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.

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1214 893.135 1st Attempted capital
trafficking offense.

1215 893.135(1)(a)3. 1st Trafficking in cannabis,
more than 10,000 lbs.

1216 893.135 1st Trafficking in cocaine,
(1)(b)1.c. more than 400 grams, less
than 150 kilograms.

1217 893.135 1st Trafficking in illegal
(1)(c)1.c. drugs, more than 28
grams, less than 30
kilograms.

1218 893.135 1st Trafficking in
(1)(c)2.d. hydrocodone, 200 grams or
more, less than 30
kilograms.

1219 893.135 1st Trafficking in oxycodone,
(1)(c)3.d. 100 grams or more, less
than 30 kilograms.

1220 893.135 1st Trafficking in
(1)(d)1.c. phencyclidine, more than
400 grams.

1221

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893.135 1st Trafficking in
(1)(e)1.c. methaqualone, more than
25 kilograms.

1222 893.135 1st Trafficking in
(1)(f)1.c. amphetamine, more than
200 grams.

1223 893.135 1st Trafficking in gamma-
(1)(h)1.c. hydroxybutyric acid
(GHB), 10 kilograms or
more.

1224 893.135 1st Trafficking in 1,4-
(1)(j)1.c. Butanediol, 10 kilograms
or more.

1225 893.135 1st Trafficking in
(1)(k)2.c. Phenethylamines, 400
grams or more.

1226 896.101(5)(c) 1st Money laundering,
financial instruments
totaling or exceeding
\$100,000.

1227 896.104(4)(a)3. 1st Structuring transactions
to evade reporting or
registration

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requirements, financial
transactions totaling or
exceeding \$100,000.

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Section 27. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in a reference thereto, subsection (1) of section 921.16, Florida Statutes, is reenacted to read:

921.16 When sentences to be concurrent and when consecutive.—

(1) A defendant convicted of two or more offenses charged in the same indictment, information, or affidavit or in consolidated indictments, informations, or affidavits shall serve the sentences of imprisonment concurrently unless the court directs that two or more of the sentences be served consecutively. Sentences of imprisonment for offenses not charged in the same indictment, information, or affidavit shall be served consecutively unless the court directs that two or more of the sentences be served concurrently. Any sentence for sexual battery as defined in chapter 794 or murder as defined in s. 782.04 must be imposed consecutively to any other sentence for sexual battery or murder which arose out of a separate criminal episode or transaction.

Section 28. For the purpose of incorporating the amendment made by this act to section 782.04, Florida Statutes, in a reference thereto, paragraph (i) of subsection (3) of section 947.146, Florida Statutes, is reenacted to read:

947.146 Control Release Authority.—

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1254 (3) Within 120 days prior to the date the state
1255 correctional system is projected pursuant to s. 216.136 to
1256 exceed 99 percent of total capacity, the authority shall
1257 determine eligibility for and establish a control release date
1258 for an appropriate number of parole ineligible inmates committed
1259 to the department and incarcerated within the state who have
1260 been determined by the authority to be eligible for
1261 discretionary early release pursuant to this section. In
1262 establishing control release dates, it is the intent of the
1263 Legislature that the authority prioritize consideration of
1264 eligible inmates closest to their tentative release date. The
1265 authority shall rely upon commitment data on the offender
1266 information system maintained by the department to initially
1267 identify inmates who are to be reviewed for control release
1268 consideration. The authority may use a method of objective risk
1269 assessment in determining if an eligible inmate should be
1270 released. Such assessment shall be a part of the department's
1271 management information system. However, the authority shall have
1272 sole responsibility for determining control release eligibility,
1273 establishing a control release date, and effectuating the
1274 release of a sufficient number of inmates to maintain the inmate
1275 population between 99 percent and 100 percent of total capacity.
1276 Inmates who are ineligible for control release are inmates who
1277 are parole eligible or inmates who:

1278 (i) Are convicted, or have been previously convicted, of
1279 committing or attempting to commit murder in the first, second,
1280 or third degree under s. 782.04(1), (2), (3), or (4), or have
1281 ever been convicted of any degree of murder or attempted murder
1282 in another jurisdiction;

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1283
1284 In making control release eligibility determinations under this
1285 subsection, the authority may rely on any document leading to or
1286 generated during the course of the criminal proceedings,
1287 including, but not limited to, any presentence or postsentence
1288 investigation or any information contained in arrest reports
1289 relating to circumstances of the offense.

1290 Section 29. For the purpose of incorporating the amendment
1291 made by this act to section 782.04, Florida Statutes, in a
1292 reference thereto, paragraph (c) of subsection (8) of section
1293 948.06, Florida Statutes, is reenacted to read:

1294 948.06 Violation of probation or community control;
1295 revocation; modification; continuance; failure to pay
1296 restitution or cost of supervision.—

1297 (8)

1298 (c) For purposes of this section, the term "qualifying
1299 offense" means any of the following:

1300 1. Kidnapping or attempted kidnapping under s. 787.01,
1301 false imprisonment of a child under the age of 13 under s.
1302 787.02(3), or luring or enticing a child under s. 787.025(2) (b)
1303 or (c).

1304 2. Murder or attempted murder under s. 782.04, attempted
1305 felony murder under s. 782.051, or manslaughter under s. 782.07.

1306 3. Aggravated battery or attempted aggravated battery under
1307 s. 784.045.

1308 4. Sexual battery or attempted sexual battery under s.
1309 794.011(2), (3), (4), or (8)(b) or (c).

1310 5. Lewd or lascivious battery or attempted lewd or
1311 lascivious battery under s. 800.04(4), lewd or lascivious

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1312 molestation under s. 800.04(5) (b) or (c)2., lewd or lascivious
1313 conduct under s. 800.04(6) (b), lewd or lascivious exhibition
1314 under s. 800.04(7) (b), or lewd or lascivious exhibition on
1315 computer under s. 847.0135(5) (b).

1316 6. Robbery or attempted robbery under s. 812.13, carjacking
1317 or attempted carjacking under s. 812.133, or home invasion
1318 robbery or attempted home invasion robbery under s. 812.135.

1319 7. Lewd or lascivious offense upon or in the presence of an
1320 elderly or disabled person or attempted lewd or lascivious
1321 offense upon or in the presence of an elderly or disabled person
1322 under s. 825.1025.

1323 8. Sexual performance by a child or attempted sexual
1324 performance by a child under s. 827.071.

1325 9. Computer pornography under s. 847.0135(2) or (3),
1326 transmission of child pornography under s. 847.0137, or selling
1327 or buying of minors under s. 847.0145.

1328 10. Poisoning food or water under s. 859.01.

1329 11. Abuse of a dead human body under s. 872.06.

1330 12. Any burglary offense or attempted burglary offense that
1331 is either a first degree felony or second degree felony under s.
1332 810.02(2) or (3).

1333 13. Arson or attempted arson under s. 806.01(1).

1334 14. Aggravated assault under s. 784.021.

1335 15. Aggravated stalking under s. 784.048(3), (4), (5), or
1336 (7).

1337 16. Aircraft piracy under s. 860.16.

1338 17. Unlawful throwing, placing, or discharging of a
1339 destructive device or bomb under s. 790.161(2), (3), or (4).

1340 18. Treason under s. 876.32.

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1341 19. Any offense committed in another jurisdiction which
 1342 would be an offense listed in this paragraph if that offense had
 1343 been committed in this state.

1344 Section 30. For the purpose of incorporating the amendment
 1345 made by this act to section 782.04, Florida Statutes, in a
 1346 reference thereto, subsection (1) of section 948.062, Florida
 1347 Statutes, is reenacted to read:

1348 948.062 Reviewing and reporting serious offenses committed
 1349 by offenders placed on probation or community control.—

1350 (1) The department shall review the circumstances related
 1351 to an offender placed on probation or community control who has
 1352 been arrested while on supervision for the following offenses:

1353 (a) Any murder as provided in s. 782.04;

1354 (b) Any sexual battery as provided in s. 794.011 or s.
 1355 794.023;

1356 (c) Any sexual performance by a child as provided in s.
 1357 827.071;

1358 (d) Any kidnapping, false imprisonment, or luring of a
 1359 child as provided in s. 787.01, s. 787.02, or s. 787.025;

1360 (e) Any lewd and lascivious battery or lewd and lascivious
 1361 molestation as provided in s. 800.04(4) or (5);

1362 (f) Any aggravated child abuse as provided in s.
 1363 827.03(2) (a);

1364 (g) Any robbery with a firearm or other deadly weapon, home
 1365 invasion robbery, or carjacking as provided in s. 812.13(2) (a),
 1366 s. 812.135, or s. 812.133;

1367 (h) Any aggravated stalking as provided in s. 784.048(3),
 1368 (4), or (5);

1369 (i) Any forcible felony as provided in s. 776.08, committed

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1370 by a person on probation or community control who is designated
 1371 as a sexual predator; or

1372 (j) Any DUI manslaughter as provided in s. 316.193(3) (c),
 1373 or vehicular or vessel homicide as provided in s. 782.071 or s.
 1374 782.072, committed by a person who is on probation or community
 1375 control for an offense involving death or injury resulting from
 1376 a driving incident.

1377 Section 31. For the purpose of incorporating the amendment
 1378 made by this act to section 782.04, Florida Statutes, in a
 1379 reference thereto, paragraph (b) of subsection (3) of section
 1380 985.265, Florida Statutes, is reenacted to read:

1381 985.265 Detention transfer and release; education; adult
 1382 jails.—

1383 (3)

1384 (b) When a juvenile is released from secure detention or
 1385 transferred to nonsecure detention, detention staff shall
 1386 immediately notify the appropriate law enforcement agency,
 1387 school personnel, and victim if the juvenile is charged with
 1388 committing any of the following offenses or attempting to commit
 1389 any of the following offenses:

1390 1. Murder, under s. 782.04;

1391 2. Sexual battery, under chapter 794;

1392 3. Stalking, under s. 784.048; or

1393 4. Domestic violence, as defined in s. 741.28.

1394 Section 32. For the purpose of incorporating the amendment
 1395 made by this act to section 782.04, Florida Statutes, in a
 1396 reference thereto, paragraph (d) of subsection (1) of section
 1397 1012.315, Florida Statutes, is reenacted to read:

1398 1012.315 Disqualification from employment.—A person is

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1399 ineligible for educator certification, and instructional
 1400 personnel and school administrators, as defined in s. 1012.01,
 1401 are ineligible for employment in any position that requires
 1402 direct contact with students in a district school system,
 1403 charter school, or private school that accepts scholarship
 1404 students under s. 1002.39 or s. 1002.395, if the person,
 1405 instructional personnel, or school administrator has been
 1406 convicted of:

1407 (1) Any felony offense prohibited under any of the
 1408 following statutes:

1409 (d) Section 782.04, relating to murder.

1410 Section 33. For the purpose of incorporating the amendments
 1411 made by this act to sections 775.30 and 782.04, Florida
 1412 Statutes, in a reference thereto, paragraph (g) of subsection
 1413 (2) of section 1012.467, Florida Statutes, is reenacted to read:

1414 1012.467 Noninstructional contractors who are permitted
 1415 access to school grounds when students are present; background
 1416 screening requirements.—

1417 (2)

1418 (g) A noninstructional contractor for whom a criminal
 1419 history check is required under this section may not have been
 1420 convicted of any of the following offenses designated in the
 1421 Florida Statutes, any similar offense in another jurisdiction,
 1422 or any similar offense committed in this state which has been
 1423 redesignated from a former provision of the Florida Statutes to
 1424 one of the following offenses:

1425 1. Any offense listed in s. 943.0435(1)(h)1., relating to
 1426 the registration of an individual as a sexual offender.

1427 2. Section 393.135, relating to sexual misconduct with

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1428 certain developmentally disabled clients and the reporting of
 1429 such sexual misconduct.

1430 3. Section 394.4593, relating to sexual misconduct with
 1431 certain mental health patients and the reporting of such sexual
 1432 misconduct.

1433 4. Section 775.30, relating to terrorism.

1434 5. Section 782.04, relating to murder.

1435 6. Section 787.01, relating to kidnapping.

1436 7. Any offense under chapter 800, relating to lewdness and
 1437 indecent exposure.

1438 8. Section 826.04, relating to incest.

1439 9. Section 827.03, relating to child abuse, aggravated
 1440 child abuse, or neglect of a child.

1441 Section 34. 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)

4.3.17

Meeting Date

476

Bill Number (if applicable)

Topic TERRORISM

Amendment Barcode (if applicable)

Name JASON JONES

Job Title GENERAL COUNSEL

Address 2331 PHILLIPS ROAD
Street

Phone 850.410.7001

TALL FL 32308
City State Zip

Email JASON.JONES@FDLG.STATE.FL.US

Speaking: For Against Information

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

Representing FDLE

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)

April 3, 2017
Meeting Date

SB 476
Bill Number (if applicable)

Topic Terrorism + Terrorist Activities

Amendment Barcode (if applicable)

Name Bernadette Howard

Job Title Government Affairs Coordinator

Address 2634 Mitcham Dr
Street

Phone 850-219-3631

Tallahassee FL 32308
City State Zip

Email bhoward@fpca.com

Speaking: For Against Information

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

Representing The Florida Police Chiefs Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 Apr 17

Meeting Date

476

Bill Number (if applicable)

Topic Terrorism

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe
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

Committee Agenda Request

To: Senator Randolph Bracy, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 20, 2017



I respectfully request that **Senate Bill # 476**, relating to Terrorism and Terrorist Activities, be placed on the:

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

A handwritten signature in blue ink that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 684

INTRODUCER: Criminal Justice Committee and Senator Baxley

SUBJECT: Internet Identifiers

DATE: April 4, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 684 revises provisions requiring registered sexual predators and sexual offenders to report Internet identifiers. These revisions include modifying the definition of the term “Internet identifier” and defining the connected terms “social Internet communication” and “application software.” A recent Florida federal court found that the current definition of “Internet identifier” is overbroad and vague and requires an individual to either forego protected speech or run the risk of criminal prosecution.

The bill also requires a sexual predator and sexual offender to report each Internet identifier’s corresponding website homepage or application software name. The bill also expands third degree felony offenses involving failure to report certain information to include failure to report each Internet identifier’s corresponding website homepage or application software name.

The Criminal Justice Impact Conference estimated that the original bill would have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds). Nominal changes to the original bill, which do not relate to penalties, should not change this estimate. See Section V. Fiscal Impact.

II. Present Situation:

Registration of Sexual Predators and Sexual Offenders

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender. The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. The laws span several different chapters and numerous statutes,¹ and are implemented through the combined efforts of the Florida Department of Law Enforcement (FDLE), all Florida sheriffs, the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), the Department of Highway Safety and Motor Vehicles (DHSMV), and the Department of Children and Families (DCF).

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

- Has been convicted of a current qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;²
- Has been convicted of a current qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.³

A person is classified as a sexual offender if the person:

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997 (the date the modern registry became effective) from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the person was 14 years of age or older.⁴

¹ Sections 775.21-775.25, 943.043-943.0437, 944.606-944.607, and 985.481-985.4815, F.S.

² Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

³ Section s. 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

⁴ Sections 943.0435(1)(h) and 985.4815(1)(h), F.S. Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the supervision of the Department of Corrections, also define the term "sexual offender."

Sexual predators and sexual offenders are required to report certain information, including electronic mail addresses⁵ and Internet identifiers.⁶ The FDLE may provide information relating to electronic mail addresses and Internet identifiers maintained as part of the sexual offender registry to commercial social networking websites⁷ or third parties designated by commercial social networking websites.⁸ The commercial social networking website may use this information for the purpose of comparing registered users and screening potential users of the commercial social networking website against the list of electronic mail addresses and Internet identifiers provided by the FDLE.⁹

Requirements for in-person registration and reregistration are similar for sexual predators and sexual offenders,¹⁰ but the frequency of reregistration may differ.¹¹ Registration requirements may also differ based on a special status, e.g., the sexual predator or sexual offender is in the DOC's control or custody, under DOC or DJJ supervision, or in residential commitment under the DJJ.¹²

The FDLE, through its agency website, provides a searchable database that contains information about sexual predators and sexual offenders.¹³ Further, local law enforcement agencies provide access to this information, typically through a link to the state public registry webpage.

Florida's registry laws meet minimum requirements of the federal Sex Offender Registration and Notification Act (SORNA), which is Title I of the Adam Walsh Protection and Safety Act of

⁵ An "electronic mail address" is defined in s. 775.21(2)(g), F.S., as having the same meaning as provided in s. 668.602, F.S. Section 668.602(6), F.S., defines an "electronic mail address" as a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

⁶ Requirements to report electronic mail addresses and Internet identifiers and changes in this information are in: s. 775.21(6)(a), (e), and (g) and (8), F.S.; s. 943.0435(2)(a), (4)(e), and (14)(c), F.S.; s. 944.607(4)(a) and (13)(c), F.S.; and s. 985.4815(4)(a) and (13)(b), F.S.

⁷ For purpose of s. 943.0437, F.S., the term "commercial social networking website" means a commercially operated Internet website that allows users to create web pages or profiles that provide information about themselves and are available publicly or to other users and that offers a mechanism for communication with other users, such as a forum, chat room, electronic mail, or instant messenger. Section 943.0437(1), F.S.

⁸ Section 943.0437(2), F.S.

⁹ *Id.*

¹⁰ Sexual predator reporting requirements are in s. 775.21(6) and (8), F.S. Sexual offender reporting requirements are in ss. 943.0435(2-4), (7-8), and (14), 944.607(4), (9), and (13), and 985.4815(4), (9), and (13), F.S.

¹¹ A sexual predator is required to reregister each year during the month of the predator's birthday and during every third month thereafter. Section 775.21(8), F.S. A sexual offender convicted of any listed offense in s. 943.0435(14)(b), F.S., must reregister in the same manner as a sexual predator. Any other sex offender must reregister each year during the month of the offender's birthday and during the sixth month following the offender's birth month. Section 943.0435(14)(a), F.S.

¹² See footnote 10.

¹³ The FDLE is the central repository for registration information. The department also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. "About Us" (updated October 1, 2016), Florida Department of Law Enforcement, *available at* <http://offender.fdle.state.fl.us/offender/About.jsp> (last visited on March 13, 2017). The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at a institute of higher education. Members of the public may also check whether an electronic mail address or Internet identifier belongs to a registered sexual offender or sexual predator. Offender searches and other information may be accessed from "Florida Sexual Offenders and Predators," Florida Department of Law Enforcement, *available at* <http://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on March 13, 2017).

2006 (AWA).¹⁴ The SORNA attempts to make all states' laws uniform with respect to requirements (or minimum standards) that Congress judged to be necessary to be included in states' registry laws. The U.S. Department of Justice (DOJ) maintains the Dru Sjodin National Sex Offender Public Website (NSOPW).¹⁵ States may choose not to substantially implement the SORNA, but the AWA penalizes noncompliance by partially reducing Byrne Justice Assistance Grant funding.¹⁶ The DOJ has determined that Florida has substantially implemented the SORNA.¹⁷

Preliminary Injunction Precluding Enforcement of the Current Definition of Internet Identifier

As previously noted, sexual predators and sexual offenders are required to report certain information, including Internet identifiers. The requirement to report Internet identifiers was created by the Legislature in 2014.¹⁸ In 2016, the Legislature modified the original definition of "Internet identifier."¹⁹ This modified definition, which was to take effect on October 1, 2016,²⁰ expanded the original definition to include Internet identifiers associated with a website or URL²¹ or software applications.

Section 775.21(2)(j), F.S., provides that an "Internet identifier" includes, but is not limited to, all website uniform resource locators (URLs) and application software, whether mobile or nonmobile, used for Internet communication, including anonymous communication, through electronic mail, chat, instant messages, social networking, social gaming, or other similar programs and all corresponding usernames, logins, screen names, and screen identifiers associated with each URL or application software. Internet identifier does not include a date of birth, Social Security number, personal identification number (PIN), URL, or application

¹⁴ 42 U.S.C. Sections 16911 *et seq.* The Department of Justice issued guidelines for the implementation of the SORNA. The final guidelines (July 2008) and supplemental guidelines (January 11, 2011) may be accessed at "Guidelines," Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), Office of Justice Programs, U.S. Department of Justice, available at <https://ojp.gov/smart/guidelines.htm> (last visited on March 13, 2017).

¹⁵ Offender searches and other information may be accessed from "NSPOW," Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), Office of Justice Programs, U.S. Department of Justice, available at <http://www.nsopw.gov/Core/Portal.aspx> (last visited on March 13, 2017).

¹⁶ *Edward Byrne Justice Assistance Grant (JAG) Program Fact Sheet*, Bureau of Justice Assistance, U.S. Department of Justice (updated January 1, 2016) available at <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=266685> (last visited on March 13, 2017).

¹⁷ "Jurisdictions that have substantially implemented SORNA," Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), Office of Justice Programs, U.S. Department of Justice, available at http://www.ojp.usdoj.gov/smart/newsroom_jurisdictions_sorna.htm (last visited on March 13, 2017).

¹⁸ Chapter 2014-5, L.O.F.

¹⁹ Chapter 2016-104, L.O.F. (amending s. 775.21(2)(i), F.S., and renumbering it as s. 775.21(2)(j), F.S.). The original definition of "Internet identifier" was all electronic mail, chat, instant messenger, social networking, application software, or similar names used for Internet communication, but did not include a date of birth, social security number, or personal identification number (PIN). Voluntary disclosure by a sexual predator of his or her date of birth, social security number, or PIN as an Internet identifier waived the disclosure exemption in this paragraph for such personal information. Section 775.21(2)(i), F.S. (2014).

²⁰ *Id.*

²¹ "URL stands for Uniform Resource Locator, and is used to specify addresses on the World Wide Web. A URL is the fundamental network identification for any resource connected to the web (e.g., hypertext pages, images, and sound files)." "ARCHIVED: What is a URL?", Indiana University Information Technology Knowledge Base Repository, available at <https://kb.iu.edu/d/adnz> (last visited on March 14, 2017).

software used for utility, banking, retail, or medical purposes. Voluntary disclosure by a sexual predator or sexual offender of his or her date of birth, Social Security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information.²²

Shortly before the amended definition of “Internet identifier” was slated to take effect, a group of plaintiffs in Florida who had been convicted as sexual offenders filed a lawsuit against the Commissioner of the FDLE in the United States District Court for the Northern District of Florida, Tallahassee Division.²³ The plaintiffs argued that the prior and amended definition of “Internet identifier” violated the First Amendment and raised a vagueness challenge. The plaintiffs also moved for a preliminary injunction, which the court treated as a challenge only to the amended definition.

The court found the current definition is “hopelessly vague, chills speech protected by the First Amendment, and is far broader than necessary to serve the state’s legitimate interest in deterring or solving online sex crimes.” The court granted the preliminary injunction.

The court stated the definition “sets no outer limit, because the term is expressly ‘not limited to’ what the definition says. Having jettisoned the ordinary understanding and replaced it with an expressly unlimited description, the definition leaves a sex offender guessing at what must be disclosed.” The court also stated that the definition, “at least on many plausible readings, is hopelessly and unnecessarily broad in scope.” One of the examples the court cited in its finding was Mr. Doe’s digital subscription to a newspaper. Mr. Doe receives an e-mail every morning with the day’s headlines and e-mails every day with additional articles or breaking news. The court continued:

He plainly must register at least the URL for the newspaper, if not the URL for every article the newspaper sends. But the State has absolutely no legitimate interest in requiring a sex offender to register the URL of the newspaper or articles the offender reads. And if Mr. Doe chooses one day to make a comment on an article, he must now figure out whether the same URL is in use, and he must make his identity available to the public. Unlike every other subscriber or member of the public, Mr. Doe cannot comment anonymously. *See White v. Baker*, 696 F. Supp. 2d 1289, 1313 (N.D. Ga. 2010) (holding that enforcement of a registration requirement would irreparably harm a registered sex offender “by chilling his First Amendment right to engage in anonymous free speech”).

The order states that the preliminary injunction remains in effect until entry of a final judgment in the case or until otherwise ordered. The injunction prohibits the FDLE Commissioner²⁴ from

²² Sections 943.0435(1)(e), 944.607, and 985.4815, F.S., provide that “Internet identifier” has the same meaning as provided in s. 775.21, F.S.

²³ The plaintiffs filed this action against current FDLE Commissioner Richard “Rick” L. Swearingen in his official capacity. Preliminary Injunction, *Doe I et al. v. Swearingen, etc.*, Case No. 4:16-00501-RH-CAS (N.D. Fla. Sept. 27, 2016) (on file with the Senate Committee on Criminal Justice). All information regarding this case is from this source.

²⁴ The injunction also binds the Commissioner’s “officers, agents, servants, employees, and attorneys - and others in active concert or participation with any of them - who receive actual notice of this injunction by personal service or otherwise.”

taking any action based on the current definition of “Internet identifier.” However, the injunction does not preclude enforcement of the prior definition.

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 775.21, F.S., relating to sexual predator registration. The bill modifies the definition of “Internet identifier” in s. 775.21(2)(j), F.S. “Internet identifier” means any designation, moniker, screen name, username, or other name used for self-identification to send or receive social Internet communication. Internet identifier does not include a date of birth, social security number, personal identification number (PIN), or password. A sexual offender’s or sexual predator’s use of an Internet identifier that discloses his or her date of birth, social security number, PIN, password, or other information that would reveal the identity of the sexual offender or sexual predator waives the described disclosure exemption described in this paragraph and in s. 119.071(5)(l), F.S.²⁵

Connected to the definition of “Internet identifier,” s. 775.21(2)(m), F.S., is created, which defines “social Internet communication” as any communication through a commercial social networking website, as defined in s. 943.0437, F.S., or application software. The term does not include any of the following:

- Communication for which the primary purpose is the facilitation of commercial transactions involving goods or services;
- Communication on an Internet website for which the primary purpose of the website is the dissemination of news; or
- Communication with a governmental entity.

For purposes of paragraph (2)(m), the term “application software” is defined as any computer program that is designed to run on a mobile device such as a smartphone or tablet computer, that allows users to create web pages or profiles that provide information about themselves and are available publicly or to other users, and that offers a mechanism for communication with other users through a forum, a chatroom, electronic mail, or an instant messenger.

The following provisions of s. 775.21, F.S. are amended or created to require a sexual predator to report each Internet identifier’s corresponding website homepage or application software name:

- Section 775.21(6)(a)1., F.S., relating to information a sexual predator is required to report at initial registration.
- Section 775.21(6)(a)1.a., F.S., which is created by the bill, provides that any change to the following that occurs after the sexual predator initially registers must be reported as provided in s. 775.21(6)(g), (i), and (j), F.S.: permanent, temporary, or transient residence; name; electronic mail addresses; Internet identifiers and each Internet identifier’s corresponding website homepage or application software name; home and cellular telephone numbers; and employment information; and status at an institution of higher education.²⁶

²⁵ A connected bill, SB 686 (2017), creates s. 119.071(5)(l), F.S., which exempts from public disclosure electronic mail addresses and Internet identifiers of sexual predators and sexual offenders which they report pursuant to specified registration statutes, unless otherwise ordered by a court.

²⁶ Excluding changes to Internet identifier’s corresponding website homepage or application software name, changes to all of the other noted information are already reported under current s. 775.21(6)(g), (i), or (j), F.S.

- Section 775.21(6)(e)2., F.S., which requires a sexual predator who is not in the custody or under the supervision of the DOC to report changes in certain information.
- Section 775.21(6)(g)5.a., F.S., which requires a sexual predator to report certain information to: the FDLE through the department's online system or in person with the sheriff's office; or the Department of Corrections or Department of Juvenile Justice, if the sexual predator is in custody or under the supervision of either department. The bill also modifies the current requirement for a sexual predator who is not under custody or supervision to register all electronic mail addresses and Internet identifiers before using them. Under the bill, this sexual predator must register them within 48 hours after using them.
- Section 775.21(6)(g)5.c., F.S., which specifies that FDLE's online system may be accessed by a sexual predator to report changes in certain information.
- Section 775.21(8)(a)1., F.S., which requires a sexual predator at reregistration to report any changes in certain information.

Currently, s. 775.21(6)(k), F.S., provides that the FDLE's sexual predator list, which contains information a sexual predator registers (pursuant to s. 775.21(6)(a)1., F.S.), is a public record. The bill specifies that this information is a public record, unless otherwise made exempt or confidential and exempt from public disclosure.

Section 775.21(10)(a), F.S., which provides that it is a third degree felony for a sexual predator to fail to report certain information, is expanded to include the failure to report each Internet identifier's corresponding website homepage or application software name.

Section 1 of the bill also makes several technical or conforming changes.

Section 2 of the bill amends s. 943.0435, F.S., relating to sexual offender registration. The following provisions of s. 943.0435, F.S., are amended to require a sexual offender to report each Internet identifier's corresponding website homepage or application software name:

- Section 943.0435(2)(a) and (b), F.S., relating to information a sexual offender is required to report at initial registration and changes to that information after initial registration.
- Section 943.0435(4)(e)1., F.S., which requires a sexual offender to report certain information to the FDLE through the department's online system or in person with the sheriff's office; or the Department of Corrections or Department of Juvenile Justice, if the sexual offender is in custody or under the supervision of either department. The bill also modifies the current requirement for a sexual offender who is not under custody or supervision to register all electronic mail addresses and Internet identifiers before using them. Under the bill, this sexual offender must register them within 48 hours after using them.
- Section 943.0435(4)(e)3., F.S., which specifies that FDLE's online system may be accessed by a sexual offender to report changes in certain information.
- Section 943.0435(14)(c)1., F.S., which requires a sexual offender at reregistration to report any changes in certain information.

Section 943.0435(14)(c)4., F.S., which provides that it is a third degree felony for a sexual offender to fail to report certain information, is expanded to include the failure to report each Internet identifier's corresponding website homepage or application software name.

Section 2 of the bill also makes several technical or conforming changes.

Sections 3-14 of the bill reenact, respectively, ss. 794.056, 921.0022, 938.085, 943.0437, 944.606, 944.607, 985.481, and 985.4815, F.S., for the purpose of incorporating amendments to ss. 775.21 and 943.0435, F.S., made by the bill.

Section 15 of the bill provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference estimated that the original bill would have a “positive indeterminate” prison bed impact (an unquantifiable increase in prison beds).²⁷ Nominal changes to the original bill, which do not relate to penalties, should not change this estimate.

The CJIC states that, per the Department of Corrections, in FY 2015-2016, there were 1,001 (adjusted)²⁸ offenders sentenced for registration/false information offenses relating to sexual offenders and sexual predators, with 503 (adjusted) of these offenders sentenced to prison (mean sentence length of 40.2 months and an incarceration rate of 60.5 percent

²⁷ Impact information was provided by staff of the Office of Economic and Demographic Research on March 6, 2017, via e-mail (on file with the Senate Committee on Criminal Justice).

²⁸ Sentencing data from the DOC is incomplete, which means that the numbers the EDR receives are potentially lower than what the actual numbers are. The EDR adjusts these numbers by the percentage of scoresheets received for the applicable fiscal year.

adjusted and 60.4 percent unadjusted). It is unknown how many additional offenders might be added due to proposed changes made by the bill.

The FDLE states that Internet identifiers are to be reported as part of the sexual offender or sexual predator registration requirements pursuant to the federal Sex Offender Registration and Notification Act (SORNA), which is Title I of the Adam Walsh Protection and Safety Act of 2006, and SORNA guidelines. According to the FDLE, failure to comply with the guideline requirements could result in a 10 percent reduction of funding provided under the Edward Byrne Justice Assistance Grant (JAG) Program.²⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

A connected bill, CS/SB 686 (2017), creates s. 119.071(5)(1), F.S., which exempts from public disclosure electronic mail addresses and Internet identifiers of sexual predators and sexual offenders which they report pursuant to specified registration statutes, unless otherwise ordered by a court.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 775.21 and 943.0435.

This bill also reenacts ss. 794.056, 921.0022, 938.085, 943.0437, 944.606, 944.607, 985.481, and 985.4815, F.S., for the purpose of incorporating amendments to ss. 775.21 and 943.0435, F.S., made by the bill.

IX. Additional Information:

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

CS by Criminal Justice on April 3, 2017:

The committee substitute:

- Redefines “social Internet communication” and defines “application software.”
- Provides that the FDLE’s sexual predator list, which contains information a sexual predator registers (pursuant to s. 775.21(6)(a)1., F.S.), is a public record, unless otherwise made exempt or confidential and exempt from public disclosure.

²⁹ 2017 FDLE Legislative Bill Analysis (SB 684) (February 9, 2017), Florida Department of Law Enforcement (on file with the Senate Committee on Criminal Justice).

B. Amendments:

None.

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



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present paragraphs (m), (n), and (o) of subsection (2) of section 775.21, Florida Statutes, are redesignated as paragraphs (n), (o), and (p), respectively, a new paragraph (m) is added to that subsection, paragraph (j) of that subsection is amended, paragraphs (a) and (d) of subsection (4) and paragraph (d) of subsection (5) of that section are



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11 republished, paragraphs (a), (e), (g), and (k) of subsection (6)
12 of that section are amended, paragraph (i) of subsection (6) of
13 that section is republished, paragraph (a) of subsection (8) and
14 paragraph (a) of subsection (10) of that section are amended,
15 and paragraph (e) of subsection (10) of that section is
16 republished, to read:

17 775.21 The Florida Sexual Predators Act.—

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

19 (j) "Internet identifier" means any designation, moniker,
20 screen name, username, or other name used for self-
21 identification to send or receive social Internet communication
22 includes, but is not limited to, all website uniform resource
23 locators (URLs) and application software, whether mobile or
24 nonmobile, used for Internet communication, including anonymous
25 communication, through electronic mail, chat, instant messages,
26 social networking, social gaming, or other similar programs and
27 all corresponding usernames, logins, screen names, and screen
28 identifiers associated with each URL or application software.
29 Internet identifier does not include a date of birth, social
30 security number, personal identification number (PIN), or
31 password. A sexual offender's or sexual predator's use of an
32 Internet identifier that discloses his or her date of birth,
33 social security number, personal identification number (PIN),
34 password, or other information that would reveal the identity of
35 the sexual offender or sexual predator URL, or application
36 software used for utility, banking, retail, or medical purposes.
37 ~~Voluntary disclosure by a sexual predator or sexual offender of~~
38 ~~his or her date of birth, Social Security number, or PIN as an~~
39 ~~Internet identifier waives the disclosure exemption in this~~



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40 paragraph and in s. 119.071(5)(1) for such personal information.

41 (m) "Social Internet communication" means any communication
42 through a commercial social networking website, as defined in s.
43 943.0437, or application software. The term does not include any
44 of the following:

45 1. Communication for which the primary purpose is the
46 facilitation of commercial transactions involving goods or
47 services;

48 2. Communication on an Internet website for which the
49 primary purpose of the website is the dissemination of news; or

50 3. Communication with a governmental entity.

51
52 For purposes of this paragraph, the term "application software"
53 means any computer program that is designed to run on a mobile
54 device such as a smartphone or tablet computer, that allows
55 users to create web pages or profiles that provide information
56 about themselves and are available publicly or to other users,
57 and that offers a mechanism for communication with other users
58 through a forum, a chatroom, electronic mail, or an instant
59 messenger.

60 (4) SEXUAL PREDATOR CRITERIA.—

61 (a) For a current offense committed on or after October 1,
62 1993, upon conviction, an offender shall be designated as a
63 "sexual predator" under subsection (5), and subject to
64 registration under subsection (6) and community and public
65 notification under subsection (7) if:

66 1. The felony is:

67 a. A capital, life, or first degree felony violation, or
68 any attempt thereof, of s. 787.01 or s. 787.02, where the victim



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69 is a minor, or s. 794.011, s. 800.04, or s. 847.0145, or a
70 violation of a similar law of another jurisdiction; or
71 b. Any felony violation, or any attempt thereof, of s.
72 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
73 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
74 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding
75 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;
76 s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s.
77 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if
78 the court makes a written finding that the racketeering activity
79 involved at least one sexual offense listed in this sub-
80 subparagraph or at least one offense listed in this sub-
81 subparagraph with sexual intent or motive; s. 916.1075(2); or s.
82 985.701(1); or a violation of a similar law of another
83 jurisdiction, and the offender has previously been convicted of
84 or found to have committed, or has pled nolo contendere or
85 guilty to, regardless of adjudication, any violation of s.
86 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
87 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
88 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding
89 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;
90 s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
91 excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court
92 makes a written finding that the racketeering activity involved
93 at least one sexual offense listed in this sub-subparagraph or
94 at least one offense listed in this sub-subparagraph with sexual
95 intent or motive; s. 916.1075(2); or s. 985.701(1); or a
96 violation of a similar law of another jurisdiction;
97 2. The offender has not received a pardon for any felony or



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98 similar law of another jurisdiction that is necessary for the
99 operation of this paragraph; and

100 3. A conviction of a felony or similar law of another
101 jurisdiction necessary to the operation of this paragraph has
102 not been set aside in any postconviction proceeding.

103 (d) An offender who has been determined to be a sexually
104 violent predator pursuant to a civil commitment proceeding under
105 chapter 394 shall be designated as a "sexual predator" under
106 subsection (5) and subject to registration under subsection (6)
107 and community and public notification under subsection (7).

108 (5) SEXUAL PREDATOR DESIGNATION.—An offender is designated
109 as a sexual predator as follows:

110 (d) A person who establishes or maintains a residence in
111 this state and who has not been designated as a sexual predator
112 by a court of this state but who has been designated as a sexual
113 predator, as a sexually violent predator, or by another sexual
114 offender designation in another state or jurisdiction and was,
115 as a result of such designation, subjected to registration or
116 community or public notification, or both, or would be if the
117 person was a resident of that state or jurisdiction, without
118 regard to whether the person otherwise meets the criteria for
119 registration as a sexual offender, shall register in the manner
120 provided in s. 943.0435 or s. 944.607 and shall be subject to
121 community and public notification as provided in s. 943.0435 or
122 s. 944.607. A person who meets the criteria of this section is
123 subject to the requirements and penalty provisions of s.
124 943.0435 or s. 944.607 until the person provides the department
125 with an order issued by the court that designated the person as
126 a sexual predator, as a sexually violent predator, or by another



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127 sexual offender designation in the state or jurisdiction in
128 which the order was issued which states that such designation
129 has been removed or demonstrates to the department that such
130 designation, if not imposed by a court, has been removed by
131 operation of law or court order in the state or jurisdiction in
132 which the designation was made, and provided such person no
133 longer meets the criteria for registration as a sexual offender
134 under the laws of this state.

135 (6) REGISTRATION.—

136 (a) A sexual predator shall register with the department
137 through the sheriff's office by providing the following
138 information to the department:

139 1. Name; social security number; age; race; sex; date of
140 birth; height; weight; tattoos or other identifying marks; hair
141 and eye color; photograph; address of legal residence and
142 address of any current temporary residence, within the state or
143 out of state, including a rural route address and a post office
144 box; if no permanent or temporary address, any transient
145 residence within the state; address, location or description,
146 and dates of any current or known future temporary residence
147 within the state or out of state; ~~all~~ electronic mail addresses;
148 ~~and all~~ Internet identifiers and each Internet identifier's
149 corresponding website home page or application software name
150 ~~required to be provided pursuant to subparagraph (g)5.; all home~~
151 ~~telephone numbers and cellular telephone numbers required to be~~
152 ~~provided pursuant to subparagraph (g)5.; employment information~~
153 ~~required to be provided pursuant to subparagraph (g)5.; the~~
154 make, model, color, vehicle identification number (VIN), and
155 license tag number of all vehicles owned; date and place of each



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156 conviction; fingerprints; palm prints; and a brief description
157 of the crime or crimes committed by the offender. A post office
158 box may not be provided in lieu of a physical residential
159 address. The sexual predator shall produce his or her passport,
160 if he or she has a passport, and, if he or she is an alien,
161 shall produce or provide information about documents
162 establishing his or her immigration status. The sexual predator
163 shall also provide information about any professional licenses
164 he or she has.

165 a. Any change that occurs after the sexual predator
166 registers in person at the sheriff's office as provided in this
167 subparagraph in any of the following information related to the
168 sexual predator must be reported as provided in paragraphs (g),
169 (i), and (j): permanent, temporary, or transient residence;
170 name; electronic mail addresses; Internet identifiers and each
171 Internet identifier's corresponding website home page or
172 application software name; home telephone numbers and cellular
173 telephone numbers; employment information; and status at an
174 institution of higher education.

175 ~~b.a.~~ If the sexual predator's place of residence is a motor
176 vehicle, trailer, mobile home, or manufactured home, as defined
177 in chapter 320, the sexual predator shall also provide to the
178 department written notice of the vehicle identification number;
179 the license tag number; the registration number; and a
180 description, including color scheme, of the motor vehicle,
181 trailer, mobile home, or manufactured home. If a sexual
182 predator's place of residence is a vessel, live-aboard vessel,
183 or houseboat, as defined in chapter 327, the sexual predator
184 shall also provide to the department written notice of the hull



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185 identification number; the manufacturer's serial number; the
186 name of the vessel, live-aboard vessel, or houseboat; the
187 registration number; and a description, including color scheme,
188 of the vessel, live-aboard vessel, or houseboat.

189 ~~c.b.~~ If the sexual predator is enrolled or employed,
190 whether for compensation or as a volunteer, at an institution of
191 higher education in this state, the sexual predator shall also
192 provide to the department ~~pursuant to subparagraph (g)5.~~ the
193 name, address, and county of each institution, including each
194 campus attended, and the sexual predator's enrollment,
195 volunteer, or employment status. The sheriff, the Department of
196 Corrections, or the Department of Juvenile Justice shall
197 promptly notify each institution of higher education of the
198 sexual predator's presence and any change in the sexual
199 predator's enrollment, volunteer, or employment status.

200 ~~d.e.~~ A sexual predator shall report in person to the
201 sheriff's office within 48 hours after any change in vehicles
202 owned to report those vehicle information changes.

203 2. Any other information determined necessary by the
204 department, including criminal and corrections records;
205 nonprivileged personnel and treatment records; and evidentiary
206 genetic markers when available.

207 (e)1. If the sexual predator is not in the custody or
208 control of, or under the supervision of, the Department of
209 Corrections or is not in the custody of a private correctional
210 facility, the sexual predator shall register in person:

211 a. At the sheriff's office in the county where he or she
212 establishes or maintains a residence within 48 hours after
213 establishing or maintaining a residence in this state; and



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214 b. At the sheriff's office in the county where he or she
215 was designated a sexual predator by the court within 48 hours
216 after such finding is made.

217 2. Any change that occurs after the sexual predator
218 registers in person at the sheriff's office as provided in
219 subparagraph 1. in any of the following information related to
220 in the sexual predator must be reported as provided in
221 paragraphs (g), (i), and (j): predator's permanent, temporary,
222 or transient residence; name; vehicles owned; electronic mail
223 addresses; Internet identifiers and each Internet identifier's
224 corresponding website home page or application software name;
225 home telephone numbers and cellular telephone numbers; and
226 employment information; and any change in status at an
227 institution of higher education, required to be provided
228 pursuant to subparagraph (g)5., after the sexual predator
229 registers in person at the sheriff's office as provided in
230 subparagraph 1. must be accomplished in the manner provided in
231 paragraphs (g), (i), and (j). When a sexual predator registers
232 with the sheriff's office, the sheriff shall take a photograph,
233 a set of fingerprints, and palm prints of the predator and
234 forward the photographs, palm prints, and fingerprints to the
235 department, along with the information that the predator is
236 required to provide pursuant to this section.

237 (g)1. Each time a sexual predator's driver license or
238 identification card is subject to renewal, and, without regard
239 to the status of the predator's driver license or identification
240 card, within 48 hours after any change of the predator's
241 residence or change in the predator's name by reason of marriage
242 or other legal process, the predator shall report in person to a



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243 driver license office and is subject to the requirements
244 specified in paragraph (f). The Department of Highway Safety and
245 Motor Vehicles shall forward to the department and to the
246 Department of Corrections all photographs and information
247 provided by sexual predators. Notwithstanding the restrictions
248 set forth in s. 322.142, the Department of Highway Safety and
249 Motor Vehicles may release a reproduction of a color-photograph
250 or digital-image license to the Department of Law Enforcement
251 for purposes of public notification of sexual predators as
252 provided in this section. A sexual predator who is unable to
253 secure or update a driver license or an identification card with
254 the Department of Highway Safety and Motor Vehicles as provided
255 in paragraph (f) and this paragraph shall also report any change
256 of the predator's residence or change in the predator's name by
257 reason of marriage or other legal process within 48 hours after
258 the change to the sheriff's office in the county where the
259 predator resides or is located and provide confirmation that he
260 or she reported such information to the Department of Highway
261 Safety and Motor Vehicles. The reporting requirements under this
262 subparagraph do not negate the requirement for a sexual predator
263 to obtain a Florida driver license or identification card as
264 required by this section.

265 2.a. A sexual predator who vacates a permanent, temporary,
266 or transient residence and fails to establish or maintain
267 another permanent, temporary, or transient residence shall,
268 within 48 hours after vacating the permanent, temporary, or
269 transient residence, report in person to the sheriff's office of
270 the county in which he or she is located. The sexual predator
271 shall specify the date upon which he or she intends to or did



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272 vacate such residence. The sexual predator shall provide or
273 update all of the registration information required under
274 paragraph (a). The sexual predator shall provide an address for
275 the residence or other place that he or she is or will be
276 located during the time in which he or she fails to establish or
277 maintain a permanent or temporary residence.

278 b. A sexual predator shall report in person at the
279 sheriff's office in the county in which he or she is located
280 within 48 hours after establishing a transient residence and
281 thereafter must report in person every 30 days to the sheriff's
282 office in the county in which he or she is located while
283 maintaining a transient residence. The sexual predator must
284 provide the addresses and locations where he or she maintains a
285 transient residence. Each sheriff's office shall establish
286 procedures for reporting transient residence information and
287 provide notice to transient registrants to report transient
288 residence information as required in this sub-subparagraph.
289 Reporting to the sheriff's office as required by this sub-
290 subparagraph does not exempt registrants from any reregistration
291 requirement. The sheriff may coordinate and enter into
292 agreements with police departments and other governmental
293 entities to facilitate additional reporting sites for transient
294 residence registration required in this sub-subparagraph. The
295 sheriff's office shall, within 2 business days, electronically
296 submit and update all information provided by the sexual
297 predator to the department.

298 3. A sexual predator who remains at a permanent, temporary,
299 or transient residence after reporting his or her intent to
300 vacate such residence shall, within 48 hours after the date upon



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301 which the predator indicated he or she would or did vacate such
302 residence, report in person to the sheriff's office to which he
303 or she reported pursuant to subparagraph 2. for the purpose of
304 reporting his or her address at such residence. When the sheriff
305 receives the report, the sheriff shall promptly convey the
306 information to the department. An offender who makes a report as
307 required under subparagraph 2. but fails to make a report as
308 required under this subparagraph commits a felony of the second
309 degree, punishable as provided in s. 775.082, s. 775.083, or s.
310 775.084.

311 4. The failure of a sexual predator who maintains a
312 transient residence to report in person to the sheriff's office
313 every 30 days as required by sub-subparagraph 2.b. is punishable
314 as provided in subsection (10).

315 5.a. A sexual predator shall register all electronic mail
316 addresses and Internet identifiers, and each Internet
317 identifier's corresponding website home page or application
318 software name, with the department through the department's
319 online system or in person at the sheriff's office within 48
320 hours after ~~before~~ using such electronic mail addresses and
321 Internet identifiers. If the sexual predator is in the custody
322 or control, or under the supervision, of the Department of
323 Corrections, he or she must report all electronic mail addresses
324 and Internet identifiers, and each Internet identifier's
325 corresponding website home page or application software name, to
326 the Department of Corrections before using such electronic mail
327 addresses or Internet identifiers. If the sexual predator is in
328 the custody or control, or under the supervision, of the
329 Department of Juvenile Justice, he or she must report all



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330 electronic mail addresses and Internet identifiers, and each
331 Internet identifier's corresponding website home page or
332 application software name, to the Department of Juvenile Justice
333 before using such electronic mail addresses or Internet
334 identifiers.

335 b. A sexual predator shall register all changes to home
336 telephone numbers and cellular telephone numbers, including
337 added and deleted numbers, all changes to employment
338 information, and all changes in status related to enrollment,
339 volunteering, or employment at institutions of higher education,
340 through the department's online system; in person at the
341 sheriff's office; in person at the Department of Corrections if
342 the sexual predator is in the custody or control, or under the
343 supervision, of the Department of Corrections; or in person at
344 the Department of Juvenile Justice if the sexual predator is in
345 the custody or control, or under the supervision, of the
346 Department of Juvenile Justice. All changes required to be
347 reported in this sub-subparagraph shall be reported within 48
348 hours after the change.

349 c. The department shall establish an online system through
350 which sexual predators may securely access, submit, and update
351 all electronic mail addresses; address and Internet identifiers
352 and each Internet identifier's corresponding website home page
353 or application software name; identifier information, home
354 telephone numbers and cellular telephone numbers;~~;~~ employment
355 information;~~;~~ and institution of higher education information.

356 (i) A sexual predator who intends to establish a permanent,
357 temporary, or transient residence in another state or
358 jurisdiction other than the State of Florida shall report in



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359 person to the sheriff of the county of current residence within
360 48 hours before the date he or she intends to leave this state
361 to establish residence in another state or jurisdiction or at
362 least 21 days before the date he or she intends to travel if the
363 intended residence of 5 days or more is outside of the United
364 States. Any travel that is not known by the sexual predator 21
365 days before the departure date must be reported to the sheriff's
366 office as soon as possible before departure. The sexual predator
367 shall provide to the sheriff the address, municipality, county,
368 state, and country of intended residence. For international
369 travel, the sexual predator shall also provide travel
370 information, including, but not limited to, expected departure
371 and return dates, flight number, airport of departure, cruise
372 port of departure, or any other means of intended travel. The
373 sheriff shall promptly provide to the department the information
374 received from the sexual predator. The department shall notify
375 the statewide law enforcement agency, or a comparable agency, in
376 the intended state, jurisdiction, or country of residence of the
377 sexual predator's intended residence. The failure of a sexual
378 predator to provide his or her intended place of residence is
379 punishable as provided in subsection (10).

380 (k)1. The department is responsible for the online
381 maintenance of current information regarding each registered
382 sexual predator. The department shall maintain hotline access
383 for state, local, and federal law enforcement agencies to obtain
384 instantaneous locator file and offender characteristics
385 information on all released registered sexual predators for
386 purposes of monitoring, tracking, and prosecution. The
387 photograph, palm prints, and fingerprints do not have to be



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388 stored in a computerized format.

389 2. The department's sexual predator registration list,
390 containing the information described in subparagraph (a)1., is a
391 public record, unless otherwise made exempt or confidential and
392 exempt from s. 119.07(1) and s. 24(a) of Art. I of the State
393 Constitution. The department may disseminate this public
394 information by any means deemed appropriate, including operating
395 a toll-free telephone number for this purpose. When the
396 department provides information regarding a registered sexual
397 predator to the public, department personnel shall advise the
398 person making the inquiry that positive identification of a
399 person believed to be a sexual predator cannot be established
400 unless a fingerprint comparison is made, and that it is illegal
401 to use public information regarding a registered sexual predator
402 to facilitate the commission of a crime.

403 3. The department shall adopt guidelines as necessary
404 regarding the registration of sexual predators and the
405 dissemination of information regarding sexual predators as
406 required by this section.

407 (8) VERIFICATION.—The department and the Department of
408 Corrections shall implement a system for verifying the addresses
409 of sexual predators. The system must be consistent with the
410 federal Adam Walsh Child Protection and Safety Act of 2006 and
411 any other federal standards applicable to such verification or
412 required to be met as a condition for the receipt of federal
413 funds by the state. The Department of Corrections shall verify
414 the addresses of sexual predators who are not incarcerated but
415 who reside in the community under the supervision of the
416 Department of Corrections and shall report to the department any



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417 failure by a sexual predator to comply with registration
418 requirements. County and local law enforcement agencies, in
419 conjunction with the department, shall verify the addresses of
420 sexual predators who are not under the care, custody, control,
421 or supervision of the Department of Corrections, and may verify
422 the addresses of sexual predators who are under the care,
423 custody, control, or supervision of the Department of
424 Corrections. Local law enforcement agencies shall report to the
425 department any failure by a sexual predator to comply with
426 registration requirements.

427 (a) A sexual predator shall report in person each year
428 during the month of the sexual predator's birthday and during
429 every third month thereafter to the sheriff's office in the
430 county in which he or she resides or is otherwise located to
431 reregister. The sheriff's office may determine the appropriate
432 times and days for reporting by the sexual predator, which must
433 be consistent with the reporting requirements of this paragraph.
434 Reregistration must include any changes to the following
435 information:

436 1. Name; social security number; age; race; sex; date of
437 birth; height; weight; tattoos or other identifying marks; hair
438 and eye color; address of any permanent residence and address of
439 any current temporary residence, within the state or out of
440 state, including a rural route address and a post office box; if
441 no permanent or temporary address, any transient residence
442 within the state including the; address, location or description
443 of the transient residences, and dates of any current or known
444 future temporary residence within the state or out of state; all
445 electronic mail addresses; all ~~or~~ Internet identifiers and each



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446 Internet identifier's corresponding website home page or
447 application software name ~~required to be provided pursuant to~~
448 ~~subparagraph (6)(g)5.~~; all home telephone numbers and cellular
449 telephone numbers ~~required to be provided pursuant to~~
450 ~~subparagraph (6)(g)5.~~; date and place of any employment ~~required~~
451 ~~to be provided pursuant to subparagraph (6)(g)5.~~; the make,
452 model, color, vehicle identification number (VIN), and license
453 tag number of all vehicles owned; fingerprints; palm prints; and
454 photograph. A post office box may not be provided in lieu of a
455 physical residential address. The sexual predator shall also
456 produce his or her passport, if he or she has a passport, and,
457 if he or she is an alien, shall produce or provide information
458 about documents establishing his or her immigration status. The
459 sexual predator shall also provide information about any
460 professional licenses he or she has.

461 2. If the sexual predator is enrolled or employed, whether
462 for compensation or as a volunteer, at an institution of higher
463 education in this state, the sexual predator shall also provide
464 to the department the name, address, and county of each
465 institution, including each campus attended, and the sexual
466 predator's enrollment, volunteer, or employment status.

467 3. If the sexual predator's place of residence is a motor
468 vehicle, trailer, mobile home, or manufactured home, as defined
469 in chapter 320, the sexual predator shall also provide the
470 vehicle identification number; the license tag number; the
471 registration number; and a description, including color scheme,
472 of the motor vehicle, trailer, mobile home, or manufactured
473 home. If the sexual predator's place of residence is a vessel,
474 live-aboard vessel, or houseboat, as defined in chapter 327, the



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475 sexual predator shall also provide the hull identification
476 number; the manufacturer's serial number; the name of the
477 vessel, live-aboard vessel, or houseboat; the registration
478 number; and a description, including color scheme, of the
479 vessel, live-aboard vessel, or houseboat.

480 (10) PENALTIES.—

481 (a) Except as otherwise specifically provided, a sexual
482 predator who fails to register; who fails, after registration,
483 to maintain, acquire, or renew a driver license or an
484 identification card; who fails to provide required location
485 information; who fails to provide, electronic mail addresses
486 address information before use, Internet identifiers, and each
487 Internet identifier's corresponding website home page or
488 application software name; who fails to provide identifier
489 information before use, all home telephone numbers and cellular
490 telephone numbers, employment information, change in status at
491 an institution of higher education, or change-of-name
492 information; who fails to make a required report in connection
493 with vacating a permanent residence; who fails to reregister as
494 required; who fails to respond to any address verification
495 correspondence from the department within 3 weeks of the date of
496 the correspondence; who knowingly provides false registration
497 information by act or omission; or who otherwise fails, by act
498 or omission, to comply with the requirements of this section
499 commits a felony of the third degree, punishable as provided in
500 s. 775.082, s. 775.083, or s. 775.084.

501 (e) An arrest on charges of failure to register, the
502 service of an information or a complaint for a violation of this
503 section, or an arraignment on charges for a violation of this



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504 section constitutes actual notice of the duty to register when
505 the predator has been provided and advised of his or her
506 statutory obligation to register under subsection (6). A sexual
507 predator's failure to immediately register as required by this
508 section following such arrest, service, or arraignment
509 constitutes grounds for a subsequent charge of failure to
510 register. A sexual predator charged with the crime of failure to
511 register who asserts, or intends to assert, a lack of notice of
512 the duty to register as a defense to a charge of failure to
513 register shall immediately register as required by this section.
514 A sexual predator who is charged with a subsequent failure to
515 register may not assert the defense of a lack of notice of the
516 duty to register.

517 Section 2. Paragraph (e) of subsection (1) of section
518 943.0435, Florida Statutes, is republished, and subsection (2),
519 paragraph (e) of subsection (4), and paragraph (c) of subsection
520 (14) of that section, are amended to read:

521 943.0435 Sexual offenders required to register with the
522 department; penalty.—

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

524 (e) "Internet identifier" has the same meaning as provided
525 in s. 775.21.

526 (2) Upon initial registration, a sexual offender shall:

527 (a) Report in person at the sheriff's office:

528 1. In the county in which the offender establishes or
529 maintains a permanent, temporary, or transient residence within
530 48 hours after:

531 a. Establishing permanent, temporary, or transient
532 residence in this state; or



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533 b. Being released from the custody, control, or supervision
534 of the Department of Corrections or from the custody of a
535 private correctional facility; or

536 2. In the county where he or she was convicted within 48
537 hours after being convicted for a qualifying offense for
538 registration under this section if the offender is not in the
539 custody or control of, or under the supervision of, the
540 Department of Corrections, or is not in the custody of a private
541 correctional facility.

542
543 Any change in the information required to be provided pursuant
544 to paragraph (b), including, but not limited to, any change in
545 the sexual offender's permanent, temporary, or transient
546 residence; name; electronic mail addresses; Internet identifiers
547 and each Internet identifier's corresponding website home page
548 or application software name; home telephone numbers and
549 cellular telephone numbers; ~~and~~ employment information; and any
550 change in status at an institution of higher education, ~~required~~
551 ~~to be provided pursuant to paragraph (4)(c)~~, after the sexual
552 offender reports in person at the sheriff's office must be
553 reported accomplished in the manner provided in subsections (4),
554 (7), and (8).

555 (b) Provide his or her name; date of birth; social security
556 number; race; sex; height; weight; hair and eye color; tattoos
557 or other identifying marks; fingerprints; palm prints;
558 photograph; employment information ~~required to be provided~~
559 ~~pursuant to paragraph (4)(c)~~; address of permanent or legal
560 residence or address of any current temporary residence, within
561 the state or out of state, including a rural route address and a



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562 post office box; if no permanent or temporary address, any
563 transient residence within the state, address, location or
564 description, and dates of any current or known future temporary
565 residence within the state or out of state; the make, model,
566 color, vehicle identification number (VIN), and license tag
567 number of all vehicles owned; ~~all~~ home telephone numbers and
568 cellular telephone numbers ~~required to be provided pursuant to~~
569 ~~paragraph (4) (e); all~~ electronic mail addresses; ~~and all~~
570 Internet identifiers and each Internet identifier's
571 corresponding website home page or application software name
572 ~~required to be provided pursuant to paragraph (4) (e);~~ date and
573 place of each conviction; and a brief description of the crime
574 or crimes committed by the offender. A post office box may not
575 be provided in lieu of a physical residential address. The
576 sexual offender shall also produce his or her passport, if he or
577 she has a passport, and, if he or she is an alien, shall produce
578 or provide information about documents establishing his or her
579 immigration status. The sexual offender shall also provide
580 information about any professional licenses he or she has.

581 1. If the sexual offender's place of residence is a motor
582 vehicle, trailer, mobile home, or manufactured home, as defined
583 in chapter 320, the sexual offender shall also provide to the
584 department through the sheriff's office written notice of the
585 vehicle identification number; the license tag number; the
586 registration number; and a description, including color scheme,
587 of the motor vehicle, trailer, mobile home, or manufactured
588 home. If the sexual offender's place of residence is a vessel,
589 live-aboard vessel, or houseboat, as defined in chapter 327, the
590 sexual offender shall also provide to the department written



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591 notice of the hull identification number; the manufacturer's
592 serial number; the name of the vessel, live-aboard vessel, or
593 houseboat; the registration number; and a description, including
594 color scheme, of the vessel, live-aboard vessel, or houseboat.

595 2. If the sexual offender is enrolled or employed, whether
596 for compensation or as a volunteer, at an institution of higher
597 education in this state, the sexual offender shall also provide
598 to the department ~~pursuant to paragraph (4)(e)~~ the name,
599 address, and county of each institution, including each campus
600 attended, and the sexual offender's enrollment, volunteer, or
601 employment status. The sheriff, the Department of Corrections,
602 or the Department of Juvenile Justice shall promptly notify each
603 institution of higher education of the sexual offender's
604 presence and any change in the sexual offender's enrollment,
605 volunteer, or employment status.

606 3. A sexual offender shall report in person to the
607 sheriff's office within 48 hours after any change in vehicles
608 owned to report those vehicle information changes.

609 (c) Provide any other information determined necessary by
610 the department, including criminal and corrections records;
611 nonprivileged personnel and treatment records; and evidentiary
612 genetic markers, when available.

613
614 When a sexual offender reports at the sheriff's office, the
615 sheriff shall take a photograph, a set of fingerprints, and palm
616 prints of the offender and forward the photographs, palm prints,
617 and fingerprints to the department, along with the information
618 provided by the sexual offender. The sheriff shall promptly
619 provide to the department the information received from the



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620 sexual offender.

621 (4)

622 (e)1. A sexual offender shall register all electronic mail
623 addresses and Internet identifiers, and each Internet
624 identifier's corresponding website home page or application
625 software name, with the department through the department's
626 online system or in person at the sheriff's office within 48
627 hours after ~~before~~ using such electronic mail addresses and
628 Internet identifiers. If the sexual offender is in the custody
629 or control, or under the supervision, of the Department of
630 Corrections, he or she must report all electronic mail addresses
631 and Internet identifiers, and each Internet identifier's
632 corresponding website home page or application software name, to
633 the Department of Corrections before using such electronic mail
634 addresses or Internet identifiers. If the sexual offender is in
635 the custody or control, or under the supervision, of the
636 Department of Juvenile Justice, he or she must report all
637 electronic mail addresses and Internet identifiers, and each
638 Internet identifier's corresponding website home page or
639 application software name, to the Department of Juvenile Justice
640 before using such electronic mail addresses or Internet
641 identifiers.

642 2. A sexual offender shall register all changes to home
643 telephone numbers and cellular telephone numbers, including
644 added and deleted numbers, all changes to employment
645 information, and all changes in status related to enrollment,
646 volunteering, or employment at institutions of higher education,
647 through the department's online system; in person at the
648 sheriff's office; in person at the Department of Corrections if



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649 the sexual offender is in the custody or control, or under the
650 supervision, of the Department of Corrections; or in person at
651 the Department of Juvenile Justice if the sexual offender is in
652 the custody or control, or under the supervision, of the
653 Department of Juvenile Justice. All changes required to be
654 reported under this subparagraph must be reported within 48
655 hours after the change.

656 3. The department shall establish an online system through
657 which sexual offenders may securely access, submit, and update
658 all changes in status to electronic mail addresses; ~~address and~~
659 Internet identifiers and each Internet identifier's
660 corresponding website home page or application software name;
661 ~~identifier information~~, home telephone numbers and cellular
662 telephone numbers; ~~;~~ employment information; ~~;~~ and institution of
663 higher education information.

664 (14)

665 (c) The sheriff's office may determine the appropriate
666 times and days for reporting by the sexual offender, which must
667 be consistent with the reporting requirements of this
668 subsection. Reregistration must include any changes to the
669 following information:

670 1. Name; social security number; age; race; sex; date of
671 birth; height; weight; tattoos or other identifying marks; hair
672 and eye color; address of any permanent residence and address of
673 any current temporary residence, within the state or out of
674 state, including a rural route address and a post office box; if
675 no permanent or temporary address, any transient residence
676 within the state; address, location or description, and dates of
677 any current or known future temporary residence within the state



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678 or out of state; all electronic mail addresses or Internet
679 identifiers and each Internet identifier's corresponding website
680 home page or application software name ~~required to be provided~~
681 ~~pursuant to paragraph (4)(e);~~ all home telephone numbers and
682 cellular telephone numbers ~~required to be provided pursuant to~~
683 ~~paragraph (4)(e);~~ employment information ~~required to be provided~~
684 ~~pursuant to paragraph (4)(e);~~ the make, model, color, vehicle
685 identification number (VIN), and license tag number of all
686 vehicles owned; fingerprints; palm prints; and photograph. A
687 post office box may not be provided in lieu of a physical
688 residential address. The sexual offender shall also produce his
689 or her passport, if he or she has a passport, and, if he or she
690 is an alien, shall produce or provide information about
691 documents establishing his or her immigration status. The sexual
692 offender shall also provide information about any professional
693 licenses he or she has.

694 2. If the sexual offender is enrolled or employed, whether
695 for compensation or as a volunteer, at an institution of higher
696 education in this state, the sexual offender shall also provide
697 to the department the name, address, and county of each
698 institution, including each campus attended, and the sexual
699 offender's enrollment, volunteer, or employment status.

700 3. If the sexual offender's place of residence is a motor
701 vehicle, trailer, mobile home, or manufactured home, as defined
702 in chapter 320, the sexual offender shall also provide the
703 vehicle identification number; the license tag number; the
704 registration number; and a description, including color scheme,
705 of the motor vehicle, trailer, mobile home, or manufactured
706 home. If the sexual offender's place of residence is a vessel,



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707 live-aboard vessel, or houseboat, as defined in chapter 327, the
708 sexual offender shall also provide the hull identification
709 number; the manufacturer's serial number; the name of the
710 vessel, live-aboard vessel, or houseboat; the registration
711 number; and a description, including color scheme, of the
712 vessel, live-aboard vessel, or houseboat.

713 4. Any sexual offender who fails to report in person as
714 required at the sheriff's office, who fails to respond to any
715 address verification correspondence from the department within 3
716 weeks of the date of the correspondence, who fails to report all
717 electronic mail addresses and all Internet identifiers, and each
718 Internet identifier's corresponding website home page or
719 application software name before use, or who knowingly provides
720 false registration information by act or omission commits a
721 felony of the third degree, punishable as provided in s.
722 775.082, s. 775.083, or s. 775.084.

723 Section 3. For the purpose of incorporating the amendment
724 made by this act to section 775.21, Florida Statutes, in a
725 reference thereto, subsection (2) of section 943.0437, Florida
726 Statutes, is reenacted to read:

727 943.0437 Commercial social networking websites.—

728 (2) The department may provide information relating to
729 electronic mail addresses and Internet identifiers, as defined
730 in s. 775.21, maintained as part of the sexual offender registry
731 to commercial social networking websites or third parties
732 designated by commercial social networking websites. The
733 commercial social networking website may use this information
734 for the purpose of comparing registered users and screening
735 potential users of the commercial social networking website



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736 against the list of electronic mail addresses and Internet
737 identifiers provided by the department.

738 Section 4. For the purpose of incorporating the amendment
739 made by this act to section 775.21, Florida Statutes, in a
740 reference thereto, paragraph (c) of subsection (1) of section
741 944.606, Florida Statutes, is reenacted to read:

742 944.606 Sexual offenders; notification upon release.-

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

744 (c) "Internet identifier" has the same meaning as provided
745 in s. 775.21.

746 Section 5. For the purpose of incorporating the amendment
747 made by this act to section 775.21, Florida Statutes, in a
748 reference thereto, paragraph (e) of subsection (1) of section
749 944.607, Florida Statutes, is reenacted to read:

750 944.607 Notification to Department of Law Enforcement of
751 information on sexual offenders.-

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

753 (e) "Internet identifier" has the same meaning as provided
754 in s. 775.21.

755 Section 6. For the purpose of incorporating the amendment
756 made by this act to section 775.21, Florida Statutes, in a
757 reference thereto, paragraph (c) of subsection (1) of section
758 985.481, Florida Statutes, is reenacted to read:

759 985.481 Sexual offenders adjudicated delinquent;
760 notification upon release.-

761 (1) As used in this section:

762 (c) "Internet identifier" has the same meaning as provided
763 in s. 775.21.

764 Section 7. For the purpose of incorporating the amendment



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765 made by this act to section 775.21, Florida Statutes, in a
766 reference thereto, paragraph (e) of subsection (1) of section
767 985.4815, Florida Statutes, is reenacted to read:

768 985.4815 Notification to Department of Law Enforcement of
769 information on juvenile sexual offenders.—

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

771 (e) "Internet identifier" has the same meaning as provided
772 in s. 775.21.

773 Section 8. For the purpose of incorporating the amendment
774 made by this act to section 943.0435, Florida Statutes, in a
775 reference thereto, paragraph (a) of subsection (3) of section
776 944.606, Florida Statutes, is reenacted to read:

777 944.606 Sexual offenders; notification upon release.—

778 (3) (a) The department shall provide information regarding
779 any sexual offender who is being released after serving a period
780 of incarceration for any offense, as follows:

781 1. The department shall provide: the sexual offender's
782 name, any change in the offender's name by reason of marriage or
783 other legal process, and any alias, if known; the correctional
784 facility from which the sexual offender is released; the sexual
785 offender's social security number, race, sex, date of birth,
786 height, weight, and hair and eye color; tattoos or other
787 identifying marks; address of any planned permanent residence or
788 temporary residence, within the state or out of state, including
789 a rural route address and a post office box; if no permanent or
790 temporary address, any transient residence within the state;
791 address, location or description, and dates of any known future
792 temporary residence within the state or out of state; date and
793 county of sentence and each crime for which the offender was



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794 sentenced; a copy of the offender's fingerprints, palm prints,
795 and a digitized photograph taken within 60 days before release;
796 the date of release of the sexual offender; all electronic mail
797 addresses and all Internet identifiers required to be provided
798 pursuant to s. 943.0435(4)(e); employment information, if known,
799 provided pursuant to s. 943.0435(4)(e); all home telephone
800 numbers and cellular telephone numbers required to be provided
801 pursuant to s. 943.0435(4)(e); information about any
802 professional licenses the offender has, if known; and passport
803 information, if he or she has a passport, and, if he or she is
804 an alien, information about documents establishing his or her
805 immigration status. The department shall notify the Department
806 of Law Enforcement if the sexual offender escapes, absconds, or
807 dies. If the sexual offender is in the custody of a private
808 correctional facility, the facility shall take the digitized
809 photograph of the sexual offender within 60 days before the
810 sexual offender's release and provide this photograph to the
811 Department of Corrections and also place it in the sexual
812 offender's file. If the sexual offender is in the custody of a
813 local jail, the custodian of the local jail shall register the
814 offender within 3 business days after intake of the offender for
815 any reason and upon release, and shall notify the Department of
816 Law Enforcement of the sexual offender's release and provide to
817 the Department of Law Enforcement the information specified in
818 this paragraph and any information specified in subparagraph 2.
819 that the Department of Law Enforcement requests.

820 2. The department may provide any other information deemed
821 necessary, including criminal and corrections records,
822 nonprivileged personnel and treatment records, when available.



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823 Section 9. For the purpose of incorporating the amendment
824 made by this act to section 943.0435, Florida Statutes, in
825 references thereto, paragraph (a) of subsection (4), subsection
826 (9), and paragraph (c) of subsection (13) of section 944.607,
827 Florida Statutes, are reenacted to read:

828 944.607 Notification to Department of Law Enforcement of
829 information on sexual offenders.—

830 (4) A sexual offender, as described in this section, who is
831 under the supervision of the Department of Corrections but is
832 not incarcerated shall register with the Department of
833 Corrections within 3 business days after sentencing for a
834 registrable offense and otherwise provide information as
835 required by this subsection.

836 (a) The sexual offender shall provide his or her name; date
837 of birth; social security number; race; sex; height; weight;
838 hair and eye color; tattoos or other identifying marks; all
839 electronic mail addresses and Internet identifiers required to
840 be provided pursuant to s. 943.0435(4) (e); employment
841 information required to be provided pursuant to s.
842 943.0435(4) (e); all home telephone numbers and cellular
843 telephone numbers required to be provided pursuant to s.
844 943.0435(4) (e); the make, model, color, vehicle identification
845 number (VIN), and license tag number of all vehicles owned;
846 permanent or legal residence and address of temporary residence
847 within the state or out of state while the sexual offender is
848 under supervision in this state, including any rural route
849 address or post office box; if no permanent or temporary
850 address, any transient residence within the state; and address,
851 location or description, and dates of any current or known



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852 future temporary residence within the state or out of state. The
853 sexual offender shall also produce his or her passport, if he or
854 she has a passport, and, if he or she is an alien, shall produce
855 or provide information about documents establishing his or her
856 immigration status. The sexual offender shall also provide
857 information about any professional licenses he or she has. The
858 Department of Corrections shall verify the address of each
859 sexual offender in the manner described in ss. 775.21 and
860 943.0435. The department shall report to the Department of Law
861 Enforcement any failure by a sexual predator or sexual offender
862 to comply with registration requirements.

863 (9) A sexual offender, as described in this section, who is
864 under the supervision of the Department of Corrections but who
865 is not incarcerated shall, in addition to the registration
866 requirements provided in subsection (4), register and obtain a
867 distinctive driver license or identification card in the manner
868 provided in s. 943.0435(3), (4), and (5), unless the sexual
869 offender is a sexual predator, in which case he or she shall
870 register and obtain a distinctive driver license or
871 identification card as required under s. 775.21. A sexual
872 offender who fails to comply with the requirements of s.
873 943.0435 is subject to the penalties provided in s. 943.0435(9).

874 (13)

875 (c) The sheriff's office may determine the appropriate
876 times and days for reporting by the sexual offender, which must
877 be consistent with the reporting requirements of this
878 subsection. Reregistration must include any changes to the
879 following information:

880 1. Name; social security number; age; race; sex; date of



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881 birth; height; weight; tattoos or other identifying marks; hair
882 and eye color; address of any permanent residence and address of
883 any current temporary residence, within the state or out of
884 state, including a rural route address and a post office box; if
885 no permanent or temporary address, any transient residence;
886 address, location or description, and dates of any current or
887 known future temporary residence within the state or out of
888 state; all electronic mail addresses and Internet identifiers
889 required to be provided pursuant to s. 943.0435(4)(e); all home
890 telephone numbers and cellular telephone numbers required to be
891 provided pursuant to s. 943.0435(4)(e); employment information
892 required to be provided pursuant to s. 943.0435(4)(e); the make,
893 model, color, vehicle identification number (VIN), and license
894 tag number of all vehicles owned; fingerprints; palm prints; and
895 photograph. A post office box may not be provided in lieu of a
896 physical residential address. The sexual offender shall also
897 produce his or her passport, if he or she has a passport, and,
898 if he or she is an alien, shall produce or provide information
899 about documents establishing his or her immigration status. The
900 sexual offender shall also provide information about any
901 professional licenses he or she has.

902 2. If the sexual offender is enrolled or employed, whether
903 for compensation or as a volunteer, at an institution of higher
904 education in this state, the sexual offender shall also provide
905 to the department the name, address, and county of each
906 institution, including each campus attended, and the sexual
907 offender's enrollment, volunteer, or employment status.

908 3. If the sexual offender's place of residence is a motor
909 vehicle, trailer, mobile home, or manufactured home, as defined



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910 in chapter 320, the sexual offender shall also provide the
911 vehicle identification number; the license tag number; the
912 registration number; and a description, including color scheme,
913 of the motor vehicle, trailer, mobile home, or manufactured
914 home. If the sexual offender's place of residence is a vessel,
915 live-aboard vessel, or houseboat, as defined in chapter 327, the
916 sexual offender shall also provide the hull identification
917 number; the manufacturer's serial number; the name of the
918 vessel, live-aboard vessel, or houseboat; the registration
919 number; and a description, including color scheme, of the
920 vessel, live-aboard vessel or houseboat.

921 4. Any sexual offender who fails to report in person as
922 required at the sheriff's office, who fails to respond to any
923 address verification correspondence from the department within 3
924 weeks of the date of the correspondence, who fails to report all
925 electronic mail addresses or Internet identifiers before use, or
926 who knowingly provides false registration information by act or
927 omission commits a felony of the third degree, punishable as
928 provided in s. 775.082, s. 775.083, or s. 775.084.

929 Section 10. For the purpose of incorporating the amendment
930 made by this act to section 943.0435, Florida Statutes, in a
931 reference thereto, paragraph (a) of subsection (3) of section
932 985.481, Florida Statutes, is reenacted to read:

933 985.481 Sexual offenders adjudicated delinquent;
934 notification upon release.-

935 (3) (a) The department shall provide information regarding
936 any sexual offender who is being released after serving a period
937 of residential commitment under the department for any offense,
938 as follows:



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939 1. The department shall provide the sexual offender's name,
940 any change in the offender's name by reason of marriage or other
941 legal process, and any alias, if known; the correctional
942 facility from which the sexual offender is released; the sexual
943 offender's social security number, race, sex, date of birth,
944 height, weight, and hair and eye color; tattoos or other
945 identifying marks; the make, model, color, vehicle
946 identification number (VIN), and license tag number of all
947 vehicles owned; address of any planned permanent residence or
948 temporary residence, within the state or out of state, including
949 a rural route address and a post office box; if no permanent or
950 temporary address, any transient residence within the state;
951 address, location or description, and dates of any known future
952 temporary residence within the state or out of state; date and
953 county of disposition and each crime for which there was a
954 disposition; a copy of the offender's fingerprints, palm prints,
955 and a digitized photograph taken within 60 days before release;
956 the date of release of the sexual offender; all home telephone
957 numbers and cellular telephone numbers required to be provided
958 pursuant to s. 943.0435(4)(e); all electronic mail addresses and
959 Internet identifiers required to be provided pursuant to s.
960 943.0435(4)(e); information about any professional licenses the
961 offender has, if known; and passport information, if he or she
962 has a passport, and, if he or she is an alien, information about
963 documents establishing his or her immigration status. The
964 department shall notify the Department of Law Enforcement if the
965 sexual offender escapes, absconds, or dies. If the sexual
966 offender is in the custody of a private correctional facility,
967 the facility shall take the digitized photograph of the sexual



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968 offender within 60 days before the sexual offender's release and
969 also place it in the sexual offender's file. If the sexual
970 offender is in the custody of a local jail, the custodian of the
971 local jail shall register the offender within 3 business days
972 after intake of the offender for any reason and upon release,
973 and shall notify the Department of Law Enforcement of the sexual
974 offender's release and provide to the Department of Law
975 Enforcement the information specified in this subparagraph and
976 any information specified in subparagraph 2. which the
977 Department of Law Enforcement requests.

978 2. The department may provide any other information
979 considered necessary, including criminal and delinquency
980 records, when available.

981 Section 11. For the purpose of incorporating the amendment
982 made by this act to section 943.0435, Florida Statutes, in
983 references thereto, paragraph (a) of subsection (4), subsection
984 (9), and paragraph (b) of subsection (13) of section 985.4815,
985 Florida Statutes, are reenacted to read:

986 985.4815 Notification to Department of Law Enforcement of
987 information on juvenile sexual offenders.—

988 (4) A sexual offender, as described in this section, who is
989 under the supervision of the department but who is not committed
990 shall register with the department within 3 business days after
991 adjudication and disposition for a registrable offense and
992 otherwise provide information as required by this subsection.

993 (a) The sexual offender shall provide his or her name; date
994 of birth; social security number; race; sex; height; weight;
995 hair and eye color; tattoos or other identifying marks; the
996 make, model, color, vehicle identification number (VIN), and



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997 license tag number of all vehicles owned; permanent or legal
998 residence and address of temporary residence within the state or
999 out of state while the sexual offender is in the care or custody
1000 or under the jurisdiction or supervision of the department in
1001 this state, including any rural route address or post office
1002 box; if no permanent or temporary address, any transient
1003 residence; address, location or description, and dates of any
1004 current or known future temporary residence within the state or
1005 out of state; all home telephone numbers and cellular telephone
1006 numbers required to be provided pursuant to s. 943.0435(4)(e);
1007 all electronic mail addresses and Internet identifiers required
1008 to be provided pursuant to s. 943.0435(4)(e); and the name and
1009 address of each school attended. The sexual offender shall also
1010 produce his or her passport, if he or she has a passport, and,
1011 if he or she is an alien, shall produce or provide information
1012 about documents establishing his or her immigration status. The
1013 offender shall also provide information about any professional
1014 licenses he or she has. The department shall verify the address
1015 of each sexual offender and shall report to the Department of
1016 Law Enforcement any failure by a sexual offender to comply with
1017 registration requirements.

1018 (9) A sexual offender, as described in this section, who is
1019 under the care, jurisdiction, or supervision of the department
1020 but who is not incarcerated shall, in addition to the
1021 registration requirements provided in subsection (4), register
1022 in the manner provided in s. 943.0435(3), (4), and (5), unless
1023 the sexual offender is a sexual predator, in which case he or
1024 she shall register as required under s. 775.21. A sexual
1025 offender who fails to comply with the requirements of s.



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1026 943.0435 is subject to the penalties provided in s. 943.0435(9).
1027 (13)

1028 (b) The sheriff's office may determine the appropriate
1029 times and days for reporting by the sexual offender, which must
1030 be consistent with the reporting requirements of this
1031 subsection. Reregistration must include any changes to the
1032 following information:

1033 1. Name; social security number; age; race; sex; date of
1034 birth; height; weight; hair and eye color; tattoos or other
1035 identifying marks; fingerprints; palm prints; address of any
1036 permanent residence and address of any current temporary
1037 residence, within the state or out of state, including a rural
1038 route address and a post office box; if no permanent or
1039 temporary address, any transient residence; address, location or
1040 description, and dates of any current or known future temporary
1041 residence within the state or out of state; passport
1042 information, if he or she has a passport, and, if he or she is
1043 an alien, information about documents establishing his or her
1044 immigration status; all home telephone numbers and cellular
1045 telephone numbers required to be provided pursuant to s.
1046 943.0435(4)(e); all electronic mail addresses and Internet
1047 identifiers required to be provided pursuant to s.
1048 943.0435(4)(e); name and address of each school attended;
1049 employment information required to be provided pursuant to s.
1050 943.0435(4)(e); the make, model, color, vehicle identification
1051 number (VIN), and license tag number of all vehicles owned; and
1052 photograph. A post office box may not be provided in lieu of a
1053 physical residential address. The offender shall also provide
1054 information about any professional licenses he or she has.



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1055 2. If the sexual offender is enrolled or employed, whether
1056 for compensation or as a volunteer, at an institution of higher
1057 education in this state, the sexual offender shall also provide
1058 to the department the name, address, and county of each
1059 institution, including each campus attended, and the sexual
1060 offender's enrollment, volunteer, or employment status.

1061 3. If the sexual offender's place of residence is a motor
1062 vehicle, trailer, mobile home, or manufactured home, as defined
1063 in chapter 320, the sexual offender shall also provide the
1064 vehicle identification number; the license tag number; the
1065 registration number; and a description, including color scheme,
1066 of the motor vehicle, trailer, mobile home, or manufactured
1067 home. If the sexual offender's place of residence is a vessel,
1068 live-aboard vessel, or houseboat, as defined in chapter 327, the
1069 sexual offender shall also provide the hull identification
1070 number; the manufacturer's serial number; the name of the
1071 vessel, live-aboard vessel, or houseboat; the registration
1072 number; and a description, including color scheme, of the
1073 vessel, live-aboard vessel, or houseboat.

1074 4. Any sexual offender who fails to report in person as
1075 required at the sheriff's office, who fails to respond to any
1076 address verification correspondence from the department within 3
1077 weeks after the date of the correspondence, or who knowingly
1078 provides false registration information by act or omission
1079 commits a felony of the third degree, punishable as provided in
1080 ss. 775.082, 775.083, and 775.084.

1081 Section 12. For the purpose of incorporating the amendments
1082 made by this act to sections 775.21 and 943.0435, Florida
1083 Statutes, in references thereto, subsection (1) of section



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1084 794.056, Florida Statutes, is reenacted to read:

1085 794.056 Rape Crisis Program Trust Fund.—

1086 (1) The Rape Crisis Program Trust Fund is created within
1087 the Department of Health for the purpose of providing funds for
1088 rape crisis centers in this state. Trust fund moneys shall be
1089 used exclusively for the purpose of providing services for
1090 victims of sexual assault. Funds credited to the trust fund
1091 consist of those funds collected as an additional court
1092 assessment in each case in which a defendant pleads guilty or
1093 nolo contendere to, or is found guilty of, regardless of
1094 adjudication, an offense provided in s. 775.21(6) and (10) (a),
1095 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
1096 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
1097 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
1098 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
1099 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.
1100 796.06; s. 796.07(2) (a)–(d) and (i); s. 800.03; s. 800.04; s.
1101 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
1102 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.
1103 847.0137; s. 847.0145; s. 943.0435(4) (c), (7), (8), (9) (a),
1104 (13), and (14) (c); or s. 985.701(1). Funds credited to the trust
1105 fund also shall include revenues provided by law, moneys
1106 appropriated by the Legislature, and grants from public or
1107 private entities.

1108 Section 13. For the purpose of incorporating the amendments
1109 made by this act to sections 775.21 and 943.0435, Florida
1110 Statutes, in references thereto, paragraph (g) of subsection (3)
1111 of section 921.0022, Florida Statutes, is reenacted to read:

1112 921.0022 Criminal Punishment Code; offense severity ranking



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1113 chart.-

1114 (3) OFFENSE SEVERITY RANKING CHART

1115 (g) LEVEL 7

1116

1117

Florida Statute	Felony Degree	Description
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1118

316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
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1119

316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
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1120

316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
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1121

327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
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1122

402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm,
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1123			permanent disfiguration, permanent disability, or death.
1124	409.920 (2) (b) 1.a.	3rd	Medicaid provider fraud; \$10,000 or less.
1125	409.920 (2) (b) 1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.
1126	456.065 (2)	3rd	Practicing a health care profession without a license.
1127	456.065 (2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.
1128	458.327 (1)	3rd	Practicing medicine without a license.
1129	459.013 (1)	3rd	Practicing osteopathic medicine without a license.
1130	460.411 (1)	3rd	Practicing chiropractic medicine without a license.
	461.012 (1)	3rd	Practicing podiatric medicine without a license.



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1131	462.17	3rd	Practicing naturopathy without a license.
1132	463.015(1)	3rd	Practicing optometry without a license.
1133	464.016(1)	3rd	Practicing nursing without a license.
1134	465.015(2)	3rd	Practicing pharmacy without a license.
1135	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.
1136	467.201	3rd	Practicing midwifery without a license.
1137	468.366	3rd	Delivering respiratory care services without a license.
1138	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.
1139	483.901(7)	3rd	Practicing medical physics without a license.
1140			



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1141	484.013 (1) (c)	3rd	Preparing or dispensing optical devices without a prescription.
1142	484.053	3rd	Dispensing hearing aids without a license.
1143	494.0018 (2)	1st	Conviction of any violation of chapter 494 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.
1144	560.123 (8) (b) 1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
1145	560.125 (5) (a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
1146	655.50 (10) (b) 1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.



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1147	775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
1148	775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.
1149	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
1150	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
1151	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
	782.071	2nd	Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular



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1152			homicide).
	782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
1153			
	784.045 (1) (a) 1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1154			
	784.045 (1) (a) 2.	2nd	Aggravated battery; using deadly weapon.
1155			
	784.045 (1) (b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1156			
	784.048 (4)	3rd	Aggravated stalking; violation of injunction or court order.
1157			
	784.048 (7)	3rd	Aggravated stalking; violation of court order.
1158			
	784.07 (2) (d)	1st	Aggravated battery on law enforcement officer.
1159			
	784.074 (1) (a)	1st	Aggravated battery on sexually violent predators facility staff.



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1160	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
1161	784.081(1)	1st	Aggravated battery on specified official or employee.
1162	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
1163	784.083(1)	1st	Aggravated battery on code inspector.
1164	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
1165	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
1166	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
1167			



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1168	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
1169	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
1170	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1171	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1172	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
1173	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
	794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial



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1174			authority to a victim younger than 18 years of age.
1175	796.05(1)	1st	Live on earnings of a prostitute; 2nd offense.
1176	796.05(1)	1st	Live on earnings of a prostitute; 3rd and subsequent offense.
1177	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
1178	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.
1179	800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.
	806.01(2)	2nd	Maliciously damage structure by



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1180			fire or explosive.
	810.02 (3) (a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
1181			
	810.02 (3) (b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
1182			
	810.02 (3) (d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
1183			
	810.02 (3) (e)	2nd	Burglary of authorized emergency vehicle.
1184			
	812.014 (2) (a) 1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.
1185			
	812.014 (2) (b) 2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
1186			
	812.014 (2) (b) 3.	2nd	Property stolen, emergency



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1187			medical equipment; 2nd degree grand theft.
	812.014 (2) (b) 4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
1188			
	812.0145 (2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
1189			
	812.019 (2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
1190			
	812.131 (2) (a)	2nd	Robbery by sudden snatching.
1191			
	812.133 (2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
1192			
	817.034 (4) (a) 1.	1st	Communications fraud, value greater than \$50,000.
1193			
	817.234 (8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
1194			
	817.234 (9)	2nd	Organizing, planning, or participating in an intentional



1195			motor vehicle collision.
	817.234 (11) (c)	1st	Insurance fraud; property value \$100,000 or more.
1196			
	817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
1197			
	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
1198			
	817.611 (2) (b)	2nd	Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
1199			
	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
1200			
	825.103 (3) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.



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1201	827.03(2)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
1202	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
1203	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1204	838.015	2nd	Bribery.
1205	838.016	2nd	Unlawful compensation or reward for official behavior.
1206	838.021(3)(a)	2nd	Unlawful harm to a public servant.
1207	838.22	2nd	Bid tampering.
1208	843.0855(2)	3rd	Impersonation of a public officer or employee.
1209	843.0855(3)	3rd	Unlawful simulation of legal process.
1210			



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1211	843.0855 (4)	3rd	Intimidation of a public officer or employee.
1212	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1213	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1214	872.06	2nd	Abuse of a dead human body.
1215	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
1216	874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
	893.13 (1) (c) 1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.) within 1,000 feet of a child care facility, school, or



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1217			state, county, or municipal park or publicly owned recreational facility or community center.
	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
1218			
	893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
1219			
	893.135(1)(a)1.	1st	Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.
1220			
	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1221			
	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.



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1222	893.135 (1) (c) 2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
1223	893.135 (1) (c) 2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
1224	893.135 (1) (c) 3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
1225	893.135 (1) (c) 3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
1226	893.135 (1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
1227	893.135 (1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1228	893.135 (1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1229			



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1230	893.135 (1) (g) 1.a.	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1231	893.135 (1) (h) 1.a.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1232	893.135 (1) (j) 1.a.	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
1233	893.135 (1) (k) 2.a.	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.
1234	893.1351 (2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.
1235	896.101 (5) (a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.
	896.104 (4) (a) 1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but



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1236			less than \$20,000.
1237	943.0435 (4) (c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1238	943.0435 (8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.
1239	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
1240	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1241	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
	944.607 (9)	3rd	Sexual offender; failure to comply with reporting



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1242			requirements.
	944.607(10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1243			
	944.607(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1244			
	944.607(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1245			
	985.4815(10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1246			
	985.4815(12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1247			
	985.4815(13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address



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verification; providing false
registration information.

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Section 14. For the purpose of incorporating the amendments made by this act to sections 775.21 and 943.0435, Florida Statutes, in references thereto, section 938.085, Florida Statutes, is reenacted to read:

938.085 Additional cost to fund rape crisis centers.—In addition to any sanction imposed when a person pleads guilty or nolo contendere to, or is found guilty of, regardless of adjudication, a violation of s. 775.21(6) and (10)(a), (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s. 796.07(2)(a)–(d) and (i); s. 800.03; s. 800.04; s. 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and (14)(c); or s. 985.701(1), the court shall impose a surcharge of \$151. Payment of the surcharge shall be a condition of probation, community control, or any other court-ordered supervision. The sum of \$150 of the surcharge shall be deposited into the Rape Crisis Program Trust Fund established within the Department of Health by chapter 2003-140, Laws of Florida. The clerk of the court shall retain \$1 of each surcharge that the clerk of the court collects as a service charge of the clerk's



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1275 office.

1276 Section 15. This act shall take effect upon becoming a law.

1277

1278 ===== T I T L E A M E N D M E N T =====

1279 And the title is amended as follows:

1280 Delete everything before the enacting clause

1281 and insert:

1282 A bill to be entitled

1283 An act relating to Internet identifiers; amending s.

1284 775.21, F.S.; revising the definition of the term

1285 "Internet identifier"; defining the term "social

1286 Internet communication"; requiring a sexual predator

1287 to register each Internet identifier's corresponding

1288 website home page or application software name with

1289 the Department of Law Enforcement through the

1290 sheriff's office; requiring a sexual predator to

1291 report any change to certain information after initial

1292 in-person registration in a specified manner;

1293 requiring a sexual predator to register all electronic

1294 mail addresses, Internet identifiers, and Internet

1295 identifiers' corresponding website home pages or

1296 application names with the department within 48 hours

1297 after using the addresses or identifiers, rather than

1298 before using them; providing that the department's

1299 sexual predator registration list is a public record,

1300 unless otherwise made exempt or confidential and

1301 exempt; revising the information that a sexual

1302 predator must report to the sheriff's office each

1303 year; conforming provisions to change made by the act;



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1304 making technical changes; amending s. 943.0435, F.S.;

1305 requiring a sexual offender, upon initial

1306 registration, to report in person at the sheriff's

1307 office; requiring the sexual offender to report any

1308 change to each Internet identifier's corresponding

1309 website home page or application software name in

1310 person at the sheriff's office in a specified manner;

1311 requiring a sexual offender to report any change to

1312 certain information after initial in-person

1313 registration in a specified manner; requiring a sexual

1314 offender to register all electronic mail addresses and

1315 Internet identifiers, and each Internet identifier's

1316 corresponding website home page or application

1317 software name, with a specified period after using

1318 these addresses or identifiers, rather than before

1319 using them; making technical changes; reenacting ss.

1320 943.0437(2), 944.606(1)(c), 944.607(1)(e),

1321 985.481(1)(c), and 985.4815(1)(e), F.S., relating to

1322 the definition of the term "Internet identifier," to

1323 incorporate the amendment made to s. 775.21, F.S., in

1324 references thereto; reenacting ss. 944.606(3)(a),

1325 944.607(4)(a), (9), and (13)(c), 985.481(3)(a), and

1326 985.4815(4)(a), (9), and (13)(b), F.S., relating to

1327 sexual offenders, notification to the Department of

1328 Law Enforcement of information on sexual offenders,

1329 notification to the department upon release of sexual

1330 offenders adjudicated delinquent, and notification to

1331 the department of information on juvenile sexual

1332 offenders, respectively, to incorporate the amendment



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1333 made to s. 943.0435, F.S., in references thereto;
1334 reenacting ss. 794.056(1), 921.0022(3)(g), and
1335 938.085, F.S., relating to the Rape Crisis Program
1336 Trust Fund, the Criminal Punishment Code offense
1337 severity ranking chart, and additional costs to fund
1338 rape crisis centers, respectively, to incorporate the
1339 amendments made to ss. 775.21 and 943.0435, F.S., in
1340 references thereto; providing an effective date.

By Senator Baxley

12-00437-17

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1 A bill to be entitled
 2 An act relating to Internet identifiers; amending s.
 3 775.21, F.S.; revising the definition of the term
 4 "Internet identifier"; defining the term "social
 5 Internet communication"; requiring a sexual predator
 6 to register each Internet identifier's corresponding
 7 website homepage or application software name with the
 8 Department of Law Enforcement through the sheriff's
 9 office; requiring a sexual predator to report any
 10 change to certain information after initial in-person
 11 registration in a specified manner; making technical
 12 changes; amending s. 943.0435, F.S.; requiring a
 13 sexual offender, upon initial registration, to report
 14 in person at the sheriff's office; requiring the
 15 sexual offender to report any change to each Internet
 16 identifier's corresponding website homepage or
 17 application software name in person at the sheriff's
 18 office in a specified manner; requiring a sexual
 19 offender to report any change to certain information
 20 after initial in-person registration in a specified
 21 manner; making technical changes; reenacting ss.
 22 943.0437(2), 944.606(1)(c), 944.607(1)(e),
 23 985.481(1)(c), and 985.4815(1)(e), F.S., relating to
 24 the definition of the term "Internet identifier," to
 25 incorporate the amendment made to s. 775.21, F.S., in
 26 references thereto; reenacting ss. 944.606(3)(a),
 27 944.607(4)(a), (9), and (13)(c), 985.481(3)(a), and
 28 985.4815(4)(a), (9), and (13)(b), F.S., relating to
 29 sexual offenders, notification to the Department of
 30 Law Enforcement of information on sexual offenders,
 31 notification to the department upon release of sexual
 32 offenders adjudicated delinquent, and notification to

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

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33 the department of information on juvenile sexual
 34 offenders, respectively, to incorporate the amendment
 35 made to s. 943.0435, F.S., in references thereto;
 36 reenacting ss. 794.056(1), 921.0022(3)(g), and
 37 938.085, F.S., relating to the Rape Crisis Program
 38 Trust Fund, the Criminal Punishment Code offense
 39 severity ranking chart, and additional costs to fund
 40 rape crisis centers, respectively, to incorporate the
 41 amendments made to ss. 775.21 and 943.0435, F.S., in
 42 references thereto; providing an effective date.
 43
 44 Be It Enacted by the Legislature of the State of Florida:
 45
 46 Section 1. Paragraph (j) of subsection (2) of section
 47 775.21, Florida Statutes, is amended, present paragraphs (m),
 48 (n), and (o) of that subsection are redesignated as paragraphs
 49 (n), (o), and (p), respectively, and a new paragraph (m) is
 50 added to that subsection, paragraphs (a) and (d) of subsection
 51 (4) of that section are republished, paragraph (d) of subsection
 52 (5) of that section is republished, paragraphs (a), (e), and (g)
 53 of subsection (6) of that section are amended and paragraph (i)
 54 of that subsection is republished, paragraph (a) of subsection
 55 (8) of that section is amended, and paragraph (a) of subsection
 56 (10) of that section is amended and paragraph (e) of that
 57 subsection is republished, to read:
 58 775.21 The Florida Sexual Predators Act.—
 59 (2) DEFINITIONS.—As used in this section, the term:
 60 (j) "Internet identifier" means any designation, moniker,
 61 screen name, username, or other name used for self-

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62 identification to send or receive social Internet communication
 63 includes, but is not limited to, all website uniform resource
 64 locators (URLs) and application software, whether mobile or
 65 nonmobile, used for Internet communication, including anonymous
 66 communication, through electronic mail, chat, instant messages,
 67 social networking, social gaming, or other similar programs and
 68 all corresponding usernames, logins, screen names, and screen
 69 identifiers associated with each URL or application software.
 70 Internet identifier does not include a date of birth, social
 71 security ~~Social Security~~ number, personal identification number
 72 (PIN), or password. A sexual offender's or sexual predator's use
 73 of an Internet identifier that discloses his or her date of
 74 birth, social security number, PIN, password, or other
 75 information that would reveal the identity of the sexual
 76 offender or sexual predator URL, or application software used
 77 for utility, banking, retail, or medical purposes. Voluntary
 78 disclosure by a sexual predator or sexual offender of his or her
 79 date of birth, Social Security number, or PIN as an Internet
 80 identifier waives the disclosure exemption in this paragraph and
 81 in s. 119.071(5)(1) for such personal information.

82 (m) "Social Internet communication" means any written,
 83 spoken, or visual communication between two or more persons via
 84 chat, social media, instant messenger, social networking, social
 85 gaming, voice-over-Internet-protocol programs, or online file-
 86 sharing services. The term does not include passive browsing,
 87 reading, or viewing of the Internet; communication used for
 88 public utility, banking, retail, or medical purposes; or
 89 exclusively commercial transactions.

90 (4) SEXUAL PREDATOR CRITERIA.—

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91 (a) For a current offense committed on or after October 1,
 92 1993, upon conviction, an offender shall be designated as a
 93 "sexual predator" under subsection (5), and subject to
 94 registration under subsection (6) and community and public
 95 notification under subsection (7) if:
 96 1. The felony is:
 97 a. A capital, life, or first degree felony violation, or
 98 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
 99 is a minor, or s. 794.011, s. 800.04, or s. 847.0145, or a
 100 violation of a similar law of another jurisdiction; or
 101 b. Any felony violation, or any attempt thereof, of s.
 102 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 103 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
 104 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding
 105 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;
 106 s. 800.04; s. 810.145(8)(b); s. 825.1025; s. 827.071; s.
 107 847.0135, excluding s. 847.0135(6); s. 847.0145; s. 895.03, if
 108 the court makes a written finding that the racketeering activity
 109 involved at least one sexual offense listed in this sub-
 110 subparagraph or at least one offense listed in this sub-
 111 subparagraph with sexual intent or motive; s. 916.1075(2); or s.
 112 985.701(1); or a violation of a similar law of another
 113 jurisdiction, and the offender has previously been convicted of
 114 or found to have committed, or has pled nolo contendere or
 115 guilty to, regardless of adjudication, any violation of s.
 116 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 117 787.025(2)(c), where the victim is a minor; s. 787.06(3)(b),
 118 (d), (f), or (g); former s. 787.06(3)(h); s. 794.011, excluding
 119 s. 794.011(10); s. 794.05; former s. 796.03; former s. 796.035;

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 120 s. 800.04; s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
 121 excluding s. 847.0135(6); s. 847.0145; s. 895.03, if the court
 122 makes a written finding that the racketeering activity involved
 123 at least one sexual offense listed in this sub-subparagraph or
 124 at least one offense listed in this sub-subparagraph with sexual
 125 intent or motive; s. 916.1075(2); or s. 985.701(1); or a
 126 violation of a similar law of another jurisdiction;

127 2. The offender has not received a pardon for any felony or
 128 similar law of another jurisdiction that is necessary for the
 129 operation of this paragraph; and

130 3. A conviction of a felony or similar law of another
 131 jurisdiction necessary to the operation of this paragraph has
 132 not been set aside in any postconviction proceeding.

133 (d) An offender who has been determined to be a sexually
 134 violent predator pursuant to a civil commitment proceeding under
 135 chapter 394 shall be designated as a "sexual predator" under
 136 subsection (5) and subject to registration under subsection (6)
 137 and community and public notification under subsection (7).

138 (5) SEXUAL PREDATOR DESIGNATION.—An offender is designated
 139 as a sexual predator as follows:

140 (d) A person who establishes or maintains a residence in
 141 this state and who has not been designated as a sexual predator
 142 by a court of this state but who has been designated as a sexual
 143 predator, as a sexually violent predator, or by another sexual
 144 offender designation in another state or jurisdiction and was,
 145 as a result of such designation, subjected to registration or
 146 community or public notification, or both, or would be if the
 147 person was a resident of that state or jurisdiction, without
 148 regard to whether the person otherwise meets the criteria for

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 149 registration as a sexual offender, shall register in the manner
 150 provided in s. 943.0435 or s. 944.607 and shall be subject to
 151 community and public notification as provided in s. 943.0435 or
 152 s. 944.607. A person who meets the criteria of this section is
 153 subject to the requirements and penalty provisions of s.
 154 943.0435 or s. 944.607 until the person provides the department
 155 with an order issued by the court that designated the person as
 156 a sexual predator, as a sexually violent predator, or by another
 157 sexual offender designation in the state or jurisdiction in
 158 which the order was issued which states that such designation
 159 has been removed or demonstrates to the department that such
 160 designation, if not imposed by a court, has been removed by
 161 operation of law or court order in the state or jurisdiction in
 162 which the designation was made, and provided such person no
 163 longer meets the criteria for registration as a sexual offender
 164 under the laws of this state.

165 (6) REGISTRATION.—

166 (a) A sexual predator shall register with the department
 167 through the sheriff's office by providing the following
 168 information to the department:

169 1. Name; social security number; age; race; sex; date of
 170 birth; height; weight; tattoos or other identifying marks; hair
 171 and eye color; photograph; address of legal residence and
 172 address of any current temporary residence, within the state or
 173 out of state, including a rural route address and a post office
 174 box; if no permanent or temporary address, any transient
 175 residence within the state; address, location or description,
 176 and dates of any current or known future temporary residence
 177 within the state or out of state; ~~all~~ electronic mail addresses;

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178 ~~and all Internet identifiers and each Internet identifier's~~
 179 ~~corresponding website homepage or application software name~~
 180 ~~required to be provided pursuant to subparagraph (g)5.;~~ all home
 181 telephone numbers and cellular telephone numbers ~~required to be~~
 182 ~~provided pursuant to subparagraph (g)5.;~~ employment information
 183 ~~required to be provided pursuant to subparagraph (g)5.;~~ the
 184 make, model, color, vehicle identification number (VIN), and
 185 license tag number of all vehicles owned; date and place of each
 186 conviction; fingerprints; palm prints; and a brief description
 187 of the crime or crimes committed by the offender. A post office
 188 box may not be provided in lieu of a physical residential
 189 address. The sexual predator shall produce his or her passport,
 190 if he or she has a passport, and, if he or she is an alien,
 191 shall produce or provide information about documents
 192 establishing his or her immigration status. The sexual predator
 193 shall also provide information about any professional licenses
 194 he or she has.

195 a. Any change that occurs after the sexual predator
 196 registers in person at the sheriff's office as provided in this
 197 subparagraph in any of the following information related to the
 198 sexual predator must be reported as provided in paragraphs (g),
 199 (i), and (j): permanent, temporary, or transient residence;
 200 name; electronic mail addresses; Internet identifiers and each
 201 Internet identifier's corresponding website homepage or
 202 application software name; home and cellular telephone numbers;
 203 and employment information; and status at an institution of
 204 higher education.

205 b.a. If the sexual predator's place of residence is a motor
 206 vehicle, trailer, mobile home, or manufactured home, as defined

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207 in chapter 320, the sexual predator shall also provide to the
 208 department written notice of the vehicle identification number;
 209 the license tag number; the registration number; and a
 210 description, including color scheme, of the motor vehicle,
 211 trailer, mobile home, or manufactured home. If a sexual
 212 predator's place of residence is a vessel, live-aboard vessel,
 213 or houseboat, as defined in chapter 327, the sexual predator
 214 shall also provide to the department written notice of the hull
 215 identification number; the manufacturer's serial number; the
 216 name of the vessel, live-aboard vessel, or houseboat; the
 217 registration number; and a description, including color scheme,
 218 of the vessel, live-aboard vessel, or houseboat.

219 c.b. If the sexual predator is enrolled or employed,
 220 whether for compensation or as a volunteer, at an institution of
 221 higher education in this state, the sexual predator shall also
 222 provide to the department ~~pursuant to subparagraph (g)5.~~ the
 223 name, address, and county of each institution, including each
 224 campus attended, and the sexual predator's enrollment,
 225 volunteer, or employment status. The sheriff, the Department of
 226 Corrections, or the Department of Juvenile Justice shall
 227 promptly notify each institution of higher education of the
 228 sexual predator's presence and any change in the sexual
 229 predator's enrollment, volunteer, or employment status.

230 d.e. A sexual predator shall report in person to the
 231 sheriff's office within 48 hours after any change in vehicles
 232 owned to report those vehicle information changes.

233 2. Any other information determined necessary by the
 234 department, including criminal and corrections records;
 235 nonprivileged personnel and treatment records; and evidentiary

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236 genetic markers when available.

237 (e)1. If the sexual predator is not in the custody or
238 control of, or under the supervision of, the Department of
239 Corrections or is not in the custody of a private correctional
240 facility, the sexual predator shall register in person:

241 a. At the sheriff's office in the county where he or she
242 establishes or maintains a residence within 48 hours after
243 establishing or maintaining a residence in this state; and

244 b. At the sheriff's office in the county where he or she
245 was designated a sexual predator by the court within 48 hours
246 after such finding is made.

247 2. Any change that occurs after the sexual predator
248 registers in person at the sheriff's office as provided in
249 subparagraph 1. in any of the following information related to
250 in the sexual predator must be reported as provided in
251 paragraphs (g), (i), and (j): predator's permanent, temporary,
252 or transient residence; name; vehicles owned; electronic mail
253 addresses; Internet identifiers and each Internet identifier's
254 corresponding website homepage or application software name;
255 home ~~telephone numbers~~ and cellular telephone numbers; and
256 employment information; and any change in status at an
257 institution of higher education, ~~required to be provided~~
258 pursuant to subparagraph (g)5., after the sexual predator
259 registers in person at the sheriff's office as provided in
260 subparagraph 1. must be accomplished in the manner provided in
261 paragraphs (g), (i), and (j). When a sexual predator registers
262 with the sheriff's office, the sheriff shall take a photograph,
263 a set of fingerprints, and palm prints of the predator and
264 forward the photographs, palm prints, and fingerprints to the

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265 department, along with the information that the predator is
266 required to provide pursuant to this section.

267 (g)1. Each time a sexual predator's driver license or
268 identification card is subject to renewal, and, without regard
269 to the status of the predator's driver license or identification
270 card, within 48 hours after any change of the predator's
271 residence or change in the predator's name by reason of marriage
272 or other legal process, the predator shall report in person to a
273 driver license office and is subject to the requirements
274 specified in paragraph (f). The Department of Highway Safety and
275 Motor Vehicles shall forward to the department and to the
276 Department of Corrections all photographs and information
277 provided by sexual predators. Notwithstanding the restrictions
278 set forth in s. 322.142, the Department of Highway Safety and
279 Motor Vehicles may release a reproduction of a color-photograph
280 or digital-image license to the Department of Law Enforcement
281 for purposes of public notification of sexual predators as
282 provided in this section. A sexual predator who is unable to
283 secure or update a driver license or an identification card with
284 the Department of Highway Safety and Motor Vehicles as provided
285 in paragraph (f) and this paragraph shall also report any change
286 of the predator's residence or change in the predator's name by
287 reason of marriage or other legal process within 48 hours after
288 the change to the sheriff's office in the county where the
289 predator resides or is located and provide confirmation that he
290 or she reported such information to the Department of Highway
291 Safety and Motor Vehicles. The reporting requirements under this
292 subparagraph do not negate the requirement for a sexual predator
293 to obtain a Florida driver license or identification card as

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294 required by this section.

295 2.a. A sexual predator who vacates a permanent, temporary,
296 or transient residence and fails to establish or maintain
297 another permanent, temporary, or transient residence shall,
298 within 48 hours after vacating the permanent, temporary, or
299 transient residence, report in person to the sheriff's office of
300 the county in which he or she is located. The sexual predator
301 shall specify the date upon which he or she intends to or did
302 vacate such residence. The sexual predator shall provide or
303 update all of the registration information required under
304 paragraph (a). The sexual predator shall provide an address for
305 the residence or other place that he or she is or will be
306 located during the time in which he or she fails to establish or
307 maintain a permanent or temporary residence.

308 b. A sexual predator shall report in person at the
309 sheriff's office in the county in which he or she is located
310 within 48 hours after establishing a transient residence and
311 thereafter must report in person every 30 days to the sheriff's
312 office in the county in which he or she is located while
313 maintaining a transient residence. The sexual predator must
314 provide the addresses and locations where he or she maintains a
315 transient residence. Each sheriff's office shall establish
316 procedures for reporting transient residence information and
317 provide notice to transient registrants to report transient
318 residence information as required in this sub-subparagraph.
319 Reporting to the sheriff's office as required by this sub-
320 subparagraph does not exempt registrants from any reregistration
321 requirement. The sheriff may coordinate and enter into
322 agreements with police departments and other governmental

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323 entities to facilitate additional reporting sites for transient
324 residence registration required in this sub-subparagraph. The
325 sheriff's office shall, within 2 business days, electronically
326 submit and update all information provided by the sexual
327 predator to the department.

328 3. A sexual predator who remains at a permanent, temporary,
329 or transient residence after reporting his or her intent to
330 vacate such residence shall, within 48 hours after the date upon
331 which the predator indicated he or she would or did vacate such
332 residence, report in person to the sheriff's office to which he
333 or she reported pursuant to subparagraph 2. for the purpose of
334 reporting his or her address at such residence. When the sheriff
335 receives the report, the sheriff shall promptly convey the
336 information to the department. An offender who makes a report as
337 required under subparagraph 2. but fails to make a report as
338 required under this subparagraph commits a felony of the second
339 degree, punishable as provided in s. 775.082, s. 775.083, or s.
340 775.084.

341 4. The failure of a sexual predator who maintains a
342 transient residence to report in person to the sheriff's office
343 every 30 days as required by sub-subparagraph 2.b. is punishable
344 as provided in subsection (10).

345 5.a. A sexual predator shall register all electronic mail
346 addresses and Internet identifiers, and each Internet
347 identifier's corresponding website homepage or application
348 software name, with the department through the department's
349 online system or in person at the sheriff's office within 48
350 hours after ~~before~~ using such electronic mail addresses and
351 Internet identifiers. If the sexual predator is in the custody

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352 or control, or under the supervision, of the Department of
 353 Corrections, he or she must report all electronic mail addresses
 354 and Internet identifiers, and each Internet identifier's
 355 corresponding website homepage or application software name, to
 356 the Department of Corrections before using such electronic mail
 357 addresses or Internet identifiers. If the sexual predator is in
 358 the custody or control, or under the supervision, of the
 359 Department of Juvenile Justice, he or she must report all
 360 electronic mail addresses and Internet identifiers, and each
 361 Internet identifier's corresponding website homepage or
 362 application software name, to the Department of Juvenile Justice
 363 before using such electronic mail addresses or Internet
 364 identifiers.

365 b. A sexual predator shall register all changes to home
 366 telephone numbers and cellular telephone numbers, including
 367 added and deleted numbers, all changes to employment
 368 information, and all changes in status related to enrollment,
 369 volunteering, or employment at institutions of higher education,
 370 through the department's online system; in person at the
 371 sheriff's office; in person at the Department of Corrections if
 372 the sexual predator is in the custody or control, or under the
 373 supervision, of the Department of Corrections; or in person at
 374 the Department of Juvenile Justice if the sexual predator is in
 375 the custody or control, or under the supervision, of the
 376 Department of Juvenile Justice. All changes required to be
 377 reported in this sub-subparagraph shall be reported within 48
 378 hours after the change.

379 c. The department shall establish an online system through
 380 which sexual predators may securely access, submit, and update

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381 all electronic mail addresses; address and Internet identifiers
 382 and each Internet identifier's corresponding website homepage or
 383 application software name; identifier information, home
 384 telephone numbers and cellular telephone numbers;~~;~~ employment
 385 information;~~;~~ and institution of higher education information.

386 (i) A sexual predator who intends to establish a permanent,
 387 temporary, or transient residence in another state or
 388 jurisdiction other than the State of Florida shall report in
 389 person to the sheriff of the county of current residence within
 390 48 hours before the date he or she intends to leave this state
 391 to establish residence in another state or jurisdiction or at
 392 least 21 days before the date he or she intends to travel if the
 393 intended residence of 5 days or more is outside of the United
 394 States. Any travel that is not known by the sexual predator 21
 395 days before the departure date must be reported to the sheriff's
 396 office as soon as possible before departure. The sexual predator
 397 shall provide to the sheriff the address, municipality, county,
 398 state, and country of intended residence. For international
 399 travel, the sexual predator shall also provide travel
 400 information, including, but not limited to, expected departure
 401 and return dates, flight number, airport of departure, cruise
 402 port of departure, or any other means of intended travel. The
 403 sheriff shall promptly provide to the department the information
 404 received from the sexual predator. The department shall notify
 405 the statewide law enforcement agency, or a comparable agency, in
 406 the intended state, jurisdiction, or country of residence of the
 407 sexual predator's intended residence. The failure of a sexual
 408 predator to provide his or her intended place of residence is
 409 punishable as provided in subsection (10).

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410 (8) VERIFICATION.—The department and the Department of
 411 Corrections shall implement a system for verifying the addresses
 412 of sexual predators. The system must be consistent with the
 413 federal Adam Walsh Child Protection and Safety Act of 2006 and
 414 any other federal standards applicable to such verification or
 415 required to be met as a condition for the receipt of federal
 416 funds by the state. The Department of Corrections shall verify
 417 the addresses of sexual predators who are not incarcerated but
 418 who reside in the community under the supervision of the
 419 Department of Corrections and shall report to the department any
 420 failure by a sexual predator to comply with registration
 421 requirements. County and local law enforcement agencies, in
 422 conjunction with the department, shall verify the addresses of
 423 sexual predators who are not under the care, custody, control,
 424 or supervision of the Department of Corrections, and may verify
 425 the addresses of sexual predators who are under the care,
 426 custody, control, or supervision of the Department of
 427 Corrections. Local law enforcement agencies shall report to the
 428 department any failure by a sexual predator to comply with
 429 registration requirements.

430 (a) A sexual predator shall report in person each year
 431 during the month of the sexual predator's birthday and during
 432 every third month thereafter to the sheriff's office in the
 433 county in which he or she resides or is otherwise located to
 434 reregister. The sheriff's office may determine the appropriate
 435 times and days for reporting by the sexual predator, which must
 436 be consistent with the reporting requirements of this paragraph.
 437 Reregistration must include any changes to the following
 438 information:

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439 1. Name; social security number; age; race; sex; date of
 440 birth; height; weight; tattoos or other identifying marks; hair
 441 and eye color; address of any permanent residence and address of
 442 any current temporary residence, within the state or out of
 443 state, including a rural route address and a post office box; if
 444 no permanent or temporary address, any transient residence
 445 within the state including the address, location or description
 446 of the transient residences, and dates of any current or known
 447 future temporary residence within the state or out of state; all
 448 electronic mail addresses or Internet identifiers and each
 449 Internet identifier's corresponding website homepage or
 450 application software name required to be provided pursuant to
 451 subparagraph (6) (g) 5-; all home telephone numbers and cellular
 452 telephone numbers required to be provided pursuant to
 453 subparagraph (6) (g) 5-; date and place of any employment required
 454 to be provided pursuant to subparagraph (6) (g) 5-; the make,
 455 model, color, vehicle identification number (VIN), and license
 456 tag number of all vehicles owned; fingerprints; palm prints; and
 457 photograph. A post office box may not be provided in lieu of a
 458 physical residential address. The sexual predator shall also
 459 produce his or her passport, if he or she has a passport, and,
 460 if he or she is an alien, shall produce or provide information
 461 about documents establishing his or her immigration status. The
 462 sexual predator shall also provide information about any
 463 professional licenses he or she has.

464 2. If the sexual predator is enrolled or employed, whether
 465 for compensation or as a volunteer, at an institution of higher
 466 education in this state, the sexual predator shall also provide
 467 to the department the name, address, and county of each

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468 institution, including each campus attended, and the sexual
469 predator's enrollment, volunteer, or employment status.

470 3. If the sexual predator's place of residence is a motor
471 vehicle, trailer, mobile home, or manufactured home, as defined
472 in chapter 320, the sexual predator shall also provide the
473 vehicle identification number; the license tag number; the
474 registration number; and a description, including color scheme,
475 of the motor vehicle, trailer, mobile home, or manufactured
476 home. If the sexual predator's place of residence is a vessel,
477 live-aboard vessel, or houseboat, as defined in chapter 327, the
478 sexual predator shall also provide the hull identification
479 number; the manufacturer's serial number; the name of the
480 vessel, live-aboard vessel, or houseboat; the registration
481 number; and a description, including color scheme, of the
482 vessel, live-aboard vessel, or houseboat.

483 (10) PENALTIES.—

484 (a) Except as otherwise specifically provided, a sexual
485 predator who fails to register; who fails, after registration,
486 to maintain, acquire, or renew a driver license or an
487 identification card; who fails to provide required location
488 information; who fails to provide, electronic mail addresses
489 ~~address information before use~~, Internet identifiers, and each
490 Internet identifier's corresponding website homepage or
491 application software name; who fails to provide identifier
492 ~~information before use~~, all home telephone numbers and cellular
493 telephone numbers, employment information, change in status at
494 an institution of higher education, or change-of-name
495 information; who fails to make a required report in connection
496 with vacating a permanent residence; who fails to reregister as

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497 required; who fails to respond to any address verification
498 correspondence from the department within 3 weeks of the date of
499 the correspondence; who knowingly provides false registration
500 information by act or omission; or who otherwise fails, by act
501 or omission, to comply with the requirements of this section
502 commits a felony of the third degree, punishable as provided in
503 s. 775.082, s. 775.083, or s. 775.084.

504 (e) An arrest on charges of failure to register, the
505 service of an information or a complaint for a violation of this
506 section, or an arraignment on charges for a violation of this
507 section constitutes actual notice of the duty to register when
508 the predator has been provided and advised of his or her
509 statutory obligation to register under subsection (6). A sexual
510 predator's failure to immediately register as required by this
511 section following such arrest, service, or arraignment
512 constitutes grounds for a subsequent charge of failure to
513 register. A sexual predator charged with the crime of failure to
514 register who asserts, or intends to assert, a lack of notice of
515 the duty to register as a defense to a charge of failure to
516 register shall immediately register as required by this section.
517 A sexual predator who is charged with a subsequent failure to
518 register may not assert the defense of a lack of notice of the
519 duty to register.

520 Section 2. Paragraph (e) of subsection (1) of section
521 943.0435, Florida Statutes, is republished, and subsection (2),
522 paragraph (e) of subsection (4), and paragraph (c) of subsection
523 (14) of that section are amended, to read:

524 943.0435 Sexual offenders required to register with the
525 department; penalty.—

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

527 (e) "Internet identifier" has the same meaning as provided

528 in s. 775.21.

529 (2) Upon initial registration, a sexual offender shall:

530 (a) Report in person at the sheriff's office:

531 1. In the county in which the offender establishes or

532 maintains a permanent, temporary, or transient residence within

533 48 hours after:

534 a. Establishing permanent, temporary, or transient

535 residence in this state; or

536 b. Being released from the custody, control, or supervision

537 of the Department of Corrections or from the custody of a

538 private correctional facility; or

539 2. In the county where he or she was convicted within 48

540 hours after being convicted for a qualifying offense for

541 registration under this section if the offender is not in the

542 custody or control of, or under the supervision of, the

543 Department of Corrections, or is not in the custody of a private

544 correctional facility.

545

546 Any change in the information required to be provided pursuant

547 to paragraph (b), including, but not limited to, any change in

548 the sexual offender's permanent, temporary, or transient

549 residence; name; electronic mail addresses; Internet identifiers

550 and each Internet identifier's corresponding website homepage or

551 application software name; home telephone numbers and cellular

552 telephone numbers; ~~and employment information~~; and any change in

553 status at an institution of higher education, ~~required to be~~

554 ~~provided pursuant to paragraph (4)(c)~~, after the sexual offender

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555 reports in person at the sheriff's office must be reported

556 ~~accomplished~~ in the manner provided in subsections (4), (7), and

557 (8).

558 (b) Provide his or her name; date of birth; social security

559 number; race; sex; height; weight; hair and eye color; tattoos

560 or other identifying marks; fingerprints; palm prints;

561 photograph; employment information ~~required to be provided~~

562 ~~pursuant to paragraph (4)(c)~~; address of permanent or legal

563 residence or address of any current temporary residence, within

564 the state or out of state, including a rural route address and a

565 post office box; if no permanent or temporary address, any

566 transient residence within the state, address, location or

567 description, and dates of any current or known future temporary

568 residence within the state or out of state; the make, model,

569 color, vehicle identification number (VIN), and license tag

570 number of all vehicles owned; ~~all~~ home telephone numbers and

571 cellular telephone numbers ~~required to be provided pursuant to~~

572 ~~paragraph (4)(c)~~; ~~all~~ electronic mail addresses; ~~and all~~

573 Internet identifiers and each Internet identifier's

574 corresponding website homepage or application software name

575 ~~required to be provided pursuant to paragraph (4)(c)~~; date and

576 place of each conviction; and a brief description of the crime

577 or crimes committed by the offender. A post office box may not

578 be provided in lieu of a physical residential address. The

579 sexual offender shall also produce his or her passport, if he or

580 she has a passport, and, if he or she is an alien, shall produce

581 or provide information about documents establishing his or her

582 immigration status. The sexual offender shall also provide

583 information about any professional licenses he or she has.

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584 1. If the sexual offender's place of residence is a motor
 585 vehicle, trailer, mobile home, or manufactured home, as defined
 586 in chapter 320, the sexual offender shall also provide to the
 587 department through the sheriff's office written notice of the
 588 vehicle identification number; the license tag number; the
 589 registration number; and a description, including color scheme,
 590 of the motor vehicle, trailer, mobile home, or manufactured
 591 home. If the sexual offender's place of residence is a vessel,
 592 live-aboard vessel, or houseboat, as defined in chapter 327, the
 593 sexual offender shall also provide to the department written
 594 notice of the hull identification number; the manufacturer's
 595 serial number; the name of the vessel, live-aboard vessel, or
 596 houseboat; the registration number; and a description, including
 597 color scheme, of the vessel, live-aboard vessel, or houseboat.

598 2. If the sexual offender is enrolled or employed, whether
 599 for compensation or as a volunteer, at an institution of higher
 600 education in this state, the sexual offender shall also provide
 601 to the department ~~pursuant to paragraph (4)(c)~~ the name,
 602 address, and county of each institution, including each campus
 603 attended, and the sexual offender's enrollment, volunteer, or
 604 employment status. The sheriff, the Department of Corrections,
 605 or the Department of Juvenile Justice shall promptly notify each
 606 institution of higher education of the sexual offender's
 607 presence and any change in the sexual offender's enrollment,
 608 volunteer, or employment status.

609 3. A sexual offender shall report in person to the
 610 sheriff's office within 48 hours after any change in vehicles
 611 owned to report those vehicle information changes.

612 (c) Provide any other information determined necessary by

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613 the department, including criminal and corrections records;
 614 nonprivileged personnel and treatment records; and evidentiary
 615 genetic markers, when available.

616
 617 When a sexual offender reports at the sheriff's office, the
 618 sheriff shall take a photograph, a set of fingerprints, and palm
 619 prints of the offender and forward the photographs, palm prints,
 620 and fingerprints to the department, along with the information
 621 provided by the sexual offender. The sheriff shall promptly
 622 provide to the department the information received from the
 623 sexual offender.

624 (4)

625 (e)1. A sexual offender shall register all electronic mail
 626 addresses and Internet identifiers, and each Internet
 627 identifier's corresponding website homepage or application
 628 software name, with the department through the department's
 629 online system or in person at the sheriff's office within 48
 630 hours after ~~before~~ using such electronic mail addresses and
 631 Internet identifiers. If the sexual offender is in the custody
 632 or control, or under the supervision, of the Department of
 633 Corrections, he or she must report all electronic mail addresses
 634 and Internet identifiers, and each Internet identifier's
 635 corresponding website homepage or application software name, to
 636 the Department of Corrections before using such electronic mail
 637 addresses or Internet identifiers. If the sexual offender is in
 638 the custody or control, or under the supervision, of the
 639 Department of Juvenile Justice, he or she must report all
 640 electronic mail addresses and Internet identifiers, and each
 641 Internet identifier's corresponding website homepage or

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642 application software name, to the Department of Juvenile Justice
643 before using such electronic mail addresses or Internet
644 identifiers.

645 2. A sexual offender shall register all changes to home
646 telephone numbers and cellular telephone numbers, including
647 added and deleted numbers, all changes to employment
648 information, and all changes in status related to enrollment,
649 volunteering, or employment at institutions of higher education,
650 through the department's online system; in person at the
651 sheriff's office; in person at the Department of Corrections if
652 the sexual offender is in the custody or control, or under the
653 supervision, of the Department of Corrections; or in person at
654 the Department of Juvenile Justice if the sexual offender is in
655 the custody or control, or under the supervision, of the
656 Department of Juvenile Justice. All changes required to be
657 reported under this subparagraph must be reported within 48
658 hours after the change.

659 3. The department shall establish an online system through
660 which sexual offenders may securely access, submit, and update
661 all changes in status to electronic mail addresses; ~~address and~~
662 Internet identifiers and each Internet identifier's
663 corresponding website homepage or application software name;
664 ~~identifier information~~, home telephone numbers and cellular
665 telephone numbers; ~~employment information~~; and institution of
666 higher education information.

667 (14)

668 (c) The sheriff's office may determine the appropriate
669 times and days for reporting by the sexual offender, which must
670 be consistent with the reporting requirements of this

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671 subsection. Reregistration must include any changes to the
672 following information:

673 1. Name; social security number; age; race; sex; date of
674 birth; height; weight; tattoos or other identifying marks; hair
675 and eye color; address of any permanent residence and address of
676 any current temporary residence, within the state or out of
677 state, including a rural route address and a post office box; if
678 no permanent or temporary address, any transient residence
679 within the state; address, location or description, and dates of
680 any current or known future temporary residence within the state
681 or out of state; all electronic mail addresses or Internet
682 identifiers and each Internet identifier's corresponding website
683 homepage or application software name ~~required to be provided~~
684 ~~pursuant to paragraph (4)(e)~~; all home telephone numbers and
685 cellular telephone numbers ~~required to be provided pursuant to~~
686 ~~paragraph (4)(e)~~; employment information ~~required to be provided~~
687 ~~pursuant to paragraph (4)(e)~~; the make, model, color, vehicle
688 identification number (VIN), and license tag number of all
689 vehicles owned; fingerprints; palm prints; and photograph. A
690 post office box may not be provided in lieu of a physical
691 residential address. The sexual offender shall also produce his
692 or her passport, if he or she has a passport, and, if he or she
693 is an alien, shall produce or provide information about
694 documents establishing his or her immigration status. The sexual
695 offender shall also provide information about any professional
696 licenses he or she has.

697 2. If the sexual offender is enrolled or employed, whether
698 for compensation or as a volunteer, at an institution of higher
699 education in this state, the sexual offender shall also provide

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700 to the department the name, address, and county of each
701 institution, including each campus attended, and the sexual
702 offender's enrollment, volunteer, or employment status.

703 3. If the sexual offender's place of residence is a motor
704 vehicle, trailer, mobile home, or manufactured home, as defined
705 in chapter 320, the sexual offender shall also provide the
706 vehicle identification number; the license tag number; the
707 registration number; and a description, including color scheme,
708 of the motor vehicle, trailer, mobile home, or manufactured
709 home. If the sexual offender's place of residence is a vessel,
710 live-aboard vessel, or houseboat, as defined in chapter 327, the
711 sexual offender shall also provide the hull identification
712 number; the manufacturer's serial number; the name of the
713 vessel, live-aboard vessel, or houseboat; the registration
714 number; and a description, including color scheme, of the
715 vessel, live-aboard vessel, or houseboat.

716 4. Any sexual offender who fails to report in person as
717 required at the sheriff's office, who fails to respond to any
718 address verification correspondence from the department within 3
719 weeks of the date of the correspondence, who fails to report all
720 electronic mail addresses and all Internet identifiers, and each
721 Internet identifier's corresponding website homepage or
722 application software name ~~before use~~, or who knowingly provides
723 false registration information by act or omission commits a
724 felony of the third degree, punishable as provided in s.
725 775.082, s. 775.083, or s. 775.084.

726 Section 3. For the purpose of incorporating the amendments
727 made by this act to section 775.21, Florida Statutes, in a
728 reference thereto, subsection (2) of section 943.0437, Florida

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729 Statutes, is reenacted to read:

730 943.0437 Commercial social networking websites.—

731 (2) The department may provide information relating to
732 electronic mail addresses and Internet identifiers, as defined
733 in s. 775.21, maintained as part of the sexual offender registry
734 to commercial social networking websites or third parties
735 designated by commercial social networking websites. The
736 commercial social networking website may use this information
737 for the purpose of comparing registered users and screening
738 potential users of the commercial social networking website
739 against the list of electronic mail addresses and Internet
740 identifiers provided by the department.

741 Section 4. For the purpose of incorporating the amendment
742 made by this act to section 775.21, Florida Statutes, in a
743 reference thereto, paragraph (c) of subsection (1) of section
744 944.606, Florida Statutes, is reenacted to read:

745 944.606 Sexual offenders; notification upon release.—

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

747 (c) "Internet identifier" has the same meaning as provided
748 in s. 775.21.

749 Section 5. For the purpose of incorporating the amendment
750 made by this act to section 775.21, Florida Statutes, in a
751 reference thereto, paragraph (e) of subsection (1) of section
752 944.607, Florida Statutes, is reenacted to read:

753 944.607 Notification to Department of Law Enforcement of
754 information on sexual offenders.—

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

756 (e) "Internet identifier" has the same meaning as provided
757 in s. 775.21.

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758 Section 6. For the purpose of incorporating the amendment
759 made by this act to section 775.21, Florida Statutes, in a
760 reference thereto, paragraph (c) of subsection (1) of section
761 985.481, Florida Statutes, is reenacted to read:

762 985.481 Sexual offenders adjudicated delinquent;
763 notification upon release.—

764 (1) As used in this section:

765 (c) "Internet identifier" has the same meaning as provided
766 in s. 775.21.

767 Section 7. For the purpose of incorporating the amendment
768 made by this act to section 775.21, Florida Statutes, in a
769 reference thereto, paragraph (e) of subsection (1) of section
770 985.4815, Florida Statutes, is reenacted to read:

771 985.4815 Notification to Department of Law Enforcement of
772 information on juvenile sexual offenders.—

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

774 (e) "Internet identifier" has the same meaning as provided
775 in s. 775.21.

776 Section 8. For the purpose of incorporating the amendment
777 made by this act to section 943.0435, Florida Statutes, in a
778 reference thereto, paragraph (a) of subsection (3) of section
779 944.606, Florida Statutes, is reenacted to read:

780 944.606 Sexual offenders; notification upon release.—

781 (3)(a) The department shall provide information regarding
782 any sexual offender who is being released after serving a period
783 of incarceration for any offense, as follows:

784 1. The department shall provide: the sexual offender's
785 name, any change in the offender's name by reason of marriage or
786 other legal process, and any alias, if known; the correctional

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787 facility from which the sexual offender is released; the sexual
788 offender's social security number, race, sex, date of birth,
789 height, weight, and hair and eye color; tattoos or other
790 identifying marks; address of any planned permanent residence or
791 temporary residence, within the state or out of state, including
792 a rural route address and a post office box; if no permanent or
793 temporary address, any transient residence within the state;
794 address, location or description, and dates of any known future
795 temporary residence within the state or out of state; date and
796 county of sentence and each crime for which the offender was
797 sentenced; a copy of the offender's fingerprints, palm prints,
798 and a digitized photograph taken within 60 days before release;
799 the date of release of the sexual offender; all electronic mail
800 addresses and all Internet identifiers required to be provided
801 pursuant to s. 943.0435(4)(e); employment information, if known,
802 provided pursuant to s. 943.0435(4)(e); all home telephone
803 numbers and cellular telephone numbers required to be provided
804 pursuant to s. 943.0435(4)(e); information about any
805 professional licenses the offender has, if known; and passport
806 information, if he or she has a passport, and, if he or she is
807 an alien, information about documents establishing his or her
808 immigration status. The department shall notify the Department
809 of Law Enforcement if the sexual offender escapes, absconds, or
810 dies. If the sexual offender is in the custody of a private
811 correctional facility, the facility shall take the digitized
812 photograph of the sexual offender within 60 days before the
813 sexual offender's release and provide this photograph to the
814 Department of Corrections and also place it in the sexual
815 offender's file. If the sexual offender is in the custody of a

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816 local jail, the custodian of the local jail shall register the
 817 offender within 3 business days after intake of the offender for
 818 any reason and upon release, and shall notify the Department of
 819 Law Enforcement of the sexual offender's release and provide to
 820 the Department of Law Enforcement the information specified in
 821 this paragraph and any information specified in subparagraph 2.
 822 that the Department of Law Enforcement requests.

823 2. The department may provide any other information deemed
 824 necessary, including criminal and corrections records,
 825 nonprivileged personnel and treatment records, when available.

826 Section 9. For the purpose of incorporating the amendment
 827 made by this act to section 943.0435, Florida Statutes, in
 828 references thereto, paragraph (a) of subsection (4), subsection
 829 (9), and paragraph (c) of subsection (13) of section 944.607,
 830 Florida Statutes, are reenacted to read:

831 944.607 Notification to Department of Law Enforcement of
 832 information on sexual offenders.—

833 (4) A sexual offender, as described in this section, who is
 834 under the supervision of the Department of Corrections but is
 835 not incarcerated shall register with the Department of
 836 Corrections within 3 business days after sentencing for a
 837 registrable offense and otherwise provide information as
 838 required by this subsection.

839 (a) The sexual offender shall provide his or her name; date
 840 of birth; social security number; race; sex; height; weight;
 841 hair and eye color; tattoos or other identifying marks; all
 842 electronic mail addresses and Internet identifiers required to
 843 be provided pursuant to s. 943.0435(4)(e); employment
 844 information required to be provided pursuant to s.

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845 943.0435(4)(e); all home telephone numbers and cellular
 846 telephone numbers required to be provided pursuant to s.
 847 943.0435(4)(e); the make, model, color, vehicle identification
 848 number (VIN), and license tag number of all vehicles owned;
 849 permanent or legal residence and address of temporary residence
 850 within the state or out of state while the sexual offender is
 851 under supervision in this state, including any rural route
 852 address or post office box; if no permanent or temporary
 853 address, any transient residence within the state; and address,
 854 location or description, and dates of any current or known
 855 future temporary residence within the state or out of state. The
 856 sexual offender shall also produce his or her passport, if he or
 857 she has a passport, and, if he or she is an alien, shall produce
 858 or provide information about documents establishing his or her
 859 immigration status. The sexual offender shall also provide
 860 information about any professional licenses he or she has. The
 861 Department of Corrections shall verify the address of each
 862 sexual offender in the manner described in ss. 775.21 and
 863 943.0435. The department shall report to the Department of Law
 864 Enforcement any failure by a sexual predator or sexual offender
 865 to comply with registration requirements.

866 (9) A sexual offender, as described in this section, who is
 867 under the supervision of the Department of Corrections but who
 868 is not incarcerated shall, in addition to the registration
 869 requirements provided in subsection (4), register and obtain a
 870 distinctive driver license or identification card in the manner
 871 provided in s. 943.0435(3), (4), and (5), unless the sexual
 872 offender is a sexual predator, in which case he or she shall
 873 register and obtain a distinctive driver license or

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874 identification card as required under s. 775.21. A sexual
 875 offender who fails to comply with the requirements of s.
 876 943.0435 is subject to the penalties provided in s. 943.0435(9).
 877 (13)

878 (c) The sheriff's office may determine the appropriate
 879 times and days for reporting by the sexual offender, which must
 880 be consistent with the reporting requirements of this
 881 subsection. Reregistration must include any changes to the
 882 following information:

883 1. Name; social security number; age; race; sex; date of
 884 birth; height; weight; tattoos or other identifying marks; hair
 885 and eye color; address of any permanent residence and address of
 886 any current temporary residence, within the state or out of
 887 state, including a rural route address and a post office box; if
 888 no permanent or temporary address, any transient residence;
 889 address, location or description, and dates of any current or
 890 known future temporary residence within the state or out of
 891 state; all electronic mail addresses and Internet identifiers
 892 required to be provided pursuant to s. 943.0435(4)(e); all home
 893 telephone numbers and cellular telephone numbers required to be
 894 provided pursuant to s. 943.0435(4)(e); employment information
 895 required to be provided pursuant to s. 943.0435(4)(e); the make,
 896 model, color, vehicle identification number (VIN), and license
 897 tag number of all vehicles owned; fingerprints; palm prints; and
 898 photograph. A post office box may not be provided in lieu of a
 899 physical residential address. The sexual offender shall also
 900 produce his or her passport, if he or she has a passport, and,
 901 if he or she is an alien, shall produce or provide information
 902 about documents establishing his or her immigration status. The

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903 sexual offender shall also provide information about any
 904 professional licenses he or she has.

905 2. If the sexual offender is enrolled or employed, whether
 906 for compensation or as a volunteer, at an institution of higher
 907 education in this state, the sexual offender shall also provide
 908 to the department the name, address, and county of each
 909 institution, including each campus attended, and the sexual
 910 offender's enrollment, volunteer, or employment status.

911 3. If the sexual offender's place of residence is a motor
 912 vehicle, trailer, mobile home, or manufactured home, as defined
 913 in chapter 320, the sexual offender shall also provide the
 914 vehicle identification number; the license tag number; the
 915 registration number; and a description, including color scheme,
 916 of the motor vehicle, trailer, mobile home, or manufactured
 917 home. If the sexual offender's place of residence is a vessel,
 918 live-aboard vessel, or houseboat, as defined in chapter 327, the
 919 sexual offender shall also provide the hull identification
 920 number; the manufacturer's serial number; the name of the
 921 vessel, live-aboard vessel, or houseboat; the registration
 922 number; and a description, including color scheme, of the
 923 vessel, live-aboard vessel or houseboat.

924 4. Any sexual offender who fails to report in person as
 925 required at the sheriff's office, who fails to respond to any
 926 address verification correspondence from the department within 3
 927 weeks of the date of the correspondence, who fails to report all
 928 electronic mail addresses or Internet identifiers before use, or
 929 who knowingly provides false registration information by act or
 930 omission commits a felony of the third degree, punishable as
 931 provided in s. 775.082, s. 775.083, or s. 775.084.

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932 Section 10. For the purpose of incorporating the amendment
 933 made by this act to section 943.0435, Florida Statutes, in a
 934 reference thereto, paragraph (a) of subsection (3) of section
 935 985.481, Florida Statutes, is reenacted to read:

936 985.481 Sexual offenders adjudicated delinquent;
 937 notification upon release.—

938 (3) (a) The department shall provide information regarding
 939 any sexual offender who is being released after serving a period
 940 of residential commitment under the department for any offense,
 941 as follows:

942 1. The department shall provide the sexual offender's name,
 943 any change in the offender's name by reason of marriage or other
 944 legal process, and any alias, if known; the correctional
 945 facility from which the sexual offender is released; the sexual
 946 offender's social security number, race, sex, date of birth,
 947 height, weight, and hair and eye color; tattoos or other
 948 identifying marks; the make, model, color, vehicle
 949 identification number (VIN), and license tag number of all
 950 vehicles owned; address of any planned permanent residence or
 951 temporary residence, within the state or out of state, including
 952 a rural route address and a post office box; if no permanent or
 953 temporary address, any transient residence within the state;
 954 address, location or description, and dates of any known future
 955 temporary residence within the state or out of state; date and
 956 county of disposition and each crime for which there was a
 957 disposition; a copy of the offender's fingerprints, palm prints,
 958 and a digitized photograph taken within 60 days before release;
 959 the date of release of the sexual offender; all home telephone
 960 numbers and cellular telephone numbers required to be provided

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961 pursuant to s. 943.0435(4) (e); all electronic mail addresses and
 962 Internet identifiers required to be provided pursuant to s.
 963 943.0435(4) (e); information about any professional licenses the
 964 offender has, if known; and passport information, if he or she
 965 has a passport, and, if he or she is an alien, information about
 966 documents establishing his or her immigration status. The
 967 department shall notify the Department of Law Enforcement if the
 968 sexual offender escapes, absconds, or dies. If the sexual
 969 offender is in the custody of a private correctional facility,
 970 the facility shall take the digitized photograph of the sexual
 971 offender within 60 days before the sexual offender's release and
 972 also place it in the sexual offender's file. If the sexual
 973 offender is in the custody of a local jail, the custodian of the
 974 local jail shall register the offender within 3 business days
 975 after intake of the offender for any reason and upon release,
 976 and shall notify the Department of Law Enforcement of the sexual
 977 offender's release and provide to the Department of Law
 978 Enforcement the information specified in this subparagraph and
 979 any information specified in subparagraph 2. which the
 980 Department of Law Enforcement requests.

981 2. The department may provide any other information
 982 considered necessary, including criminal and delinquency
 983 records, when available.

984 Section 11. For the purpose of incorporating the amendment
 985 made by this act to section 943.0435, Florida Statutes, in
 986 references thereto, paragraph (a) of subsection (4), subsection
 987 (9), and paragraph (b) of subsection (13) of section 985.4815,
 988 Florida Statutes, are reenacted to read:

989 985.4815 Notification to Department of Law Enforcement of

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990 information on juvenile sexual offenders.-

991 (4) A sexual offender, as described in this section, who is
992 under the supervision of the department but who is not committed
993 shall register with the department within 3 business days after
994 adjudication and disposition for a registrable offense and
995 otherwise provide information as required by this subsection.

996 (a) The sexual offender shall provide his or her name; date
997 of birth; social security number; race; sex; height; weight;
998 hair and eye color; tattoos or other identifying marks; the
999 make, model, color, vehicle identification number (VIN), and
1000 license tag number of all vehicles owned; permanent or legal
1001 residence and address of temporary residence within the state or
1002 out of state while the sexual offender is in the care or custody
1003 or under the jurisdiction or supervision of the department in
1004 this state, including any rural route address or post office
1005 box; if no permanent or temporary address, any transient
1006 residence; address, location or description, and dates of any
1007 current or known future temporary residence within the state or
1008 out of state; all home telephone numbers and cellular telephone
1009 numbers required to be provided pursuant to s. 943.0435(4)(e);
1010 all electronic mail addresses and Internet identifiers required
1011 to be provided pursuant to s. 943.0435(4)(e); and the name and
1012 address of each school attended. The sexual offender shall also
1013 produce his or her passport, if he or she has a passport, and,
1014 if he or she is an alien, shall produce or provide information
1015 about documents establishing his or her immigration status. The
1016 offender shall also provide information about any professional
1017 licenses he or she has. The department shall verify the address
1018 of each sexual offender and shall report to the Department of

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1019 Law Enforcement any failure by a sexual offender to comply with
1020 registration requirements.

1021 (9) A sexual offender, as described in this section, who is
1022 under the care, jurisdiction, or supervision of the department
1023 but who is not incarcerated shall, in addition to the
1024 registration requirements provided in subsection (4), register
1025 in the manner provided in s. 943.0435(3), (4), and (5), unless
1026 the sexual offender is a sexual predator, in which case he or
1027 she shall register as required under s. 775.21. A sexual
1028 offender who fails to comply with the requirements of s.
1029 943.0435 is subject to the penalties provided in s. 943.0435(9).

1030 (13)

1031 (b) The sheriff's office may determine the appropriate
1032 times and days for reporting by the sexual offender, which must
1033 be consistent with the reporting requirements of this
1034 subsection. Reregistration must include any changes to the
1035 following information:

1036 1. Name; social security number; age; race; sex; date of
1037 birth; height; weight; hair and eye color; tattoos or other
1038 identifying marks; fingerprints; palm prints; address of any
1039 permanent residence and address of any current temporary
1040 residence, within the state or out of state, including a rural
1041 route address and a post office box; if no permanent or
1042 temporary address, any transient residence; address, location or
1043 description, and dates of any current or known future temporary
1044 residence within the state or out of state; passport
1045 information, if he or she has a passport, and, if he or she is
1046 an alien, information about documents establishing his or her
1047 immigration status; all home telephone numbers and cellular

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1048 telephone numbers required to be provided pursuant to s.
 1049 943.0435(4)(e); all electronic mail addresses and Internet
 1050 identifiers required to be provided pursuant to s.
 1051 943.0435(4)(e); name and address of each school attended;
 1052 employment information required to be provided pursuant to s.
 1053 943.0435(4)(e); the make, model, color, vehicle identification
 1054 number (VIN), and license tag number of all vehicles owned; and
 1055 photograph. A post office box may not be provided in lieu of a
 1056 physical residential address. The offender shall also provide
 1057 information about any professional licenses he or she has.

1058 2. If the sexual offender is enrolled or employed, whether
 1059 for compensation or as a volunteer, at an institution of higher
 1060 education in this state, the sexual offender shall also provide
 1061 to the department the name, address, and county of each
 1062 institution, including each campus attended, and the sexual
 1063 offender's enrollment, volunteer, or employment status.

1064 3. If the sexual offender's place of residence is a motor
 1065 vehicle, trailer, mobile home, or manufactured home, as defined
 1066 in chapter 320, the sexual offender shall also provide the
 1067 vehicle identification number; the license tag number; the
 1068 registration number; and a description, including color scheme,
 1069 of the motor vehicle, trailer, mobile home, or manufactured
 1070 home. If the sexual offender's place of residence is a vessel,
 1071 live-aboard vessel, or houseboat, as defined in chapter 327, the
 1072 sexual offender shall also provide the hull identification
 1073 number; the manufacturer's serial number; the name of the
 1074 vessel, live-aboard vessel, or houseboat; the registration
 1075 number; and a description, including color scheme, of the
 1076 vessel, live-aboard vessel, or houseboat.

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1077 4. Any sexual offender who fails to report in person as
 1078 required at the sheriff's office, who fails to respond to any
 1079 address verification correspondence from the department within 3
 1080 weeks after the date of the correspondence, or who knowingly
 1081 provides false registration information by act or omission
 1082 commits a felony of the third degree, punishable as provided in
 1083 ss. 775.082, 775.083, and 775.084.

1084 Section 12. For the purpose of incorporating the amendments
 1085 made by this act to sections 775.21 and 943.0435, Florida
 1086 Statutes, in a reference thereto, subsection (1) of section
 1087 794.056, Florida Statutes, is reenacted to read:

1088 794.056 Rape Crisis Program Trust Fund.—

1089 (1) The Rape Crisis Program Trust Fund is created within
 1090 the Department of Health for the purpose of providing funds for
 1091 rape crisis centers in this state. Trust fund moneys shall be
 1092 used exclusively for the purpose of providing services for
 1093 victims of sexual assault. Funds credited to the trust fund
 1094 consist of those funds collected as an additional court
 1095 assessment in each case in which a defendant pleads guilty or
 1096 nolo contendere to, or is found guilty of, regardless of
 1097 adjudication, an offense provided in s. 775.21(6) and (10)(a),
 1098 (b), and (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s.
 1099 784.045; s. 784.048; s. 784.07; s. 784.08; s. 784.081; s.
 1100 784.082; s. 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); s.
 1101 787.025; s. 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08;
 1102 former s. 796.03; former s. 796.035; s. 796.04; s. 796.05; s.
 1103 796.06; s. 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s.
 1104 810.14; s. 810.145; s. 812.135; s. 817.025; s. 825.102; s.
 1105 825.1025; s. 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s.

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 1106 847.0137; s. 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a),
 1107 (13), and (14)(c); or s. 985.701(1). Funds credited to the trust
 1108 fund also shall include revenues provided by law, moneys
 1109 appropriated by the Legislature, and grants from public or
 1110 private entities.

1111 Section 13. For the purpose of incorporating the amendments
 1112 made by this act to sections 775.21 and 943.0435, Florida
 1113 Statutes, in references thereto, paragraph (g) of subsection (3)
 1114 of section 921.0022, Florida Statutes, is reenacted to read:

1115 921.0022 Criminal Punishment Code; offense severity ranking
 1116 chart.—

1117 (3) OFFENSE SEVERITY RANKING CHART

1118 (g) LEVEL 7

1119	Florida Statute	Felony Degree	Description
1120	316.027(2)(c)	1st	Accident involving death, failure to stop; leaving scene.
1121	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
1122	316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while

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 1123 fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

1124 327.35(3)(c)2. 3rd Vessel BUI resulting in serious bodily injury.

1125 402.319(2) 2nd Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.

1126 409.920 3rd Medicaid provider fraud; \$10,000 or less.

1127 409.920 2nd Medicaid provider fraud; more than \$10,000, but less than \$50,000.

1128 456.065(2) 3rd Practicing a health care profession without a license.

1129 456.065(2) 2nd Practicing a health care profession without a

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			license which results in serious bodily injury.	
1129	458.327(1)	3rd	Practicing medicine without a license.	
1130	459.013(1)	3rd	Practicing osteopathic medicine without a license.	
1131	460.411(1)	3rd	Practicing chiropractic medicine without a license.	
1132	461.012(1)	3rd	Practicing podiatric medicine without a license.	
1133	462.17	3rd	Practicing naturopathy without a license.	
1134	463.015(1)	3rd	Practicing optometry without a license.	
1135	464.016(1)	3rd	Practicing nursing without a license.	
1136	465.015(2)	3rd	Practicing pharmacy without a license.	

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1137	466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.	
1138	467.201	3rd	Practicing midwifery without a license.	
1139	468.366	3rd	Delivering respiratory care services without a license.	
1140	483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.	
1141	483.901(7)	3rd	Practicing medical physics without a license.	
1142	484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.	
1143	484.053	3rd	Dispensing hearing aids without a license.	
1144	494.0018(2)	1st	Conviction of any violation of chapter 494 in which the total money	

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1145	560.123(8)(b)1.	3rd			Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.
1146	560.125(5)(a)	3rd			Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
1147	655.50(10)(b)1.	3rd			Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
1148	775.21(10)(a)	3rd			Sexual predator; failure to register; failure to renew driver license or identification card; other registration violations.
1149					

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	775.21(10)(b)	3rd			Sexual predator working where children regularly congregate.
1150	775.21(10)(g)	3rd			Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
1151	782.051(3)	2nd			Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
1152	782.07(1)	2nd			Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
1153	782.071	2nd			Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide).
1154	782.072	2nd			Killing of a human being

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			by the operation of a vessel in a reckless manner (vessel homicide).
1155	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
1156	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
1157	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
1158	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
1159	784.048(7)	3rd	Aggravated stalking; violation of court order.
1160	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
1161	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.

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1162	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
1163	784.081(1)	1st	Aggravated battery on specified official or employee.
1164	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
1165	784.083(1)	1st	Aggravated battery on code inspector.
1166	787.06(3)(a)2.	1st	Human trafficking using coercion for labor and services of an adult.
1167	787.06(3)(e)2.	1st	Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state.
1168	790.07(4)	1st	Specified weapons violation subsequent to

	12-00437-17		2017684__	previous conviction of s. 790.07(1) or (2).
1169	790.16(1)	1st		Discharge of a machine gun under specified circumstances.
1170	790.165(2)	2nd		Manufacture, sell, possess, or deliver hoax bomb.
1171	790.165(3)	2nd		Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
1172	790.166(3)	2nd		Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
1173	790.166(4)	2nd		Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
1174				

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	790.23	1st,PBL		Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
1175	794.08(4)	3rd		Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.
1176	796.05(1)	1st		Live on earnings of a prostitute; 2nd offense.
1177	796.05(1)	1st		Live on earnings of a prostitute; 3rd and subsequent offense.
1178	800.04(5)(c)1.	2nd		Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.
1179	800.04(5)(c)2.	2nd		Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of

	12-00437-17		2017684__	
			age; offender 18 years of age or older.	
1180	800.04(5)(e)	1st	Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction for specified sex offense.	
1181	806.01(2)	2nd	Maliciously damage structure by fire or explosive.	
1182	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.	
1183	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.	
1184	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.	
1185	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.	

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1186	812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.	
1187	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.	
1188	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.	
1189	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.	
1190	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.	
1191	812.019(2)	1st	Stolen property;	

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				initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
1192	812.131(2)(a)	2nd		Robbery by sudden snatching.
1193	812.133(2)(b)	1st		Carjacking; no firearm, deadly weapon, or other weapon.
1194	817.034(4)(a)1.	1st		Communications fraud, value greater than \$50,000.
1195	817.234(8)(a)	2nd		Solicitation of motor vehicle accident victims with intent to defraud.
1196	817.234(9)	2nd		Organizing, planning, or participating in an intentional motor vehicle collision.
1197	817.234(11)(c)	1st		Insurance fraud; property value \$100,000 or more.
1198	817.2341	1st		Making false entries of

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

	12-00437-17		2017684	
	(2)(b) & (3)(b)			material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.
1199	817.535(2)(a)	3rd		Filing false lien or other unauthorized document.
1200	817.611(2)(b)	2nd		Traffic in or possess 15 to 49 counterfeit credit cards or related documents.
1201	825.102(3)(b)	2nd		Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
1202	825.103(3)(b)	2nd		Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.
1203	827.03(2)(b)	2nd		Neglect of a child causing

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			great bodily harm, disability, or disfigurement.
1204	827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
1205	837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
1206	838.015	2nd	Bribery.
1207	838.016	2nd	Unlawful compensation or reward for official behavior.
1208	838.021(3)(a)	2nd	Unlawful harm to a public servant.
1209	838.22	2nd	Bid tampering.
1210	843.0855(2)	3rd	Impersonation of a public officer or employee.
1211	843.0855(3)	3rd	Unlawful simulation of

	12-00437-17		2017684__
			legal process.
1212	843.0855(4)	3rd	Intimidation of a public officer or employee.
1213	847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.
1214	847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.
1215	872.06	2nd	Abuse of a dead human body.
1216	874.05(2)(b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.
1217	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.
1218			

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	893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
1219	893.13(1)(e)1.	1st	Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.
1220	893.13(4)(a)	1st	Use or hire of minor; deliver to minor other controlled substance.
1221	893.135(1)(a)1.	1st	Trafficking in cannabis,

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	12-00437-17		2017684
			more than 25 lbs., less than 2,000 lbs.
1222	893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
1223	893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
1224	893.135 (1)(c)2.a.	1st	Trafficking in hydrocodone, 14 grams or more, less than 28 grams.
1225	893.135 (1)(c)2.b.	1st	Trafficking in hydrocodone, 28 grams or more, less than 50 grams.
1226	893.135 (1)(c)3.a.	1st	Trafficking in oxycodone, 7 grams or more, less than 14 grams.
1227	893.135 (1)(c)3.b.	1st	Trafficking in oxycodone, 14 grams or more, less than 25 grams.
1228	893.135(1)(d)1.	1st	Trafficking in phencyclidine, more than

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				28 grams, less than 200 grams.
1229	893.135(1)(e)1.	1st		Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
1230	893.135(1)(f)1.	1st		Trafficking in amphetamine, more than 14 grams, less than 28 grams.
1231	893.135(1)(g)1.a.	1st		Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.
1232	893.135(1)(h)1.a.	1st		Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.
1233	893.135(1)(j)1.a.	1st		Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.
1234	893.135(1)(k)2.a.	1st		Trafficking in Phenethylamines, 10 grams or more, less than 200

	12-00437-17		2017684	
				grams.
1235	893.1351(2)	2nd		Possession of place for trafficking in or manufacturing of controlled substance.
1236	896.101(5)(a)	3rd		Money laundering, financial transactions exceeding \$300 but less than \$20,000.
1237	896.104(4)(a)1.	3rd		Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.
1238	943.0435(4)(c)	2nd		Sexual offender vacating permanent residence; failure to comply with reporting requirements.
1239	943.0435(8)	2nd		Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.

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1240	943.0435 (9) (a)	3rd	Sexual offender; failure to comply with reporting requirements.
1241	943.0435 (13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1242	943.0435 (14)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1243	944.607 (9)	3rd	Sexual offender; failure to comply with reporting requirements.
1244	944.607 (10) (a)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1245	944.607 (12)	3rd	Failure to report or providing false information about a sexual

	12-00437-17		2017684__
			offender; harbor or conceal a sexual offender.
1246	944.607 (13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1247	985.4815 (10)	3rd	Sexual offender; failure to submit to the taking of a digitized photograph.
1248	985.4815 (12)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.
1249	985.4815 (13)	3rd	Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.
1250			
1251	Section 14. For the purpose of incorporating the amendments		
1252	made by this act to sections 775.21 and 943.0435, Florida		

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2017684__

1253 Statutes, in references thereto, section 938.085, Florida
1254 Statutes, is reenacted to read:
1255 938.085 Additional cost to fund rape crisis centers.—In
1256 addition to any sanction imposed when a person pleads guilty or
1257 nolo contendere to, or is found guilty of, regardless of
1258 adjudication, a violation of s. 775.21(6) and (10)(a), (b), and
1259 (g); s. 784.011; s. 784.021; s. 784.03; s. 784.041; s. 784.045;
1260 s. 784.048; s. 784.07; s. 784.08; s. 784.081; s. 784.082; s.
1261 784.083; s. 784.085; s. 787.01(3); s. 787.02(3); 787.025; s.
1262 787.06; s. 787.07; s. 794.011; s. 794.05; s. 794.08; former s.
1263 796.03; former s. 796.035; s. 796.04; s. 796.05; s. 796.06; s.
1264 796.07(2)(a)-(d) and (i); s. 800.03; s. 800.04; s. 810.14; s.
1265 810.145; s. 812.135; s. 817.025; s. 825.102; s. 825.1025; s.
1266 827.071; s. 836.10; s. 847.0133; s. 847.0135(2); s. 847.0137; s.
1267 847.0145; s. 943.0435(4)(c), (7), (8), (9)(a), (13), and
1268 (14)(c); or s. 985.701(1), the court shall impose a surcharge of
1269 \$151. Payment of the surcharge shall be a condition of
1270 probation, community control, or any other court-ordered
1271 supervision. The sum of \$150 of the surcharge shall be deposited
1272 into the Rape Crisis Program Trust Fund established within the
1273 Department of Health by chapter 2003-140, Laws of Florida. The
1274 clerk of the court shall retain \$1 of each surcharge that the
1275 clerk of the court collects as a service charge of the clerk's
1276 office.
1277 Section 15. 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^{APR} 17

Meeting Date

684

Bill Number (if applicable)

Topic Internet Identifiers

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe
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

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

4/3/17
Meeting Date

684
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Bill Bunkley

Job Title President

Address PO Box 341644

Phone (813) 264-2977

Street

Tampa

City

FL

State

33696

Zip

Email _____

Speaking: For Against Information

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

Representing FL Ethics & Religious Liberty Commission

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4.3.17

Meeting Date

684

Bill Number (if applicable)

Topic INTERNET IDENTIFIERS

Amendment Barcode (if applicable)

Name JASON JONES

Job Title GENERAL COUNSEL

Address 2331 PHILLIPS ROAD

Phone 850.410.7001

Street

TALL

City

FL

State

32308

Zip

Email JASONJONES@FDLE.STATE.FL.US

Speaking: For Against Information

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

Representing FDLE

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)

April 3, 2017
Meeting Date

SB 684
Bill Number (if applicable)

Topic Internet Identifiers

Amendment Barcode (if applicable)

Name Bernadette Howard

Job Title Government Affairs Coordinator

Address 2636 Mitcham Dr
Street
Tallahassee FL 32308
City State Zip

Phone 850-219-3631

Email bhoward@fpca.com

Speaking: For Against Information

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

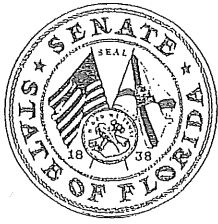
Representing The Florida Police Chiefs Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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



THE FLORIDA SENATE

SENATOR DENNIS BAXLEY
12th District

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Criminal Justice, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health and
Human Services
Transportation

SELECT COMMITTEE:
Joint Select Committee on Collective Bargaining

JOINT COMMITTEE:
Joint Legislative Auditing Committee

February 20, 2017

The Honorable Senator Randolph Bracy
213 Senate Office Building
Tallahassee, Florida 32399

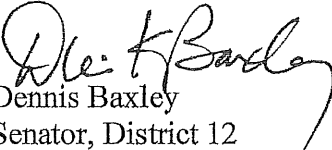
Dear Chairman Bracy,

I respectfully request you place Senate Bill 684 Internet Identifiers/SB 686 Internet Identifiers Public Records on your next available agenda.

This bill requires sexual offenders and predators to register their internet identifiers and email addresses.

I appreciate your favorable consideration.

Onward & Upward,


Dennis Baxley
Senator, District 12

DKB/dd

cc: Jennifer Hrdlicka, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012

Email: baxley.dennis@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 686

INTRODUCER: Criminal Justice Committee and Senator Baxley

SUBJECT: Public Records/Internet Identifiers

DATE: April 4, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 686 provides that electronic mail addresses and Internet identifiers registered by sexual predators or sexual offenders and held by agencies pursuant to specified statutory authority are exempt from public disclosure. This exemption applies to records held before, on, or after the effective date of the bill.

A law enforcement agency is not prohibited from confirming to a member of the public that an electronic mail address or Internet identifier reported is registered in the Florida Department of Law Enforcement sexual offender and sexual predator registry.

The bill provides that the exemption is subject to the Open Government Sunset Review Act, and stands repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill includes a public necessity statement as required by the Florida Constitution

The bill does not appear to have a fiscal impact on state or local governments.

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.

II. Present Situation:

Registration of Sexual Predators and Sexual Offenders

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender. The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. The laws span several different chapters and numerous statutes,¹ and are implemented through the combined efforts of the Florida Department of Law Enforcement (FDLE), all Florida sheriffs, the Department of Corrections (DOC), the Department of Juvenile Justice (DJJ), the Department of Highway Safety and Motor Vehicles (DHSMV), and the Department of Children and Families (DCF).

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

- Has been convicted of a current qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;²
- Has been convicted of a current qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.³

A person is classified as a sexual offender if the person:

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997 (the date the modern registry became effective) from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the person was 14 years of age or older.⁴

¹ Sections 775.21-775.25, 943.043-943.0437, 944.606-944.607, and 985.481-985.4815, F.S.

² Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

³ Section s. 775.21(4) and (5), F.S. The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

⁴ Sections 943.0435(1)(h) and 985.4815(1)(h), F.S. Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the supervision of the Department of Corrections, also define the term "sexual offender."

Sexual predators and sexual offenders are required to report certain information, including electronic mail addresses⁵ and Internet identifiers.⁶ The FDLE may provide information relating to electronic mail addresses and Internet identifiers maintained as part of the sexual offender registry to commercial social networking websites⁷ or third parties designated by commercial social networking websites.⁸ The commercial social networking website may use this information for the purpose of comparing registered users and screening potential users of the commercial social networking website against the list of electronic mail addresses and Internet identifiers provided by the FDLE.⁹

Requirements for in-person registration and reregistration are similar for sexual predators and sexual offenders,¹⁰ but the frequency of reregistration may differ.¹¹ Registration requirements may also differ based on a special status, e.g., the sexual predator or sexual offender is in the DOC's control or custody, under DOC or DJJ supervision, or in residential commitment under the DJJ.¹²

The FDLE, through its agency website, provides a searchable database that contains information about sexual predators and sexual offenders.¹³ Further, local law enforcement agencies provide access to this information, typically through a link to the state public registry webpage.

Florida's registry laws meet minimum requirements of the federal Sex Offender Registration and Notification Act (SORNA), which is Title I of the Adam Walsh Protection and Safety Act of

⁵ An "electronic mail address" is defined in s. 775.21(2)(g), F.S., as having the same meaning as provided in s. 668.602, F.S. Section 668.602(6), F.S., defines an "electronic mail address" as a destination, commonly expressed as a string of characters, to which electronic mail may be sent or delivered.

⁶ Requirements to report electronic mail addresses and Internet identifiers and changes in this information are in: s. 775.21(6)(a), (e), and (g) and (8), F.S.; s. 943.0435(2)(a), (4)(e), and (14)(c), F.S.; s. 944.607(4)(a) and (13)(c), F.S.; and s. 985.4815(4)(a) and (13)(b), F.S.

⁷ For purpose of s. 943.0437, F.S., the term "commercial social networking website" means a commercially operated Internet website that allows users to create web pages or profiles that provide information about themselves and are available publicly or to other users and that offers a mechanism for communication with other users, such as a forum, chat room, electronic mail, or instant messenger. Section 943.0437(1), F.S.

⁸ Section 943.0437(2), F.S.

⁹ *Id.*

¹⁰ Sexual predator reporting requirements are in s. 775.21(6) and (8), F.S. Sexual offender reporting requirements are in ss. 943.0435(2-4), (7-8), and (14), 944.607(4), (9), and (13), and 985.4815(4), (9), and (13), F.S.

¹¹ A sexual predator is required to reregister each year during the month of the predator's birthday and during every third month thereafter. Section 775.21(8), F.S. A sexual offender convicted of any listed offense in s. 943.0435(14)(b), F.S., must reregister in the same manner as a sexual predator. Any other sex offender must reregister each year during the month of the offender's birthday and during the sixth month following the offender's birth month. Section 943.0435(14)(a), F.S.

¹² See footnote 10.

¹³ The FDLE is the central repository for registration information. The department also maintains the state public registry and ensures Florida's compliance with federal laws. The Florida sheriffs handle in-person registration and reregistration. "About Us" (updated October 1, 2016), Florida Department of Law Enforcement, *available at* <http://offender.fdle.state.fl.us/offender/About.jsp> (last visited on March 13, 2017). The FDLE maintains a database that allows members of the public to search for sexual offenders and sexual predators through a variety of search options, including name, neighborhood, and enrollment, employment, or volunteer status at a institute of higher education. Members of the public may also check whether an electronic mail address or Internet identifier belongs to a registered sexual offender or sexual predator. Offender searches and other information may be accessed from "Florida Sexual Offenders and Predators," Florida Department of Law Enforcement, *available at* <http://offender.fdle.state.fl.us/offender/Search.jsp> (last visited on March 13, 2017).

2006 (AWA).¹⁴ The SORNA attempts to make all states' laws uniform with respect to requirements (or minimum standards) that Congress judged to be necessary to be included in states' registry laws. The U.S. Department of Justice (DOJ) maintains the Dru Sjodin National Sex Offender Public Website (NSOPW).¹⁵ States may choose not to substantially implement the SORNA, but the AWA penalizes noncompliance by partially reducing Byrne Justice Assistance Grant funding.¹⁶ The DOJ has determined that Florida has substantially implemented the SORNA.¹⁷

Preliminary Injunction Precluding Enforcement of the Current Definition of Internet Identifier

As previously noted, sexual predators and sexual offenders are required to report certain information, including Internet identifiers. The requirement to report Internet identifiers was created by the Legislature in 2014.¹⁸ In 2016, the Legislature modified the original definition of "Internet identifier."¹⁹ This modified definition, which was to take effect on October 1, 2016,²⁰ expanded the original definition to include Internet identifiers associated with a website or URL²¹ or software applications.

Section 775.21(2)(j), F.S., provides that an "Internet identifier" includes, but is not limited to, all website uniform resource locators (URLs) and application software, whether mobile or nonmobile, used for Internet communication, including anonymous communication, through electronic mail, chat, instant messages, social networking, social gaming, or other similar programs and all corresponding usernames, logins, screen names, and screen identifiers associated with each URL or application software. Internet identifier does not include a date of birth, Social Security number, personal identification number (PIN), URL, or application

¹⁴ 42 U.S.C. Sections 16911 *et seq.* The Department of Justice issued guidelines for the implementation of the SORNA. The final guidelines (July 2008) and supplemental guidelines (January 11, 2011) may be accessed at "Guidelines," Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), Office of Justice Programs, U.S. Department of Justice, available at <https://ojp.gov/smart/guidelines.htm> (last visited on March 13, 2017).

¹⁵ Offender searches and other information may be accessed from "NSPOW," Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), Office of Justice Programs, U.S. Department of Justice, available at <http://www.nsopw.gov/Core/Portal.aspx> (last visited on March 13, 2017).

¹⁶ *Edward Byrne Justice Assistance Grant (JAG) Program Fact Sheet*, Bureau of Justice Assistance, U.S. Department of Justice (updated January 1, 2016) available at <https://www.ncjrs.gov/App/Publications/abstract.aspx?ID=266685> (last visited on March 13, 2017).

¹⁷ "Jurisdictions that have substantially implemented SORNA," Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering, and Tracking (SMART), Office of Justice Programs, U.S. Department of Justice, available at http://www.ojp.usdoj.gov/smart/newsroom_jurisdictions_sorna.htm (last visited on March 13, 2017).

¹⁸ Chapter 2014-5, L.O.F.

¹⁹ Chapter 2016-104, L.O.F. (amending s. 775.21(2)(i), F.S., and renumbering it as s. 775.21(2)(j), F.S.). The original definition of "Internet identifier" was all electronic mail, chat, instant messenger, social networking, application software, or similar names used for Internet communication, but did not include a date of birth, social security number, or personal identification number (PIN). Voluntary disclosure by a sexual predator of his or her date of birth, social security number, or PIN as an Internet identifier waived the disclosure exemption in this paragraph for such personal information. Section 775.21(2)(i), F.S. (2014).

²⁰ *Id.*

²¹ "URL stands for Uniform Resource Locator, and is used to specify addresses on the World Wide Web. A URL is the fundamental network identification for any resource connected to the web (e.g., hypertext pages, images, and sound files)." "ARCHIVED: What is a URL?", Indiana University Information Technology Knowledge Base Repository, available at <https://kb.iu.edu/d/adnz> (last visited on March 14, 2017).

software used for utility, banking, retail, or medical purposes. Voluntary disclosure by a sexual predator or sexual offender of his or her date of birth, Social Security number, or PIN as an Internet identifier waives the disclosure exemption in this paragraph for such personal information.²²

Shortly before the amended definition of “Internet identifier” was slated to take effect, a group of plaintiffs in Florida who had been convicted as sexual offenders filed a lawsuit against the Commissioner of the FDLE in the United States District Court for the Northern District of Florida, Tallahassee Division.²³ The plaintiffs argued that the prior and amended definition of “Internet identifier” violated the First Amendment and raised a vagueness challenge. The plaintiffs also moved for a preliminary injunction, which the court treated as a challenge only to the amended definition.

The court found the current definition is “hopelessly vague, chills speech protected by the First Amendment, and is far broader than necessary to serve the state’s legitimate interest in deterring or solving online sex crimes.” The court granted the preliminary injunction.

The court stated the definition “sets no outer limit, because the term is expressly ‘not limited to’ what the definition says. Having jettisoned the ordinary understanding and replaced it with an expressly unlimited description, the definition leaves a sex offender guessing at what must be disclosed.” The court also stated that the definition, “at least on many plausible readings, is hopelessly and unnecessarily broad in scope.” One of the examples the court cited in its finding was Mr. Doe’s digital subscription to a newspaper. Mr. Doe receives an e-mail every morning with the day’s headlines and e-mails every day with additional articles or breaking news. The court continued:

He plainly must register at least the URL for the newspaper, if not the URL for every article the newspaper sends. But the State has absolutely no legitimate interest in requiring a sex offender to register the URL of the newspaper or articles the offender reads. And if Mr. Doe chooses one day to make a comment on an article, he must now figure out whether the same URL is in use, and he must make his identity available to the public. Unlike every other subscriber or member of the public, Mr. Doe cannot comment anonymously. *See White v. Baker*, 696 F. Supp. 2d 1289, 1313 (N.D. Ga. 2010) (holding that enforcement of a registration requirement would irreparably harm a registered sex offender “by chilling his First Amendment right to engage in anonymous free speech”).

The order states that the preliminary injunction remains in effect until entry of a final judgment in the case or until otherwise ordered. The injunction prohibits the FDLE Commissioner²⁴ from

²² Sections 943.0435(1)(e), 944.607, and 985.4815, F.S., provide that “Internet identifier” has the same meaning as provided in s. 775.21, F.S.

²³ The plaintiffs filed this action against current FDLE Commissioner Richard “Rick” L. Swearingen in his official capacity. Preliminary Injunction, *Doe I et al. v. Swearingen, etc.*, Case No. 4:16-00501-RH-CAS (N.D. Fla. Sept. 27, 2016) (on file with the Senate Committee on Criminal Justice). All information regarding this case is from this source.

²⁴ The injunction also binds the Commissioner’s “officers, agents, servants, employees, and attorneys - and others in active concert or participation with any of them - who receive actual notice of this injunction by personal service or otherwise.”

taking any action based on the current definition of “Internet identifier.” However, the injunction does not preclude enforcement of the prior definition.

Public Records Law

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.²⁵

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 record²⁶ at any reasonable time, under reasonable conditions, and under the supervision of the public records custodian.²⁷

Only the Legislature may create an exemption to public records requirements.²⁸ 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.²⁹ 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.³⁰

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.³¹

²⁵ Article I, s. 24(a), FLA. CONST.

²⁶ 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.

²⁷ Section 119.07(1)(a), F.S.

²⁸ 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 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); 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.

²⁹ Section 119.15(3), F.S.

³⁰ Section 119.15(6)(b), F.S.

³¹ Section 119.15(6)(b)1.-3., F.S.

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.³² In examining an exemption, the OGSR asks the Legislature to carefully question the purpose and necessity of the exemption. These specified questions are:

- 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?³³

To enact an exemption, the bill may not contain other substantive provisions³⁴ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.³⁵

III. Effect of Proposed Changes:

The bill amends s. 119.071(5), F.S., to create a new paragraph (l), which provides the following definitions:

- "Electronic mail address" has the same meaning as provided in s. 668.602, F.S.
- "Internet identifier" has the same meaning as provided in s. 775.21, F.S.
- "Personal identifying information" means any name or number that may be used, alone or in conjunction with any other information, to identify a specific person, including, but not limited to, a name, a mailing address, a telephone number, a social security number, a date of birth, a mother's maiden name, an official state-issued or United States-issued driver license or identification number, an alien registration number, a government passport number, or an employer or taxpayer identification number.

The bill provides that electronic mail addresses and Internet identifiers registered by sexual predators or sexual offenders and held by agencies pursuant to ss. 775.21, 943.0435, 944.606, 944.607, 985.481, or 985.4815, F.S., are exempt from public disclosure. This exemption applies to records held before, on, or after the effective date of the bill.

A law enforcement agency is not prohibited from confirming to a member of the public that an electronic mail address or Internet identifier reported pursuant to ss. 775.21, 943.0435, 944.606, 944.607, 985.481, or 985.4815, F.S., is registered in the FDLE sexual offender and sexual predator registry.

³² Section 119.15(6)(a), F.S.

³³ Section 119.15(6)(a)1.-6., F.S.

³⁴ The bill may, however, contain multiple exemptions that relate to one subject.

³⁵ Article I, s. 24(c), FLA. CONST.

The bill provides that the exemption is subject to the Open Government Sunset Review Act in accordance with s. 119.15, F.S., and stands repealed on October 2, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

The bill includes a public necessity statement as required by the Florida Constitution.³⁶ The statement includes the following legislative findings that it is a public necessity to create the exemption:

- The exemption strikes an important balance between the government's legitimate interest in public safety and protecting individuals' rights afforded under the Florida Constitution and First Amendment rights protected by the United States Constitution.
- The exemption maintains the ability of members of the public to confirm whether an electronic mail address or Internet identifier is associated with or is contained in the sexual offender and sexual predator registry without obtaining the personal identifying information of the registrant associated with this information.
- The exemption allows members of the public access to safety information which assists them in making informed decisions regarding communicating or otherwise interacting with registered sexual predators and sexual offenders.
- The exemption preserves the ability of criminal justice agencies to access valuable investigative information.
- Criminal justice agencies are tasked with the prevention of crimes to protect residents, particularly children, from sexual exploitation through investigating and bringing offenders to justice.
- As daily life necessitates increasing dependence upon access to the Internet, sexual exploitation through the use of the Internet grows as well.
- There is a nexus between commercial social networking sites and Internet sex crimes. Commercial social networking sites are widely used among youth and adults for introduction, communication, and publication of personal details that may be exploited.
- Locating missing children and sexual predators and sexual offenders who have evaded registration is greatly aided through the use of registered electronic mail addresses and Internet identifiers.
- Without the exemption, criminal justice agencies may lose access to information which has become a valuable investigative tool since the inception of this registration requirement.
- Absent a registration requirement for electronic mail addresses and Internet identifiers, investigative agencies will be severely hampered in the growing call to protect Florida residents from sexual exploitation online.
- Electronic mail addresses and Internet identifiers have an exceptional distinction from other registration requirements in that they are used as unique personal identifiers for speech and communication, and because of this distinction, a public records exemption is required to avoid any appearance of infringement on registrants' constitutional rights.
- If the ability to collect this information were prevented, it would greatly disrupt the ability of criminal justice agencies to use this essential information in combatting the prevalent problem of online sexual exploitation of children.

³⁶ Article I, s. 24(c), FLA. CONST.

The bill also directs the Division of Law Revision and Information to replace the phrase “the effective date of this act” whenever it occurs in this act with the date the act becomes a law.

The bill takes effect on the same date that SB 684 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 Florida 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 Florida 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 Florida 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.

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 appear to have a fiscal impact on state or local governments.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

Connected Bill

A connected bill, SB 684 (2017), revises provisions requiring registered sexual predators and sexual offenders to report Internet identifiers. These revisions include modifying the definition of the term “Internet identifier” and defining a connected term “social Internet communication.” The bill also requires a sexual predator and sexual offender to report each Internet identifier’s corresponding website homepage or application software name.

Access to Sex Offender Registry Information

The bill does not affect the public’s access to information currently available on the sex offender registry. The online registry does not include sex offenders’ electronic mail addresses or Internet identifiers.

VIII. **Statutes Affected:**

This bill substantially amends section 119.071 of the Florida Statutes.

IX. **Additional Information:**

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

CS by Criminal Justice on April 3, 2017:

The committee substitute:

- Specifies that the public records exemption applies to electronic mail addresses and Internet identifiers registered by sexual predators or sexual offenders and held by agencies pursuant to specified statutory authority.
- Removes language stating that the electronic mail addresses and Internet identifiers can be used “only by criminal justice agencies for criminal justice purposes.”
- Removes language precluding disclosure of personal identification information linked to exempt electronic mail addresses and Internet identifiers.
- Removes language authorizing the FDLE to provide exempt information pursuant to s. 943.0437, F.S. (commercial social networking sites).
- Revises the public necessity statement.
- Revises the effective date by providing a contingent effective date (effective on the same date that SB 684 or similar legislation takes effect in the same session).

B. Amendments:

None.

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



351510

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/03/2017	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (1) is added to subsection (5) of
section 119.071, Florida Statutes, to read:

119.071 General exemptions from inspection or copying of
public records.—

(5) OTHER PERSONAL INFORMATION.—

(1)1. For purposes of this paragraph, the term:



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11 a. "Electronic mail address" has the same meaning as in s.
12 668.602.

13 b. "Internet identifier" has the same meaning as in s.
14 775.21.

15 2. Electronic mail addresses and Internet identifiers of
16 sexual predators or sexual offenders reported pursuant to s.
17 775.21, s. 943.0435, s. 944.606, s. 944.607, s. 985.481, or s.
18 985.4815 are exempt from s. 119.07(1) and s. 24(a), Art. I of
19 the State Constitution unless otherwise ordered by a court. This
20 exemption applies to records held before, on, or after the
21 effective date of this act.

22 3. This paragraph does not prohibit a law enforcement
23 agency from confirming that an electronic mail address or
24 Internet identifier reported pursuant to s. 775.21, s. 943.0435,
25 s. 944.606, s. 944.607, s. 985.481, or s. 985.4815 is registered
26 in the Department of Law Enforcement sexual offender and sexual
27 predator registry.

28 4. This paragraph is subject to the Open Government Sunset
29 Review Act in accordance with s. 119.15 and shall stand repealed
30 on October 2, 2022, unless reviewed and saved from repeal
31 through reenactment by the Legislature.

32 Section 2. (1) The Legislature finds that it is a public
33 necessity that the electronic mail addresses and Internet
34 identifiers of sexual offenders and sexual predators required to
35 be reported pursuant to s. 775.21, s. 943.0435, s. 944.606, s.
36 944.607, s. 985.481, or s. 985.4815, Florida Statutes, be made
37 exempt from s. 119.071(1), Florida Statutes, and s. 24(a),
38 Article I of the State Constitution. The Legislature finds that
39 the exemption strikes an important balance between the



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40 government's legitimate interest in protecting the public and a
41 sexual offender's or sexual predator's right of free speech
42 under the First Amendment to the United States Constitution. The
43 exemption maintains the ability of members of the public to
44 confirm whether an Internet identifier with which they are
45 communicating is associated with or is contained in the sexual
46 offender and sexual predator registry without providing the
47 personal identifying information of the individual who
48 registered the Internet identifier. This allows members of the
49 public to access an important tool to make informed decisions
50 regarding communicating with sexual offenders or sexual
51 predators through commercial social networking sites.
52 Additionally, this allows criminal justice agencies to have the
53 necessary tools to investigate crimes and fight against the
54 growing epidemic of sexual offenses that occur online.

55 (2) The Legislature recognizes the importance of protecting
56 rights provided in the First Amendment to the United States
57 Constitution for all citizens while ensuring criminal justice
58 agencies have the tools necessary to protect our citizens. If
59 the ability to collect this information were prevented, it would
60 greatly disrupt the ability of criminal justice agencies to use
61 these essential tools in combatting the prevalent problem of
62 online sexual exploitation of children. The requirement for
63 sexual offenders and sexual predators to register their
64 electronic mail addresses and Internet identifiers has been an
65 important tool for criminal justice agencies in combatting the
66 exploitation of minors. Commercial social networking sites are
67 widely used among youth and adults for introduction,
68 communication, and publication of personal details that may be



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69 exploited. Studies have shown a nexus between commercial social
70 networking sites and Internet sex crimes. For these reasons, the
71 Legislature finds that it is a public necessity that the
72 electronic mail addresses and Internet identifiers that are
73 required to be reported by sexual offenders and sexual predators
74 pursuant to ss. 775.21, 943.0435, 944.606, 944.607, 985.481, and
75 985.4815, Florida Statutes, be exempt from public record
76 requirements.

77 Section 3. The Division of Law Revision and Information is
78 directed to replace the phrase "the effective date of this act"
79 whenever it occurs in this act with the date the act becomes a
80 law.

81 Section 4. This act shall take effect on the same date that
82 SB 684 or similar legislation takes effect, if such legislation
83 is adopted in the same legislative session or an extension
84 thereof and becomes a law.

85
86 ===== T I T L E A M E N D M E N T =====

87 And the title is amended as follows:

88 Delete everything before the enacting clause
89 and insert:

90 A bill to be entitled
91 An act relating to public records; amending s.
92 119.071, F.S.; providing definitions; requiring that
93 electronic mail addresses and Internet identifiers of
94 sexual predators or sexual offenders reported pursuant
95 to specified laws be exempt from public record
96 requirements unless otherwise ordered by a court;
97 providing applicability; providing construction;



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98 providing for future review and repeal of the
99 exemption; providing a statement of public necessity;
100 providing a directive to the Division of Law Revision
101 and Information; providing a contingent effective
102 date.



800428

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
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	.	

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

1 **Senate Substitute for Amendment (351510) (with title**
2 **amendment)**

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

6 Section 1. Paragraph (1) is added to subsection (5) of
7 section 119.071, Florida Statutes, to read:

8 119.071 General exemptions from inspection or copying of
9 public records.—

10 (5) OTHER PERSONAL INFORMATION.—



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11 (1)1. As used in this paragraph, the term:
12 a. "Electronic mail address" has the same meaning as in s.
13 668.602.
14 b. "Internet identifier" has the same meaning as in s.
15 775.21.
16 2. Electronic mail addresses and Internet identifiers
17 registered by sexual predators or sexual offenders and held by
18 agencies pursuant to s. 775.21, s. 943.0435, s. 944.606, s.
19 944.607, s. 985.481, or s. 985.4815 are exempt from s. 119.07(1)
20 and s. 24(a), Art. I of the State Constitution. This exemption
21 applies to records held before, on, or after the effective date
22 of this act.
23 3. This paragraph does not prohibit a law enforcement
24 agency from confirming to a member of the public that an
25 electronic mail address or Internet identifier reported pursuant
26 to s. 775.21, s. 943.0435, s. 944.606, s. 944.607, s. 985.481,
27 or s. 985.4815 is registered in the Department of Law
28 Enforcement sexual offender and sexual predator registry.
29 4. This paragraph is subject to the Open Government Sunset
30 Review Act in accordance with s. 119.15 and shall stand repealed
31 on October 2, 2022, unless reviewed and saved from repeal
32 through reenactment by the Legislature.
33 Section 2. (1) The Legislature finds that it is a public
34 necessity that electronic mail addresses and Internet
35 identifiers registered by sexual predators and sexual offenders
36 and held by agencies pursuant to s. 775.21, s. 943.0435, s.
37 944.606, s. 944.607, s. 985.481, or s. 985.4815, Florida
38 Statutes, be made exempt from s. 119.071(1), Florida Statutes,
39 and s. 24(a), Article I of the State Constitution. The



40 Legislature finds that the exemption strikes an important
41 balance between the government's legitimate interest in public
42 safety and protecting individuals' rights afforded under the
43 Constitution of the State of Florida and the First Amendment
44 rights protected by the United States Constitution. The
45 exemption maintains the ability of members of the public to
46 confirm whether an electronic mail address or Internet
47 identifier is associated with or is contained in the sexual
48 offender and sexual predator registry without obtaining the
49 personal identifying information of the registrant associated
50 with the electronic mail address or Internet identifier. This
51 exemption allows members of the public access to safety
52 information which assists them in making informed decisions
53 regarding communicating or otherwise interacting with registered
54 sexual predators and sexual offenders. Additionally, this
55 exemption preserves the ability of criminal justice agencies to
56 access valuable investigative information. Criminal justice
57 agencies are tasked with the prevention of crimes to protect
58 residents, particularly children, from sexual exploitation
59 through investigating and bringing offenders to justice. As
60 daily life necessitates increasing dependence upon access to the
61 Internet, sexual exploitation through the use of the Internet
62 grows as well. There is a nexus between commercial social
63 networking sites and Internet sex crimes. Commercial social
64 networking sites are widely used among youth and adults for
65 introduction, communication, and publication of personal details
66 that may be exploited. Additionally, locating missing children
67 and sexual predators and sexual offenders who have evaded
68 registration is greatly aided through the use of registered



69 electronic mail addresses and Internet identifiers. Without this
70 exemption, criminal justice agencies may lose access to
71 information which has become a valuable investigative tool since
72 the inception of this registration requirement. Absent a
73 registration requirement for electronic mail addresses and
74 Internet identifiers, investigative agencies will be severely
75 hampered in the growing call to protect our residents from
76 sexual exploitation online.

77 (2) The Legislature recognizes the importance of protecting
78 rights provided in the First Amendment to the United States
79 Constitution for all citizens. Equally, the Legislature
80 recognizes the importance of preserving the civil regulatory
81 processes of sexual offender and sexual predator registration
82 and ensuring criminal justice agencies have the critical
83 resource of sexual offender and sexual predator electronic mail
84 address and Internet identifier registration information
85 necessary to protect our residents. Electronic mail addresses
86 and Internet identifiers have an exceptional distinction from
87 other registration requirements in that they are used as unique
88 personal identifiers for speech and communication. Because of
89 this distinction, a public records exemption is required to
90 avoid any appearance of infringement on registrants'
91 constitutional rights. If the ability to collect this
92 information were prevented, it would greatly disrupt the ability
93 of criminal justice agencies to use this essential information
94 in combatting the prevalent problem of online sexual
95 exploitation of children. For these reasons and for the
96 preservation of and continued collection of this information,
97 the Legislature finds that it is a public necessity that the



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98 electronic mail addresses and Internet identifiers continue to
99 be registered by sexual predators and sexual offenders and held
100 by agencies pursuant to ss. 775.21, 943.0435, 944.606, 944.607,
101 985.481, and 985.4815, Florida Statutes, be exempt from public
102 record requirements.

103 Section 3. The Division of Law Revision and Information is
104 directed to replace the phrase "the effective date of this act"
105 whenever it occurs in this act with the date the act becomes a
106 law.

107 Section 4. This act shall take effect on the same date that
108 SB 684 or similar legislation takes effect, if such legislation
109 is adopted in the same legislative session or an extension
110 thereof and becomes a law.

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

113 And the title is amended as follows:

114 Delete everything before the enacting clause
115 and insert:

116 A bill to be entitled
117 An act relating to public records; amending s.
118 119.071, F.S.; defining terms; requiring that
119 electronic mail addresses and Internet identifiers of
120 sexual predators or sexual offenders reported pursuant
121 to specified laws be exempt from public records
122 requirements; providing retroactive applicability;
123 providing construction; providing for future review
124 and repeal of the exemption; providing a statement of
125 public necessity; providing a directive to the
126 Division of Law Revision and Information; providing a



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127

contingent effective date.

By Senator Baxley

12-00442A-17

2017686__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.071, F.S.; defining terms; requiring that
 4 electronic mail addresses and Internet identifiers of
 5 sexual predators or sexual offenders reported pursuant
 6 to specified laws be exempt from public record
 7 requirements unless otherwise ordered by a court;
 8 providing applicability; providing construction;
 9 providing for future review and repeal of the
 10 exemption; providing a statement of public necessity;
 11 providing a directive to the Division of Law Revision
 12 and Information; providing a contingent effective
 13 date.
 14
 15 Be It Enacted by the Legislature of the State of Florida:
 16
 17 Section 1. Paragraph (1) is added to subsection (5) of
 18 section 119.071, Florida Statutes, to read:
 19 119.071 General exemptions from inspection or copying of
 20 public records.—
 21 (5) OTHER PERSONAL INFORMATION.—
 22 (1)1. For purposes of this paragraph, the term:
 23 a. “Electronic mail address” has the same meaning as
 24 provided in s. 668.602.
 25 b. “Internet identifier” has the same meaning as provided
 26 in s. 775.21.
 27 c. “Personal identifying information” means any name or
 28 number that may be used, alone or in conjunction with any other
 29 information, to identify a specific person, including, but not
 30 limited to, a name, a mailing address, a telephone number, a
 31 social security number, a date of birth, a mother’s maiden name,
 32 an official state-issued or United States-issued driver license

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

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33 or identification number, an alien registration number, a
 34 government passport number, or an employer or taxpayer
 35 identification number.
 36 2. Electronic mail addresses and Internet identifiers of
 37 sexual predators or sexual offenders reported pursuant to s.
 38 775.21, s. 943.0435, s. 944.606, s. 944.607, s. 985.481, or s.
 39 985.4815 may be used only by criminal justice agencies for
 40 criminal justice purposes and are exempt from s. 119.07(1) and
 41 s. 24(a), Art. I of the State Constitution unless otherwise
 42 ordered by a court. This exemption applies to records held
 43 before, on, or after the effective date of this act.
 44 3. This paragraph does not prohibit:
 45 a. A law enforcement agency from confirming that an
 46 electronic mail address or Internet identifier reported pursuant
 47 to s. 775.21, s. 943.0435, s. 944.606, s. 944.607, s. 985.481,
 48 or s. 985.4815 is registered in the Department of Law
 49 Enforcement Sexual Offender and Sexual Predator Registry;
 50 however, personal identifying information linked to such
 51 electronic mail address or Internet identifier may not be
 52 revealed in conjunction with the confirmation under this sub-
 53 paragraph.
 54 b. The Department of Law Enforcement from providing
 55 information in accordance with s. 943.0437.
 56 4. This paragraph is subject to the Open Government Sunset
 57 Review Act in accordance with s. 119.15 and shall stand repealed
 58 on October 2, 2022, unless reviewed and saved from repeal
 59 through reenactment by the Legislature.
 60 Section 2. The Legislature finds that it is a public
 61 necessity that the electronic mail addresses, Internet

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62 identifiers, and certain personal identifying information of
 63 sexual predators or sexual offenders required to be reported
 64 pursuant to s. 775.21, s. 943.0435, s. 944.606, s. 944.607, s.
 65 985.481, or s. 985.4815, Florida Statutes, for criminal justice
 66 purposes be made exempt from s. 119.071(1), Florida Statutes,
 67 and s. 24(a), Article I of the State Constitution unless
 68 otherwise ordered by a court or disclosed by a law enforcement
 69 agency with certain restrictions. The requirement for sexual
 70 predators and sexual offenders to register their electronic mail
 71 addresses and Internet identifiers has been an important tool
 72 for law enforcement in combatting the exploitation of minors.
 73 The United States District Court for the Northern District of
 74 Florida has raised concerns that the release of Internet
 75 identifiers along with personal identifying information of
 76 sexual predators and sexual offenders could have a chilling
 77 effect on the First Amendment right to free anonymous speech.
 78 For these reasons, the Legislature finds that it is a public
 79 necessity that the electronic mail addresses, Internet
 80 identifiers, and certain personal identifying information that
 81 are required to be reported by sexual predators or sexual
 82 offenders pursuant to s. 775.21, s. 943.0435, s. 944.606, s.
 83 944.607, s. 985.481, or s. 985.4815, Florida Statutes, be exempt
 84 from public record requirements.

85 Section 3. The Division of Law Revision and Information is
 86 directed to replace the phrase "the effective date of this act"
 87 whenever it occurs in this act with the date the act becomes a
 88 law.

89 Section 4. This act shall take effect on the same date that
 90 SB ____ or similar legislation takes effect, if such legislation

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91 is adopted in the same legislative session or an extension
 92 thereof and becomes a law.

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17
Meeting Date

686
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Bill Bunkley

Job Title President

Address PO Box 341644
Street

Phone (813) 264-2977

Tampa FL 33696
City State Zip

Email _____

Speaking: For Against Information

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

Representing FL Ethics & Religious Liberty Commission

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4.3.17

Meeting Date

686

Bill Number (if applicable)

Topic TERRORISM PUBLIC RECORDS

Amendment Barcode (if applicable)

Name JASON JONES

Job Title GENERAL COUNSEL

Address 2331 PHILLIPS ROAD

Phone 850.410.7001

Street

TALL

City

FL

State

32308

Zip

Email JASON.JONES@FDLE.STATE.FL.US

Speaking: For Against Information

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

Representing FDLE

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)

April 3, 2017
Meeting Date

SB 686
Bill Number (if applicable)

Topic Public Records / Internet Identifiers

Amendment Barcode (if applicable)

Name Bernadette Howard

Job Title Government Affairs Coordinator

Address 2636 Mitcham Drive
Street

Phone 850-219-3631

Tallahassee FL 32308
City State Zip

Email bhoward@fpca.com

Speaking: For Against Information

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

Representing The Florida Police Chiefs 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

SENATOR DENNIS BAXLEY
12th District

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Criminal Justice, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Health and
Human Services
Transportation

SELECT COMMITTEE:
Joint Select Committee on Collective Bargaining

JOINT COMMITTEE:
Joint Legislative Auditing Committee

February 20, 2017

The Honorable Senator Randolph Bracy
213 Senate Office Building
Tallahassee, Florida 32399

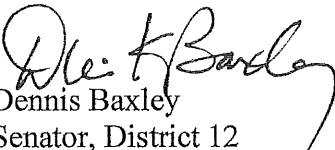
Dear Chairman Bracy,

I respectfully request you place Senate Bill 684 Internet Identifiers/SB 686 Internet Identifiers Public Records on your next available agenda.

This bill requires sexual offenders and predators to register their internet identifiers and email addresses.

I appreciate your favorable consideration.

Onward & Upward,


Dennis Baxley
Senator, District 12

DKB/dd

cc: Jennifer Hrdlicka, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012

Email: baxley.dennis@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 766

INTRODUCER: Criminal Justice Committee and Senator Rodriguez

SUBJECT: Payment Card Offenses

DATE: April 4, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 766 addresses the unlawful practice of “skimming” (fraudulently obtaining private information from someone’s payment card). Specifically, the bill:

- Modifies the offense of fraudulent use of a scanning device to also punish fraudulent use of a skimming device, and specifies that information unlawfully accessed includes information encoded on a computer chip or other storage mechanism of a payment card.
- Modifies the offense of fraudulent use of a reencoder to indicate that the reencoder places information encoded on the computer chip, magnetic strip or stripe, or other storage mechanism of a payment card onto a computer chip, magnetic strip or stripe, or other storage mechanism of a different card.
- Provides that it is a third degree felony to knowingly possess, sell, or deliver a skimming device, provides that this offense does not apply to specified officials, and provides that this offense is also subject to the Florida Contraband Forfeiture Act.

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any of legislation, has not yet reviewed the bill. However, the bill is substantively identical to CS/HB 343, which the CJIC estimates will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds). See Section V. Fiscal Impact.

II. Present Situation:

Skimming

The practice of “skimming” involves obtaining private information from someone’s payment card used in an otherwise normal transaction, such as using an ATM.¹ A person engaging in this practice can obtain a victim’s card number in different ways, including photocopying receipts, copying a PIN code, or using an electronic scanning device or reencoder to swipe and store a victim’s payment card numbers or transfer the data or information to another card.² Skimming can occur at a restaurant or bar where the skimmer has possession of the victim’s card out of his or her immediate view.³ Similarly, skimming can also occur at gas stations when a third-party cardreading device is installed either outside or inside a fuel dispenser⁴ or other card-swiping terminal.⁵

Florida Law on Unlawful Use of a Scanning Device or Reencoder

Section 817.625(2), F.S., provides that it a crime to use:

- A scanning device to access, read, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card without the permission of the authorized user of the payment card and with the intent to defraud the authorized user, the issuer of the authorized user’s payment card, or a merchant.
- A reencoder to place information encoded on the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different card without the permission of the authorized user of the payment card from which the information is being reencoded and with the intent to defraud the authorized user, the issuer of the authorized user’s payment card, or a merchant.

¹ “Taking a Trip to the ATM?” (July 14, 2011), Federal Bureau of Investigation, available at <https://www.fbi.gov/news/stories/atm-skimming> (last visited on March 24, 2017). See also *Arnauta v. State*, 125 So.3d 1028, 1029 (Fla. 4th DCA 2013) (noting, in part, that charges were filed against the defendant after police discovered that the defendant had used an ATM skimming device to withdraw money from customer accounts and after police searched the defendant’s residence, storage units and vehicle, and discovered a multitude of ATM parts, molds, ATM keypads, circuit boards, blank bank credit cards, magnetic strips, and bank card readers/writers).

² Feinberg, Ashley, “The Evolution of ATM Skimmers” (August 27, 2014), *Gizmodo*, available at <http://gizmodo.com/the-terrifying-evolution-of-atm-skimmers-1626794130> (last visited on March 24, 2017).

³ Denny, Dawn, “Cashier Linked to Credit Card Skimming Scam, Police Say” (May 20, 2014), *KXAN*, available at <http://kxan.com/2014/05/20/restaurant-cashier-linked-to-credit-card-skimming-scam-police-say/> (last visited on March 24, 2017).

⁴ Jacobson, Susan, “State Finds 103 Credit-Card Skimmers in 3-month Inspection of Gas Pumps” (May 19, 2015), *Orlando Sentinel*, available at <http://www.orlandosentinel.com/business/os-gas-pump-skimmers-20150519-story.html> (last visited on March 24, 2017).

⁵ Musil, Steven, “13 Indicted in \$2M Gas Station Card-Skimming Scheme” (January 22, 2014), *CNET*, available at <https://www.cnet.com/news/13-indicted-in-2m-gas-station-card-skimming-scheme/> (last visited on March 24, 2017).

A first violation of s. 817.625(2), F.S., is a third degree felony;⁶ a second or subsequent violation of this subsection is a second degree felony.⁷ A violation of s. 817.625(2), F.S., is also subject to the Florida Contraband Forfeiture Act (ss. 932.07 – 932.7062, F.S.).⁸

Section 817.625, F.S., provides the following definitions of relevant terms:

- “Scanning device” means a scanner, reader, or any other electronic device that is used to access, read, scan, obtain, memorize, or store, temporarily or permanently, information encoded on the magnetic strip or stripe of a payment card.
- “Reencoder” means an electronic device that places encoded information from the magnetic strip or stripe of a payment card onto the magnetic strip or stripe of a different payment card.
- “Payment card” means a credit card, charge card, debit card, or any other card that is issued to an authorized card user and that allows the user to obtain, purchase, or receive goods, services, money, or anything else of value from a merchant.
- “Merchant” means a person who receives from an authorized user of a payment card, or someone the person believes to be an authorized user, a payment card or information from a payment card, or what the person believes to be a payment card or information from a payment card, as the instrument for obtaining, purchasing, or receiving goods, services, money, or anything else of value from the person.⁹

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 817.625(2)(a)1., F.S., which currently punishes fraudulent use of a scanning device. The bill modifies this offense to also punish fraudulent use of a skimming device. It also specifies that information unlawfully accessed includes information encoded on a computer chip or other storage mechanism of a payment card.

Section 817.625(2)(a)2., F.S., which currently punishes fraudulent use of a reencoder, is modified to indicate that the reencoder places information encoded on a computer chip, magnetic strip or stripe, or other storage mechanism of a payment card onto a computer chip, magnetic strip or stripe, or other storage mechanism of a different card. The current offense does not mention the terms “computer chip” and “other storage mechanism.”

As previously noted, a first violation of s. 817.625(2)(a)1., F.S., or s. 817.625(2)(a)2., F.S., is a third degree felony; a second or subsequent violation is a second degree felony. A violation is also subject to the Florida Contraband Forfeiture Act (ss. 932.07 – 932.7062, F.S.).

Section 817.625(2)(c), F.S., is created, which makes it a third degree felony to knowingly possess, sell, or deliver a skimming device. This paragraph does not apply to the following individuals while acting within the scope of their official duties:

- An employee, officer, or agent of:

⁶ Section 817.625(2)(a), F.S. A third degree felony is punishable by up to 5 years in state prison, a fine of up to \$5,000, or both. Sections 775.082 and 775.083, F.S. This offense is ranked as a Level 4 offense in s. 921.0022(3)(d), F.S., of the Criminal Punishment Code (Code) offense severity ranking chart.

⁷ Section 817.625(2)(b), F.S. A second degree felony is punishable by up to 15 years in state prison, a fine of up to \$10,000, or both. Sections 775.082 and 775.083, F.S. This offense is ranked as a Level 5 offense in s. 921.0022(3)(e), F.S.

⁸ Section 817.625(2)(b), F.S.

⁹ Section 817.625(a) – (d), F.S.

- A law enforcement agency or criminal prosecuting authority for the state or the federal government;
- The state courts system as defined in s. 25.382, F.S., or the federal court system; or
- An executive branch agency in this state.
- A financial or retail security investigator employed by a merchant.

A person who commits a violation of paragraph (2)(c) is also subject to the Florida Contraband Forfeiture Act (ss. 932.07 – 932.7062, F.S.).

The bill makes the following changes regarding definitions of relevant terms:

- Expands the current definition of “scanning device” to include information encoded on a computer chip or other storage mechanism, or from another device that directly reads the information from a payment card.
- Expands the current definition of “reencoder” to include information encoded on a computer chip or other storage mechanism.
- Provides that the terms “scanning device” and “reencoder” do not include a skimming device.
- Defines “skimming device” as a self-contained device that:
 - Is designed to read and store in the device’s internal memory information encoded on the computer chip, magnetic strip or stripe, or other storage mechanism of a payment card or from another device that directly reads the information from a payment card; and
 - Is incapable of processing the payment card information stored (as previously described) for the purpose of obtaining, purchasing, or receiving goods, services, money, or anything else of value from a merchant.

Section 2 of the bill amends s. 921.0022, F.S., the Criminal Punishment Code offense severity ranking chart, to rank the new skimming device offense (s. 817.625(2)(c), F.S.) in Level 4. The bill also makes technical conforming changes to the description of s. 817.625(2)(a), F.S., in the chart.

Section 3 provides that the bill takes effect October 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 Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any of legislation, has not yet reviewed CS/SB 766. However, the bill is substantively identical to CS/HB 343, which the CJIC estimates will have a “positive insignificant” prison bed impact (an increase of 10 or fewer prison beds).¹⁰

Per the Department of Corrections (DOC), in FY 2015-2016, there were 10 (adj.)¹¹ offenders sentenced for fraudulently using a scanning device or reencoder, and 1 (adj.) of these offenders was sentenced to prison (sentence length of 19.0 months and an incarceration rate of 10.0 percent adj. to -12.5 percent unadj.). There were no offenders sentenced for committing this offense a second or subsequent time.

VI. Technical Deficiencies:

None

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 817.625 and 921.0022.

¹⁰ E-mail, dated March 28, 2017, to staff of the Senate Committee on Criminal Justice from staff of the Office of Economic and Demographic Research. All information in this section of the analysis regarding CJIC estimates of provisions of the bill addressing controlled substance scheduling and controlled substance offenses is from this source.

¹¹ The abbreviation “adj.” means “adjusted.” The abbreviation “unadj.” means “unadjusted.” Sentencing data from the DOC is incomplete, which means that the numbers the Legislature’s Office of Economic and Demographic Research (EDR) receives are potentially lower than what the actual numbers are. The EDR adjusts these numbers by the percentage of scoresheets received for the applicable fiscal year.

IX. Additional Information:

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

CS by Criminal Justice on April 3, 2017:

The committee substitute:

- Modifies the offense of fraudulent use a scanning device to also punish fraudulent use of a skimming device, and specifies that information unlawfully accessed includes information encoded on a computer chip or other storage mechanism of a payment card.
- Modifies the offense of fraudulent use of a reencoder to indicate that the reencoder places information encoded on a computer chip, magnetic strip or stripe, or other storage mechanism of a payment card onto the computer chip, magnetic strip or stripe, or other storage mechanism of a different card.
- Provides that it is a third degree felony to knowingly possess, sell, or deliver a skimming device, provides that this offense does not apply to specified officials, provides that this offense is also subject to the Florida Contraband Forfeiture Act, and ranks this offense in Level 4 of the Code offense severity ranking chart.
- Modifies the current definitions of “scanning device” and “reencoder” and defines “skimming device.”

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 817.625, Florida Statutes, is amended to
read:

817.625 Use of scanning device, skimming device, or
reencoder to defraud; possession of skimming device; penalties.—

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

(d)~~(a)~~ "Scanning device" means a scanner, reader, or any



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11 other electronic device that may be ~~is~~ used to access, read,
12 scan, obtain, memorize, or store, temporarily or permanently,
13 information encoded on the computer chip, magnetic strip or
14 stripe, or other storage mechanism of a payment card or from
15 another device that directly reads the information from a
16 payment card. The term does not include a skimming device.

17 (c) ~~(b)~~ "Reencoder" means an electronic device that places
18 encoded information from the computer chip, magnetic strip or
19 stripe, or other storage mechanism of a payment card onto the
20 computer chip, magnetic strip or stripe, or other storage
21 mechanism of a different payment card. The term does not include
22 a skimming device.

23 (b) ~~(e)~~ "Payment card" means a credit card, charge card,
24 debit card, or any other card that is issued to an authorized
25 card user and that allows the user to obtain, purchase, or
26 receive goods, services, money, or anything else of value from a
27 merchant.

28 (a) ~~(d)~~ "Merchant" means a person who receives from an
29 authorized user of a payment card, or someone the person
30 believes to be an authorized user, a payment card or information
31 from a payment card, or what the person believes to be a payment
32 card or information from a payment card, as the instrument for
33 obtaining, purchasing, or receiving goods, services, money, or
34 anything else of value from the person.

35 (e) "Skimming device" means a self-contained device that:

36 1. Is designed to read and store in the device's internal
37 memory information encoded on the computer chip, magnetic strip
38 or stripe, or other storage mechanism of a payment card or from
39 another device that directly reads the information from a



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40 payment card; and

41 2. Is incapable of processing the payment card information
42 stored under subparagraph 1. for the purpose of obtaining,
43 purchasing, or receiving goods, services, money, or anything
44 else of value from a merchant.

45 (2) (a) It is a felony of the third degree, punishable as
46 provided in s. 775.082, s. 775.083, or s. 775.084, for a person
47 to use:

48 1. A scanning device or skimming device to access, read,
49 obtain, memorize, or store, temporarily or permanently,
50 information encoded on the computer chip, magnetic strip or
51 stripe, or other storage mechanism of a payment card without the
52 permission of the authorized user of the payment card and with
53 the intent to defraud the authorized user, the issuer of the
54 authorized user's payment card, or a merchant.

55 2. A reencoder to place information encoded on the computer
56 chip, magnetic strip or stripe, or other storage mechanism of a
57 payment card onto the computer chip, magnetic strip or stripe,
58 or other storage mechanism of a different card without the
59 permission of the authorized user of the card from which the
60 information is being reencoded and with the intent to defraud
61 the authorized user, the issuer of the authorized user's payment
62 card, or a merchant.

63 (b) A ~~Any~~ person who violates subparagraph (a)1. or
64 subparagraph (a)2. a second or subsequent time commits a felony
65 of the second degree, punishable as provided in s. 775.082, s.
66 775.083, or s. 775.084.

67 (c) It is a felony of the third degree, punishable as
68 provided in s. 775.082, s. 775.083, or s. 775.084, for a person



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69 to knowingly possess, sell, or deliver a skimming device. This
70 paragraph does not apply to the following individuals while
71 acting within the scope of their official duties:

72 1. An employee, officer, or agent of:

73 a. A law enforcement agency or criminal prosecuting
74 authority for the state or the federal government;

75 b. The state courts system as defined in s. 25.382 or the
76 federal court system; or

77 c. An executive branch agency in this state.

78 2. A financial or retail security investigator employed by
79 a merchant.

80 (d) ~~(e)~~ A ~~Any~~ person who commits a violation of this
81 subsection is ~~violates~~ subparagraph (a)1. or subparagraph (a)2.
82 shall also be subject to the provisions of ss. 932.701-932.7062.

83 Section 2. Paragraphs (d) and (e) of subsection (3) of
84 section 921.0022, Florida Statutes, are amended to read:

85 921.0022 Criminal Punishment Code; offense severity ranking
86 chart.-

87 (3) OFFENSE SEVERITY RANKING CHART

88 (d) LEVEL 4

89

Florida Statute	Felony Degree	Description
-----------------	---------------	-------------

90

316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with
----------------	-----	--



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91			siren and lights activated.
	499.0051(1)	3rd	Failure to maintain or deliver transaction history, transaction information, or transaction statements.
92			
	499.0051(5)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
93			
	517.07(1)	3rd	Failure to register securities.
94			
	517.12(1)	3rd	Failure of dealer, associated person, or issuer of securities to register.
95			
	784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, etc.
96			
	784.074(1)(c)	3rd	Battery of sexually violent predators facility staff.
97			
	784.075	3rd	Battery on detention or commitment facility staff.
98			
	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.



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99	784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
100	784.081(3)	3rd	Battery on specified official or employee.
101	784.082(3)	3rd	Battery by detained person on visitor or other detainee.
102	784.083(3)	3rd	Battery on code inspector.
103	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
104	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
105	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
106	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at



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custody hearing or delivering
to designated person.

107

787.07 3rd Human smuggling.

108

790.115 (1) 3rd Exhibiting firearm or weapon
within 1,000 feet of a school.

109

790.115 (2) (b) 3rd Possessing electric weapon or
device, destructive device, or
other weapon on school
property.

110

790.115 (2) (c) 3rd Possessing firearm on school
property.

111

800.04 (7) (c) 3rd Lewd or lascivious exhibition;
offender less than 18 years.

112

810.02 (4) (a) 3rd Burglary, or attempted
burglary, of an unoccupied
structure; unarmed; no assault
or battery.

113

810.02 (4) (b) 3rd Burglary, or attempted
burglary, of an unoccupied
conveyance; unarmed; no assault
or battery.

114



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115	810.06	3rd	Burglary; possession of tools.
116	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
117	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
118	812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
119	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
120	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
121	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
122	817.625(2)(a)	3rd	Fraudulent use of scanning device, <u>skimming device</u> , or reencoder.



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123	<u>817.625(2)(c)</u>	<u>3rd</u>	<u>Possession, sale, or delivery of skimming device.</u>
124	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
125	837.02(1)	3rd	Perjury in official proceedings.
126	837.021(1)	3rd	Make contradictory statements in official proceedings.
127	838.022	3rd	Official misconduct.
128	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
129	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Families.
130	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
	843.025	3rd	Deprive law enforcement,



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correctional, or correctional
probation officer of means of
protection or communication.

131

843.15(1) (a) 3rd Failure to appear while on bail
for felony (bond estreature or
bond jumping).

132

847.0135(5) (c) 3rd Lewd or lascivious exhibition
using computer; offender less
than 18 years.

133

874.05(1) (a) 3rd Encouraging or recruiting
another to join a criminal
gang.

134

893.13(2) (a)1. 2nd Purchase of cocaine (or other
s. 893.03(1) (a), (b), or (d),
(2) (a), (2) (b), or (2) (c)4.
drugs).

135

914.14(2) 3rd Witnesses accepting bribes.

136

914.22(1) 3rd Force, threaten, etc., witness,
victim, or informant.

137

914.23(2) 3rd Retaliation against a witness,
victim, or informant, no bodily
injury.



138

918.12 3rd Tampering with jurors.

139

934.215 3rd Use of two-way communications
device to facilitate commission
of a crime.

140

141

142 (e) LEVEL 5

143

Florida Statute	Felony Degree	Description
--------------------	------------------	-------------

144

316.027(2)(a)	3rd	Accidents involving personal injuries other than serious bodily injury, failure to stop; leaving scene.
---------------	-----	--

145

316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
----------------	-----	--------------------------------

146

316.80(2)	2nd	Unlawful conveyance of fuel; obtaining fuel fraudulently.
-----------	-----	--

147

322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
-----------	-----	---

148

327.30(5)	3rd	Vessel accidents involving
-----------	-----	----------------------------



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personal injury; leaving scene.

149

379.365(2)(c)1. 3rd Violation of rules relating to:
willful molestation of stone
crab traps, lines, or buoys;
illegal bartering, trading, or
sale, conspiring or aiding in
such barter, trade, or sale, or
supplying, agreeing to supply,
aiding in supplying, or giving
away stone crab trap tags or
certificates; making, altering,
forging, counterfeiting, or
reproducing stone crab trap
tags; possession of forged,
counterfeit, or imitation stone
crab trap tags; and engaging in
the commercial harvest of stone
crabs while license is
suspended or revoked.

150

379.367(4) 3rd Willful molestation of a
commercial harvester's spiny
lobster trap, line, or buoy.

151

379.407(5)(b)3. 3rd Possession of 100 or more
undersized spiny lobsters.

152

381.0041(11)(b) 3rd Donate blood, plasma, or organs



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knowing HIV positive.

153

440.10(1)(g) 2nd Failure to obtain workers'
compensation coverage.

154

440.105(5) 2nd Unlawful solicitation for the
purpose of making workers'
compensation claims.

155

440.381(2) 2nd Submission of false,
misleading, or incomplete
information with the purpose of
avoiding or reducing workers'
compensation premiums.

156

624.401(4)(b)2. 2nd Transacting insurance without a
certificate or authority;
premium collected \$20,000 or
more but less than \$100,000.

157

626.902(1)(c) 2nd Representing an unauthorized
insurer; repeat offender.

158

790.01(2) 3rd Carrying a concealed firearm.

159

790.162 2nd Threat to throw or discharge
destructive device.

160

790.163(1) 2nd False report of bomb,



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explosive, weapon of mass
destruction, or use of firearms
in violent manner.

161

790.221(1) 2nd Possession of short-barreled
shotgun or machine gun.

162

790.23 2nd Felons in possession of
firearms, ammunition, or
electronic weapons or devices.

163

796.05(1) 2nd Live on earnings of a
prostitute; 1st offense.

164

800.04(6)(c) 3rd Lewd or lascivious conduct;
offender less than 18 years of
age.

165

800.04(7)(b) 2nd Lewd or lascivious exhibition;
offender 18 years of age or
older.

166

806.111(1) 3rd Possess, manufacture, or
dispense fire bomb with intent
to damage any structure or
property.

167

812.0145(2)(b) 2nd Theft from person 65 years of
age or older; \$10,000 or more



but less than \$50,000.

168

812.015(8) 3rd Retail theft; property stolen
is valued at \$300 or more and
one or more specified acts.

169

812.019(1) 2nd Stolen property; dealing in or
trafficking in.

170

812.131(2)(b) 3rd Robbery by sudden snatching.

171

812.16(2) 3rd Owning, operating, or
conducting a chop shop.

172

817.034(4)(a)2. 2nd Communications fraud, value
\$20,000 to \$50,000.

173

817.234(11)(b) 2nd Insurance fraud; property value
\$20,000 or more but less than
\$100,000.

174

817.2341(1), 3rd Filing false financial
(2)(a) & (3)(a) statements, making false
entries of material fact or
false statements regarding
property values relating to the
solvency of an insuring entity.

175

817.568(2)(b) 2nd Fraudulent use of personal



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identification information;
value of benefit, services
received, payment avoided, or
amount of injury or fraud,
\$5,000 or more or use of
personal identification
information of 10 or more
persons.

176

817.611(2)(a) 2nd Traffic in or possess 5 to 14
counterfeit credit cards or
related documents.

177

817.625(2)(b) 2nd Second or subsequent fraudulent
use of scanning device,
skimming device, or reencoder.

178

825.1025(4) 3rd Lewd or lascivious exhibition
in the presence of an elderly
person or disabled adult.

179

827.071(4) 2nd Possess with intent to promote
any photographic material,
motion picture, etc., which
includes sexual conduct by a
child.

180

827.071(5) 3rd Possess, control, or
intentionally view any



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photographic material, motion picture, etc., which includes sexual conduct by a child.

181

839.13(2)(b) 2nd Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.

182

843.01 3rd Resist officer with violence to person; resist arrest with violence.

183

847.0135(5)(b) 2nd Lewd or lascivious exhibition using computer; offender 18 years or older.

184

847.0137
(2) & (3) 3rd Transmission of pornography by electronic device or equipment.

185

847.0138
(2) & (3) 3rd Transmission of material harmful to minors to a minor by electronic device or equipment.

186

874.05(1)(b) 2nd Encouraging or recruiting another to join a criminal gang; second or subsequent offense.



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university.

191

893.13(1)(e)2. 2nd Sell, manufacture, or deliver
cannabis or other drug
prohibited under s.
893.03(1)(c), (2)(c)1.,
(2)(c)2., (2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7., (2)(c)8.,
(2)(c)9., (3), or (4) within
1,000 feet of property used for
religious services or a
specified business site.

192

893.13(1)(f)1. 1st Sell, manufacture, or deliver
cocaine (or other s.
893.03(1)(a), (1)(b), (1)(d),
or (2)(a), (2)(b), or (2)(c)4.
drugs) within 1,000 feet of
public housing facility.

193

893.13(4)(b) 2nd Use or hire of minor; deliver
to minor other controlled
substance.

194

893.1351(1) 3rd Ownership, lease, or rental for
trafficking in or manufacturing
of controlled substance.

195

196



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197 Section 3. This act shall take effect October 1, 2017.

198

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

200 And the title is amended as follows:

201 Delete everything before the enacting clause
202 and insert:

203 A bill to be entitled
204 An act relating to payment card offenses; amending s.
205 817.625, F.S.; revising definitions; revising
206 terminology; revising the offenses of using a scanning
207 device or reencoder with the intent to defraud;
208 prohibiting the use of a skimming device with intent
209 to defraud; prohibiting the possession, sale, or
210 delivery of a skimming device; providing criminal
211 penalties; amending s. 921.0022, F.S.; ranking the
212 offense of possessing, selling, or delivering a
213 skimming device on level 4 of the offense severity
214 ranking chart; conforming provisions to changes made
215 by the act; providing an effective date.

By Senator Rodriguez

37-00909-17

2017766__

1 A bill to be entitled
 2 An act relating to payment card offenses; amending s.
 3 817.625, F.S.; revising definitions; revising
 4 terminology; prohibiting the possession of a scanning
 5 device with intent to defraud; providing criminal
 6 penalties; specifying prima facie evidence of intent
 7 to defraud; reenacting ss. 525.07(10)(c) and
 8 921.0022(3)(d), F.S., relating to the definition of
 9 the term "scanning device" and level 4 of the offense
 10 severity ranking chart, respectively, to incorporate
 11 the amendment made to s. 817.625, F.S., in references
 12 thereto; providing an effective date.

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

16 Section 1. Section 817.625, Florida Statutes, is amended to
 17 read:

18 817.625 Use of scanning device or reencoder to defraud;
 19 possession of scanning device; penalties.-

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

21 (a) "Scanning device" means a scanner, reader, or any other
 22 electronic device that may be ~~is~~ used to access, read, scan,
 23 obtain, memorize, or store, temporarily or permanently,
 24 information encoded on the computer chip, magnetic strip or
 25 stripe, or other storage mechanism of a payment card, or from
 26 another device that directly reads the information from the
 27 card.

28 (b) "Reencoder" means an electronic device that places
 29 encoded information from the computer chip, magnetic strip or
 30 stripe, or other storage mechanism of a payment card onto the
 31 computer chip, magnetic strip or stripe, or other storage
 32 mechanism of a different payment card.

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

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33 (c) "Payment card" means a credit card, charge card, debit
 34 card, or any other card that is issued to an authorized card
 35 user and that allows the user to obtain, purchase, or receive
 36 goods, services, money, or anything else of value from a
 37 merchant.

38 (d) "Merchant" means a person who receives from an
 39 authorized user of a payment card, or someone the person
 40 believes to be an authorized user, a payment card or information
 41 from a payment card, or what the person believes to be a payment
 42 card or information from a payment card, as the instrument for
 43 obtaining, purchasing, or receiving goods, services, money, or
 44 anything else of value from the person.

45 (2)(a) It is a felony of the third degree, punishable as
 46 provided in s. 775.082, s. 775.083, or s. 775.084, for a person
 47 to use:

48 1. A scanning device to access, read, obtain, memorize, or
 49 store, temporarily or permanently, information encoded on the
 50 computer chip, magnetic strip or stripe, or other storage
 51 mechanism of a payment card without the permission of the
 52 authorized user of the payment card and with the intent to
 53 defraud the authorized user, the issuer of the authorized user's
 54 payment card, or a merchant.

55 2. A reencoder to place information encoded on the computer
 56 chip, magnetic strip or stripe, or other storage mechanism of a
 57 payment card onto the computer chip, magnetic strip or stripe,
 58 or other storage mechanism of a different card without the
 59 permission of the authorized user of the card from which the
 60 information is being reencoded and with the intent to defraud
 61 the authorized user, the issuer of the authorized user's payment

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

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62 card, or a merchant.

63 (b) Any person who violates subparagraph (a)1. or

64 subparagraph (a)2. a second or subsequent time commits a felony

65 of the second degree, punishable as provided in s. 775.082, s.

66 775.083, or s. 775.084.

67 (3)(a) A person who possesses, sells, or delivers a

68 scanning device knowingly and with the intent to defraud an

69 authorized user of a payment card, the issuer of a payment card,

70 or a merchant commits a felony of the third degree, punishable

71 as provided in s. 775.082, s. 775.083, or s. 775.084.

72 (b)1. For the purposes of this subsection, it shall be

73 prima facie evidence of knowledge and intent to defraud if the

74 person possessing the scanning device is not:

75 a. A law enforcement officer, an authorized representative

76 of a law enforcement officer, an officer of the Department of

77 Agriculture and Consumer Services, a state attorney, a financial

78 security investigator employed by a merchant or financial

79 institution, or an authorized vendor to any of the

80 mentioned authorized investigative agencies.

81 b. A person lawfully reporting the scanning device to a law

82 enforcement officer, an officer of the Department of Agriculture

83 and Consumer Services, a state attorney, a financial security

84 investigator employed by a merchant or financial institution, or

85 an authorized vendor to any of the mentioned authorized

86 investigative agencies.

87 2. Once prima facie evidence of knowledge and the intent to

88 defraud has been established, no additional identification of

89 payment card data, payment card users, payment card issuers, or

90 payment card merchants is required.

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91 ~~(4)(e)~~ Any person who violates subparagraph (2)(a)1., ~~(a)1.~~

92 ~~or~~ subparagraph (2)(a)2., or subsection (3)(a)2. shall also be

93 subject to ~~the provisions of~~ ss. 932.701-932.7062.

94 Section 2. For the purpose of incorporating the amendment

95 made by this act to section 817.625, Florida Statutes, in a

96 reference thereto, paragraph (c) of subsection (10) of section

97 525.07, Florida Statutes, is reenacted to read:

98 525.07 Powers and duties of department; inspections;

99 unlawful acts.-

100 (10)

101 (c) For purposes of this subsection, the terms "scanning

102 device" and "payment card" have the same meanings as defined in

103 s. 817.625.

104 Section 3. For the purpose of incorporating the amendment

105 made by this act to section 817.625, Florida Statutes, in a

106 reference thereto, paragraph (d) of subsection (3) of section

107 921.0022, Florida Statutes, is reenacted to read:

108 921.0022 Criminal Punishment Code; offense severity ranking

109 chart.-

110 (3) OFFENSE SEVERITY RANKING CHART

111 (d) LEVEL 4

112

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude

113

	37-00909-17		2017766__	
			law enforcement officer	
			who is in a patrol	
			vehicle with siren and	
114			lights activated.	
	499.0051(1)	3rd	Failure to maintain or	
			deliver transaction	
			history, transaction	
			information, or	
115			transaction statements.	
	499.0051(5)	2nd	Knowing sale or	
			delivery, or possession	
			with intent to sell,	
			contraband prescription	
			drugs.	
116	517.07(1)	3rd	Failure to register	
			securities.	
117	517.12(1)	3rd	Failure of dealer,	
			associated person, or	
			issuer of securities to	
			register.	
118	784.07(2)(b)	3rd	Battery of law	
			enforcement officer,	
			firefighter, etc.	
119				

	37-00909-17		2017766__	
	784.074(1)(c)	3rd	Battery of sexually	
			violent predators	
			facility staff.	
120	784.075	3rd	Battery on detention or	
			commitment facility	
			staff.	
121	784.078	3rd	Battery of facility	
			employee by throwing,	
			tossing, or expelling	
			certain fluids or	
			materials.	
122	784.08(2)(c)	3rd	Battery on a person 65	
			years of age or older.	
123	784.081(3)	3rd	Battery on specified	
			official or employee.	
124	784.082(3)	3rd	Battery by detained	
			person on visitor or	
			other detainee.	
125	784.083(3)	3rd	Battery on code	
			inspector.	
126	784.085	3rd	Battery of child by	
			throwing, tossing,	

	37-00909-17		2017766__	projecting, or expelling certain fluids or materials.
127	787.03(1)	3rd		Interference with custody; wrongly takes minor from appointed guardian.
128	787.04(2)	3rd		Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
129	787.04(3)	3rd		Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
130	787.07	3rd		Human smuggling.
131	790.115(1)	3rd		Exhibiting firearm or weapon within 1,000 feet of a school.
132				

	37-00909-17		2017766__	
	790.115(2)(b)	3rd		Possessing electric weapon or device, destructive device, or other weapon on school property.
133	790.115(2)(c)	3rd		Possessing firearm on school property.
134	800.04(7)(c)	3rd		Lewd or lascivious exhibition; offender less than 18 years.
135	810.02(4)(a)	3rd		Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
136	810.02(4)(b)	3rd		Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
137	810.06	3rd		Burglary; possession of tools.
138	810.08(2)(c)	3rd		Trespass on property,

	37-00909-17		2017766__	
			armed with firearm or dangerous weapon.	
139	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.	
140	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.	
141	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.	
142	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.	
143	817.568(2) (a)	3rd	Fraudulent use of personal identification information.	
144	817.625(2) (a)	3rd	Fraudulent use of scanning device or reencoder.	

	37-00909-17		2017766__	
145	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.	
146	837.02(1)	3rd	Perjury in official proceedings.	
147	837.021(1)	3rd	Make contradictory statements in official proceedings.	
148	838.022	3rd	Official misconduct.	
149	839.13(2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.	
150	839.13(2) (c)	3rd	Falsifying records of the Department of Children and Families.	
151	843.021	3rd	Possession of a concealed handcuff key by a person in custody.	

152	37-00909-17	2017766__	
153	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
154	843.15(1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
155	847.0135(5) (c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
156	874.05(1) (a)	3rd	Encouraging or recruiting another to join a criminal gang.
157	893.13(2) (a)1.	2nd	Purchase of cocaine (or other s. 893.03(1) (a), (b), or (d), (2) (a), (2) (b), or (2) (c)4. drugs).
	914.14(2)	3rd	Witnesses accepting

158	37-00909-17	2017766__	bribes.
159	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
160	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
161	918.12	3rd	Tampering with jurors.
162	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
163	Section 4. This act shall take effect July 1, 2017.		



Florida Senate
Senator José Javier Rodríguez
District 37

DISTRICT OFFICE:

2100 Coral Way, Suite 505
Miami, Florida 33145-2657
Phone: (305) 854-0365
Fax: (305) 854-0367

**TALLAHASSEE
OFFICE:**

220 Senate Office Building
402 South Monroe Street
Tallahassee, FL 32399-1300
Phone: (850) 487-5037

STAFF:

Chris Hudtwalcker
Legislative Aide

Laura Jimenez
Legislative Aide

Luisana Perez
District Aide

COMMITTEES:

Commerce & Tourism

Ethics & Elections

Community Affairs

SUBCOMMITTEES:

Appropriations
Subcommittee on Finance
& Tax

Appropriations
Subcommittee on General
Government

March 9th, 2017

Chairman Randolph Bracy
Criminal Justice Committee
404 South Monroe Street
Tallahassee, FL 32399-1100
Sent via email to bracy.randolph@flsenate.gov

Chairman Bracy,

I respectfully request that you place SB 766 relating to payment card offenses on the agenda of the Criminal Justice Committee at your earliest convenience.

Should you have any questions or concerns, please feel free to contact me or my office. Thank you in advance for your consideration.

Thank you,

Senator José Javier Rodríguez
District 37

CC:

Jennifer Hrdlicka, Staff Director
Sue Arnold, Administrative Assistant
Kyle Alexandre, Legislative Assistant to Senator Bracy
Charlean Gatlin, Legislative Assistant to Senator Bracy
Travaris McCurdy, Legislative Assistant to Senator Bracy

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 918

INTRODUCER: Criminal Justice Committee and Senator Simmons

SUBJECT: Driving Under the Influence

DATE: April 5, 2017

REVISED: _____

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

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 918 amends s. 316.193, F.S., to allow a defendant convicted for the first time of the second degree misdemeanor offense of driving under the influence to agree to the placement of an ignition interlock device.

If the defendant agrees or the court orders placement of an ignition interlock device then the court must withhold adjudication if the defendant does not have a prior withholding of adjudication or adjudication of guilt for any other offense. If the defendant fails to comply with the terms of the ignition interlock device, then the court may order, among other penalties, an adjudication of guilt for the defendant.

The bill also:

- Specifies that a judge may order, *as a condition of probation*, the ignition interlock device for at least six continuous months;
- Defines the term “conviction”;
- Specifies discounts of the monthly leasing fee of the ignition interlock device in certain situations; and
- Specifies that defendants who qualify for a reduced leasing fee are not required to pay the costs of installation or removal of the device.

The bill may have a fiscal impact on companies that provide the ignition interlock devices to defendants in Florida and a negative indeterminate fiscal impact on the Department of Highway Safety and Motor Vehicles. See Section V. Fiscal Impact Statement.

The bill is effective October 1, 2017.

II. Present Situation:

Florida's Driving Under the Influence Laws

A person is guilty of driving under the influence if a person drives or is in actual physical control of a vehicle and the person:

- Is under the influence of alcoholic beverages, any controlled substance set forth in s. 877.111, F.S., or any substance controlled under ch. 893, F.S., to the extent that the person's normal faculties are impaired;
- Has a blood-alcohol level of 0.08 or more grams of alcohol per 100 milliliters of blood; or
- Has a breath-alcohol level of 0.08 or more grams of alcohol per 210 liters of breath.¹

The criminal penalties for driving under the influence vary depending on numerous factors such as the number of prior convictions, the length of time between convictions, and the defendant's blood alcohol level.² The penalties for a first time driving under the influence offense are punishable by:

- A period of probation not exceeding one year;
- A fine of not less than \$500 or more than \$1,000;
- Imprisonment for not more than six months;
- A mandatory 50 hours of community service; and
- A mandatory ten-day vehicle impoundment.³

Section 316.656, F.S., prohibits a court from withholding adjudication of guilt for any violation of s. 316.193, F.S., the offense of driving under the influence.

In 2016, there were 44,643 arrests for driving under the influence.⁴

Ignition Interlock Device

An ignition interlock device is a dashboard-mounted breathalyzer that requires a driver to blow in the breathalyzer in order to operate the motor vehicle.⁵ Section 316.193, F.S., requires an ignition interlock device to be installed on the vehicles of persons convicted of certain driving

¹ Section 316.193(1), F.S.

² Section 316.193 F.S.

³ Section 316.193(2) and (6)(a), F.S.

⁴ Florida Department of Highway Safety and Motor Vehicles, *Annual Uniform Traffic Citation Report*, available at <https://services.flhsmv.gov/SpecialtyPlates/UniformTrafficCitationReport> (last visited March 29, 2017).

⁵ Office of Program Policy Analysis & Government Accountability, *Ignition Interlock Devices and DUI Recidivism Rates*, Report No. 14-14, (December 2014) available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/1414rpt.pdf> (last visited March 28, 2017).

under the influence offenses. For a first time driving under the influence offense, the court may order the placement of an ignition interlock device for at least six continuous months.

Section 316.1937, F.S., provides that a court must determine the defendant’s ability to pay for the installation of the ignition interlock device if he or she claims inability to pay. If the court determines that the defendant is unable to pay for the installation of the device, the court can order that any portion of a fine paid for violating s. 316.193, F.S., be allocated to defray the costs of installing the ignition interlock device.⁶

The table below summarizes when an ignition interlock device is required in Florida.⁷

Driving under the influence conviction	Ignition interlock device required
1st conviction	If court orders for at least 6 continuous months
1st conviction if blood-alcohol level is ≥ 0.15 , or minor in car	Mandatory for at least 6 continuous months
2nd conviction	Mandatory for at least 1 year
2nd conviction if blood-alcohol level is ≥ 0.15 , or minor in car	Mandatory for at least 2 continuous years
3rd conviction	Mandatory for at least 2 years

The Department of Highway Safety and Motor Vehicles (DHSMV) contracts with vendors to provide ignition interlock devices for offenders in Florida. The devices must meet or exceed the current standards of the National Highway Traffic Safety Administration.⁸ The DHSMV oversees and monitors the ignition interlock devices and must adopt rules for the implementation of ignition interlock devices.⁹

The Florida Legislature’s Office of Program Policy Analysis and Government Accountability conducted a study researching ignition interlock devices and driving under the influence recidivism rates. The research showed that ignition interlock devices, while installed, were more effective at reducing re-arrest rates for alcohol-impaired driving when compared to other sanctions, such as license suspensions.¹⁰

The study also found the six month recidivism rate for first-time driving under the influence offenders that were not required to install an ignition interlock device was 1.74 percent compared to the recidivism rate for first-time offenders required to use the ignition interlock device which was less with a rate of 0.34 percent.¹¹ However, only 49 percent of Florida’s driving under the influence offenders installed an ignition interlock device, as required, after completing their period of license revocation.¹²

⁶ Section 316.1937(2)(d), F.S.

⁷ Section 316.193, F.S.

⁸ Section 316.1938, F.S.

⁹ Sections 316.1938 and 316.193(11), F.S.

¹⁰ *Supra* note 5.

¹¹ *Id.* at 8.

¹² *Id.* at 4-5.

III. Effect of Proposed Changes:

The bill amends s. 316.193, F.S., to specify that a judge may order, *as a condition of probation*, placement of the ignition interlock device for at least six continuous months.

The bill also allows a defendant convicted for the first time of the second degree misdemeanor offense of driving under the influence to agree to the placement of an ignition interlock device.

If the defendant agrees or the court orders placement of an ignition interlock device then the court must withhold adjudication if the defendant does not have a prior withholding of adjudication or adjudication of guilt for any other offense. If the defendant fails to comply with the terms of the ignition interlock device, then the court may order, among other penalties, an adjudication of guilt for the defendant.

The bill defines the term “conviction” to mean a determination of guilt, which is the result of a plea or a trial, regardless of whether adjudication is withheld or a plea of nolo contendere is entered.

The bill also amends s. 316.1937, F.S., to repeal the current method of addressing a defendant’s inability to pay for the installation of the ignition interlock device.

The bill instead specifies the following discounts on the monthly leasing fee of the ignition interlock device if a defendant claims the inability to pay for the ignition interlock device:

- The person’s family income is at or below 100 percent of the federal poverty level as documented by written order of the court, the regular monthly leasing fee charged to all customers by the interlock provider must be discounted by 50 percent.
- The person’s family income is at or below 149 percent of the federal poverty level as documented by written order of the court, the regular monthly leasing fee charged to all customers by the interlock provider must be discounted by 25 percent.

Defendants who qualify for a reduced leasing fee are not required to pay the costs of installation or removal of the ignition interlock device.

The bill is effective October 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:

The bill allows a defendant to agree or the court to order the placement of an ignition interlock device for a first time driving under the influence offense. This may have a positive fiscal impact on the companies that the DHSMV contracts with to provide the ignition interlock devices to offenders in Florida.

The bill also requires the companies who provide the ignition interlock devices to discount the monthly leasing fees in certain circumstances. If a defendant qualifies for a monthly leasing fee discount, the installation and removal fees for the ignition interlock device are also waived.

C. Government Sector Impact:

The bill allows a defendant to agree or the court to order the placement of an ignition interlock device for a first time driving under the influence offense. The DHSMV monitors and oversees ignition interlock devices and this bill may have a negative indeterminate fiscal impact on the DHSMV.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.193 and 316.1937.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on April 3, 2017:**

The committee substitute:

- Specifies that a judge may order, *as a condition of probation*, placement of the ignition interlock device for at least six continuous months.

- Allows a defendant convicted for the first time of the second degree misdemeanor offense of driving under the influence to agree to the placement of an ignition interlock device.
- Specifies that if a defendant agrees or the court orders placement of an ignition interlock device, the court must withhold adjudication if the defendant does not have a prior withholding of adjudication or adjudication of guilt for any other offense.
- Defines the term “conviction.”
- Requires the companies who provide the ignition interlock devices to discount the monthly leasing fees in certain circumstances.

B. Amendments:

None.



636140

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (2) of section 316.193, Florida
Statutes, is amended to read:

316.193 Driving under the influence; penalties.-

(2)

(a) Except as provided in paragraph (b), subsection (3), or
subsection (4), any person who is convicted of a violation of



636140

11 subsection (1) shall be punished:

12 1. By a fine of:

13 a. Not less than \$500 or more than \$1,000 for a first
14 conviction.

15 b. Not less than \$1,000 or more than \$2,000 for a second
16 conviction; and

17 2. By imprisonment for:

18 a. Not more than 6 months for a first conviction.

19 b. Not more than 9 months for a second conviction.

20 3. For a second conviction, by mandatory placement for a
21 period of at least 1 year, at the convicted person's sole
22 expense, of an ignition interlock device approved by the
23 department in accordance with s. 316.1938 upon all vehicles that
24 are individually or jointly leased or owned and routinely
25 operated by the convicted person, when the convicted person
26 qualifies for a permanent or restricted license. The
27 installation of such device may not occur before July 1, 2003.

28 (b)1. Any person who is convicted of a third violation of
29 this section for an offense that occurs within 10 years after a
30 prior conviction for a violation of this section commits a
31 felony of the third degree, punishable as provided in s.
32 775.082, s. 775.083, or s. 775.084. In addition, the court shall
33 order the mandatory placement for a period of not less than 2
34 years, at the convicted person's sole expense, of an ignition
35 interlock device approved by the department in accordance with
36 s. 316.1938 upon all vehicles that are individually or jointly
37 leased or owned and routinely operated by the convicted person,
38 when the convicted person qualifies for a permanent or
39 restricted license. The installation of such device may not



636140

40 occur before July 1, 2003.

41 2. Any person who is convicted of a third violation of this
42 section for an offense that occurs more than 10 years after the
43 date of a prior conviction for a violation of this section shall
44 be punished by a fine of not less than \$2,000 or more than
45 \$5,000 and by imprisonment for not more than 12 months. In
46 addition, the court shall order the mandatory placement for a
47 period of at least 2 years, at the convicted person's sole
48 expense, of an ignition interlock device approved by the
49 department in accordance with s. 316.1938 upon all vehicles that
50 are individually or jointly leased or owned and routinely
51 operated by the convicted person, when the convicted person
52 qualifies for a permanent or restricted license. The
53 installation of such device may not occur before July 1, 2003.

54 3. Any person who is convicted of a fourth or subsequent
55 violation of this section, regardless of when any prior
56 conviction for a violation of this section occurred, commits a
57 felony of the third degree, punishable as provided in s.
58 775.082, s. 775.083, or s. 775.084. However, the fine imposed
59 for such fourth or subsequent violation may be not less than
60 \$2,000.

61 (c) In addition to the penalties in paragraph (a), as a
62 condition of probation, the court may order placement, at the
63 convicted person's sole expense, of an ignition interlock device
64 approved by the department in accordance with s. 316.1938 for at
65 least 6 continuous months upon all vehicles that are
66 ~~individually or jointly leased or owned and routinely operated~~
67 ~~by the convicted person if, at the time of the offense, the~~
68 ~~person had a blood-alcohol level or breath-alcohol level of .08~~



636140

69 or higher. Notwithstanding s. 316.656, if a person convicted of
70 a first offense misdemeanor of the second degree voluntarily
71 places, or if the court orders placement of, an ignition
72 interlock device under this subsection, the court shall withhold
73 adjudication if the person does not have a prior withholding of
74 adjudication or adjudication of guilt for any other offense.
75 Failure of the person to comply with the full terms of the order
76 of placement of the ignition interlock device may result in,
77 among other penalties, the court ordering an adjudication of
78 guilt.

79
80 For purposes of this subsection, the term "conviction" means a
81 determination of guilt which is the result of a plea or a trial,
82 regardless of whether adjudication is withheld or a plea of nolo
83 contendere is entered.

84 Section 2. Subsection (2) of section 316.1937, Florida
85 Statutes, is amended to read:

86 316.1937 Ignition interlock devices, requiring; unlawful
87 acts.-

88 (2) If the court imposes the use of an ignition interlock
89 device, the court shall:

90 (a) Stipulate on the record the requirement for, and the
91 period of, the use of a certified ignition interlock device.

92 (b) Order that the records of the department reflect such
93 requirement.

94 (c) Order that an ignition interlock device be installed,
95 as the court may determine necessary, on any vehicle owned or
96 operated by the person.

97 (d) If the person claims inability to pay, provide the



98 following discounts on the monthly leasing fee:

99 1. If a person's family income does not exceed 100 percent
100 of the federal poverty level as documented by written order of
101 the court, the regular monthly leasing fee charged to all
102 customers by the interlock provider shall be discounted by 50
103 percent.

104 2. If the person's family income does not exceed 149
105 percent of the federal poverty level as documented by written
106 order of the court, the regular monthly leasing fee charged to
107 all customers by the interlock provider shall be discounted by
108 25 percent.

109
110 Persons who qualify for a reduced leasing fee as provided in
111 this paragraph are not required to pay the costs of installation
112 or removal of the device. ~~Determine the person's ability to pay~~
113 ~~for installation of the device if the person claims inability to~~
114 ~~pay. If the court determines that the person is unable to pay~~
115 ~~for installation of the device, the court may order that any~~
116 ~~portion of a fine paid by the person for a violation of s.~~
117 ~~316.193 shall be allocated to defray the costs of installing the~~
118 ~~device.~~

119 (e) Require proof of installation of the device and
120 periodic reporting to the department for verification of the
121 operation of the device in the person's vehicle.

122 Section 3. This act shall take effect October 1, 2017.

123
124 ===== T I T L E A M E N D M E N T =====

125 And the title is amended as follows:

126 Delete everything before the enacting clause



636140

127 and insert:

128 A bill to be entitled
129 An act relating to driving under the influence;
130 amending s. 316.193, F.S.; authorizing a court to
131 order placement of an ignition interlock device as a
132 condition of probation, subject to certain
133 requirements; requiring the court to withhold
134 adjudication if a person convicted of a certain
135 offense voluntarily places, or if the court orders
136 placement of, an ignition interlock device, under
137 certain circumstances; providing that failure of the
138 person to comply with the full terms of the order
139 requiring placement of an ignition interlock device
140 may result in the court ordering an adjudication of
141 guilt; defining the term "conviction"; amending s.
142 316.1937, F.S.; requiring a court that imposes the use
143 of an ignition interlock device to provide certain
144 discounts on the monthly leasing fee for the device,
145 if the person documents that he or she meets certain
146 income requirements; waiving costs associated with
147 installation and removal of the device in certain
148 circumstances; providing an effective date.



826562

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/03/2017	.	
	.	
	.	
	.	

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

Senate Amendment to Amendment (636140)

Delete lines 99 - 104
and insert:

1. If a person's family income is at or below 100 percent of the federal poverty level as documented by written order of the court, the regular monthly leasing fee charged to all customers by the interlock provider shall be discounted by 50 percent.

2. If a person's family income is at or below 149

By Senator Simmons

9-00568-17

2017918__

A bill to be entitled

An act relating to driving under the influence; amending s. 316.1939, F.S.; providing penalties for a first-time refusal of a chemical or physical test of a person's breath, blood, or urine; providing that a subsequent refusal by a person who has previously had a license suspension for a prior refusal is a misdemeanor of the first degree; requiring the court to impose certain mandatory ignition interlock devices on the vehicles of convicted persons for a specified time under certain circumstances; prohibiting a court from suspending, deferring, or withholding adjudication of guilt or the imposition of a sentence or penalty for a specified offense; conforming provisions to changes made by this act; providing an effective date.

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

Section 1. Section 316.1939, Florida Statutes, is amended to read:

316.1939 Refusal to submit to testing; penalties.—

(1) Any person who has refused to submit to a chemical or physical test of his or her breath, blood, or urine, as described in s. 316.1932, ~~and whose driving privilege was previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood,~~ and:

(a) Who the arresting law enforcement officer had probable cause to believe was driving or in actual physical control of a

Page 1 of 3

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

9-00568-17

2017918__

motor vehicle in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances;

(b) Who was placed under lawful arrest for a violation of s. 316.193 unless such test was requested pursuant to s. 316.1932(1)(c);

(c) Who was informed that, if he or she refused to submit to such test, his or her privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second or subsequent refusal, for a period of 18 months;

(d) Who was informed that a refusal to submit to a lawful test of his or her breath, urine, or blood, ~~if his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood,~~ is subject to penalties a misdemeanor; and

(e) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer shall be punished:

1. By a fine of at least \$500 but not more than \$1,000;

2. By probation for 6 months; and

3. By having 4 points assessed against his or her driver license.

(2) (a) A person who has refused to submit to a chemical or physical test of his or her breath, blood, or urine, as described in s. 316.1932, and whose driving privilege was previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.

Page 2 of 3

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

9-00568-17

2017918__

59 (b) The court shall impose mandatory placement, for a
60 period of at least 1 year at the convicted person's sole
61 expense, of an ignition interlock device approved by the
62 department in accordance with s. 316.1938 on all vehicles that
63 are individually or jointly leased or owned and routinely
64 operated by the convicted person, when the convicted person
65 qualifies for a permanent or restricted license.

66 (c) A court may not suspend, defer, or withhold
67 adjudication of guilt or the imposition of a sentence or penalty
68 for an offense under paragraph (a).

69 (3)(2) The disposition of any administrative proceeding
70 that relates to the suspension of a person's driving privilege
71 does not affect an offense a criminal action under this section.

72 (4)(3) The disposition of an offense a criminal action
73 under this section does not affect any administrative proceeding
74 that relates to the suspension of a person's driving privilege.
75 The department's records showing that a person's license has
76 been previously suspended for a prior refusal to submit to a
77 lawful test of his or her breath, urine, or blood shall be
78 admissible and shall create a rebuttable presumption of such
79 suspension.

80 Section 2. 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)

April 3, 2017

Meeting Date

918

Bill Number (if applicable)

826562

Amendment Barcode (if applicable)

Topic Driving Under the Influence

Name Honorable Carlos Martinez

Job Title Public Defender, 11th Circuit

Address 1320 NW 14th Street

Street

Phone 305-545-1600

Miami

Florida

33125

Email cmartinez@pdmiami.com

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.

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)

April 3, 2017

Meeting Date

913
Bill Number (if applicable)

636140

Amendment Barcode (if applicable)

Topic Driving Under the Influence

Name Honorable Carlos Martinez

Job Title Public Defender, 11th Circuit

Address 1320 NW 14th Street

Street

Miami

City

Florida

State

33125

Zip

Phone 305-545-1600

Email cmartinez@pdmiami.com

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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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17
Meeting Date

SB 918
Bill Number (if applicable)

636140
Amendment Barcode (if applicable)

Topic _____

Name Laura McLeod

Job Title Executive Director

Address 1725 Mahan Drive
Street

Phone 850-671-3384

Tallahassee FL 32308
City State Zip

Email lmcLeod@fladui.org

Speaking: For Against Information

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

Representing Florida Association of Det Programs

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17

Meeting Date

918

Bill Number (if applicable)

Topic Driving Under the Influence

Amendment Barcode (if applicable)

Name Jennifer Wilson

Job Title Lobbyist

Address 101 E. Kennedy Blvd, Suite 4000

Phone 813-407-0703

Street

Tampa FL 33602

City

State

Zip

Email Jennifer.Wilson@parlaw.com

Speaking: For Against Information

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

Representing AAA (The Auto Club Group)

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17

Meeting Date

918

Bill Number (if applicable)

Topic Driving Under the Influence

Amendment Barcode (if applicable)

Name LISA HURLEY

Job Title _____

Address 31 E. PARK AVE

Phone 850.274.5081

Street

TAUAHASSEE

Email lhurley@smithbrinker.com

City

State

Zip

Speaking: For Against Information

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

Representing Coalition Ignition Interlock Manufacturers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

April 3, 2017
Meeting Date

SB 918
Bill Number (if applicable)

Topic Driving Under the Influence

Amendment Barcode (if applicable)

Name Bernadette Howard

Job Title Government Affairs Coordinator

Address 2636 Mitcham Drive
Street

Phone 850-219-3631

Tallahassee FL 32308
City State Zip

Email bhoward@fpcr.com

Speaking: For Against Information

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

Representing The Florida Police Chiefs 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

3 Apr 17

Meeting Date

918

Bill Number (if applicable)

Topic DUI

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe

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.

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17

Meeting Date

918

Bill Number (if applicable)

Topic Driving Under the Influence

Amendment Barcode (if applicable)

Name Amy Jamieson

Job Title Volunteer / City Council Ft. Walton Beach

Address 211 Chateaugay St.
Street

Phone 850-240-4069

Ft. Walton Beach FL
City State

32548
Zip

Email dreams@gnt.net

Speaking: For Against Information

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

Representing MADD

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17
Meeting Date

918
Bill Number (if applicable)

Topic Driving Under the Influence

Amendment Barcode (if applicable)

Name Kristen Allen

Job Title Program Director

Address 1018 Thomasville Rd #101

Phone 850-681-0061

Street

Tallahassee

FL

32303

City

State

Zip

Email Kristen.allen@medd.org

Speaking: For Against Information

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

Representing Mothers Against Drunk Driving

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4-3-17

Meeting Date

918

Bill Number (if applicable)

Topic DUI

Amendment Barcode (if applicable)

Name Greg Newburn

Job Title State Policy Director

Address PO Box 142933

Phone 352.682.2542

Street

Gainesville

City

FL

State

32614

Zip

Email gnewburn@fam.org

Speaking: For Against Information

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

Representing Families Against Mandatory Minimums

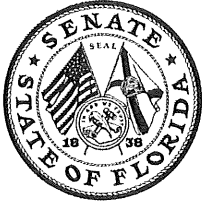
Appearing at request of Chair: Yes No

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 24, 2017

I respectfully request that **Senate Bill 918**, relating to Driving Under the Influence, 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".

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 970

INTRODUCER: Senator Bracy

SUBJECT: Florida Compensation Trust Fund for Survivors of Human Trafficking/Department of Law Enforcement

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Pre-meeting
2.			JU	
3.			AP	

I. Summary:

SB 970 creates the Florida Compensation Trust Fund for Survivors of Human Trafficking within the Florida Department of Law Enforcement. The trust fund's purpose is to administer claims for compensation for survivors of human trafficking.

The Florida Constitution requires a bill creating a new trust fund to pass by a three-fifths vote of the membership of each chamber of the Legislature. State trust funds must terminate not more than four years after the initial creation of the fund unless the Legislature sets a shorter time.

In accordance with the Florida Constitution, the trust fund is terminated on July 1, 2021.

The bill requires the trust fund create a public-private partnership by establishing a not-for-profit foundation for receipt of charitable contributions. (**See Section IV. Constitutional Issues**). The bill also specifies the foundation's purposes.

The bill is effective July 1, 2017, if SB 972 or similar legislation is adopted in the same legislative session, or an extension thereof, and becomes law.

II. Present Situation:

Human Trafficking

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

Civil Cause of Action for Human Trafficking

SB 972 Human Trafficking

SB 972, which is linked to SB 970, creates a civil cause of action for a minor victim of human trafficking to bring against the trafficker³ or facilitator⁴ of human trafficking who victimized the minor. The minor victim may recover actual and punitive damages and may seize and have forfeited the personal and real property of the trafficker or facilitator used in the trafficking.

SB 972 allows the following representatives to bring a civil action on behalf of the minor human trafficking victim:

- A parent or guardian of a minor human trafficking victim;
- A person or entity acting on behalf of the minor with the consent of the minor or his or her guardian; or
- The personal representative of the estate of a deceased victim who was a minor.

SB 972 also allows a civil action to be brought on behalf of and for the benefit of the Florida Compensation Trust Fund for Survivors of Human Trafficking.

A victim or the trust fund on the behalf of the victim must prove his or her case by the greater weight of the evidence. If the victim or the trust fund prevails, he or she is entitled to recover reasonable attorney fees, reasonable investigative expenses, court costs, economic and noneconomic damages, forfeited personal and real property, and any other applicable civil penalties. These remedies are in addition to and cumulative with other legal and administrative remedies available to a victim of human trafficking.

The court must also impose a civil penalty against the defendant for \$100,000 in favor of the victim or the trust fund.

¹ U.S. Department of Justice, Office of Justice Programs, *OJP Fact Sheet, Fast Facts*, (December 2011) available at http://ojp.gov/newsroom/factsheets/ojpbs_humantrafficking.html (last visited March 26, 2017). Polaris, *Human Trafficking: The Facts*, 2016, available at <https://polarisproject.org/facts> (last visited March 26, 2017).

² See ss. 787.06(3) and (4), F.S.

³ SB 972 defines a "trafficker" or "human trafficker" as any person who knowingly, or in reckless disregard of the facts, engages in human trafficking of a minor, attempts to engage in human trafficking of a minor, or benefits financially by receiving anything of value from participation in a venture that has subjected a minor to human trafficking.

⁴ SB 972 defines "facilitator" as assisting or providing services to a human trafficker, which assist or enable a trafficker to carry out human trafficking activities, or one who provides such assistance or provides such services.

SB 972 specifies that the personal or real property of a person who knowingly or through willful blindness allowed his or her property to be used to facilitate human trafficking is subject to civil forfeiture. This is only subject to the disposition of valid and lawful leases or recorded mortgages or liens of innocent third parties that were in effect before the date of the arrest of a trafficker or perpetrator and the filing of the civil action.⁵

If a victim or the trust fund proves the civil forfeiture by the greater weight of the evidence, without having to prove an actual amount of money damages of any individual victim or victims, he or she is entitled to seize the personal and real property of traffickers, perpetrators, and facilitators. The forfeited property must be used or disposed of for the benefit of the prevailing victim or the trust fund.

There is no statute of limitations for these civil actions or civil forfeiture cases.

SB 972 provides that the Governor must appoint the administrator of the trust fund, and a three-person panel to fairly evaluate and pay compensation claims based upon the individual circumstances of each victim and the availability of current funds or future funds received. The trust fund administrator must establish guidelines and prepare and submit an implementation plan, and any amendments to the plan, to the Governor. The Executive Office of the Governor must also prepare and issue an annual report on the compliance of the trust fund with its duties. SB 972 specifies that applications for compensation must be available in at least English and in Spanish.

III. Effect of Proposed Changes:

The bill creates the Florida Compensation Trust Fund for Survivors of Human Trafficking within the Florida Department of Law Enforcement (FDLE). The trust fund's purpose is to administer claims for compensation for survivors of human trafficking.

The bill specifies that the trust fund be established to receive and administer funds from civil actions brought on behalf of the trust fund. The funds include, but are not limited to:

- Money from seizures of personal and real property;
- Penalties imposed by the courts;
- Funds received from any other public or private sources; or
- Funds received from the Legislature.

The bill requires the trust fund create a public-private partnership by establishing a not-for-profit foundation for receipt of charitable contributions. (**See Section IV. Constitutional Issues**). The foundation's purposes include, but are not limited to:

- Educating the public about the recruitment, trafficking, and exploitation of persons in connection with human trafficking;
- Assisting in the prevention of the recruitment of minors in Florida schools for exploitation;
- Establishing a survivor's resource center for legal services, social services, safe harbors, safe houses, and language services available to survivors of human trafficking;

⁵ The applicability of this provision is unclear.

- Advertising the National Human Trafficking Resource Center hotline number and the BeFree Textline;
- Assisting in the coordination between law enforcement and service providers; and
- Assisting in vacating any convictions of minors who were victims of human trafficking.

In accordance with section 19(f)(2), Art. III, of the Florida Constitution, the trust fund must, unless terminated sooner, be terminated on July 1, 2021. Before its scheduled termination, the trust fund must be reviewed as provided in s. 215.3206(1) and (2), F.S.

The bill is effective July 1, 2017, if SB 972 or similar 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:

None.

C. Trust Funds Restrictions:

Section 19(f), Art. III, of the Florida Constitution requires that a bill that creates a new trust fund must:

- Terminate not more than four years after the effective date of the bill creating the trust fund. The Legislature may set a shorter time period.
- Pass both chambers of the Legislature by a three-fifths vote of the membership of each chamber.

The bill contains a termination date of July 1, 2021, for the created trust fund.

D. Other Constitutional Issues:

Section 19(f), Art. III, of the Florida Constitution requires a bill that creates a new trust fund must be in “a separate bill for that purpose only.” The bill creates a public-private partnership by establishing a not-for-profit foundation. The bill also specifies the purposes of the foundation. Having these requirements in the bill violates section 19, Art. III, of the Florida Constitution and should be removed.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The FDLE does not believe the bill will have fiscal impact on the department.⁶

VI. Technical Deficiencies:

The bill takes 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 law. The effective date of the bill will need to be linked to a specific Senate bill. SB 972 (2017) is the bill connected to this bill.

VII. Related Issues:

The bill seems to create a citizen support or direct-support organization by establishing a not-for-profit foundation to receive charitable contributions and provide services to the community. If this were the case, the organization would be subject to reporting and auditing requirements under ss. 16.616 and 20.058, F.S. The bill does not explicitly define the not-for-profit foundation as a citizen support or direct-support organization, so it is unclear the applicability of reporting requirements.

Current statutes that establish similar organizations also include general guidelines and requirements for the organization including, but not limited to: composition of the board of directors, annual reporting requirements, and how funds can be spent.⁷ The bill does not include any such guidelines.

Lines 25-26 state that the purpose of the fund is to “create a public-private partnership by establishing a not-for-profit foundation.” It is unclear if any of the foundation’s operational expenses are intended to be funded by the trust fund. If monies from the trust fund are to be accessed by the foundation, a contractual agreement between the FDLE and the not-for-profit organization would be required and the bill should state this.

This bill places fiscal responsibility for the trust fund in FDLE. SB 972 places responsibility for operational accountability, compliance, and reporting on trust fund activities in the Executive Office of the Governor. Consolidating responsibility and management of the trust fund in one agency may improve efficiency and accountability.

VIII. Statutes Affected:

This bill creates section 787.062 of the Florida Statutes.

⁶ 2017 Florida Department of Law Enforcement Bill Analysis, *SB 970*, February 20, 2017, (on file with the Senate Criminal Justice Committee).

⁷ See ss. 16.616, 288.955, and 744.2105, F.S.

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.



149896

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/17/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 787.0611, Florida Statutes, is created
to read:

787.0611 The Trust Fund for Victims of Human Trafficking
and Prevention.—

(1) There is created within the Department of Legal Affairs
a trust fund to be known as the Trust Fund for Victims of Human



149896

11 Trafficking and Prevention.

12 (2) The trust fund shall consist of funds obtained under s.
13 787.063 from civil actions brought on behalf of victims, from
14 forfeiture of personal and real property pursuant to an civil
15 forfeiture action, and from penalties imposed by the courts, and
16 funds received from any other source, including legislative
17 appropriations.

18 (3) The purposes of the fund include, but are not limited
19 to:

20 (a) Educating the public about the recruitment,
21 trafficking, and exploitation of persons through human
22 trafficking.

23 (b) Assisting in the prevention of recruitment in Florida
24 schools of minors for exploitation.

25 (c) Establishment of a survivors' resource center to make
26 available to survivors of human trafficking legal services,
27 social services, safe harbors, safe houses, and language
28 services.

29 (d) Advertising the National Human Trafficking Resource
30 Center hotline telephone number and the BeFree Textline in
31 diverse venues.

32 (e) Assisting in the coordination between law enforcement
33 agencies and service providers.

34 (f) Assisting in vacating the convictions of minors who
35 were victims of human trafficking.

36 (g) Distributing compensation to victims of human
37 trafficking under s. 787.064.

38 (4) The fund shall be administered by the Statewide Council
39 on Human Trafficking created in s. 16.617.



635414

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
	.	
	.	
	.	

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

1 **Senate Substitute for Amendment (149896) (with title**
2 **amendment)**

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

6 Section 1. Section 787.0611, Florida Statutes, is created
7 to read:

8 787.0611 The Trust Fund for Victims of Human Trafficking
9 and Prevention.—

10 (1) There is created within the Department of Legal Affairs



635414

11 a trust fund to be known as the Trust Fund for Victims of Human
12 Trafficking and Prevention.

13 (2) The trust fund shall consist of funds obtained under s.
14 787.063 from civil actions brought on behalf of victims, from
15 penalties imposed by the courts, and funds received from any
16 other source, including legislative appropriations.

17 (3) The purposes of the fund include, but are not limited
18 to:

19 (a) Educating the public about the recruitment,
20 trafficking, and exploitation of persons through human
21 trafficking.

22 (b) Assisting in the prevention of recruitment in Florida
23 schools of minors for exploitation.

24 (c) Establishment of a survivors' resource center to make
25 available to survivors of human trafficking legal services,
26 social services, safe harbors, safe houses, and language
27 services.

28 (d) Advertising the National Human Trafficking Resource
29 Center hotline telephone number and the BeFree Textline in
30 diverse venues.

31 (e) Assisting in the coordination between law enforcement
32 agencies and service providers.

33 (f) Assisting in vacating the convictions of minors who
34 were victims of human trafficking.

35 (4) The fund shall be administered by the Statewide Council
36 on Human Trafficking created in s. 16.617.

37 (5) In addition to the purposes specified in subsection
38 (3), moneys in the fund may be used to bring actions, and to pay
39 any associated costs under such actions, under s. 787.063.



635414

40 (6) In accordance with s. 19(f)(2), Art. III of the State
41 Constitution, the trust fund shall, unless terminated sooner, be
42 terminated on July 1, 2021. Before its scheduled termination,
43 the trust fund shall be reviewed as provided in s. 215.3206(1)
44 and (2).

45 Section 2. This act shall take effect on the same date that
46 SB 972 or similar legislation takes effect, if such legislation
47 is adopted in the same legislative session or an extension
48 thereof and becomes a law.

49
50 ===== T I T L E A M E N D M E N T =====

51 And the title is amended as follows:

52 Delete everything before the enacting clause
53 and insert:

54 A bill to be entitled
55 An act relating to trust funds; creating s. 787.0611,
56 F.S.; creating the Trust Fund for Victims of Human
57 Trafficking and Prevention within the Department of
58 Legal Affairs; providing the purposes of, and funding
59 sources for, the trust fund; providing for
60 administration of the fund by the Statewide Council on
61 Human Trafficking; providing for future review and
62 termination or re-creation of the trust fund;
63 providing a contingent effective date.

By Senator Bracy

11-01653-17

2017970__

1 A bill to be entitled
 2 An act relating to trust funds; creating s. 787.062,
 3 F.S.; creating the Florida Compensation Trust Fund for
 4 Survivors of Human Trafficking within the Department
 5 of Law Enforcement; providing the purpose of the trust
 6 fund and sources of funds; providing for future review
 7 and termination or re-creation of the trust fund;
 8 providing a contingent effective date.
 9
 10 Be It Enacted by the Legislature of the State of Florida:
 11
 12 Section 1. Section 787.062, Florida Statutes, is created to
 13 read:
 14 787.062 The Florida Compensation Trust Fund for Survivors
 15 of Human Trafficking.—
 16 (1) The Florida Compensation Trust Fund for Survivors of
 17 Human Trafficking is created within the Department of Law
 18 Enforcement.
 19 (2) The trust fund is established to receive and administer
 20 funds from civil actions brought on behalf of the trust fund,
 21 including, but not limited to, money from seizures of personal
 22 and real property, penalties imposed by the courts, or funds
 23 received from any other public or private sources or from the
 24 Legislature. The trust fund's purpose is to administer claims
 25 for compensation for survivors of human trafficking and to
 26 create a public-private partnership by establishing a not-for-
 27 profit foundation for receipt of charitable contributions to
 28 carry out the foundation's purposes, including, but not limited
 29 to:

Page 1 of 2

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

11-01653-17

2017970__

30 (a) Educating the public about the recruitment,
 31 trafficking, and exploitation of persons in connection with
 32 human trafficking;
 33 (b) Assisting in the prevention of recruitment of minors in
 34 Florida schools for exploitation;
 35 (c) Establishment of a survivor's resource center for legal
 36 services, social services, safe harbors, safe houses, and
 37 language services that are available to survivors of human
 38 trafficking;
 39 (d) Advertising the National Human Trafficking Resource
 40 Center hotline number and the BeFree Textline in diverse venues;
 41 (e) Assisting in the coordination between law enforcement
 42 and service providers; and
 43 (f) Assisting in vacating any convictions of minors who
 44 were victims of human trafficking.
 45 (3) In accordance with s. 19(f)(2), Art. III of the State
 46 Constitution, the trust fund shall, unless terminated sooner, be
 47 terminated on July 1, 2021. Before its scheduled termination,
 48 the trust fund shall be reviewed as provided in s. 215.3206(1)
 49 and (2).
 50 Section 2. This act shall take effect July 1, 2017, if SB
 51 ____ or similar legislation is adopted in the same legislative
 52 session, or an extension thereof, and becomes 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)

4/3/17

Meeting Date

970

Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Tiffany Faddis

Job Title Attorney

Address 545 Delaney Ave, Bldg. 1

Phone 407 872-1050

Street Orlando FL 32801

Email tiffany@faddisandfaddis.com

City State Zip

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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 Apr 17

Meeting Date

970

Bill Number (if applicable)

Topic Trust Fund - Human Trafficking

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe
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.

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)

4/13/17

Meeting Date

970

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Amber Kelly

Job Title Director of Policy & Communications

Address 4853 S. Orange Avenue
Street

Phone (407)418-0250

Orlando FL 32806
City State Zip

Email _____

Speaking: For Against Information

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

Representing FL Family Action

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: SB 972

INTRODUCER: Senator Bracy

SUBJECT: Human Trafficking

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Pre-meeting
2.			JU	
3.			AP	

I. Summary:

SB 972 creates a civil cause of action and a civil forfeiture action for minor victims of human trafficking.

The bill also:

- Allows specified representatives to bring a civil action on behalf of the minor human trafficking victim;
- Allows a civil action to be brought on behalf of and for the benefit of the Florida Compensation Trust Fund for Survivors of Human Trafficking created in SB 970;
- Requires a victim or the trust fund to prove his or her case by the greater weight of the evidence;
- Specifies if the victim or the trust fund prevails, he or she is entitled to recover reasonable attorney fees, reasonable investigative expenses, court costs, economic and noneconomic damages, forfeited personal and real property, and any other applicable civil penalties;
- Allows a victim to request the court to close the hearings for the civil action or civil forfeiture to the public and that any information in the court file and online docket, which identifies a victim of human trafficking, be redacted or sealed;
- Requires the court impose civil penalties;
- Requires the Governor appoint an administrator and a three-person panel for the Florida Compensation Trust Fund for Survivors of Human Trafficking; and
- Requires the Governor's office to prepare and issue an annual report on the compliance of the trust fund.

The bill will have a fiscal impact on the Florida Department of Law Enforcement. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2017.

II. Present Situation:

Human Trafficking

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

Civil Forfeiture for Human Trafficking

Section 787.06(7), F.S., allows for any real property or personal property that was used, attempted to be used, or intended to be used in violation of the human trafficking statute, s. 787.06, F.S., to be seized and forfeited subject to the provisions of the Florida Contraband Forfeiture Act.³

Civil Cause of Action

Victims of human trafficking have a civil cause of action against a person who:

- With criminal intent, has:
 - Received any proceeds derived, directly or indirectly, from a pattern of criminal activity; or
 - Through the collection of an unlawful debt to use or invest, whether directly or indirectly, any part of such proceeds, or the proceeds derived from the investment or use thereof, in the acquisition of any title to, or any right, interest, or equity in, real property or in the establishment or operation of any enterprise.
- Through a pattern of criminal activity or through the collection of an unlawful debt, has acquired or maintained, directly or indirectly, any interest in or control of any enterprise or real property.
- Was employed by or associated with, any enterprise to conduct or participate, directly or indirectly, in such enterprise through a pattern of criminal activity or the collection of an unlawful debt.

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 26, 2017). Polaris, *Human Trafficking: The Facts*, 2016, available at <https://polarisproject.org/facts> (last visited March 26, 2017).

² See ss. 787.06(3) and (4), F.S.

³ The Florida Contraband Forfeiture Act allows state and local law enforcement agencies to deter and prevent the continued use of contraband articles for criminal purposes while protecting the proprietary interests of innocent owners and lienholders. Sections 932.704(1), F.S.

- Has conspired or endeavored to violate any of the actions listed above.⁴

The civil cause of action allows for threefold the actual damages sustained. The victim is entitled to minimum damages of \$200 and reasonable attorney's fees and court costs. Section 772.104(3), F.S., prohibits punitive damages from being awarded. The standard of proof for the civil cause of action is clear and convincing evidence.⁵

The statute of limitations for the civil cause of action is 5 years after the conduct constituting a violation of one of the above stated provisions. The statute of limitations is suspended during prosecution for the criminal activity or criminal conduct, which is the basis for the civil action and for two years after its conclusion.⁶

Statewide Council on Human Trafficking

The Attorney General is the head of the Department of Legal Affairs.⁷ The Department of Legal Affairs (DLA) is responsible for providing all legal services required by any executive department unless otherwise provided by law. Additionally, the DLA administers certain trust funds and related programs that support crime victim services, criminal investigations,⁸ and crime prevention.⁹

The Statewide Council on Human Trafficking resides within the DLA "for the purpose of enhancing the development and coordination of state and local law enforcement and social services responses to fight commercial sexual exploitation as a form of human trafficking and to support victims."¹⁰

III. Effect of Proposed Changes:

The bill specifies that in order to combat human trafficking, it is the intent of the Legislature to create a civil cause of action for the minors who are victims of human trafficking and to establish the Florida Compensation Trust Fund for Survivors of Human Trafficking.

The bill creates an additional civil cause of action for a minor victim of human trafficking to bring against the trafficker or facilitator of human trafficking who victimized the minor. The minor victim may recover actual and punitive damages and may seize and have forfeited the personal and real property of the trafficker or facilitator used in the trafficking.

Specifically the bill provides legislative findings, which state that:

- The Legislature finds that in order to achieve the goals relating to human trafficking expressed in s. 787.06(1)(d), F.S., it is necessary to provide a civil cause of action for the recovery of compensatory and punitive damages and for the civil seizure and forfeiture of the

⁴ Section 772.103, F.S.

⁵ Section 772.104, F.S.

⁶ Section 772.17, F.S.

⁷ Section 16.015, F.S.

⁸ Sections 16.555 and 16.556, F.S.

⁹ Section 16.54, F.S.

¹⁰ Section 16.617, F.S.

personal and real property used by those who engage in the human trafficking of minors for sex or labor and those who either knowingly or through willful blindness receive profit from or otherwise receive direct or indirect economic benefits from such trafficking.

The bill defines the following terms:

- “Facilitate” or “facilitator” means assisting or providing services to a human trafficker which assist or enable a trafficker to carry out human trafficking activities, or one who provides such assistance or provides such services.
- “Human trafficking” has the same meaning as provided in s. 787.06(2), F.S.
- “Trafficker” or “human trafficker” means any person who knowingly, or in reckless disregard of the facts, engages in human trafficking of a minor, attempts to engage in human trafficking of a minor, or benefits financially by receiving anything of value from participation in a venture that has subjected a minor to human trafficking.
- “Trust fund” refers to the Florida Compensation Trust Fund for Survivors of Human Trafficking.
- “Willful blindness” occurs when a person’s suspicions are aroused and he or she realizes the probability that his or her suspicions are well founded, but the person deliberately refrains from obtaining confirmation of or acting on his or her suspicions because he or she wants to remain in ignorance, when knowledge of the suspected activity can be reasonably and fairly imputed to such person.

The bill allows the minor victim to bring a civil action against the trafficker or facilitator of human trafficking who victimized the minor. The bill also allows the following representatives to bring a civil action on behalf of the minor human trafficking victim:

- A parent or guardian of a minor human trafficking victim;
- A person or entity acting on behalf of the minor with the consent of the minor or his or her guardian; or
- The personal representative of the estate of a deceased victim who was a minor.

The bill also allows a civil action to be brought on behalf of and for the benefit of the Florida Compensation Trust Fund for Survivors of Human Trafficking.

A victim or the trust fund on behalf of the victim must prove his or her case by the greater weight of the evidence. If the victim or the trust fund prevails, he or she is entitled to recover reasonable attorney fees, reasonable investigative expenses, court costs, economic and noneconomic damages, forfeited personal and real property, and any other applicable civil penalties. These remedies are in addition to and cumulative with other legal and administrative remedies available to a victim of human trafficking.

At the victim’s request, court hearings for the civil action or civil forfeiture must be closed to the public and any information in the court file and online docket, which identifies a victim of human trafficking, be redacted or sealed.

The bill requires the court to impose, in addition to a prevailing verdict, a civil penalty against the defendant for \$100,000 in favor of the victim or the trust fund on behalf of the victim. The court must also impose a civil penalty against the defendant in favor of the law enforcement

agency for \$50,000, if a law enforcement agency rescued the victim or located the property upon which the abuse or exploitation of one or more victims occurred. This civil penalty must be used in support of the law enforcement agency's future efforts to combat human trafficking.

The bill specifies that the personal or real property of a person who knowingly or through willful blindness allowed his or her property to be used to facilitate human trafficking is subject to civil forfeiture. This is only subject to the disposition of valid and lawful leases or recorded mortgages or liens of innocent third parties that were in effect before the date of the arrest of a trafficker or perpetrator and the filing of the civil action.¹¹

If a victim or the trust fund on behalf of the victim proves the civil forfeiture by the greater weight of the evidence, without having to prove an actual amount of money damages of any individual victim or victims, he or she is entitled to seize the personal and real property of traffickers, perpetrators, and facilitators. The forfeited property must be used or disposed of for the benefit of the prevailing victim or the trust fund.

The bill specifies that there is no statute of limitations for these civil actions or civil forfeiture cases.

SB 970 describes the administration of the Florida Compensation Trust Fund for Survivors of Human Trafficking.¹² This bill provides that the Governor must appoint the administrator of the trust fund, and a three-person panel to fairly evaluate and pay compensation claims based upon the individual circumstances of each victim and the availability of current funds or future funds received. The trust fund administrator must establish guidelines and prepare and submit an implementation plan, and any amendments to the plan, to the Governor.

This bill requires the Executive Office of the Governor to prepare and issue an annual report on the compliance of the trust fund with its duties. The bill also specifies that applications for compensation must be available in at least English and in Spanish.

The bill is effective July 1, 2017.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

The bill allows a victim to request that the court hearings for the civil cause of action be closed to the public. The bill also allows any information in the court file or online docket that identifies a victim of human trafficking be redacted or sealed. This provision creates a public records concern that needs to be removed from this bill and addressed in a separate bill. SB 1788 creates a public records exemption for this information.

¹¹ The applicability of this provision is unclear.

¹² See SB 970 (2017).

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 the private sector to the extent a party loses property because such party participates in, or through willful blindness allows their property to be used in, human trafficking.

C. Government Sector Impact:

The bill would require the Florida Department of Law Enforcement to develop the claims compensation process. Additional staff would also be needed to process claims. The department estimates \$202,755 would need to be appropriated to cover these expenses.¹³

The impact on the courts is unknown at this time.

VI. Technical Deficiencies:

The bill requires the Executive Office of the Governor to issue an annual report on the compliance of the trust fund with its duties. The bill does not specify the duties of the trust fund.

VII. Related Issues:

The bill creates a new civil cause of action for minor victims of human trafficking. The bill does not address how this new civil cause of action works with the current civil cause of action provided in s. 772.104, F.S. The bill provides the standard of proof for the new cause of action is by the preponderance of the evidence, whereas the civil cause of action in s. 722.104, F.S., specifies the standard of proof is clear and convincing evidence. It is unclear if a minor victim could bring a civil cause of action against his or her human trafficker under both causes of action.

The bill does not require that a person be convicted of the criminal offense of human trafficking to have a civil cause of action brought against a person as a “trafficker” or “facilitator” of human trafficking.

Lines 80, 83, and 86 specify that a “minor” victim of human trafficking may bring a civil cause of action against the trafficker or facilitator of human trafficking who victimized the “minor.” The rest of the bill refers to the “victim” and does not delineate that it is a “minor” victim. This

¹³ 2017 Florida Department of Law Enforcement Bill Analysis, SB 972, February 20, 2017, (on file with the Senate Criminal Justice Committee).

disparity makes it unclear if “victims” of human trafficking who are not minors would have a civil cause of action.

The bill does not define who a minor victim of human trafficking is. This undefined term could bring the unintended consequences of a person who the bill sponsor did not intend being able to bring a civil cause of action.

The bill allows a civil cause of action be brought *on behalf of and for the benefit of* the Florida Compensation Trust Fund for Survivors of Human Trafficking. It is unclear how the trust fund can have standing to bring a civil action *on the behalf of or benefit of* the trust fund. The rest of the bill refers *to the trust fund bringing the civil cause of action on the victim’s behalf*. This discrepancy is confusing because the bill does not specifically allow a civil cause of action to be brought by the trust fund on the behalf of a minor victim; however, the bill then refers to the trust fund bringing a civil action on the minor victim’s behalf.

The bill allows a minor victim of human trafficking to file a civil forfeiture action. Chapter 932, F.S., allows a law enforcement agency to file a civil forfeiture action for personal or real property that is used in violation of the Florida Contraband Forfeiture Act. The bill does not specify which forfeiture action would take precedence.

The bill requires a court to impose a civil penalty against the defendant in favor of the *law enforcement agency* for \$50,000, if a law enforcement agency rescued the victim or located the property upon which the abuse or exploitation of one or more victims occurred. The bill does not contemplate the possibility that multiple law enforcement agencies could be involved in the rescue of the victim or the locating of the property where the abuse occurred.

The bill provides that the personal or real property of a person who knowingly or through willful blindness allowed his property to be used to facilitate human trafficking is subject to civil forfeiture. The bill does not require any proof for this civil forfeiture or specify who may seize this property.

Lines 129 – 131 provide that a victim or the trust fund on behalf of the victim *can seize the personal and real property* of specified people. The bill does not require anything for this seizure to occur. This provision raises Fourth Amendment concerns about an unlawful seizure of property.

Lines 129 – 131 provide that a victim or the trust fund on behalf of the victim can seize the personal and real property of *perpetrators* by proving his or her case by the greater weight of the evidence. The bill does not define *perpetrators*.

The bill requires the Governor’s office to issue an annual report on the compliance of the trust fund. The bill does not specify who should receive the report or a date by which the report must be filed.

SB 970 creates the Florida Compensation Trust Fund for Survivors of Human Trafficking that is referred to in this bill.

The statute of limitations provided for the civil cause of action in s. 772.104, F.S., is five years with some provided exceptions.¹⁴ The bill provides that there is no statute of limitations for this new civil and civil forfeiture cause of action.

VIII. Statutes Affected:

This bill creates section 787.061 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.

¹⁴ Section 772.17, F.S.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/17/2017	.	
	.	
	.	
	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 787.061, Florida Statutes, is created to
read:

787.061 Short title.—Sections 787.061–787.066 may be cited
as the “Civil Action for Victims of Human Trafficking and
Prevention of Human Trafficking Act.”

Section 2. Section 787.062, Florida Statutes, is created to



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11 read:

12 787.062 Definitions for the Civil Action for Victims of
13 Human Trafficking and Prevention of Human Trafficking Act.-As
14 used in ss. 787.061-787.066 the term:

15 (1) "Civil forfeiture proceeding" or "forfeiture
16 proceeding" means a hearing or trial in which the court or jury
17 determines whether the property must be forfeited.

18 (2) "Claimant" means any party who has proprietary interest
19 in the property that is the subject of a civil forfeiture action
20 under s. 787.063(3) and has standing to challenge such
21 forfeiture.

22 (3) "Council" means the Statewide Council on Human
23 Trafficking within the Department of Legal Affairs, as created
24 in s. 16.617.

25 (4) "Facilitator" means a person who knowingly, or in
26 willful blindness, assists or provides goods or services to a
27 trafficker which assist or enable the trafficker to carry out
28 human trafficking.

29 (5) "Human trafficking" has the same meaning as provided in
30 s. 787.06.

31 (6) "Trafficker" means any person who knowingly engages in
32 human trafficking, attempts to engage in human trafficking, or
33 benefits financially by receiving anything of value from
34 participation in a venture that has subjected a person to human
35 trafficking.

36 (7) "Trust fund" means the Trust Fund for Victims of Human
37 Trafficking and Prevention created in s. 787.0611.

38 (8) "Venture" means any group of two or more individuals
39 associated in fact, whether or not a legal entity.



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40 (9) "Victim of human trafficking" means a person subjected
41 to coercion, as defined in s. 787.06, for the purpose of being
42 used in human trafficking, a child under 18 years of age
43 subjected to human trafficking, or an individual subjected to
44 human trafficking as defined by federal law.

45 (10) "Willful blindness" occurs when a person's suspicions
46 are aroused about a particular fact and, while she or he
47 realizes its probability, he or she deliberately refrains from
48 obtaining confirmation of or acting on the fact because he or
49 she wants to remain in ignorance, such that knowledge of the
50 fact avoided can reasonably and fairly be imputed to the person
51 who avoided confirming it.

52 Section 3. Section 787.063, Florida Statutes, is created to
53 read:

54 787.063 Civil action for victims of human trafficking;
55 civil forfeiture proceeding.-

56 (1) FINDINGS.-The Legislature finds that, to achieve the
57 state's goals relating to human trafficking set forth in s.
58 787.06(1)(d), it is necessary to provide a civil cause of action
59 for the recovery of compensatory and punitive damages and for
60 the civil seizure and forfeiture of the personal and real
61 property used by those who engage in the human trafficking of
62 persons for sex or labor and those who either knowingly or
63 through willful blindness receive profit from, or otherwise
64 receive direct or indirect economic benefits from, such
65 trafficking.

66 (2) CIVIL CAUSE OF ACTION.-

67 (a) A victim of human trafficking has a civil cause of
68 action against the trafficker or facilitator of human



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69 trafficking who victimized her or him, and may recover damages
70 for such victimization as provided in this section.

71 (b) The council, with the consent of the victim, may bring
72 a civil cause of action against a trafficker or facilitator of
73 human trafficking who victimizes a person in this state.

74 (c) If the council prevails in any action, the trust fund
75 shall hold moneys awarded to the victim for distribution to the
76 victim or her or his parent, legal guardian, or estate. However,
77 if the victim's parent or legal guardian knowingly, or through
78 willful blindness, participated in the human trafficking, such
79 person is not entitled to any distribution or benefit from the
80 trust fund. If there is no person or estate to appropriately
81 receive the funds, they must remain in the trust fund and be
82 used for purposes of the trust fund, as described in s.
83 787.0611.

84 (d) The action may be brought in any court of competent
85 jurisdiction and the standard of proof is a preponderance of the
86 evidence.

87 (e) A victim, or the council on behalf of the victim, who
88 prevails in any such action is entitled to recover economic and
89 noneconomic damages, penalties, punitive damages, reasonable
90 attorney fees, reasonable investigative expenses, and costs.

91 1. The measure of economic damages for services or labor
92 coerced from the victim of human trafficking shall be the
93 greater of the fair market value of the labor or services
94 provided or the amount realized by the trafficker. For purposes
95 of this subparagraph, the terms "labor" and "services" have the
96 same meanings as provided in s. 787.06.

97 2. The measure of economic damages for every day that the



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98 human trafficking was ongoing shall be calculated as a daily
99 amount of the compensation payable to a person under s.
100 961.06(1)(a).

101 3. Economic damages also include past and future medical
102 and mental health expenses; repatriation expenses, when a victim
103 elects repatriation; and all other reasonable costs and expenses
104 incurred by the victim in the past or estimated to be incurred
105 by the victim in the future as a result of the human
106 trafficking.

107 4. Noneconomic damages shall be calculated as in a tort
108 action.

109 (f) The remedies provided in this section are in addition
110 to and cumulative with other legal and administrative remedies
111 available to victims of human trafficking, except that a victim
112 may not recover under both this section and s. 772.104(2).

113 (g) If a victim or the council, on behalf of the victim,
114 prevails in an action under this section, in addition to any
115 other award imposed, the court must award a civil penalty
116 against the defendant in the amount of \$100,000. This penalty is
117 in addition to, and not in lieu of, any other damage award. The
118 civil penalty must be assessed by the court and may not be
119 disclosed to the jury. Proceeds from the civil penalty must be
120 deposited into the trust fund.

121 (h) If one or more law enforcement agencies rescued the
122 victim or located the property upon which the abuse or
123 exploitation of a victim or victims had occurred, the court must
124 impose a civil penalty against the defendant in the amount of
125 \$50,000 and award the penalty to the law enforcement agencies to
126 fund future efforts to combat human trafficking. The court must



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127 equitably distribute the civil penalty among the law enforcement
128 agencies.

129 (i) The court shall have specific authority to consolidate
130 civil actions for the same facilitator or trafficker for the
131 purpose of case resolution and aggregate jurisdiction.

132 (3) CIVIL FORFEITURE PROCEEDINGS.—

133 (a) The council may file a civil forfeiture action in the
134 circuit court of the state seeking a judgment of forfeiture
135 against an owner of real or personal property that was knowingly
136 used in the human trafficking of the victim. The civil
137 forfeiture shall be for the benefit of the trust fund and
138 proceeds shall be used as specified in s. 787.0611. Proceeds
139 from the civil forfeiture action must be deposited into the
140 trust fund.

141 (b) Valid and lawful leases, recorded mortgages, or liens
142 of innocent third parties which were in existence before the
143 date of the filing of the civil action and property owned by a
144 good faith purchaser for value are not subject to forfeiture.

145 (c) Civil forfeiture actions brought under this section are
146 exempt from the requirements of the Florida Contraband
147 Forfeiture Act, ss. 932.701-932.7062, and shall be governed as
148 provided in this section.

149 (d) If a law enforcement agency of the state or any other
150 party, pursuant to the Florida Contraband Forfeiture Act or as
151 otherwise provided for by law, seeks the forfeiture of the same
152 property as the council, the council's claim shall take priority
153 over that of the law enforcement agency. Any action by a law
154 enforcement agency filed pursuant to the Florida Contraband
155 Forfeiture Act or as otherwise provided for by law which



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156 involves the same property in an action brought under this
157 section must remain pending until the conclusion of any action
158 brought under this section.

159 (e) In a forfeiture proceeding brought under this section,
160 the council must proceed against property to be forfeited by
161 filing a complaint in the circuit court in the jurisdiction
162 where the property is located or where the offense occurred,
163 paying a filing fee of \$1,000, and depositing a bond of \$1,500
164 with the clerk of the court. Unless otherwise expressly agreed
165 to in writing by the parties, the bond is payable to the
166 claimant if the claimant prevails in the forfeiture proceeding
167 and in any appeal.

168 (f) The complaint must be styled, "In RE: FORFEITURE OF"
169 (followed by the name or description of the property). The
170 complaint must contain a brief jurisdictional statement, a
171 description of the subject matter of the proceeding, and a
172 statement of the facts sufficient to state a cause of action
173 that would support a final judgment of forfeiture. The complaint
174 must be accompanied by a verified supporting affidavit.

175 (g) If the property is required by law to be titled or
176 registered, or if the property is subject to a perfected
177 security interest in accordance with chapter 679, the council
178 shall serve the forfeiture complaint as an original service of
179 process under the Florida Rules of Civil Procedure and other
180 applicable law to each person having an ownership or security
181 interest in the property. The council shall serve notice of the
182 forfeiture complaint on any known owner or lienholder. The
183 council must make a diligent search and inquiry for the owner of
184 the subject property, and if, after such diligent search and



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185 inquiry, the council is unable to ascertain the owner or
186 lienholder, notice is not required. The council shall also
187 publish, in accordance with chapter 50, notice of the forfeiture
188 complaint once each week for 2 consecutive weeks in a newspaper
189 of general circulation, as defined in s. 165.031, in the county
190 where the property is located.

191 (h) The complaint must describe the property to be
192 forfeited and state the name of the court in which the complaint
193 will be filed. If the property to be forfeited has been seized
194 by a law enforcement agency, the complaint must state the
195 county, place, and date of seizure and state the name of the law
196 enforcement agency holding the seized property.

197 (i) The court shall require any claimant who desires to
198 contest the forfeiture proceeding to file and serve upon the
199 plaintiff any responsive pleadings and affirmative defenses
200 within 20 days after receipt of the complaint.

201 (j) Upon proof by a preponderance of the evidence that the
202 property to be forfeited was used in human trafficking, the
203 court shall order the property forfeited to the council. The
204 court shall order the forfeiture of any other property of a
205 claimant, excluding lienholders, up to the value of any property
206 subject to forfeiture under this section if any of the property
207 described in this section:

- 208 1. Cannot be located;
209 2. Has been transferred to, sold to, or deposited with, a
210 third party;
211 3. Has been placed beyond the jurisdiction of the court;
212 4. Has been substantially diminished in value by any act or
213 omission of the person in possession of the property; or



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214 5. Has been commingled with any property that cannot be
215 divided without difficulty.

216 (k)1. Property may not be forfeited under this section
217 unless the council establishes by a preponderance of the
218 evidence that the owner knew, or should have known after a
219 reasonable inquiry, that the property was being employed or was
220 likely to be employed in criminal activity.

221 2. A bona fide lienholder's interest that has been
222 perfected in the manner prescribed by law may not be forfeited
223 under this section unless the council establishes by a
224 preponderance of the evidence that the lienholder had actual
225 knowledge at the time the lien was made that the property was
226 being employed or was likely to be employed in criminal
227 activity. If a lienholder's interest is not subject to
228 forfeiture under the requirements of this section, such interest
229 shall be preserved by the court by ordering the lienholder's
230 interest to be paid as provided in s. 932.7055.

231 3. Property titled or registered between husband and wife
232 jointly by the use of the conjunctives "and," "and/or," or "or,"
233 in the manner prescribed by law are not subject to forfeiture
234 under this section unless the council establishes by a
235 preponderance of the evidence that the coowner either knew or
236 had reason to know, after reasonable inquiry, that such property
237 was employed or was likely to be employed in criminal activity.

238 (l) The court's final order of forfeiture shall perfect in
239 the council right, title, and interest in and to such property,
240 subject only to the rights and interests of bona fide
241 lienholders, and, if applicable, shall relate back to the date
242 of seizure or the date of filing of the civil forfeiture action.



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243 (m) Any interest in, title to, or right to property titled
244 or registered jointly by the use of the conjunctives "and,"
245 "and/or," or "or" held by a coowner, other than property held
246 jointly between husband and wife, may not be forfeited unless
247 council establishes by a preponderance of the evidence that the
248 coowner either knew, or had reason to know, after reasonable
249 inquiry, that the property was employed or was likely to be
250 employed in criminal activity. When the interests of each
251 culpable coowner are forfeited, any remaining coowners shall be
252 afforded the opportunity to purchase the forfeited interest in,
253 title to, or right to the property from the council. If any
254 remaining coowner does not purchase such interest, the council
255 may hold the property in coownership, sell its interest in the
256 property, liquidate its interest in the property, or dispose of
257 its interest in the property in any other reasonable manner.

258 (n) Following an order of forfeiture to the council,
259 subject only to the rights and interests of bona fide
260 lienholders, the forfeited property, or the proceeds from the
261 sale of such forfeited property, shall be transferred to the
262 trust fund. The council must sell the property at public auction
263 or by sealed bid to the highest bidder, except for real
264 property, which must be sold in a commercially reasonable manner
265 after appraisal by listing on the market, or salvage, trade, or
266 transfer the property to any public or nonprofit organization.
267 The council shall destroy any image and the medium on which the
268 image is recorded, including, but not limited to, a photograph,
269 video tape, diskette, compact disc, or fixed disk made in
270 violation of s. 810.145 when the image and the medium on which
271 it is recorded is no longer needed for an official purpose. The



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272 council may not sell or retain any image. If the forfeited
273 property is subject to a lien preserved by the court, the
274 council shall sell the property with the proceeds being used
275 toward satisfaction of any liens or satisfy the lien before
276 taking any action authorized by this subsection.

277 (o) If a claimant prevails at the conclusion of a
278 forfeiture proceeding involving property seized by a law
279 enforcement agency and the council decides not to appeal, any
280 seized property must be released immediately to the person
281 entitled to possession of the property as determined by the
282 court. Under such circumstances, the seizing agency may not
283 assess any towing charges, storage fees, administrative costs,
284 or maintenance costs against the claimant with respect to the
285 seized property or forfeiture proceeding.

286 (p) If a claimant prevails at the conclusion of a
287 forfeiture proceeding involving seized property, the trial court
288 shall require the seizing agency to pay to the claimant the
289 reasonable loss of value of the seized property. If a claimant
290 prevails at trial or on appeal and the seizing agency retained
291 the seized property during the trial or appellate process, the
292 trial court must also require the seizing agency to pay to the
293 claimant any loss of income directly attributed to the continued
294 seizure of income-producing property during the trial or
295 appellate process. If the claimant prevails on appeal, the
296 seizing agency must immediately release the seized property to
297 the person entitled to possession of the property as determined
298 by the court and pay any cost as assessed by the court, and may
299 not assess any towing charges, storage fees, administrative
300 costs, or maintenance costs against the claimant with respect to



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301 the seized property or the forfeiture proceeding. However,
302 release of the seized property is not required if the seizing
303 agency has a pending forfeiture action as described in paragraph
304 (d).

305 (q) If the claimant prevails, at the conclusion of
306 forfeiture proceedings and any appeal, the court must award
307 reasonable attorney fees and costs to the claimant if the court
308 finds that the council has not proceeded in good faith. The
309 court may order the council to pay the awarded attorney fees and
310 costs from the trust fund. This subsection does not preclude any
311 party from electing to seek attorney fees and costs under
312 chapter 57 or other applicable law.

313 (4) STATUTE OF LIMITATIONS.—There is no statute of
314 limitations for actions brought pursuant to this section.

315 Section 4. Section 787.064, Florida Statutes, is created to
316 read:

317 787.064 Compensation from the Trust Fund for Victims of
318 Human Trafficking and Prevention.—

319 (1) The council shall establish a program for compensation
320 of victims of human trafficking. The council shall establish an
321 application form and procedures for application. Information
322 about the program must be posted on the Department of Legal
323 Affairs' website. The council may choose to accept applications
324 electronically. Applications for compensation must be made
325 available in English, Spanish, and Creole.

326 (2) Up to 20 percent of all proceeds received from
327 forfeiture actions shall be set aside for the program. If the
328 funds available for the program at any time exceed \$2 million,
329 the set asides shall be discontinued and may not be resumed



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330 until the fund balance is reduced to less than \$1 million by
331 disbursement made under this section.

332 (3) A victim of human trafficking may apply to the council
333 for compensation under this section within 7 years of the end of
334 the human trafficking. If the victim is a minor, regardless of
335 when the human trafficking on which the application is made
336 occurred, application may be made by her or his parent or legal
337 guardian if the victim is under 18 years of age or by the victim
338 within 3 years after turning 18 years of age.

339 (4) Compensation may not be granted unless the council
340 finds that the applicant was a victim of human trafficking.
341 Compensation shall be granted on an actual need basis.
342 Compensation may not be denied based on the victim's familial
343 relationship to the trafficker or facilitator, except to prevent
344 unjust enrichment of the trafficker or facilitator.

345 (5) Compensation made under this section is considered
346 payment of last resort which follows all other sources. Any
347 compensation shall be reduced by the amount of any other
348 payments received or to be received by the victim as a result of
349 the human trafficking.

350 (6) Compensation may not exceed \$10,000 for a victim of
351 human trafficking. Regardless of the number of victims applying,
352 payments for compensation are limited in the aggregate to
353 \$100,000 against any one trafficker or facilitator. If the total
354 applied for by victims exceeds the aggregate limit of \$100,000,
355 the council shall prorate the compensation based upon the actual
356 need of the victims to the total applied for.

357 (7) Compensation may not be distributed before the
358 expiration of 2 years after the date any victim is found by the



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359 council to be approved for compensation under this section. If,
360 during this 2-year period, more than one claim is made against
361 the same trafficker or facilitator, the eligible payments shall
362 be prorated as described in subsection (6). If no additional
363 claims are made, the compensation may be distributed to the
364 victim. Compensation shall be distributed from the set asides in
365 the trust fund.

366 (8) If a victim receives compensation in excess of the
367 amount authorized in this section, the victim shall reimburse
368 the trust fund for any excess amount within 60 days after the
369 victim receives it or 60 days after the compensation is
370 determined to be in excess of that authorized by law, whichever
371 is later.

372 (9) If at any time the funds in the set asides of the trust
373 fund are insufficient to satisfy any approved compensation, the
374 council shall satisfy such undistributed compensation or portion
375 thereof as soon as a sufficient amount of funds have been set
376 aside for the program. When there is more than one undistributed
377 compensation outstanding, such compensation shall be paid in the
378 order in which the compensation was approved by the council.

379 (10) Compensation granted final approval by the council is
380 not subject to appeal or to any other pending proceeding.

381 (11) The council shall establish rules, guidelines, and an
382 implementation plan and shall file a copy, and any subsequent
383 amendments thereto, with the Department of Legal Affairs when
384 adopted.

385 Section 5. Section 787.065, Florida Statutes, is created to
386 read:

387 787.065 Annual Report of the Civil Action for Victims of



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388 Human Trafficking and Prevention of Human Trafficking Act.—The
389 council shall issue an annual report no later than October 1 of
390 each year to the President of the Senate and the Speaker of the
391 House of Representatives detailing for the prior fiscal year all
392 of the following:

393 (1) The status of the trust fund.

394 (2) Any actions and outcomes under s. 787.063.

395 (3) Whether the council has received forfeited property
396 under s. 787.063. At a minimum the report must specify the type,
397 approximate value, court case number, disposition of the
398 property received, and amount of any proceeds received or
399 expended.

400 (4) Information about the compensation program.

401 (5) Any information that demonstrates the council's
402 fulfillment of the purposes of the trust fund during the prior
403 fiscal year.

404 Section 6. Paragraph (f) is added to subsection (4) of
405 section 16.617, Florida Statutes, to read:

406 16.617 Statewide Council on Human Trafficking; creation;
407 membership; duties.—

408 (4) DUTIES.—The council shall:

409 (f) Perform the functions and duties as provided in ss.
410 787.061-787.066 and administer the Florida Compensation Trust
411 Fund for Survivors of Human Trafficking as created in s.
412 787.0611.

413 Section 7. For the 2017-2018 fiscal year, the sums of
414 \$153,000 in recurring funds and \$29,000 in nonrecurring funds
415 from the Crimes Compensation Trust Fund are appropriated to the
416 Department of Legal Affairs, and three full-time equivalent



417 positions are authorized, for the purpose of implementing this
418 act.

419 Section 8. This act shall take effect October 1, 2017.

420

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

422 And the title is amended as follows:

423 Delete everything before the enacting clause
424 and insert:

425 A bill to be entitled

426 An act relating to victims of human trafficking;
427 creating s. 787.061, F.S.; providing a short title;
428 creating s. 787.062, F.S.; defining terms; creating s.
429 787.063, F.S.; providing legislative findings;
430 creating a civil cause of action for victims of human
431 trafficking, or for the Statewide Council on Human
432 Trafficking on their behalves, against a trafficker or
433 facilitator; providing procedures and requirements for
434 bringing a claim; requiring a court to impose a civil
435 penalty against a defendant if a victim, or the
436 council on the victim's behalf, prevails; requiring a
437 court to impose a civil penalty and award it equitably
438 to one or more law enforcement agencies under certain
439 circumstances; authorizing the council to file a civil
440 forfeiture action for the council's benefit; requiring
441 that proceeds from civil forfeiture be deposited into
442 the Trust Fund for Victims of Human Trafficking and
443 Prevention; providing procedures and requirements for
444 civil forfeiture actions; providing that such actions
445 are not subject to a statute of limitations; creating



228352

446 s. 787.064, F.S.; requiring the council to establish a
447 program for the compensation of victims of human
448 trafficking; requiring the council to establish an
449 application form and procedures for application;
450 requiring that applications be made available in
451 certain languages; providing procedures and
452 requirements for the program for compensating victims
453 and the administration of funds; providing for
454 rulemaking; creating s. 787.065, F.S.; requiring the
455 council to issue an annual report to the Legislature
456 which includes specified information, by a specified
457 date; amending s. 16.617, F.S.; adding functions and
458 duties for the council; providing for administration
459 of the trust fund by the council; providing
460 appropriations; providing an effective date.



176364

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
	.	
	.	
	.	

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

1 **Senate Substitute for Amendment (228352) (with title**
2 **amendment)**

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

6 Section 1. Section 787.061, Florida Statutes, is created to
7 read:

8 787.061 Short title.—Sections 787.061-787.065 may be cited
9 as the "Civil Action for Victims of Human Trafficking and
10 Prevention of Human Trafficking Act."



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11 Section 2. Section 787.062, Florida Statutes, is created to
12 read:

13 787.062 Definitions for the Civil Action for Victims of
14 Human Trafficking and Prevention of Human Trafficking Act.—As
15 used in ss. 787.061-787.065 the term:

16 (1) "Council" means the Statewide Council on Human
17 Trafficking within the Department of Legal Affairs, as created
18 in s. 16.617.

19 (2) "Facilitator" means a person who knowingly, or in
20 willful blindness, assists or provides goods or services to a
21 trafficker which assist or enable the trafficker to carry out
22 human trafficking.

23 (3) "Human trafficking" has the same meaning as provided in
24 s. 787.06.

25 (4) "Trafficker" means any person who knowingly engages in
26 human trafficking, attempts to engage in human trafficking, or
27 benefits financially by receiving anything of value from
28 participation in a venture that has subjected a person to human
29 trafficking.

30 (5) "Trust fund" means the Trust Fund for Victims of Human
31 Trafficking and Prevention created in s. 787.0611.

32 (6) "Venture" means any group of two or more individuals
33 associated in fact, whether or not a legal entity.

34 (7) "Victim of human trafficking" means a person subjected
35 to coercion, as defined in s. 787.06, for the purpose of being
36 used in human trafficking, a child under 18 years of age
37 subjected to human trafficking, or an individual subjected to
38 human trafficking as defined by federal law.

39 (8) "Willful blindness" occurs when a person's suspicions



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40 are aroused about a particular fact and, while he or she
41 realizes its probability, he or she deliberately refrains from
42 obtaining confirmation of or acting on the fact because he or
43 she wants to remain in ignorance, such that knowledge of the
44 fact avoided can reasonably and fairly be imputed to the person
45 who avoided confirming it.

46 Section 3. Section 787.063, Florida Statutes, is created to
47 read:

48 787.063 Civil action for victims of human trafficking.—

49 (1) FINDINGS.—The Legislature finds that, to achieve the
50 state's goals relating to human trafficking set forth in s.
51 787.06(1)(d), it is necessary to provide a civil cause of action
52 for the recovery of compensatory and punitive damages.

53 (2) CIVIL CAUSE OF ACTION.—

54 (a) A victim of human trafficking has a civil cause of
55 action against the trafficker or facilitator of human
56 trafficking who victimized her or him, and may recover damages
57 for such victimization as provided in this section.

58 (b) The council, with the consent of the victim, may bring
59 a civil cause of action against a trafficker or facilitator of
60 human trafficking who victimizes a person in this state.

61 (c) If the council prevails in any action, the trust fund
62 shall hold moneys awarded to the victim for distribution to the
63 victim or her or his parent, legal guardian, or estate. However,
64 if the victim's parent or legal guardian knowingly, or through
65 willful blindness, participated in the human trafficking, such
66 person is not entitled to any distribution or benefit from the
67 trust fund. If there is no person or estate to appropriately
68 receive the funds, they must remain in the trust fund and be



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69 used for purposes of the trust fund, as described in s.
70 787.0611.

71 (d) The action may be brought in any court of competent
72 jurisdiction and the standard of proof is a preponderance of the
73 evidence.

74 (e) A victim, or the council on behalf of the victim, who
75 prevails in any such action is entitled to recover economic and
76 noneconomic damages, penalties, punitive damages, reasonable
77 attorney fees, reasonable investigative expenses, and costs.

78 1. The measure of economic damages for services or labor
79 coerced from the victim of human trafficking shall be the
80 greater of the fair market value of the labor or services
81 provided or the amount realized by the trafficker. For purposes
82 of this subparagraph, the terms "labor" and "services" have the
83 same meanings as provided in s. 787.06.

84 2. The measure of economic damages for every day that the
85 human trafficking was ongoing shall be calculated as a daily
86 amount of the compensation payable to a person under s.
87 961.06(1)(a).

88 3. Economic damages also include past and future medical
89 and mental health expenses; repatriation expenses, when a victim
90 elects repatriation; and all other reasonable costs and expenses
91 incurred by the victim in the past or estimated to be incurred
92 by the victim in the future as a result of the human
93 trafficking.

94 4. Noneconomic damages shall be calculated as in a tort
95 action.

96 (f) The remedies provided in this section are in addition
97 to and cumulative with other legal and administrative remedies



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98 available to victims of human trafficking, except that a victim
99 may not recover under both this section and s. 772.104(2).

100 (g) If a victim or the council, on behalf of the victim,
101 prevails in an action under this section, in addition to any
102 other award imposed, the court must award a civil penalty
103 against the defendant in the amount of \$100,000. This penalty is
104 in addition to, and not in lieu of, any other damage award. The
105 civil penalty must be assessed by the court and may not be
106 disclosed to the jury. Proceeds from the civil penalty must be
107 deposited into the trust fund.

108 (h) If one or more law enforcement agencies rescued the
109 victim or located the property upon which the abuse or
110 exploitation of a victim or victims had occurred, the court must
111 impose a civil penalty against the defendant in the amount of
112 \$50,000 and award the penalty to the law enforcement agencies to
113 fund future efforts to combat human trafficking. The court must
114 equitably distribute the civil penalty among the law enforcement
115 agencies.

116 (i) The court shall have specific authority to consolidate
117 civil actions for the same trafficker or facilitator for the
118 purpose of case resolution and aggregate jurisdiction.

119 (3) STATUTE OF LIMITATIONS.—There is no statute of
120 limitations for actions brought pursuant to this section.

121 Section 4. Section 787.064, Florida Statutes, is created to
122 read:

123 787.064 Annual Report of the Civil Action for Victims of
124 Human Trafficking and Prevention of Human Trafficking Act.—The
125 council shall issue an annual report no later than October 1 of
126 each year to the President of the Senate and the Speaker of the



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127 House of Representatives detailing for the prior fiscal year all
128 of the following:

129 (1) The status of the trust fund.

130 (2) Any actions and outcomes under s. 787.063.

131 (3) Any information that demonstrates the council's
132 fulfillment of the purposes of the trust fund during the prior
133 fiscal year.

134 Section 5. Paragraph (f) is added to subsection (4) of
135 section 16.617, Florida Statutes, to read:

136 16.617 Statewide Council on Human Trafficking; creation;
137 membership; duties.—

138 (4) DUTIES.—The council shall:

139 (f) Perform the functions and duties as provided in ss.
140 787.061-787.065 and administer the Florida Compensation Trust
141 Fund for Survivors of Human Trafficking as created in s.
142 787.0611.

143 Section 6. For the 2017-2018 fiscal year, the sums of
144 \$153,000 in recurring funds and \$29,000 in nonrecurring funds
145 from the Crimes Compensation Trust Fund are appropriated to the
146 Department of Legal Affairs, and three full-time equivalent
147 positions are authorized, for the purpose of implementing this
148 act.

149 Section 7. This act shall take effect October 1, 2017.

150
151 ===== T I T L E A M E N D M E N T =====

152 And the title is amended as follows:

153 Delete everything before the enacting clause
154 and insert:

155 A bill to be entitled



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156 An act relating to victims of human trafficking;
157 creating s. 787.061, F.S.; providing a short title;
158 creating s. 787.062, F.S.; defining terms; creating s.
159 787.063, F.S.; providing legislative findings;
160 creating a civil cause of action for victims of human
161 trafficking, or for the Statewide Council on Human
162 Trafficking on their behalves, against a trafficker or
163 facilitator; providing procedures and requirements for
164 bringing a claim; requiring a court to impose a civil
165 penalty against a defendant if a victim, or the
166 council on the victim's behalf, prevails; requiring a
167 court to impose a civil penalty and award it equitably
168 to one or more law enforcement agencies under certain
169 circumstances; providing that such actions are not
170 subject to a statute of limitations; creating s.
171 787.064, F.S.; requiring the council to issue an
172 annual report to the Legislature which includes
173 specified information, by a specified date; amending
174 s. 16.617, F.S.; adding functions and duties for the
175 council; providing for administration of the trust
176 fund by the council; providing appropriations;
177 providing an effective date.



129704

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/17/2017	.	
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The Committee on Criminal Justice (Rouson) recommended the following:

1 **Senate Amendment to Substitute Amendment (176364) (with**
2 **title amendment)**

3
4 Between lines 5 and 6
5 insert:

6 Section 1. Section 775.211, Florida Statutes, is created to
7 read:

8 775.211 Subpoenas in investigations of sexual offenses.—

9 (1) AUTHORIZATION FOR ISSUANCE OF SUBPOENA.—

10 (a)1. In an investigation of an offense involving the



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11 sexual exploitation or abuse of a child, an offense involving an
12 unregistered sex offender, or an offense meeting the criteria
13 specified for designation as a sexual predator under s. 775.21,
14 a law enforcement agency may issue in writing and serve a
15 subpoena requiring the production of records and things and
16 testimony described in subparagraph 2.

17 2. Except as provided in subparagraph 3., a subpoena issued
18 under subparagraph 1. may require the production by their
19 custodian of any records or things relevant to the investigation
20 and testimony concerning their production and authenticity.

21 3. A subpoena issued under subparagraph 1. to a provider of
22 electronic communication services or remote computing services
23 in the course of an investigation of an offense involving the
24 sexual exploitation or abuse of a child may not extend beyond
25 requiring the provider to disclose the information specified in
26 s. 775.21, which may be relevant to an authorized law
27 enforcement inquiry, or requiring the provider's custodian of
28 the records to give testimony concerning the production and
29 authentication of such records or information.

30 4. As used in this paragraph, the term "sex offender" means
31 a person who has been convicted of committing, or attempting,
32 soliciting, or conspiring to commit, any of the following
33 criminal offenses in this state or similar offenses in another
34 jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01, s.
35 787.02, or s. 787.025(2)(c), when the victim is a minor; s.
36 787.06(3)(b), (d), (f), or (g); former s. 787.06(3)(h); s.
37 794.011, excluding s. 794.011(10); s. 794.05; former s. 796.03;
38 former s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
39 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.



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40 847.0137; s. 847.0138; s. 847.0145; s. 895.03, if the court
41 makes a written finding that the racketeering activity involved
42 at least one sexual offense listed in this subparagraph or at
43 least one offense listed in this subparagraph with sexual intent
44 or motive; s. 916.1075(2); or s. 985.701(1).

45 (b) A subpoena issued under this subsection must describe
46 the records or things required to be produced and prescribe a
47 date by which the records or things must be made available.

48 (c) A witness subpoenaed under this subsection must be paid
49 the same fees and mileage that are paid to a witness in the
50 courts of this state.

51 (d) At any time before the return date specified in the
52 summons, the person or entity summoned, in the court having
53 jurisdiction over such person or investigation, may petition for
54 an order modifying or setting aside the summons or a prohibition
55 on disclosure under paragraph (e).

56 (e)1. If a subpoena issued under this subsection is
57 accompanied by a certification under this subparagraph and
58 notice of the right to judicial review under subparagraph 3.,
59 the recipient of the subpoena may not disclose to any person for
60 a period of 180 days that the law enforcement agency that issued
61 the subpoena has sought or obtained access to information or
62 records under this section. The law enforcement agency that
63 issues the subpoena may request such certification by certifying
64 to the court that the absence of a prohibition on disclosure may
65 result in:

66 a. Endangering the life or physical safety of an
67 individual;

68 b. Flight from prosecution;



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69 c. Destruction of or tampering with evidence;
70 d. Intimidation of potential witnesses; or
71 e. Seriously jeopardizing an investigation or unduly
72 delaying a trial.

73 2.a. A recipient of a subpoena issued under this subsection
74 may disclose information otherwise subject to any applicable
75 nondisclosure requirement to persons as necessary to comply with
76 the request, to an attorney in order to obtain legal advice or
77 assistance regarding the request, or to other persons as allowed
78 by the law enforcement agency that issued the subpoena.

79 b. A person to whom disclosure is made under sub-
80 paragraph a. is subject to the nondisclosure requirements
81 applicable to a person to whom a subpoena is issued under this
82 subsection in the same manner as the person to whom the subpoena
83 was issued.

84 c. Any recipient who discloses to a person described in
85 sub-subparagraph a. information otherwise subject to a
86 nondisclosure requirement shall notify that person of the
87 applicable nondisclosure requirement.

88 d. At the request of the law enforcement agency that issued
89 the subpoena, any person making or intending to make a
90 disclosure under sub-subparagraph a. to a person other than an
91 attorney shall identify to the law enforcement agency the person
92 to whom such disclosure has been or will be made.

93 3. A nondisclosure requirement imposed under subparagraph
94 1. is subject to judicial review under subsection (5). A
95 subpoena issued under this subsection in connection with a
96 nondisclosure requirement imposed under subparagraph 1. must
97 include notice of the availability of such judicial review. Such



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98 nondisclosure requirement may be extended in accordance with
99 subsection (5).

100 (f) A summons issued under this subsection may not compel
101 the production of anything that would be protected from
102 production under the standards applicable to a subpoena duces
103 tecum issued by a court of this state.

104 (g) If a case or proceeding does not arise from the
105 production of records or other things pursuant to this
106 subsection within a reasonable time after those records or
107 things are produced, the agency to which those records or things
108 were delivered shall, upon written demand made by the person who
109 produced them, return them to that person, unless the materials
110 produced were copies rather than originals.

111 (h) A subpoena issued under paragraph (a) for an
112 unregistered sex offender may require production as soon as
113 possible, but must allow the recipient at least 24 hours after
114 service of the subpoena to produce.

115 (2) SERVICE.—A subpoena issued under subsection (1) may be
116 served by any person who is at least 18 years of age and
117 designated in the subpoena to serve it. Service upon an
118 individual may be made by personal delivery. Service may be made
119 on a domestic or foreign corporation or on a partnership or
120 other unincorporated association that is subject to suit under a
121 common name by delivering the subpoena to an officer, a managing
122 or general agent, or any other agent authorized by appointment
123 or by law to receive service of process. The affidavit of the
124 person serving the subpoena entered on a true copy of the
125 subpoena is proof of service.

126 (3) ENFORCEMENT.—In the case of contumacy by or refusal to



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127 comply with a subpoena, the law enforcement agency that issued
128 the subpoena may petition a court that has jurisdiction of the
129 investigation or over the person subpoenaed, or in which he or
130 she conducts business or may be found, to compel compliance. The
131 court may issue an order requiring the subpoenaed person to
132 appear before the law enforcement agency to produce records or
133 to give testimony concerning the production and authentication
134 of such records. Any failure to obey the order of the court may
135 be punished by the court as contempt. All process in any such
136 case may be served in any judicial district in which such person
137 is located.

138 (4) IMMUNITY FROM CIVIL LIABILITY.—Notwithstanding any
139 other law, a person subpoenaed under this section who complies
140 in good faith with the subpoena and produces the materials
141 sought is not liable in any court within the state to any
142 customer or other person for such production or for
143 nondisclosure of that production.

144 (5) JUDICIAL REVIEW OF NONDISCLOSURE REQUIREMENTS.—

145 (a) Nondisclosure order.—

146 1. If a recipient of a subpoena under this section wishes
147 to have a court review a nondisclosure requirement imposed in
148 connection with the subpoena, the recipient may notify the law
149 enforcement agency or file a petition for judicial review with
150 the issuing court.

151 2. No later than 30 days after the date of receipt of a
152 notification under subparagraph 1., the law enforcement agency
153 shall apply for an order prohibiting the disclosure of the
154 existence or contents of the relevant subpoena. An application
155 under this subparagraph may be filed with the district court of



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156 appeal for the judicial district in which the recipient of the
157 subpoena is doing business or with the district court of appeal
158 for any judicial district within which the authorized
159 investigation that is the basis for the subpoena is being
160 conducted. The applicable nondisclosure requirement shall remain
161 in effect during the pendency of any related proceeding.

162 3. A district court of appeal that receives a petition
163 under subparagraph 1. or an application under subparagraph 2.
164 must rule expeditiously, and shall, in accordance with paragraph
165 (c), issue a nondisclosure order that includes conditions
166 appropriate to the circumstances.

167 (b) Application contents.—An application for a
168 nondisclosure order, or an extension thereof, or a response to a
169 petition must include the certification required under
170 subparagraph (1)(e)1.

171 (c) Standard.—A district court of appeal shall issue a
172 nondisclosure order, or an extension thereof, under this
173 subsection if the court determines that there is reason to
174 believe that disclosure of the information subject to the
175 nondisclosure requirement during the applicable time period may
176 result in:

177 1. Endangering the life or physical safety of an
178 individual;

179 2. Flight from prosecution;

180 3. Destruction of or tampering with evidence;

181 4. Intimidation of potential witnesses; or

182 5. Seriously jeopardizing an investigation or unduly
183 delaying a trial.

184 (d) Extension.—Upon a showing that a circumstance described



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185 in any of subparagraphs (c)1.-(c)5. continues to exist, a
186 district court of appeal may issue an ex parte order extending a
187 nondisclosure order imposed under this subsection for additional
188 180-day periods or, if the court determines that the
189 circumstances necessitate a longer period of nondisclosure, for
190 additional periods that are longer than 180 days.

191 (e) Closed hearings.-In all proceedings under this
192 subsection, subject to any right to an open hearing in a
193 contempt proceeding, the court shall close any hearing to the
194 extent necessary to prevent the unauthorized disclosure of a
195 request for records, a report, or other information made to any
196 person or entity under this section. Petitions, filings,
197 records, orders, certifications, and subpoenas must be kept
198 under seal to the extent and length of time necessary to prevent
199 the unauthorized disclosure of a subpoena under this section.

200
201 ===== T I T L E A M E N D M E N T =====

202 And the title is amended as follows:

203 Delete line 156

204 and insert:

205 An act relating to exploitation and abuse; creating s.
206 775.211, F.S.; authorizing a law enforcement agency to
207 issue and serve a subpoena in an investigation of an
208 offense involving the sexual exploitation or abuse of
209 a child, an offense involving an unregistered sex
210 offender, or other specified offenses; specifying and
211 limiting the scope of production under the subpoena;
212 defining the term "sex offender"; requiring the
213 payment of fees and mileage to a subpoenaed witness;



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214 authorizing a person who is the subject of a summons
215 to petition for an order modifying or setting aside
216 the summons or a prohibition on disclosure
217 accompanying the summons; prohibiting the recipient of
218 a subpoena from disclosing its contents to another
219 person under certain circumstances; providing
220 exceptions; specifying requirements regarding the
221 nondisclosure of information; providing that
222 nondisclosure requirements are subject to judicial
223 review and that subpoenas issued under a nondisclosure
224 certification must include notice of the availability
225 of judicial review; requiring the return of produced
226 records under certain circumstances; requiring that
227 certain recipients of such a subpoena be allowed at
228 least a specified amount of time to produce records;
229 specifying requirements for service of the subpoena;
230 authorizing the issuer of the subpoena to seek
231 enforcement of the subpoena in a court of competent
232 jurisdiction; authorizing a court to punish
233 noncompliance with an order as contempt; providing
234 immunity from liability for the good faith compliance
235 with such a subpoena; specifying the procedure for
236 filing for judicial review of a nondisclosure
237 requirement imposed in connection with a subpoena;
238 requiring the law enforcement agency to apply for a
239 nondisclosure order within a specified timeframe after
240 receipt of notification of a filing for judicial
241 review; requiring a district court of appeal to rule
242 expeditiously on such filing; requiring an application



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243 for a nondisclosure order to include the law
244 enforcement agency's certification as to possible
245 results of disclosure; requiring the district court of
246 appeal to issue a nondisclosure order, or an extension
247 thereof, under certain circumstances; specifying
248 circumstances under which a district court of appeal
249 may issue an extension for a specified period;
250 requiring a court to close any hearing and seal
251 records to prevent the disclosure of specified
252 information or records;

By Senator Bracy

11-00683-17

2017972__

1 A bill to be entitled
 2 An act relating to human trafficking; creating s.
 3 787.061, F.S.; providing a short title; providing
 4 Legislative findings and intent; defining terms;
 5 creating a civil cause of action for minors who are
 6 victims of human trafficking; authorizing such minors
 7 to recover actual and punitive damages; authorizing
 8 the seizure and forfeiture of personal and real
 9 property used in human trafficking; providing for
 10 recovery by a prevailing victim or the Florida
 11 Compensation Trust Fund for Survivors of Human
 12 Trafficking of attorney fees, investigative expenses,
 13 court costs, economic and noneconomic damages,
 14 forfeited personal and real property, and other
 15 applicable civil penalties; requiring the court to
 16 impose specified civil penalties in certain
 17 circumstances; making personal or real property of
 18 certain persons subject to civil forfeiture upon
 19 disposition of certain leases, mortgages, or liens;
 20 requiring the Governor to appoint an administrator and
 21 a panel to evaluate and pay claims; requiring the
 22 trust fund administrator to establish guidelines and
 23 prepare and submit to the Governor an implementation
 24 plan; requiring the Executive Office of the Governor
 25 to issue an annual report on the compliance of the
 26 trust fund with its duties; requiring that
 27 applications for compensation be made available in at
 28 least English and Spanish; requiring closed hearings
 29 and the redaction or sealing of personal identifying

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

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30 information of the victim, upon the victim's request;
 31 providing that there is no statute of limitation for
 32 bringing an action; providing an effective date.
 33
 34 Be It Enacted by the Legislature of the State of Florida:
 35
 36 Section 1. Section 787.061 Florida Statutes, is created to
 37 read:
 38 787.061 Human trafficking; civil action.-
 39 (1) SHORT TITLE.-This section shall be known and may be
 40 cited as the "Civil Action Against Human Trafficking of Minors
 41 and Survivors Compensation Fund Act."
 42 (2) LEGISLATIVE FINDINGS.-The Legislature finds that in
 43 order to achieve the goals relating to human trafficking
 44 expressed in s. 787.06(1)(d), it is necessary to provide a civil
 45 cause of action for the recovery of compensatory and punitive
 46 damages and for the civil seizure and forfeiture of the personal
 47 and real property used by those who engage in the human
 48 trafficking of minors for sex or labor and those who either
 49 knowingly or through willful blindness receive profit from or
 50 otherwise receive direct or indirect economic benefits from such
 51 trafficking.
 52 (3) LEGISLATIVE INTENT.-In order to combat the practice of
 53 human trafficking, it is the intent of the Legislature to create
 54 a civil cause of action for the minors who are victims of human
 55 trafficking and to establish the Florida Compensation Trust Fund
 56 for Survivors of Human Trafficking.
 57 (4) DEFINITIONS.-As used in this section, the term:
 58 (a) "Facilitate" or "facilitator" means assisting or

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

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59 providing services to a human trafficker which assist or enable
 60 a trafficker to carry out human trafficking activities, or one
 61 who provides such assistance or provides such services.

62 (b) "Human trafficking" has the same meaning as provided in
 63 s. 787.06(2).

64 (c) "Trafficker" or "human trafficker" means any person who
 65 knowingly, or in reckless disregard of the facts, engages in
 66 human trafficking of a minor, attempts to engage in human
 67 trafficking of a minor, or benefits financially by receiving
 68 anything of value from participation in a venture that has
 69 subjected a minor to human trafficking.

70 (d) "Trust fund" refers to the Florida Compensation Trust Fund
 71 for Survivors of Human Trafficking.

72 (e) "Willful blindness" occurs when a person's suspicions
 73 are aroused and he or she realizes the probability that his or
 74 her suspicions are well founded, but the person deliberately
 75 refrains from obtaining confirmation of or acting on his or her
 76 suspicions because he or she wants to remain in ignorance, when
 77 knowledge of the suspected activity can be reasonably and fairly
 78 imputed to such person.

79 (5) CIVIL CAUSE OF ACTION.—

80 (a) A minor who has been a victim of human trafficking has
 81 a civil cause of action against the trafficker or facilitator of
 82 human trafficking who victimized the minor and may recover
 83 actual and punitive damages for such victimization, and may
 84 seize and have forfeited the personal and real property of such
 85 trafficker or facilitator used in such trafficking.

86 1. A civil action may be brought by any minor who has been
 87 the victim of human trafficking, by the parent or guardian of

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88 the minor, by a person or entity acting on behalf of the minor
 89 with the consent of the minor or his or her guardian, or by the
 90 personal representative of the estate of a deceased victim who
 91 was a minor.

92 2. A civil action may be brought by a licensed attorney in
 93 good standing with The Florida Bar, on behalf of and for the
 94 benefit of the Florida Compensation Trust Fund for Survivors of
 95 Human Trafficking.

96 (b) A civil action may be brought in any court of competent
 97 jurisdiction.

98 (c) A victim, or the trust fund on the victim's behalf, who
 99 prevails in any such action by proving his or her case by the
 100 greater weight of the evidence, is entitled to recover
 101 reasonable attorney fees, reasonable investigative expenses,
 102 court costs, economic and noneconomic damages, forfeited
 103 personal and real property, and any other applicable civil
 104 penalties.

105 (d) The remedies provided in this section are in addition
 106 to and cumulative with other legal and administrative remedies
 107 available to a victim of human trafficking.

108 (e) If a victim, or the trust fund on the victim's behalf,
 109 prevails in any action brought under this section, in addition
 110 to the verdict, the court shall impose a civil penalty against
 111 the defendant in the amount of \$100,000 in favor of the
 112 prevailing victim or the trust fund.

113 (f) In addition to a civil penalty imposed under paragraph
 114 (e), if a law enforcement agency rescued the victim or located
 115 the property upon which the abuse or exploitation of one or more
 116 victims occurred, the court shall impose a civil penalty against

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117 the defendant in favor of the law enforcement agency in the
 118 amount of \$50,000, which shall be used in support of the law
 119 enforcement agency's future efforts to combat human trafficking.
 120 (g) The personal or real property of a person who knowingly
 121 or through willful blindness allowed his or her property to be
 122 used to facilitate human trafficking is subject to civil
 123 forfeiture. Subject only to the disposition of valid and lawful
 124 leases or recorded mortgages or liens of innocent third parties
 125 which were in effect before the date of the arrest of a
 126 trafficker or perpetrator and the filing of the civil action,
 127 the forfeited property shall be used or disposed of for the
 128 benefit of the prevailing victim or the trust fund.
 129 (h) The victim, or the trust fund on the victim's behalf,
 130 is entitled to seize the personal and real property of
 131 traffickers, perpetrators, and facilitators upon proving his or
 132 her case by the greater weight of the evidence without having to
 133 prove an actual amount of money damages of any individual victim
 134 or victims.
 135 (6) THE FLORIDA COMPENSATION TRUST FUND FOR SURVIVORS OF
 136 HUMAN TRAFFICKING.—
 137 (a) The Governor shall appoint the administrator of the
 138 trust fund, created in s. 787.062, and a three-person panel to
 139 fairly evaluate and pay compensation claims based upon the
 140 individual circumstances of each victim and the availability of
 141 current funds or future funds received.
 142 (b) The trust fund administrator shall establish guidelines
 143 and prepare and submit an implementation plan, and any
 144 amendments to the plan, to the Governor.
 145 (c) The Executive Office of the Governor shall prepare and

11-00683-17 2017972__

146 issue an annual report on the compliance of the trust fund with
 147 its duties.
 148 (d) Applications for compensation must be made available in
 149 at least English and in Spanish.
 150 (7) COURT HEARINGS.—At the victim's request, court hearings
 151 conducted pursuant to this section must be closed to the public
 152 and any information in the court file and online docket which
 153 identifies a victim of human trafficking must be redacted or
 154 sealed.
 155 (8) STATUTE OF LIMITATIONS.—There is no statute of
 156 limitations for suits brought pursuant to this section.
 157 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)

4/3/17
Meeting Date

972
Bill Number (if applicable)

Topic Human Trafficking Bill

176304
Amendment Barcode (if applicable)

Name Nicole Whitaker

Job Title Advocate against human trafficking

Address 258 Thamberg Drive
Street

Phone 850-556-9413

Tallahussee FL 32312
City State Zip

Email

Speaking: For Against Information

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

Representing Self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/3/17
Meeting Date

1
972
Bill Number (if applicable)

176364
Amendment Barcode (if applicable)

Topic Anti Human Trafficking Bill

Name Dean R. LeBoeuf

Job Title President Brooks & LeBoeuf

Address 909 E. Park Avenue
Street

Phone 850 - 222 - 2000

Tallahassee, Fl.
City State Zip

Email Dean@TallahasseeAttorneys.com

Speaking: For Against Information

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

Representing self

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 Apr 17
Meeting Date

972
Bill Number (if applicable)

Topic Human Trafficking

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe
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

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

4/3/17
Meeting Date

972
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Bill Bunkley

Job Title President

Address PO Box 341644
Street

Phone (813)264-2977

Tampa FL 33696
City State Zip

Email _____

Speaking: For Against Information

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

Representing FL ETHICS & Religious Liberty Commission

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

4/3/17

Meeting Date

972

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Amber Kelly

Job Title Director of Policy & Communications

Address 4853 S. Orange Ave.

Phone (407) 418-0250

Street

Orlando

City

FL

State

32806

Zip

Email _____

Speaking: For Against Information

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

Representing FL Family Action

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 1228

INTRODUCER: Senator Gainer

SUBJECT: Marine Turtle Protection Act

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Sumner	Hrdlicka	CJ	Favorable
2.			EP	
3.			AP	

I. Summary:

SB 1288 amends s. 921.0022(3)(c), F.S., to correct the numbering on the Offense Severity Ranking Chart for solicitation or conspiracy to commit a violation of the Marine Turtle Protection Act. The bill further provides that possession of a marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species is a Level 3 offense. Thus, the offense ranking will increase from a Level 1 to a Level 3.

II. Present Situation:

Marine Turtle Protection Act

The “Marine Turtle Protection Act” (MTPA) was created to ensure that the Fish and Wildlife Conservation Commission (Commission) has the appropriate authority and resources to implement its responsibilities under the recovery plans of the U.S. Fish and Wildlife Services for the following five species of marine turtles:¹

- Atlantic loggerhead turtle (*Caretta caretta*);
- Atlantic green turtle (*Chelonia mydas*);
- Leatherback turtle (*Dermochelys coriacea*);
- Atlantic hawksbill turtle (*Eretmochelys imbricata*); and
- Atlantic ridley turtle (*Lepidochelys kemp*).

The MTPA prohibits a person, firm, or corporation from knowingly possessing, taking, disturbing, mutilating, destroying or causing to be destroyed, transferring, selling, offering to

¹ Section 379.2431(1), F.S.

sell, molesting, or harassing any marine turtle species or hatchling or parts or the eggs or nest of any marine turtle.²

The Commission may:

- Issue a special permit or loan agreement to a person, firm, or corporation to possess a marine turtle species or hatchling, or parts, including nests or eggs, for scientific, education, or exhibition purposes, or for conservation activities such as the relocation of nests, eggs, or marine turtles or hatchlings away from construction sites.
- Issue a special permit or loan agreement to a properly accredited person³ for marine turtle conservation purposes.
- Adopt rules pursuant to ch. 120, F.S., to prescribe terms, conditions, and restrictions for marine turtle conservation, and to permit the possession of marine turtle species, hatchlings, or parts thereof, including nests or eggs.

Penalties for violations of the MTPA are provided in the table below.

Marine Turtle Violations ⁴	Type of Infraction	Civil Penalty or Jail Time
1st offense for possession of 11 or fewer marine turtle eggs	1st Degree Misdemeanor	Max. \$1,000 ⁵ and Max. 1 year ⁶
2nd and subsequent offense for possession of 11 or fewer marine turtle eggs	3rd Degree Felony	Max. \$5,000 ⁷ or Max. 5 years ⁸
1st offense for possession of more than 11 marine turtle eggs	3rd Degree Felony	Max. \$5,000 or Max. 5 years
Illegally taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing any marine turtle species or hatchling, or parts thereof, or the eggs or nest of any marine turtle species	3rd Degree Felony	Max. \$5,000 or Max. 5 years
Possession of any marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species	3rd Degree Felony	Max. \$5,000 or Max. 5 years
Soliciting or conspiring to commit a violation of the MTPA	3rd Degree Felony	Max. \$5,000 or Max. 5 years
Additional penalty for each egg associated with the above violations		\$100 per egg ⁹

In 2016, HB 7013 (ch. 2016-107, L.O.F.), amended s. 379.2431, F.S., to provide that *possession* of a marine turtle or hatchling, or parts thereof, without authorization from the Commission

² This provision applies unless authorized in this paragraph or otherwise provided by the Federal Endangered Species Act or its implementing regulations. Section 379.2431(1)(d), F.S.

³ Defined in s. 379.2431(1)(c), F.S.

⁴ Section 379.2431(1)(e), F.S.

⁵ Section 775.083(1)(d), F.S.

⁶ Section 775.082(4)(a), F.S.

⁷ Section 775.083(1)(c), F.S.

⁸ Section 775.082(3)(e), F.S.

⁹ Section 379.2431(1)(e), F.S.

under the MTPA or from the federal government under the Federal Endangered Species Act is a third degree felony. The bill also provided that illegally taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing *marine turtle hatchlings or parts thereof*, is a third degree felony.¹⁰

According to the Commission, prior to the clarification in ch. 2016-107, L.O.F., the possession of marine turtle species, hatchlings, or their parts was implied to be illegal along with other prohibitions in s. 379.2431(1)(d), F.S. The language providing for the clarification required adding a new subparagraph 6., making the solicitation or conspiracy to commit a violation of the MTPA a third degree felony, a new subparagraph 7.¹¹

The cross reference to the new subparagraph 7. was not amended in the Offense Severity Ranking Chart in the Criminal Punishment Code (Code) in s. 921.0022, F.S. The Code determines the sentence score for all felony convictions. There are 10 offense levels, ranked from least severe (Level 1 offenses) to most severe (Level 10 offenses). Each felony offense is assigned a level depending on the severity of the offense. Consequently, the Offense Severity Chart lists solicitation or conspiracy to commit a violation of the MTPA using the old subparagraph 6. and makes no reference to the new language in subparagraph 6. regarding possession.

Pursuant to s. 921.0023, F.S., for felony offenses committed on or after October 1, 1998, that are not listed in the Code, they are ranked within the following parameters:

- A third degree felony is within a Level 1 offense.
- A second degree felony is within a Level 4 offense.
- A first degree felony is within a Level 7 offense.
- A life felony is within a Level 10 offense.

Therefore, under current law, judges must treat sentencing for possession of marine turtles or parts thereof, as a Level 1 offense under s. 921.0023(1), F.S.

III. Effect of Proposed Changes:

The bill amends s. 921.0022(3)(c) F.S., to correct the numbering on the Offense Severity Ranking Chart for solicitation or conspiracy to commit a violation of the Marine Turtle Protection Act. The bill further provides that possession of a marine turtle species or hatchling, or parts thereof, or the nest of any marine turtle species as a Level 3 offense. Thus, the offense ranking will increase from a Level 1 to a Level 3.

The bill is effective July 1, 2017.

¹⁰ In a 2013 circuit court case from Palm Beach County, a judge found a defendant not guilty of knowingly possessing marine turtle eggs under s. 379.2431(1)(d) 2., F.S. *State v. Alvarez*, Case No. 2013-CF-101AM (Fla. 16th Jud. Cir. 2015).

¹¹ Florida Fish and Wildlife Conservation Commission, *2017 Legislative Proposal* (November 17, 2016) (on file with the Senate Committee on Criminal Justice).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates that the bill will have a positive insignificant prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 921.0022 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.

By Senator Gainer

2-01499-17 20171228__

1 A bill to be entitled
 2 An act relating to the Marine Turtle Protection Act;
 3 amending s. 921.0022, F.S.; adding the existing
 4 offense of possession of any marine turtle species or
 5 hatchling, or parts thereof, or nests to level 3 of
 6 the offense severity ranking chart for the purpose of
 7 increasing sentencing points for conviction of the
 8 offense; updating a cross-reference; providing an
 9 effective date.

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

11
 12 Section 1. Paragraph (c) of subsection (3) of section
 13 921.0022, Florida Statutes, is amended to read:
 14 921.0022 Criminal Punishment Code; offense severity ranking
 15 chart.-
 16 (3) OFFENSE SEVERITY RANKING CHART
 17 (c) LEVEL 3

Florida Statute	Felony Degree	Description
119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
316.066 (3)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.

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22 316.193(2)(b) 3rd Felony DUI, 3rd conviction.
 23 316.1935(2) 3rd Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
 24 319.30(4) 3rd Possession by junkyard of motor vehicle with identification number plate removed.
 25 319.33(1)(a) 3rd Alter or forge any certificate of title to a motor vehicle or mobile home.
 26 319.33(1)(c) 3rd Procure or pass title on stolen vehicle.
 27 319.33(4) 3rd With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
 28 327.35(2)(b) 3rd Felony BUI.

29	2-01499-17	20171228__	
	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
30	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
31	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
32	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
33			

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	<u>379.2431</u> <u>(1)(e)6.</u>	<u>3rd</u>	<u>Possessing any marine turtle species or hatchling, or parts thereof, or nest.</u>
34	<u>379.2431</u> <u>(1)(e)7.</u> 379.2431 (1)(e)6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
35	400.9935(4)(a) or (b)	3rd	Operating a clinic, or offering services requiring licensure, without a license.
36	400.9935(4)(e)	3rd	Filing a false license application or other required information or failing to report information.
37	440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
38	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially

	2-01499-17		20171228__	
				false/misleading information.
39	624.401(4)(a)	3rd		Transacting insurance without a certificate of authority.
40	624.401(4)(b)1.	3rd		Transacting insurance without a certificate of authority; premium collected less than \$20,000.
41	626.902(1)(a) & (b)	3rd		Representing an unauthorized insurer.
42	697.08	3rd		Equity skimming.
43	790.15(3)	3rd		Person directs another to discharge firearm from a vehicle.
44	806.10(1)	3rd		Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
45	806.10(2)	3rd		Interferes with or assaults firefighter in performance

	2-01499-17		20171228__	
				of duty.
46	810.09(2)(c)	3rd		Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
47	812.014(2)(c)2.	3rd		Grand theft; \$5,000 or more but less than \$10,000.
48	812.0145(2)(c)	3rd		Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
49	815.04(5)(b)	2nd		Computer offense devised to defraud or obtain property.
50	817.034(4)(a)3.	3rd		Engages in scheme to defraud (Florida Communications Fraud Act), property valued at less than \$20,000.
51	817.233	3rd		Burning to defraud insurer.
52	817.234 (8)(b) & (c)	3rd		Unlawful solicitation of persons involved in motor vehicle accidents.

	2-01499-17		20171228__
53	817.234(11) (a)	3rd	Insurance fraud; property value less than \$20,000.
54	817.236	3rd	Filing a false motor vehicle insurance application.
55	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
56	817.413(2)	3rd	Sale of used goods as new.
57	817.505(4)	3rd	Patient brokering.
58	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
59	831.28(2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument.
60	831.29	2nd	Possession of instruments

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			for counterfeiting driver licenses or identification cards.
61	838.021(3) (b)	3rd	Threatens unlawful harm to public servant.
62	843.19	3rd	Injure, disable, or kill police dog or horse.
63	860.15(3)	3rd	Overcharging for repairs and parts.
64	870.01(2)	3rd	Riot; inciting or encouraging.
65	893.13(1) (a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1) (c), (2) (c)1., (2) (c)2., (2) (c)3., (2) (c)5., (2) (c)6., (2) (c)7., (2) (c)8., (2) (c)9., (3), or (4) drugs).
66	893.13(1) (d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1) (c), (2) (c)1., (2) (c)2., (2) (c)3., (2) (c)5.,

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(2) (c) 6., (2) (c) 7.,
(2) (c) 8., (2) (c) 9., (3), or
(4) drugs within 1,000 feet
of university.

67

893.13(1)(f)2. 2nd Sell, manufacture, or
deliver s. 893.03(1)(c),
(2)(c)1., (2)(c)2.,
(2)(c)3., (2)(c)5.,
(2)(c)6., (2)(c)7.,
(2)(c)8., (2)(c)9., (3), or
(4) drugs within 1,000 feet
of public housing facility.

68

893.13(4)(c) 3rd Use or hire of minor;
deliver to minor other
controlled substances.

69

893.13(6)(a) 3rd Possession of any
controlled substance other
than felony possession of
cannabis.

70

893.13(7)(a)8. 3rd Withhold information from
practitioner regarding
previous receipt of or
prescription for a
controlled substance.

71

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893.13(7)(a)9. 3rd Obtain or attempt to obtain
controlled substance by
fraud, forgery,
misrepresentation, etc.

72

893.13(7)(a)10. 3rd Affix false or forged label
to package of controlled
substance.

73

893.13(7)(a)11. 3rd Furnish false or fraudulent
material information on any
document or record required
by chapter 893.

74

893.13(8)(a)1. 3rd Knowingly assist a patient,
other person, or owner of
an animal in obtaining a
controlled substance
through deceptive, untrue,
or fraudulent
representations in or
related to the
practitioner's practice.

75

893.13(8)(a)2. 3rd Employ a trick or scheme in
the practitioner's practice
to assist a patient, other
person, or owner of an
animal in obtaining a

76	2-01499-17		20171228__	controlled substance.
77	893.13(8)(a)3.	3rd		Knowingly write a prescription for a controlled substance for a fictitious person.
78	893.13(8)(a)4.	3rd		Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
79	918.13(1)(a)	3rd		Alter, destroy, or conceal investigation evidence.
80	944.47 (1)(a)1. & 2.	3rd		Introduce contraband to correctional facility.
81	944.47(1)(c)	2nd		Possess contraband while upon the grounds of a correctional institution.
	985.721	3rd		Escapes from a juvenile facility (secure detention or residential commitment

82	2-01499-17		20171228__	facility).
83				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)

4/3/2017

Meeting Date

1228

Bill Number (if applicable)

Topic Marine Turtle Protection Act

Amendment Barcode (if applicable)

Name Jessica Crawford

Job Title Legislative Affairs Director

Address 620 S. Meridian St.

Phone 850-487-3795

Street

Tallahassee FL 32399

Email Jessica.Crawford@myflor.com

City

State

Zip

Speaking: For Against Information

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

Representing Fish & Wildlife Conservation Commission

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

Tallahassee, Florida 32399-1100

COMMITTEES:

Transportation, *Chair*
Commerce and Tourism, *Vice Chair*
Appropriations
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR GEORGE B. GAINER

2nd District

March 8, 2017

Re: SB 1228

Dear Chairman Bracy,

I am respectfully requesting Senate Bill 1228, a bill related to Marine Turtle Protection Act, be placed on the agenda for your committee on Criminal Justice.

I appreciate your consideration of this bill and I look forward to working with you and the Criminal Justice committee. If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank You,

A handwritten signature in cursive script that reads "George B. Gainer".

Senator George Gainer

District 2

Cc: Jennifer Hrdlicka, Sue Arnold, Kyle Alexandre, Charlean Gatlin, and Travaris McCurdy

REPLY TO:

☐ 302 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

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: SB 1564

INTRODUCER: Senator Garcia

SUBJECT: Domestic Violence

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Favorable
2.			ACJ	
3.			AP	

I. Summary:

SB 1564 amends s. 741.283, F.S., to increase the penalties for both first-time and subsequent domestic violence offenders who intentionally cause bodily harm to another person and are adjudicated guilty. The bill also enhances the penalties if the domestic violence offense took place in front of a child, under 16 years of age, who is a family or household member of the victim or the perpetrator.

Section 775.08435, F.S., is amended to add an additional circumstance in which a court is prohibited from withholding the adjudication of a defendant. The bill prohibits a court from withholding adjudication for a third degree felony that is a crime of domestic violence unless certain conditions are met.

The bill creates s. 741.30(1)(g), F.S., to prohibit attorney's fees from being awarded in any injunction proceeding for protection against domestic violence.

The bill may have a negative indeterminate fiscal impact on jail beds. See Section V. Fiscal Impact Statement

The bill is effective October 1, 2017.

II. Present Situation:

Domestic violence affects thousands of individuals and families in Florida. In 2015, there were 107,666 domestic violence offenses reported to law enforcement.¹

¹ Florida Department of Law Enforcement, *Domestic Violence*, available at <http://www.fdle.state.fl.us/cms/FSAC/Crime-Trends/Domestic-Violence.aspx> (last visited March 29, 2017).

Section 741.28(2), F.S., defines domestic violence as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member. A family or household member includes:

- Spouses;
- Former spouses;
- Persons related by blood or marriage;
- Persons who are presently residing together as if a family or who have resided together in the past as if a family in the same single family dwelling unit; and
- Persons who are parents of a child in common, regardless of whether they have been married.²

Criminal Penalties for Domestic Violence Offenses

Florida law requires certain mandatory penalties related to domestic violence offenses. Section 741.281, F.S., requires a court to sentence any person convicted³ of a domestic violence crime to a minimum term of one year probation with the condition that the person attend a batterer's intervention program.⁴

Section 741.325, F.S., requires batterer's intervention programs be based on a psychoeducational model that addresses tactics of power and control by one person over another. A batterer's intervention program must be at least 29 weeks in length and include 24 weekly sessions, and include appropriate intake, assessment, and orientation programming.⁵

In addition to the mandatory probation and the batterer's intervention program, certain domestic violence offenses require a defendant serve jail time. If a person is adjudicated guilty of a domestic violence offense and intentionally caused bodily harm to another person, a court must sentence the person to a minimum of five days in the county jail.⁶

Withholding Adjudication of Guilt

Section 775.08435, F.S., prohibits a court from withholding adjudication of guilt in certain felony cases. A court may not withhold adjudication of guilt for a defendant on:

- A capital, life, or first degree felony⁷ offense.

² The family or household members must be currently residing or have in the past resided together in the same single dwelling unit; this excludes persons who have a child in common. Section 741.28(3), F.S.

³ This provision applies to any person found guilty of, having an adjudication withheld on, or pleading nolo contendere to a crime of domestic violence. Section 741.281, F.S.

⁴ Section 741.281, F.S., allows a court to use its discretion to impose a batterer's intervention program if the court states on the record to why such a program would be inappropriate. The court must also impose a batterer's intervention program as a condition of probation unless the court determines that the person does not qualify for such a program.

⁵ Section 741.325(1), F.S.

⁶ The court is not required to order five days in the county jail when the court orders an offender to a period of incarceration in a state correction facility. Section 741.283, F.S.

⁷ A first degree felony is punishable by up to 30 years imprisonment and up to a \$10,000 fine. Sections 775.082 and 775.083, F.S.

- A second degree felony⁸ offense unless:
 - The state attorney makes a written request to withhold adjudication; or
 - The court makes written findings that a withhold of adjudication is reasonably justified based on the circumstances or mitigating factors in s. 921.0026, F.S.⁹
- A third degree felony¹⁰ offense if the defendant has a prior withholding of adjudication for a felony offense that did not arise from the same criminal episode as the current felony offense unless:
 - The state attorney requests in writing that adjudication be withheld; or
 - The court makes written findings that a withholding of adjudication is reasonably justified based on the circumstances or mitigating factors in s. 921.0026, F.S.¹¹

A court may not withhold adjudication when a defendant has committed a second degree felony and has a prior withhold of adjudication from a different offense, or when the defendant committed a third degree felony and has two or more prior withholdings of adjudication from a different offense.¹²

Domestic Violence Injunctions

Section 741.30, F.S., provides a cause of action for an injunction for protection against domestic violence. Any person who is a family or household member and who either is the victim of domestic violence or has reasonable cause to believe he or she is in imminent danger of becoming a victim of any act of domestic violence, may petition for an injunction for the protection against domestic violence.¹³

After reviewing the petition, if a court finds there is an immediate and present danger of domestic violence, the court may grant a temporary injunction, pending a full hearing.¹⁴ Following a hearing, if the court determines the petitioner is the victim of domestic violence or is in imminent danger of becoming a victim of domestic violence, the court may enter an injunction.¹⁵

Attorney's fees for Domestic Violence Injunction Hearings

Section 741.30, F.S., does not address the award of attorney's fees related to domestic violence injunction hearings. Florida courts are in conflict regarding whether s. 57.105, F.S., allows a court to order attorney fees incurred in domestic violence injunction proceedings.¹⁶ The Third

⁸ A second degree felony is punishable by up to 15 years imprisonment and up to a \$10,000 fine. Sections 775.082 and 775.083, F.S.

⁹ Section 921.0026, F.S., provides 14 statutory mitigating circumstances a court may consider when sentencing a defendant for a felony offense.

¹⁰ A third degree felony is punishable by up to five years imprisonment and up to a \$5,000 fine. Sections 775.082, 775.083, and 775.084, F.S.

¹¹ Section 775.08435(1), F.S.

¹² Section 775.08435(1), F.S.

¹³ Section 741.30(1), F.S.

¹⁴ Section 741.30(5)(a), F.S.

¹⁵ Section 741.30(6), F.S.

¹⁶ Section 57.105, F.S., authorizes a court to award reasonable attorney's fees when the court finds the losing party or the losing party's attorney should have known that a claim or defense presented to the court or at trial was either: 1) not

District Court of Appeal held there is no statutory authority to award attorney's fees as sanctions in a domestic violence injunction case.¹⁷ Whereas, the First District Court of Appeal held that there is no statutory prohibition against an award of attorney's fees pursuant s. 57.105, F.S., for domestic violence injunction hearings.¹⁸

III. Effect of Proposed Changes:

Criminal Penalties for Domestic Violence Offenses

The bill amends s. 741.281, F.S., to require a court to order the defendant to both attend *and complete* a batterer's intervention program as a condition of probation. A failure to complete a batterer's intervention program could result in a violation of probation.

The bill also amends s. 741.283, F.S., to increase the penalties for both first-time and subsequent domestic violence offenders who intentionally cause bodily harm to another person and are adjudicated guilty. The bill requires a court to order a defendant to serve the following time in a county jail:

- 10 days for a first offense;
- 15 days for a second offense; and
- 20 days for a third or subsequent offense.

The penalties are further enhanced if the domestic violence offense took place in front of a child, under 16 years of age, who is a family or household member of the victim or the perpetrator. The bill requires a court to order a defendant to serve the following time in a county jail:

- 15 days for a first offense;
- 20 days for a second offense; and
- 30 days for a third or subsequent offense.¹⁹

Withholding Adjudication of Guilt

Section 775.08435, F.S., is amended to add an additional circumstance in which a court is prohibited from withholding the adjudication of a defendant. The bill prohibits a court from withholding adjudication for a third degree felony that is a crime of domestic violence unless:

- The state attorney makes a written request for the adjudication to be withheld; or
- The court makes written findings that the withholding of adjudication is reasonably justified based on the circumstances or mitigating factors in s. 921.0026, F.S.

supported by the material facts necessary to establish the claim or defense; or 2) would not be supported by the application of then-existing law to those material facts.

¹⁷ *Ratigan v. Stone*, 947 So. 2d 607, 608 (Fla. 3d DCA 2007).

¹⁸ *Hall v. Lopez*, 2016 41 Fla. L. Weekly D 1763 (Fla. 1st DCA 2016).

¹⁹ The mandatory jail time does not apply if the court sentences a defendant to a nonsuspended period of incarceration in a state correctional facility.

Domestic Violence Injunctions***Attorney's fees for Domestic Violence Injunction Hearings***

The bill creates s. 741.30(1)(g), F.S., to prohibit attorney's fees from being awarded in any injunction proceeding for protection against domestic violence.

The bill is effective October 1, 2017.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

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 may have negative jail bed impact because the bill creates a new minimum jail sentence for certain domestic violence offenses. The Criminal Justice Impact Conference found that the bill would have no prison bed impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 741.281, 741.283, 741.30, and 775.08435.

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.

By Senator Garcia

36-01426A-17

20171564__

A bill to be entitled

An act relating to domestic violence; amending s. 741.281, F.S.; specifying that a person must complete a batterers' intervention program ordered as a condition of probation in certain circumstances; amending s. 741.283, F.S.; increasing the minimum terms of imprisonment for domestic violence; providing enhanced minimum terms in certain circumstances; amending s. 741.30, F.S.; prohibiting the award of attorney fees in specified domestic violence proceedings; amending s. 775.08435, F.S.; prohibiting the withholding of adjudication for specified domestic violence offenses; providing exceptions; providing an effective date.

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

Section 1. Section 741.281, Florida Statutes, is amended to read:

741.281 Court to order batterers' intervention program attendance.—If a person is found guilty of, has adjudication withheld on, or pleads nolo contendere to a crime of domestic violence, as defined in s. 741.28, that person shall be ordered by the court to a minimum term of 1 year's probation and the court shall order that the defendant attend and complete a batterers' intervention program as a condition of probation. The court must impose the condition of the batterers' intervention program for a defendant under this section, but the court, in its discretion, may determine not to impose the condition if it

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

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states on the record why a batterers' intervention program might be inappropriate. The court must impose the condition of the batterers' intervention program for a defendant placed on probation unless the court determines that the person does not qualify for the batterers' intervention program pursuant to s. 741.325. The imposition of probation under this section does not preclude the court from imposing any sentence of imprisonment authorized by s. 775.082.

Section 2. Section 741.283, Florida Statutes, is amended to read:

741.283 Minimum term of imprisonment for domestic violence.—

(1) (a) Except as provided in paragraph (b), if a person is adjudicated guilty of a crime of domestic violence, as defined in s. 741.28, and the person has intentionally caused bodily harm to another person, the court shall order the person to serve a minimum of 10 5 days in the county jail for a first offense, 15 days for a second offense, and 20 days for a third or subsequent offense as part of the sentence imposed, unless the court sentences the person to a nonsuspended period of incarceration in a state correctional facility.

(b) If a person is adjudicated guilty of a crime of domestic violence, as defined in s. 741.28, and the person has intentionally caused bodily harm to another person, and the crime of domestic violence takes place in the presence of a child under 16 years of age who is a family or household member, as defined in s. 741.28, of the victim or the perpetrator, the court shall order the person to serve a minimum of 15 days in the county jail for a first offense, 20 days for a second

Page 2 of 4

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

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59 offense, and 30 days for a third or subsequent offense as part
 60 of the sentence imposed, unless the court sentences the person
 61 to a nonsuspended period of incarceration in a state
 62 correctional facility.

63 (2) This section does not preclude the court from
 64 sentencing the person to probation, community control, or an
 65 additional period of incarceration.

66 Section 3. Paragraphs (g), (h), (i), and (j) of subsection
 67 (1) of section 741.30, Florida Statutes, are redesignated as
 68 paragraphs (h), (i), (j), and (k), respectively, and a new
 69 paragraph (g) is added to that subsection, to read:

70 741.30 Domestic violence; injunction; powers and duties of
 71 court and clerk; petition; notice and hearing; temporary
 72 injunction; issuance of injunction; statewide verification
 73 system; enforcement; public records exemption.—

74 (1) There is created a cause of action for an injunction
 75 for protection against domestic violence.

76 (g) Notwithstanding any other law, attorney fees may not be
 77 awarded in any proceeding under this section.

78 Section 4. Paragraph (c) of subsection (1) of section
 79 775.08435, Florida Statutes, is redesignated as paragraph (d),
 80 and a new paragraph (c) is added to that subsection, to read:

81 775.08435 Prohibition on withholding adjudication in felony
 82 cases.—

83 (1) Notwithstanding the provisions of s. 948.01, the court
 84 may not withhold adjudication of guilt upon the defendant for:

85 (c) A third degree felony that is a crime of domestic
 86 violence, as defined in s. 741.28, unless:

87 1. The state attorney requests in writing that adjudication

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88 be withheld; or

89 2. The court makes written findings that the withholding of
 90 adjudication is reasonably justified based on circumstances or
 91 factors in accordance with s. 921.0026.

92 Section 5. 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)

4/3/17

Meeting Date

1564

Bill Number (if applicable)

Topic Domestic Violence

Amendment Barcode (if applicable)

Name Leisa Wiseman

Job Title Director, Communications ; Government Affairs

Address 425 Office Plaza DRM

Phone 850/425-2749

Street

Tallahassee FL 32301

Email wiseman-leisa@fcaadv.org

City

State

Zip

Speaking: For Against Information

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

Representing Florida Coalition Against Domestic Violence

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3 Apr 17

Meeting Date

1564

Bill Number (if applicable)

Topic Domestic Violence

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe

Phone 850.510.9922

Street

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

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

1564

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name JESS McCARTY

Job Title ASST COUNTY ATTORNEY

Address 111 NW 1ST ST 2810

Phone 305-979-7110

Street

MIAMI 33128

Email JMM2@MIAMIDADE.GOV

City

State

Zip

Speaking: For Against Information

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

Representing MIAMI - DADE COUNTY

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

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

March 15th, 2017

The Honorable Randolph Bracy
Chairman, 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 1564: Domestic Violence**, be 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,

A handwritten signature in black ink, appearing to read 'René García'.

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 1622

INTRODUCER: Senator Passidomo

SUBJECT: School Bus Safety

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Appel	Hrdlicka	CJ	Favorable
2.			TR	
3.			RC	

I. Summary:

SB 1622 creates the “Cameron Mayhew Act” to require a driver who illegally passes a stopped school bus resulting in death or serious bodily injury of another person to:

- Serve 120 community service hours in a trauma center or hospital.
- Participate in a victim’s impact panel or attend a Department of Highway Safety and Motor Vehicles (DHSMV) approved driver improvement course that relates to the rights of vulnerable road users relative to vehicles on the roadway.

The bill also imposes:

- A \$1,500 fine;
- A 1-year driver license suspension; and
- Two additional points, for a total of 6 points added to a person’s driver license.

The fiscal impact of this bill is indeterminate at this time. See Section V. Fiscal Impact Statement.

II. Present Situation:

Traffic Accidents Causing Death or Injury of Another

A driver who commits any traffic infraction that results in a crash that causes death or serious bodily injury of another person must attend a mandatory hearing at a specified time and location.¹ “Serious bodily injury” is “an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.”²

¹ Section 319.19, F.S.

² Section 316.1933, F.S.

Anyone who causes death of another person in the commission of a noncriminal traffic infraction or a violation of ch. 316, F.S.,³ or s. 1006.66, F.S.,⁴ may be required by the court to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents. The community service hours must be done under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.⁵ This requirement for community service is in addition to any other civil, criminal, or administrative penalty imposed.

Additionally, a driver who is involved in a crash that causes death or a bodily injury that requires transportation to a medical facility will be required by the DHSMV to complete a driver improvement course. If the course is not completed within 90 days of receiving a notice of the requirement to attend, the driver's license will be canceled until the improvement course is successfully completed.⁶

A driver who is convicted of violating any traffic law that results in a crash causing death or serious bodily injury of another person may have his or her driver license suspended by the DHSMV.⁷ A court may also order the suspension of a driver license "when the court feels that the seriousness of the offense and the circumstances surrounding the conviction warrant the suspension of the licensee's driving privilege."⁸

School Buses

School buses are required to stop as far to the right of the street as possible and display warning lights and stop signals before discharging or loading passengers, and, when possible, to not stop where visibility is obscured for a distance of 200 feet either way from the bus.⁹

Other drivers are required to bring their vehicles to a full stop when approaching a stopped school bus displaying a stop signal, until the signal has been withdrawn.¹⁰ It is unlawful to pass a school bus on the side that children enter and exit while the school bus displays a stop signal.¹¹

A person cited for failing to stop for a school bus displaying the stop signal can pay the civil penalty of the citation, or can request a hearing to contest the citation.¹² However, a person cited

³ Chapter 316, F.S., is the Florida Uniform Traffic Control Law.

⁴ Section 1006.66, F.S., relates to the regulation of traffic at universities.

⁵ Section 316.027(4), F.S.

⁶ Section 322.0261(2), F.S.

⁷ Section 322.27(1)(b), F.S.

⁸ Section 322.27(2), F.S.

⁹ Section 316.172(3), F.S.

¹⁰ Section 316.172(1)(a), F.S.

¹¹ Section 316.172(1)(b), F.S. A driver is not required to stop if the vehicle is traveling in the opposite direction of a stopped school bus "upon a divided highway with an unpaved space of at least 5 feet, a raised median, or a physical barrier." *See* s. 316.172(2), F.S.

¹² Section 318.14, F.S.

for passing a stopped school bus on the side children enter or exit must attend a mandatory hearing at a specified time and location.¹³

If a driver is found to have failed to fully stop for or illegally passed a stopped school bus, both of which are noncriminal traffic infractions, the driver must pay a minimum civil penalty and may be subject to driver license suspension if it is a subsequent offense.¹⁴

- The minimum civil penalty for failing to stop for a school bus displaying the stop signal is \$100. In addition, for a second or subsequent offense within a period of 5 years, the DHSMV shall suspend the driver license of the person for not less than 90 days and not more than 6 months. Subsequent service charges raises the total fine for this violation up to \$263, which is distributed to various funds.¹⁵
- The minimum civil penalty for passing a school bus on the side that children enter and exit when the school bus displays a stop signal is \$200. In addition, for a second or subsequent offense within a period of 5 years, the DHSMV shall suspend the driver license of the person for not less than 180 days and not more than 1 year. Subsequent service charges raises the total fine for this violation up to \$363, which is distributed to various funds.¹⁶

Included in the total fines is \$65 that is remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health to be distributed as provided in s. 395.4036, F.S., to trauma centers.¹⁷

In addition to the above, a driver who illegally passes a stopped school bus will receive 4 points on his or her driver license.¹⁸ Section 322.27(3), F.S., establishes a point system for evaluation of convictions of violations of motor vehicle laws or ordinances that is used to determine if a person continues to be qualified to operate a motor vehicle. The point system assigns value relative to the convictions of the various violations on a graduated scale.

If the driver is convicted of or plead nolo contendere to illegally passing a stopped school bus, the DHSMV will require him or her to complete a driver improvement course. If the course is not completed within 90 days of receiving a notice of the requirement to attend, the driver's license will be canceled until the improvement course is successfully completed.¹⁹

¹³ See ss. 316.172(1)(b) and 318.19(3), F.S.

¹⁴ Sections 318.18(5) and 322.27(1)(f), F.S.

¹⁵ Florida Association of Clerks of Court, *Distribution Schedule of Court-Related Filing Fees, Service Charges, Costs, and Fines, including a Fee Schedule for Recording*, effective July 1, 2016, available at: http://c.ymcdn.com/sites/www.flclerks.com/resource/reshttp://c.ymcdn.com/sites/www.flclerks.com/resource/resmgr/PublicationsAndDocuments/2016_Distribution_Schedule_w.pdf (Last visited March 24, 2017).

¹⁶ *Id.*

¹⁷ See s. 395.4036(1)(b), F.S.

¹⁸ See s. 322.27(1)(f) and (3)(d)4., F.S.

¹⁹ Section 322.0261(4)(c), F.S.

Data and Statistics on Illegal Passes of School Buses

According to DHSMV data, in 2016, 2,418 traffic citations were issued for failing to stop for a school bus or passing a stopped school bus. Is it unknown how many citations were issued for passing a school bus on the side children enter and exit.²⁰

The Department of Education created a survey for bus operators to complete regarding the illegal passing of their school buses. The newest survey from Academic Year 2015-2016 results show that 9,623 illegal passes were made on a single day with 8,007 school bus operator's reporting. Of these illegal passes, 329 were made on the right side of the bus where students generally enter/exit the vehicle.²¹

The National Highway Traffic Safety Administration indicates that 119 fatalities of school age pedestrians occurred within 2003-2012. Of these 119 fatalities, 65 percent were struck by a school bus, 5 percent by vehicles acting as school buses, and 30 percent from other motorists. Roughly 60 fatalities nationally occurred over the course of 10 years due to non-school bus vehicles. This makes the average fatalities from school pedestrians struck by other motorists 6 per year.²²

III. Effect of Proposed Changes:

The bill creates the "Cameron Mayhew Act." Cameron Mayhew was a 16 year old boy from Fort Myers who was hit by a motor vehicle illegally passing a stopped school bus on June 1, 2016.²³

The bill amends s. 316.027(4), F.S., (Section 2), to provide additional penalties to current civil, criminal, or administrative penalties imposed on a driver who illegally passes a school bus. If the driver's actions cause or result in serious bodily injury to or death of another person, the driver *shall* be required by the court to:

- Serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to the voluntary community service program operated by the trauma center or hospital.²⁴

²⁰ Email from the DHSMV (March 24, 2017) (on file with the Senate Criminal Justice Committee). Data from March 3, 2017. In 2015, 2,418 traffic citations were issued for failure to stop for a school bus, and 44 citations were issued for passing a school bus on the side children enter and exit. *Florida Senate Bill Analysis CS/SB 1570* (2016).

²¹ See Florida Department of Education, *School Transportation, Illegal Passing of School Buses – Survey Results for 2016*, available at: <http://www.fldoe.org/schools/safe-healthy-schools/transportation/> (last visited March 27, 2017). There were 167 vehicles that illegally passed buses for which the side passed was unknown.

²² National Highway Traffic Safety Administration, *Traffic Safety Facts, 2003-2012 Data, School-Transportation-Related Crashes*, DOT HS 811 890, revised June 2014, available at: <https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/811890> (Last visited March 24, 2017).

²³ USA Today, Melissa Montoya, *Cameron Mayhew, struck and killed at bus stop, gets bill in Legislature*, March 9, 2017, available at: <http://www.usatoday.com/story/news/local/2017/03/09/cameron-mayhew-struck-bus-stop-gets-bill-fla-legislature/98965886/> (Last visited March 24, 2017).

²⁴ Under s. 316.027(4), F.S., the court *may* require such community service for a driver who causes the death of another.

- Participate in a victim's impact panel session in a judicial circuit if such a panel exists, or if such a panel does not exist, attend a driver improvement course approved by the DHSMV relating to the rights of vulnerable road users relative to vehicles on the roadway.²⁵

This bill creates s. 318.18(5)(d), F.S., (Section 3), to impose a \$1,500 fine and suspension of the driver's license for no less than one year when the driver illegally passed a school bus that results in death or serious bodily injury of another person. The driver may enter a payment plan with the clerk of the court.²⁶

The bill amends s. 322.27(3), F.S., related to the point system on driver licenses. The bill adds 2 additional points, for a total of 6 points, for illegally passing a stopped school bus resulting in death or serious bodily injury of another person. The points for illegally passing a school bus that does not result in death or serious bodily injury of another remain at 4 points.

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.

B. Private Sector Impact:

Any individual who illegally passes a school bus and causes death or serious bodily harm of another person will be required to pay an increased fine of \$1,500.

C. Government Sector Impact:

The DHSMV has not yet provided any estimate of a fiscal impact, if any, on the department to implement the provisions of the bill.

²⁵ As discussed above, s. 322.0261, F.S., requires *the DHSMV to require* a driver to take and complete the course.

²⁶ This is pursuant to s. 28.246, F.S.

Any fiscal impact for revenue from fees under the provisions of this bill will likely be minimal, given the data discussed above in the Present Situation on the frequency of these types of accidents.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill is currently effective July 1, 2017. An effective date of October 1, 2017, would allow the DHSMV sufficient time to develop, test, and implement programing for the provisions of the bill.

Current law requires a driver who is involved in a crash that causes death or a bodily injury that requires transportation to a medical facility or who illegally passes a school bus to complete a driver improvement course. The bill requires a court to require a driver who illegally passes a school bus and causes death or serious bodily injury of another person to:

- Participate in a victim's impact panel session, or
- If the judicial circuit does not have such a panel, complete a driver improvement course.

It appears that reading the provisions of the bill with current law, all such drivers will be required to complete a driver improvement course, no matter if the judicial circuit has a victim's impact panel.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.027, 318.18, and 322.27.

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 Passidomo

28-01021A-17

20171622__

A bill to be entitled

An act relating to school bus safety; providing a short title; amending s. 316.027, F.S.; providing mandatory noncriminal penalties for certain violations resulting in serious bodily injury to or death of another person; amending s. 318.18, F.S.; requiring a fine and driver license suspension for such a violation; amending s. 322.27, F.S.; requiring imposition of points against a driver license for such a violation; providing an effective date.

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

Section 1. This act may be cited as the "Cameron Mayhew Act."

Section 2. Subsection (4) of section 316.027, Florida Statutes, is amended to read:

316.027 Crash involving death or personal injuries.—

(4) (a) In addition to any other civil, criminal, or administrative penalty imposed, a person whose commission of a noncriminal traffic infraction or a violation of this chapter or s. 1006.66 causes or results in the death of another person may be required by the court to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.

(b) Notwithstanding paragraph (a), in addition to any other

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

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civil, criminal, or administrative penalty imposed, a person whose commission of a violation of s. 316.172(1)(a) or (b) causes or results in serious bodily injury to or death of another person shall be required by the court to:

1. Serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents, under the supervision of a registered nurse, an emergency room physician, or an emergency medical technician pursuant to a voluntary community service program operated by the trauma center or hospital.

2. Participate in a victim's impact panel session in a judicial circuit if such a panel exists, or if such a panel does not exist, attend a department-approved driver improvement course relating to the rights of vulnerable road users relative to vehicles on the roadway as provided in s. 322.0261(2).

Section 3. Paragraph (d) is added to subsection (5) of section 318.18, Florida Statutes, to read:

318.18 Amount of penalties.—The penalties required for a noncriminal disposition pursuant to s. 318.14 or a criminal offense listed in s. 318.17 are as follows:

(5)

(d) Notwithstanding any other provision of law to the contrary, \$1,500 for a violation of s. 316.172(1)(a) or (b) that causes or results in serious bodily injury to or death of another. The person may enter into a payment plan with the clerk of court pursuant to s. 28.246. In addition to this penalty, the department shall suspend the driver license of the person for not less than 1 year.

Section 4. Paragraph (d) of subsection (3) of section

Page 2 of 5

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

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59 322.27, Florida Statutes, is amended to read:

60 322.27 Authority of department to suspend or revoke driver
61 license or identification card.—

62 (3) There is established a point system for evaluation of
63 convictions of violations of motor vehicle laws or ordinances,
64 and violations of applicable provisions of s. 403.413(6) (b) when
65 such violations involve the use of motor vehicles, for the
66 determination of the continuing qualification of any person to
67 operate a motor vehicle. The department is authorized to suspend
68 the license of any person upon showing of its records or other
69 good and sufficient evidence that the licensee has been
70 convicted of violation of motor vehicle laws or ordinances, or
71 applicable provisions of s. 403.413(6) (b), amounting to 12 or
72 more points as determined by the point system. The suspension
73 shall be for a period of not more than 1 year.

74 (d) The point system shall have as its basic element a
75 graduated scale of points assigning relative values to
76 convictions of the following violations:

77 1. Reckless driving, willful and wanton—4 points.

78 2. Leaving the scene of a crash resulting in property
79 damage of more than \$50—6 points.

80 3. Unlawful speed, or unlawful use of a wireless
81 communications device, resulting in a crash—6 points.

82 4. Passing a stopped school bus:

83 a. Not causing or resulting in serious bodily injury to or
84 death of another—4 points.

85 b. Causing or resulting in serious bodily injury to or
86 death of another—6 points.

87 5. Unlawful speed:

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88 a. Not in excess of 15 miles per hour of lawful or posted
89 speed—3 points.

90 b. In excess of 15 miles per hour of lawful or posted
91 speed—4 points.

92 6. A violation of a traffic control signal device as
93 provided in s. 316.074(1) or s. 316.075(1) (c)1.—4 points.
94 However, no points shall be imposed for a violation of s.
95 316.074(1) or s. 316.075(1) (c)1. when a driver has failed to
96 stop at a traffic signal and when enforced by a traffic
97 infraction enforcement officer. In addition, a violation of s.
98 316.074(1) or s. 316.075(1) (c)1. when a driver has failed to
99 stop at a traffic signal and when enforced by a traffic
100 infraction enforcement officer may not be used for purposes of
101 setting motor vehicle insurance rates.

102 7. All other moving violations (including parking on a
103 highway outside the limits of a municipality)—3 points. However,
104 no points shall be imposed for a violation of s. 316.0741 or s.
105 316.2065(11); and points shall be imposed for a violation of s.
106 316.1001 only when imposed by the court after a hearing pursuant
107 to s. 318.14(5).

108 8. Any moving violation covered in this paragraph,
109 excluding unlawful speed and unlawful use of a wireless
110 communications device, resulting in a crash—4 points.

111 9. Any conviction under s. 403.413(6) (b)—3 points.

112 10. Any conviction under s. 316.0775(2)—4 points.

113 11. A moving violation covered in this paragraph which is
114 committed in conjunction with the unlawful use of a wireless
115 communications device within a school safety zone—2 points, in
116 addition to the points assigned for the moving violation.

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117

Section 5. This act shall take effect July 1, 2017.



The Florida Senate

Committee Agenda Request

To: Senator Randolph Bracy, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: March 15, 2017



I respectfully request that **Senate Bill #1622**, relating to School Bus Safety, be placed on the:

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

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

Senator Kathleen Passidomo
Florida Senate, District 28

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 1788

INTRODUCER: Senator Bracy

SUBJECT: Public Records/Victim of Human Trafficking

DATE: March 31, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jones	Hrdlicka	CJ	Pre-meeting
2.			GO	
3.			AP	

I. Summary:

SB 1788, which is linked to the passage of SB 972, creates a public records exemption for victims of human trafficking. Specifically, a sealed court file of a victim of human trafficking and any redacted information in an online docket that identifies a victim of human trafficking is confidential and exempt from s. 119.07(1) and Art. I, s. 24(a), of the Florida Constitution.

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 Florida 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 SB 972 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.

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 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); 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.

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:

- 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

Human Trafficking

SB 972, which is linked to SB 1788, creates a civil cause of action for a minor victim of human trafficking to bring against the trafficker¹² or facilitator¹³ of human trafficking who victimized the minor. The minor victim may recover actual and punitive damages and may seize and have forfeited the personal and real property of the trafficker or facilitator used in the trafficking.

At the victim's request, court hearings for the civil action or civil forfeiture must be closed to the public and any information in the court file and online docket, which identifies a victim of human trafficking, must be redacted or sealed.

The bill specifies that there is no statute of limitations for these civil actions or civil forfeiture cases.

III. Effect of Proposed Changes:

The bill creates a public records exemption for victims of human trafficking. Specifically, a sealed court file of a victim of human trafficking and any redacted information in an online docket that identifies a victim of human trafficking is confidential and exempt from s. 119.07(1) and Art. I, s. 24(a), of the Florida Constitution.

⁸ Section 119.15(6)(a), F.S.

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 SB 972 defines a "trafficker" or "human trafficker" as any person who knowingly, or in reckless disregard of the facts, engages in human trafficking of a minor, attempts to engage in human trafficking of a minor, or benefits financially by receiving anything of value from participation in a venture that has subjected a minor to human trafficking.

¹³ SB 972 defines "facilitator" as assisting or providing services to a human trafficker, which assist or enable a trafficker to carry out human trafficking activities, or one who provides such assistance or provides such services.

The bill provides a statement of public necessity as required by the Florida Constitution.¹⁴ The statement includes the following findings:

- The identity of these victims and details of their victimization are information of a sensitive, personal nature.
- The exemption serves to minimize the trauma to victims because the release of such information would compound the tragedy they have already endured and would be defamatory or cause unwarranted damage to the good name and reputation of these victims.

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 SB 972 or similar legislation takes effect, if such legislation is adopted in the same legislative session or an extension thereof and becomes a 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 Florida 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 Florida 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 Florida 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, the bill does not appear to be in conflict with this constitutional requirement.

C. Trust Funds Restrictions:

None.

¹⁴ Article I, s. 24(c), FLA. CONST.

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 the courts and agencies responsible for complying with public records requests and redacting confidential and exempt information prior to releasing a record.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill is linked to the passage of SB 972 (2017).

SB 972 creates a civil action for *minor* victims of human trafficking. Whereas this bill provides a public records exemption for *victims* of human trafficking.

VIII. Statutes Affected:

This bill creates section 787.061 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.



491246

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
04/17/2017	.	
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	.	

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 787.066, Florida Statutes, is created to
read:

787.066 Public records exemption for victims of human
trafficking.-

(1) CLOSED HEARINGS.-At the request of the victim, or the
Statewide Council on Human Trafficking on behalf of the victim,



491246

11 court hearings conducted pursuant to s. 787.063 shall be closed
12 to the public, and any personal identifying information of the
13 victim of human trafficking shall be redacted or sealed in the
14 court file and online docket for such hearings. Such redacted or
15 sealed information in the court file and online docket is
16 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
17 of the State Constitution. This subsection is subject to the
18 Open Government Sunset Review Act in accordance with s. 119.15
19 and shall stand repealed on October 2, 2022, unless reviewed and
20 saved from repeal through reenactment by the Legislature.

21 (2) COUNCIL RECORDS.—At the victim’s request, any personal
22 identifying information of the victim of human trafficking held
23 by the council under s. 787.064 is confidential and exempt from
24 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
25 This subsection is subject to the Open Government Sunset Review
26 Act in accordance with s. 119.15 and shall stand repealed on
27 October 2, 2022, unless reviewed and saved from repeal through
28 reenactment by the Legislature.

29 Section 2. (1) The Legislature finds that hearings
30 conducted pursuant to s. 787.063, Florida Statutes, for victims
31 of human trafficking should be closed to the public at the
32 request of the victim or the Statewide Council on Human
33 Trafficking on behalf of the victim. Preventing public access to
34 such hearings will allow victims of human trafficking to seek
35 relief in the courts of the state without exposing their
36 victimization to the public and to protect their identities as
37 they continue to recover from their time as victims of human
38 trafficking. For these reasons, the Legislature finds that it is
39 a public necessity that, upon the request of the victim or the



491246

40 council on behalf of the victim, hearings conducted pursuant to
41 s. 787.063, Florida Statutes, be closed to the public.

42 (2) The Legislature further finds that any personal
43 identifying information of victims of human trafficking which,
44 upon request, is redacted or sealed in the court files and
45 online dockets of actions brought by, or on behalf of, victims
46 of human trafficking under s. 787.063, Florida Statutes, and any
47 personal identifying information held by the council should be
48 made confidential and exempt from s. 119.07(1), Florida
49 Statutes, and s. 24(a), Article I of the State Constitution. The
50 identity of these victims and the details of their victimization
51 are information of a sensitive, personal nature. As such, this
52 exemption serves to minimize the trauma to victims because the
53 release of such information would compound the tragedy already
54 visited upon their lives and would be defamatory, or cause
55 unwarranted damage, to the good name and reputation of the
56 victims. For these reasons, the Legislature finds that it is a
57 public necessity that any personal identifying information of
58 victims of human trafficking which, upon request, is redacted or
59 sealed in the court files and online dockets of actions by
60 victims of human trafficking under s. 787.063, Florida Statutes,
61 and any personal identifying information held by the council be
62 made confidential and exempt from s. 119.07(1), Florida
63 Statutes, and s. 24(a), Article I of the State Constitution.

64 Section 3. This act shall take effect on the same date that
65 SB 972 or similar legislation takes effect, if such legislation
66 is adopted in the same legislative session or an extension
67 thereof and becomes a law.

68



491246

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

70 And the title is amended as follows:

71 Delete everything before the enacting clause

72 and insert:

73 A bill to be entitled

74 An act relating to public records; creating s.
75 787.066, F.S.; providing for closed hearings in
76 certain civil actions upon the request of victims, or
77 the Statewide Council on Human Trafficking on behalf
78 of the victims, of human trafficking; providing for
79 redaction and sealing of personal identifying
80 information of victims of human trafficking upon
81 request; exempting from public records requirements
82 the redacted and sealed information; providing for
83 future review and repeal of the exemption; exempting
84 from public records requirements the personal
85 identifying information of victims of human
86 trafficking held by the council; providing for future
87 review and repeal of the exemption; providing a
88 statement of public necessity; providing a contingent
89 effective date.



744366

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/17/2017	.	
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The Committee on Criminal Justice (Bracy) recommended the following:

1 **Senate Substitute for Amendment (491246) (with title**
2 **amendment)**

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

6 Section 1. Section 787.065, Florida Statutes, is created to
7 read:

8 787.065 Public records exemption for victims of human
9 trafficking.-

10 (1) CLOSED HEARINGS.-At the request of the victim, or the



744366

11 Statewide Council on Human Trafficking on behalf of the victim,
12 court hearings conducted pursuant to s. 787.063 shall be closed
13 to the public, and any personal identifying information of the
14 victim of human trafficking shall be redacted or sealed in the
15 court file and online docket for such hearings. Such redacted or
16 sealed information in the court file and online docket is
17 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
18 of the State Constitution. This subsection is subject to the
19 Open Government Sunset Review Act in accordance with s. 119.15
20 and shall stand repealed on October 2, 2022, unless reviewed and
21 saved from repeal through reenactment by the Legislature.

22 (2) COUNCIL RECORDS.—At the victim's request, any personal
23 identifying information of the victim of human trafficking held
24 by the council under s. 787.063 is confidential and exempt from
25 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
26 This subsection is subject to the Open Government Sunset Review
27 Act in accordance with s. 119.15 and shall stand repealed on
28 October 2, 2022, unless reviewed and saved from repeal through
29 reenactment by the Legislature.

30 Section 2. (1) The Legislature finds that hearings
31 conducted pursuant to s. 787.063, Florida Statutes, for victims
32 of human trafficking should be closed to the public at the
33 request of the victim or the Statewide Council on Human
34 Trafficking on behalf of the victim. Preventing public access to
35 such hearings will allow victims of human trafficking to seek
36 relief in the courts of the state without exposing their
37 victimization to the public and to protect their identities as
38 they continue to recover from their time as victims of human
39 trafficking. For these reasons, the Legislature finds that it is



744366

40 a public necessity that, upon the request of the victim or the
41 council on behalf of the victim, hearings conducted pursuant to
42 s. 787.063, Florida Statutes, be closed to the public.

43 (2) The Legislature further finds that any personal
44 identifying information of victims of human trafficking which,
45 upon request, is redacted or sealed in the court files and
46 online dockets of actions brought by, or on behalf of, victims
47 of human trafficking under s. 787.063, Florida Statutes, and any
48 personal identifying information held by the council should be
49 made confidential and exempt from s. 119.07(1), Florida
50 Statutes, and s. 24(a), Article I of the State Constitution. The
51 identity of these victims and the details of their victimization
52 are information of a sensitive, personal nature. As such, this
53 exemption serves to minimize the trauma to victims because the
54 release of such information would compound the tragedy already
55 visited upon their lives and would be defamatory, or cause
56 unwarranted damage, to the good name and reputation of the
57 victims. For these reasons, the Legislature finds that it is a
58 public necessity that any personal identifying information of
59 victims of human trafficking which, upon request, is redacted or
60 sealed in the court files and online dockets of actions by
61 victims of human trafficking under s. 787.063, Florida Statutes,
62 and any personal identifying information held by the council be
63 made confidential and exempt from s. 119.07(1), Florida
64 Statutes, and s. 24(a), Article I of the State Constitution.

65 Section 3. This act shall take effect on the same date that
66 SB 972 or similar legislation takes effect, if such legislation
67 is adopted in the same legislative session or an extension
68 thereof and becomes a law.



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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled
An act relating to public records; creating s.
787.065, F.S.; providing for closed hearings in
certain civil actions upon the request of victims, or
the Statewide Council on Human Trafficking on behalf
of the victims, of human trafficking; providing for
redaction and sealing of personal identifying
information of victims of human trafficking upon
request; exempting from public records requirements
the redacted and sealed information; providing for
future review and repeal of the exemption; exempting
from public records requirements the personal
identifying information of victims of human
trafficking held by the council; providing for future
review and repeal of the exemption; providing a
statement of public necessity; providing a contingent
effective date.

By Senator Bracy

11-02454B-17

20171788__

A bill to be entitled

An act relating to public records; amending s. 787.061, F.S.; providing an exemption from public records requirements for specified redacted and sealed information identifying a victim of human trafficking; providing for future legislative review and repeal of the exemption; 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 (9) is added to section 787.061, Florida Statutes, as created by SB 972, 2017 Regular Session, to read:

787.061 Human trafficking; civil action.-

(9) EXEMPTION.-A court file of a victim of human trafficking sealed under subsection (7) and any information identifying a victim of human trafficking in an online docket which is redacted under subsection (7) is confidential and 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 repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that a sealed court file of a victim of human trafficking and any redacted information identifying a victim of human trafficking in an online docket in a civil action brought by a victim of human trafficking under s. 787.061, Florida

Page 1 of 2

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Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. The identity of these victims and details of their victimization are information of a sensitive, personal nature. As such, this exemption serves to minimize the trauma to victims because the release of such information would compound the tragedy they have already endured and would be defamatory or cause unwarranted damage to the good name and reputation of these victims. For these reasons, the Legislature finds that it is a public necessity that any information identifying victims of human trafficking which is redacted or sealed in court files and online dockets in civil actions by victims of human trafficking under s. 787.061, Florida Statutes, be made confidential and exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution upon request of the plaintiff in such an action.

Section 3. This act shall take effect on the same date that SB 972 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)

4/3/17
Meeting Date

1788
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Amber Kelly

Job Title Director of Policy & Communications

Address 4853 S. Orange Ave.

Phone (407) 418-0250

Street

Orlando
City

FL
State

32806
Zip

Email _____

Speaking: For Against Information

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

Representing FL Family Action

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 Apr 17
Meeting Date

1780
Bill Number (if applicable)

Topic Public Records - Human Trafficking

Amendment Barcode (if applicable)

Name Barney Bishop

Job Title Pres & CEO

Address 204 S. Monroe
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.

CourtSmart Tag Report

Room: LL 37

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 4/3/2017 1:34:26 PM

Ends: 4/3/2017 3:26:58 PM Length: 01:52:33

1:34:26 PM Meeting called to order
1:34:28 PM Roll call
1:34:36 PM Tab 5- SB766- Payment Card Offenses- Rodriguez
1:35:53 PM Amendment Barcode 432620
1:36:23 PM Back to the bill as amended
1:36:45 PM Roll call on SB766
1:36:58 PM Tab 6- SB0918- Driving Under the Influence- Simmons
1:37:45 PM Amendment Barcode 636140
1:39:49 PM Amendment Barcode 826562
1:42:01 PM Back on Amendment Barcode 636140 as amended
1:47:15 PM Speaker Laura McLeod from Florida Association of FL DUI Programs
1:53:24 PM Questions regarding the amendment and with-holds
1:58:31 PM Debate on the amendment
2:03:42 PM Back on SB918 as amended
2:04:41 PM Speaker Kristen Allen from Mothers Against Drunk Driving
2:07:45 PM Speaker Amy Jamieson from MADD
2:10:10 PM Speakers waive in support
2:11:09 PM Debate on SB918
2:14:29 PM Close on SB918
2:14:55 PM Roll call on SB918
2:15:56 PM Tab 3- SB684- Internet Identifiers- Baxley
2:16:34 PM Amendment Barcode 102584
2:16:52 PM Back on SB684 as amended
2:17:39 PM Speakers waive in support
2:18:10 PM Roll call on SB684
2:18:27 PM Tab 4- SB686- Public Records/Internet Identifiers- Baxley
2:19:17 PM Amendment Barcode 351510
2:19:26 PM Amendment Barcode 800428
2:19:46 PM Back on SB686 as amended
2:19:59 PM Close on SB686
2:20:46 PM Roll call on SB686
2:20:53 PM Tab 11- SB1622- School Bus Safety- Passidomo
2:22:11 PM Roll call on SB1622
2:23:11 PM Tab 9- SB1228- Marine Turtle Protection Act- Gainer
2:29:12 PM Roll call on SB1228
2:30:12 PM Tab 2- SB476- Terrorism and Terrorist Activities- Bean
2:31:41 PM Amendment Barcode 629468
2:32:41 PM Back on SB476 as amended
2:33:16 PM Speakers waive in support
2:38:50 PM Roll call on SB476
2:39:49 PM Tab 1- SB150- Controlled Substances- Steube
2:42:02 PM Questions on the strike-all
2:46:16 PM Amendment Barcode 626444
2:48:49 PM Chair Bracy explains original Amendment Barcode 164354
2:49:37 PM Questions to clarify how the law deals with possession vs trafficking
2:54:23 PM Speaker Andrew Fay from Department of Legal Affairs
3:01:22 PM Speaker Barney Bishop from Smart Justice Alliance
3:11:38 PM Roll call on Amendment Barcode 626444
3:12:39 PM Back on Amendment Barcode 164354 as amended
3:14:19 PM Roll call on SB164354
3:15:22 PM Back on SB150/ Amendment 423494
3:16:16 PM Speaker Sheriff Rick Wells from Florida Sheriffs Association

3:18:53 PM Back on SB150 as amended
3:22:13 PM Roll call on SB150
3:23:17 PM Tab 10- SB1564- Domestic Violence- Garcia
3:24:25 PM Roll call on SB1564
3:25:52 PM Meeting moved to adjourn by Senator Rouson