

Tab 1	SB 360 by Harrell ; (Identical to H 06037) Traveling Across County Lines to Commit a Burglary
Tab 2	SB 444 by Perry (CO-INTRODUCERS) Book ; (Identical to H 00379) Lewd or Lascivious Molestation
Tab 3	SB 454 by Perry ; (Identical to H 00327) Florida Commission on Offender Review
Tab 4	SB 464 by Powell ; (Identical to H 00279) Payments to Prisoners Upon Release
Tab 5	SB 482 by Rouson (CO-INTRODUCERS) Taddeo, Book ; (Identical to H 00161) Victims of Reform School Abuse
Tab 6	SB 630 by Jones ; (Identical to H 00363) Pregnant Women in Custody

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Pizzo, Chair
Senator Brandes, Vice Chair

MEETING DATE: Tuesday, November 30, 2021
TIME: 12:30—3:00 p.m.
PLACE: *Toni Jennings Committee Room, 110 Senate Building*

MEMBERS: Senator Pizzo, Chair; Senator Brandes, Vice Chair; Senators Baxley, Burgess, Gainer, Hooper, Perry, Powell, and Taddeo

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 360 Harrell (Identical H 6037, Compare S 158)	Traveling Across County Lines to Commit a Burglary; Deleting a requirement that travel across county lines be for a specified purpose in order to reclassify a burglary offense, etc. CJ 11/02/2021 Temporarily Postponed CJ 11/30/2021 Favorable JU RC	Favorable Yeas 6 Nays 2
2	SB 444 Perry (Identical H 379, Compare S 878)	Lewd or Lascivious Molestation; Specifying what constitutes the crime of lewd or lascivious molestation upon a person 16 years of age or older, etc. CJ 11/30/2021 Favorable CF RC	Favorable Yeas 6 Nays 0
3	SB 454 Perry (Identical H 327)	Florida Commission on Offender Review; Increasing the rate of payment for work performed by retired or former commissioners assigned to temporary duty, etc. CJ 11/30/2021 Favorable ACJ AP	Favorable Yeas 6 Nays 0
4	SB 464 Powell (Identical H 279)	Payments to Prisoners Upon Release; Providing that Florida releasees and county and municipal prisoners who receive funds in the form of payment instruments upon their release may not be charged a fee for cashing the instruments at specified businesses, etc. CJ 11/30/2021 Favorable BI RC	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Tuesday, November 30, 2021, 12:30—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	SB 482 Rouson (Identical H 161, Linked S 978)	Victims of Reform School Abuse; Citing this act as the "Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act"; defining the term "victim of Florida reform school abuse"; requiring a person seeking certification under this act to apply to the Department of State by a specified date; requiring the department to certify an applicant as a victim of Florida reform school abuse if the department determines his application meets the requirements of this act; requiring the department to submit a list of all certified victims to the Legislature by a specified date, etc. CJ 11/30/2021 Favorable ATD AP	Favorable Yeas 7 Nays 0
6	SB 630 Jones (Identical H 363)	Pregnant Women in Custody; Citing this act as "Ava's Law"; requiring that every female who is arrested and not released on bond within 72 hours after arrest be administered a pregnancy test within a specified timeframe, upon her request; requiring that, if a pregnant woman is convicted of a crime and sentenced to incarceration of any length, the sentencing judge provide the pregnant woman the opportunity to defer the imposed sentence until a specified time after delivery; authorizing sanctions for a new criminal conviction or violation of the terms and conditions ordered by the judge, etc. CJ 11/30/2021 Favorable JU AP	Favorable Yeas 7 Nays 0

Other Related Meeting Documents

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 360

INTRODUCER: Senator Harrell

SUBJECT: Traveling Across County Lines to Commit a Burglary

DATE: November 1, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	Favorable
2.			JU	
3.			RC	

I. Summary:

SB 360 amends s. 843.22, F.S., which provides an enhancement for persons who travel across county lines with the intent to commit a burglary. This bill removes the requirement that the purpose of the travel must have been to thwart law enforcement attempts to track the items stolen in the burglary.

This bill may have a positive indeterminate prison bed impact. See Section V. Fiscal Impact Statement.

This bill is effective October 1, 2022.

II. Present Situation:

Organized theft is a growing problem across the country. Offenders who travel for the purpose of theft, fraud, and ID theft are often referred to as “felony lane gangs.” Felony lane gangs originated in south Florida, and according to the FBI, these gangs often commit bank fraud after smash-and-grab theft of identity documents.¹ This type of crime scheme has not only occurred throughout Florida, but has become an interstate criminal organization. Recently, several members of the felony lane gang based in Florida were arrested in Oregon after they traveled for the purpose burgling vehicles and committing fraud.²

¹ South Florida Sun Sentinel, *Is the Felony Lane Gang at it again? Man held in ID theft heist*, Mario Ariza, September 17, 2019, available at <https://www.sun-sentinel.com/news/crime/fl-ne-felony-lane-gang-again-20190917-xnbass6zhbbbvipdb4hhcw5qui-story.html> (last visited October 21, 2021).

² The Department of Justice, United States Attorney’s Office, District of Oregon, *Felony Lane Gang Member Sentenced in Bank Fraud Scheme*, May 3, 2021, available at <https://www.justice.gov/usao-or/pr/felony-lane-gang-member-sentenced-bank-fraud-scheme> (last visited October 21, 2021).

Similarly, organized retail theft continues to be a problem. A crime and safety analyst for News4Jax has stated that it is difficult to track down retail theft suspects because “they’re always in motion. They’re always moving. . . You have to have a defined suspect, basically, have them on surveillance more than once.”³ In 2019, the Florida Department of Law Enforcement (FDLE) agents arrested three individuals suspected of an elaborate scheme stealing thousands from retailers across the southeastern U.S., including more than 100 thefts in 23 Florida counties. Grand theft was among the charges filed against at least one of the suspects.⁴

Burglary

Section 810.02(1), F.S., provides that a person commits burglary by:

- Entering a dwelling,⁵ structure,⁶ or conveyance⁷ with the intent to commit an offense therein, unless the premises are open to the public or the person’s entry is licensed or invited; or
- Notwithstanding a licensed or invited entry, remaining in a dwelling, structure, or conveyance:
 - Surreptitiously, with the intent to commit an offense therein;
 - After permission to remain is withdrawn, with the intent to commit an offense therein; or
 - To commit or attempt to commit a forcible felony.⁸

³ News4Jax, *Theft ring stole at least \$83K in merchandise from home improvement stores*, Allyson Henning, June 20, 2019, available at [https://www.news4jax.com/news/2019/06/21/theft-ring-stole-at-least-83k-in-merchandise-from-home-improvement-stores/#:~:text=Theft%20ring%20stole%20at%20least%20\\$83K%20in%20merchandise,stores%20between%202017%20and%202019,%20police%20reports%20show](https://www.news4jax.com/news/2019/06/21/theft-ring-stole-at-least-83k-in-merchandise-from-home-improvement-stores/#:~:text=Theft%20ring%20stole%20at%20least%20$83K%20in%20merchandise,stores%20between%202017%20and%202019,%20police%20reports%20show) (last visited October 21, 2021).

⁴ News4Jax, *FDLE busts multi-state organized retail theft ring*, Steve Patrick, November 25, 2019, available at <https://www.news4jax.com/news/2019/11/25/fdle-arrests-3-for-multi-state-organized-theft-ring/> (last visited October 21, 2021).

⁵ Section 810.011(2), F.S., defines “dwelling,” to mean a building or conveyance of any kind, including any attached porch, whether such building or conveyance is temporary or permanent, mobile or immobile, which has a roof over it and is designed to be occupied by people lodging therein at night, together with the curtilage thereof. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term includes such portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof.

⁶ Section 810.011(1), F.S., defines “structure,” to mean a building of any kind, either temporary or permanent, which has a roof over it, together with the curtilage thereof. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term means a building of any kind or such portions or remnants thereof as exist at the original site, regardless of absence of a wall or roof.

⁷ Section 810.011(3), F.S., defines “conveyance,” to mean any motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car; and “to enter a conveyance” includes taking apart any portion of the conveyance. However, during the time of a state of emergency declared by executive order or proclamation of the Governor under chapter 252 and within the area covered by such executive order or proclamation and for purposes of ss. 810.02 and 810.08 only, the term “conveyance” means a motor vehicle, ship, vessel, railroad vehicle or car, trailer, aircraft, or sleeping car or such portions thereof as exist.

⁸ A “forcible felony” is 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. Section 776.08, F.S.

A burglary is a felony offense classified according to the offense's specific circumstances, as follows:

- Unarmed burglary of an unoccupied structure or unoccupied conveyance (no assault or battery) is a Level 4 third degree felony.⁹
- Unarmed burglary of an occupied structure (no assault or battery) is a Level 6 second degree felony.¹⁰
- Unarmed burglary of a dwelling, an occupied conveyance, or an authorized emergency vehicle (no assault or battery) is a Level 7 second degree felony.¹¹
- Burglary is a Level 8 first degree felony punishable by a terms of years not exceeding life imprisonment if, in the course of committing the offense, the offender:
 - Makes an assault or battery upon any person;
 - Is or becomes armed within the dwelling, structure, or conveyance, with explosives or a dangerous weapon; or
 - Enters an occupied or unoccupied dwelling or structure, and:
 - Uses a motor vehicle as an instrumentality, other than merely as a getaway vehicle, to assist in committing the offense, and thereby damages the dwelling or structure; or
 - Causes damage to the dwelling or structure, or to property within the dwelling or structure in excess of \$1,000.¹²

Traveling Across County Lines

In 2014, as a response to a “wave” of burglaries in Florida, the Legislature enacted laws to reclassify the crime of burglary to a higher degree when the offender traveled to commit the crime. The Sheriff of Martin County in 2013 stated that traditional law enforcement methods, “such as using local pawn shop databases, confidential informants, proactive police patrols, and targeted patrols,” become less effective with these crimes. According to the Sheriff, it is difficult for law enforcement to establish a pattern and track criminals when they travel from their home county to neighboring counties to commit crimes.¹³

Section 843.22, F.S., provides that if a person who commits a burglary travels any distance with the intent to commit the burglary in a county in this state other than the person's county of residence, the degree of the burglary is reclassified to the next higher degree if the purpose of the person's travel is to thwart law enforcement attempts to track the items stolen in the burglary.¹⁴

County of residence is the county within this state that a person resides. Evidence of a person's county of residence includes, but is not limited to:

- The address on a person's driver license or state identification card;
- Records of real property or mobile home ownership;
- Records of a lease agreement for residential property;

⁹ Sections 810.02(4)(a) and (b) and 921.0022(3)(d), F.S.

¹⁰ Sections 810.02(3)(c) and 921.0022(3)(f), F.S.

¹¹ Sections 810.02(3)(a), (b), (d), and (e) and 921.0022(3)(g), F.S.

¹² Sections 810.02(2)(a)2. and 921.0022(3)(h), F.S.

¹³ WFSU News, *Sheriff Enlists Legislative Help to Crack Down on Growing Problem: 'Pillowcase Burglars,'* Sascha Corder, December 18, 2013, available at <https://news.wfsu.org/state-news/2013-12-18/sheriff-enlists-legislative-help-to-crack-down-on-growing-problem-pillowcase-burglars> (last visited October 21, 2021).

¹⁴ Section 843.22(2), F.S.

- The county in which a person's motor vehicle is registered;
- The county in which a person is enrolled in an educational institution; and
- The county in which a person is employed.¹⁵

For purposes of sentencing, a burglary that is reclassified under this section is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023, F.S., for the offense committed.¹⁶

Severity Ranking Chart

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

Reclassification

Florida currently has various statutes that reclassify criminal offenses under specified circumstances. Generally, criminal laws provide for reclassification to the next highest degree. Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.¹⁷

Examples of criminal offenses that provide for such reclassification include, in part:

- A violation of driving while license suspended is a second degree misdemeanor for a first offense.¹⁸ A second or subsequent conviction is reclassified from a second degree misdemeanor to a first degree misdemeanor.¹⁹ Further, a third or subsequent conviction is

¹⁵ Section 843.22(1)(a), F.S.

¹⁶ Section 843.22(2), F.S.

¹⁷ Section 775.082, F.S. (maximum penalties). Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.082, F.S., provides the following maximum fines: \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

¹⁸ Section 322.34(2)(a), F.S.

¹⁹ Section 322.34(2)(b), F.S.

reclassified to a third degree felony if the violation or the most recent prior conviction is related to a violation of specified driving offenses.²⁰

- A violation of the theft statute under s. 812.014, F.S., for petit theft offenses are reclassified when a person has prior theft convictions.²¹ For example, a petit theft where the property is valued at more than \$100, but less than \$750, is a first degree misdemeanor²² but a person who commits petit theft and who previously was convicted two or more times for a theft commits a third degree felony.²³

III. Effect of Proposed Changes:

This bill amends s. 843.22, F.S., which provides an enhancement for persons who travel across county lines with the intent to commit a burglary. This bill removes the requirement that the purpose of the travel must have been to thwart law enforcement attempts to track the items stolen in the burglary.

This bill is effective October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

²⁰ Section 322.34(2)(c), F.S. The enumerated specified offenses include driving under the influence; refusal to submit to a urine, breath-alcohol, or blood alcohol test; a traffic offense causing death or serious bodily injury; or fleeing and eluding.

²¹ Sections 812.014(3)(b), and (c), F.S.

²² Section 812.014(2)(e), F.S.

²³ Section 812.04(3)(c), F.S.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC) has not reviewed this legislation. However, this bill may have a positive indeterminate prison bed impact due to the increased number of offenders who may be sentenced to prison under this enhancement. Removing the requirement to prove that purpose of the travel must have been to thwart law enforcement attempts to track the items stolen may increase the number of offenders who qualify for this enhancement.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 843.22 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.

By Senator Harrell

25-00578-22

2022360__

A bill to be entitled

An act relating to traveling across county lines to commit a burglary; amending s. 843.22, F.S.; deleting a requirement that travel across county lines be for a specified purpose in order to reclassify a burglary offense; providing an effective date.

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

Section 1. Subsection (2) of section 843.22, Florida Statutes, is amended to read:

843.22 Traveling across county lines with intent to commit a burglary.—

(2) If a person who commits a burglary travels any distance with the intent to commit the burglary in a county in this state other than the person's county of residence, the degree of the burglary shall be reclassified to the next higher degree ~~if the purpose of the person's travel is to thwart law enforcement attempts to track the items stolen in the burglary.~~ For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a burglary that is reclassified under this section is ranked one level above the ranking specified in s. 921.0022 or s. 921.0023 for the burglary committed.

Section 2. This act shall take effect October 1, 2022.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GAYLE HARRELL

25th District

October 18, 2021

Senator Jason Pizzo
405 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Pizzo,

I respectfully request that **SB 360** – Traveling Across County Lines with Intent to Commit a Felony be placed on the next available agenda for the Criminal Justice Committee Meeting.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in blue ink that reads "Gayle".

Senator Gayle Harrell
Senate District 25

Cc: Lauren Jones, Staff Director
Sue Arnold, Committee Administrative Assistant

COMMITTEES:

Transportation, *Chair*
Military and Veterans Affairs, Space,
and Domestic Security, *Vice Chair*
Appropriations Subcommittee on Health and
Human Services
Children, Families, and Elder Affairs
Finance and Tax
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SELECT SUBCOMMITTEE:

Select Subcommittee on Congressional
Reapportionment

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- 322 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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11.30.22
Meeting Date

CJ
Committee

360
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop

Phone 510.9922

Address 2215 Thomsville Rd
Street

Email barney@barneybishop.com

Tall
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
Florida Smart Justice Alliance

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

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

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The Florida Senate

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11/30/21

Meeting Date

Crim Justice

Committee

SB 360

Bill Number or Topic

Amendment Barcode (if applicable)

Name Neisha - Rose Hines

Phone 786-363-~~XXXX~~ 1104

Address 4343 W. Flagler

Email _____

Street

Miami FL

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

ACLU FL

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

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

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11/30/21
Meeting Date

The Florida Senate
APPEARANCE RECORD

SB 346

Bill Number or Topic

Criminal Justice
Committee

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Amendment Barcode (if applicable)

Name Laurette Philipson

Phone 352-533-7202

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Email laurette.philipson@smatl.com

DOT Richey FL 34668
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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The Florida Senate

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11/30/21
Meeting Date
Criminal Justice
Committee

360
Bill Number or Topic
Amendment Barcode (if applicable)

Name Ida V. Eskamani Phone 407 376 4801

Address 134 E. Colonial Dr. Email ida.eskamani@gmail.com
Street
Orlando FL 32801
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
Florida Rising
Florida Immigrant Coalition

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

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

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The Florida Senate

APPEARANCE RECORD

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11-30-21

Meeting Date

Criminal Justice

Committee

360

Bill Number or Topic

Name

Barbara Devane

Phone

850-251-4280

Amendment Barcode (if applicable)

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Email

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City

FL

State

32308

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: *FL NOW*

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

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

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The Florida Senate
APPEARANCE RECORD

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11/30/2021
Meeting Date

CT
Committee

360
Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Woodall

Phone 850-321-9386

Address 579 E. Call St.
Street

Email fcfep@yahoo.com

Tallahassee FL 32301
City State Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

Fl Center for Fiscal
& Economic Policy

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

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

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~~Not on CJ Agenda~~

~~Was on Judiciary mtg~~

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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11-30-2021
Meeting Date

Committee
Committee

SB 190
Bill Number or Topic

360
Amendment Barcode (if applicable)

Name Kim White

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Email texasswimmom@yahoo.com

Mt. Dora FL 32757
City State Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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APPEARANCE RECORD

Deliver both copies of this form to
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11/30/21

Meeting Date

S.B. 360

Bill Number or Topic

Senate Criminal Justice

Committee

Amendment Barcode (if applicable)

Name

Lorraine Lee

Phone

904-635-9493

Address

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Email

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JAX,

City

FL

State

32207

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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 444

INTRODUCER: Senators Perry and Book

SUBJECT: Lewd or Lascivious Molestation

DATE: November 29, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	Favorable
2.			CF	
3.			RC	

I. Summary:

SB 444 creates s. 800.06, F.S., which provides for the new crime of lewd or lascivious molestation committed upon persons 16 years of age or older. A person commits this crime when he or she:

- Intentionally touches a person 16 years of age or older:
 - Against his or her will; and
 - In a lewd or lascivious manner, on the breasts, genitals, genital area, or buttocks, or on the clothing covering them; or
- Forces a person 16 years of age or older to touch the perpetrator, in a lewd or lascivious manner, on the breasts, genitals, genital area, or buttocks, or the clothing covering them.

A violation of this section is a first degree misdemeanor. A second or subsequent violation of this section is a third degree felony.

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

This bill is effective October 1, 2022.

II. Present Situation:

Unlawful Touching

Various sections of the Florida Statutes criminalize specified types of physical contact with others. While certain types of intentional contact on a person under the age of 16 may be a felony lewd or lascivious molestation, the same contact on a person 16 years of age or older may be a misdemeanor simple battery.

Lewd or Lascivious Molestation

A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.¹

The terms “lewd” and “lascivious” are not defined in statute, but are commonly understood by the courts. The Supreme Court of Florida has found that these terms are in common use, and the plain meaning of the words gives notice as to what conduct is prohibited. The court further stated that the words lewd and lascivious “are synonyms and connote wicked, lustful, unchaste, licentious, or sensual design on the part of the perpetrator.”²

An offender 18 years of age or older who commits lewd or lascivious molestation against a victim:

- Less than 12 years of age, commits a life felony.³
- Twelve years of age or older but less than 16 years of age, commits a second degree felony.⁴
- Twelve years of age or older but less than 16 years of age and the person was previously convicted of specified offenses,⁵ commits a first degree felony.⁶

An offender less than 18 years of age who commits lewd or lascivious molestation against a victim:

- Less than 12 years of age, commits a second degree felony.⁷
- Twelve years of age or older but less than 16 years of age, commits a third degree felony.⁸

¹ Section 800.04(5)(a), F.S.

² *Chesebrough v. State*, 255 So. 2d 675, 677 (Fla. 1971).

³ Section 800.04(5)(b), F.S. A life felony is generally punishable by life imprisonment or by a term of imprisonment not exceeding 40 years. Section 775.082, F.S.

⁴ Section 800.04(5)(c)2., F.S. A second degree felony is punishable by up to 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

⁵ Section 800.04(5)(e)1.-7., F.S., provides the following specified offenses: Kidnapping under s. 787.01(2) F.S., or False Imprisonment under s. 787.02(2), F.S., when the violation involved a victim who was a minor and, in the course of committing the violation, the defendant committed against the minor a sexual battery under ch. 794, F.S., or a lewd act under s. 800.04, F.S., or a computer pornography transmission under s. 847.0135(5), F.S.; Kidnapping under s. 787.01(3)(a)2. or 3., F.S., and in the course of committing the kidnapping committed a sexual battery under ch. 794, F.S., or a lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct or lewd or lascivious exhibition under s. 800.04, F.S., or a computer pornography transmission under s. 847.0135(5), F.S.; False Imprisonment under s. 787.02(3)(a)2. or 3., F.S., and in the course of committing the false imprisonment committed a sexual battery under ch. 794, F.S., or a lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct or lewd or lascivious exhibition under s. 800.04, F.S., or a computer pornography transmission under s. 847.0135(5), F.S.; Sexual Battery under ch. 794, F.S., excluding s. 794.011(10), F.S.; Lewd or Lascivious offenses committed against or in the presence of an elderly or disabled person under s. 825.1025, F.S.; Computer Pornography Transmission under s. 847.0135(5), F.S.; or Lewd or Lascivious offenses under s. 800.04, F.S.

⁶ Section 800.04(5)(e), F.S. A first degree felony is generally punishable by up to 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S. However, when specifically provided by statute, a first degree felony may be punished by imprisonment for a terms of years not exceeding life imprisonment. Section 775.082, F.S.

⁷ Section 800.04(5)(c)1., F.S.

⁸ Section 800.04(5)(d), F.S. A third degree felony is punishable by up to five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

The crime of lewd or lascivious molestation does not apply if a victim is 16 years of age or older. Under current law, a person who commits a lewd and lascivious molestation of a person 16 years of age or older may be charged with the first degree misdemeanor⁹ crime of battery if the touching was against the will of the victim.

Battery

A person commits the first degree misdemeanor of battery when he or she:

- Actually and intentionally touches or strikes another person against the will of the other; or
- Intentionally causes bodily harm to another person.¹⁰

The courts have consistently held that any intentional touching, no matter how slight, is sufficient to constitute a simple battery. The force used in the commission of a battery need not be sufficient to cause injury, and may be committed with nominal contact.¹¹

A person who has a prior conviction for battery, aggravated battery,¹² or felony battery¹³ and commits any second or subsequent battery commits a third degree felony.¹⁴ Additionally, it is a third degree felony to commit a domestic battery by strangulation,¹⁵ a battery in furtherance of a riot,¹⁶ or aggravated riot,¹⁷ or a battery on specified persons engaged in the lawful performance of duties.¹⁸

⁹ A first degree misdemeanor is punishable by up to a year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

¹⁰ Section 784.03(1), F.S.

¹¹ *State v. Hearn*, 961 So. 2d 211, 218-19 (Fla. 2007).

¹² Section 784.045, F.S., provides that a person commits aggravated battery, who, in committing battery: intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; or uses a deadly weapon. Additionally, a person commits aggravated battery if the victim was pregnant at the time of the offense and the offender knew or should have known the victim was pregnant.

¹³ Section 784.041, F.S., provides that a person commits felony battery if he or she actually and intentionally touches or strikes another person against the will of the other and causes great bodily harm, permanent disability, or permanent disfigurement.

¹⁴ Section 784.03(2), F.S.

¹⁵ Section 784.041(2), F.S., provides that a person commits domestic battery by strangulation if the person knowingly and intentionally, against the will of another, impedes the normal breathing or circulation of the blood of a family or household member or of a person with whom he or she is in a dating relationship, so as to create a risk of or cause great bodily harm by applying pressure on the through or neck of the other person or by blocking the nose or mouth of the other person. This paragraph does not apply to any act of medical diagnosis, treatment, or prescription which is authorized under the laws of this state.

¹⁶ Section 870.01(2), F.S., provides that a person commits a riot if he or she willfully participates in a violent public disturbance involving an assembly of three or more persons, acting with a common intent to assist each other in violent and disorderly conduct, resulting in: injury to another person; damage to property; or imminent danger of injury to another person or damage to property.

¹⁷ Section 870.01(3), F.S., provides that a person commits aggravated rioting if, in the course of committing a riot, he or she: participates with 25 or more other persons; causes great bodily harm to a person not participating in the riot; causes property damage in excess of \$5,000; displays, uses, threatens to use, or attempts to use a deadly weapon; or by force, or threat of force, endangers the safe movement of a vehicle traveling on a public street, highway, or road.

¹⁸ Battery on detention or commitment facility staff or a juvenile probation officer (s. 784.075, F.S.); Battery on health services personnel (s. 784.076, F.S.); or Battery of a facility employee by throwing, tossing, or expelling certain fluids or materials (s. 784.078, F.S.).

The crime of battery may also be reclassified as a higher level offense if committed on certain persons, or on specified persons engaged in the lawful performance of duties.¹⁹

III. Effect of Proposed Changes:

This bill creates s. 800.06, F.S., which provides for the new crime of lewd or lascivious molestation committed upon persons 16 years of age or older. A person commits this crime when he or she:

- Intentionally touches a person 16 years of age or older:
 - Against his or her will; and
 - In a lewd or lascivious manner, on the breasts, genitals, genital area, or buttocks, or on the clothing covering them; or
- Forces a person 16 years of age or older to touch the perpetrator, in a lewd or lascivious manner, on the breasts, genitals, genital area, or buttocks, or the clothing covering them.

A violation of this section is a first degree misdemeanor. A second or subsequent violation of this section is a third degree felony.

This bill is effective October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹⁹ The following battery offenses are reclassified from a first degree misdemeanor to a third degree felony, battery on a: law enforcement officer; firefighter; emergency medical care provider, railroad special officer, traffic accident investigations officer, nonsworn law enforcement agency employee who is certified as an agency inspector, blood alcohol analyst, or breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI, law enforcement explorer, traffic infraction enforcement officer, parking enforcement specialist, certain persons licensed as security officers, or security officer employed by the board of trustees of a community college while such person is engaged in the lawful performance of his or her duties (s. 784.07, F.S.); sexually violent predators detention or commit facility staff (s. 784.074, F.S.); person 65 years or older (s. 784.08, F.S.); elected official or employee of a: school district, a private school, the Florida School for the Deaf and the Blind, university lab school, a state university or any other entity of the state system of public education, as defined in s. 1000.04, F.S., sports official, an employee or protective investigator of the Department of Children and Families, employee of a lead community-based provider and its direct service contract providers, or an employee of the Department of Health or its direct service contract providers, when the person committing the offense knows or has reason to know the identity or position or employment of the victim (s. 784.081, F.S.); visitor to the detention facility or upon any other detainee in the detention facility, whenever a person who is being detained in a prison, jail, or other detention facility commits the battery (s. 784.082, F.S.); or a code inspector, as defined in s. 162.04(2), F.S., while the code inspector is engaged in the lawful performance of his or her duties and when the person committing the offense knows or has reason to know the identity or employment of the victim (s. 784.083, F.S.).

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Office of Economic and Demographic Research's preliminary estimate provides that the bill has a positive indeterminate fiscal impact.

This bill creates s. 800.06, F.S., adding a 1st degree misdemeanor for someone who "commits the crime of lewd or lascivious molestation upon a person 16 years of age or older," with definitions applied for this act. A second or subsequent violation would be an unranked, 3rd [degree] felony (Level 1 by default).²⁰

Per FDLE, in FY 18-19, there were 125 people arrested for the second degree misdemeanors of lewd and lascivious behavior (s. 798.02, F.S.) and unnatural and lascivious act (s. 800.02, F.S.). In FY 19-20, there were 63 people arrested, and in FY 20-21, there were 50 people arrested. It is not known how many of those arrested fit the definition of the conduct described under s. 800.06, F.S. It is possible that this conduct might currently fall under simple battery, a high volume misdemeanor offense that elevates to a Level 1, 3rd degree felony if a second or subsequent violation occurs (168,345 arrests over the last three fiscal years). However, it cannot be determined where these offenses are currently captured, nor how many arrests occur for these acts in a given year.²¹

²⁰ Office of Economic and Demographic Research, Preliminary Estimate, SB 444-Lewd or Lascivious Molestation (Identical HB 379)(on file with the Senate Criminal Justice Committee).

²¹ *Id.*

In FY 18-19, the incarceration rate for a Level 1, 3rd degree felony was 9.5 percent, and in FY 19-20 the incarceration rate was 8.2 percent. In FY 20-21, the incarceration rate for a Level 1, 3rd degree felony was 8.1 percent.²²

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 800.06 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.

²² *Id.*

By Senator Perry

8-00371-22

2022444__

1 A bill to be entitled
 2 An act relating to lewd or lascivious molestation;
 3 creating s. 800.06, F.S.; specifying what constitutes
 4 the crime of lewd or lascivious molestation upon a
 5 person 16 years of age or older; providing criminal
 6 penalties; providing an effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Section 800.06, Florida Statutes, is created to
 11 read:
 12 800.06 Lewd or lascivious molestation committed upon
 13 persons 16 years of age or older.-
 14 (1) A person commits the crime of lewd or lascivious
 15 molestation upon a person 16 years of age or older when he or
 16 she:
 17 (a) Intentionally touches a person 16 years of age or
 18 older:
 19 1. Against his or her will; and
 20 2. In a lewd or lascivious manner, on the breasts,
 21 genitals, genital area, or buttocks, or on the clothing covering
 22 them; or
 23 (b) Forces a person 16 years of age or older to touch the
 24 perpetrator, in a lewd or lascivious manner, on the breasts,
 25 genitals, genital area, or buttocks, or on the clothing covering
 26 them.
 27 (2) (a) A person who violates subsection (1) commits a
 28 misdemeanor of the first degree, punishable as provided in s.
 29 775.082 or s. 775.083.

Page 1 of 2

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

8-00371-22

2022444__

30 (b) A person who commits a second or subsequent violation
 31 of subsection (1) commits a felony of the third degree,
 32 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
 33 Section 2. This act shall take effect October 1, 2022.

Page 2 of 2

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

SB 444 – Lewd or Lascivious Molestation (Identical HB 379)

This bill creates s. 800.06, F.S., adding a **1st degree misdemeanor** for someone who “commits the crime of lewd or lascivious molestation upon a person 16 years of age or older,” with definitions applied for this act. A second or subsequent violation would be an **unranked, 3rd felony (Level 1 by default)**.

Per FDLE, in FY 18-19, there were 125 people arrested for the second degree misdemeanors of lewd and lascivious behavior (s. 798.02, F.S.) and unnatural and lascivious act (s. 800.02, F.S.). In FY 19-20, there were 63 people arrested, and in FY 20-21, there were 50 people arrested. It is not known how many of those arrested fit the definition of the conduct described under s. 800.06, F.S. It is possible that this conduct might currently fall under simple battery, a high volume misdemeanor offense that elevates to a Level 1, 3rd degree felony if a second or subsequent violation occurs (168,345 arrests over the last three fiscal years). However, it cannot be determined where these offenses are currently captured, nor how many arrests occur for these acts in a given year.

In FY 18-19, the incarceration rate for a Level 1, 3rd degree felony was 9.5%, and in FY 19-20 the incarceration rate was 8.2%. In FY 20-21, the incarceration rate for a Level 1, 3rd degree felony was 8.1%.

EDR PROPOSED ESTIMATE: Positive Indeterminate

Requested by: Senate & House



The Florida Senate

Committee Agenda Request

To: Senator Jason Pizzo, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: October 21, 2021

I respectfully request that **Senate Bill #444**, relating to Lewd or Lascivious Molestation, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry".

Senator Keith Perry
Florida Senate, District 8

The Florida Senate

APPEARANCE RECORD

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

11.30.21

Meeting Date

CT

Committee

444

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Barney Bishop III

Phone

510.9922

Address

Street

Tall

City

State

Zip

Email

barney@barneybishop.com

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Smart Justice

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

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

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

The Florida Senate

APPEARANCE RECORD

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

11/30/2021

Meeting Date

SB 0444

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Jennifer L. Dritt

Phone (850) 297-2000

Address 1820 E. PARK AVE, SUITE 100

Email ed@fcaov.org

Street

Tallahassee FL 32301

City

State

Zip

Florida Council Against Sexual Violence

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Council Against Sexual Violence

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

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

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

S-001 (08/10/2021)

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 454

INTRODUCER: Senator Perry

SUBJECT: Florida Commission on Offender Review

DATE: November 29, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Jones	CJ	Favorable
2.			ACJ	
3.			AP	

I. Summary:

SB 454 increases the rate of payment for retired or former commissioners of the Florida Commission on Offender Review (FCOR) from \$100 to \$200 per day or portion of day, when they are assigned to temporary duty due to a workload need.

The bill will have an insignificant, negative fiscal impact on the General Revenue Fund. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

Florida Commission on Offender Review

The FCOR is comprised of three members, who are appointed by the Governor and Cabinet and confirmed by the Florida Senate.¹ Members are appointed for six years and may not serve more than two consecutive 6-year terms.²

The FCOR functions as a quasi-judicial body that makes a variety of decisions involving parole, conditional release, and medical conditional release,³ and also operates as the administrative arm and investigative arm of the Clemency Board.⁴

¹ Sections 947.01 and 947.02(2), F.S.

² Section 947.03, F.S.

³ Florida Commission on Offender Review, *Organization Overview*, available at <https://www.fcor.state.fl.us/overview.shtml> (last visited October 26, 2021).

⁴ Florida Commission on Offender Review, *2020 Annual Report*, p. 5, available at <https://www.fcor.state.fl.us/docs/reports/Annual%20Report%202020.pdf> (last visited October 26, 2021). The Clemency Board is comprised of the Governor and members of the Cabinet, which includes the Attorney General, the Commissioner of Agriculture, and the Chief Financial Officer. The Clemency Board is constitutionally authorized to provide full or partial

Parole

Parole is a discretionary release that allows certain offenders to serve the remainder of their court-imposed sentences in the community under strict supervision. The FCOR's powers and duties, as it relates to parole, include:

- Determining what persons shall be placed on parole;
- Fixing the time and conditions of parole;
- Determining whether a person has violated parole and taking action with respect to such a violation; and
- Making such investigations as may be necessary.⁵

In 1983, sentencing guidelines were enacted and effectively abolished parole for those offenders who were sentenced for crimes committed on or after October 1, 1983;⁶ thus, the only inmates who are eligible for parole consideration are those who committed:

- Any felony prior to October 1, 1983, or those who elected to be sentenced outside the sentencing guidelines for felonies committed prior to July 1, 1984;
- A capitol felony prior to October 1, 1995, except:
 - Murder or felony murder committed after May 25, 1994;
 - Making, possessing, throwing, placing, or discharging a destructive device, or attempting to do so, which results in the death of another person after May 25, 1994;
 - First degree murder of a law enforcement officer, correctional officer, state attorney, or assistant state attorney committed after January 1, 1990; and
 - First degree murder of a justice or judge committed after October 1, 1990;
- Any continuing criminal enterprise committed before June 17, 1993; or
- Any attempted murder of a law enforcement officer committed between October 1, 1988, and October 1, 1995.⁷

On June 30, 2020, there were 3,959 inmates who were eligible for parole and 424 releasees on parole supervision.⁸ In FY 2019–20, the FCOR made 1,419 parole determinations and granted parole to 41 inmates. In FY 19-20, the FCOR also made 1,443 revocation determinations.⁹

For each parole-eligible inmate, the FCOR must hold an initial parole interview within a certain timeframe,¹⁰ and establish a presumptive parole release date.¹¹ The FCOR must also hold subsequent interviews with each parole-eligible inmate at certain time intervals to re-evaluate the presumptive parole release date.¹² Within 90 days of the presumptive parole release date, the

pardons, sentence commutations, remissions of fines and forfeitures, restorations of civil rights, restorations of alien status under Florida law, specific authority to own, possess, or use firearms, and capital case (death penalty) reviews.

⁵ Section 947.13, F.S.

⁶ Florida Commission on Offender Review, *Release Types: Parole*, available at <https://www.fcor.state.fl.us/release-types.shtml> (last visited November 4, 2021).

⁷ *Supra* note 4 at p. 6.

⁸ *Id.*

⁹ *Supra* note 4 at p. 8.

¹⁰ Section 947.16, F.S.

¹¹ Section 947.172, F.S. “Presumptive parole release date” is the tentative parole release date as determined by the objective parole guidelines. *See* s. 947.005(8), F.S.

¹² Section 947.174, F.S.

FCOR must meet with the inmate to establish the *effective* parole release date and a release plan.¹³

Once an inmate is paroled, he or she is subject to the conditions imposed by the FCOR.¹⁴ At least two commissioners must review the progress of a parolee after two years of supervision in the community and at least biennially thereafter.¹⁵ If a parolee violates the conditions of parole or is subsequently arrested, the FCOR may hold hearings to determine if parole may be restored or if it is to be revoked.¹⁶

Conditional Release

Conditional release is a non-discretionary release program that requires mandatory post-prison supervision of inmates who are sentenced for certain violent crimes and who have served a prior felony commitment, who are sentenced as habitual offenders, violent habitual offenders, violent career criminals, or designated sexual predators.¹⁷ The FCOR must determine the terms and conditions of the conditional release and examine and dispose any alleged violations of such terms and conditions.¹⁸

In Fiscal Year 19-20, 5,317 inmates were placed on conditional release supervision and 2,945 inmates were under conditional release supervision on June 30, 2020.¹⁹

Conditional Medical Release

Conditional medical release (CMR) is a discretionary release program, in which the FCOR may authorize the release of inmates on supervision who are terminally ill or permanently incapacitated and who are not a danger to themselves or others.²⁰ The Department of Corrections (DOC) identifies and refers inmates who may be eligible for CMR to the FCOR for consideration. In considering whether to grant CMR, the FCOR may require medical evidence and other investigations to be made.

If CMR is granted, the FCOR must establish the terms and conditions of the release, including periodic medical evaluations at intervals determined by the FCOR.²¹ The FCOR must also examine and dispose of any alleged violations of such terms and conditions. The FCOR may also

¹³ Section 947.1745, F.S. The “effective parole release date” is the actual parole release date as determined by the presumptive parole release date, satisfactory institutional conduct, and an acceptable parole plan. *See s. 947.005(5)*, F.S.

¹⁴ Rule 23-21.0165, F.A.C.

¹⁵ *Id.*

¹⁶ Rule 23-21.022, F.A.C. There is a preliminary hearing to determine probable cause and then there is a separate hearing on the final revocation of parole.

¹⁷ *Supra* note 4 at 6, and s. 947.1405, F.S.

¹⁸ Sections 947.1405(6), and 947.141, F.S.

¹⁹ *Supra* note 4 at p. 6.

²⁰ Section 947.149, F.S. A “terminally ill inmate” is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate terminally ill to the extent that there can be no recovery and death is imminent, so that the inmate does not constitute a danger to herself or himself or to others. A “permanently incapacitated inmate” is an inmate who has a condition caused by injury, disease, or illness which, to a reasonable degree of medical certainty, renders the inmate permanently and irreversibly physically incapacitated to the extent that the inmate does not constitute a danger to herself, himself, or others.

²¹ Section 947.149(3) and (4), F.S.

revoke the CMR if the releasee's medical or physical condition improves to the point that he or she no longer meets the CMR criteria.²²

In the past three fiscal years, the DOC has referred 180 inmates to the FCOR for consideration for CMR. The FCOR has granted release to 94 inmates.²³ In Fiscal Year 19-20, the FCOR granted CMR to 35 of the 65 inmates referred to them by the DOC.

Temporary Commissioners

Subject to the approval of the Governor and the Cabinet, current law authorizes the chair of the FCOR to assign retired or former commissioners to serve temporarily when there is a workload need.²⁴ These temporary commissioners are paid \$100 per day or portion of day spent on work for the FCOR.²⁵ They are also entitled to reimbursement for travel expenses in accordance with state law.²⁶

Temporary commissioners serve when sitting commissioners are on annual or sick leave, or when a vacancy on the FCOR arises.²⁷ The temporary commissioner's duties include making public safety decisions, revocation decisions, and release decisions, and issuing warrants for violations of the terms and conditions of supervision. Additionally, the temporary commissioners also require training on all new and relevant federal and state laws, FCOR rules, and FCOR policies and procedures.²⁸

The pay for temporary commissioners has not changed since the authority to appoint such commissioners was enacted in law in 1983.²⁹ Over the last two years, the FCOR has utilized temporary commissioners 50 times each year.³⁰

III. Effect of Proposed Changes:

The bill increases the rate of payment for retired and former commissioners who serve temporarily from \$100 to \$200 per day or portion of day spent on work for the FCOR, when there is a workforce need. According to the FCOR, the increase in the daily rate will also meet state minimum wage standards.³¹

The bill makes other non-substantive, technical changes.

²² Section 947.149(5), F.S.

²³ *Supra* note 4 at p. 6.

²⁴ Section 947.04, F.S.

²⁵ *Id.*

²⁶ Section 112.061, F.S., governs the reimbursement of travel expenses.

²⁷ E-mail from Eric Carr, Director of Legislative Affairs, FCOR, (Nov. 4, 2021) (on file with the Senate Committee on Criminal Justice).

²⁸ *Id.*

²⁹ See ch. 83-131, s. 22, L.O.F. The original law authorized only retired commissioners to serve temporary duty; former commissioners were authorized to perform such duty in 1986, see ch. 86-183, s. 27, L.O.F.

³⁰ E-mail from Eric Carr, Director of Legislative Affairs, FCOR, (Oct. 25, 2021) (on file with the Senate Committee on Criminal Justice).

³¹ Florida Commission on Offender Review, *2022 Agency Analysis of SB 454* (Oct. 21, 2021) (on file with the Senate Committee on Criminal Justice).

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Currently, the FCOR spends \$5,000 per year in OPS funding to pay temporary commissioners.³² The FCOR is requesting an additional \$5,174 in recurring general revenue funding, which will result in an insignificant, negative fiscal impact on the General Revenue Fund.³³

VI. Technical Deficiencies:

None.

³² *Supra* note 30.

³³ Florida Commission on Offender Review, *Legislative Budget Request for Fiscal Year 2022-23: Hearing Before the Fla. S. Comm. on Approp., Subcomm. on Crim. and Civ. Just.*, (Oct. 20, 2021), committee meeting packet available at https://www.flsenate.gov/Committees/Show/ACJ/MeetingPacket/5289/9510_MeetingPacket_5289.pdf (last visited November 4, 2021).

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 947.04 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 Perry

8-00658-22

2022454__

1 A bill to be entitled
 2 An act relating to the Florida Commission on Offender
 3 Review; amending s. 947.04, F.S.; increasing the rate
 4 of payment for work performed by retired or former
 5 commissioners assigned to temporary duty; providing an
 6 effective date.
 7
 8 Be It Enacted by the Legislature of the State of Florida:
 9
 10 Section 1. Subsection (1) of section 947.04, Florida
 11 Statutes, is amended to read:
 12 947.04 Organization of commission; officers; offices.-
 13 (1) Before July 1 of each even-numbered year, the Governor
 14 and Cabinet shall select a chair who shall serve for a period of
 15 2 years and until a successor is selected and qualified. The
 16 Governor and Cabinet shall, at the same time that a chair is
 17 selected, select a vice chair to serve during the same 2-year
 18 period as the chair, in the absence of the chair. The chair may
 19 succeed himself or herself. The chair, as chief administrative
 20 officer of the commission, has the authority and responsibility
 21 to plan, direct, coordinate, and execute the powers, duties, and
 22 responsibilities assigned to the commission, except those of
 23 granting and revoking parole as provided for in this chapter.
 24 Subject to approval by the Governor and the Cabinet, the chair
 25 may assign consenting retired commissioners or former
 26 commissioners to temporary duty when there is a workload need.
 27 Any such commissioner shall be paid \$200 ~~\$100~~ for each day or
 28 portion of a day spent on the work of the commission and shall
 29 be reimbursed for travel expenses as provided in s. 112.061. The

Page 1 of 2

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

8-00658-22

2022454__

30 chair is authorized to provide or disseminate information
 31 relative to parole by means of documents, seminars, programs, or
 32 otherwise as he or she determines necessary. The chair shall
 33 establish, execute, and be held accountable for all
 34 administrative policy decisions. However, decisions to grant or
 35 revoke parole shall be made in accordance with ~~the provisions of~~
 36 ss. 947.172, 947.174, and 947.23. The commissioners shall be
 37 directly accountable to the chair in the execution of their
 38 duties as commissioners, and the chair has authority to
 39 recommend to the Governor suspension of a commissioner who fails
 40 to perform the duties provided for by statute.
 41 Section 2. This act shall take effect July 1, 2022.

Page 2 of 2

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

Siples, Yolanda

From: Carr, Eric <ericcarr@fcor.state.fl.us>
Sent: Thursday, November 4, 2021 1:49 PM
To: Siples, Yolanda
Subject: RE: SB 454

Good afternoon Yolanda,

Retired and former Commissioners are authorized by the Governor and Cabinet to act as temporary Commissioners when sitting Commissioners are on annual or sick leave, or when a vacancy on the Commission is created or otherwise exists. Temporary Commissioners perform all the duties of a sitting Commissioner, including making public safety decisions, revocation decisions, release decisions, and issuing warrants for violations of the various forms of Commission supervision. In addition, temporary Commissioners must dedicate time to be trained on all new and relevant federal and state legislation, Commission rules, and Commission policy and procedure.

The temporary Commissioners currently authorized by the Governor and Cabinet to act when needed for sitting Commissioners each have more than 30 years of experience in the criminal justice field, with at least six years of that experience serving as an appointed Commissioner.

Thank you,

Eric Carr

Director of Legislative Affairs
Florida Commission on Offender Review
Office: 850-921-2804
Cell: 850-728-3548
4070 Esplanade Way
Tallahassee, Florida 32399
FCOR Website <https://fcor.state.fl.us/>

The Commission on Offender Review: Ensuring the public safety through victim assistance, post prison release, and the administration of Executive Clemency

From: Siples, Yolanda <Siples.Yolanda@flsenate.gov>
Sent: Thursday, November 4, 2021 12:41 PM
To: Carr, Eric <ericcarr@fcor.state.fl.us>
Subject: SB 454

Good afternoon Eric,

I wanted to get a bit more information about what the temporary commissioners do. What types of duties do they perform? Do they only fill in when a commissioner is absent or are there other times at which they will perform duties? If so, what triggers the use of the temporary commissioners?

Thank you,

Yolanda

Siples, Yolanda

From: Carr, Eric <ericcarr@fcor.state.fl.us>
Sent: Monday, October 25, 2021 1:54 PM
To: Siples, Yolanda
Subject: Re: Request for Agency Analysis for SB 454

Yolanda,

Over the last two years we have utilized the Temporary Commissioners 50 times per year costing the commission \$5,000 in OPS funding per year.

Thank you,

Eric Carr

Director of Legislative Affairs
Florida Commission on Offender Review
Office: 850-921-2804
Cell: 850-728-3548
4070 Esplanade Way
Tallahassee, Florida 32399
FCOR Website <https://fcor.state.fl.us/>

[Get Outlook for iOS](#)

From: Siples, Yolanda <Siples.Yolanda@flsenate.gov>
Sent: Monday, October 25, 2021 1:40:45 PM
To: Carr, Eric <ericcarr@fcor.state.fl.us>
Subject: RE: Request for Agency Analysis for SB 454

Good afternoon Eric,

I didn't see it in the analysis, but can you tell me approximately how much the commission currently spend on these services per year or how often the commission requires the services of former or retired commissioners?

Thank you,

Yolanda

From: Carr, Eric <ericcarr@fcor.state.fl.us>
Sent: Monday, October 25, 2021 1:03 PM
To: Siples, Yolanda <Siples.Yolanda@flsenate.gov>
Subject: RE: Request for Agency Analysis for SB 454

Good morning Yolanda,

Please see the updated analysis which has also been uploaded on ABAR.

Thank you,

Good morning,

I am requesting the commission's analysis of SB 454 – Florida Commission on Offender Review.

Thank you,

Yolanda

Yolanda L. Siples
Criminal Justice Committee
Florida Senate
510 Knott Building
404 S. Monroe St.
Tallahassee, FL 32311
850-487-5197
Siples.yolanda@flsenate.gov



2021 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Commission on Offender Review

<u>BILL INFORMATION</u>	
BILL NUMBER:	<u>SB 0454</u>
BILL TITLE:	<u>Florida Commission on Offender Review</u>
BILL SPONSOR:	<u>Senator Perry</u>
EFFECTIVE DATE:	<u>07/01/2022</u>

<u>COMMITTEES OF REFERENCE</u>
1) Criminal Justice (CJ)
2) Appropriations Subcommittee on Criminal and Civil Justice (ACJ)
3) Appropriations (AP)
4) Click or tap here to enter text.
5) Click or tap here to enter text.

<u>CURRENT COMMITTEE</u>
Criminal Justice (CJ)

<u>SIMILAR BILLS</u>	
BILL NUMBER:	
SPONSOR:	

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	Click or tap here to enter text.
SPONSOR:	Click or tap here to enter text.
YEAR:	Click or tap here to enter text.
LAST ACTION:	

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	HB: 327
SPONSOR:	Representative Killebrew

Is this bill part of an agency package?
No.

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	10/21/2021
LEAD AGENCY ANALYST:	Eric Carr, Legislative Affairs Director
ADDITIONAL ANALYST(S):	Click or tap here to enter text.
LEGAL ANALYST:	Rana Wallace, General Counsel
FISCAL ANALYST:	Gina Giacomo, Director of Administration

POLICY ANALYSIS

EXECUTIVE SUMMARY

Florida Commission on Offender Review; Increasing the rate of payment for work performed by retired or former commissioners assigned to temporary duty. Effective Date: July 1, 2022

SUBSTANTIVE BILL ANALYSIS

This bill amends the pay currently listed in 947.04 (1) as \$100 per day to \$200 per day for work performed by retired or former commissioners assigned to temporary duty. Currently \$100 per day equates to \$12.80 an hour which is below the state's minimum hourly wage. The update to \$200 per day for retired or former commissioners assigned to temporary duty fixes the minimum hourly wage issue for the current state minimum wage of \$13.00 and addresses future minimum wage increases of \$14.00 and \$15.00 per hour.

EFFECT OF THE BILL:

DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

If yes, explain:	
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input checked="" type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL?

Y N

If yes, provide a description:	N/A
Date Due:	N/A
Bill Section Number(s):	N/A

ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL?

Y N

Board:	N/A
Board Purpose:	N/A
Who Appoints:	N/A
Changes:	N/A

Bill Section Number(s):	N/A
-------------------------	-----

FISCAL ANALYSIS

DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y N

Revenues:	N/A
Expenditures:	N/A
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	Click or tap here to enter text.

DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y N

Revenues:	N/A
Expenditures:	The pay for the temporary commissioners is used from FCOR's OPS funding.
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	N/A

DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR?

Y N

Revenues:	N/A
Expenditures:	N/A
Other:	N/A

DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y N

If yes, explain impact.	Click or tap here to enter text.
Bill Section Number:	Click or tap here to enter text.

TECHNOLOGY IMPACT

DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y N

If yes, describe the anticipated impact to the agency including any fiscal impact.	Click or tap here to enter text.
--	----------------------------------

FEDERAL IMPACT

DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

If yes, describe the anticipated impact including any fiscal impact.	Click or tap here to enter text.
--	----------------------------------

ADDITIONAL COMMENTS

Click or tap here to enter text.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	
---------------------------	--



The Florida Senate

Committee Agenda Request

To: Senator Jason Pizzo, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: October 21, 2021

I respectfully request that **Senate Bill #454**, relating to Florida Commission on Offender Review, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry".

Senator Keith Perry
Florida Senate, District 8

11/30/21

Meeting Date

Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

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

SB 0454

Bill Number or Topic

Amendment Barcode (if applicable)

Name Melinda Coonrod

Phone (850) 487-1980

Address 4070 Esplanade Way

Email melindacoonrod@fcor.state.fl.us

Street

Tallahassee

FL

32399-2450

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Commission On Offender Review

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

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

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

The Florida Senate

APPEARANCE RECORD

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

11/30/21

Meeting Date

SB 454

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name CHRISTIAN MINOR

Phone (321) 223-4232

Address 1300 N WINDY ST.

Email cmminor@fjja.org

Street

PLA

FL

32303

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FLORIDA JUVENILE JUSTICE ASSOCIATION

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

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

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

The Florida Senate

APPEARANCE RECORD

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

11/30/2011
Meeting Date

CJ
Committee

454
Bill Number or Topic

Amendment Barcode (if applicable)

Name Carrie Boyd

Phone 850-510-2428

Address 106 E. College Ave.
Street

Email _____

Tallahassee, FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
S PLC Action Fund

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

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

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

The Florida Senate

APPEARANCE RECORD

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

11.30.21

Meeting Date

A54

Bill Number or Topic

CJ

Committee

Amendment Barcode (if applicable)

Name

Barney Bishop III

Phone

510.9922

Address

2215 Thomasville Rd

Email

barney@barneybishop.com

Street

Tall

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Smart Justice

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

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

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

The Florida Senate
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 464

INTRODUCER: Senator Powell

SUBJECT: Payments to Prisoners Upon Release

DATE: November 29, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Jones	CJ	Favorable
2.	_____	_____	BI	_____
3.	_____	_____	RC	_____

I. Summary:

SB 464 prohibits a money services business from charging a fee to cash a payment instrument for funds issued to an inmate upon his or her release from a prison or municipal or county jail.

The bill may have a negative fiscal impact on a money services business. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2022.

II. Present Situation:

Money Services Businesses

A money services business (MSB) means any person located in or doing business in this state, from this state, or into this state from locations outside this state or country who acts as a payment instrument seller, foreign currency exchanger, check casher, or money transmitter.¹ In Florida, the Office of Financial Regulation (OFR) licenses and regulates MSBs.

Florida law governing MSBs does not apply to banks, credit card banks, credit unions, trust companies, associations, offices of an international banking corporation, Edge Act or agreement corporations, or other financial depository institutions organized under the laws of any state or the United States.² The federal government and its agency, as well as the state of Florida and its political subdivisions, are also exempt from MSB laws.³

¹ Section 560.103(22), F.S.

² Section 560.104, F.S.

³ *Id.*

Licensure as a Money Services Business

To qualify for licensure as a MSB, an applicant must meet the following requirements:

- Demonstrate to the OFR the character and general fitness necessary to command the confidence of the public and warrant the belief that the MSB or deferred presentment provider (commonly known as “payday lenders”) shall be operated lawfully and fairly;
- Be legally authorized to do business in Florida;
- Be registered as a MSB with the Financial Crimes Enforcement Network as required under federal law, if applicable;
- Have an anti-money laundering program in place which meets the requirements of federal law; and
- Provide the OFR with all information required under Florida law and rules.⁴

The licensure requirement does not apply to a person cashing payment instruments⁵ that have an aggregate face value of less than \$2,000 per person per day, and that are incidental to the retail sale of goods or services whose compensation for cashing payment instruments at each location does not exceed five percent of the total gross income from the retail sale of goods or services by such person during the preceding 60 days.⁶

Conduct of Business for Check Cashers

Each check casher⁷ licensed as a MSB must submit the following information to the check cashing database maintained by the OFR:

- Transaction date;
- Payor name as displayed on the payment instrument;
- Payee name as displayed on the payment instrument;
- Conductor name,⁸ if different from the payee name;
- Amount of payment instrument;
- Amount of currency provided;
- Type of payment instrument;
- Amount of the fee charged for cashing the payment instrument;
- Branch or location where the payment instrument was accepted;
- The type of identification and identification number presented by the payee or conductor;
- Payee’s workers’ compensation insurance policy number or exemption certificate number, if a corporate payment instrument and an active policy exists;
- Payee Corporate Document Number as issued by the Secretary of State, if a corporate payment instrument; and
- Payee’s Federal Employer Identification Number, if a corporate payment instrument.⁹

⁴ Section 560.1401, F.S.

⁵ Section 560.103(29), F.S., defines “payment instrument” as a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument, payment of money, or monetary value whether or not negotiable. The term does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit.

⁶ Section 560.304, F.S.

⁷ A “check casher” is a person who sells currency in exchange for payment instruments received, except travelers checks. *See* s. 560.03(6), F.S.

⁸ A “conductor” is a natural person who presents himself or herself to a licensed MSB for purposes of cashing a payment instrument. *See* s. 560.103(9), F.S.

⁹ Section 560.310, F.S., and Fla. Admin. Code R. 69V-560-704(5).

Additional requirements apply for payment instruments that exceed \$1,000.¹⁰

A MSB may be subject to disciplinary action against its license if it commits specific acts in s. 560.114, F.S., such as failure to comply with Florida law governing MSBs or any related rules or orders, or failure to comply with applicable federal law. The Financial Services Commission has adopted disciplinary guidelines for each ground for which disciplinary action may be imposed by the OFR.¹¹

Among other things, MSBs, authorized vendors, and affiliated parties are prohibited from engaging in specific acts in s. 560.111, F.S., such as embezzlement and making false entries in books and documents with the intent to deceive or defraud. These violations constitute a third degree felony.¹²

Check Cashing Fees

Florida law limits the fees a check casher, whether exempt or licensed, may charge. By law, an exempt or licensed check casher may not charge fees:

- In excess of 5 percent of the face value of the amount of the instrument, or \$5, whichever is greater;
- In excess of 3 percent of the face amount of the payment instrument, or \$5, whichever is greater, if the payment instrument is payment of any kind of state public assistance or federal social security benefit payable to the bearer of the payment instrument; or
- In excess of 10 percent of the face amount of the payment instrument, or \$5, whichever is greater, if the payment instrument is a personal check or money order.¹³

Additionally, check cashers may collect a fee for the direct costs associated with verifying the customer's identity, residence, employment, credit history, account status, or other necessary information.¹⁴ The fee may only be collected when such verification is conducted, and the fee may not exceed \$5 per transaction.¹⁵

Currently, there are no statutory exemptions from the fee restrictions listed above.¹⁶ A person seeking to cash a payment instrument at a licensed or exempt money services business establishment may be charged a fee.

¹⁰ *Id.*

¹¹ Section 560.1141, F.S. *See also*, the OFR, *Form OFR-560-09, Disciplinary Guidelines for Money Services Businesses*, incorporated by reference in r. 69B-560.1000, F.A.C., available at <https://flofr.gov/sitePages/documents/FormOFR56009.pdf> (last visited Nov. 3, 2021). The Financial Services Commission is a body consisting of the Governor and the Cabinet, which appoints two officials who handle the regulation of banking, securities, and insurance. *See* Florida's Chief Financial Officer, *Financial Services Commission*, available at <https://www.myfloridacfo.com/division/guests.htm> (last visited Nov. 4, 2021).

¹² A felony of the third degree is punishable by up to five years imprisonment and a fine of up to \$5,000. *See* ss. 775.082 and 775.083, F.S.

¹³ Section 560.309(8), F.S.

¹⁴ Fla. Admin. Code R. 69V-560.801.

¹⁵ *Id.*

¹⁶ The OFR, *2022 Agency Legislative Bill Analysis for SB 464* (Nov. 18, 2022), p. 3 (on file with the Senate Committee on Criminal Justice).

Inmate Funds Upon Release

The Department of Corrections (DOC) provides \$50 in the form of a debit card when an inmate is released from one of its facilities.¹⁷ An inmate may also receive funds remaining in his or her trust fund account up to a maximum of \$500. The only inmates that are not eligible to receive funds on a debit card are minors under the age of 18, and for these inmates, a check is mailed to their place of residence.¹⁸ The DOC has issued approximately 15 paper checks to minors in the last three years.¹⁹ At the time of release, inmates also receive transportation to the closest bus station in the county of release, including another state, except for inmates who are being released to a detainer or who have adequate funds to pay for their own transportation. The discharge transportation is provided in the form of a non-negotiable voucher.²⁰

An inmate released from a county jail will generally leave with whatever funds he or she had in his or her possession when he or she entered the jail and any balance remaining on his or her canteen account.²¹ County jails differ on how such funds are disbursed at the time of release. Depending on the county, the funds may be released by check, debit card, or cash.²² If the inmate is released during a time that the check issuing administrator is unavailable, a check is mailed to the inmate's mailing address or the inmate may return during business hours to receive his or her check.²³

III. Effect of Proposed Changes:

The bill prohibits a MSB, such as a check casher, from charging a fee to cash a payment instrument for funds issued to an inmate upon his or her release from a prison or municipal or county jail.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None identified.

¹⁷ Department of Corrections, *2022 Agency Legislative Bill Analysis for SB 464* (Nov. 5, 2021), p. 2, (on file with the Senate Committee on Criminal Justice).

¹⁸ *Id.*

¹⁹ E-mail from Scotti P. Vaughn, Deputy Legislative Affairs Director, Florida Department of Corrections, (Nov. 15, 2021) (on file with the Senate Committee on Criminal Justice).

²⁰ *Id.* Inmates also receive a release packet that includes, but is not limited to, a transition plan, registration requirements, community supervision terms, and reporting instructions, as applicable. They also receive any personal identification, resume, community referrals, and brochures and flyers.

²¹ Email from Matt Dunagan, Deputy Executive Director of Operations, Florida Sheriff's Association, (Nov. 4, 2021) (on file with the Senate Committee on Criminal Justice).

²² Email from Isaiah Dennard, Jail Services Coordinator, Florida Sheriff's Association, (Nov. 4, 2021) (on file with the Senate Committee on Criminal Justice). Cash is issued very rarely and may only affect very small jails of 50 or fewer beds.

²³ *Id.*

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

A MSB that provides check cashing services may experience a loss in revenue as they will not be able to charge fees for cashing payment instruments issued to an inmate upon his or her release. A MSB may incur costs associated with verifying an individual's identity and whether or not the payment instrument presented for cashing was issued to an inmate upon his or her release from jail or prison.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

The language, which governs the conduct of business by MSBs, is not located in the chapter of law governing MSBs. Chapter 560, F.S., authorizes the OFR to take actions against a licensee who violates the provisions of that chapter. Since the language of the bill does not place the prohibition against fees in ch. 560, F.S., the OFR may be unable to enforce the provision.²⁴

It is unclear how a MSB will determine whether a payment instrument is one issued to an inmate upon his or her release from jail or prison.²⁵

A Department of Juvenile Justice (DJJ) contracted residential program has a contract with the Department of Transportation that provides work opportunities for youth to allow for payment of

²⁴ *Supra* note 16 at pg. 5.

²⁵ *Supra* note 16 at pg. 7.

court costs, fines, and fees. In return for his or her work, a youth is paid a stipend which is held by the program until the youth is released. Upon release, court costs, fines, and fees are paid directly to court, and any remaining monies are remitted to the youth in the form of a check, which is mailed to them. These checks may also be subject to check cashing fees. However, DJJ releasees are not included in the bill.²⁶

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 944.6125 and 951.31.

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.

²⁶ Email from Tyler Jefferson, Deputy Legislative Affairs Director, Florida Department of Juvenile Justice. (Nov. 16, 2021) (on file with the Senate Committee on Criminal Justice).

By Senator Powell

30-00758-22

2022464__

A bill to be entitled

An act relating to payments to prisoners upon release;
creating ss. 944.6125 and 951.31, F.S.; providing that
Florida releasees and county and municipal prisoners
who receive funds in the form of payment instruments
upon their release may not be charged a fee for
cashing the instruments at specified businesses;
providing an effective date.

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

Section 1. Section 944.6125, Florida Statutes, is created
to read:

944.6125 Florida releasee; gate money.—A Florida releasee
who receives funds upon his or her release in the form of a
payment instrument may not be charged a fee for cashing the
instrument at a money services business, as those terms are
defined in s. 560.103.

Section 2. Section 951.31, Florida Statutes, is created to
read:

951.31 Releasee gate money.—A county or municipal prisoner
who receives funds upon his or her release in the form of a
payment instrument may not be charged a fee for cashing the
instrument at a money services business, as those terms are
defined in s. 560.103.

Section 3. This act shall take effect July 1, 2022.



2022 AGENCY LEGISLATIVE BILL ANALYSIS Florida Office of Financial Regulation

BILL INFORMATION

BILL NUMBER:	SB 464
BILL TITLE:	An Act Relating to Payment to Prisoners
BILL SPONSOR:	Senator Bobby Powell
EFFECTIVE DATE:	July 1, 2022

COMMITTEES OF REFERENCE

1) Criminal Justice
2) Banking and Insurance
3) Rules
4)
5)

CURRENT COMMITTEE

--

SIMILAR BILLS

BILL NUMBER:	
SPONSOR:	

PREVIOUS LEGISLATION

BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

IDENTICAL BILLS

BILL NUMBER:	
SPONSOR:	

Is this bill part of an agency package?

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BILL ANALYSIS INFORMATION

DATE OF ANALYSIS:	November 18, 2021
LEAD AGENCY ANALYST:	Alexander J. Anderson, Director of Legislative Affairs (850) 410-9601
ADDITIONAL ANALYST(S):	Gregory C. Oaks, Director, Division of Consumer Finance (850) 410-9601
LEGAL ANALYST:	Tony Cammarata, General Counsel (850) 410-9601
FISCAL ANALYST:	Buckley Vernon, Financial Administrator (850) 410-9673

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The legislation would create sections 944.6125 and 951.31, F.S., providing that Florida releasees and county or municipal prisoners, upon release, may not be charged a fee for cashing payment instruments at a money services business.

The legislation would exempt Florida releasees and released county or municipal prisoners from fee provisions in section 560.309, Florida Statutes, which allow certain money services businesses to charge fees for the cashing of payment instruments.

The provisions of the bill would take effect July 1, 2022.

2. SUBSTANTIVE BILL ANALYSIS

I. PRESENT SITUATION:

The Office is responsible for the administration and enforcement of chapter 560, Florida Statutes. Pursuant to chapter 560, Florida Statutes, a person must be licensed or exempt from licensure to engage in the activities of a money services business. Under part III of chapter 560, F.S., persons, including both entities and individuals, who cash payment instruments must obtain licensure as a money services business, specifically as a check casher. An entity licensed with the Office under part II of chapter 560, F.S., as a money transmitter¹ may also act as a check casher. A check casher license allows a person to provide currency in exchange for payment instruments (i.e., checks, money orders, drafts, warrants) received. Currency can be provided in the form of coin and paper money of the United States, coin and paper money of another country which is designated as legal tender, official foreign bank notes, United States silver certificates, United States notes, and Federal Reserve notes. As of November 16, 2021, the Office's records reflect 460 licensed money services businesses who operate as check cashers.

Chapter 560, F.S., requires all persons who engage in or advertise the engagement in cashing payment instruments to obtain a check casher license, unless exempted.

To qualify for a check casher license, an applicant must demonstrate the proper character and general fitness, be legally authorized to do business in Florida, be registered as a money services business with the Financial Crimes Enforcement Network; and have an anti-money laundering program ("AML") that meets the requirements of 31 C.F.R. s. 1022.210. The AML program is a licensee's written program that is designed to deter money laundering and the financing of terrorist activities by requiring certain record-keeping, reporting, and compliance measures.

Relevant Definitions:

As defined in section 944.612, F.S., the term "**Florida releasee**"² means an inmate paroled before expiration of his or her sentence, who will be supervised at the location shown on his or her parole certificate or an inmate whose sentence has expired or who is released by means of gain-time.

As defined in section 951.23(1)(c), F.S., the term "**county prisoner**" means a person who is detained in a county detention facility by reason of being charged with or convicted of either a felony or misdemeanor.

As defined in section 951.23(1)(e), F.S., the term "**municipal prisoner**" means a person who is detained in a municipal detention facility by reason of being charged with or convicted of violation of municipal law or ordinance.

As defined in section 560.103(6), F.S., the term "**check casher**" means a person who sells currency in exchange for payment instruments received, except travelers checks.

As defined in section 560.103(11), F.S., the term "**currency**" means the coin and paper money of the United States or of any other country which is designated as legal tender and which circulates and is customarily used and accepted as a medium of exchange in the country of issuance. Currency includes United States silver certificates, United States notes, and Federal Reserve notes. Currency also includes official foreign bank notes that are customarily used and accepted as a medium of exchange in a foreign country.

As defined in section 560.103(29), F.S., the term "**payment instrument**" means a check, draft, warrant, money order, travelers check, electronic instrument, or other instrument, payment of money, or monetary value whether or not negotiable. The term does not include an instrument that is redeemable by the issuer in merchandise or service, a credit card voucher, or a letter of credit.

¹ "Money transmitter" means a corporation, limited liability company, limited liability partnership, or foreign entity qualified to do business in this state which receives currency, monetary value, or payment instruments for the purpose of transmitting the same by any means, including transmission by wire, facsimile, electronic transfer, courier, the Internet, or through bill payment services or other businesses that facilitate such transfer within this country, or to or from this country.

² For purposes of this analysis, the Office assumed that the bill's use of the term "Florida releasee" references the term as found in sections 944.612 and 944.613, F.S., as the term is limited to these provisions.

As defined in section 560.103(5), F.S., the term “**cashing**” means providing currency for payment instruments, except for travelers checks.

As defined in section 560.103(14), F.S., the term “**electronic instrument**” means a card, tangible object, or other form of electronic payment for the transmission or payment of money or the exchange of monetary value, including a stored value card or device that contains a microprocessor chip, magnetic stripe, or other means for storing information; that is prefunded; and for which the value is decremented upon each use.

Allowable Fees:

A check casher, whether licensed or exempt, is allowed by law to collect fees associated with cashing payment instruments. The maximum allowable fees include:

- A verification fee up to \$5 from a customer to cover direct costs associated with verifying a customer’s identity, residence, employment, credit history, account status, or other necessary information; and
- A fee not to exceed:
 - 10% of the face amount of a personal check or money order, or \$5, whichever is greater;
 - 3% of the face amount of state public assistance or federal social security benefit checks, or \$5, whichever is greater; or
 - 5% of the face amount of all other checks, or \$5, whichever is greater.

Provisions related to debt collection:

If a licensee wishes to assess the cost of collections, other than fees for insufficient funds as provided by law, a licensee must obtain a judgment from a court of competent jurisdiction.

If a check is returned to a licensee from a customer’s financial institution due to lack of funds, a closed account, or a stop-payment order, a licensee may seek collection pursuant to section 68.065, F.S.

A licensee must comply with the debt collection provisions found in the Consumer Collection Practices Act under part VI of chapter 559, F.S.

Current Exemptions:

License:

State and federally chartered financial depository institutions (e.g. banks, credit unions, trust companies, etc.), the United States, or any agency or instrumentality thereof, and the State of Florida or any political subdivision of the State of Florida, are all exempt from licensure under chapter 560, Florida Statutes.

Section 560.304, F.S., provides an exemption from a check casher license for persons who cash payment instruments having a total face value of less than \$2,000 per person per day, if the cashing of the payment instruments is incidental to the retail sale of goods, and whose compensation for cashing the payment instruments, at each location, does not exceed 5 percent of the total gross income from the retail sale of goods or services generated within the last 60 days.

Fees:

There are no exemptions from the fee restrictions found in section 560.309, F.S. A person seeking to cash a payment instrument at a licensed or exempt money services business establishment may be charged fees as allowed pursuant to section 560.309, F.S.

Recordkeeping and/or Reporting Requirements:

Section 560.123, F.S., requires a check casher to maintain certain records in an effort to deter the concealment of criminal activity and to ensure the availability of such records for criminal, tax, or regulatory investigations or proceedings. The provision requires check cashers to keep records of each transaction which it knows to: involve currency or other payment instruments having a value greater than \$10,000, involve the proceeds of specified unlawful activity; and be designed to evade the reporting requirements.

Pursuant to section 560.310, F.S., licensees must maintain a copy of the front and back of each payment instrument cashed. For payment instruments exceeding \$1,000, the licensee must maintain a copy of the customer’s photo i.d. used as identification, (e.g. a valid driver license; a state identification card issued by any state of the United States or its territories or the District of Columbia, and showing a photograph and signature; a United States Government Resident Alien Identification Card; a passport; or a United States Military identification card); a thumbprint of the

customer taken by the licensee and placed on the payment instrument; and a customer file as prescribed by rule on all customers who cash corporate payment instruments;

Pursuant to section 560.310, F.S., for payment instruments exceeding \$1,000, for each payment instrument being cashed, the licensee must submit the following information into the check cashing database before entering into each check cashing transaction:

- the transaction date;
- the payor name as displayed on the payment instrument;
- the payee name as displayed on the payment instrument;
- the name of the natural person (conductor) who presents himself or herself to a licensee for purposes of cashing a payment instrument, if different from the name of person to whom the payment instrument is made payable;
- the dollar amount of the payment instrument;
- the dollar amount of the currency being provided;
- the type of payment instrument, which may include personal, payroll, government, corporate, third-party, or another type of instrument;
- the dollar amount of the fee being charged for cashing the payment instrument;
- the location where the payment instrument was accepted;
- the type of identification and identification number presented by the person to whom the payment instrument is made payable, or the natural person who presents himself or herself to a licensee for purposes of cashing a payment instrument;
- the workers' compensation insurance policy number or exemption certificate number of the person to whom the payment instrument is made payable (payee), if the person to whom the payment instrument is made payable is a business; and
- additional information as required by rule.

Florida Control of Money Laundering in Money Services Businesses Act:

Additional measures to detect criminal activity include, requiring check cashers to treat multiple transactions as a single transaction if the check casher has knowledge that the transactions are made by/on behalf of one person and total more than \$10,000 during any day; requiring check cashers to keep a record of all financial transactions, regardless of value, if the check casher suspects that the transaction involves the proceeds of unlawful activity; requiring check cashers to file, with the Office, a report of any records required by section 560.123, F.S. or complying with section 560.123, F.S. by filing records pursuant to federal law found in 31 U.S.C. s. 5313; and providing immunity from civil liability if a licensee, or an officer, employee, or agent of the licensee, files a report in good faith pursuant section 560.123, F.S.

Conduct of Business:

Pursuant to chapter 560, F.S., a check casher must endorse each payment instrument cashed using its legal name under which it is licensed; maintain and deposit payment instruments cashed into its own commercial account at a federally insured financial institution; only accept or cash payment instruments from a person to whom the payment instrument is made payable, with the exception that a licensee may accept or cash a corporate payment instrument from a natural person who is an authorized officer of the corporation to whom the payment instrument is made payable; report all suspicious activity to the office in accordance with 31 C.F.R. s. 1022.320 which may be filed with the Financial Crimes Enforcement Network (FinCEN) of the U.S. Department of Treasury; and equip each location with a security camera system that is capable of recording and retrieving an image in order to assist in identifying and apprehending an offender, with the exception that a licensee does not have to install a security camera if the licensee has installed a bullet-resistant partition or enclosure in the area where checks are cashed.

Federal law:

A money services business must register with FinCEN as required by 31 C.F.R. s. 1022.380, if applicable. FinCEN is a bureau within the Treasury Department and serves as the Financial Intelligence Unit of the United States. FinCEN oversees and implements policies to prevent and detect money laundering. To this end, FinCEN is responsible for implementing, administering, and enforcing compliance with the "Bank Secrecy Act." The Bank Secrecy Act or (BSA) requires financial institutions to assist government agencies in the detection and prevention of money laundering. Specifically, the act requires financial institutions to maintain certain records, file reports of cash transactions exceeding \$10,000, and to report suspicious criminal activity.

Currently, chapter 560, F.S., requires licensees to comply with all state and federal laws and rules relating to the detection and prevention of money laundering, including, as applicable, section 560.123, and 31 C.F.R. ss. 1010.306, 1010.311, 1010.312, 1010.313, 1010.340, 1010.410, 1010.415, 1022.320, 1022.380, and 1022.410. In addition, a licensee must comply with the United States Treasury Interpretive Release 2004-1. If such persons fail

to comply with the aforementioned provisions, the Office may take administrative action against such persons, including but not limited to, the issuance of a cease and desist order; the issuance of a removal order; the denial, suspension, or revocation of a license, and/or imposition of a fine of at least \$1,000 but not more than \$10,000 for each violation.

II. EFFECT OF THE BILL:

Sections 1 and 2 The impact of the legislation is to exempt Florida releasee’s and released county or municipal prisoners from certain fees charged by money services businesses pursuant to section 560.309, F.S.

Pursuant to section 560.309, F.S., a licensed check casher, a check casher exempt from licensure, or a money transmitter acting as a check casher (hereinafter “check casher entities”), may charge certain fees in connection with the cashing of payment instruments. Specifically, check casher entities may charge the following fees:

- A fee to cash the payment instrument not to exceed:
 - 10% of the face amount of a personal check or money order, or \$5, whichever is greater;
 - 3% of the face amount of state public assistance or federal social security benefit checks, or \$5, whichever is greater; or
 - 5% of the face amount of all other checks, or \$5, whichever is greater;
- A verification fee up to \$5 to cover direct costs associated with verifying a customer’s identity, residence, employment, credit history, account status, or other necessary information;
- Fees for insufficient funds as provided by law; and
- Fees incidental to collection pursuant to section 68.065, F.S.

Pursuant to the legislation, Florida releasees and released county or municipal prisoners who receive funds in the form of a payment instrument upon their release, may not be charged a fee for cashing payment instruments at a money services business, meaning check casher entities would be prohibited from charging a Florida releasee a fee to cash his or her payment instrument (i.e. check, money order, etc.). However, this prohibition does not appear to apply to other fees charged pursuant to section 560.309, F.S., such as verification fees, fees for insufficient funds and/or fees incidental to collection pursuant to section 68.065, F.S., meaning check casher entities could charge and collect such fees from a Florida releasee or released county or municipal prisoner.

Because chapter 560, F.S., does not currently prohibit check casher entities from charging a Florida releasee or released county or municipal prisoner a fee to cash a payment instrument, an amendment to chapter 560, F.S. may be necessary to incorporate the prohibition created by the legislation.

Section 3 provides an effective date of July 1, 2022, meaning the Office would begin enforcing the provisions of Sections 1 and 2, on or after July 1, 2022.

1. DOES THE LEGISLATION DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

If yes, explain:	
Is the change consistent with the agency’s core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

2. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	Unknown
Opponents and summary of position:	Unknown

3. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

4. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y N

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. FISCAL IMPACT TO LOCAL GOVERNMENT Y N

Revenues:	
Expenditures:	
Does the legislation increase local taxes or fees? If yes, explain.	No
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. FISCAL IMPACT TO STATE GOVERNMENT Y N

Revenues:	
Expenditures:	
Does the legislation contain a State Government appropriation?	No
If yes, was this appropriated last year?	

3. FISCAL IMPACT TO THE PRIVATE SECTOR Y N

Revenues:	The bill would prohibit a check casher from charging fees to a Florida releasee or released county or municipal prisoner to cash a payment instrument. The potential number of transactions covered by this prohibition is unknown.
Expenditures:	Unknown
Other:	N/A

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y N

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y N

If yes, describe the anticipated impact to the agency including any fiscal impact.	
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FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

If yes, describe the anticipated impact including any fiscal impact.	
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ADDITIONAL COMMENTS

Will the payment instrument provided to a Florida releasee or released county or municipal prisoner allow a money services business to identify such person as a Florida releasee or released county or municipal prisoner for purposes of these provisions? If not, how will a money services business identify an individual as a Florida releasee or released county or municipal prisoner? The proposed legislation would not amend section 560.309, Florida Statutes, which contains the restrictions on fees charged for cashing payment instruments, which could be confusing to a licensee if this exemption is found in an unrelated statute.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:

OGC has reviewed the agency's bill analysis concerning SB 464, and the analysis sufficiently details the effect of the bill and the areas of impact. OGC has no issues, concerns or further comments regarding the bill.



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Corrections

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 464
BILL TITLE:	Payments to Prisoners Upon Release
BILL SPONSOR:	Senator Powell
EFFECTIVE DATE:	July 1, 2022

<u>COMMITTEES OF REFERENCE</u>
1) Criminal Justice
2) Banking and Insurance
3) Rules
4)
5)

<u>CURRENT COMMITTEE</u>

<u>SIMILAR BILLS</u>	
BILL NUMBER:	
SPONSOR:	

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	HB 279
SPONSOR:	Representative Willhite

Is this bill part of an agency package?
No.

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	November 5, 2021
LEAD AGENCY ANALYST:	Shajuana Jenkins
ADDITIONAL ANALYST(S):	Jeff Straley
LEGAL ANALYST:	Kyle Magee
FISCAL ANALYST:	

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill will provide for Florida releasees and county and municipal prisoners who receive funds in the form of payment instruments upon their release may not be charged a fee for cashing the instruments at specified businesses.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

At the time of release an inmate receives release gratuity in the form of a debit card for \$50.00, If eligible, and/or funds from their inmate trust fund account up to a maximum of \$500.00. There are no fees assessed on the release gratuity debit card.

Inmates who are minors under 18 years old are not eligible to receive a release gratuity debit card and therefore a check is mailed to their place of residence as listed on the release plan.

Additionally, and by way of background, an inmate who is released will also have a release packet. The packet includes but is not limited to a transition plan, registration requirements, and community supervision terms (probation) and reporting instructions, if applicable. It will also include any personal identification, resume, community referrals and brochures/flyers. Discharge transportation is also provided to the closest bus station in the county of release including another state, except for inmates being released to a detainer or who have adequate funds to pay for their own transportation. This discharge transportation is a non-negotiable voucher.

2. EFFECT OF THE BILL:

There is no impact to the Florida Department of Corrections (FDC or Department) related to potential changes in the programs. Currently, 98% of inmates released are provided a release debit card, which there are no fees assessed.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

If yes, explain:	
Is the change consistent with the agency's core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	
Opponents and summary of position:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	
Date Due:	
Bill Section Number(s):	

6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y N

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y N

Revenues:	Unknown
Expenditures:	Unknown
Does the legislation increase local taxes or fees? If yes, explain.	
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y N

Revenues:	Unknown
Expenditures:	Unknown
Does the legislation contain a State Government appropriation?	
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y N

Revenues:	Unknown
Expenditures:	Unknown
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES?

Y N

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. DOES THE BILL IMPACT THE AGENCY'S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)? Y N

If yes, describe the anticipated impact to the agency including any fiscal impact.	
--	--

FEDERAL IMPACT

1. DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)? Y N

If yes, describe the anticipated impact including any fiscal impact.	
--	--

ADDITIONAL COMMENTS

N/A.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

Issues/concerns/comments:	N/A.
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Siples, Yolanda

From: Vaughan, Scotti <Scotti.Vaughan@fdc.myflorida.com>
Sent: Monday, November 15, 2021 9:21 AM
To: Siples, Yolanda
Cc: Torres, Jared; Taylor, Chris; Lyons, Brittany
Subject: FW: Inmate Release Funds

Good morning Yolanda,

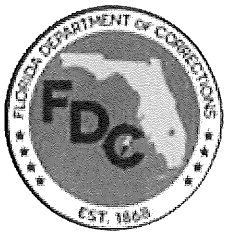
The Department's Office of Finance and Accounting advised that approximately 15 paper checks have been issued to minors.

I hope this helps.

Scotti

Scotti P. Vaughan

Deputy Legislative Affairs Director
Florida Department of Corrections
Office: 850.717.3041
Cell: 850.688.7432



Inspiring Success by Transforming One Life at a Time

Respect ★ Integrity ★ Courage ★ Selfless Service ★ Compassion

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From: Taylor, Chris <WillardChris.Taylor@fdc.myflorida.com>
Sent: Wednesday, November 10, 2021 9:30 AM
To: Siples, Yolanda <Siples.Yolanda@flsenate.gov>
Cc: Lyons, Brittany <Brittany.Lyons@fdc.myflorida.com>; Vaughan, Scotti <Scotti.Vaughan@fdc.myflorida.com>; Torres, Jared <Jared.Torres@fdc.myflorida.com>
Subject: RE: Inmate Release Funds

Jared <Jared.Torres@fdc.myflorida.com>

Subject: Inmate Release Funds

Good afternoon Yolanda,

Please see the attached analysis for SB 464. The analysis was also uploaded to ABAR.

Thank you,

Chris Taylor

Legislative Specialist

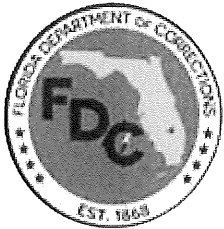
Florida Department of Corrections

501 South Calhoun Street

Tallahassee, Florida 32399

Direct: 850-717-3965

Cell: 850-274-8184



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From: Vaughan, Scotti <Scotti.Vaughan@fdc.myflorida.com>

Sent: Wednesday, November 3, 2021 4:23 PM

To: Siples, Yolanda <Siples.Yolanda@flsenate.gov>

Cc: Taylor, Chris <WillardChris.Taylor@fdc.myflorida.com>; Torres, Jared <Jared.Torres@fdc.myflorida.com>

Subject: RE: Inmate Release Funds

Good afternoon Yolanda,

At the time of release an inmate receives release gratuity in the form of a debit card for \$50.00, if eligible, and/or funds from their inmate trust fund account up to a maximum of \$500.00. There are no fees assessed on the release gratuity debit card.

Inmates who are minors under 18 years old are not eligible to receive a release gratuity debit card and therefore a check is mailed to their place of residence as listed on their release plan.

Additionally and by way of background, an inmate who is releasing will also have a release packet. The packet includes but is not limited to, a transition plan, registration requirements, and community supervision terms (probation) and reporting instructions, if applicable. It will also include any personal identification, resume, community referrals and brochures/flyers. Discharge transportation is also provided to the closest bus station in

Yolanda L. Siples
Criminal Justice Committee
Florida Senate
510 Knott Building
404 S. Monroe St.
Tallahassee, FL 32311
850-487-5197
Siples.yolanda@flsenate.gov

Siples, Yolanda

From: Matt Dunagan <mdunagan@flsheriffs.org>
Sent: Thursday, November 4, 2021 12:49 PM
To: Siples, Yolanda
Cc: Isaiah Dennard
Subject: RE: Inmate Release Funds

Yolanda,

I have copied Isaiah Dennard, FSA Jail Services Coordinator, to this email.

My understanding is the inmate leaving the county jail will only receive the funds they entered into the jail with or whatever was put into their canteen account by family or friends. Isaiah can explain the form in which the funds are dispersed to the inmate when they leave the jail.

Matt Dunagan, Deputy Executive Director of Operations

(850) 877-2165 x. 5807 (office)

(850) 274-3599 (cell)

FLORIDA SHERIFFS ASSOCIATION | Protecting, Leading & Uniting Since 1893.

From: Siples, Yolanda <Siples.Yolanda@flsenate.gov>
Sent: Thursday, November 4, 2021 9:12 AM
To: Matt Dunagan <mdunagan@flsheriffs.org>
Subject: Inmate Release Funds

CAUTION: This email originated from outside of FSA. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

I have a few questions about funds inmates receive when they are released from jail. Specifically, do your members generally provide funds when inmates are released from jail? If so, what is the amount or range of amounts that usually provided? Also, in what format do they receive funds- cash, check, or debit card?

Thank you for your assistance,

Yolanda
Yolanda L. Siples
Criminal Justice Committee
Florida Senate
510 Knott Building
404 S. Monroe St.
Tallahassee, FL 32311
850-487-5197
Siples.yolanda@flsenate.gov

Siples, Yolanda

From: Isaiah Dennard <idennard@flsheriffs.org>
Sent: Thursday, November 4, 2021 5:47 PM
To: Siples, Yolanda
Cc: Matt Dunagan
Subject: RE: Inmate Release Funds

Yolanda,

At the time of an inmate release from Jail and there are funds that needs to be returned to said inmate the practice for local Jails (that are either operated by Sheriff's or Board of County Commissioners) will either do the following;

1. Issue a Check
2. Issue a "Debit Card"
3. Issue Cash (this is very rare and may only effect very small Jails 50 Beds or less)

On occasion Jails that are between 200 Beds or less who may only have the Check Issuing Administrator working 8 am - 5 pm my not be available when an inmate is released during evening, late night or early morning.

So the process in those rare cases will be the Jail Staff receiving a good mailing address from the inmate so a check can be sent, or the inmate may return the next day during business hours to receive their check.

If the inmate address is incorrect and the check is returned or the inmate fails to come back to pick up their check, after some time (in accordance with State Statute and Agency Policy) those funds may be considered abandoned. In those instances Agencies will follow State Statute and Agency Policy.

Thanks,
Isaiah Dennard, Jail Services Coordinator
Florida Sheriffs Association

Sent from my Verizon, Samsung Galaxy smartphone

----- Original message -----

From: Matt Dunagan <mdunagan@flsheriffs.org>
Date: 11/4/21 12:48 PM (GMT-05:00)
To: "Siples, Yolanda" <Siples.Yolanda@flsenate.gov>
Cc: Isaiah Dennard <idennard@flsheriffs.org>
Subject: RE: Inmate Release Funds

Yolanda,

I have copied Isaiah Dennard, FSA Jail Services Coordinator, to this email.

My understanding is the inmate leaving the county jail will only receive the funds they entered into the jail with or whatever was put into their canteen account by family or friends. Isaiah can explain the form in which the funds are dispersed to the inmate when they leave the jail.

Matt Dunagan, Deputy Executive Director of Operations

(850) 877-2165 x. 5807 (office)

(850) 274-3599 (cell)

FLORIDA SHERIFFS ASSOCIATION | Protecting, Leading & Uniting Since 1893.

From: Siples, Yolanda <Siples.Yolanda@flsenate.gov>

Sent: Thursday, November 4, 2021 9:12 AM

To: Matt Dunagan <mdunagan@flsheriffs.org>

Subject: Inmate Release Funds

CAUTION: This email originated from outside of FSA. Do not click links or open attachments unless you recognize the sender and know the content is safe.

Good morning,

I have a few questions about funds inmates receive when they are released from jail. Specifically, do your members generally provide funds when inmates are released from jail? If so, what is the amount or range of amounts that usually provided? Also, in what format do they receive funds- cash, check, or debit card?

Thank you for your assistance,

Yolanda

Yolanda L. Siples

Criminal Justice Committee

Florida Senate

510 Knott Building

404 S. Monroe St.

Tallahassee, FL 32311

850-487-5197

Siples.yolanda@flsenate.gov

Siples, Yolanda

From: Jefferson, Tyler <Tyler.Jefferson@fldjj.gov>
Sent: Tuesday, November 16, 2021 2:57 PM
To: Siples, Yolanda
Cc: Tubbs, Brett
Subject: RE: Funds upon Release from a DJJ Facility

Good afternoon Yolanda,

The DJJ does not operate canteens for offenders in our custody nor provide set gratuity funds upon release, similar to that of the Department of Corrections. DJJ programs allow "purchases" for incentives with points earned through the behavior management system.

One DJJ contracted residential program has a contract with the Department of Transportation, which provides work opportunities for youth allowing for payment of their court costs, fines and fees. All hours worked by the youth are logged and youth get paid a stipend. That stipend is held by the program until the youth is released. Upon release, the court costs, fines and fees are paid directly from the program to the Clerk of Courts. Any money remaining is then paid to the youth via check, which is mailed to them. There is no cash given to youth at any point.

Please let me know if you have any further questions.

Thank you,

Tyler Jefferson
Deputy Legislative Affairs Director
Florida Department of Juvenile Justice
Office: (850) 717-2717
Cell: (850) 544-8935
Tyler.Jefferson@djj.state.fl.us

From: Siples, Yolanda <Siples.Yolanda@flsenate.gov>
Sent: Wednesday, November 10, 2021 9:55 AM
To: Jefferson, Tyler <Tyler.Jefferson@fldjj.gov>
Cc: DiGiacomo, Heather M. <Heather.DiGiacomo@fldjj.gov>
Subject: Funds upon Release from a DJJ Facility

Good morning,

I have a few questions about funds juveniles receive when they are released from DJJ facilities. Specifically, do juveniles receive funds when they are released from a facility (i.e. balance on canteen, etc.)? If so, in what format do they receive funds - cash, check, or debit card?

Thank you for your assistance,

Yolanda

Yolanda L. Siples
Criminal Justice Committee

Florida Senate
510 Knott Building
404 S. Monroe St.
Tallahassee, FL 32311
850-487-5197
Siples.yolanda@flsenate.gov



The Florida Senate

Committee Agenda Request

To: Senator Jason Pizzo, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: October 28, 2021

I respectfully request that **Senate Bill #464**, relating to Payments to Prisoners Upon Release, be placed on the:

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

A handwritten signature in blue ink, appearing to read "Bobby Powell".

Senator Bobby Powell
Florida Senate, District 30

11/30/2021
Meeting Date

CJ
Committee

The Florida Senate APPEARANCE RECORD

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

464
Bill Number or Topic

Amendment Barcode (if applicable)

Name Carrie Boyd

Phone 850-518-2428

Address 106 E. College Ave.
Street

Email _____

Tallahassee, FL 32307
City State Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
SPLC Action Fund

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

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

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11/30/2021
Meeting Date

464
Bill Number or Topic

Amendment Barcode (if applicable)

CJ
Committee

Name Karen Woodall

Phone 850-321-9386

Address 579 E. Coll St.
Street

Email fcsep@yahoo.com

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
FBI Center for Fiscal & Economic Policy

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

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

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11/30/21
Meeting Date
Criminal Justice
Committee

464
Bill Number or Topic
Amendment Barcode (if applicable)

Name Ida V. Eskamani Phone 407 376 4801

Address 134 E Colonial Dr Email ida.eskamani@gmail.com
Orlando FL 32801
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Rising

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

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

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11/30/21

Meeting Date

Criminal Justice

Committee

The Florida Senate APPEARANCE RECORD

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SB 464

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Jorge Chamizo**

Phone **850-681-0024**

Address **108 S. Monroe Street**

Email **jorge@flapartners.com**

Street

Tallahassee

FL

32301

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Assn of Criminal Defense Lawyers

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

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

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The Florida Senate

APPEARANCE RECORD

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11-30-21

Meeting Date

464

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Barbara DeVane

Phone 850-251-4280

Address 625 E. Brevard St

Street

Email barbadevane1@yahoo.com

Tallahassee FL 32308

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: FL NOW

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

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

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

The Florida Senate

APPEARANCE RECORD

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

11/30/21

Meeting Date

SIB 464

Bill Number or Topic

Senate Crim Justice

Committee

Amendment Barcode (if applicable)

Name Nasha Rose Hines

Phone 786-363-1104

Address 4343 W. Flagler

Email

Street

Miami

FL

33134

City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
ACW FL

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

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

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

The Florida Senate
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 482

INTRODUCER: Senator Rouson

SUBJECT: Victims of Reform School Abuse

DATE: November 29, 2021 REVISED: 11/30/21

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	Favorable
2.			ATD	
3.			AP	

I. Summary:

SB 482 creates the “Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act” which provides a process for former students from these schools who were abused to be certified as victims. The bill defines “victim of Florida reform school abuse,” as a living person who was confined at the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and who was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the period of confinement. More than 500 former students have come forward with reports of physical, mental, and sexual abuse by school staff.

The bill requires a person seeking to be certified as a victim of Florida reform school abuse to submit an application to the Department of State (DOS) by September 1, 2022. The DOS must notify the applicant of its determination within five business days after processing and reviewing the application. If the DOS determines that an application meets the requirements of the act, the DOS must certify the applicant as a victim of Florida reform school abuse. The DOS must also submit a list of all certified victims to the President of the Senate and the Speaker of the House of Representatives by December 31, 2022.

The bill also provides that a victim of Florida reform school abuse may file a claim under ch. 960, F.S., which governs victim assistance, including victim compensation. The bill defines “crime,” for purposes of filing a claim and requires that a claim must be brought within 1 year of the effective date of the bill.

This bill may have an indeterminate fiscal impact on the DOS. Additionally, this bill may have an indeterminate negative fiscal impact on the Office of the Attorney General (OAG) for claims filed under ch. 960, F.S. See Section V. Fiscal Impact Statement.

This act is effective upon becoming law.

II. Present Situation:

The Dozier School

From January 1, 1900, to June 30, 2011, the state operated the Florida State Reform School in Marianna.¹ Over the years, the school has operated under several different names: Florida State Reform School, Florida Industrial School for Boys, Florida School for Boys, and Arthur G. Dozier School for Boys (hereinafter, Dozier School). The school originally housed children as young as five years old, who had committed minor criminal offenses, such as incorrigibility and truancy. Additionally, many children who had not been charged with a crime were committed to the school as wards of the state and orphans.²

As early as 1901, reports surfaced of children being chained to walls in irons, brutal whippings, and peonage (involuntary servitude).³ In the first 13 years of operation, six state-led investigations took place. Those investigations found that children as young as five years old were being hired out for labor, unjustly beaten, and were without education or proper food and clothing.⁴

In 1955, the state opened a new reform school in Okeechobee to address overcrowding at the Dozier School.⁵ Staff members of the Dozier School were transferred to the Florida School for Boys at Okeechobee (hereinafter, Okeechobee School), where they instituted the same degrading policies and abusive practices as those implemented at the Dozier School.⁶

In 2005, former students of the Dozier School began to publish accounts of the abuse they experienced at the school.⁷ These stories prompted Governor Charlie Crist to direct the Florida Department of Law Enforcement to investigate the Dozier School and the deaths that were alleged and occurred at the school.⁸

University of South Florida Forensic Investigation

From 2013-2016, the University of South Florida conducted a forensic investigation, funded by the Legislature, into the deaths and burials at the Dozier School.⁹ The purpose of the investigation was to determine the location of the missing children buried at the Dozier School.¹⁰

¹ Erin H. Kimmerle, Ph.D., E. Christian Wells, Ph.D., and Antoinette Jackson, Ph.D.; Florida Institute for Forensic Anthropology & Applied Sciences, University of South Florida, *Report on the Investigation into the Deaths and Burials at the Former Arthur G. Dozier School for Boys in Marianna, Florida*, pg. 22 (January 18, 2016), available at: <http://mediad.publicbroadcasting.net/p/wusf/files/201601/usf-final-dozier-summary-2016.pdf> (last visited November 2, 2021).

² *Id.*

³ *Id.* at 12.

⁴ *Id.* at 27.

⁵ *Id.* at 22.

⁶ *Id.*

⁷ *Id.* at 30.

⁸ *Id.*

⁹ *Id.* at 4.

¹⁰ *Id.* at 11.

The investigation found records of nearly 100 deaths from 1900-1973.¹¹ Of those 100 deaths recorded in documents maintained by the school, two deaths were staff members, and the remaining were boys ranging in age from 6 to 18 years old. The investigation noted that the historical records are incomplete and the causes and manners of death for the majority of cases are unknown. The investigation also found that there are at least 22 deaths in the records for which no burial location is documented.¹²

The investigation noted that while other state-run institutions kept detailed records of burials made on the property of the institution, the Dozier School did not keep any records showing the location of specific graves, nor did the school mark the graves.¹³ The investigation implied that this lack of record keeping suggests an intent to cloud the true number of burials located at the school and potentially hinder later investigations into the true causes of individual's deaths.¹⁴

Additionally, the investigation revealed that the Dozier School consistently underreported the number of deaths that occurred in their bi-annual reports to the state.¹⁵

Legislative Resolutions Addressing Florida Reform School Abuse at the Dozier School and the Okeechobee School

During the 2017 Legislative Session, the Legislature unanimously issued a formal apology to the victims of reform school abuse and their families with the passage of CS/HR 1335 and CS/SR 1440. In those resolutions, the Legislature acknowledged that the treatment of boys who were sent to the Dozier School and the Okeechobee School was cruel, unjust, and a violation of human decency. The resolutions expressed regret for the treatment of boys at the schools and apologized to the victims for the wrongs committed against them by state employees. The resolutions also expressed commitment to ensuring that children who have been placed in the state's care will be protected from abuse and violations of fundamental human decency.¹⁶

Florida Crimes Compensation Act

The Florida Crimes Compensation Act¹⁷ authorizes the Florida Attorney General's Division of Victim Services to administer a compensation program to ensure financial assistance for victims of crime. Injured victims of crime may file for compensation for financial assistance such as treatment costs, economic loss, disability, or loss of support.¹⁸

Section 960.065, F.S., provides that the following persons are eligible for compensation under ch. 960, F.S.:

- A victim.
- An intervenor.

¹¹ *Id.* at 14.

¹² *Id.*

¹³ *Id.* at 15.

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ See CS/HR 1335 and CS/SR 1440 (2017).

¹⁷ Sections 960.01-960.28, F.S.

¹⁸ Attorney General, *Victim Compensation Brochure*, available at: [http://myfloridalegal.com/webfiles.nsf/WF/MRAY-8CVP5T/\\$file/BVCVictimCompensationBrochure.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MRAY-8CVP5T/$file/BVCVictimCompensationBrochure.pdf) (last visited November 2, 2021).

- A surviving spouse, parent or guardian, sibling, or child of a deceased victim or intervenor.
- Any other person who is dependent for his or her principal support upon a deceased victim or intervenor.¹⁹

Claims will generally be denied if filed for or on behalf of a person who:

- Committed or aided in the commission of the crime upon which the claim for compensation was based;
- Was engaged in an unlawful activity at the time of the crime upon which the claim for compensation is based, unless the victim was engaged in prostitution as a result of being a victim of human trafficking;
- Was in custody or confined, regardless of conviction, in a county or municipal detention facility, a state or federal correctional facility, or a juvenile detention or commitment facility at the time of the crime upon which the compensation is based;
- Has been adjudicated as a habitual felony offender (HFO), habitual violent offender, or violent career criminal; or
- Has been adjudicated guilty of a forcible felony offense.²⁰

Claims filed by or on behalf of a person who was in custody or confined, who are adjudicated as a HFO or found guilty of a forcible felony may be eligible upon a finding by the Crime Victim's Service Office of mitigating or special circumstances that would render a disqualification unjust.²¹

Any award granted, must be granted on an "actual need" basis. An award is provided only after all benefits provided by primary insurance carriers, including, but not limited to, health and accident insurers, workers' compensation, and automobile accident coverage.²² Payments under ch. 960, F.S., are considered payments "of last resort," that follow all other payments.²³

III. Effect of Proposed Changes:

The bill creates the "Arthur G. Dozier School for Boys and Okeechobee School Abuse Victim Certification Act." The bill provides numerous whereas clauses explaining the schools' history of abuse, the investigations that followed, and the Legislature's formal apology in 2017.

The bill defines a "victim of Florida reform school abuse" as a living person who was confined at the Arthur G. Dozier School for Boys or the Okeechobee School at any time between 1940 and 1975 and who was subjected to mental, physical, or sexual abuse perpetrated by personnel of the school during the period of confinement.

¹⁹ Section 960.065(1), F.S.

²⁰ Section 960.065(2), F.S.

²¹ Section 960.065(3), F.S.

²² Section 960.13(2), F.S.

²³ Section 960.13(3), F.S.

Notwithstanding the prohibitions in s. 960.065(2)(c) and (3), F.S., the bill allows a victim of Florida reform school abuse or an intervenor²⁴ to file a claim for compensation under ch. 960, F.S.

The bill requires a person seeking to be certified as a victim of Florida reform school abuse to submit an application to the DOS by September 1, 2022. The application must include:

- An affidavit stating:
 - That the applicant was confined at the Dozier School or the Okeechobee School;
 - The beginning and ending days of the confinement; and
 - That the applicant was subjected to mental, physical, or sexual abuse perpetrated by school personnel during the confinement.
- Documentation from the State Archives of Florida, the Dozier School, or the Okeechobee School, demonstrating that the applicant was confined at the school for any length of time between 1940 and 1975; and
- Proof of identification, including a current form of photo ID.

The bill requires the DOS to examine an application within 30 days of receipt and notify the applicant of any errors or omissions or request any additional information relevant to the review of the application. If the DOS notifies the applicant of any errors or omissions, or requests additional information, the applicant has 15 days after such notification to complete or modify the application.

The bill prohibits the DOS from denying an application due to the applicant's failure to correct an error or submit additional information requested by the DOS if the DOS failed to timely notify the applicant of the error.

If the DOS determines that an application meets the requirements of the act, the DOS must certify the applicant as a victim of Florida reform school abuse. The DOS must review and process all completed applications within 90 days after receipt of the application and notify the applicant of its determination within five business days after completing its processing and review.

By December 31, 2022, the DOS must have reviewed and processed all applications submitted by September 1, 2022, and submit a list of all certified victims to the President of the Senate and the Speaker of the House of Representatives.

The bill, notwithstanding s. 960.07, F.S., which provides timelines for filing a claim, provides that a victim of Florida reform school abuse or an intervenor may file a claim under ch. 960, F.S., within 1 year after the effective date of the bill.

The bill defines "crime," for purposes of filing a claim under ch. 960, F.S., as a felony or misdemeanor offense committed by an adult or a juvenile which results in a mental or physical injury or death. A mental injury must be verified by a psychologist, a physician who has

²⁴ The bill defines "intervenor" to mean any person who goes to the aid of another and suffers bodily injury or death as a direct result of acting, not recklessly, to prevent the commission of a crime, to lawfully apprehend a person reasonably suspected of having committed a crime, or to aid the victim of a crime.

completed a residency in psychiatry, or by a physician who has obtained certification as an expert witness.

The act is effective upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This bill provides that the DOS is responsible for processing applications for persons seeking to be certified as a victim of Florida reform school abuse. While it is unknown how many persons will seek this certification, the bill indicates that there are over 500 people who have come forward as victims. This bill may have a negative indeterminate fiscal impact on the DOS due to the processing of applications.

Additionally, this bill may have a negative indeterminate fiscal impact on the OAG for additional claims filed under ch. 960, F.S. The benefits for claims are payable from the Crimes Compensation Trust Fund. During FY 2019-20, the OAG paid on average \$3,691.56 per payout, for a total of \$7,519,710. While it is unknown how many persons

will file a claim, the bill indicates that there are over 500 people who have come forward as victims.²⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates undesignated sections 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.)

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.

²⁵ Email from Daniel Olson, Government Affairs Director (January 21, 2021) (on file with the Senate Criminal Justice Committee); the email on file references SB 288 (2021) which is substantially similar to this bill.

By Senator Rouson

19-00575-22

2022482__

1 A bill to be entitled
 2 An act relating to victims of reform school abuse;
 3 providing a short title; defining the term "victim of
 4 Florida reform school abuse"; requiring a person
 5 seeking certification under this act to apply to the
 6 Department of State by a specified date; prohibiting
 7 the estate of a decedent or the personal
 8 representative of a decedent from submitting an
 9 application on behalf of the decedent; requiring that
 10 the application include certain information and
 11 documentation; requiring the department to examine the
 12 application, notify the applicant of any errors or
 13 omissions, and request any additional information
 14 within a certain timeframe; providing that the
 15 applicant has 15 calendar days after such notification
 16 to complete the application; requiring the department
 17 to review and process a completed application within a
 18 certain timeframe; prohibiting the department from
 19 denying an application for specified reasons and under
 20 certain circumstances; requiring the department to
 21 notify the applicant of its determination within a
 22 certain timeframe; requiring the department to certify
 23 an applicant as a victim of Florida reform school
 24 abuse if the department determines his application
 25 meets the requirements of this act; requiring the
 26 department to submit a list of all certified victims
 27 to the Legislature by a specified date; providing
 28 exceptions from specified requirements for crime
 29 victim compensation eligibility for applications by

Page 1 of 7

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

19-00575-22

2022482__

30 victims of Florida reform school abuse; providing an
 31 effective date.

32
 33 WHEREAS, the Florida State Reform School, also known as the
 34 "Florida Industrial School for Boys," the "Florida School for
 35 Boys," the "Arthur G. Dozier School for Boys," and the "Dozier
 36 School," was opened by the state in 1900, in Marianna, to house
 37 children who had committed minor criminal offenses, such as
 38 incorrigibility, truancy, and smoking, as well as more serious
 39 offenses, such as theft and murder, and

40 WHEREAS, throughout the Dozier School's history, reports of
 41 abuse, suspicious deaths, and threats of closure plagued the
 42 school, and

43 WHEREAS, many former students of the Dozier School have
 44 sworn under oath that they were beaten at a facility located on
 45 school grounds known as the "White House," and

46 WHEREAS, a psychologist employed at the Dozier School
 47 testified under oath at a 1958 United States Senate Judiciary
 48 Committee hearing that boys at the school were beaten by an
 49 administrator, that the blows were severe and dealt with great
 50 force with a full arm swing over the head and down, that a
 51 leather strap approximately 10 inches long was used, and that
 52 the beatings were "brutality," and

53 WHEREAS, a former Dozier School employee stated in
 54 interviews with law enforcement that, in 1962, several employees
 55 of the school were removed from the facility based upon
 56 allegations that they made sexual advances toward boys at the
 57 facility, and

58 WHEREAS, a forensic investigation funded by the Legislature

Page 2 of 7

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

19-00575-22

2022482__

59 and conducted from 2013 to 2016 by the University of South
60 Florida found incomplete records regarding deaths and 45 burials
61 that occurred at the Dozier School between 1900 and 1960 and
62 found that families were often notified of the death after the
63 child was buried or were denied access to their child's remains
64 at the time of burial, and

65 WHEREAS, the excavations conducted as part of the forensic
66 investigation revealed more burials than reported in official
67 records, and

68 WHEREAS, in 1955, the state opened a new reform school in
69 Okeechobee called the Florida School for Boys at Okeechobee,
70 referred to in this act as the "Okeechobee School," to address
71 overcrowding at the Dozier School, and staff members of the
72 Dozier School were transferred to the Okeechobee School, where
73 similar disciplinary practices were implemented, and

74 WHEREAS, many former students of the Okeechobee School have
75 sworn under oath that they were beaten at a facility on school
76 grounds known as the "Adjustment Unit," and

77 WHEREAS, more than 500 former students of the Dozier School
78 and the Okeechobee School have come forward with reports of
79 physical, mental, and sexual abuse by school staff during the
80 1940s, 1950s, 1960s, and 1970s and the resulting trauma that has
81 endured throughout their lives, and

82 WHEREAS, this is a unique and shameful chapter in the
83 history of the state, during which children placed into custody
84 of state employees were subjected to physical, mental, and
85 sexual abuse rather than the guidance and compassion that
86 children in state custody should receive, and

87 WHEREAS, during the 2017 legislative session, the

Page 3 of 7

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19-00575-22

2022482__

88 Legislature unanimously issued a formal apology to the victims
89 of abuse with the passage of CS/SR 1440 and CS/HR 1335,
90 expressing regret for the treatment of boys who were sent to the
91 Dozier School and the Okeechobee School; acknowledging that the
92 treatment was cruel, unjust, and a violation of human decency;
93 and expressing its commitment to ensure that children who have
94 been placed in the state's care will be protected from abuse and
95 violations of human decency, NOW, THEREFORE,

96
97 Be It Enacted by the Legislature of the State of Florida:

98
99 Section 1. (1) This act may be known and cited as the
100 "Arthur G. Dozier School for Boys and Okeechobee School Abuse
101 Victim Certification Act."

102 (2) As used in this act, the term "victim of Florida reform
103 school abuse" means a living person who was confined at the
104 Arthur G. Dozier School for Boys or the Okeechobee School at any
105 time between 1940 and 1975 and who was subjected to mental,
106 physical, or sexual abuse perpetrated by school personnel during
107 the period of confinement.

108 (3) (a) A person seeking to be certified as a victim of
109 Florida reform school abuse must submit an application to the
110 Department of State no later than September 1, 2022. The estate
111 of a decedent or the personal representative of a decedent may
112 not submit an application on behalf of the decedent.

113 (b) The application must include:

114 1. An affidavit stating that the applicant was confined at
115 the Arthur G. Dozier School for Boys or the Okeechobee School,
116 the beginning and ending dates of the confinement, and that the

Page 4 of 7

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

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117 applicant was subjected to mental, physical, or sexual abuse
 118 perpetrated by school personnel during the period of
 119 confinement;

120 2. Documentation from the Florida State Archives, the
 121 Arthur G. Dozier School for Boys, or the Okeechobee School which
 122 shows that the applicant was confined at the school or schools
 123 for any length of time between 1940 and 1975; and

124 3. Positive proof of identification, including a current
 125 form of photographic identification.

126 (c) Within 30 calendar days after receipt of an
 127 application, the Department of State shall examine the
 128 application and notify the applicant of any errors or omissions
 129 or request any additional information relevant to the review of
 130 the application. The applicant has 15 calendar days after
 131 receiving such notification to complete the application by
 132 correcting any errors or omissions or submitting any additional
 133 information requested by the department. The department shall
 134 review and process each completed application within 90 calendar
 135 days after receipt of the application.

136 (d) The Department of State may not deny an application due
 137 to the applicant's failure to correct an error or omission or
 138 failure to submit any additional information requested by the
 139 department if the department failed to timely notify the
 140 applicant of such error or omission or timely request additional
 141 information as provided in paragraph (c).

142 (e) The Department of State shall notify the applicant of
 143 its determination within 5 business days after reviewing and
 144 processing the application. If the department determines that an
 145 application meets the requirements of this section, the

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146 department must certify the applicant as a victim of Florida
 147 reform school abuse.

148 (f) No later than December 31, 2022, the Department of
 149 State must review and process all applications that were
 150 submitted by September 1, 2022, and must submit a list of all
 151 certified victims of Florida reform school abuse to the
 152 President of the Senate and the Speaker of the House of
 153 Representatives.

154 Section 2. (1) Notwithstanding s. 960.03(3), Florida
 155 Statutes, for purposes of a claim under chapter 960, Florida
 156 Statutes, by a victim of Florida reform school abuse, as defined
 157 in section 1 of this act, or an intervenor, as defined in s.
 158 960.03(9), Florida Statutes, the term "crime" means a felony or
 159 misdeemeanor offense committed by an adult or a juvenile which
 160 results in a mental or physical injury or death. A mental injury
 161 must be verified by a psychologist licensed under chapter 490,
 162 Florida Statutes, by a physician licensed under chapter 458 or
 163 chapter 459, Florida Statutes, who has completed an accredited
 164 residency in psychiatry, or by a physician licensed under
 165 chapter 458 or chapter 459, Florida Statutes, who has obtained
 166 certification as an expert witness pursuant to s. 458.3175,
 167 Florida Statutes, or s. 459.0066, Florida Statutes.

168 (2) Notwithstanding s. 960.065(2)(c) and (3), Florida
 169 Statutes, a victim of Florida reform school abuse or an
 170 intervenor may file a claim under chapter 960, Florida Statutes.

171 (3) Notwithstanding s. 960.07, Florida Statutes, a victim
 172 of Florida reform school abuse or an intervenor may file a claim
 173 under chapter 960, Florida Statutes, within 1 year after the
 174 effective date of this act.

19-00575-22

2022482__

175

Section 3. This act shall take effect upon becoming a law.

From: Daniel Olson <Daniel.Olson@myfloridalegal.com>
Sent: Thursday, January 21, 2021 4:23 PM
To: Stokes, Amanda <Stokes.Amanda@flsenate.gov>
Subject: RE: SB 288 Agency Analysis

Amanda,

Let me know if you have any follow up questions. Thank you for your patience's.

CONCERNS -

The bill is not withstanding disqualifiers including s. 960.065(2) and (3). That means that if a student was later convicted of homicide and is serving a life-sentence, we'd still have to consider paying for their mental health counseling even though they're in a correctional facility.

TECHNICAL DEFICIENCIES -

Compensation from this office is a "payor of last resort" per s. 960.13(3), Fla. Stat. We normally do not pay compensation when recovery is available from other sources like health insurance.

FISCAL WRITE-UP

Over the past few years, benefits payable from the Crimes Compensation Trust Fund (CCTF) have increased numerous times by both legislative action and improved outreach, but without any corresponding increase in funding. Trending lower crime rates, decriminalization, diversion programs and criminal justice reform have resulted in fewer collections from fines, fees, and restitution. Despite a general revenue reserve funded last year, a focused campaign to enforce collections, freezing position vacancies, downsizing staff and cutting benefits, the ability to process payments to victims remains diminished. Providing benefits to an additional victim population such as those identified on this bill, will compound the situation.

AVERAGE AMOUNT -

During SFY 2019-20, a total of 5,907 Victim Compensation (includes benefits for funeral burial and grief counseling) claims were determined eligible in VANext. Of those, 2,037 claimants sent a total of 4,303 bills that BVC approved for payment. Keeping in mind that 65% of the eligible claims had no payments because insurance waiver provisions were issued, or because qualified bills we never received, we paid on average \$3,691.56 per claim, for a total sum of \$7,519,710.

Maximum cost of potential services-

According to the bill, more than 500 former students reported allegations of mental, physical, and sexual abuse perpetuated by school personnel between 1940-1975. Assuming the Department of State certifies all 500, if the bill passes, we need \$1,845,780.

From: Stokes, Amanda <Stokes.Amanda@flsenate.gov>
Sent: Friday, January 15, 2021 8:47 AM
To: Daniel Olson <Daniel.Olson@myfloridalegal.com>
Subject: SB 288 Agency Analysis

Good morning,

A request for an agency analysis was just sent for SB 288, and I wanted to give you a heads up, and ask when you think we can get an analysis from you? If we can get something by next week it would be really helpful. Even if it's not a full analysis, if you could take a look at the bill and email me any thoughts/concerns you may have, that would be great.

Thank you,

Amanda D. Stokes

Senior Attorney

Criminal Justice Committee

510 Knott Building

404 South Monroe Street

Tallahassee, FL 32399-1100

850 487 5192

850 410 0077 (FAX)

11-30-21

Meeting Date

The Florida Senate APPEARANCE RECORD

Deliver both copies of this form to
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482

Bill Number or Topic

Committee

Name

~~Charles Fudge~~

Charles Fudge

Phone

Amendment Barcode (if applicable)

Address

Street

16 LEMINGTON CT.

Email

HOMOSASSA FL 34446

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

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

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

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11/30/21
Meeting Date

482
Bill Number or Topic

Committee

Name Cecil Gardner

Amendment Barcode (if applicable)
Phone 850-997-4992

Address 2286 Lloyd Creek Road
Street

Email _____

Monticello, FL. 32344
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

- I am appearing without compensation or sponsorship.
- I am a registered lobbyist, representing:
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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

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WHB of Dozin
Committee

#482
Bill Number or Topic

Amendment Barcode (if applicable)

Name GENE LUKER

Phone 813.205.7663

Address 5606 GATEWAY DR
Street

Email g.luker@verizon.net

Tampa FL 33615
City State Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

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

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

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30 Nov 2021
Meeting Date

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APPEARANCE RECORD

DOZIER SCHOOL
482
Bill Number or Topic

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Committee

Amendment Barcode (if applicable)

Name CAPTAIN BRYANT E. MIDDLETON Phone 352 240 6539

Address 5017 NW 69 CT Email RANGERS988@
Street

GAINESVILLE FLA 32653
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

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

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

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11/30/2021

Meeting Date

CJ

Committee

482

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Carrie Boyd

Phone

850-510-2428

Address

106 E. College Ave.

Email

Street

Tallahassee, FL 32301

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

SPLC Action Fund

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

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

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11/30/2021
Meeting Date

CJ
Committee

482
Bill Number or Topic

Name Karen Woodall

Amendment Barcode (if applicable)
Phone 850-321-9386

Address 579 E. Call St.
Street

Email fctep@yahoo.com

Tallahassee FL 32301
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
FI Center for Fiscal & Economic Policy

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

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

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11/30/21 Meeting Date

Criminal Justice Committee

482

Bill Number or Topic

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Phone 407.376.4801

Address 134 E Colonial Dr Street

Email ida.eskamani@gmail.com

Orlando FL 32801 City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: Florida Rising

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

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

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The Florida Senate

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11/30/21

Meeting Date

SB 482

Bill Number or Topic

Crim Justice

Committee

Amendment Barcode (if applicable)

Name Neisha-Rose Hines

Phone 786-363-1104

Address 4843 W. Flagler

Email _____

Miami FL

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

ACLU FL

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

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

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The Florida Senate

APPEARANCE RECORD

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NOV. 30, 2021

Meeting Date

White House Boys

Committee

482

Bill Number or Topic

Amendment Barcode (if applicable)

Name John M Bell

Phone 352-460-5226

Address P.O. Box 492221

Street

Email John Bell 6542@yahoo.com

Leesburg Florida

City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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The Florida Senate

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11.30.21
Meeting Date

CJ
Committee

482
Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III

Phone 510.9922

Address 2215 Thomasville
Street

Email barney@barneybishop.com

City _____ State _____ Zip _____

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:
Smart Justice

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

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

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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 630

INTRODUCER: Senator Jones

SUBJECT: Pregnant Women in Custody

DATE: November 29, 2021

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Siples	Jones	CJ	Favorable
2.			JU	
3.			AP	

I. Summary:

SB 630 requires that every female, who is arrested, be notified that she has a right to request a pregnancy test if she is still in custody 72 hours after her arrest. Such notification must occur at the time of booking. If the female has not been released on bond within 72 hours after her arrest, the facility where she is being held must administer a pregnancy test, if requested. The pregnancy test must be performed within 24 hours of the request and may be conducted through urine or blood tests, by ultrasound scan, or by any other standard pregnancy testing protocols adopted by the facility. The bill provides that “female” includes a juvenile or adult woman.

The bill requires a judge to offer a pregnant woman who is convicted of any crime the opportunity to defer her sentence until 12 weeks after delivery of the baby so that the woman may receive necessary health care for herself and her child. The pregnancy must have been verified by a pregnancy test or through a medical examination performed by a health care practitioner. The judge may order the pregnant woman to comply with any terms and conditions that may be ordered for probation. If a pregnant woman fails to comply with the terms and conditions ordered by the judge or is convicted of a new crime, the judge may order sanctions, including incarcerating the pregnant woman to serve the sentence for which she was granted the deferral.

If the pregnancy ends prior to the delivery of a baby, the bill requires the deferral to end 12 weeks from the date the pregnancy ends. If a woman declines the referral, she must be incarcerated as directed by the judge.

The bill requires that within 10 days after the end of the deferral period and the woman is incarcerated to serve the imposed sentence, she must be offered an appropriate assessment by a licensed health care practitioner or telehealth provider. If requested, the licensed health care practitioner or telehealth provider must provide a postpartum pregnancy assessment, which includes assessing the need for any medical tests, procedures, lactation support, mental health

support, or treatments associated with her postpartum condition. Such assessments and treatments must be developed and offered in consultation with community support organizations, licensed health care professionals, social services programs, and local and state government agencies, including nonprofit organizations.

The bill requires county and municipal detention facilities and the Department of Corrections (DOC) to report the number of sentence deferrals granted, the number of prisoners who requested postpartum assistance, and information on the outcomes of the pregnancies, as well as refusals to provide information on pregnancy outcomes. The DOC must compile this information and publish it on its website, quarterly. The information may not include personally identifiable information and must comply with all state and federal confidentiality laws.

The bill may have an indeterminate fiscal impact on the DOC and municipal and county detention facilities. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2022.

II. Present Situation:

Arrest and Trial

After a person is arrested or charged with a crime, he or she will often be taken into custody and held in a municipal or county jail until first appearance. Within 24 hours of being arrested, the defendant will have his or her first appearance before the court.¹ The presiding judge will advise the defendant whether he or she will receive pretrial release. If granted, the judge will set the requirements for pretrial release, including the amount of bail or bond the defendant must pay to be released. If a person has no right to pretrial release or bond, he or she is immediately delivered into the custody of the sheriff of the county identified in the indictment, information, or where the affidavit is filed.²

Once the state has filed formal charges, a defendant may enter a not guilty plea and the case will move forward to trial. Alternatively, a defendant may enter a plea of guilty and be sentenced by the judge; or pursuant to a plea agreement, the defendant may plead guilty or nolo contendere and be sentenced accordingly, if approved by the court. Once a trial is held and evidence is presented, the jury or the judge will find the defendant guilty or not guilty. If, at the conclusion of all the evidence, the defendant is found guilty beyond a reasonable doubt, the judge will decide the sentence or other punishment, as required under Florida law.³

The U.S. Constitution provides that “in all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial.”⁴ If a defendant asserts his or her right to a speedy trial under

¹ Rule 3.130, Fla. R. of Crim. Proc.

² Section 907.04, F.S.

³ The Criminal Punishment Code is the state’s primary sentencing policy and provides a method by which a judge can calculate the minimum and maximum sentencing range for felonies. *See* ch. 921, F.S. Sections 775.082 and 775.083, F.S., also provides guidelines for sentencing and the assessment of fines, respectively.

⁴ U.S. Const. Amend. V. *See also* Rule 3.191, Fla. R. Crim. Pro.

the Florida Rules of Criminal Procedure and, barring any procedural issues or delays by the defendant, the trial must commence within 60 days.

Pregnancy while Incarcerated

Women are the fastest growing segment of the incarcerated population.⁵ Reports predict that an estimated four to ten percent of women are pregnant upon being committed to prison or jail.⁶ In a survey of 53 jails across the United States, 38 percent reported performing pregnancy tests on all women entering their facilities, and 45 percent relied on inmates to self-report pregnancies and then performing confirmation testing as needed.⁷

Documentation of pregnancies and pregnancy care while incarcerated is sparse. The most recent data from the Bureau of Justice Statistics (BJS) was collected more than 15 years ago. In 2002, the BJS found that five percent of women in local jails were pregnant when admitted. In 2004, the BJS reported that four percent of women in state prisons and three percent of women in federal prisons were pregnant upon admission. The government has not released any further national data since.⁸

The American College of Obstetricians and Gynecologists report that pregnancies among incarcerated women are often higher risk due to a number of factors, including that such pregnancies are often unplanned and are compromised by a lack of prenatal care, poor nutrition, domestic violence, mental illness, and drug and alcohol abuse.⁹ Pregnant women also lack control over their environments while incarcerated, which may negatively affect sleep, dietary requirements, and medication administration.¹⁰ Compared with the general public, incarcerated women are at higher risk for having premature delivery and low birth-weight infants.¹¹

For some women, incarceration may improve pregnancy outcomes. Women in prison experience forced sobriety, regular nutrition, regular prenatal care, a lack of partner violence, and no

⁵ Sawyer, Wendy, Prison Policy Initiative, *The Gender Divide: Tracking Women's State Prison Growth*, p. 17, (Jan. 9, 2018), available at https://www.prisonpolicy.org/reports/women_overtime.html (last visited Nov. 4, 2021).

⁶ Ferszt, G., Palmer, M., and McGrane, C., Nursing for Women's Health, *Where Does Your State Stand on Shackling of Pregnant Incarcerated Women?*, (Feb. 2018), available at [https://nwhjournal.org/article/S1751-4851\(17\)30335-5/pdf](https://nwhjournal.org/article/S1751-4851(17)30335-5/pdf) (last visited Nov. 4, 2021); Daniel, R., Prison Policy Initiative, *Prisons Neglect Pregnant Women in Their Healthcare Policies*, (Dec. 5, 2019), available at <https://www.prisonpolicy.org/blog/2019/12/05/pregnancy/> (last visited Nov. 4, 2021).

⁷ Friedman, S., Kaempf, Aimee, and Kaufman, Sarah, *The Realities of Pregnancy and Mothering while Incarcerated*, J. OF THE AM. ACAD. OF PSYCHIATRY AND THE LAW, 48(3), (Nov. 3, 2020), available at <http://jaapl.org/content/early/2020/05/13/JAAPL.003924-20> (last visited Nov. 4, 2021).

⁸ Daniel, R., Prison Policy Initiative, *Prisons Neglect Pregnant Women in Their Healthcare Policies*, (Dec. 5, 2019), available at <https://www.prisonpolicy.org/blog/2019/12/05/pregnancy/> (last visited Nov. 4, 2021). See also Sufrin, C., Beal, L., Clarke, J., Jones, R., and Mosher, W., *Pregnancy Outcomes in US Prison, 2016-2017*, AM. J. OF PUB. HEALTH, (Jan. 15, 2019), available at <https://ajph.aphapublications.org/doi/full/10.2105/AJPH.2019.305006> (last visited Nov. 4, 2021).

⁹ The American College of Obstetricians and Gynecologists, Committee Opinion, *Health Care for Pregnant and Postpartum Incarcerated Women and Adolescent Females*, (Nov. 2011), available at <https://www.acog.org/Clinical-Guidance-and-Publications/Committee-Opinions/Committee-on-Health-Care-for-Underserved-Women/Health-Care-for-Pregnant-and-Postpartum-Incarcerated-Women-and-Adolescent-Females?IsMobileSet=false> (last visited Nov. 4, 2021).

¹⁰ *Supra* note 7, at p. 2.

¹¹ *Id.* at p. 3.

homelessness.¹² However, these outcomes vary by the woman's personal situation and the facility-specific circumstances.

Pregnant Women in Florida Correctional Facilities

The DOC has five female correctional institutions statewide.¹³ The DOC assigns prisoners to institutions based on current classification procedures while facilitating the individual risk and needs of prisoners to the extent possible considering security and health care needs.¹⁴ The DOC also considers other factors, such as the programmatic and education needs of the prisoner. All newly committed females receive a complete physical examination, which includes a complete gynecological and obstetrical history, pelvic examination, and serum pregnancy test.¹⁵ All inmates who are visibly pregnant or confirmed to be pregnant are housed at the Lowell Correctional Institution which houses all pregnant prisoners for the duration of the pregnancy, unless a medical condition prohibits transfer to or housing at the facility.

The DOC has guidelines for the health care of pregnant prisoners. A senior health care professional examines the pregnant prisoner as soon as possible to confirm the pregnancy, determine the stage of pregnancy, and determine the anticipated due date. Pregnant prisoners are transferred to a contract hospital for the actual delivery and then returned to the institution when discharged by the attending obstetrician. The DOC reports that postpartum care is provided at the institution according to the discharge orders of the attending obstetrician, but that the six-week checkup is provided by the obstetrician.¹⁶

The DOC reports the pregnant prisoner population over the last three fiscal years is as follows:

- 37 prisoners in Fiscal Year 2019-2020;
- 69 in Fiscal Year 2019-2020; and
- 101 in Fiscal Year 2018-2019.¹⁷

¹² *Id.*

¹³ These facilities are Gadsden Correctional Facility in Quincy, Lowell Correctional Institution in Ocala, Florida Women's Reception Center in Ocala, Hernando Correctional Institution in Brooksville, and Homestead Correctional Institution in Florida City. Office of Program Policy Analysis and Government Accountability, *Florida Correctional Facilities, Report No. 19-08*, (Oct. 2019), p. 2, available at <https://oppaga.fl.gov/Documents/Reports/19-08.pdf> (last visited Nov. 4, 2021).

¹⁴ *Id.* at pp. 7-8.

¹⁵ Department of Corrections, *2022 Agency Legislative Bill Analysis for SB 630*, p. 2, (Nov. 16, 2021) (on file with the Senate Committee on Criminal Justice).

¹⁶ *Id.*

¹⁷ *Id.* This number reflects the number of prisoners who were pregnant at some point during the fiscal year; however, some prisoners may be counted in more than one fiscal year.

Protections for Pregnant Prisoners under State Law

Section 944.241, F.S., prohibits restraints¹⁸ from being used on a prisoner¹⁹ who is known to be pregnant during labor,²⁰ delivery, and postpartum recovery,²¹ unless the corrections official²² makes an individualized determination that the prisoner presents an extraordinary circumstance.²³ This section applies to any facility under the authority of the DOC, the Department of Juvenile Justice, a county or municipal detention facility, or a detention facility operated by a private entity.²⁴

State law also limits the involuntary placement of a pregnant prisoner in restrictive housing.²⁵ A pregnant prisoner may be involuntarily placed in restrictive housing if the corrections official of the correctional institution makes an individualized determination that such housing is necessary to protect the health and safety of the pregnant prisoner or others.²⁶ Pregnant prisoners placed in restrictive housing must be seen by a qualified healthcare professional every 24 hours and a corrections officer every hour. Pregnant prisoners must be given a medical treatment plan that has been developed and approved by a qualified healthcare professional at the correctional institution.²⁷

If a pregnant woman needs medical care or has passed her due date, she must be placed in a designated medical housing unit or admitted to the infirmary. She must have access to outdoor recreation, visitation, mail, telephone calls, and other privileges and classes available to the general population unless:

- A corrections official, in consultation with a qualified health care professional, determines such access poses a threat to the safety and security of the correctional institution; or

¹⁸ Section 944.241(2)(h), F.S., defines “restraints” to mean any physical restraint or mechanical device used to control the movement of a prisoner’s body or limbs, including, but not limited to, flex cuffs, soft restraints, hard metal handcuffs, a black box, chubb cuffs, leg irons, belly chains, a security or tether chain, or a convex shield.

¹⁹ Section 944.241(2)(g), F.S., defines “prisoner” to mean any person incarcerated or detained in any correctional institution who is accused of, convicted of, sentenced for, or adjudicated delinquent for a violation of criminal law or the terms and conditions of parole, probation, community control, pretrial release, or a diversionary program. Additionally, the term includes any woman detained under the immigration laws of the United States at any correctional institution.

²⁰ Section 944.241(2)(e), F.S., defines “labor” to mean the period of time before a birth during which contractions are of sufficient frequency, intensity, and duration to bring about effacement and progressive dilation of the cervix.

²¹ Section 944.241(2)(f), F.S., defines “postpartum recovery” to mean, as determined by her physician, the period immediately following delivery, including the recovery period when a woman is in the hospital or infirmary following birth, up to 24 hours after delivery unless the physician after consultation with the DOC or correctional institution recommends a longer period of time.

²² Section 944.241(2)(b), F.S., defines “corrections official” to mean the official who is responsible for oversight of a correctional institution, or his or her designee.

²³ Section 944.241(2)(d), F.S., defines “extraordinary circumstance” to mean a substantial flight risk or some other extraordinary medical or security circumstance that dictates restraints be used to ensure the safety and security of the prisoner, the staff of the correctional institution or medical facility, other prisoners, or the public.

²⁴ See s. 944.241(2)(a), F.S.

²⁵ Section 944.241(2)(k), F.S., defines “restrictive housing” to mean housing a prisoner separately from the general population of a correctional institution and imposing restrictions on her movement, behavior, and privileges. The term includes placing a prisoner in medical isolation, in a medical housing unit, or in the infirmary.

²⁶ Section 944.241(4)(b), F.S.

²⁷ Section 944.241(4)(c), F.S.

- A qualified health care professional determines that such access poses a danger of adverse clinical consequences for the pregnant prisoner or others.²⁸

Pregnant Women in Municipal and County Detention Facilities

Municipal and county detention facilities must provide pregnant prisoners with prenatal care and medical treatment for the duration of her pregnancy. The county must ensure that pregnant prisoners receive supplemental food and clothing and are excused from inappropriate work assignments.²⁹

A pregnant prisoner must be transferred to a hospital outside the facility if conditions develop that are beyond the scope and capabilities of the county detention facility.³⁰ The charges for the hospital and medical care must be charged against the detention facility's allocated funds.³¹ The county must also provide care for the newborn and pay for the child's care until the child is suitably placed outside the prison system.³²

Privacy of Medical Records

Health Insurance Portability and Accountability Act

The federal Health Insurance Portability and Accountability Act (HIPAA), enacted in 1996, protects personal health information (PHI).³³ In 2000, the U.S. Department of Health and Human Services promulgated privacy rules which established national standards to protect medical records and other PHI.³⁴ These rules address, among other things, the use and disclosure of an individual's PHI.

Only certain entities are subject to the HIPAA's provisions. These "covered entities" include:

- Health plans;
- Health care providers;
- Health care clearinghouses; and
- Business associates of any of the above.³⁵

The HIPAA requires the disclosure of an individual's PHI to the individual who is the subject of the PHI information or his or her personal representative,³⁶ upon his or her request.³⁷ An

²⁸ Section 944.241(4)(d), F.S.

²⁹ Section 951.175(4), F.S.

³⁰ *Id.*

³¹ Section 951.175(5), F.S.

³² *Id.*

³³ Pub. L. No. 104-191 (1996). Protected health information includes all individually identifiable health information held or transmitted by a covered entity or its business associate.

³⁴ U.S. Department of Health and Human Services, *Health Information Privacy*, (last rev. Dec. 10, 2020), available at <https://www.hhs.gov/hipaa/for-professionals/privacy/index.html> (last visited Nov. 4, 2021). The rules were modified in 2002.

³⁵ U.S. Department of Health and Human Services, Office for Civil Rights, *Summary of the HIPAA Privacy Rule*, (last rev. May 2003), available at <https://www.hhs.gov/sites/default/files/privacysummary.pdf> (last visited Nov. 4, 2021).

³⁶ *Supra*, note 34. A personal representative is generally a person with authority under state law to make health care decisions on behalf of an individual.

³⁷ *Supra*, note 35. The HIPAA limits access to psychotherapy notes, certain lab results, and information compiled for legal proceedings. A covered entity may also deny access to personal health information in certain situations, such as when a health care practitioner believes access could cause harm to the individual or others.

individual also has the right to request the disclosure of PHI to another person or entity. Such request must be in writing, signed by the individual, and clearly identify the designated person and where to send the PHI.³⁸

In general, HIPAA privacy rules preempt any state law that is contrary to its provisions.³⁹ However, if the state law is more stringent, the state law will apply.

Florida Law on Medical Records

Patient records are generally protected from disclosure. Section 456.057, F.S., prohibits health care practitioners from disclosing medical records and a patient's medical condition to anyone other than the patient, the patient's legal representative, or other health care practitioners and providers involved in the patient's care or treatment without written authorization of the patient. A health care practitioner may disclose records, without the patient's written authorization under the following circumstances:

- To any person, firm, or corporation that has procured or furnished such care or treatment with the patient's consent;
- When a compulsory examination is made under Rule 1.360, Florida Rules of Civil Procedure;
- Upon the issuance of a subpoena from a court of competent jurisdiction and proper notice to the patient by the party seeking the records;
- For statistical and scientific research, provided the information is abstracted in a way to protect the identity of the patient, or the patient provided written permission;
- To a regional poison control center for the purpose of treating or managing a poison episode; and
- To the Department of Children and Families or its contracted entity for the purposes of investigations or services for cases of abuse, neglect, or exploitation of children or vulnerable adults.⁴⁰

A health care practitioner may also release medical records without the patient's consent to facilitate emergency treatment, when the health care provider is unable to obtain the patient's consent due to the patient's condition and the need for immediate medical care.⁴¹ Medical records related to workers compensation may also be released to certain parties without a patient's written authorization.⁴²

A third party to whom medical records are disclosed may not further disclose any information in the medical record without the expressed, written consent of the patient or the patient's legal representative.⁴³

³⁸ *Supra*, note 34.

³⁹ 45 C.F.R. s. 160.203.

⁴⁰ Section 456.057(7), F.S.

⁴¹ Section 408.051(3), F.S.

⁴² Section 440.13(4)(c), F.S.

⁴³ Section 456.057(11), F.S.

Hospitals and ambulatory surgical centers may not disclose patient medical records without the consent of the patient or the patient's legal representative.⁴⁴ However, certain disclosures are permissible without the patient's consent.⁴⁵

III. Effect of Proposed Changes:

Short Title

The bill provides that the act may be cited as "Ava's Law."

Pregnancy Testing for Arrestees

The bill requires that every female⁴⁶ who is arrested to be notified, upon booking, that she has a right to request a pregnancy test if she remains in custody 72 hours after her arrest. If the female has not been released on bond within 72 hours after arrest, the municipal or county detention facility⁴⁷ where she is being held must administer a pregnancy test, if requested. The pregnancy test must be performed within 24 hours of the request and may be conducted through urine or blood tests, by ultrasound scan, or by any other standard pregnancy testing protocols adopted by the facility.

Sentence Deferrals for Pregnant Women

The bill requires a judge to provide a pregnant woman⁴⁸ who is convicted of any crime the opportunity to defer her sentence until 12 weeks after delivery of the baby so that she may receive necessary health care for herself and the unborn child during the deferral period. If the pregnancy ends any time prior to the delivery of the baby, such as a miscarriage, the deferral period ends 12 weeks from the date the pregnancy ends.

The judge may order a pregnant woman whose sentence is deferred to comply with any terms and conditions of probation. Under s. 948.03, F.S., a judge would be authorized to order the pregnant woman to:

- Report to the probation officer as directed;
- Permit the probation officer to visit her at her home or elsewhere;
- Work faithfully at suitable employment insofar as may be possible;
- Remain within a specified place;
- Live without violating any law;
- Make reparation or restitution to an aggrieved party for the damage or loss caused by her offense in an amount determined by the court;

⁴⁴ Section 395.3025(4), F.S.

⁴⁵ For the list of exceptions to obtaining the patient's written consent for release of records, *see* s. 395.3017(4), F.S.

⁴⁶ The bill provides that the term "female" includes a juvenile or adult woman.

⁴⁷ Section 951.23, F.S., defines "municipal detention facility" as a city jail stockade, a city prison camp, and any other place except a county detention facility used by a municipality or municipal officer for the detention of persons charged with or convicted of violation of municipal laws or ordinance; and "county detention facility" as a county jail, a county stockade, a county work camp, a county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either a felony or misdemeanor.

⁴⁸ The bill defines "pregnant woman" as a juvenile or adult woman whose pregnancy has been verified by a pregnancy test or through medical examination by a health care practitioner.

- Make payment of the debt due and owing to a county or municipal detention facility for medical care, treatment, hospitalization, or transportation received by a felony probationer while in that detention facility;
- Support her legal dependents to the best of her ability;
- Not associate with persons engaged in criminal activities;
- Submit to random testing as directed by the probation officer to determine the presence or use of alcohol or controlled substances;
- Not possess, carry, or own any weapon without first procuring consent of the probation officer or any firearm;
- Not use intoxicants to excess or possess any drugs, unless prescribed by a health care practitioner; and
- Comply with any other terms and conditions the court considers proper.

If a woman is convicted of a new crime or violates any of the terms and conditions ordered by the court, the judge may impose sanctions, including requiring the pregnant woman to be incarcerated to serve the sentence for which the deferral was granted. If a woman declines the deferral, she must be incarcerated as ordered by the judge.

The bill requires that within 10 days after the deferral period ends and the woman is incarcerated to serve the sentence, she must be offered an appropriate assessment by a licensed health care practitioner or a telehealth provider.⁴⁹ If requested, the licensed health care practitioner or telehealth provider must provide a postpartum assessment, which includes assessing the woman's need for any necessary medical tests, procedures, lactation support, mental health support, or treatments associated with her postpartum condition. The DOC and municipal and county detention facilities must develop and offer the assessments and treatments, in consultation with community support organizations, licensed health care practitioners, social services programs, and local and state government agencies, including nonprofit organizations.

The bill requires each municipal and county detention facility and the DOC to collect the following information:

- The total number of pregnant women who receive a sentence deferral;
- The total number of women who receive and who decline the postpartum assessment and services described above;
- The total number of births, including the number of live births and stillbirths, to women whose sentences are deferred, and the gestational weight of each infant at the time of birth or stillbirth;
- The total number of such women who experience complications during pregnancy and type of complications experienced;
- The total number of such women who experience miscarriages; and
- The total number of women who refuse to provide information about the birth, gestational weight of the infant at birth, pregnancy complications, and miscarriages.

⁴⁹ Section 456.47, F.S., defines a "telehealth provider" as a person who provides health care and related services using telehealth and who is licensed by the Florida Department of Health or under a multistate health care licensure compact of which Florida is a member state, or a person who is registered with the Department of Health to provide such services. "Telehealth" is the use of synchronous or asynchronous telecommunications technology to provide health care services, including, but not limited to, assessment, diagnosis, consultation, treatment, and monitoring of a patient.

Municipal and county detention facilities must report the above-listed information to the DOC and the DOC must compile the data with information from its own institutions and quarterly publish the data on its website. The bill requires patient identifying information to be excluded and compliance with state and federal confidentiality laws.

The bill is effective July 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill may cause some municipal and county governments to expend funds for the pregnancy testing and postpartum assessments and treatments. However, these provisions relate to the defense, prosecution, or punishment of criminal offenses, and criminal laws are exempt from the requirements of Art. VII, s. 18(d) of the Florida Constitution, relating to unfunded mandates.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

This bill may implicate the Equal Protection Clause of the U.S. Constitution and a similar clause in the Florida Constitution.⁵⁰ The Fourteenth Amendment of the U.S. Constitution provides that no state shall deny to any person within its jurisdiction the equal protection of the laws.⁵¹ The Fourteenth Amendment prevents unreasonable discrimination based on the use of classification, thereby preventing laws which draw distinctions between individual classes based solely on differences that do not relate to a legitimate governmental objective. The Florida Equal Protection Clause provides that all natural persons, female and male, are equal before the law.⁵²

A law with gender classifications must serve important governmental objectives and must be substantially related to the achievement of those objectives.⁵³ The bill authorizes a

⁵⁰ U.S. Const. amend. XIV, and Art. I, s. 2. Fla. Const.

⁵¹ *Id.*

⁵² Art. I, s. 2. Fla. Const.

⁵³ *Alachua County Court Executive v. Anthony*, 418 So.2d 264, 265-266 (Fla. 1982) (citing *Craig v. Boren*, 429 U.S. 190, 197 (1976)).

sentence deferral for a pregnant woman to receive “necessary health care for herself and the unborn child.” The DOC has a constitutional and statutory duty to provide adequate health care to all inmates.⁵⁴ Since the DOC is required to provide adequate health care to all inmates, regardless of gender, a court may find that a man in need of necessary health care services to be similarly situated to a pregnant woman in need of necessary health care services. However, a court could also find that the difference in treatment of similarly situated men and pregnant women serves an important governmental objective.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will have an indeterminate fiscal impact on the DOC. However, the DOC may incur costs associated with postpartum assessments, data collection, and reporting requirements. There may also be an indeterminate fiscal impact to the inmate and community supervision population.⁵⁵

The DOC and municipal and county detention facilities may reduce expenditures related to prenatal care, delivery services, and postpartum care for pregnant prisoners. Municipal and county detention facilities may expend funds to provide pregnancy testing to women who are arrested. However, they may also realize cost savings related to care of the newborn infant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 907.033 and 925.13.

⁵⁴ *Estelle v. Gamble*, 429 U.S. 97, 103 (1976), and s. 945.025(2), F.S., which requires that medical, mental, and psychological problems be diagnosed and treated whenever possible.

⁵⁵ *Supra* note 15 at p. 4.

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 Jones

35-00023A-22

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1 A bill to be entitled
 2 An act relating to pregnant women in custody;
 3 providing a short title; creating s. 907.033, F.S.;
 4 requiring that every female who is arrested and not
 5 released on bond within 72 hours after arrest be
 6 administered a pregnancy test within a specified
 7 timeframe, upon her request; requiring that each
 8 municipal or county detention facility notify each
 9 arrested female upon booking at the facility of her
 10 right to request a pregnancy test; providing for the
 11 types of pregnancy tests that may be given; defining
 12 the term "female"; creating s. 925.13, F.S.; defining
 13 the term "pregnant woman"; requiring that, if a
 14 pregnant woman is convicted of a crime and sentenced
 15 to incarceration of any length, the sentencing judge
 16 provide the pregnant woman the opportunity to defer
 17 the imposed sentence until a specified time after
 18 delivery; authorizing a sentencing judge to order a
 19 pregnant woman to comply with certain terms and
 20 conditions during the deferral; requiring that, within
 21 10 days after the deferral period ends and the woman
 22 is incarcerated, she be offered and receive, upon her
 23 request, specified services; authorizing sanctions for
 24 a new criminal conviction or violation of the terms
 25 and conditions ordered by the judge; requiring
 26 municipal and county detention facilities to collect
 27 and report to the Department of Corrections, and the
 28 department to collect from its own institutions,
 29 specified information; requiring the department to

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30 quarterly compile and publish the information on its
 31 public website; providing requirements for publishing
 32 such information; providing an effective date.
 33
 34 Be It Enacted by the Legislature of the State of Florida:
 35
 36 Section 1. This act may be cited as "Ava's Law."
 37 Section 2. Section 907.033, Florida Statutes, is created to
 38 read:
 39 907.033 Pregnancy testing of female arrestees.—Every female
 40 who is arrested and not released on bond within 72 hours after
 41 arrest must, upon her request, be administered a pregnancy test
 42 by the municipal or county detention facility as defined in s.
 43 951.23 where she is being held within 24 hours after the
 44 request. Upon her booking into the facility, the facility must
 45 notify each such arrestee of her right to request a pregnancy
 46 test 72 hours after arrest if she is still in custody. The
 47 pregnancy test may be conducted through urine or blood tests, by
 48 ultrasound scan, or by any other standard pregnancy testing
 49 protocols adopted by the facility. As used in this section, the
 50 term "female" includes a juvenile or adult woman.
 51 Section 3. Section 925.13, Florida Statutes, is created to
 52 read:
 53 925.13 Sentence deferral for pregnant women.—
 54 (1) As used in this section, the term "pregnant woman"
 55 means a juvenile or adult woman whose pregnancy has been
 56 verified by a pregnancy test or through a medical examination
 57 conducted by a health care practitioner.
 58 (2) Notwithstanding any other law, the sentence of a

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59 pregnant woman who is convicted of a crime and sentenced to
 60 incarceration of any length must comply with all of the
 61 following requirements:

62 (a) The sentencing judge must provide a pregnant woman the
 63 opportunity to defer the imposed sentence until 12 weeks after
 64 delivery of the baby so that during the deferral period the
 65 pregnant woman may receive necessary health care for herself and
 66 the unborn child. If the pregnancy ends at any time before the
 67 delivery of the baby, the deferral period will end 12 weeks from
 68 the date the pregnancy ends. If the pregnant woman chooses not
 69 to defer her sentence, she must be incarcerated as directed by
 70 the judge.

71 (b) The sentencing judge may order a pregnant woman whose
 72 sentence is deferred to comply with any of the terms and
 73 conditions specified in s. 948.03 until such time as she is
 74 incarcerated.

75 (c) Within 10 days after the deferral period ends and the
 76 woman is incarcerated to serve the sentence, she must be offered
 77 an appropriate assessment by a licensed health care practitioner
 78 or a telehealth provider as defined in s. 456.47, and, upon the
 79 request of the incarcerated woman, the licensed health care
 80 practitioner or telehealth provider shall provide a postpartum
 81 assessment, including the need for any necessary medical tests,
 82 procedures, lactation support, mental health support, or
 83 treatments associated with her postpartum condition. The
 84 Department of Corrections and municipal and county detention
 85 facilities shall develop and offer such assessments and
 86 treatments in consultation with community support organizations,
 87 licensed health care practitioners, social services programs,

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88 and local and state government agencies, including nonprofit
 89 organizations.

90 (3) If, during the deferral period, the pregnant woman is
 91 convicted of a new crime or violates any of the conditions
 92 imposed by the sentencing judge, the judge may impose any
 93 sanction that may be imposed under s. 948.06, including an order
 94 requiring the incarceration of the pregnant woman to serve the
 95 sentence for which the deferral was granted.

96 (4) (a) The Department of Corrections shall collect from its
 97 own institutions, and each municipal and county detention
 98 facility, as those terms are defined in s. 951.23, shall collect
 99 and report to the department, all of the following information,
 100 which the department shall compile and publish quarterly on its
 101 public website:

102 1. The total number of pregnant women who receive a
 103 sentence deferral under paragraph (2) (a);

104 2. The total number of women who receive or who decline an
 105 assessment under paragraph (2) (c);

106 3. The total number of births, including the number of live
 107 births and stillbirths, to women whose sentences are deferred,
 108 and the gestational age and birth weight of each infant at the
 109 time of birth or stillbirth;

110 4. The total number of women who experience complications
 111 during pregnancy and the type of complications experienced;

112 5. The total number of women who experience miscarriages;
 113 and

114 6. The total number of women who refuse to provide
 115 information regarding the outcome of their pregnancies as
 116 indicated in subparagraphs 3., 4., and 5.

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117 (b) The information published pursuant to paragraph (a)
118 must exclude personally identifying information and must comply
119 with state and federal confidentiality laws.

120 Section 4. This act shall take effect July 1, 2022.



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Corrections

<u>BILL INFORMATION</u>	
BILL NUMBER:	SB 630
BILL TITLE:	Pregnant Women in Custody
BILL SPONSOR:	Senator Jones
EFFECTIVE DATE:	July 1, 2022

<u>COMMITTEES OF REFERENCE</u>
1) Criminal Justice
2) Judiciary
3) Appropriations
4)
5)

<u>CURRENT COMMITTEE</u>

<u>SIMILAR BILLS</u>	
BILL NUMBER:	
SPONSOR:	

<u>PREVIOUS LEGISLATION</u>	
BILL NUMBER:	
SPONSOR:	
YEAR:	
LAST ACTION:	

<u>IDENTICAL BILLS</u>	
BILL NUMBER:	HB 363
SPONSOR:	Representative Hart

<u>Is this bill part of an agency package?</u>
No.

<u>BILL ANALYSIS INFORMATION</u>	
DATE OF ANALYSIS:	November 16, 2021
LEAD AGENCY ANALYST:	Laura Carter
ADDITIONAL ANALYST(S):	David Ensley, Angella New
LEGAL ANALYST:	Ian Carnahan, Ryan Orbe
FISCAL ANALYST:	Tonya Pryor

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Creates s. 907.033, Florida Statutes requiring that every female who is arrested and not released on bond within 72 hours of arrest, must upon request, be administered a pregnancy test within 24 hours after request. Each arrestee must be notified of the right to request a pregnancy test. The term “female” includes both juvenile and adult woman.

Creates s. 925.13, F.S., which defines a pregnant woman as a juvenile or adult woman whose pregnancy has been verified through pregnancy test or medical examination conducted by a health care practitioner. Requires (s. (2)(a)), F.S., the sentencing judge to provide the pregnant woman the opportunity to defer the imposed sentence until 12 weeks after delivery of the baby to allow the pregnant woman to receive necessary health care for herself and the unborn child. The pregnant woman may choose not to defer her sentence, at which time she would be incarcerated as directed by the judge.

Section (2)(b), F.S., provides that the sentencing judge may order a pregnant woman to, during the time sentence is deferred, comply with any of the terms and conditions specified in s. 948.03, F.S., until incarceration.

Provides for (s. (2)(c)), F.S., within 10 days after the deferral period ends and the woman is incarcerated to serve the sentence, she must be offered an appropriate assessment by a licensed health care practitioner or a telehealth provider. Upon request of the incarcerated woman, the licensed health care provider shall provide a postpartum assessment, including the need for any medical tests, procedures, lactation support, mental health support, or treatments associated with her postpartum condition. The Florida Department of Corrections (FDC or Department) shall develop and offer such assessments and treatments in consultation with community support organizations, licensed health care practitioners, social services, programs, and local and state government agencies, including nonprofit organizations.

Requires (s. (4)(a)), F.S., FDC to collect from its institutions and each municipal and county detention facility as defined in s. 951.23, F.S., to compile and publish quarterly on its public website: the total number of pregnant women who receive a sentence deferral under s. (2)(a), F.S.; the total number of women who receive or who decline an assessment under section (2)(c); the total number of births, including live births and stillbirths, to women whose sentences are deferred, and the gestational age and birth weight of each infant at the time of birth or stillbirth; the total number of women who experience complications during pregnancy and the type of complications; total number of miscarriages; and the total number of women who refuse to provide information regarding the outcome of their pregnancies.

Published information must exclude personal identifying information and comply with state and federal confidentiality laws.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

All newly committed female inmates receive an initial physical exam by a Physician Assistant, Advanced Practice Registered Nurse or a Physician within 14 days of arrival. The complete physical exam includes a complete gynecological and obstetrical history, pelvic examination, serum pregnancy test, and prenatal referral for all pregnant inmates to an obstetrician. All inmates either visibly pregnant or confirmed pregnant are housed at Lowell C.I. for the duration of the pregnancy unless a medical condition prohibits transfer or housing at that facility. A senior health care professional examines the inmate as soon as possible to confirm the pregnancy, to determine the stage of pregnancy and determine an anticipated due date. The female is transferred to a contract hospital for the actual delivery and will be returned to the institution when discharged by the attending obstetrician. Postpartum care is provided at the institution according to the discharge orders of the attending obstetrician. A six-week checkup is provided by the obstetrician. The number of different women who were pregnant at some point during the fiscal year include: FY18-19 = 101; FY19-20 = 69 and FY20-21 = 37. Please note that some inmates may be counted in more than one fiscal year.

2. EFFECT OF THE BILL:

Requires the sentencing judge to provide a pregnant woman the opportunity to defer the imposed sentence until 12 weeks after the end of the pregnancy. The bill requires deferral opportunity regardless of charges and does not allow the judge to deny deferral based on the nature of the crime or past criminal history. If the Department identifies a pregnant inmate during the physical exam at reception, the bill is unclear as to whether the Department is required to send the inmate back to the detention center nor does it address if or how the Department would be notified that the woman was offered or refused deferral.

Requires within 10 days after the 12-week deferral ends, the woman is incarcerated to serve the sentence and must be offered appropriate assessment by a licensed health care provider during the postpartum period including a postpartum pregnancy assessment. The Department would not receive the individual until 6 or 7 weeks after the community standard postpartum period, which is defined as 6 weeks after childbirth. All postpartum assessments in s. (2)(c), F.S., should be completed before completion of the 12-week deferral.

Under s. (2)(b), F.S., the bill specifies that the judge may order the woman to comply with any of the terms specified, however, it does not say all. This infers that an “order” of some type will be drawn up to specify which conditions apply and who is to monitor those conditions. The bill does not specify that the woman would be supervised by an FDC Correctional Probation Officer (CPO), however, it does reference s. 948.03, F.S., which outlines conditions for a probationer or offender in community control as well as required conditions. This would increase probation caseload and may have a fiscal impact depending on the number of women who choose to defer their sentence. This bill does not state whether the deferral would have any impact on the time served nor does it address under what form of a sentence is the monitoring.

The bill also requires the Department to collect and publish the total number of deferrals; total number of women who receive or decline an assessment under s. (2)(c), F.S.; total number of births (live births and still births) to women whose sentences are deferred, and the gestational age and birth weight of each infant; total number of women who experience complications during pregnancy and the type of complications; total number of women who experience miscarriages; and total number of women who refuse to provide information regarding the outcome of their pregnancies. This information is required to be published quarterly on the Department’s website and must meet state and federal confidentiality laws. The bill does not limit “complications” nor define what would be required to be reported and would result in the reporting of a myriad of medical conditions (i.e., treatment for heartburn). The information to be published contains personal health information and the number of pregnant women receiving prison sentences is limited enough that there is a risk of being able to clearly identify the patient from the quarterly reports, which would violate HIPAA by reporting pregnancy complications that could be linked back based on dates. It is unclear as to whether the Department would be required to collect and report the same information for any inmates incarcerated at the time the bill takes effect.

3. DOES THE BILL DIRECT OR ALLOW THE AGENCY/BOARD/COMMISSION/DEPARTMENT TO DEVELOP, ADOPT, OR ELIMINATE RULES, REGULATIONS, POLICIES, OR PROCEDURES? Y N

If yes, explain:	
Is the change consistent with the agency’s core mission?	Y <input type="checkbox"/> N <input type="checkbox"/>
Rule(s) impacted (provide references to F.A.C., etc.):	

4. WHAT IS THE POSITION OF AFFECTED CITIZENS OR STAKEHOLDER GROUPS?

Proponents and summary of position:	
Opponents and summary of position:	

5. ARE THERE ANY REPORTS OR STUDIES REQUIRED BY THIS BILL? Y N

If yes, provide a description:	Requires the Department to collect and publish the total number of deferrals; total number of women who receive or decline an assessment under s. (2)(c), F.S.; total number of births (live births and still births) to women whose sentences are deferred, and the gestational age and birth weight of each infant; total number of women who experience complications during pregnancy and the type of complications; total number of women who experience miscarriages; and total number of women who refuse to provide information regarding the outcome of their pregnancies.
Date Due:	Quarterly reporting on the FDC public website

Bill Section Number(s):	Section 3 Lines 96-119
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6. ARE THERE ANY NEW GUBERNATORIAL APPOINTMENTS OR CHANGES TO EXISTING BOARDS, TASK FORCES, COUNCILS, COMMISSIONS, ETC. REQUIRED BY THIS BILL? Y N

Board:	
Board Purpose:	
Who Appoints:	
Changes:	
Bill Section Number(s):	

FISCAL ANALYSIS

1. DOES THE BILL HAVE A FISCAL IMPACT TO LOCAL GOVERNMENT? Y N

Revenues:	Unknown
Expenditures:	Unknown
Does the legislation increase local taxes or fees? If yes, explain.	No.
If yes, does the legislation provide for a local referendum or local governing body public vote prior to implementation of the tax or fee increase?	

2. DOES THE BILL HAVE A FISCAL IMPACT TO STATE GOVERNMENT? Y N

Revenues:	Unknown
Expenditures:	<p>Indeterminate.</p> <p>If this bill is passed, the overall fiscal impact to the inmate and community supervision population is indeterminate.</p> <p>However, when inmate population is impacted in small increments statewide, the FY 19-20 inmate variable per diem of \$22.29 is the most appropriate to use. This per diem includes costs more directly aligned with individual inmate care such as medical, food, inmate clothing, personal care items, etc. The Department's FY 19-20 average per diem for community supervision was \$6.01.</p>

Does the legislation contain a State Government appropriation?	No.
If yes, was this appropriated last year?	

3. DOES THE BILL HAVE A FISCAL IMPACT TO THE PRIVATE SECTOR? Y N

Revenues:	Unknown
Expenditures:	Unknown
Other:	

4. DOES THE BILL INCREASE OR DECREASE TAXES, FEES, OR FINES? Y N

If yes, explain impact.	
Bill Section Number:	

TECHNOLOGY IMPACT

1. **DOES THE BILL IMPACT THE AGENCY’S TECHNOLOGY SYSTEMS (I.E. IT SUPPORT, LICENSING SOFTWARE, DATA STORAGE, ETC.)?** Y N

If yes, describe the anticipated impact to the agency including any fiscal impact.	There will be programming changes, but the overall technology impact is indeterminate.
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FEDERAL IMPACT

1. **DOES THE BILL HAVE A FEDERAL IMPACT (I.E. FEDERAL COMPLIANCE, FEDERAL FUNDING, FEDERAL AGENCY INVOLVEMENT, ETC.)?** Y N

If yes, describe the anticipated impact including any fiscal impact.	
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ADDITIONAL COMMENTS

N/A.

LEGAL - GENERAL COUNSEL’S OFFICE REVIEW

Issues/concerns/comments:	<p>Section 2 (lines 39-50) – This section creates a requirement to conduct a pregnancy test upon request of the female arrestee within 24 hours of such request. The term “arrestee” is undefined in this section, thus it is unclear if this section would apply to individuals taken back into custody on parole/probation violations. If the term “arrestee” is intended to apply to those individuals, the Department may have to create or amend procedures to implement this section of SB 630.</p> <p>Section 3 (lines 53-119): this section creates a sentence deferral process for “pregnant women” whereby the Court must provide the pregnant woman the opportunity to defer the imposed sentence until 12 weeks after delivery of the baby or from when the pregnancy ends.</p> <p>Subsection 2 (lines 58-89): this subsection creates a requirement that all women whose sentence deferral has ended be offered within 10 days an “appropriate assessment” by a health care provider (either in person or through telehealth) and, upon request of the of the woman a “postpartum pregnancy assessment.” While the bill cross references to s. 948.03, F.S., this provision isn’t mandatory (provides sentencing court discretion) and appears to create a framework by which FDC Community Corrections staff will supervise the pregnant offender during the deferral period. However, the bill creates ambiguity by not expressly stating who will be responsible for pre-incarceration supervision in the event that the terms contained in s. 948.03, F.S. are not imposed. While a sentencing court has inherent authority to enter “split sentences” under s. 948.012, F.S., that chapter is not referenced within this bill.</p>
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Additionally, while the term “postpartum pregnancy assessment” is undefined, requirements are imposed upon its development requiring that the assessment be developed in consultation with community support organizations, licensed health care professionals, social services programs, and local and state government agencies, including non-profit organizations. The postpartum assessment is also to include any recommendations for “necessary medical tests, procedures, lactation support, mental health support, or treatments associated with postpartum condition.” (lines 81-83). Rulemaking may be necessary to implement this section if passed. However, rulemaking authority is not specifically authorized within this bill in its current form.

Subsection 3 (lines 90-95): this subsection allows a trial court to impose “violation of probation” terms if a pregnant woman commits a new law violation or violates any of the deferral conditions imposed by the sentencing judge. This provision assumes that conditions are pre-incarceration terms imposed under s. 948.03, F.S., but may create supervision issues in the event that a trial court doesn’t impose such terms. Because the judge can place whatever terms (i.e., use of “may” rather “must”) of supervision at the time of the deferral (See lines 71-74), it is unclear who would be providing supervision (would the supervision operate like bail or community correctional monitoring).

Subsection 4 (lines 96-119): this subsection creates a data collection and reporting requirement on municipal and county detention facilities with respect to the number of pregnant women receiving a deferral, the number who refuse assistance, the number of births (live and stillbirths) and other demographic data, the number of complications experienced, and miscarriages. This data is to be reported by municipal and county detention facilities to the “department” which shall post that data on its public website, subject to state and federal confidentiality laws. While the term “department” is undefined, it can be implied that “department” means the Florida Department of Corrections. This would impose a quarterly reporting requirement on the Department, which would be contingent on receiving timely data from county and municipal detention facilities. It is unknown and unclear how county and municipal detention facilities would be able to collect this type of information outside an authorization from the patient if the individual resides in the community during the deferral period, as the bill doesn’t require that healthcare providers disclose this information to those detention facilities.

Nov 30th 2021

Meeting Date

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SB 630

Bill Number or Topic

Committee

Name

Trish Brown

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City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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November 30, 2021 Meeting Date

SB 630 Bill Number or Topic

Criminal Justice Committee

Amendment Barcode (if applicable)

Name Nina Manning Phone 808 476 7388

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Port Saint Lucie FL City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

- [x] I am appearing without compensation or sponsorship. [] I am a registered lobbyist, representing: [] I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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

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Nov. 30, 2021
Meeting Date

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SB 630
Bill Number or Topic

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Committee

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

PLEASE CHECK ONE OF THE FOLLOWING:

- I am appearing without compensation or sponsorship.
- I am a registered lobbyist, representing:
- I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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SB 630

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Bill Number or Topic

Amendment Barcode (if applicable)

11-30-21 Meeting Date

Criminal Justice Committee

Name Mary Lou Woods

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Email Mary Lou Woods

St Augustine FL 32095 City State Zip

Speaking: [] For [] Against [] Information

OR

Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

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11/30/2021
Meeting Date

The Florida Senate APPEARANCE RECORD

630
Bill Number or Topic

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Committee

Amendment Barcode (if applicable)

Name JEAN SIEBENALER

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Street

Email J.siebenaler@gmail.com

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City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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11/30/2021 Meeting Date

Criminal Justice Committee

630

Bill Number or Topic

Amendment Barcode (if applicable)

Name Karen Woodall

Phone 850-321-9388

Address 579 E. Call St. Street

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Tallahassee FL 32301 City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing: FI Center for Fiscal + Economic Policy and SPLC Action Fund

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

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

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11/30/21
Meeting Date

SB 630

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

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TALLAHASSEE FL 32303
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

FLORIDA JUVENILE JUSTICE ASSOCIATION

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

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

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11/30/21

Meeting Date

Senate CS

Committee

SB 630

Bill Number or Topic

Name

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Tallahassee

City

FL

State

32801

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Florida Alliance of Planned Parenthood Affiliates

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

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

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Bill Number or Topic

Amendment Barcode (if applicable)

11/30/21
Meeting Date
Criminal Justice
Committee

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Orlando FL 32801
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:
Florida Rising
Florida Immigrant Waldron

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

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

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11/30/2021
Meeting Date

SB 630

Bill Number or Topic

Criminal Justice
Committee

Amendment Barcode (if applicable)

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Miami
City

FL
State

33136
Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

Latina Institute for Reproductive Justice FL

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

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

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The Florida Senate

APPEARANCE RECORD

11-30-21

Meeting Date

630

Bill Number or Topic

Criminal Justice

Committee

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Amendment Barcode (if applicable)

Name

Barbara DeVane

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Tallahassee FL 32308

City

State

Zip

Speaking:

For

Against

Information

OR

Waive Speaking:

In Support

Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing: FL NOW

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

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

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11/30/21 Meeting Date

Crim Justice Committee

SB 630 Bill Number or Topic

Amendment Barcode (if applicable)

Name Jon Harris Maurer

Phone

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Email jonharris@equalityflorida.org

Tallahassee FL 32301 City State Zip

Speaking: [] For [] Against [] Information OR Waive Speaking: [x] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[] I am appearing without compensation or sponsorship.

[x] I am a registered lobbyist, representing:

Equality Florida

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

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

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11/30/21

Meeting Date

SB 630

Bill Number or Topic

Grim Justice

Committee

Amendment Barcode (if applicable)

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City

State

Zip

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

ACLU FL

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

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

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The Florida Senate

APPEARANCE RECORD

SB 630

Bill Number or Topic

Nov 30, 2021

Meeting Date

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CRIMINAL JUSTICE

Committee

Amendment Barcode (if applicable)

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City

State

Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

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SB 630

Bill Number or Topic

11/30/21

Meeting Date

Amendment Barcode (if applicable)

Committee

Name

Ally Walchak

Phone

813-334-5565

Address

Street

Email

City

State

Zip

32303

Speaking: For Against Information

OR

Waive Speaking: In Support Against

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without
compensation or sponsorship.

I am a registered lobbyist,
representing:

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

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

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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11/30

Meeting Date

830

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Lauren Brenzel

Phone 615-727-4062

Address 1618 W Tennessee
Street

Email _____

Tallahassee FL 32304
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

I am appearing without compensation or sponsorship.

I am a registered lobbyist, representing:

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

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

11/30/21

Meeting Date

The Florida Senate APPEARANCE RECORD

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

630

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Kiara Ketchen

Phone 305-747-8115

Address Tallahassee FL 32304

Email KiaraKetchen305@gmail

Tallahassee FL 32304
City State Zip

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

PLEASE CHECK ONE OF THE FOLLOWING:

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I am a registered lobbyist, representing:

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The Florida Senate

APPEARANCE RECORD

11/25/2021

Meeting Date

680

Bill Number or Topic

Criminal Justice Committee

Committee

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

Amendment Barcode (if applicable)

Name Danielle Charzes

Phone (954) 980-0130

Address 3626 S.W. 28th Terrace Apt C

Email danitheactivist@gmail.com

Gainesville

FL

32608

City

State

Zip

Speaking: [X] For [] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

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The Florida Senate

APPEARANCE RECORD

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

11/30/21

Meeting Date

SB 630

Bill Number or Topic

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Tray Johns

Phone 808 366 4347

Address 136 Dorscher rd

Email Tray.Johns@fedfan4life.org

Street

Orlando FL 32835

City

State

Zip

Speaking: [X] For [] Against [] Information OR Waive Speaking: [] In Support [] Against

PLEASE CHECK ONE OF THE FOLLOWING:

[X] I am appearing without compensation or sponsorship.

[] I am a registered lobbyist, representing:

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

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Governmental Oversight and Accountability, *Chair*
Criminal Justice, *Vice Chair*
Appropriations
Banking and Insurance
Rules

SENATOR JEFF BRANDES

24th District

November 17, 2021

Chair Pizzo,

I am writing to request respectfully that I be excused from the November 30th Criminal Justice committee meeting.

If you have any questions regarding this request, please feel free to contact my office, or myself. Thank you for time and consideration of this matter.

Kind Regards,

A handwritten signature in black ink, appearing to read "Jeff Brandes", with a long horizontal flourish extending to the right.

Jeff Brandes

REPLY TO:

- 9800 4th Street North, Suite 200, St. Petersburg, Florida 33702 (727) 563-2100
- 414 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

CourtSmart Tag Report

Room: SB 110

Case No.:

Type:

Caption: Senate Criminal Justice Committee

Judge:

Started: 11/30/2021 12:30:27 PM

Ends: 11/30/2021 1:46:40 PM

Length: 01:16:14

12:30:25 PM Meeting called to order by Chair Pizzo
12:30:28 PM Roll call by CAA Sue Arnold
12:30:52 PM Quorum present
12:31:12 PM Comments from Chair Pizzo
12:31:22 PM Senator Brandes is excused from meeting
12:31:41 PM Introduction of Tab 1, SB 360 by Chair Pizzo
12:31:53 PM Explanation of SB 360, Traveling Across County Lines to Commit a Burglary by Senator Harrell
12:33:52 PM Question from Chair Pizzo
12:34:04 PM Response from Senator Harrell
12:34:21 PM Follow-up question from Chair Pizzo
12:34:40 PM Response from Senator Harrell
12:35:32 PM Follow-up question from Chair Pizzo
12:35:38 PM Response from Senator Harrell
12:37:00 PM Speaker Neisha-Rose Hines, ACLU FL in opposition
12:39:31 PM Question from Chair Pizzo
12:40:16 PM Response from Ms. Hines
12:40:40 PM Barbara DeVane, FL NOW waives in opposition
12:40:49 PM Ida Eskamani, Florida Rising and Florida Immigrant Coalition waives in opposition
12:41:36 PM Speaker Lorette Philipson in opposition
12:43:57 PM Karen Woodall, FL Center for Fiscal & Economic Policy waives in opposition
12:44:04 PM Speaker Kim White in opposition
12:46:03 PM Speaker Lorraine Lee in opposition
12:48:14 PM Speaker Barney Bishop, Florida Smart Justice Alliance in support
12:52:51 PM Question from Chair Pizzo
12:52:58 PM Response from Mr. Bishop
12:53:05 PM Follow-up question from Chair Pizzo
12:53:14 PM Response from Mr. Bishop
12:53:54 PM Question from Chair Pizzo
12:54:03 PM Senator Baxley in debate
12:57:35 PM Senator Gainer in debate
12:58:03 PM Senator Taddeo in debate
1:00:35 PM Comments/debate by Chair Pizzo
1:04:00 PM Closure by Senator Harrell
1:05:23 PM Roll call by CAA
1:06:18 PM SB 360 reported favorably
1:06:30 PM Introduction of Tab 6, SB 630 by Chair Pizzo
1:06:47 PM Explanation of SB 630, Pregnant Women in Custody by Senator Jones
1:09:09 PM Comments from Chair Pizzo
1:09:16 PM Trish Brown waives in support
1:09:20 PM Nina Manning waives in support
1:09:25 PM Jermerica Jones waives in support
1:09:27 PM Mary Lou Woods waives in support
1:09:30 PM Jean Siebenaler waives in support
1:09:40 PM Karen Woodall, FL Center for Fiscal & Economic Policy and SPLC Action Fund waives in support
1:09:41 PM Christian Minor, Florida Juvenile Justice Association waives in support
1:09:44 PM Annie Filkowski, Florida Alliance of Planned Parenthood Affiliates waives in support
1:09:45 PM Ida Eskamani, Florida Rising and Florida Immigrant Coalition waives in support
1:09:51 PM Ally Walchak waives in support
1:09:55 PM Barbara DeVane, FL NOW waives in support
1:09:58 PM John Harris Maurer, Equality Florida waives in support
1:10:01 PM Neisha-Rose Hines, ACLU FL waives in support
1:10:04 PM Carlos Martinez waives in support

1:10:08 PM Aurelie Colon Larrauri, Lahna Institute for Reproductive Justice FL waives in support
1:10:11 PM Lauren Brenzel waives in support
1:10:13 PM Kiara Kitchen waives in support
1:10:21 PM Speaker Danielle Chanzas in support
1:11:46 PM Speaker Tray Johns in support
1:13:30 PM Comments from Chair Pizzo
1:14:00 PM Senator Jones in closure
1:14:34 PM Roll call by CAA
1:14:47 PM SB 630 reported favorably
1:14:58 PM Introduction of Tab 5, SB 482 by Chair Pizzo
1:15:09 PM Explanation of SB 482, Victims of Reform School Abuse by Senator Rouson
1:16:17 PM Question from Senator Baxley
1:16:28 PM Response from Senator Rouson
1:17:14 PM Barney Bishop, Florida Smart Justice Alliance waives in support
1:17:19 PM Speaker Captain Bryant E. Middleton in support
1:20:54 PM Carrie Boyd, SPLC Action fund waives in support
1:20:58 PM Karen Woodall, FL Center for Fiscal & Economic Policy waives in support
1:20:59 PM Ida Eskamani, Florida Rising waives in support
1:21:02 PM Neisha-Rose Hines, ACLU FL in support
1:21:05 PM John Bell waives in support
1:21:21 PM Speaker Gene Luker in support
1:22:47 PM Speaker Cecil Gardner in support
1:26:23 PM Speaker Charles Fudge in support
1:28:55 PM Comments from Chair Pizzo
1:29:05 PM Senator Gainer in debate
1:29:58 PM Senator Hooper in debate
1:31:40 PM Senator Taddeo in debate
1:33:20 PM Senator Powell in debate
1:35:51 PM Comments from Chair Pizzo
1:36:11 PM Closure by Senator Rouson
1:36:31 PM Roll call by CAA
1:37:32 PM SB 482 reported favorably
1:37:47 PM Chair passed to Senator Hooper
1:37:55 PM Introduction of Tab 3, SB 454 by Chair Hooper
1:38:08 PM Explanation of SB 454, Florida Commission on Offender Review by Senator Perry
1:38:27 PM Comments from Chair Hooper
1:38:35 PM Question from Senator Taddeo
1:38:41 PM Response by Senator Perry
1:39:10 PM Melinda Coonrod waives in support
1:39:17 PM Christian Minor, Florida Juvenile Justice Association waives in support
1:39:25 PM Carrie Boyd, SPLC Action Fund waives in support
1:39:38 PM Barney Bishop, Florida Smart Justice Alliance waives in support
1:39:55 PM Closure waived
1:39:59 PM Roll call by CAA
1:40:03 PM SB 454 reported favorably
1:40:16 PM Introduction of Tab 2, SB 444 by Chair Hooper
1:40:28 PM Explanation of SB 444, Lewd or Lascivious Molestation by Senator Perry
1:41:07 PM Comments from Chair Hooper
1:41:12 PM Speaker Jennifer Dritt, Florida Council Against Secure Violence in support
1:42:38 PM Speaker Barney Bishop, Florida Smart Justice Alliance in support
1:43:20 PM Comments from Chair Hooper
1:43:26 PM Senator Perry in closure
1:43:33 PM Roll call by CAA
1:43:51 PM SB 444 reported favorably
1:43:58 PM Introduction of Tab 4, 464 by Chair Hooper
1:44:29 PM Explanation of SB 464, Payments to Prisoners Upon Release by Senator Powell
1:44:44 PM Comments from Chair Hooper
1:44:55 PM Carrie Boyd, SPLC Action Fund waives in support
1:44:57 PM Karen Woodall, FL Center for Fiscal & Economic Policy waives in support
1:45:04 PM Ida Eskamani, Florida Rising waives in support
1:45:10 PM Jorge Chamizo, Florida Association of Criminal Defense Lawyers waives in support
1:45:17 PM Barbara DeVane, FL NOW waives in support

1:45:25 PM Neisha-Rose Hines, ACLU FL waives in support
1:45:34 PM Comments from Chair Hooper
1:45:42 PM Senator Powell in closure
1:45:47 PM Roll call by CAA
1:45:51 PM SB 464 reported favorably
1:46:08 PM Comments from Chair Hooper
1:46:19 PM Senator Perry moves to adjourn, meeting adjourned