

| Tab 1 SB 722 by Perry; (Identical to H 01515) Education for Student Inmates | | | | | | | |
|--|---|---|-----|-----------|-------------------|-------|----------|
| 572074 | A | S | RCS | CJ, Perry | Delete L.44 - 47: | 02/01 | 02:28 PM |

| Tab 2 CS/SB 876 by TR, Pizzo (CO-INTRODUCERS) Rodrigues; (Compare to H 00399) Stunt Driving on Highways | | | | | | | |
|--|---|---|-----|-----------|---------------------|-------|----------|
| 442374 | A | S | RCS | CJ, Pizzo | Delete L.69 - 198 : | 02/01 | 02:28 PM |

| Tab 3 SB 1244 by Gibson; (Identical to H 00913) Statutes of Limitations for Sexual Offenses | | | | | | | |
|--|----|---|-----|------------|-------------------------|-------|----------|
| 373630 | D | S | RS | CJ, Gibson | Delete everything after | 02/01 | 02:28 PM |
| 331236 | SD | S | RCS | CJ, Gibson | Delete everything after | 02/01 | 02:28 PM |

| Tab 4 SB 1830 by Brodeur (CO-INTRODUCERS) Book; (Compare to CS/H 01505) Background Screenings | | | | | | | |
|--|---|---|-----|-------------|-------------------------|-------|----------|
| 463154 | D | S | RCS | CJ, Brodeur | Delete everything after | 02/01 | 02:28 PM |

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Pizzo, Chair
Senator Brandes, Vice Chair

MEETING DATE: Tuesday, February 1, 2022
TIME: 1:00—3:00 p.m.
PLACE: *Toni Jennings Committee Room*, 110 Senate Building

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

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|---|-------------------------|
| 1 | SB 722 Perry (Identical H 1515) | Education for Student Inmates; Authorizing the Department of Corrections and each county, respectively, to contract with Florida College System institutions to provide education services for student inmates; authorizing the expenditure of state funds for the education of state and federal inmates who have a specified amount of time remaining to serve on their sentences, etc. CJ 02/01/2022 Fav/CS CA RC | Fav/CS Yeas 7 Nays 0 |
| 2 | CS/SB 876 Transportation / Pizzo (Compare H 399, S 258) | Stunt Driving on Highways; Prohibiting specified acts relating to street takeovers or stunt driving on highways, roadways, or parking lots; prohibiting a person from being a spectator at a street takeover, etc. TR 01/12/2022 Fav/CS CJ 02/01/2022 Fav/CS RC | Fav/CS Yeas 7 Nays 0 |
| 3 | SB 1244 Gibson (Identical H 913, Compare S 878) | Statutes of Limitations for Sexual Offenses; Eliminating statutes of limitations periods for prosecution of specified sexual offenses, etc. CJ 02/01/2022 Fav/CS CF RC | Fav/CS Yeas 7 Nays 0 |

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Tuesday, February 1, 2022, 1:00—3:00 p.m.

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|-----|--|--|-------------------------|
| 4 | SB 1830 Brodeur (Compare CS/H 1505, S 1386) | Background Screenings; Requiring independent sanctioning authorities to conduct level 2 instead of level 1 background screenings of current and prospective athletic coaches; requiring certain athletic coaches to be rescreened every 5 years following the date of their most recent background screening or exemption; requiring the Criminal Justice Information Program to develop a method for establishing direct identification in a certain manner; requiring, rather than authorizing, the Department of Law Enforcement to periodically audit qualified entities; requiring certain fingerprints to be submitted to the clearinghouse; requiring certain information to be filed or submitted through the clearinghouse, etc. CJ 02/01/2022 Fav/CS ACJ AP | Fav/CS Yeas 7 Nays 0 |

| TAB | OFFICE and APPOINTMENT (HOME CITY) | FOR TERM ENDING | COMMITTEE ACTION |
|---|------------------------------------|----------------------|------------------------------------|
| Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointment to the office indicated. | | | |
| Secretary of Juvenile Justice | | | |
| 5 | Hall, Eric (Tallahassee) | Pleasure of Governor | Recommend Confirm Yeas 9 Nays 0 |

| TAB | BILL NO. and INTRODUCER | BILL DESCRIPTION and SENATE COMMITTEE ACTIONS | COMMITTEE ACTION |
|---------------------------------|-------------------------|---|------------------|
| 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: CS/SB 722

INTRODUCER: Criminal Justice Committee and Senator Perry

SUBJECT: Education for Student Inmates

DATE: February 1, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Siples | Jones | CJ | Fav/CS |
| 2. | | | CA | |
| 3. | | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 722 authorizes a county or municipal detention facility or the Department of Corrections (DOC) to contract with a Florida College System institution to provide education services to its inmates. The bill affirmatively provides that state funds provided for the operation of postsecondary workforce programs may be expended on a state inmate with 24 months or less remaining on his or her sentence, notwithstanding s. 1011.81(4), F.S., which prohibits state funds for the Florida College System Program Fund from being expended on the education of state or federal inmates.

The bill will have an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2022.

II. Present Situation:

Sentencing of Inmates – Overview

A defendant that is convicted of a crime in the state of Florida may be incarcerated in either county jail or state prison based upon the degree of the offense. A number of factors are taken into consideration when determining whether a defendant will be committed to the custody of the jail or the DOC. A defendant convicted of a misdemeanor offense can be committed to the

custody of the county's chief correctional officer for no more than one year for a first degree misdemeanor or 60 days for a second degree misdemeanor.¹

For a defendant convicted of a felony offense, the Criminal Punishment Code² (Code) applies to sentencing for felony offenses committed on or after October 1, 1998.³ The permissible sentence (absent a downward departure) for an offense ranges from the calculated lowest permissible sentence as determined by the Code to the statutory maximum for the primary offense. The statutory maximum sentence for a first-degree felony is 30 years, for a second-degree felony is 15 years, and for a third degree felony is 5 years.⁴

Education for County Inmates

A county and municipal detention facility⁵ is authorized to contract with a district school board, the Florida Virtual School, or an authorized charter school⁶ to provide education services for its inmates.⁷ Such education services may include educational, career, or vocational training that is authorized by the sheriff or chief correctional officer.⁸ The County Corrections Equality Act requires that female inmates have access to educational, vocational training, rehabilitation and substance abuse treatment that are equivalent to that provided to male inmates.⁹

County and municipal detention facilities must provide educational services to minors detained in such facilities if the minor has not graduated from high school or is an eligible student with disabilities under the age of 22 who has not graduated with a standard diploma or its equivalent. The educational services must be offered by the local school district in which the facility is located.¹⁰ These educational services are based on the estimated length of time the youth will be in the facility and the youth's current level of functioning. School district superintendents or their designees must be notified by the county's chief correctional officer if a youth under the age of 21 is accepted into the facility.¹¹

¹ Section 775.082(4), F.S.

² Sections 921.002-921.0027, F.S. *See* chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

³ Section 921.0022, F.S.

⁴ *See* s. 775.082, F.S.

⁵ Section 951.23(1)(a) and (d), F.S., define county detention facility to mean 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; and a municipal detention facility to mean a city jail, a city 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 ordinances.

⁶ Charter schools are authorized to operate under s. 1002.33, F.S.

⁷ Section 951.176(1), F.S.

⁸ *Id.*

⁹ Section 951.175, F.S.

¹⁰ Section 951.176(2), F.S.

¹¹ *Id.* A cooperative agreement must be developed with the local school district and applicable law enforcement units to address the notification requirement and the provision of educational services to these youth.

Education for State Prisoners

Section 944.801(1), F.S., establishes the Correctional Educational Program (CEP), within the Department of Corrections (DOC). The CEP is composed of the educational facilities and services of all institutions and facilities housing inmates operated by the DOC. The duties of the CEP, in part, include:

- Developing guidelines for the collection of education-related information during the inmate reception process and disseminating such information to classification staff of the DOC;¹²
- Monitoring and assessing all inmate education program services and reporting the results of such evaluation in the annual report of activities;
- Developing complete and reliable statistics on the educational histories, the city/intracity area and school district where the inmate was domiciled prior to incarceration, the participation in state educational and training programs, and the occupations of inmates confined in state correctional institutions;
- Approving educational programs of the appropriate levels and types in the correctional institutions and developing inmate admission procedures;
- Entering into agreements with public or private school districts, entities, community colleges, junior colleges, colleges, or universities as may be deemed appropriate for the purpose of carrying out its duties and responsibilities and ensuring that agreements require minimum performance standards and standards for measurable objectives, in accordance with established Department of Education standards;
- Developing and maintaining complete and reliable statistics on the number of high school equivalency diplomas and vocational certificates issued by each institution in each skill area, the change in inmate literacy levels, and the number of inmate admissions to and withdrawals from education courses;
- Developing a written procedure for selecting programs to add to or delete from the vocational curriculum, including labor market analyses;
- Ensuring that every inmate who has two years or more remaining to serve on his or her sentence at the time that he or she is received at an institution and who lack basic and functional literacy skills¹³ attends at least 150 hours of sequential instruction in a correctional adult basic education program;¹⁴
- Recommending the award of additional gain-time for inmates who receive a high school equivalency diploma or a vocational certificate; and
- Ensuring that all education staff are certified in accordance with the Department of Education standards.¹⁵

¹² Section 944.801(3)(a), F.S. The information collected must include the inmates' areas of educational or vocational interest, vocational skills, and level of education.

¹³ Section 1004.02, F.S., defines "basic literacy" as the demonstration of academic competence from 2.0 through 5.9 educational grade levels as measured by a means approved for this purpose by the State Board of Education, and "functional literacy" as the demonstration of academic competence from 6.0 through 8.9 educational grade levels as measured by a means approved for this purpose by the State Board of Education.

¹⁴ Inmates are to be retested at the completion of the 150 hours of education. If an inmate has not attained functional literacy, the DOC may require the inmate to remain in the instructional program. The law provides exceptions, such as those serving life sentences or have been sentenced to death, insufficient facilities or staff to provide instruction, and exempted based on health concerns.

¹⁵ Section 944.801(3), F.S.

The CEP is authorized to establish a prison entrepreneurship program;¹⁶ to work in conjunction with other state agencies to train and certify inmates as firefighters;¹⁷ and to contract with a district school board, the Florida Virtual School, or an authorized charter school to provide any educational, career, or vocational training authorized by the DOC.¹⁸

Currently, the DOC and its contracted entities deliver technical skills in training that spans 36 trade areas including: construction; manufacturing; welding; electricity; energy technology; warehouse/logistics; commercial vehicle driving; heavy equipment operations; barbering/cosmetology; culinary/hospitality; information technology; Heating, Ventilation, and Air Conditioning (HVAC); and landscape management.¹⁹ The DOC partners with several college and community education partners to provide such programs, including North Florida Technical College, Palm Beach State College, Polk State College, Southwest Florida College, and Tallahassee Community College.²⁰

Due to difficulty in recruiting and retaining qualified teachers, the DOC reports that the capacity for the career and technical education programs is reduced, and the academic education programs are being operated at 114 percent capacity, on average.²¹

According to the DOC, those who participate in Career and Technical training programs recidivate at a rate of 25.1 percent less than those who do not.²² The DOC's internal analysis found that for every grade level increase achieved, a student's likelihood of recidivism decreases by three percent.²³

Florida College System

The Florida College System (FCS) is comprised of 28 public colleges and community colleges in this state. While governed by local boards, the colleges are coordinated under the jurisdiction of the State Board of Education. Administratively, the Chancellor of Florida Colleges is the chief executive officer of the system, reporting to the Commissioner of Education who serves as the chief executive officer of Florida's K-20 System.²⁴

The primary mission and responsibility of FCS institutions is responding to community needs for postsecondary academic education and career degree education. This mission and responsibility includes:

- Providing lower level undergraduate instruction and awarding associate degrees;
- Preparing students directly for careers requiring less than baccalaureate degrees;

¹⁶ Section 944.801(5), F.S.

¹⁷ Section 944.801(6), F.S.

¹⁸ Section 944.801(7), F.S.

¹⁹ Department of Corrections, *2022 Agency Legislative Bill Analysis for Senate Bill 722*, pg. 2, (Nov. 30, 2021) (on file with the Committee on Criminal Justice).

²⁰ *Id.*, at pgs. 2-3.

²¹ *Id.*, at pg. 3.

²² *Id.*, at pg. 2.

²³ *Id.*

²⁴ Department of Education, Florida College System, *About Us*, available at <https://www.fldoe.org/schools/higher-ed/fl-college-system/about-us/> (last visited January 13, 2022).

- Providing student development services, including assessment, student tracking, support for disabled students, advisement, counseling, financial aid, career development, and remedial and tutorial services, to ensure student success;
- Promoting economic development for the state within each FCS institution district through the provision of special programs, including, but not limited to, the:
 - Enterprise Florida-related programs;
 - Technology transfer centers;
 - Economic development centers; and
 - Workforce literacy programs; and
- Providing upper level instruction and awarding baccalaureate degrees as specifically authorized by law.²⁵

A separate and secondary role for FCS institutions includes offering of programs in:

- Community services that are not directly related to academic or occupational advancement;
- Adult education services, including adult basic education, adult general education, adult secondary education, and General Educational Development test instruction; and
- Recreational and leisure services.²⁶

Florida College System Program Fund

The Florida College System Program Fund is comprised of appropriations made by the Legislature for operational support of the FCS institutions.²⁷ Program funds are apportioned and distributed to each FCS institution in accordance with state law and the rules of the State Board of Education.²⁸ State funds provided for the FCS Program Fund may not be expended on the education of state or federal inmates.²⁹

Workforce Education

Workforce education includes adult general education and career education and may consist of a course or a program of study leading to an occupational completion point (OCP),³⁰ a career certificate, an applied technology diploma, or a career degree.³¹ Specifically, workforce education includes:

- Adult general education programs;³²
- Career certificate programs,³³

²⁵ Section 1004.65(5), F.S.

²⁶ Section 1004.65(6), F.S.

²⁷ Section 1011.81(1), F.S.

²⁸ *Id.*

²⁹ Section 1011.81(4), F.S.

³⁰ An “occupational completion point” (OCP) means the occupational competencies that qualify a person to enter an occupation that is linked to a career and technical program. *See s. 1004.02(21)*, F.S.

³¹ Section 1004.02(25), F.S.

³² “Adult general education” means comprehensive instructional programs designed to improve the employability of the state’s workforce through adult basic education, adult secondary education, English for Speakers of Other Languages, applied academics for adult education instruction, and instruction for adults with disabilities. Section 1004.02(3), F.S.

³³ A “career certificate program” means a course of study that leads to at least one OCP. The program may also confer credit that may articulate with a diploma or career degree education program. Section 1004.02(20), F.S.

- Applied technology diploma (ATD) programs;³⁴
- Continuing workforce education courses;³⁵
- Degree career education programs;³⁶ and
- Apprenticeship³⁷ and preapprenticeship³⁸ programs.³⁹

Any workforce education program may be conducted by a FCS institution or a school district, except that college credit in an associate in applied science (AAS) or an associate in science (AS) degree may be awarded only by a FCS institution. However, if an AAS or an AS degree program contains an OCP that confers a certificate or an ATD, that portion of the program may be conducted by a school district career center.⁴⁰

Funding for Inmate Workforce Education Programs

Florida law limits how state funds may be used for inmates in workforce education programs. From 2018-2021, as a part of the appropriation implementation bill, the Legislature authorized specific appropriations to be used for the education of state or federal inmates, preempting a statutory provision that limited the use of such funds.⁴¹ However, on July 1, 2022, the 2021 provision will expire and the statute will revert to the language as it existed on July 1, 2019. As of that date, the statute that prohibits the use of state funds for the operation of postsecondary workforce programs on state inmates with more than 24 months remaining to serve and all federal inmates will be reinstated.⁴²

³⁴ An “applied technology diploma (ATD) program” means a course of study that is part of a technical degree program, is less than 60 credit hours, and leads to employment in a specific occupation. An ATD program may consist of either technical credit or college credit. A public school district may offer an ATD program only as technical credit, with college credit awarded to a student upon articulation to a Florida College System (FCS) institution. Section 1004.02(7), F.S.

³⁵ “Continuing workforce education” means instruction that does not result in a technical certificate, diploma, associate in applied science (AAS) degree, or associate in science (AS) degree. Continuing workforce education is for: (1) individuals who are required to have training for licensure renewal or certification renewal by a regulatory agency or credentialing body; (2) new or expanding businesses; (3) business, industry, and government agencies whose products or services are changing so that retraining of employees is necessary or whose employees need training in specific skills to increase efficiency and productivity; or (4) individuals who are enhancing occupational skills necessary to maintain current employment, to cross train, or to upgrade employment. Section 1004.02(12), F.S.

³⁶ A “degree career education program” or “technical degree education program” means a course of study that leads to an AAS degree or an AS degree. A technical degree program may contain within it one or more program progression points and may lead to certificates or diplomas within the course of study. Section 1004.02(13), F.S.

³⁷ Registered apprenticeship programs enable employers to develop and apply industry standards to training programs for registered apprentices that can increase productivity and improve the quality of the workforce. Apprentices who complete registered apprenticeship programs are accepted by the industry as journey workers. Florida Department of Education, *Apprenticeship Programs*, available at <http://fldoe.org/academics/career-adult-edu/apprenticeship-programs/> (last visited January 14, 2022).

³⁸ Registered pre-apprenticeship programs provide an avenue for both adults and youth who are at least 16 years old to become qualified to enter registered apprenticeship programs. Pre-apprenticeship programs are sponsored and operated by registered apprenticeship programs in the same trade or trades. Florida Department of Education, *Preapprenticeship*, available at <http://fldoe.org/academics/career-adult-edu/apprenticeship-programs/preapprenticeship.stml> (last visited January 14, 2022).

³⁹ Section 1011.80(1), F.S.

⁴⁰ Section 1011.80(2), F.S.

⁴¹ See ss. 44 and 45, ch. 2018-10; ss. 52 and 53, ch. 2019-116; ss. 53 and 54, ch. 2020-114; and s. 24, ch. 2021-37, Laws of Fla.

⁴² *Id.*

III. Effect of Proposed Changes:

The bill amends ss. 951.176 and 944.801, F.S., respectively, to authorize a county or municipal detention facility or the DOC to contract with a FCS institution to provide educational services. The educational services may include any educational, career, or vocational training that is authorized by a county or municipal detention facility or the DOC.

The bill affirmatively authorizes state funding for postsecondary workforce education programs to be expended on state inmates with 24 months or less remaining on their sentences, notwithstanding s. 1011.81(4), F.S., which prohibits state funds provided for the FCS Program Fund to be expended on the education of state or federal inmates.

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:

The fiscal impact is indeterminate as the costs for FCS institutions to provide programming is unknown. These costs may vary depending on the type of programming provided and the availability of resources.⁴³ The DOC states that there will also be an indeterminate cost for changes to its technological systems.⁴⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 944.801, 951.176, and 1011.80.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on February 1, 2022:**

The committee substitute:

- Removes federal inmates from the authorization for the expenditure of state funds on postsecondary education workforce programs.
- Adds that the expenditure of state funds on postsecondary workforce programs for state inmates is authorized notwithstanding s. 1011.81(4), F.S., which prohibits state funds provided for the Florida College System Program Fund from being expended for the education of state or federal inmates.

B. Amendments:

None.

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

⁴³ *Supra* note 19, at pg. 5.

⁴⁴ *Id.*, at pg. 7.



572074

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 02/01/2022 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment (with title amendment)

Delete lines 44 - 47

and insert:

(b) Notwithstanding s. 1011.81(4), state funds provided for the operation of postsecondary workforce programs may ~~not~~ be expended for the education of state inmates with ~~more than~~ 24 months or less of time remaining to serve on their sentences ~~or~~ ~~federal inmates~~.



572074

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

12 And the title is amended as follows:

13 Delete line 9

14 and insert:

15 inmates who have a specified amount of

By Senator Perry

8-00714B-22

2022722__

1 A bill to be entitled
 2 An act relating to education for student inmates;
 3 amending ss. 944.801 and 951.176, F.S.; authorizing
 4 the Department of Corrections and each county,
 5 respectively, to contract with Florida College System
 6 institutions to provide education services for student
 7 inmates; amending s. 1011.80, F.S.; authorizing the
 8 expenditure of state funds for the education of state
 9 and federal inmates who have a specified amount of
 10 time remaining to serve on their sentences; providing
 11 an effective date.
 12
 13 Be It Enacted by the Legislature of the State of Florida:
 14
 15 Section 1. Subsection (7) of section 944.801, Florida
 16 Statutes, is amended to read:
 17 944.801 Education for state prisoners.—
 18 (7) The department may contract with a district school
 19 board, the Florida Virtual School, ~~or~~ a charter school
 20 authorized to operate under s. 1002.33, or a Florida College
 21 System institution to provide education services in the
 22 Correctional Education Program. The education services may
 23 include any educational, career, or vocational training ~~that is~~
 24 authorized by the department.
 25 Section 2. Subsection (1) of section 951.176, Florida
 26 Statutes, is amended to read:
 27 951.176 Provision of education.—
 28 (1) Each county may contract with a district school board,
 29 the Florida Virtual School, ~~or~~ a charter school authorized to

Page 1 of 2

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

8-00714B-22

2022722__

30 operate under s. 1002.33, or a Florida College System
 31 institution to provide education services for inmates at county
 32 detention facilities. The education services may include any
 33 educational, career, or vocational training ~~that is~~ authorized
 34 by the sheriff or chief correctional officer, or his or her
 35 designee.
 36 Section 3. Upon the expiration and reversion of the
 37 amendment made to section 1011.80, Florida Statutes, pursuant to
 38 section 25 of chapter 2021-37, Laws of Florida, paragraph (b) of
 39 subsection (8) of section 1011.80, Florida Statutes, is amended
 40 to read:
 41 1011.80 Funds for operation of workforce education
 42 programs.—
 43 (8)
 44 (b) State funds provided for the operation of postsecondary
 45 workforce programs may ~~not~~ be expended for the education of
 46 state or federal inmates with ~~more than~~ 24 months or less of
 47 time remaining to serve on their sentences ~~or federal inmates~~.
 48 Section 4. This act shall take effect July 1, 2022.

Page 2 of 2

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



2022 AGENCY LEGISLATIVE BILL ANALYSIS

AGENCY: Department of Corrections

| <u>BILL INFORMATION</u> | |
|--------------------------------|-------------------------------|
| BILL NUMBER: | SB 722 |
| BILL TITLE: | Education for Student Inmates |
| BILL SPONSOR: | Senator Perry |
| EFFECTIVE DATE: | July 1, 2022 |

| <u>COMMITTEES OF REFERENCE</u> |
|---------------------------------------|
| 1) Criminal Justice |
| 2) Community Affairs |
| 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: | |
| SPONSOR: | |

| Is this bill part of an agency package? |
|--|
| No. |

| <u>BILL ANALYSIS INFORMATION</u> | |
|---|---------------------------------------|
| DATE OF ANALYSIS: | November 30, 2021 |
| LEAD AGENCY ANALYST: | Patrick Mahoney and Jennifer Rechichi |
| ADDITIONAL ANALYST(S): | April Kalnin and Jamie Newberry |
| LEGAL ANALYST: | Ryan Orbe |
| FISCAL ANALYST: | Greg Holcomb |

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

The bill amends s. 944.801, F.S., Education for State Prisoners, authorizing the Florida Department of Corrections (FDC or Department) to contract with the Florida College System institutions to provide education services for student inmates. Furthermore, the bill amends s. 1011.80, F.S., Funding for Workforce Education, of the Early Learning-20 Education Code, authorizing the expenditure of state funds for the education of state or federal inmates. The bill also amends s. 951.176, F.S., County and municipal prisoners, with the same authorizations, respectively.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

The Department recognizes the importance of providing inmates with opportunities for postsecondary education and training in high-demand occupational fields resulting in successful reintegration by securing lasting, meaningful employment that supports self-sufficiency. A projection study of jobs and education requirements revealed that 65% of jobs would require postsecondary education and training beyond high school. Return on investment studies report for every dollar spent on Academic Education (basic skills) there is a \$9.65 return, with a 97% chance the program will produce benefits greater than the cost and that for every dollar spent on Career and Technical Education (CTE), a return of \$11.95 is realized, with a 97% chance the program will produce benefits greater than the cost. RAND Corporation found that post-release employment is 13% higher among prisoners who participated in both academic and CTE programs and 28% higher for those who participated in CTE programs alone. The Department's research reports similar results in those individuals who complete a CTE program recidivate at a rate of 25.1% less than those who do not. Furthermore, adult basic education services offered as part of the Department's Correctional Education Programs (CEP), leads students through an academic progression resulting in a high school equivalency. According to an internal analysis, for every grade level increase achieved, students' likelihood of recidivism decreases by 3%. Additionally, the Department's research reports similar results in those individuals who complete an academic education program recidivate at a rate of 12.5% less than those who do not.

FDC aligns the inmate education programs to Florida Department of Education (FDOE) frameworks and federal Department of Education (USDOE) requirements. Both Department and contracted college/community education providers deliver technical skills training that spans 36 trade areas including: construction, manufacturing, welding, electricity, energy technology, warehousing/logistics, commercial vehicle driving, heavy equipment operations, barbering/cosmetology, culinary/hospitality, information technology, Heating, Ventilation and Air Conditioning (HVAC), and landscape/nursery management. College/community education partner programs are:

| Daily Training Seats | Program | Education Provider |
|----------------------|--|---|
| 15 | Commercial Class "B" Driving | Fleetforce Truck Driving School |
| 30 | Electrical Pre-Apprenticeship | Home Builders Institute |
| 15 | Masonry Pre-Apprenticeship | Home Builders Institute |
| 15 | Heavy Equipment Operator/Road Construction | i-Build/Florida HIREs |
| 30 | Electricity | North Florida Technical College |
| 30 | Heating, Ventilation & Air Conditioning | North Florida Technical College |
| 15 | Carpentry Pre-Apprenticeship | Northwest Florida State College |
| 15 | Heavy Equipment Operations Technician | Northwest Florida State College |
| 15 | Plumbing | Northwest Florida State College |
| 15 | Heating, Ventilation & Air Conditioning | Palm Beach State College |
| 15 | Plumbing | Palm Beach State College |
| 15 | Construction (Tiny House) | Pinellas Ex-Offender Re-Entry Coalition |
| 30 | Advanced Manufacturing | Polk State College |
| 80 | Logistics | Polk State College |
| 20 | Water/Wastewater Treatment | Southwest Florida State College |
| 30 | Carpentry | Tallahassee Community College |
| 8 | Commercial Class "A" Driving | Tallahassee Community College |
| 30 | Culinary Arts | Tallahassee Community College |

| | | |
|------------|---|-------------------------------|
| 60 | Electrical | Tallahassee Community College |
| 15 | Entrepreneurship | Tallahassee Community College |
| 30 | Heating, Ventilation & Air Conditioning | Tallahassee Community College |
| 30 | Machining | Tallahassee Community College |
| 30 | Masonry, Brick & Block | Tallahassee Community College |
| 30 | Plumbing | Tallahassee Community College |
| 30 | Welding | Tallahassee Community College |
| 20 | Horticulture/Farm Management | UF IFAS |
| 668 | TOTAL | |

Currently, 130 CTE and 50 industry credentialing programs (short courses embedded with industry credentials and job assignment training) operate in 73 state prison locations, including 3 community (work) release centers. Today, these program opportunities provide 2,156 daily CTE seats; however, when adjusted to account for current teacher vacancies, the daily CTE capacity is only 1,475 seats (see below table) and the current CTE enrollment is 1,404 students. A major challenge to the education programs is with recruiting and retaining qualified teachers mainly due to the starting state FTE salary of \$32,696.82. While the contracted education programs have greater flexibility with establishing more competitive salary rates, they experience similar challenges with staff vacancies.

| Year | Daily CTE Training Seats |
|------|--------------------------|
| 2017 | 1,110 |
| 2018 | 1,414 |
| 2019 | 1,749 |
| 2020 | 1,667 |
| 2021 | 2,156 |

Currently, 63 sites offer academic education programming, and 22 sites offer supplemental academic supports through Title I and the Individuals with Disabilities Education Act (IDEA). Today, academic program opportunities provide 4867 daily seats, however, when adjusted to account for current teacher vacancies the daily academic capacity is only 3011 seats with a current academic enrollment of 3447 students. As with CTE programs, recruiting and retaining qualified teachers at the starting state FTE salary is a major challenge. Due to the teacher vacancies, academic classes are running at an average of 114% capacity.

| Year | Average Daily Academic Seats Lost Due to Vacancies |
|---------|--|
| 2019-20 | 994 |
| 2020-21 | 1255 |
| 2021-22 | 1776 |

Three academic grants, Adult Education and Family Literacy (AEFL), Title I, and IDEA provide a combined \$3,074,033, funding 38 career service, 2 OPS, and 28 contracted staff positions. Among these 68 positions, 13 are presently vacant, at a vacancy rate of 19%. For the past 3 fiscal years, FDC has received \$1,000,000 in Perkins Grant Funding to supplement general revenue funds for the provision of CTE equipment, materials and curriculum investments. The Department's limited education funding presents challenges in meeting the education needs of the inmate population including access to college education programs. Additionally, Florida's state and technical colleges are prohibited from using their own funding sources on state inmates due to restrictions set forth in s. 1011.80, F.S., s. 1011.81, F.S., s. 1011.84, F.S., and s. 1009.21, F.S., Residency for Tuition Purposes, and the State Board of Education Rule, 6A-10.044, FAC.

2. EFFECT OF THE BILL:

Education for state prisoners

Lines 18—24: The Department may contract with a district school board, the Florida Virtual School, or a charter school authorized to operate under s. 1002.33, F.S., or a Florida College System institution to provide education services in the Correctional Education Program. The education services may include any educational, career, or vocational training that is 23 authorized by the department.

Adding the provision that the Department may contract with a Florida College System institution to provide educational, career, or vocational training authorized by the Department would likely reassure these entities that contractual services are permissible, although, other than funding restrictions, they are not currently prohibited by statute.

County Detention

Lines 27—35: 951.176 Provision of education. (1) Each county may contract with a district school board, the Florida Virtual School, or a charter school authorized to operate under s. 1002.33, F.S., or a Florida College System institution to provide education services for inmates at county detention facilities. The education services may include any educational, career, or vocational training that is authorized by the sheriff or chief correctional officer, or his or her designee.

The added language is not related to state correctional institutions.

Workforce Education Program Funds

Lines 36—47:1011.80 Funds for operation of workforce education programs. State funds provided for the operation of postsecondary workforce programs may not be expended for the education of state or federal inmates with more than 24 months or less of time remaining to serve on their sentences.

Authorizing the use of state funds for the education of state or federal inmates provides a significant and positive impact for Florida’s communities and the Department. By allowing Florida’s colleges to use their workforce education funds to provide educational programs to inmates, meaningful workforce training expansion could be realized. Additional benefits of college programs in prisons are the inmates’ ability/transferability of college credit upon program completion and matriculation into other college education programs upon release.

Restricting this proposed benefit to inmates who have 24 months or less remaining on their sentence may significantly restrict opportunities. Based on an inmate’s education needs and gain time implications, education programming may need to begin much sooner than within 2 years of release, especially if academic remediation is necessary, learning disabilities exist or work release is pending (eligibility begins at 14 months prior to release). Due to these circumstances, the Department allows for adult general academic education programming to begin within 60 months of release; however, technical, skill-based training is largely provided within 36 months of release, depending on the length of the training.

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. | 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: | Overall fiscal impact is indeterminate at this time due to the unknown costs for the Florida College Systems to provide programming. These costs can vary substantially in regard to the type of programming provided and available resources. |
| 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. |
|--|--|

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. | (Empty response box) |
|--|----------------------|

ADDITIONAL COMMENTS

Other statutory inmate funding restrictions and tuition implications are as follows; additional clarification is needed:

S. 1011.81, F.S., Florida College System Program Fund, which prohibits the use of Florida College System Program funds on state inmates.

S. 1011.84, F.S., All state inmate education provided by Florida College System institutions shall be reported by program, FTE expenditure, and revenue source. These enrollments, expenditures, and revenues shall be reported and projected separately. Instruction of state inmates shall not be included in the full-time equivalent student enrollment for funding through the Florida College System Program Fund. Interpretation of this by colleges includes funds used for administrative, instructors, technology and program equipment costs that are not supported by tuition.

S. 1009.21, F.S., Residency for Tuition Purposes, and the State Board of Education Rule, 6A-10.044, FAC, to include a provision for currently incarcerated inmates to use alternate forms documenting pre-incarceration residency for in-state tuition purposes.

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

| | |
|---------------------------|------|
| Issues/concerns/comments: | N/A. |
|---------------------------|------|

The Florida Senate

APPEARANCE RECORD

SB 722

Bill Number or Topic

2-1-22

Meeting Date

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

Criminal Justice
Committee

Amendment Barcode (if applicable)

Name Brenda Spitzbarth-

FLORIDA PRR FAMILIES UNITED

Phone 772-834-8124

Address P.O. Box 275
Street

Email BKAYSPITZ@GMAIL.COM

OLDSMAR FL

34677

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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2/1/2022

Meeting Date

Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

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SB 722

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Liam McClay**

Phone **850-339-7724**

Address **3000 NW 83rd Street**

Email **liam.mcclay@sfcollge.edu**

Street

Gainesville

FL

32606

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:

Santa Fe College

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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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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SB 722

Bill Number or Topic

2/1/22

Meeting Date

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Nate Schaidt (Shade)

Phone 386-689-8240

Address 2018 Lawson Rd.

Email nate@horizoncommunities.org

Street

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:

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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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

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SB 722

Bill Number or Topic

Feb 1, 2022

Meeting Date

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name

Denise Rock - Florida Cares

Charity

Phone

561-855-0833

Address

Street

248 Ponce de Leon

Email

denise@florida-cares
Charity.org

WPB

City

FL

State

33407

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)

S-001 (08/10/2021)

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The Florida Senate

APPEARANCE RECORD

SB722

Bill Number or Topic

2/1/2022

Meeting Date

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Criminal Justice

Committee

Amendment Barcode (if applicable)

LAurette Philipsen

Phone

27-484-0237

1240 Westwind dr

Address

Street

Email

advocatephilipsen@gmail.com

Fort Lauderdale FL 33408

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. 511.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flisenate.gov\)](#)

S-001 (08/10/2021)

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2/1/22

Meeting Date

Criminal Justice

Committee

The Florida Senate

APPEARANCE RECORD

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722

Bill Number or Topic

Amendment Barcode (if applicable)

Name Nancy Daniels

Phone 850-228-7444

Address 301 S Monroe St.

Email ndaniels@flpda.org

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 Public Defender 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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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 722

Bill Number or Topic

2/1/22

Meeting Date

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Criminal Justice

Committee

Amendment Barcode (if applicable)

Name

Lacey Hofmeyer of Broward College

Phone

Address

111 E Las Olas Blvd

Email

LHofmeyer@

Street

Fl. Lauderdale FL 33301

broward.edu

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:

Broward College

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 \(flsenate.gov\)](#)

The Florida Senate

APPEARANCE RECORD

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2/1/22

Meeting Date

722

Bill Number or Topic

CJ

Committee

Amendment Barcode (if applicable)

Name

AARON WAYT ("WAYT")

Phone

(407) 435-3194

Address

FL ASSN OF CRIM DEF LAWYERS

Email

Street

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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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

2/1/22

Meeting Date

722

Bill Number or Topic

Criminal Justice

Committee

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

Amendment Barcode (if applicable)

Name Philip Suderman

Phone

Address

Email

Street

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:

Americans for Prosperity

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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S-001 (08/10/2021)



The Florida Senate

Committee Agenda Request

Senator Keith Perry
2610 NW 43rd Street, Suite 2B
Gainesville Florida 32606

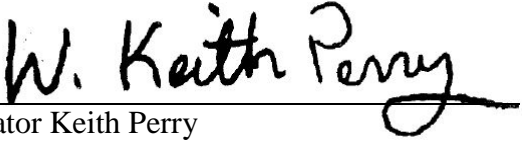
To: Senator Jason Pizzo, Chair
Committee on Criminal Justice

Subject: Committee Agenda Request

Date: January 11, 2022

I respectfully request that **Senate Bill #722**, relating to Education for Student Inmates, be placed on the:

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



Senator Keith Perry
Florida Senate, District 8

Senator Jason Pizzo, Chair
Committee on Criminal Justice
510 Knott Building
404 South Monroe Street
Tallahassee, Florida 32399-1100

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/CS/SB 876

INTRODUCER: Criminal Justice Committee; Transportation Committee; and Senators Pizzo and Rodrigues

SUBJECT: Stunt Driving on Highways

DATE: February 2, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|----------------|----------------|-----------|---------------|
| 1. | <u>Proctor</u> | <u>Vickers</u> | <u>TR</u> | <u>Fav/CS</u> |
| 2. | <u>Stokes</u> | <u>Jones</u> | <u>CJ</u> | <u>Fav/CS</u> |
| 3. | _____ | _____ | <u>RC</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 876 defines various terms, including street takeover and stunt driving. A “street takeover” is defined as the taking over of a portion of a highway or roadway by blocking or impeding the regular flow of traffic to perform burnouts, doughnuts, drifting, wheelies, or other stunt driving. “Stunt driving” means to perform or engage in any burnouts, doughnuts, drifting, wheelies, or other activity on a roadway or highway which is likely to delay, distract, startle, or interfere with other users of the roadway or highway.

The bill provides that it is a noncriminal traffic infraction for a person to be a spectator at any street takeover. Additionally, evidence that a person is filming or recording the event, or posting the event on social media, may be used to prove that a person was a spectator.

The bill amends s. 316.191, F.S., relating to racing on highways, to create three new first degree misdemeanor offenses. Specifically, a person may not:

- Operate a vehicle for the purpose of filming or recording the activities of participants in any race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition. There is an exception for bona fide members of the news media.
- Operate a vehicle carrying any amount of fuel for the purposes of fueling a vehicle involved in any race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition; or
- Operate a vehicle in a manner that would constitute participation in a street takeover.

Additionally, the bill adds drag racing, street takeovers, and stunt driving to the current list of prohibited acts that constitute a first degree misdemeanor. The bill also adds specified vehicles that may not be driven at certain events. Specifically, the bill provides that a person may not:

- Drive any motor vehicle, motorcycle, *autocycle, moped, all-terrain vehicle, off-road vehicle, or vehicle not licensed to operate on a highway or roadway*, in any *street takeover, stunt driving, race, speed competition or contest, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration or for the purpose of making a speed record or exhibiting the vehicle's performance capabilities and driver's abilities* on any highway, roadway, or parking lot;
- Participate, coordinate *through social media or otherwise*, facilitate, or collect moneys, in a *drag race, street takeover, or stunt driving*;
- Knowingly ride as a passenger in a *drag race, street takeover, or stunt driving*;
- Cause the movement of traffic, *including pedestrian traffic*, to slow, stop, or *be impeded in any way* for a *drag race, street takeover, or stunt driving*.

The bill amends s. 318.18, F.S., to add street takeovers and stunt driving on highways to the list of criminal offenses which would require a \$65 penalty, in addition to any other penalty. The additional \$65 must be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health.

Additionally, the bill provides that a law enforcement officer may arrest a person without a warrant when there is probable cause to believe a person has committed a street takeover or stunt driving.

The bill amends s. 316.2397, F.S., relating to the prohibition of certain lights on a vehicle, to enhance the penalty from a noncriminal traffic infraction to a first degree misdemeanor. Additionally, the bill amends s. 843.08, F.S., to prohibit a person from falsely assuming or pretending to be specified persons by the use of certain lights.

The bill may have an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill has an effective date of October 1, 2022.

II. Present Situation:

Under current law a person is prohibited from driving any motor vehicle, including any motorcycle, in any race, speed competition or contest, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration or for the purpose of making a speed record on any highway, roadway, or parking lot. In addition, a person is prohibited from participating in, coordinating, facilitating, or collecting moneys at any location for any such event; knowingly riding as a passenger in any such event; or purposefully causing the movement of traffic to slow or stop for any such event.¹

¹ Section 316.191(2), F.S.

Any person who violates the above provisions commits a first degree misdemeanor,² must also pay a fine of not less than \$500 and not more than \$1,000, and the Department of Highway Safety and Motor Vehicles (DHSMV) must also revoke his or her driver license for one year.³

Any person who commits a second violation of the above provisions within five years of a prior conviction commits a first degree misdemeanor, must pay a fine of not less than \$1,000 and not more than \$3,000, and the DHSMV must also revoke his or her driver license for two years.⁴

Any person who commits a third or subsequent violation of the above provisions within five years of a prior conviction commits a first degree misdemeanor, must pay a fine of not less than \$2,000 and not more than \$5,000, and the DHSMV must also revoke his or her driver license for four years.⁵

A person who has had his or her driver license revoked may request a hearing pursuant to s. 322.271, F.S., to petition the DHSMV for reinstatement of driving privileges for the above revocations.⁶

Whenever a law enforcement officer has probable cause to believe that a person commits any of the above violations, the law enforcement officer may arrest and take the person into custody without a warrant, and the court may enter an order of impoundment or immobilization as a condition of incarceration or probation. Within seven business days after the order of impoundment or immobilization, the clerk of the court must send notice by certified mail, return receipt requested, to the registered owner of the motor vehicle, if the registered owner is a person other than the defendant, and to each person of record claiming a lien against the motor vehicle.⁷

In addition, a person who is a spectator at a prohibited drag race under this section commits a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S.⁸

Street Takeover

Street takeovers are a relatively recent phenomenon that occur when large numbers, sometimes hundreds, of cars gather at a predetermined site, typically a large intersection. Some of the cars are used to block off the intersection and then other cars come into that intersection to perform donuts and other types of vehicular stunts. The problem with controlling these events is that it takes time for law enforcement to arrive because, due to the size and scale of these gatherings, multiple law enforcement resources need to be coordinated before they can take action. Once the

² 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.

³ Section 316.191(3), F.S.

⁴ *Ibid.*

⁵ *Ibid.*

⁶ *Ibid.*

⁷ Section 316.191(5), F.S.

⁸ Section 316.191(4), F.S.; Section 318.18, F.S., provides, that in addition to any other penalty, a person must pay \$65 for a violation of s. 316.191, F.S.

first sign of law enforcement presence is detected, the participants scatter, including the many bystanders that come to watch the cars.⁹

There does not appear to be much governmental data or statistics associated with street takeovers; however, there are a number of media accounts from across the nation, including Orange and Miami-Dade counties in Florida. Numerous media accounts indicate that a significant number of injuries and fatalities have been associated with street takeovers.¹⁰

The Dallas Police Department's speeding and racing task force provides one example of a concerted local effort to crack down on street takeovers and other illegal events since the start of the pandemic. Since the formation of the task force through September 14, 2021, they have reported the following actions in connection with illegal events:¹¹

- Traffic Stops: 5,855
- Hazardous Citations: 1,496
- Regulatory Citations: 4,585
- Spectators Arrested/Cited: 741
- Vehicles Towed: 650
- Calls Answered: 6,009
- Misdemeanor Arrests: 944
- Felony Arrests: 124
- Offenses Cleared: 67
- Guns Seized: 107
- Drugs Seized: 201
- Stolen Vehicles Recovered: 42
- Arrest Assists: 1,099

Certain prohibited lights

A person may not drive or move or cause to be moved any vehicle or equipment upon any highway within this state with any lamp or device thereon showing or displaying certain colors of lights unless they are explicitly authorized.¹² Section 316.2397, F.S., delineates what persons or entities may utilize certain lights. For example, only police vehicles and certain vehicles owned, operated, or leased by the Department of Corrections may show or display blue lights when responding to emergencies.¹³ A person may receive a noncriminal traffic infraction for the improper use of certain lights.¹⁴

⁹ Thom Taylor, *Street Takeovers Are Turning More Deadly*, November 15, 2021, motorbiscuit.com, <https://www.motorbiscuit.com/street-takeovers-turning-more-deadly/> (last visited January 27, 2022).

¹⁰ *Ibid*; Erin Myers, *Car that crashed into Van Nuys building, killing 1, was being followed by police after doing donuts in street takeover*, October 25, 2021, ktla.com, <https://ktla.com/news/local-news/car-that-crashed-into-van-nuys-building-killing-1-was-being-followed-by-police-after-doing-donuts-in-street-takeover/> (last visited January 27, 2022).

¹¹ Michael Lozano, *Illegal Dallas 'street takeovers' feeling pinch from Dallas PD*, October 2, 2021, spectrumlocalnews.com, <https://spectrumlocalnews.com/tx/dallas-fort-worth/news/2021/09/30/dallas-illegal--street-takeovers--feeling-pinch-from-dallas-pd-> (last visited January 27, 2022).

¹² Section 316.2397(1), F.S.

¹³ Section 316.2397(2), F.S.

¹⁴ Section 316.2397(10), F.S.

False Personation

A person who falsely assumes or pretends to be a specified person¹⁵ and takes upon himself or herself to act as such, or to require any other person to aid or assist him or her in a matter pertaining to the duty of any such officer, commits a third degree felony.¹⁶ However, a person who impersonates a specified person during the commission of a felony commits a second degree felony.¹⁷ If the felony results in death or personal injury of another person, it is a first degree felony.^{18, 19}

III. Effect of Proposed Changes:

The bill amends s. 316.191(1), F.S., to add the following definitions:

- “Burnout” means a maneuver performed while operating a motor vehicle whereby the vehicle is kept stationary, or is in motion, while the wheels are spun, the resulting friction causing the vehicle’s tires to heat up and emit smoke.
- “Doughnut” means a maneuver performed while operating a motor vehicle whereby the front or rear of the vehicle is rotated around the opposite set of wheels in a continuous motion which may cause a circular skid-mark pattern of rubber on the driving surface or the tires to heat up and emit smoke from friction, or both.
- “Drifting” means a maneuver performed while operating a motor vehicle whereby the vehicle is steered so that it makes a controlled skid sideways through a turn with the front wheels pointed in a direction opposite to that of the turn.
- “Street takeover” means the taking over of a portion of a highway or roadway by blocking or impeding the regular flow of traffic to perform burnouts, doughnuts, drifting, wheelies, or other stunt driving.
- “Stunt driving” means to perform or engage in any burnouts, doughnuts, drifting, wheelies, or other activity on a roadway or highway which is likely to delay, distract, startle, or interfere with other users of the roadway or highway.
- “Wheelie” means a maneuver performed while operating a motor vehicle whereby a motorcycle or other motor vehicle is ridden for a distance with the front wheel or wheels raised off the ground.

¹⁵ Section 843.08, F.S. includes the following: firefighter, sheriff, an officer of the Florida Highway Patrol, an officer of the Fish and Wildlife Conservation Commission, an officer of the Department of Environmental Protection, an officer of the Department of Financial Services, any personnel or representative of the Division of Investigative and Forensic Services, an officer of the Department of Corrections, a correctional probation officer, a deputy sheriff, a state attorney or an assistant state attorney, a statewide prosecutor or an assistant statewide prosecutor, a state attorney investigator, a coroner, a police officer, a lottery special agent or lottery investigator, a beverage enforcement agent, a school guardian, a security officer licensed under chapter 493, any member of the Florida Commission on Offender Review or any administrative aide or supervisor employed by the commission, any personnel or representative of the Department of Law Enforcement, or a federal law enforcement officer.

¹⁶ The maximum term of imprisonment for a third degree felony is 5 years imprisonment and a fine not exceeding \$5,000. Sections 775.082 and 775.083 F.S.

¹⁷ The maximum term of imprisonment for a second degree felony is 15 years imprisonment and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

¹⁸ The maximum term of imprisonment for a first degree felony is generally 30 years imprisonment and a fine not exceeding \$10,000. Sections 775.082 and 775.083 F.S.

¹⁹ Section 843.08, F.S.

The bill amends the term “spectator” to include a person who is knowingly present at and views a street takeover. The new definition now means any person who is knowingly present at and views a drag race or street takeover, when such presence is the result of an affirmative choice to attend or participate in the event. For purposes of determining whether or not an individual is a spectator, finders of fact shall consider the relationship between the motor vehicle operator and the individual, evidence of gambling or betting on the outcome of the event, filming or recording the event, or posting the event to social media, and any other factor that would tend to show knowing attendance or participation.

The bill amends s. 316.191(4), F.S., to provide that a person may not be a spectator at a street takeover and a person who violates this provision commits a noncriminal traffic infraction, punishable as a moving violation as provided in ch. 318, F.S.

The bill amends s. 316.191(2), F.S., relating to racing on highways, to create three new first degree misdemeanor offenses. Specifically, a person may not:

- Operate a vehicle for the purpose of filming or recording the activities of participants in any race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition. There is an exception for bona fide members of the news media.
- Operate a vehicle carrying any amount of fuel for the purposes of fueling a vehicle involved in any race, drag race, street takeover, stunt driving, competition, contest, test, or exhibition; or
- Operate a vehicle in a manner that would constitute participation in a street takeover.

Additionally, the bill adds drag racing, street takeovers, and stunt driving to the current list of prohibited acts that constitute a first degree misdemeanor. The bill also adds specified vehicles that may not be driven at certain events. Specifically, the bill provides that a person may not:

- Drive any motor vehicle, motorcycle, *autocycle, moped, all-terrain vehicle, off-road vehicle, or vehicle not licensed to operate on a highway or roadway*, in any *street takeover, stunt driving, race, speed competition or contest, drag race or acceleration contest, test of physical endurance, or exhibition of speed or acceleration or for the purpose of making a speed record or exhibiting the vehicle’s performance capabilities and driver’s abilities* on any highway, roadway, or parking lot;
- Participate, coordinate *through social media or otherwise*, facilitate, or collect moneys, in a *drag race, street takeover, or stunt driving*;
- Knowingly ride as a passenger in a *drag race, street takeover, or stunt driving*;
- Cause the movement of traffic, *including pedestrian traffic*, to slow, stop, or *be impeded in any way for a drag race, street takeover, or stunt driving*.

Any person who violates the above provisions commits a first degree misdemeanor, must pay a fine of not less than \$500 and not more than \$1,000, and the DHSMV must also revoke his or her driver license for one year.

Any person who commits a second violation of the above provisions within five years after the date of a prior violation that resulted in a conviction commits a first degree misdemeanor, must pay a fine of not less than \$1,000 and not more than \$3,000, and the DHSMV must also revoke his or her driver license for two years.

Any person who commits a third or subsequent violation of the above provisions within five years after the date of a prior violation that resulted in a conviction commits a first degree misdemeanor, must pay a fine of not less than \$2,000 and not more than \$5,000, and the DHSMV must also revoke his or her driver license for four years.

A hearing may be requested pursuant to s. 322.271, F.S., to petition the DHSMV for reinstatement of driving privileges for the above revocations.

The bill amends s. 901.15(9), F.S., to include a *street takeover* and *stunt driving* as incidents when a law enforcement officer may arrest a person without a warrant.

The bill amends s. 318.18(20), F.S., to add street takeovers and stunt driving on highways to the list of criminal offenses which would require a \$65 penalty, in addition to any other penalty. The additional \$65 must be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health.

The bill amends s. 316.2397, F.S., relating to the prohibition of certain lights on a vehicle, to enhance the penalty from a noncriminal traffic infraction to a first degree misdemeanor. Additionally, the bill amends s. 843.08, F.S., to prohibit a person from falsely assuming or pretending to be specified persons by the use of certain lights.

The bill has an effective date of October 1, 2022.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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:

Individuals driving, participating, coordinating, facilitating, collecting money, knowingly riding as a passenger, or causing the movement of traffic to slow or stop for a street takeover or stunt driving event may be negatively impacted if they are fined, arrested, have their vehicle impounded, or have their driver license revoked.

Individual spectators of a street takeover event may be negatively impacted if they are cited with a noncriminal traffic infraction.

C. Government Sector Impact:

State and local government entities may see an indeterminate positive fiscal impact associated with any fines or fees collected from individuals driving, participating, coordinating, facilitating, collecting money, knowingly riding as a passenger, or causing the movement of traffic to slow or stop for a street takeover or stunt driving event, and from the impoundment of vehicles.

State and local government may see an indeterminate positive fiscal impact associated with the issuance of a noncriminal traffic infraction to spectators of a street takeover.

The Emergency Medical Services Trust Fund of the Department of Health may see an indeterminate positive fiscal impact due to the addition of street takeovers and stunt driving on highways to the list of criminal offenses which would require a \$65 penalty, in addition to any other penalty, under s. 318.18(20), F.S.

There may be an indeterminate positive fiscal (increase in jail beds) due to persons arrested for the crimes created in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 316.191, 316.2397, 318.18, 843.08, and 901.15.

This bill reenacts sections 316.027 and 322.0261 of the Florida Statutes.

IX. Additional Information:

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

CS/CS by Criminal Justice on February 1, 2022:

The committee substitute:

- Adds autocycle, moped, all-terrain vehicle, off-road vehicle, and a vehicle not licensed to operate on a highway or roadway to the list of vehicles that may not be driven in certain events.
- Provides that evidence of the filming or recording of a drag race or street takeover, or posting of such event on social media, may be used to determine if a person was a spectator at such event. There is an exception for bona fide members of the news media.
- Prohibits a person from operating a vehicle: for the purpose of filming or recording the activities of participants of certain events; carrying any amount of fuel for the purpose of fueling a vehicle involved in certain events; or in a manner that would constitute participation in a street takeover.
- Enhances the penalty under s. 316.2397, F.S., relating to the prohibition of certain lights on a vehicle, from a noncriminal traffic infraction to a first degree misdemeanor, and prohibits a person from falsely assuming or pretending to be specified persons by the use of certain lights.

CS by Transportation on January 12, 2022:

The committee substitute:

- Modifies the definition of “burnout” to allow the vehicle to also be in motion, and not just stationary.
- Amends the definition for “spectator” to include an individual present at and viewing a street takeover event.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 02/01/2022 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment (with title amendment)

Delete lines 69 - 198
and insert:
betting on the outcome of the event race, filming or recording
the event, or posting the event on social media, and any other
factor that would tend to show knowing attendance or
participation.

(h) "Street takeover" means the taking over of a portion of
a highway or roadway by blocking or impeding the regular flow of



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11 traffic to perform burnouts, doughnuts, drifting, wheelies, or
12 other stunt driving.

13 (i) "Stunt driving" means to perform or engage in any
14 burnouts, doughnuts, drifting, wheelies, or other activity on a
15 roadway or highway which is likely to delay, distract, startle,
16 or interfere with other users of the roadway or highway.

17 (j) "Wheelie" means a maneuver performed while operating a
18 motor vehicle whereby a motorcycle or other motor vehicle is
19 ridden for a distance with the front wheel or wheels raised off
20 the ground.

21 (2) A person may not:

22 (a) Drive any motor vehicle, including any motorcycle,
23 autocycle, moped, all-terrain vehicle, off-road vehicle, or
24 vehicle not licensed to operate on a highway or roadway, in any
25 street takeover, stunt driving, race, speed competition or
26 contest, drag race or acceleration contest, test of physical
27 endurance, or exhibition of speed or acceleration or for the
28 purpose of making a speed record or exhibiting the vehicle's
29 performance capabilities and driver's abilities on any highway,
30 roadway, or parking lot;

31 (b) In any manner participate in, coordinate through social
32 media or otherwise, facilitate, or collect moneys at any
33 location for any such race, drag race, street takeover, stunt
34 driving, competition, contest, test, or exhibition;

35 (c) Knowingly ride as a passenger in any such race, drag
36 race, street takeover, stunt driving, competition, contest,
37 test, or exhibition; ~~or~~

38 (d) Purposefully cause the movement of traffic, including
39 pedestrian traffic, to slow, ~~or~~ stop, or be impeded in any way



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40 for any such race, drag race, street takeover, stunt driving,
41 competition, contest, test, or exhibition;

42 (e) Operate a vehicle for the purpose of filming or
43 recording the activities of participants in any such race, drag
44 race, street takeover, stunt driving, competition, contest,
45 test, or exhibition. This paragraph does not apply to bona fide
46 members of the news media;

47 (f) Operate a vehicle carrying any amount of fuel for the
48 purposes of fueling a vehicle involved in any such race, drag
49 race, street takeover, stunt driving, competition, contest,
50 test, or exhibition; or

51 (g) Operate a vehicle in a manner that would constitute
52 participation in a street takeover.

53 (3) (a) Any person who violates subsection (2) commits a
54 misdemeanor of the first degree, punishable as provided in s.
55 775.082 or s. 775.083. Any person who violates subsection (2)
56 shall pay a fine of not less than \$500 and not more than \$1,000,
57 and the department shall revoke the driver license of a person
58 so convicted for 1 year. A hearing may be requested pursuant to
59 s. 322.271.

60 (b) Any person who commits a second violation of subsection
61 (2) within 5 years after the date of a prior violation that
62 resulted in a conviction for a violation of subsection (2)
63 commits a misdemeanor of the first degree, punishable as
64 provided in s. 775.082 or s. 775.083, and shall pay a fine of
65 not less than \$1,000 and not more than \$3,000. The department
66 shall also revoke the driver license of that person for 2 years.
67 A hearing may be requested pursuant to s. 322.271.

68 (c) Any person who commits a third or subsequent violation



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69 of subsection (2) within 5 years after the date of a prior
70 violation that resulted in a conviction for a violation of
71 subsection (2) commits a misdemeanor of the first degree,
72 punishable as provided in s. 775.082 or s. 775.083, and shall
73 pay a fine of not less than \$2,000 and not more than \$5,000. The
74 department shall also revoke the driver license of that person
75 for 4 years. A hearing may be requested pursuant to s. 322.271.

76 (d) In any case charging a violation of subsection (2), the
77 court shall be provided a copy of the driving record of the
78 person charged and may obtain any records from any other source
79 to determine if one or more prior convictions of the person for
80 a violation of subsection (2) have occurred within 5 years prior
81 to the charged offense.

82 (4) (a) A person may not be a spectator at any race, drag
83 race or street takeover prohibited under subsection (2).

84 (b) A person who violates paragraph (a) commits a
85 noncriminal traffic infraction, punishable as a moving violation
86 as provided in chapter 318.

87 (5) Whenever a law enforcement officer has probable cause
88 to believe that a person violated subsection (2), the officer
89 may arrest and take such person into custody without a warrant.
90 The court may enter an order of impoundment or immobilization as
91 a condition of incarceration or probation. Within 7 business
92 days after the date the court issues the order of impoundment or
93 immobilization, the clerk of the court must send notice by
94 certified mail, return receipt requested, to the registered
95 owner of the motor vehicle, if the registered owner is a person
96 other than the defendant, and to each person of record claiming
97 a lien against the motor vehicle.



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98 (a) Notwithstanding any provision of law to the contrary,
99 the impounding agency shall release a motor vehicle under the
100 conditions provided in s. 316.193(6) (e), (f), (g), and (h), if
101 the owner or agent presents a valid driver license at the time
102 of pickup of the motor vehicle.

103 (b) All costs and fees for the impoundment or
104 immobilization, including the cost of notification, must be paid
105 by the owner of the motor vehicle or, if the motor vehicle is
106 leased or rented, by the person leasing or renting the motor
107 vehicle, unless the impoundment or immobilization order is
108 dismissed. All provisions of s. 713.78 shall apply.

109 (c) Any motor vehicle used in violation of subsection (2)
110 may be impounded for a period of 30 business days if a law
111 enforcement officer has arrested and taken a person into custody
112 pursuant to this subsection and the person being arrested is the
113 registered owner or co-owner of the motor vehicle. If the
114 arresting officer finds that the criteria of this paragraph are
115 met, the officer may immediately impound the motor vehicle. The
116 law enforcement officer shall notify the Department of Highway
117 Safety and Motor Vehicles of any impoundment for violation of
118 this subsection in accordance with procedures established by the
119 department. Paragraphs (a) and (b) shall be applicable to such
120 impoundment.

121 (6) Any motor vehicle used in violation of subsection (2)
122 by any person within 5 years after the date of a prior
123 conviction of that person for a violation under subsection (2)
124 may be seized and forfeited as provided by the Florida
125 Contraband Forfeiture Act. This subsection shall only be
126 applicable if the owner of the motor vehicle is the person



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127 charged with violating subsection (2).

128 (7) This section does not apply to licensed or duly
129 authorized racetracks, drag strips, or other designated areas
130 set aside by proper authorities for such purposes.

131 Section 2. Subsection (10) of section 316.2397, Florida
132 Statutes, is amended to read:

133 316.2397 Certain lights prohibited; exceptions.—

134 (10) A person who violates ~~violation of~~ this section
135 commits a misdemeanor of the first degree is a noncriminal
136 traffic infraction, punishable as a nonmoving violation as
137 provided in s. 775.082 or s. 775.083 ~~chapter 318.~~

138 Section 3. Subsection (20) of section 318.18, Florida
139 Statutes, is amended to read:

140 318.18 Amount of penalties.—The penalties required for a
141 noncriminal disposition pursuant to s. 318.14 or a criminal
142 offense listed in s. 318.17 are as follows:

143 (20) In addition to any other penalty, \$65 for a violation
144 of s. 316.191, prohibiting racing on highways, street takeovers,
145 and stunt driving on highways, or s. 316.192, prohibiting
146 reckless driving. The additional \$65 collected under this
147 subsection shall be remitted to the Department of Revenue for
148 deposit into the Emergency Medical Services Trust Fund of the
149 Department of Health to be used as provided in s. 395.4036.

150 Section 4. Section 843.08, Florida Statutes, is amended to
151 read:

152 843.08 False personation.—A person who falsely assumes or
153 pretends to be a firefighter, a sheriff, an officer of the
154 Florida Highway Patrol, an officer of the Fish and Wildlife
155 Conservation Commission, an officer of the Department of



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156 Environmental Protection, an officer of the Department of
157 Financial Services, any personnel or representative of the
158 Division of Investigative and Forensic Services, an officer of
159 the Department of Corrections, a correctional probation officer,
160 a deputy sheriff, a state attorney or an assistant state
161 attorney, a statewide prosecutor or an assistant statewide
162 prosecutor, a state attorney investigator, a coroner, a police
163 officer, a lottery special agent or lottery investigator, a
164 beverage enforcement agent, a school guardian as described in s.
165 30.15(1)(k), a security officer licensed under chapter 493, any
166 member of the Florida Commission on Offender Review or any
167 administrative aide or supervisor employed by the commission,
168 any personnel or representative of the Department of Law
169 Enforcement, or a federal law enforcement officer as defined in
170 s. 901.1505, and takes upon himself or herself to act as such,
171 including by using lights in violation of s. 316.2397 or s.
172 843.081, or to require any other person to aid or assist him or
173 her in a matter pertaining to the duty of any such officer,
174 commits a felony of the third degree, punishable as provided in
175 s. 775.082, s. 775.083, or s. 775.084. However, a person who
176 falsely personates any such officer during the course of the
177 commission of a felony commits a felony of the second degree,
178 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.
179 If the commission of the felony results in the death or personal
180 injury of another human being, the person commits a felony of
181 the first degree, punishable as provided in s. 775.082, s.
182 775.083, or s. 775.084.

183 Section 5. Paragraph (d) of subsection (9) of section
184 901.15, Florida Statutes, is amended to read:



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185 901.15 When arrest by officer without warrant is lawful.—A
186 law enforcement officer may arrest a person without a warrant
187 when:

188 (9) There is probable cause to believe that the person has
189 committed:

190 (d) A racing, street takeover, or stunt driving violation
191 as described in s. 316.191(2).

192 Section 6. For the purpose of incorporating the amendment
193 made by this act to section 316.191, Florida Statutes, in a
194 reference thereto, paragraph (c) of subsection (2) of section
195 316.027, Florida Statutes, is reenacted to read:

196 316.027 Crash involving death or personal injuries.—

197 (2)

198 (c) The driver of a vehicle involved in a crash occurring
199 on public or private property which results in the death of a
200 person shall immediately stop the vehicle at the scene of the
201 crash, or as close thereto as possible, and shall remain at the
202 scene of the crash until he or she has fulfilled the
203 requirements of s. 316.062. A person who is arrested for a
204 violation of this paragraph and who has previously been
205 convicted of a violation of this section, s. 316.061, s.
206 316.191, or s. 316.193, or a felony violation of s. 322.34,
207 shall be held in custody until brought before the court for
208 admittance to bail in accordance with chapter 903. A person who
209 willfully violates this paragraph commits a felony of the first
210 degree, punishable as provided in s. 775.082, s. 775.083, or s.
211 775.084, and shall be sentenced to a mandatory minimum term of
212 imprisonment of 4 years. A person who willfully commits such a
213 violation while driving under the influence as set forth in s.



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214 316.193(1) shall be sentenced to a mandatory minimum term of
215 imprisonment of 4 years.

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

217 And the title is amended as follows:

218 Delete lines 7 - 13

219 and insert:

220 prohibiting the operation of a vehicle for specified
221 purposes; providing an exception; prohibiting the
222 operation of a vehicle in a manner that would
223 constitute a street takeover; prohibiting a person
224 from being a spectator at a street takeover; providing
225 applicability of specified criminal penalties;
226 amending s. 316.2397, F.S.; providing criminal
227 penalties for unlawful use of certain lights; amending
228 s. 318.18, F.S.; providing applicability of a certain
229 civil penalty; amending s. 843.08, F.S.; prohibiting a
230 person from falsely assuming or pretending to be
231 specified persons by the unlawful use of certain
232 lights; providing criminal penalties; amending s.
233 901.15, F.S.; conforming a provision to changes made
234 by the act; reenacting ss. 316.027(2)(c), and
235 322.0261(4)(a), F.S., relating to a crash involving
236 death or personal injuries, and driver improvement
237 courses, respectively,

By the Committee on Transportation; and Senator Pizzo

596-01967-22

2022876c1

A bill to be entitled

An act relating to stunt driving on highways; amending s. 316.191, F.S.; defining terms; revising the definition of the term "spectator"; prohibiting specified acts relating to street takeovers or stunt driving on highways, roadways, or parking lots; prohibiting a person from being a spectator at a street takeover; providing applicability of specified criminal penalties; amending s. 318.18, F.S.; providing applicability of a certain civil penalty; amending s. 901.15, F.S.; conforming a provision to changes made by the act; reenacting s. 322.0261(4) (a) and (b), F.S., relating to driver improvement courses, to incorporate the amendment made to s. 316.191, F.S., in references thereto; providing an effective date.

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

Section 1. Section 316.191, Florida Statutes, is amended to read:

316.191 Racing on highways, street takeovers, and stunt driving on highways.—

(1) As used in this section, the term:

(a) "Burnout" means a maneuver performed while operating a motor vehicle whereby the vehicle is kept stationary, or is in motion, while the wheels are spun, the resulting friction causing the vehicle's tires to heat up and emit smoke.

(b) "Conviction" means a determination of guilt that is the result of a plea or trial, regardless of whether adjudication is

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

596-01967-22

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withheld.

(c) "Doughnut" means a maneuver performed while operating a motor vehicle whereby the front or rear of the vehicle is rotated around the opposite set of wheels in a continuous motion which may cause a circular skid-mark pattern of rubber on the driving surface or the tires to heat up and emit smoke from friction, or both.

~~(d)~~ (b) "Drag race" means the operation of two or more motor vehicles from a point side by side at accelerating speeds in a competitive attempt to outdistance each other, or the operation of one or more motor vehicles over a common selected course, from the same point to the same point, for the purpose of comparing the relative speeds or power of acceleration of such motor vehicle or motor vehicles within a certain distance or time limit.

(e) "Drifting" means a maneuver performed while operating a motor vehicle whereby the vehicle is steered so that it makes a controlled skid sideways through a turn with the front wheels pointed in a direction opposite to that of the turn.

~~(f)~~ (e) "Race" means the use of one or more motor vehicles in competition, arising from a challenge to demonstrate superiority of a motor vehicle or driver and the acceptance or competitive response to that challenge, either through a prior arrangement or in immediate response, in which the competitor attempts to outgain or outdistance another motor vehicle, to prevent another motor vehicle from passing, to arrive at a given destination ahead of another motor vehicle or motor vehicles, or to test the physical stamina or endurance of drivers over long-distance driving routes. A race may be prearranged or may occur

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59 through a competitive response to conduct on the part of one or
60 more drivers which, under the totality of the circumstances, can
61 reasonably be interpreted as a challenge to race.

62 ~~(g)(4)~~ "Spectator" means any person who is knowingly
63 present at and views a drag race or street takeover, when such
64 presence is the result of an affirmative choice to attend or
65 participate in the event ~~race~~. For purposes of determining
66 whether or not an individual is a spectator, finders of fact
67 shall consider the relationship between the motor vehicle
68 operator ~~race~~ and the individual, evidence of gambling or
69 betting on the outcome of the event ~~race~~, and any other factor
70 that would tend to show knowing attendance or participation.

71 (h) "Street takeover" means the taking over of a portion of
72 a highway or roadway by blocking or impeding the regular flow of
73 traffic to perform burnouts, doughnuts, drifting, wheelies, or
74 other stunt driving.

75 (i) "Stunt driving" means to perform or engage in any
76 burnouts, doughnuts, drifting, wheelies, or other activity on a
77 roadway or highway which is likely to delay, distract, startle,
78 or interfere with other users of the roadway or highway.

79 (j) "Wheelie" means a maneuver performed while operating a
80 motor vehicle whereby a motorcycle or other motor vehicle is
81 ridden for a distance with the front wheel or wheels raised off
82 the ground.

83 (2) A person may not:

84 (a) Drive any motor vehicle, including any motorcycle, in
85 any street takeover, stunt driving, race, speed competition or
86 contest, drag race or acceleration contest, test of physical
87 endurance, or exhibition of speed or acceleration or for the

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88 purpose of making a speed record on any highway, roadway, or
89 parking lot;

90 (b) In any manner participate in, coordinate, facilitate,
91 or collect moneys at any location for any such race, street
92 takeover, stunt driving, competition, contest, test, or
93 exhibition;

94 (c) Knowingly ride as a passenger in any such race, street
95 takeover, stunt driving, competition, contest, test, or
96 exhibition; or

97 (d) Purposefully cause the movement of traffic to slow or
98 stop for any such race, street takeover, stunt driving,
99 competition, contest, test, or exhibition.

100 (3) (a) Any person who violates subsection (2) commits a
101 misdemeanor of the first degree, punishable as provided in s.
102 775.082 or s. 775.083. Any person who violates subsection (2)
103 shall pay a fine of not less than \$500 and not more than \$1,000,
104 and the department shall revoke the driver license of a person
105 so convicted for 1 year. A hearing may be requested pursuant to
106 s. 322.271.

107 (b) Any person who commits a second violation of subsection
108 (2) within 5 years after the date of a prior violation that
109 resulted in a conviction for a violation of subsection (2)
110 commits a misdemeanor of the first degree, punishable as
111 provided in s. 775.082 or s. 775.083, and shall pay a fine of
112 not less than \$1,000 and not more than \$3,000. The department
113 shall also revoke the driver license of that person for 2 years.
114 A hearing may be requested pursuant to s. 322.271.

115 (c) Any person who commits a third or subsequent violation
116 of subsection (2) within 5 years after the date of a prior

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117 violation that resulted in a conviction for a violation of
 118 subsection (2) commits a misdemeanor of the first degree,
 119 punishable as provided in s. 775.082 or s. 775.083, and shall
 120 pay a fine of not less than \$2,000 and not more than \$5,000. The
 121 department shall also revoke the driver license of that person
 122 for 4 years. A hearing may be requested pursuant to s. 322.271.

123 (d) In any case charging a violation of subsection (2), the
 124 court shall be provided a copy of the driving record of the
 125 person charged and may obtain any records from any other source
 126 to determine if one or more prior convictions of the person for
 127 a violation of subsection (2) have occurred within 5 years prior
 128 to the charged offense.

129 (4) (a) A person may not be a spectator at any drag race or
 130 street takeover prohibited under subsection (2).

131 (b) A person who violates paragraph (a) commits a
 132 noncriminal traffic infraction, punishable as a moving violation
 133 as provided in chapter 318.

134 (5) Whenever a law enforcement officer has probable cause
 135 to believe that a person violated subsection (2), the officer
 136 may arrest and take such person into custody without a warrant.
 137 The court may enter an order of impoundment or immobilization as
 138 a condition of incarceration or probation. Within 7 business
 139 days after the date the court issues the order of impoundment or
 140 immobilization, the clerk of the court must send notice by
 141 certified mail, return receipt requested, to the registered
 142 owner of the motor vehicle, if the registered owner is a person
 143 other than the defendant, and to each person of record claiming
 144 a lien against the motor vehicle.

145 (a) Notwithstanding any provision of law to the contrary,

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146 the impounding agency shall release a motor vehicle under the
 147 conditions provided in s. 316.193(6) (e), (f), (g), and (h), if
 148 the owner or agent presents a valid driver license at the time
 149 of pickup of the motor vehicle.

150 (b) All costs and fees for the impoundment or
 151 immobilization, including the cost of notification, must be paid
 152 by the owner of the motor vehicle or, if the motor vehicle is
 153 leased or rented, by the person leasing or renting the motor
 154 vehicle, unless the impoundment or immobilization order is
 155 dismissed. All provisions of s. 713.78 shall apply.

156 (c) Any motor vehicle used in violation of subsection (2)
 157 may be impounded for a period of 30 business days if a law
 158 enforcement officer has arrested and taken a person into custody
 159 pursuant to this subsection and the person being arrested is the
 160 registered owner or co-owner of the motor vehicle. If the
 161 arresting officer finds that the criteria of this paragraph are
 162 met, the officer may immediately impound the motor vehicle. The
 163 law enforcement officer shall notify the Department of Highway
 164 Safety and Motor Vehicles of any impoundment for violation of
 165 this subsection in accordance with procedures established by the
 166 department. Paragraphs (a) and (b) shall be applicable to such
 167 impoundment.

168 (6) Any motor vehicle used in violation of subsection (2)
 169 by any person within 5 years after the date of a prior
 170 conviction of that person for a violation under subsection (2)
 171 may be seized and forfeited as provided by the Florida
 172 Contraband Forfeiture Act. This subsection shall only be
 173 applicable if the owner of the motor vehicle is the person
 174 charged with violating subsection (2).

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175 (7) This section does not apply to licensed or duly
176 authorized racetracks, drag strips, or other designated areas
177 set aside by proper authorities for such purposes.

178 Section 2. Subsection (20) of section 318.18, Florida
179 Statutes, is amended to read:

180 318.18 Amount of penalties.—The penalties required for a
181 noncriminal disposition pursuant to s. 318.14 or a criminal
182 offense listed in s. 318.17 are as follows:

183 (20) In addition to any other penalty, \$65 for a violation
184 of s. 316.191, prohibiting racing on highways, street takeovers,
185 and stunt driving on highways, or s. 316.192, prohibiting
186 reckless driving. The additional \$65 collected under this
187 subsection shall be remitted to the Department of Revenue for
188 deposit into the Emergency Medical Services Trust Fund of the
189 Department of Health to be used as provided in s. 395.4036.

190 Section 3. Paragraph (d) of subsection (9) of section
191 901.15, Florida Statutes, is amended to read:

192 901.15 When arrest by officer without warrant is lawful.—A
193 law enforcement officer may arrest a person without a warrant
194 when:

195 (9) There is probable cause to believe that the person has
196 committed:

197 (d) A racing, street takeover, or stunt driving violation
198 as described in s. 316.191(2).

199 Section 4. For the purpose of incorporating the amendment
200 made by this act to section 316.191, Florida Statutes, in
201 references thereto, paragraphs (a) and (b) of subsection (4) of
202 section 322.0261, Florida Statutes, are reenacted to read:

203 322.0261 Driver improvement course; requirement to maintain

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204 driving privileges; failure to complete; department approval of
205 course.—

206 (4) (a) The department shall identify any operator convicted
207 of, or who pleaded nolo contendere to, a violation of s.
208 316.074(1), s. 316.075(1)(c)1., s. 316.172, s. 316.191, or s.
209 316.192 and shall require that operator, in addition to other
210 applicable penalties, to attend a department-approved driver
211 improvement course in order to maintain driving privileges. The
212 department shall, within 10 days after receiving a notice of
213 judicial disposition, send notice to the operator of the
214 requirement to attend a driver improvement course. If the
215 operator fails to complete the course within 90 days after
216 receiving notice from the department, the operator's driver
217 license shall be canceled by the department until the course is
218 successfully completed.

219 (b) Any operator who receives a traffic citation for a
220 violation of s. 316.074(1), s. 316.075(1)(c)1., s. 316.191, or
221 s. 316.192, for which the court withholds adjudication, is not
222 required to attend a driver improvement course, unless the court
223 finds that the nature or severity of the violation is such that
224 attendance to a driver improvement course is necessary. The
225 department shall, within 10 days after receiving a notice of
226 judicial disposition, send notice to the operator of the
227 requirement to attend a driver improvement course. If the
228 operator fails to complete the course within 90 days after
229 receiving notice from the department, the operator's driver
230 license shall be canceled by the department until the course is
231 successfully completed.

232 Section 5. This act shall take effect October 1, 2022.

The Florida Senate

APPEARANCE RECORD

876

Bill Number or Topic

2-1-22

Meeting Date

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

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name Matt Dunagan

Phone 850 877 2165

Address 2617 Mahan Drive

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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:

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

Florida Sheriffs Association

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: CS/SB 1244

INTRODUCER: Criminal Justice Committee and Senator Gibson

SUBJECT: Statutes of Limitations for Sexual Offenses

DATE: February 1, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|---------|----------------|-----------|--------|
| 1. | Stokes | Jones | CJ | Fav/CS |
| 2. | | | CF | |
| 3. | | | RC | |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1244 amends s. 775.15, F.S., to provide that there is no time limitation for the prosecution of:

- Any offense in ch. 794, F.S., relating to sexual battery, with specified exceptions;
- Section 800.04(7)(a)3., F.S., relating to certain acts of lewd or lascivious exhibition; or
- Section 827.071(2) or (3), F.S., relating to use of a child in a sexual performance or promoting a sexual performance of a child.

The bill provides that the exceptions to time limitations apply to any offense that is not otherwise barred from prosecution on or before July 1, 2022.

Section 775.15, F.S., sets forth time limitations for the prosecution of crime. Prosecution is barred if it is not commenced within the time limitations provided in this section. The general time limitations for the prosecution of offenses are based upon the degree of offense, however there are multiple exceptions to the general time limitations.

The bill is effective July 1, 2022.

II. Present Situation:

Statute of Limitations

Historical Perspective

At common law, there was no time limitation under which a criminal charge was barred from prosecution. Time limitations for criminal prosecutions exist only as a creation of statute and are considered to be acts of grace by the State.¹

In *State v. Hickman*, the court stated:

The only purpose of a Statute limiting the time within which a criminal charge may be prosecuted is to protect every person from being interminably under the threat or cloud of possible criminal prosecution, which otherwise might be indefinitely delayed until the time when defense witnesses might die, disappear or otherwise become unavailable, judges would change office, or innumerable other time hazards might develop, which could conceivably defeat, or at least hamper, an otherwise good defense.²

Since the creation of statutes of limitation, courts have held that:

- Generally, the statute of limitation that was in effect when a crime was committed controls.³
- Statutes of limitation in criminal cases should be construed liberally in favor of the defendant.⁴
- The Legislature may apply time limitations retroactively without violating the ex post facto clause of the State Constitution⁵ if the Legislature makes the change before the prosecution is barred under the old statute and clearly demonstrates that the new statute applies to cases pending when the extension takes effect.⁶
- Courts have recently upheld extensions of time limitations for sexual battery when the amendment takes effect before the case was procedurally barred.⁷

¹ *State v. Hickman*, 189 So. 2d 254, 261-62 (Fla. 2d DCA 1966).

² *Id.*

³ *Beyer v. State*, 76 So.3d 1132, 1134 (Fla. 4th DCA 2012).

⁴ *Id.*

⁵ FLA. CONST. art. I, s. 10.

⁶ *Schargschwerdt v. Kanerek*, 553 So.2d 218, 220 (Fla. 4th DCA 1989), citing *Andrews v. State*, 392 So.2d 270 (Fla. 2d DCA 1980), rev. denied, 399 So.2d 114 (Fla. 1981); See also *United States v. Richardson*, 512 F. 2d 105, 106 (3rd Cir. 1975); *Smith v. State*, 213 So.3d 722, 1740 (Fla. 2017).

⁷ *Brown v. State*, 179 So. 3d 466, 468 (Fla. 4th DCA 2015) (The court affirmed the conviction for one count of sexual battery on a victim less than 16 years of age. The abuse occurred between May 1997 and July 1998. The abuse was reported November 15, 1999. The State brought charges against the defendant in 2011. The Statute of limitation in effect at the time of the offense would have barred prosecution in November 2003; however, the Legislature amended the statute of limitations in October 2003 to provide no time limitation for the offense for which the defendant was charged. Because the case was not barred at the time the amended statute of limitations went into effect, the court held that the statute of limitation was properly extended and did not violate the ex post facto clause).

Existing Provisions

Section 775.15, F.S., sets forth time limitations, also referred to as statutes of limitation, for the prosecution of crime. Prosecution is barred if it is not commenced within the time limitations provided in this section. The time limitation for prosecuting a criminal case begins to run on the day after the offense is committed, unless otherwise stated. An offense is deemed to have been committed when either every element of the offense has occurred or, if it plainly appears that the legislative purpose is to prohibit a continuing course of conduct, at the time when the course of conduct or the defendant's complicity therein is terminated.⁸

In part, s. 775.15, F.S., provides time limitations for initiating a criminal prosecution for a felony offense. The general provisions provide that there is:

- No time limitation for prosecuting a capital felony, a life felony, a felony resulting in death.⁹
- A 4-year time limitation for prosecuting a first degree felony.¹⁰
- A 3-year time limitation for prosecuting a second or third degree felony.¹¹

However, a number of exceptions to the time limitation provisions mentioned above exist. Many of these exceptions are specific to certain offenses or types of victims. These exceptions apply, in part, to violations of s. 794.011, F.S., relating to sexual battery, and violations of s. 800.04, F.S., relating to lewd and lascivious offenses. These exceptions include:

- No time limitation for prosecuting:
 - A first or second degree felony sexual battery when the victim is under 18 years of age and he or she reports the crime to law enforcement within 72 hours provided the offense was not barred from prosecution on or before December 31, 1984;¹²
 - A first degree felony sexual battery when the victim is younger than 18 years of age provided the offense was not barred from prosecution on or before October 1, 2003;¹³
 - Any felony sexual battery when the victim is younger than 16 years of age provided the offense was not barred from prosecution on or before July 1, 2010;¹⁴
 - A first or second degree felony sexual battery when the victim is 16 years of age or older and reports the crime to law enforcement within 72 hours;¹⁵
 - Any sexual battery offense, when the victim is younger than 18 years of age when the offense was committed, and the offense was committed on or after July 1, 2020.¹⁶
 - A violation of s. 800.04(4) or (5), F.S., relating to lewd or lascivious battery or molestation, when the victim was under 16 years of age at the time of the offense, and the offense was not barred from prosecution on or before October 1, 2014. This exception to

⁸ Section 775.15(3), F.S.

⁹ Section 775.15(1), F.S.

¹⁰ Section 775.15(2)(a), F.S. A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

¹¹ Section 775.15(2)(b), F.S. A second degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine and a third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

¹² Section 775.15(13)(a), F.S.

¹³ Section 775.15(13)(b), F.S.

¹⁴ Section 775.15(13)(c), F.S.

¹⁵ Section 775.15(14)(a), F.S.

¹⁶ Section 775.15(20), F.S.

- the time limitation does not apply if the offender is less than 18 years of age and no more than 4 years older than the victim.¹⁷
- There is an eight-year time limitation on prosecuting a first or second degree felony sexual battery when the victim is 16 years of age or older at the time of the offense provided the offense was not barred from prosecution on or before July 1, 2015, except for:
 - A first or second degree felony sexual battery when the victim is 16 years of age or older and reports the crime to law enforcement within 72 hours; or
 - A first degree felony sexual battery when the victim is younger than 18 years of age provided the offense was not barred from prosecution on or before October 1, 2003.¹⁸

In addition to the time periods prescribed in this section, the prosecution for specific enumerated offenses,¹⁹ including sexual battery, and lewd or lascivious offenses, may be prosecuted at any time after the date on which the offender's identity is established, or should have been established through the exercise of due diligence, through the analysis of deoxyribonucleic acid (DNA) evidence collected at the time of the original investigation. The DNA sample for these prosecutions must be available for testing by the accused.²⁰ This exception applies to offenses that are not otherwise barred on or after July 1, 2006.^{21, 22}

Another exception provides that the applicable period of limitation does not begin to run until the victim of a sexual battery, lewd or lascivious offense, or other specified offense reaches the age of 18 years or the violation is reported to a law enforcement or governmental agency, whichever occurs first. This provision only applies to a victim who was younger than 18 years of age at the time of the offense.²³

Sexually Related Offenses

Sexual Battery

Chapter 794, of the Florida Statutes contains numerous sections of law relating to sexual battery. Felony crimes contained in chapter include:

- Section 794.011, F.S., provides that “sexual battery” means oral, anal, or vaginal penetration by, or union with, the sexual organ of another or the anal or vaginal penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.²⁴ Sexual battery offenses are categorized by certain factors including the

¹⁷ Section 775.15(18), F.S.

¹⁸ Section 775.15(14)(b), F.S.

¹⁹ Section 775.15(16)(a), F.S., applies these provisions to the following offenses: aggravated battery or any felony battery offense under ch. 784, F.S.; kidnapping offenses under s. 787.01, F.S., or false imprisonment offenses under s. 787.02, F.S.; sexual battery offenses under ch. 794, F.S.; lewd or lascivious offenses under s. 800.04, F.S., s. 825.1025, F.S., or s. 847.0135(5), F.S.; burglary offenses under s. 810.02, F.S.; robbery offenses under s. 812.13, F.S., s. 812.131, F.S., or s. 812.135, F.S.; carjacking offenses under s. 812.133, F.S.; or aggravated child abuse under s. 827.03, F.S.

²⁰ Section 775.15(16)(a), F.S.

²¹ Section 775.15(16)(b), F.S.

²² *Bryson v. State*, 42 So. 3d 852 (Fla. 1st DCA 2010) (holding that the appellants prosecution was not barred, and that s. 775.15(16), F.S., could be applied because appellant's case was not barred at the time that section was enacted).

²³ Section 775.15(13)(a), F.S.

²⁴ Section 794.011(1)(h), F.S.

offender's age, the victim's age, and specified circumstances. Generally, absent any specified circumstances, a sexual battery is a second degree felony.²⁵

- Section 794.08, F.S., provides criminal penalties related to female genital mutilation.²⁶
- Section 794.05, F.S., provides that a person who is 24 years of age or older who engages in sexual activity with a person 16 or 17 years of age commits a second degree felony.²⁷

Chapter 794, F.S., also contains the following misdemeanor crimes:

- Section 794.024, F.S., provides that it is a second degree misdemeanor²⁸ for a public employee or officer who has access to the photograph, name, or address of a person who is alleged to be the victim of specified offenses to willfully and knowingly disclose that information, except to specified person's or entities.²⁹
- Section 794.027, F.S., provides that it is a first degree misdemeanor³⁰ to observe the commission of a sexual battery and fail to seek assistance.³¹
- Section 794.03, F.S., provides that it is a second degree misdemeanor, except in certain circumstances, for a person to print, publish, or broadcast, or cause or allow to be printed, published, or broadcast, in any instrument of mass communication the name, address, or other identifying fact or information of the victim of any sexual offense under ch. 794, F.S.
- Section 794.075, F.S., provides that it is a second degree misdemeanor for a first offense, and a first degree misdemeanor for a second or subsequent offense, for a designated sexual predator to possess a drug for the purpose of treating erectile dysfunction.

Additionally, ch. 794, F.S., provides various sections of law relating to sexual battery but do not contain misdemeanor or felony offenses. For example, s. 794.026, F.S., provides a victim with a civil cause of action against a person or entity who communicates to others, prior to open judicial proceedings, the name, address, or other specific identifying information about the victim of any sexual offense under ch. 794 or ch. 800, F.S.

Lewd and Lascivious Offenses

Section 800.04, F.S., contains numerous offenses relating to lewd or lascivious offenses committed on or in the presence of a person younger than 16 years of age.

Section 800.04(7)(a), F.S., provides that a person commits a lewd or lascivious exhibition when he or she, in the presence of a victim who is younger than 16 years of age, intentionally:

²⁵ The maximum term of imprisonment for a second degree felony is 15 years imprisonment and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

²⁶ Currently, the general time limitations contained in s. 775.15(1), F.S., apply to s. 794.08, F.S.

²⁷ Currently, the general time limitations contained in s. 775.15(1), F.S., apply to s. 794.05, F.S.

²⁸ A second degree misdemeanor is punishable by up to 60 days in county jail and a fine not exceeding \$500. Sections 775.082 and 775.083, F.S.

²⁹ Section 794.024, F.S., specific offenses include a violation of ch. 794, ch. 800, ss. 827.03, 827.04, or 827.071, F.S.; specified persons or entities include a person assisting in the investigation or prosecution of the alleged offense, the defendant, the defendant's attorney, a person specified in a court order, an organization authorized to receive such information made exempt by s. 119.071(2)(h), F.S., or to a rape crisis center or sexual assault counselor as defined in s. 90.5035(1)(b), F.S., who will be offering services to the victim.

³⁰ 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.

³¹ Section 794.027, F.S.

- Masturbates;³²
- Exposes the genitals in a lewd or lascivious manner;³³ or
- Commits any other sexual act that does not involve actual physical or sexual contact with the victim, including but not limited to, sadomasochistic abuse, sexual bestiality, or the simulation of any act involving sexual activity.³⁴

Sexual Performance by a Child

Section 827.071, F.S., specifies the criminal offenses for the production of child pornography and the possession and promotion of child pornography. It is a second degree felony for a person:

- Knowing the character and content thereof, to employ, authorize, or induce a child to engage in a sexual performance.^{35, 36}
- Who is a parent, legal guardian or custodian to consent for a child to participate in a sexual performance.³⁷
- Knowing the character and content, to produce, direct, or promote³⁸ any performance which includes sexual conduct by a child.³⁹

III. Effect of Proposed Changes:

The bill amends s. 775.15, F.S., to provide that there is no time limitation for the prosecution of:

- Any offense in ch. 794, F.S., relating to sexual battery, except:
 - Section 794.024, F.S., Unlawful to disclose identifying information;
 - Section 794.027, F.S., Duty to report sexual battery; penalties;
 - Section 794.03, F.S., Unlawful to publish or broadcast information identifying sexual offense victim; and
 - Section 794.075, F.S., Sexual predators; erectile dysfunction drugs.
- Section 800.04(7)(a)3., F.S., relating to certain acts of lewd or lascivious exhibition; or
- Section 827.071(2) or (3), F.S., relating to use of a child in a sexual performance or promoting a sexual performance of a child.

The bill provides that the exceptions to time limitations apply to any offense that is not otherwise barred from prosecution on or before July 1, 2022.

The bill is effective July 1, 2022.

³² Section 800.04(7)(a)1., F.S.

³³ Section 800.04(7)(a)2., F.S.

³⁴ Section 800.04(7)(a)3., F.S.

³⁵ Section 827.071(2), F.S.

³⁶ Section 827.071(1)(c), F.S., provides “performance” means any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

³⁷ Section 827.071(2), F.S.

³⁸ Section 827.071(1)(d), F.S., provides “promote” means to procure, manufacture, issue, sell, give, provide, lend, mail, deliver, transfer, transmute, publish, distribute, circulate, disseminate, present, exhibit, or advertise or to offer to agree to do the same.

³⁹ Section 827.071(3), F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

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 Criminal Justice Impact Conference has not reviewed the bill at this time. However, the bill will likely have a positive indeterminate (unquantifiable positive prison bed) impact on the Department of Corrections due to removing the time limitation for prosecution of these offenses. There may be individuals in the future who are prosecuted, who would have otherwise been barred from prosecution without the changes made in the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 775.15 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on February 1, 2022:

The committee substitute removes s. 794.026, F.S., from the list of exceptions provided in the bill. Additionally, the bill removes unnecessary language to clarify the applicability of the bill.

- B. **Amendments:**

None.



373630

LEGISLATIVE ACTION

| | | |
|------------|---|-------|
| Senate | . | House |
| Comm: RS | . | |
| 02/01/2022 | . | |
| | . | |
| | . | |
| | . | |

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

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

775.15 Time limitations; general time limitations;
exceptions.-

(21) (a) The prosecution for a violation of any of the
following, may be commenced at any time:

1. Chapter 794, except for a violation of s. 794.024, s.
794.027, s. 794.03, or s. 794.075; or



373630

11 2. Section 800.04(7)(a)3.; or

12 3. Section 827.071(2) or (3).

13 (b) This subsection applies to any offense that is not
14 otherwise barred from prosecution on or before July 1, 2022

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

16 And the title is amended as follows:

17 Delete everything before the enacting clause

18 and insert:

19 A bill to be entitled

20 An act relating to statutes of limitations for sexual
21 offenses; amending s. 775.15, F.S.; eliminating
22 statutes of limitations periods for prosecution of
23 specified sexual offenses; providing applicability;
24 providing an effective date.



331236

LEGISLATIVE ACTION

| Senate | . | House |
|------------|---|-------|
| Comm: RCS | . | |
| 02/01/2022 | . | |
| | . | |
| | . | |
| | . | |

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

1 **Senate Substitute for Amendment (373630) (with title**
2 **amendment)**

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

6 Section 1. Subsection (21) is added to section 775.15,
7 Florida Statutes, to read:

8 775.15 Time limitations; general time limitations;
9 exceptions.—

10 (21) (a) The prosecution for a violation of any of the



331236

11 following, may be commenced at any time:

12 1. Chapter 794, except for a violation of s. 794.024, s.
13 794.027, s. 794.03, or s. 794.075;

14 2. Section 800.04(7)(a)3.; or

15 3. Section 827.071(2) or (3).

16 (b) This subsection applies to any offense that is not
17 otherwise barred from prosecution on or before July 1, 2022.

18 Section 2. This act shall take effect July 1, 2022.

19

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

21 And the title is amended as follows:

22 Delete everything before the enacting clause
23 and insert:

24 A bill to be entitled
25 An act relating to statutes of limitations for sexual
26 offenses; amending s. 775.15, F.S.; eliminating
27 statutes of limitations periods for prosecution of
28 specified sexual offenses; providing applicability;
29 providing an effective date.

By Senator Gibson

6-00989-22

20221244__

A bill to be entitled

An act relating to statutes of limitations for sexual offenses; amending s. 775.15, F.S.; eliminating statutes of limitations periods for prosecution of specified sexual offenses; providing applicability; providing an effective date.

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

Section 1. Subsection (21) is added to section 775.15, Florida Statutes, to read:

775.15 Time limitations; general time limitations; exceptions.—

(21) (a) In addition to the time periods prescribed in this section, a prosecution for any of the following offenses may be commenced at any time:

1. Chapter 794, except for a violation of s. 794.024, s. 794.026, s. 794.027, s. 794.03, or s. 794.075; or

2. Section 800.04(7)(a)3. or s. 827.071(2) or (3).

(b) This subsection applies to any offense that is not otherwise barred from prosecution, except an offense the prosecution of which would have been barred under this section on or before July 1, 2022.

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

The Florida Senate

APPEARANCE RECORD

2-1-22

1244

Meeting Date

Bill Number or Topic

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

Criminal Justice

Committee

Amendment Barcode (if applicable)

Name

Barbara DeBano

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251-4280

Address

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Email

barbadebano1@yahoo.com

Street

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:

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

FL National Organization for Women

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 \(flsenate.gov\)](#)

The Florida Senate

APPEARANCE RECORD

SB 1244

Bill Number or Topic

2-1-22

Meeting Date

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

Senate Criminal Justice

Committee

Amendment Barcode (if applicable)

Name

RENA ROMANO

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RENA@RENA-ROMANO.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:

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

SB 1244

Bill Number or Topic

2/1/2022

Meeting Date

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CRIMINAL JUSTICE

Committee

Amendment Barcode (if applicable)

Name GAIL GARDNER

Phone 321-202-3288

Address 1028 CRESTWOOD COMMONS AVE

Email gailgardner

00000 FL 34761

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:

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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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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SB 1244

Bill Number or Topic

2/2/22

Meeting Date

CS

Committee

Amendment Barcode (if applicable)

Name

Stefan Turkheimer

Phone

404 400 9639

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2227 12th Place NW

Email

stefant@rainn.org

Street

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DC

20009

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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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

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2/1/22

Meeting Date

1244

Bill Number or Topic

CJ

Committee

Amendment Barcode (if applicable)

Name

AARON WAYT ("WAYTY")

Phone

(407) 435-3194

Address

FL ASSN OF CRIM DEF LAWYERS

Email

Street

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 \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Vice Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on
Transportation, Tourism, and Economic
Development
Military and Veterans Affairs, Space,
and Domestic Security
Reapportionment
Rules

SELECT SUBCOMMITTEE:
Select Subcommittee on Legislative
Reapportionment

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR AUDREY GIBSON
6th District

January 12, 2022

Senator Jason W.B. Pizzo, Chair
Committee on Criminal Justice
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

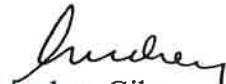
Chair Pizzo:

I respectfully request that **SB 1244**, relating to Statutes of Limitations for Sexual Offenses, be placed on the next committee agenda.

SB 1244, eliminates statutes of limitations periods for prosecution of specified sexual offenses under chapter 794, Sexual Battery.

Thank you for your time and consideration.

Sincerely,


Audrey Gibson
State Senator
District 6

101 East Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553
410 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

WILTON SIMPSON
President of the Senate

AARON BEAN
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

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

BILL: CS/SB 1830

INTRODUCER: Criminal Justice Committee and Senators Brodeur and Book

SUBJECT: Background Screenings

DATE: February 1, 2022

REVISED: _____

| | ANALYST | STAFF DIRECTOR | REFERENCE | ACTION |
|----|-----------------|----------------|------------|---------------|
| 1. | <u>Erickson</u> | <u>Jones</u> | <u>CJ</u> | <u>Fav/CS</u> |
| 2. | _____ | _____ | <u>ACJ</u> | _____ |
| 3. | _____ | _____ | <u>AP</u> | _____ |

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1830 amends various statutes and statutory provisions relating to background screenings of individuals who work with children and other vulnerable persons. These persons are required to undergo criminal background screening. Depending on the role of the individual or the agency responsible, the individual may be screened by the Florida Department of Law Enforcement (FDLE) through the Volunteer Employee Criminal History System (VECHS), the Florida Shared School Results (FSSR) system, or the Care Provider Background Screening Clearinghouse (Clearinghouse). However, screening results are only shared among employers through the FSSR or the Clearinghouse.

Major features of the bill include:

- Requiring the Florida Department of Education (DOE), school districts, lab schools, the Florida School for the Deaf and the Blind, the Florida Virtual School, virtual instruction providers, charter schools, school of hope operators, early learning coalitions, and qualified entities currently using VECHS to conduct background screenings through the Clearinghouse;
- Providing the process for background screenings to be used by the entities newly incorporated into the Clearinghouse;
- Revising screening requirements for youth athletic coaches by changing the background screening standard from level 1 to level 2 and for instructional personnel and noninstructional personnel by including arrests for certain offenses as disqualifying offenses; and

- Relevant to individuals subject to background screening, requiring the FDLE to develop a method for establishing identification through automated biometrics which may include latent fingerprints, palm prints, facial recognition, or retina scans.

The impact of the bill on the Agency for Health Care Administration (AHCA) and the FDLE has not yet been determined, and no impact was noted by the DOE. Further, the AHCA will need to evaluate the impact of the inclusion of these new entities in the Clearinghouse. This impact is also currently unknown. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2023.

II. Present Situation:

Employee Background Screenings - Level 1 and Level 2 Screening Standards (ss. 435.03 and 435.04, F.S.)

Florida law provides standard procedures for screening a prospective employee where the Legislature has determined it is necessary to conduct a criminal history background check to protect vulnerable persons.¹ These standards include two different levels of screening: “level 1” employment screening (s. 435.03, F.S.) and “level 2” employment screening (s. 435.04, F.S.).

Section 435.03, F.S., addresses a level 1 screening, which is a name-based demographic screening that includes an employment history check, statewide criminal history record check through the FDLE, and a check of the Dru Sjodin National Sex Offender Public Website,² and may include local criminal records checks through local law enforcement agencies.³ A level 1 screening may be conducted through the FDLE’s website, which provides immediate results.⁴

Any person required by law to be screened pursuant to s. 435.03, F.S., must not have an arrest awaiting final disposition, must not have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, and must not have been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under s. 435.04(2), F.S., or similar law of another jurisdiction.⁵

Section 453.04, F.S., addresses a level 2 screening, which is a fingerprint-based search of statewide criminal history records through the FDLE and national criminal history records

¹ Chapter 435, F.S.

² This website, which is operated by the U.S., Department of Justice, contains information from sex offender registries of all 50 states, the District of Columbia, U.S. territories, and self-governing Native American communities/jurisdictions. See <https://www.nsopw.gov/> (last visited on Jan. 25, 2022).

³ Section 435.03(1), F.S.

⁴ *State of Florida Criminal History Records Check*, Florida Department of Law Enforcement, available at <http://www.fdle.state.fl.us/Criminal-History-Records/Florida-Checks.aspx> (last visited on Jan. 25, 2022).

⁵ Section 435.03(2), F.S. Additionally, the security background investigations under s. 435.03, F.S., must ensure that no person subject to this statute has been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense that constitutes domestic violence as defined in s. 741.28, F.S., whether such act was committed in this state or in another jurisdiction.

through the Federal Bureau of Investigation (FBI), and which may include local criminal records checks through local law enforcement agencies.⁶

The security background investigations under s. 435.04, F.S., must ensure that no persons subject to the provisions of this statute have been arrested for and are awaiting final disposition of, have been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, or have been adjudicated delinquent and the record has not been sealed or expunged for, any offense prohibited under any state law offense listed in s. 435.04(2), F.S., or similar law of another jurisdiction.⁷

Florida licensure laws require providers licensed by the AHCA to conduct a level 2 background screening for:

- The licensee, if an individual;
- The administrator or a similarly titled person who is responsible for the day-to-day operation of the provider;
- The financial officer or similarly titled individual who is responsible for the financial operation of the licensee or provider;
- Any person who is a controlling interest; and
- Any person, as required by authorizing statutes, seeking employment with a licensee or provider who is expected to, or whose responsibilities may require him or her to, provide personal care or services directly to clients or have access to client funds, personal property, or living areas; and any person, as required by authorizing statutes, contracting with a licensee or provider whose responsibilities require him or her to provide personal care or personal services directly to clients, or contracting with a licensee or provider to work 20 hours a week or more who will have access to client funds, personal property, or living areas.⁸

Volunteer Employee Criminal History System

The Volunteer Employee Criminal History System (VECHS) “was implemented in 1999 and is authorized by the National Child Protection Act (NCPA)(1993),⁹ as amended, and Florida Statute 943.0542 (1999).”¹⁰ The VECHS program provides “state and national criminal history record information on applicants, employees, and volunteers to qualified organizations (not individuals) in Florida. With this criminal history information, the organizations can more

⁶ Section 435.4(1)(a), F.S.

⁷ Section 435.04(2), F.S. The extensive list of offenses in this subsection includes, but is not limited to, many violent offenses, including sexual offenses. *Id.* Additionally, the security background investigations under s. 435.04, F.S., must ensure that no person subject to this section has been arrested for and is awaiting final disposition of, been found guilty of, regardless of adjudication, or entered a plea of nolo contendere or guilty to, any offense that constitutes domestic violence as defined in s. 741.28, F.S., whether such act was committed in this state or in another jurisdiction.

⁸ Section 408.809(1), F.S.

⁹ Pub. L. 103-209 (Dec. 20, 1993).

¹⁰ *Volunteer & Employee Criminal History System*, Florida Department of Law Enforcement, available at [https://www.fdle.state.fl.us/Background-Checks/VECHS-Home.aspx#:~:text=VECHS%20\(pronounced%20%22vecks%22\),Florida%20Statute%20943.0542%20\(1999\)](https://www.fdle.state.fl.us/Background-Checks/VECHS-Home.aspx#:~:text=VECHS%20(pronounced%20%22vecks%22),Florida%20Statute%20943.0542%20(1999)) (last visited on Jan. 25, 2022).

effectively screen out current and prospective volunteers and employees who are not suitable for contact with children, the elderly, or the disabled.”¹¹

A “qualified entity” is a business or organization, whether public, private, operated for profit, operated not for profit, or voluntary, which provides care¹² or care placement services, including a business or organization that licenses or certifies others to provide care or care placement services.¹³ Qualified entities that register with the FDLE may screen personnel and employees through the submission of fingerprints. Each request must be voluntary and conform to the requirements of the NCPA, as amended.¹⁴

The FDLE provided further information on who is or is not qualified to participate in the VECHS:

The VECHS program is not available to organizations currently required to obtain criminal history record checks on their employees and/or volunteers under other statutory provisions, such as day care centers. Those organizations must continue to follow the statutory mandates that specifically apply to them. If, however, an organization is required to obtain state and national checks on only specific types of employees or volunteers, the VECHS program may be able to process requests for state and national checks on the organization’s other employees or volunteers.

To be qualified to participate in the VECHS program, an organization (public, private, profit, or non-profit) or particular program facilitated by the organization must offer “care” or “care placement services,” specifically to children, the elderly, or the disabled, as defined in Florida Statute 943.0542.¹⁵

Care Provider Background Screening Clearinghouse (s. 435.12, F.S.)

Many different agencies, programs, employers, and professionals serve vulnerable populations in Florida. Personnel working with those entities, including paid employees and volunteers are subject to background screening requirements. However, due to restrictions placed on the sharing of criminal history information, persons who work for more than one agency or employer or change jobs, or wish to volunteer for such an entity, often must undergo a new and duplicative background screening and fingerprinting. This was time consuming for those involved and increases the cost to the employer or employee.¹⁶

Policies imposed by the FBI prevent the sharing of criminal history information except within a given “program.” Since each regulatory area is covered by a different controlling statute and screenings are done for separate purposes, the screenings have been viewed as separate

¹¹ *Id.*

¹² “Care” means the provision of care, treatment, education, training, instruction, supervision, or recreation to children, the elderly, or individuals with disabilities. Section 943.0542(1)(a), F.S.

¹³ Section 943.0542(1), F.S.

¹⁴ Section 943.0542(2), F.S.

¹⁵ *About VECHS*, Florida Department of Law Enforcement, available at <https://www.fdle.state.fl.us/Background-Checks/About-Us> (last visited on Jan. 25, 2022).

¹⁶ Florida House of Representatives Staff Analysis (CS/CS/CS/HB 943), dated Feb. 17, 2012, available at <https://www.flsenate.gov/Session/Bill/2012/943/Analyses/h0943e.HHSC.PDF> (last visited on Jan. 25, 2022).

“program” areas and sharing of results has not been allowed. In addition, screenings are only as good as the date they are run. Arrests or convictions occurring after the screening are not known until the person is rescreened or self-reports.¹⁷

In response to these issues, the Legislature created the Care Provider Background Screening Clearinghouse (Clearinghouse) in 2012.¹⁸ The legislation required the AHCA, in consultation with the FDLE, to create the Clearinghouse. “The purpose of the Clearinghouse is to provide a single data source for background screening results of persons required to be screened by law for employment in positions that provide services to children, the elderly, and disabled individuals. The Clearinghouse allows the results of criminal history checks to be shared among specified agencies¹⁹ when a person has applied to volunteer, be employed, be licensed, or enter into a contract that requires a state and national fingerprint-based criminal history check....”²⁰

Background Screening of Individuals at Schools

Individuals who work in or provide services to school districts, charter schools, schools of hope, alternative schools, and private schools participating in state school choice scholarship programs must undergo a fingerprint-based background screening before being permitted access to school grounds.²¹ The individuals who must undergo background screening fall under three personnel classifications: instructional and noninstructional personnel;²² noninstructional school district employees and contracted personnel;²³ and noninstructional contractors.²⁴ Candidates for educator certification must also undergo background screening.²⁵

Because they are more likely to have direct contact with students, an extensive list of disqualifying offenses applies to candidates for educator certification, instructional and noninstructional personnel, and noninstructional school district employees and contracted personnel, relevant to these personnel and employees.²⁶ In contrast, a more limited list of

¹⁷ *Id.*

¹⁸ *Id.* See ch. 2012-73, L.O.F.

¹⁹ “Specified agencies” include the AHCA, the Department of Health (DOH), the Department of Children and Families, the Department of Elder Affairs, the Agency for Persons with Disabilities, and Vocational Rehabilitation within the Florida Department of Education. See s. 435.02(5), F.S., and *Privacy Policy Acknowledgement Form*, Care Provider Background Screening Clearinghouse, available at https://ahca.myflorida.com/MCHQ/Central_Services/Background_Screening/docs/Privacy_Policy.pdf (last visited on Jan. 25, 2022).

²⁰ *Care Provider Background Screening Clearinghouse (Clearinghouse)*, Agency for Health Care Administration, available at https://ahca.myflorida.com/MCHQ/Central_Services/Background_Screening/BGS_results.shtml (last visited on Jan. 25, 2022), citing s. 435.12, F.S.

²¹ Sections 1002.421(1)(m), 1012.32(2), 1012.465(1), and 1012.467(2)(a), F.S.

²² Instructional and noninstructional personnel include individuals who are hired or contracted to fill positions that require direct contact with students in any public school or alternative school or fill positions in a charter school or school of hope. Section 1012.32(2), F.S.

²³ Noninstructional school district employees and contracted personnel include individuals who are permitted access to school grounds when students are present; who have direct contact with students; or who have access to, or control of, school funds. Section 1012.465(1), F.S.

²⁴ Noninstructional contractors are vendors or contractors who are not school district employees, are permitted access to school grounds when students are present, and have little or no direct contact with students. Section 1012.467(1)(a) and (2)(a), F.S.

²⁵ Sections 1012.315 and 1012.56(10)(a), F.S.

²⁶ Sections 1012.315, 1012.32(2) (flush left language at the end of the subsection), and 1012.465(2) and (3), F.S.

disqualifying offenses applies to noninstructional contractors, individuals who are not school district employees and have little or no direct contact with students.²⁷

Fingerprints taken for a background screening are submitted to the FDLE for a statewide criminal and juvenile records check and to the FBI for a national criminal records check. The cost of the background screening may be borne by the district school board, the charter school, or the individual who is subject to the screening requirements.²⁸

The FDLE enters and retains in the Biometric Identification System (BIS) the applicant fingerprints submitted for state and national criminal history checks by such agencies or entities to participate in the Applicant Fingerprint Retention and Notification Program (AFRNP) for current and prospective employees, contractors, volunteers, and persons seeking to be licensed or certified.²⁹ The FDLE searches all arrest fingerprints received under s. 943.051, F.S. (Criminal Justice Information Program),³⁰ against the fingerprints retained in the AFRNP.³¹ Any arrest record that is identified with the retained fingerprints of a person subject to the background screening must be reported to the employing or contracting school district or the school district with which the person is affiliated.³²

The Florida Shared School Results (FSSR) system allows contractors who have been fingerprinted in a school district to have their criminal history results shared with other school districts in Florida.³³

In addition to fingerprint-based background screening, before employing instructional personnel or school administrators in any position that requires direct contact with students, school districts, charter schools, and private schools participating in a state school choice scholarship program must:

- Conduct an employment history check of the individual's previous employer. If unable to contact a previous employer, efforts to contact the employer must be documented;
- Screen the individual through use of the DOE's Professional Practices' Database of Disciplinary Actions Against Educators, Teacher Certification Database, and the disqualification list;³⁴ and
- Document the findings.³⁵

The disqualification list is maintained by the DOE and includes:

²⁷ Section 1012.467(2)(g), F.S.

²⁸ Section 1012.32(2), F.S. (flush-left language at the end of the subsection).

²⁹ Section 1012.32(3)(a), F.S.; s. 943.05(2)(g) and (h), (3), and (4), F.S.; and Rule 11C-6.010(1), F.A.C., available at <https://www.law.cornell.edu/regulations/florida/Fla-Admin-Code-r-11C-6-010> (last visited on Jan. 25, 2022).

³⁰ Section 943.051, F.S.

³¹ Section 1012.32(3)(b), F.S.

³² *Id.*

³³ Section 1012.467(7)(a), F.S., and *Jessica Lunsford Act Information*, Florida Department of Law Enforcement, available at <http://www.fdle.state.fl.us/JLA/Jessica-Lunsford-Act-Information.aspx> (last visited on Jan 25, 2022).

³⁴ See s. 1001.10(5), F.S.

³⁵ Sections 1002.33(12)(g)4. (charter schools), 1002.421(1)(o) (private schools), and 1012.27(6) (school districts), F.S.

- The identity of any person who has been permanently denied an educator certificate or whose certificate was permanently revoked and has been placed on the list as directed by the Education Practices Commission (EPC);³⁶
- The identity of any person who has been permanently disqualified by the DOE Commissioner as an owner or operator of a private school participating in a state scholarship program;
- The identity of each person who has been terminated, or has resigned in lieu of termination, from employment as a result of sexual misconduct with a student; and
- The identity of any person who is ineligible for educator certification or employment under s. 1012.315, F.S.³⁷

An individual on the disqualification list is prohibited from serving or applying to serve as an employee or contracted personnel at any public school, charter school, or private school participating in a state scholarship program. Any individual who knowingly violates this prohibition commits a third degree felony.³⁸

The DOE is required to investigate complaints or allegations made against certified educators and initiate proceedings to suspend or revoke the educator's certificate if grounds exist to do so.³⁹

Law enforcement agencies must notify the appropriate district school superintendent, charter school governing board, private school owner or administrator, president of the Florida School for the Deaf and the Blind, or university lab schools director or principal, as applicable, within 48 hours if its employee is charged with any felony or misdemeanor involving the abuse of children or sale or possession of controlled substances.⁴⁰ Within 24 hours after such notification, the school principal or designee must notify parents of enrolled students who had direct contact with the perpetrator of the arrest and include, at a minimum, the employee's name and the specific charges against him or her.⁴¹

Employee Misconduct Reporting Policies

Each school district, charter school, and private school participating in a state scholarship program must post, at each school and on their website, if they maintain a website, their policies and procedures relating to reporting alleged misconduct by instructional personnel, educational support personnel, or school administrators which affects the health, safety, or welfare of a student.⁴² Additionally, the published policies and procedures must include the contact person to whom the report is made and the penalties that will be imposed for failure to report misconduct.⁴³

³⁶ See s. 1012.795, F.S., regarding the EPC's authority to discipline.

³⁷ Section 1001.10(4)(b), F.S.

³⁸ Section 1012.796(10), F.S. A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S. *But see* ss. 775.082(10) and 921.00241, F.S. (prison diversion).

³⁹ Section 1012.796(1), F.S.

⁴⁰ Section 1012.797, F.S.

⁴¹ *Id.*

⁴² Section 1006.061(2), F.S.

⁴³ *Id.*

Background Screening of Athletic Coaches by an Independent Sanctioning Authority (s. 943.0438, F.S.)

Section 943.0438, F.S., requires an independent sanctioning authority⁴⁴ to conduct a level 1 background screening of each current and prospective athletic coach.^{45, 46}

The background screenings must be conducted annually and include a search of the athletic coach's name or other identifying information against state and federal registries of sexual predators and sexual offenders. A background screening conducted by a commercial consumer reporting agency in compliance with the federal Fair Credit Reporting Act using the identifying information previously described that includes a level 1 background screening and a search of that information against the national and sexual predator and sexual offender registries is deemed to satisfy statutory requirements.⁴⁷

In 2014, the Legislature expanded background screening requirements for athletic coaches, assistant coaches, and referees of independent sanctioning authorities and allowed a background screening conducted by a commercial consumer reporting agency in compliance with federal standards to satisfy the state level requirement so long as such screening includes a level 1 background screening and a search against the state and federal registries of sexual predators and sexual offenders to meet the requirements under the statute.⁴⁸

An independent sanctioning authority must disqualify an applicant from acting as an athletic coach in Florida if he or she is disqualified by the level 1 screening or if his or her name appears in either registry.⁴⁹ Within seven days of the screening, the independent sanctioning authority must provide written notification to a disqualified person advising him or her of the results.⁵⁰ In specified circumstances, an independent sanctioning authority may grant an exception to an applicant in accordance with s. 435.07(1)(a), F.S.⁵¹ Examples of possible exceptions include, but are not limited to, an applicant whose criminal record includes a:

- Felony that occurred three or more years ago and he or she has lawfully completed or been released from confinement or supervision for the disqualifying felony;
- Misdemeanor and he or she has completed or been lawfully released from confinement or supervision for the disqualifying misdemeanor offense; or

⁴⁴ "Independent sanctioning authority" means a private, nongovernmental entity that organizes, operates, or coordinates a youth athletic team in this state if the team includes one or more minors and is not affiliated with a private school as defined in s. 1002.01, F.S. Section 943.0438(1)(b), F.S.

⁴⁵ "Athletic coach" means a person who is authorized by an independent sanctioning authority to work as a coach, assistant coach, or referee for 20 or more hours within a calendar year, whether for compensation or as a volunteer, for a youth athletic team based in this state; and has direct contact with one or more minors on the youth athletic team. Section 943.0438(1)(a), F.S.

⁴⁶ Section 943.0438(2)(a), 1., F.S.

⁴⁷ Section 943.0438(2)(a), 1. and 2., F.S.

⁴⁸ Chapter 2014-9, L.O.F.

⁴⁹ Section 943.0438(2)(b), F.S.

⁵⁰ Section 943.0438(2)(c), F.S.

⁵¹ Section 943.0438(2)(b), F.S.

- Felony when committed, but is now classified as a misdemeanor, and he or she has completed or been lawfully released from confinement or supervision for all requirements imposed.⁵²

Criminal Justice Information Program (CJIP) (s. 943.05, F.S.)

Section 943.05, F.S., establishes the Criminal Justice Information Program (CJIP) within the FDLE. Among the requirements specified for CJIP are the requirements to:

- Establish, implement, and maintain a statewide automated biometric identification system capable of, but not limited to, reading, classifying, matching, and storing fingerprints, rolled fingerprints, latent fingerprints, palm prints, and facial images;⁵³
- Upon official written request, and subject to the FDLE having sufficient funds and equipment to participate in such a request, from the agency executive director or secretary or from his or her designee, or from qualified entities participating in the volunteer and employee criminal history screening system under s. 943.0542, F.S., or as otherwise required by law, retain fingerprints submitted by criminal and noncriminal justice agencies to the FDLE for a criminal history background screening as provided by rule and enter the fingerprints in the statewide automated biometric identification system previously described,⁵⁴ and
- For each agency or qualified entity that officially requests retention of fingerprints or for which retention is otherwise required by law, search all arrest fingerprint submissions received under s. 943.051, F.S., against the fingerprints retained in the previously described statewide automated biometric identification system.⁵⁵

III. Effect of Proposed Changes:

The bill amends various statutes and statutory provisions relating to background screenings of individuals who work with children and other vulnerable persons to:

- Require school districts, lab schools, the Florida School for the Deaf and the Blind, the Florida Virtual School, virtual instruction providers, charter schools, school of hope operators, early learning coalitions, and qualified entities currently using VECHS, to conduct background screenings through the Care Provider Background Screening Clearinghouse (Clearinghouse);
- Provide the process for background screenings to be used by the entities newly incorporated into the Clearinghouse;
- Revise screening requirements for youth athletic coaches by changing the background screening standard from level 1 to level 2 and for instructional personnel and noninstructional personnel by including arrests for certain offenses as disqualifying offenses; and
- Relevant to individuals subject to background screening, require the FDLE to develop a method for establishing identification through automated biometrics which may include latent fingerprints, palm prints, facial recognition, or retina scans.

⁵² Section 435.07(1), F.S.

⁵³ Section 943.05(2)(a), F.S.

⁵⁴ Section 943.05(2)(g), F.S. These fingerprints are thereafter available for all purposes and uses authorized for arrest fingerprint submissions entered into the statewide automated biometric identification system pursuant to s. 943.051, F.S. *Id.*

⁵⁵ Section 943.05(2)(a), F.S.

- Revise screening requirements for athletic coaches by changing the screening standard from level 1 to level 2;
- Revise screening requirements for noninstructional personnel by including arrests for certain offenses as disqualifying offenses; and
- Require that the Criminal Justice Information Program develop a method for establishing direct identification through automated biometrics, which may include specified information.

Provided below is a more detailed section-by-section analysis of the bill.

Section 1 amends s. 435.02, F.S., relating to definitions, to define the term “educational entities” as including:

- The DOE;
- Each school district unit under s. 1001.30, F.S.;
- Special district units under s. 1011.24, F.S.;
- The Florida School for the Deaf and the Blind under s. 1002.36, F.S.;
- The Florida Virtual School under s. 1002.37, F.S.;
- Virtual instruction programs under s. 1002.45, F.S.;
- Charter schools under s. 1002.33, F.S.;
- School of Hope operators under s. 1002.333, F.S.; and
- Alternative schools under s. 1008.341, F.S.

This term or similar terminology is especially relevant to Sections 3, 8, and 10 of the bill (see descriptions of these sections, *infra*).

Section 2 amends s. 435.04, F.S., relating to level 2 screening standards, to remove an obsolete date regarding electronic submission of fingerprints to the FDLE.

Section 3 amends s. 435.12, F.S., relating to the Clearinghouse, to require the Clearinghouse to allow the results of criminal history checks provided to:

- Educational entities for screening of instructional and noninstructional personnel under ss. 1012.32, 1012.465, and 1012.56, F.S., to be shared among educational entities when a person has applied to be employed, be licensed, or enter into a contract that requires a state and national fingerprint-based criminal history check;
- Educational entities for screening of persons under s. 1012.467, F.S., to be shared among educational entities when a person has applied to be employed or enters into a contract that requires a state and national fingerprint-based criminal history check;
- Qualified entities for screening of persons qualified as care providers under s. 943.0542, F.S., to be shared among the qualified entities when a person has applied to volunteer, be employed, or enter into a contract that requires a state and national fingerprint-based criminal history check; and
- Early learning coalitions for screening of persons under s. 1002.55, F.S., to be shared among early learning coalitions when a person has applied to be employed or enters into a contract that requires a state and national fingerprint-based criminal history check.⁵⁶

⁵⁶ The bill retains current language that requires the Clearinghouse to allow the results of criminal history checks provided to specified agencies for screening of persons qualified as care providers under s. 943.0542, F.S., to be shared among the

The bill also removes Clearinghouse implementation date language that was only relevant to the Clearinghouse before it became operational, and makes conforming changes consistent with changes previously described.

Section 4 amends s. 943.0438, F.S., relating to revising background screening requirements of athletic coaches, to:

- Require an independent sanctioning authority to conduct a level 2 background screening (instead of the current level 1 screening requirement) of each current and prospective athletic coach;
- Make conforming changes consistent with this level 2 screening requirement (deleting language relevant to a level 1 screening);
- Require an independent sanctioning authority to disqualify any person from acting as an athletic coach according to level 2 standards in s. 435.04, F.S. (rather than level 1 screening standards in s. 453.03, F.S., or identification on a sex offender registry);
- Specify that an exemption from disqualification may not be granted for an offense listed in s. 435.07(4)(c), F.S.; and
- Require (rather than encourage) independent sanctioning authorities for youth athletic teams to participate in VECHS.

Section 5 amends s. 943.05, F.S., relating to the Criminal Justice Information Program (CJIP), to:

- Make conforming changes (deleting language) consistent with changes in the bill relating to screening through the Clearinghouse; and
- Require the CJIP to develop a method for establishing identification through automated biometrics which may include, but is not limited to, the use of latent fingerprints, palm prints, facial recognition, or retina scans.

Section 6 amends s. 943.0542, F.S., relating to access to criminal history information provided by the FDLE to qualified entities, to:

- Require a qualified entity to initiate all criminal history checks through the Clearinghouse;
- Require (rather than authorize) the FDLE to periodically audit qualified entities to ensure compliance with federal law and this statute;
- Require all fingerprints received under this statute to be entered into the Clearinghouse (see description of Section 3 of the bill, *supra*);
- Require that the criminal history release waiver include a statement that the FDLE shall retain the fingerprints of the criminal history background screening of each employee or volunteer as provided by rule and enter the fingerprints in the statewide automated biometric identification system method (see description of Section 5 of the bill, *supra*, regarding automated biometrics);
- Make conforming changes (deleting language and adding references to the Clearinghouse) consistent with changes in the bill relating to screening through the Clearinghouse;
- Delete language that makes a qualified entity solely responsible for the determination of whether the criminal history record shows that its employee or volunteer has been convicted

specified agencies when a person has applied to volunteer, be employed, be licensed, or enter into a contract that requires a state and national fingerprint-based criminal history check. *See* s. 435.12(1), F.S. The bill creates paragraphs within subsection (1). The described provision is found in new paragraph (1)(a).

of or is under pending indictment for any crime that bears upon the fitness of the employee or volunteer to have responsibility for the safety and well-being of children; and

- Prohibit a qualified entity that provides care to children from employing or allowing a volunteer who is ineligible for an exemption under s. 435.07(4)(c), F.S.

Section 7 amends s. 1002.33, F.S., relating to charter schools, to require a charter school to prohibit educational support employees, instructional personnel, and school administrators from employment in any position that requires direct contact with students if the employees, personnel, or administrators are ineligible for such employment under s. 435.04(2) or (3), F.S.⁵⁷

Section 8 amends s. 1012.32, F.S., relating to qualifications of instructional and noninstructional personnel, to:

- Require instructional and noninstructional personnel who are hired or contracted to fill positions in a school of hope, and members of the governing board of such school, upon employment, engagement of services, or appointment, to undergo background screening as required under s. 102.465, F.S., or s. 1012.56, F.S., whichever is applicable;
- Make conforming changes (deleting language) consistent with changes in the bill relating to screening through the Clearinghouse;
- Prohibit a person subject to s. 1012.32(2), F.S., who is found ineligible for employment under s. 435.04(2) and (3), F.S., from being employed, engaged to provide services, or serve in any position that requires direct contact with students;⁵⁸
- Provide that a background screening required under ch. 1012, F.S., must comply with the requirements of s. 435.12, F.S., relating to the Clearinghouse;
- Require each educational unit to register with, and initiate criminal history checks through, the Clearinghouse;
- Require that fingerprints be submitted through an educational unit or a vendor approved by the FDLE;
- Require that all fingerprints be submitted electronically to the FDLE, and that the FDLE forward the fingerprints to the FBI for national processing;
- Provide that for any subsequent background screening that requires a national criminal history check, the FDLE must forward the retained fingerprints of the individual to the FBI unless the fingerprints are enrolled in the national retained print arrest notification program;
- Require that all fingerprints submitted to the FDLE be retained by the department as provided under s. 943.05(2)(g) and (h) and (3), F.S., and enrolled in the national retained print arrest notification program at the FBI when the FDLE begins participation in the program; and
- Authorize the cost of the background screening to be borne by the educational entity, the employee, the contractor, or a person subject to background screening.⁵⁹

⁵⁷ This is in addition to the current ineligibility for such employment under s. 1012.315, F.S., or termination or resignation in lieu of termination for sexual misconduct with a student. *See* s. 1022.33(12)(g) 2., F.S.

⁵⁸ Currently, s. 1012.32(2)(d), F.S., provides that a person subject to subsection (2) who is found ineligible for employment under s. 1012.315, F.S., or otherwise found through background screening to have been convicted of any crime involving moral turpitude as defined by rule of the State Board of Education, shall not be employed, engaged to provide services, or serve in any position that requires direct contact with students. The bill retains this language.

⁵⁹ Currently, s. 1012.32(2)(d), F.S., provides, in part, that the cost of the background screening may be borne by the district school board, the charter school, the employee, the contractor, or a person subject to subsection (2). A district school board must reimburse a charter school the cost of background screening if it does not notify the charter school of the eligibility of a

Section 9 amends s. 1012.465, F.S., relating to background screening requirements for certain noninstructional school district employees and contractors, to:

- Require (with some exceptions) noninstructional school district employees or contractual personnel who are permitted access on school grounds when students are present, who have direct contact with students, or who have access to or control of school funds to meet level 2 screening requirements of ch. 435, F.S., using the process described in s. 1012.32(3), F.S. (see description of Section 8 of the bill, *supra*); and
- Make conforming changes (deleting language) consistent with changes in the bill relating to screening through the Clearinghouse.

Section 10 amends s. 1012.467, F.S., relating to background screening requirements for noninstructional contractors permitted access to school grounds when students are present, to:

- Require that the screening process described in s. 1012.32(3), F.S. (see description of Section 8 of the bill, *supra*) be used for a fingerprint-based criminal history check required to be performed on each noninstructional contractor who is permitted access to school grounds when students are present, whose performance of the contract with the school or school board is not anticipated to result in direct contact with students, and for whom any unanticipated contact would be infrequent and incidental; and
- Make conforming changes (deleting language) consistent with the changes in the bill relating to screening through the Clearinghouse.

- *Section 11* amends s. 1012.56, F.S., relating to educator certification requirements, to: Provide that each person who seeks certification under ch. 1012, F.S., must be fingerprinted and screened in accordance with s. 1012.32, F.S. (see description of Section 8 of the bill, *supra*) and must not be ineligible for such certification under s. 435.04(2) or (3), F.S., or s. 1012.315, F.S. (currently only s. 1012.315, F.S., is referenced);
- Specify that a current 5-year rescreening must be in accordance with s. 435.12, F.S.; and
- Make conforming changes (deleting language) consistent with the changes in the bill relating to screening through the Clearinghouse.

Section 12 provides that the bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

governing board member or instructional or noninstructional personnel within the earlier of 14 days after receipt of the background screening results from the FDLE or 30 days of submission of fingerprints by the governing board member or instructional or noninstructional personnel. The bill deletes this described language.

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:

As authorized by s. 435.12, F.S., the Care Provider Background Screening Clearinghouse (Clearinghouse) system housed in the AHCA is a multiagency enterprise system that shares fingerprint results among specified agencies for the purpose of reducing the overall cost to providers by eliminating duplicate screenings for participating agencies.

The bill requires the DOE, school districts, lab schools, the Florida School for the Deaf and the Blind, the Florida Virtual School, virtual instruction providers, charter schools, school of hope operators, early learning coalitions, and qualified entities currently using the VECHS, to participate in the Clearinghouse; therefore, the AHCA will need to evaluate the impact of the inclusion of these new entities. An analysis of the impact by AHCA was requested but not received at the time this analysis was completed. Therefore, the impact is currently unknown.

In its analysis of the original bill, the DOE did not note that bill would impact the department.⁶⁰

Further, an analysis of the bill's impact on the FDLE and the AHCA was requested but not received at the time this analysis was completed. Therefore, the impact of the bill on these agencies is currently unknown.

⁶⁰ 2022 Agency Legislative Bill Analysis, Florida Department of Education (Jan. 21, 2022) (on file with the Senate Committee on Criminal Justice).

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 435.02, 435.04, 435.12, 943.0438, 943.05, 943.0542, 1002.33, 1012.32, 1012.465, 1012.467, and 1012.56.

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

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

CS by Criminal Justice on February 1, 2022:

The committee substitute:

- Defines the term “educational entities” and removes a provision that modifies the definition of “specified agency”;
- Revises the screening process through the Clearinghouse to incorporate “educational entities”;
- Removes a provision that requires an athletic coach who is required to be screened according to level 2 screening standards to be rescreened every five years as specified, unless the fingerprints are continuously retained and monitored by the FDLE in the federal retention program according to the procedures specified in s. 943.05, F.S.;
- Provides that an exemption from disqualification from acting as an athletic coach may not be granted for an offense listed in s. 435.7(4)(c), F.S.;
- Requires independent sanctioning authorities for youth athletic teams to participate in the VECHS;
- Removes a provision that prohibits a qualified entity from employing or allowing a volunteer whose criminal history record disqualifies them under s. 435.04(2) and (3), F.S.;
- Prohibits a qualified entity that provides care to children from employing or allowing a volunteer who is ineligible for an exemption under s. 435.07(4)(c), F.S.;
- Removes a provision that requires the FDLE to design an annually dated compliance decal to be sent to each qualified entity registered with the FDLE to be displayed by each qualified entity in a place easily accessible to the general public; and
- Removes language that requires qualified entities to comply with s. 943.0542, F.S., and authorizes the FDLE to issue a minimum fine of \$1,000 per instance of noncompliance.

B. Amendments:

None.

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



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LEGISLATIVE ACTION

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| Senate | . | House |
| Comm: RCS | . | |
| 02/01/2022 | . | |
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The Committee on Criminal Justice (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (2) through (6) of section 435.02, Florida Statutes, are redesignated as subsections (3) through (7), respectively, and a new subsection (2) is added to that section, to read:

435.02 Definitions.—For the purposes of this chapter, the term:



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11 (2) "Educational entities" means the Department of
12 Education, each district unit under s. 1001.30, special district
13 units under s. 1011.24, the Florida School for the Deaf and the
14 Blind under s. 1002.36, the Florida Virtual School under s.
15 1002.37, virtual instruction programs under s. 1002.45, charter
16 schools under s. 1002.33, hope operators under s. 1002.333, and
17 alternative schools under s. 1008.341.

18 Section 2. Paragraphs (b) and (d) of subsection (1) of
19 section 435.04, Florida Statutes, are amended to read:

20 435.04 Level 2 screening standards.—

21 (1)

22 (b) Fingerprints submitted pursuant to this section ~~on or~~
23 ~~after July 1, 2012,~~ must be submitted electronically to the
24 Department of Law Enforcement.

25 ~~(d) An agency may require by rule that fingerprints~~
26 ~~submitted pursuant to this section must be submitted~~
27 ~~electronically to the Department of Law Enforcement on a date~~
28 ~~earlier than July 1, 2012.~~

29 Section 3. Section 435.12, Florida Statutes, is amended to
30 read:

31 435.12 Care Provider Background Screening Clearinghouse.—

32 (1) The Agency for Health Care Administration in
33 consultation with the Department of Law Enforcement shall create
34 a secure web-based system, which shall be known as the "Care
35 Provider Background Screening Clearinghouse" or
36 "clearinghouse_{.r}" ~~and which shall be implemented to the full~~
37 ~~extent practicable no later than September 30, 2013, subject to~~
38 ~~the specified agencies being funded and equipped to participate~~
39 ~~in such program.~~ The clearinghouse shall allow the results of



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40 criminal history checks provided to ~~the~~:

41 (a) Specified agencies for screening of persons qualified
42 as care providers under s. 943.0542 to be shared among the
43 specified agencies when a person has applied to volunteer, be
44 employed, be licensed, or enter into a contract that requires a
45 state and national fingerprint-based criminal history check.

46 (b) Educational entities for screening of instructional and
47 noninstructional personnel under ss. 1012.32, 1012.465, and
48 1012.56 to be shared among educational entities when a person
49 has applied to be employed, be licensed, or enter into a
50 contract that requires a state and national fingerprint-based
51 criminal history check.

52 (c) Educational entities for screening of persons under s.
53 1012.467 to be shared among educational entities when a person
54 has applied to be employed or enter into a contract that
55 requires a state and national fingerprint-based criminal history
56 check.

57 (d) Qualified entities for screening of persons qualified
58 as care providers under s. 943.0542 to be shared among the
59 qualified entities when a person has applied to volunteer, be
60 employed, or enter into a contract that requires a state and
61 national fingerprint-based criminal history check.

62 (e) Early learning coalitions for screening of persons
63 under s. 1002.55 to be shared among early learning coalitions
64 when a person has applied to be employed or enter into a
65 contract that requires a state and national fingerprint-based
66 criminal history check.

67
68 The Agency for Health Care Administration and the Department of



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69 Law Enforcement may adopt rules to create forms or implement
70 procedures needed to carry out this section.

71 (2) (a) To ensure that the information in the clearinghouse
72 is current, the fingerprints of a person ~~an employee required to~~
73 ~~be screened by a specified agency and~~ included in the
74 clearinghouse must be:

75 1. Retained by the Department of Law Enforcement pursuant
76 to s. 943.05(2)(g) and (h) and (3), and the Department of Law
77 Enforcement must report the results of searching those
78 fingerprints against state incoming arrest fingerprint
79 submissions to the Agency for Health Care Administration for
80 inclusion in the clearinghouse.

81 2. Retained by the Federal Bureau of Investigation in the
82 national retained print arrest notification program as soon as
83 the Department of Law Enforcement begins participation in such
84 program. Arrest prints will be searched against retained prints
85 at the Federal Bureau of Investigation and notification of
86 arrests will be forwarded to the Florida Department of Law
87 Enforcement and reported to the Agency for Health Care
88 Administration for inclusion in the clearinghouse.

89 3. Resubmitted for a Federal Bureau of Investigation
90 national criminal history check every 5 years until such time as
91 the fingerprints are retained by the Federal Bureau of
92 Investigation.

93 4. Subject to retention on a 5-year renewal basis with fees
94 collected at the time of initial submission or resubmission of
95 fingerprints.

96 5. Submitted with a photograph of the person taken at the
97 time the fingerprints are submitted.



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98 (b) Until such time as the fingerprints are enrolled in the
99 national retained print arrest notification program at the
100 Federal Bureau of Investigation, a person included in the
101 clearinghouse ~~an employee~~ with a break in service of more than
102 90 days from a position that requires screening ~~by a specified~~
103 ~~agency~~ must submit to a national screening if the person returns
104 to a position that requires screening ~~by a specified agency~~.

105 (c) An employer of persons subject to screening ~~by a~~
106 ~~specified agency~~ must register with the clearinghouse and
107 maintain the employment status of all employees within the
108 clearinghouse. Initial employment status and any changes in
109 status must be reported within 10 business days.

110 (d) An employer must register with and initiate all
111 criminal history checks through the clearinghouse before
112 referring an employee or potential employee for electronic
113 fingerprint submission to the Department of Law Enforcement. The
114 registration must include the employee's full first name, middle
115 initial, and last name; social security number; date of birth;
116 mailing address; sex; and race. Individuals, persons,
117 applicants, and controlling interests that cannot legally obtain
118 a social security number must provide an individual taxpayer
119 identification number.

120 ~~(3) An employee who has undergone a fingerprint-based~~
121 ~~criminal history check by a specified agency before the~~
122 ~~clearinghouse is operational is not required to be checked again~~
123 ~~solely for the purpose of entry in the clearinghouse. Every~~
124 ~~employee who is or will become subject to fingerprint-based~~
125 ~~criminal history checks to be eligible to be licensed, have~~
126 ~~their license renewed, or meet screening or rescreening~~



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127 ~~requirements by a specified agency once the specified agency~~
128 ~~participates in the clearinghouse shall be subject to the~~
129 ~~requirements of this section with respect to entry of records in~~
130 ~~the clearinghouse and retention of fingerprints for reporting~~
131 ~~the results of searching against state incoming arrest~~
132 ~~fingerprint submissions.~~

133 Section 4. Paragraphs (a) and (b) of subsection (2) and
134 subsection (4) of section 943.0438, Florida Statutes, are
135 amended to read:

136 943.0438 Athletic coaches for independent sanctioning
137 authorities.-

138 (2) An independent sanctioning authority shall:

139 (a) ~~1.~~ Conduct a level 2 ~~1~~ background screening pursuant to
140 s. 435.04 ~~s. 435.03~~ of each current and prospective athletic
141 coach. The authority may not delegate this responsibility to an
142 individual team and may not authorize any person to act as an
143 athletic coach unless a level 2 ~~1~~ background screening has been
144 ~~is~~ conducted and has ~~does~~ not resulted ~~result~~ in
145 disqualification under paragraph (b). ~~Level 1 background~~
146 ~~screenings shall be conducted annually for each athletic coach.~~
147 ~~For purposes of this section, a background screening shall~~
148 ~~include a search of the athletic coach's name or other~~
149 ~~identifying information against state and federal registries of~~
150 ~~sexual predators and sexual offenders, which are available to~~
151 ~~the public on Internet sites provided by:~~

152 a. ~~The Department of Law Enforcement under s. 943.043; and~~

153 b. ~~The Attorney General of the United States under 42~~
154 ~~U.S.C. s. 16920.~~

155 ~~2. For purposes of this section, a background screening~~



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156 ~~conducted by a commercial consumer reporting agency in~~
157 ~~compliance with the federal Fair Credit Reporting Act using the~~
158 ~~identifying information referenced in subparagraph 1. that~~
159 ~~includes a level 1 background screening and a search of that~~
160 ~~information against the sexual predator and sexual offender~~
161 ~~Internet sites listed in sub-subparagraphs 1.a. and b. shall be~~
162 ~~deemed to satisfy the requirements of this paragraph.~~

163 (b) Disqualify any person from acting as an athletic coach
164 as provided in s. 435.04 ~~s. 435.03~~ or if he or she is identified
165 ~~on a registry described in paragraph (a)~~. The authority may
166 allow a person disqualified under this paragraph to act as an
167 athletic coach if it determines that the person meets the
168 requirements for an exemption from disqualification under s.
169 435.07; however, an exemption may not be granted for an offense
170 listed under s. 435.07(4)(c).

171 (4) ~~The Legislature encourages~~ Independent sanctioning
172 authorities for youth athletic teams shall ~~to~~ participate in the
173 Volunteer and Employee Criminal History System, as authorized by
174 the National Child Protection Act of 1993 and s. 943.0542.

175 Section 5. Paragraphs (g) and (h) of subsection (2) of
176 section 943.05, Florida Statutes, are amended, and paragraph (i)
177 is added to that subsection, to read:

178 943.05 Criminal Justice Information Program; duties; crime
179 reports.—

180 (2) The program shall:

181 (g) ~~Upon official written request, and subject to the~~
182 ~~department having sufficient funds and equipment to participate~~
183 ~~in such a request, from the agency executive director or~~
184 ~~secretary or from his or her designee, or from qualified~~



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185 ~~entities participating in the volunteer and employee criminal~~
186 ~~history screening system under s. 943.0542, or as otherwise~~
187 ~~required by law,~~ Retain fingerprints submitted by criminal and
188 noncriminal justice agencies to the department for a criminal
189 history background screening as provided by rule and enter the
190 fingerprints in the statewide automated biometric identification
191 system authorized by paragraph (b). Such fingerprints shall
192 thereafter be available for all purposes and uses authorized for
193 arrest fingerprint submissions entered into the statewide
194 automated biometric identification system pursuant to s.
195 943.051.

196 (h) ~~For each agency or qualified entity that officially~~
197 ~~requests retention of fingerprints or for which retention is~~
198 ~~otherwise required by law,~~ Search all arrest fingerprint
199 submissions received under s. 943.051 against the fingerprints
200 retained in the statewide automated biometric identification
201 system under paragraph (g).

202 1. Any arrest record that is identified with the retained
203 fingerprints of a person subject to background screening as
204 provided in paragraph (g) shall be reported to the appropriate
205 agency or qualified entity.

206 2. To participate in this search process, agencies or
207 qualified entities must notify each person fingerprinted that
208 his or her fingerprints will be retained, pay an annual fee to
209 the department unless otherwise provided by law, and inform the
210 department of any change in the affiliation, employment, or
211 contractual status of each person whose fingerprints are
212 retained under paragraph (g) if such change removes or
213 eliminates the agency or qualified entity's basis or need for



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214 receiving reports of any arrest of that person, so that the
215 agency or qualified entity is not obligated to pay the upcoming
216 annual fee for the retention and searching of that person's
217 fingerprints to the department. The department shall adopt a
218 rule setting the amount of the annual fee to be imposed upon
219 each participating agency or qualified entity for performing
220 these searches and establishing the procedures for the retention
221 of fingerprints and the dissemination of search results. The fee
222 may be borne by the agency, qualified entity, or person subject
223 to fingerprint retention or as otherwise provided by law.

224 Consistent with the recognition of criminal justice agencies
225 expressed in s. 943.053(3), these services shall be provided to
226 criminal justice agencies for criminal justice purposes free of
227 charge. Qualified entities that elect to participate in the
228 fingerprint retention and search process are required to timely
229 remit the fee to the department by a payment mechanism approved
230 by the department. If requested by the qualified entity, and
231 with the approval of the department, such fees may be timely
232 remitted to the department by a qualified entity upon receipt of
233 an invoice for such fees from the department. Failure of a
234 qualified entity to pay the amount due on a timely basis or as
235 invoiced by the department may result in the refusal by the
236 department to permit the qualified entity to continue to
237 participate in the fingerprint retention and search process
238 until all fees due and owing are paid.

239 3. Agencies that participate in the fingerprint retention
240 and search process may adopt rules pursuant to ss. 120.536(1)
241 and 120.54 to require employers to keep the agency informed of
242 any change in the affiliation, employment, or contractual status



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243 of each person whose fingerprints are retained under paragraph
244 (g) if such change removes or eliminates the agency's basis or
245 need for receiving reports of any arrest of that person, so that
246 the agency is not obligated to pay the upcoming annual fee for
247 the retention and searching of that person's fingerprints to the
248 department.

249 (i) Develop a method for establishing identification
250 through automated biometrics, which may include, but is not
251 limited to, the use of latent fingerprints, palm prints, facial
252 recognition, or retina scans.

253 Section 6. Subsections (2) through (5) and (7) of section
254 943.0542, Florida Statutes, are amended to read:

255 943.0542 Access to criminal history information provided by
256 the department to qualified entities.-

257 (2) (a) A qualified entity must register and initiate all
258 criminal history checks through the Care Provider Background
259 Screening Clearinghouse created under s. 435.12 ~~with the~~
260 ~~department before submitting a request for screening under this~~
261 ~~section.~~ Each such request must be voluntary and conform to the
262 requirements established in the National Child Protection Act of
263 1993, as amended. As a part of the registration, the qualified
264 entity must agree to comply with state and federal law and must
265 so indicate by signing an agreement approved by the department.
266 The department shall ~~may~~ periodically audit qualified entities
267 to ensure compliance with federal law and this section.

268 (b) All fingerprints received under this section shall be
269 entered into the clearinghouse as provided in s. 435.12 A
270 ~~qualified entity shall submit to the department a request for~~
271 ~~screening an employee or volunteer or person applying to be an~~



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272 ~~employee or volunteer by submitting fingerprints, or the request~~
273 ~~may be submitted electronically.~~ The qualified entity must
274 maintain a signed waiver allowing the release of the state and
275 national criminal history record information to the qualified
276 entity. The waiver must include a statement that the department
277 shall retain the fingerprints of the criminal history background
278 screening of each employee or volunteer as provided by rule and
279 enter the fingerprints in the statewide automated biometric
280 identification method under s. 943.05(2)(i).

281 (c) Each such request must be accompanied by payment of a
282 fee for a statewide criminal history check by the department
283 established by s. 943.053, plus the amount currently prescribed
284 by the Federal Bureau of Investigation for the national criminal
285 history check in compliance with the National Child Protection
286 Act of 1993, as amended. Payments must be made in the manner
287 prescribed by the department by rule.

288 ~~(d) Any current or prospective employee or volunteer who is~~
289 ~~subject to a request for screening must indicate to the~~
290 ~~qualified entity submitting the request the name and address of~~
291 ~~each qualified entity that has submitted a previous request for~~
292 ~~screening regarding that employee or volunteer.~~

293 (3) The Care Provider Background Screening Clearinghouse
294 ~~department~~ shall provide directly to the qualified entity the
295 state criminal history records that are not exempt from
296 disclosure under chapter 119 or otherwise confidential under
297 law. A person who is the subject of a state criminal history
298 record may challenge the record only as provided in s. 943.056.

299 (4) The national criminal history data is available to
300 qualified entities to use only for the purpose of screening



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301 employees and volunteers or persons applying to be an employee
302 or volunteer with a qualified entity. The Care Provider
303 Background Screening Clearinghouse ~~department~~ shall provide this
304 national criminal history record information directly to the
305 qualified entity as authorized by the written waiver required
306 for submission of a request to the department.

307 (5) The determination whether the criminal history record
308 shows that the employee or volunteer has been convicted of or is
309 under pending indictment for any crime that bears upon the
310 fitness of the employee or volunteer to have responsibility for
311 the safety and well-being of ~~children,~~ the elderly, or disabled
312 persons shall solely be made by the qualified entity. A
313 qualified entity that provides care to children may not employ
314 or allow a volunteer who is ineligible for an exemption under s.
315 435.07(4)(c). This section does not require the department to
316 make such a determination on behalf of any qualified entity.

317 ~~(7) The department may establish a database of registered~~
318 ~~qualified entities and make this data available free of charge~~
319 ~~to all registered qualified entities. The database must include,~~
320 ~~at a minimum, the name, address, and phone number of each~~
321 ~~qualified entity.~~

322 Section 7. Paragraph (g) of subsection (12) of section
323 1002.33, Florida Statutes, is amended to read:

324 1002.33 Charter schools.—

325 (12) EMPLOYEES OF CHARTER SCHOOLS.—

326 (g)1. A charter school shall employ or contract with
327 employees who have undergone background screening as provided in
328 s. 1012.32. Members of the governing board of the charter school
329 shall also undergo background screening in a manner similar to



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330 that provided in s. 1012.32. An individual may not be employed
331 as an employee or contract personnel of a charter school or
332 serve as a member of a charter school governing board if the
333 individual is on the disqualification list maintained by the
334 department pursuant to s. 1001.10(4)(b).

335 2. A charter school shall prohibit educational support
336 employees, instructional personnel, and school administrators,
337 as defined in s. 1012.01, from employment in any position that
338 requires direct contact with students if the employees,
339 personnel, or administrators are ineligible for such employment
340 under s. 435.04(2) or (3) or s. 1012.315 or have been terminated
341 or have resigned in lieu of termination for sexual misconduct
342 with a student. If the prohibited conduct occurs while employed,
343 a charter school must report the individual and the
344 disqualifying circumstances to the department for inclusion on
345 the disqualification list maintained pursuant to s.
346 1001.10(4)(b).

347 3. The governing board of a charter school shall adopt
348 policies establishing standards of ethical conduct for
349 educational support employees, instructional personnel, and
350 school administrators. The policies must require all educational
351 support employees, instructional personnel, and school
352 administrators, as defined in s. 1012.01, to complete training
353 on the standards; establish the duty of educational support
354 employees, instructional personnel, and school administrators to
355 report, and procedures for reporting, alleged misconduct that
356 affects the health, safety, or welfare of a student; and include
357 an explanation of the liability protections provided under ss.
358 39.203 and 768.095. A charter school, or any of its employees,



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359 may not enter into a confidentiality agreement regarding
360 terminated or dismissed educational support employees,
361 instructional personnel, or school administrators, or employees,
362 personnel, or administrators who resign in lieu of termination,
363 based in whole or in part on misconduct that affects the health,
364 safety, or welfare of a student, and may not provide employees,
365 personnel, or administrators with employment references or
366 discuss the employees', personnel's, or administrators'
367 performance with prospective employers in another educational
368 setting, without disclosing the employees', personnel's, or
369 administrators' misconduct. Any part of an agreement or contract
370 that has the purpose or effect of concealing misconduct by
371 educational support employees, instructional personnel, or
372 school administrators which affects the health, safety, or
373 welfare of a student is void, is contrary to public policy, and
374 may not be enforced.

375 4. Before employing an individual in any position that
376 requires direct contact with students, a charter school shall
377 conduct employment history checks of each individual through use
378 of the educator screening tools described in s. 1001.10(5), and
379 document the findings. If unable to contact a previous employer,
380 the charter school must document efforts to contact the
381 employer.

382 5. The sponsor of a charter school that knowingly fails to
383 comply with this paragraph shall terminate the charter under
384 subsection (8).

385 Section 8. Subsections (2) and (3) of section 1012.32,
386 Florida Statutes, are amended to read:

387 1012.32 Qualifications of personnel.—



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388 (2) (a) Instructional and noninstructional personnel who are
389 hired or contracted to fill positions that require direct
390 contact with students in any district school system or
391 university lab school must, upon employment or engagement to
392 provide services, undergo background screening as required under
393 s. 1012.465 or s. 1012.56, whichever is applicable.

394 (b)1. Instructional and noninstructional personnel who are
395 hired or contracted to fill positions in a charter school other
396 than a school of hope as defined in s. 1002.333, and members of
397 the governing board of such charter school, in compliance with
398 s. 1002.33(12)(g), upon employment, engagement of services, or
399 appointment, shall undergo background screening as required
400 under s. 1012.465 or s. 1012.56, whichever is applicable, ~~by~~
401 ~~filing with the district school board for the school district in~~
402 ~~which the charter school is located a complete set of~~
403 ~~fingerprints taken by an authorized law enforcement agency or an~~
404 ~~employee of the school or school district who is trained to take~~
405 ~~fingerprints.~~

406 2. Instructional and noninstructional personnel who are
407 hired or contracted to fill positions in a school of hope as
408 defined in s. 1002.333, and members of the governing board of
409 such school of hope, upon employment, engagement of services, or
410 appointment, shall undergo background screening as required
411 under s. 1012.465 or s. 1012.56, whichever is applicable ~~file~~
412 ~~with the school of hope a complete set of fingerprints taken by~~
413 ~~an authorized law enforcement agency, by an employee of the~~
414 ~~school of hope or school district who is trained to take~~
415 ~~fingerprints, or by any other entity recognized by the~~
416 ~~Department of Law Enforcement to take fingerprints.~~



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417 (c) Instructional and noninstructional personnel who are
418 hired or contracted to fill positions that require direct
419 contact with students in an alternative school that operates
420 under contract with a district school system must, upon
421 employment or engagement to provide services, undergo background
422 screening as required under s. 1012.465 or s. 1012.56, whichever
423 is applicable, ~~by filing with the district school board for the~~
424 ~~school district to which the alternative school is under~~
425 ~~contract a complete set of fingerprints taken by an authorized~~
426 ~~law enforcement agency or an employee of the school or school~~
427 ~~district who is trained to take fingerprints.~~

428 (d) Student teachers and persons participating in a field
429 experience pursuant to s. 1004.04(5) or s. 1004.85 in any
430 district school system, lab school, or charter school must, upon
431 engagement to provide services, undergo background screening as
432 required under s. 1012.56.

433
434 ~~Required fingerprints must be submitted to the Department of Law~~
435 ~~Enforcement for statewide criminal and juvenile records checks~~
436 ~~and to the Federal Bureau of Investigation for federal criminal~~
437 ~~records checks.~~ A person subject to this subsection who is found
438 ineligible for employment under s. 435.04(2) or (3) or s.
439 1012.315, or otherwise found through background screening to
440 have been convicted of any crime involving moral turpitude as
441 defined by rule of the State Board of Education, shall not be
442 employed, engaged to provide services, or serve in any position
443 that requires direct contact with students. ~~Probationary persons~~
444 ~~subject to this subsection terminated because of their criminal~~
445 ~~record have the right to appeal such decisions. The cost of the~~



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446 ~~background screening may be borne by the district school board,~~
447 ~~the charter school, the employee, the contractor, or a person~~
448 ~~subject to this subsection. A district school board shall~~
449 ~~reimburse a charter school the cost of background screening if~~
450 ~~it does not notify the charter school of the eligibility of a~~
451 ~~governing board member or instructional or noninstructional~~
452 ~~personnel within the earlier of 14 days after receipt of the~~
453 ~~background screening results from the Florida Department of Law~~
454 ~~Enforcement or 30 days of submission of fingerprints by the~~
455 ~~governing board member or instructional or noninstructional~~
456 ~~personnel.~~

457 (3) A background screening required under this chapter must
458 comply with the requirements of s. 435.12. Each educational
459 entity as defined in s. 435.02 shall register with, and initiate
460 criminal history checks through, the Care Provider Background
461 Screening Clearinghouse as provided in s. 435.12. All
462 fingerprints must be submitted through an educational entity or
463 a vendor approved by the Department of Law Enforcement. All
464 fingerprints must be submitted electronically to the Department
465 of Law Enforcement for state processing, and the Department of
466 Law Enforcement shall forward the fingerprints to the Federal
467 Bureau of Investigation for national processing. For any
468 subsequent background screening that requires a national
469 criminal history check, the Department of Law Enforcement must
470 forward the retained fingerprints of the individual to the
471 Federal Bureau of Investigation unless the fingerprints are
472 enrolled in the national retained print arrest notification
473 program. All fingerprints submitted to the Department of Law
474 Enforcement shall be retained by the Department of Law



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475 Enforcement as provided under s. 943.05(2)(g) and (h) and (3)
476 and enrolled in the national retained print arrest notification
477 program at the Federal Bureau of Investigation when the
478 Department of Law Enforcement begins participation in the
479 program. The cost of the background screening may be borne by
480 the educational entity, the employee, the contractor, or a
481 person subject to background screening

482 ~~(a) All fingerprints submitted to the Department of Law~~
483 ~~Enforcement as required by subsection (2) shall be retained by~~
484 ~~the Department of Law Enforcement in a manner provided by rule~~
485 ~~and entered in the statewide automated biometric identification~~
486 ~~system authorized by s. 943.05(2)(b). Such fingerprints shall~~
487 ~~thereafter be available for all purposes and uses authorized for~~
488 ~~arrest fingerprints entered in the statewide automated biometric~~
489 ~~identification system pursuant to s. 943.051.~~

490 ~~(b) The Department of Law Enforcement shall search all~~
491 ~~arrest fingerprints received under s. 943.051 against the~~
492 ~~fingerprints retained in the statewide automated biometric~~
493 ~~identification system under paragraph (a). Any arrest record~~
494 ~~that is identified with the retained fingerprints of a person~~
495 ~~subject to the background screening under this section shall be~~
496 ~~reported to the employing or contracting school district or the~~
497 ~~school district with which the person is affiliated. Each school~~
498 ~~district is required to participate in this search process by~~
499 ~~payment of an annual fee to the Department of Law Enforcement~~
500 ~~and by informing the Department of Law Enforcement of any change~~
501 ~~in the affiliation, employment, or contractual status or place~~
502 ~~of affiliation, employment, or contracting of its instructional~~
503 ~~and noninstructional personnel whose fingerprints are retained~~



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504 ~~under paragraph (a). The Department of Law Enforcement shall~~
505 ~~adopt a rule setting the amount of the annual fee to be imposed~~
506 ~~upon each school district for performing these searches and~~
507 ~~establishing the procedures for the retention of instructional~~
508 ~~and noninstructional personnel fingerprints and the~~
509 ~~dissemination of search results. The fee may be borne by the~~
510 ~~district school board, the contractor, or the person~~
511 ~~fingerprinted.~~

512 ~~(c) Personnel whose fingerprints are not retained by the~~
513 ~~Department of Law Enforcement under paragraphs (a) and (b) must~~
514 ~~be refingerprinted and rescreened in accordance with subsection~~
515 ~~(2) upon reemployment or reengagement to provide services in~~
516 ~~order to comply with the requirements of this subsection.~~

517 Section 9. Subsections (1) and (2) of section 1012.465,
518 Florida Statutes, are amended to read:

519 1012.465 Background screening requirements for certain
520 noninstructional school district employees and contractors.—

521 (1) Except as provided in s. 1012.467 or s. 1012.468,
522 noninstructional school district employees or contractual
523 personnel who are permitted access on school grounds when
524 students are present, who have direct contact with students or
525 who have access to or control of school funds must meet level 2
526 screening requirements of chapter 435 using the process as
527 described in s. 1012.32(3) ~~s. 1012.32~~. Contractual personnel
528 shall include any vendor, individual, or entity under contract
529 with a school or the school board.

530 (2) ~~Every 5 years following employment or entry into a~~
531 ~~contract in a capacity described in subsection (1), each person~~
532 ~~who is so employed or under contract with the school district~~



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533 ~~must meet level 2 screening requirements as described in s.~~
534 ~~1012.32, at which time the school district shall request the~~
535 ~~Department of Law Enforcement to forward the fingerprints to the~~
536 ~~Federal Bureau of Investigation for the level 2 screening. If,~~
537 ~~for any reason following employment or entry into a contract in~~
538 ~~a capacity described in subsection (1), the fingerprints of a~~
539 ~~person who is so employed or under contract with the school~~
540 ~~district are not retained by the Department of Law Enforcement~~
541 ~~under s. 1012.32(3)(a) and (b), the person must file a complete~~
542 ~~set of fingerprints with the district school superintendent of~~
543 ~~the employing or contracting school district. Upon submission of~~
544 ~~fingerprints for this purpose, the school district shall request~~
545 ~~the Department of Law Enforcement to forward the fingerprints to~~
546 ~~the Federal Bureau of Investigation for the level 2 screening,~~
547 ~~and the fingerprints shall be retained by the Department of Law~~
548 ~~Enforcement under s. 1012.32(3)(a) and (b). The cost of the~~
549 ~~state and federal criminal history check required by level 2~~
550 ~~screening may be borne by the district school board, the~~
551 ~~contractor, or the person fingerprinted. Under penalty of~~
552 ~~perjury, each person who is employed or under contract in a~~
553 ~~capacity described in subsection (1) must agree to inform his or~~
554 ~~her employer or the party with whom he or she is under contract~~
555 ~~within 48 hours if convicted of any disqualifying offense while~~
556 ~~he or she is employed or under contract in that capacity.~~

557 Section 10. Subsections (2) through (6) and paragraph (a)
558 of subsection (7) of section 1012.467, Florida Statutes, are
559 amended to read:

560 1012.467 Noninstructional contractors who are permitted
561 access to school grounds when students are present; background



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562 screening requirements.-

563 (2) (a) A fingerprint-based criminal history check shall be
564 performed on each noninstructional contractor who is permitted
565 access to school grounds when students are present, whose
566 performance of the contract with the school or school board is
567 not anticipated to result in direct contact with students, and
568 for whom any unanticipated contact would be infrequent and
569 incidental using the process described in s. 1012.32(3).

570 ~~Criminal history checks shall be performed at least once every 5~~
571 ~~years. For the initial criminal history check, each~~
572 ~~noninstructional contractor who is subject to the criminal~~
573 ~~history check shall file with the Department of Law Enforcement~~
574 ~~a complete set of fingerprints taken by an authorized law~~
575 ~~enforcement agency or an employee of a school district, a public~~
576 ~~school, or a private company who is trained to take~~
577 ~~fingerprints. The fingerprints shall be electronically submitted~~
578 ~~for state processing to the Department of Law Enforcement, which~~
579 ~~shall in turn submit the fingerprints to the Federal Bureau of~~
580 ~~Investigation for national processing.~~ The results of each
581 criminal history check shall be reported to the school district
582 in which the individual is seeking access and entered into the
583 shared system described in subsection (7). The school district
584 shall screen the results using the disqualifying offenses in
585 paragraph (b) ~~(g)~~. The cost of the criminal history check may be
586 borne by the district school board, the school, or the
587 contractor. ~~A fee that is charged by a district school board for~~
588 ~~such checks may not exceed 30 percent of the total amount~~
589 ~~charged by the Department of Law Enforcement and the Federal~~
590 ~~Bureau of Investigation.~~



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591 ~~(b) As authorized by law, the Department of Law Enforcement~~
592 ~~shall retain the fingerprints submitted by the school districts~~
593 ~~pursuant to this subsection to the Department of Law Enforcement~~
594 ~~for a criminal history background screening in a manner provided~~
595 ~~by rule and enter the fingerprints in the statewide automated~~
596 ~~biometric identification system authorized by s. 943.05(2)(b).~~
597 ~~The fingerprints shall thereafter be available for all purposes~~
598 ~~and uses authorized for arrest fingerprints entered into the~~
599 ~~statewide automated biometric identification system under s.~~
600 ~~943.051.~~

601 ~~(c) As authorized by law, the Department of Law Enforcement~~
602 ~~shall search all arrest fingerprints received under s. 943.051~~
603 ~~against the fingerprints retained in the statewide automated~~
604 ~~biometric identification system under paragraph (b).~~

605 ~~(d) School districts may participate in the search process~~
606 ~~described in this subsection by paying an annual fee to the~~
607 ~~Department of Law Enforcement.~~

608 ~~(e) A fingerprint retained pursuant to this subsection~~
609 ~~shall be purged from the automated biometric identification~~
610 ~~system 5 years following the date the fingerprint was initially~~
611 ~~submitted. The Department of Law Enforcement shall set the~~
612 ~~amount of the annual fee to be imposed upon each participating~~
613 ~~agency for performing these searches and establishing the~~
614 ~~procedures for retaining fingerprints and disseminating search~~
615 ~~results. The fee may be borne as provided by law. Fees may be~~
616 ~~waived or reduced by the executive director of the Department of~~
617 ~~Law Enforcement for good cause shown.~~

618 ~~(f) A noninstructional contractor who is subject to a~~
619 ~~criminal history check under this section shall inform a school~~



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620 ~~district that he or she has completed a criminal history check~~
621 ~~in another school district within the last 5 years. The school~~
622 ~~district shall verify the results of the contractor's criminal~~
623 ~~history check using the shared system described in subsection~~
624 ~~(7). The school district may not charge the contractor a fee for~~
625 ~~verifying the results of his or her criminal history check.~~

626 ~~(g)~~ A noninstructional contractor for whom a criminal
627 history check is required under this section may not have been
628 convicted of any of the following offenses designated in the
629 Florida Statutes, any similar offense in another jurisdiction,
630 or any similar offense committed in this state which has been
631 redesignated from a former provision of the Florida Statutes to
632 one of the following offenses:

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

635 2. Section 393.135, relating to sexual misconduct with
636 certain developmentally disabled clients and the reporting of
637 such sexual misconduct.

638 3. Section 394.4593, relating to sexual misconduct with
639 certain mental health patients and the reporting of such sexual
640 misconduct.

641 4. Section 775.30, relating to terrorism.

642 5. Section 782.04, relating to murder.

643 6. Section 787.01, relating to kidnapping.

644 7. Any offense under chapter 800, relating to lewdness and
645 indecent exposure.

646 8. Section 826.04, relating to incest.

647 9. Section 827.03, relating to child abuse, aggravated
648 child abuse, or neglect of a child.



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649 (3) If it is found that a noninstructional contractor has
650 been convicted of any of the offenses listed in paragraph (2) (b)
651 ~~(2) (g)~~, the individual shall be immediately suspended from
652 having access to school grounds and shall remain suspended
653 unless and until the conviction is set aside in any
654 postconviction proceeding.

655 (4) A noninstructional contractor who has been convicted of
656 any of the offenses listed in paragraph (2) (b) ~~(2) (g)~~ may not be
657 permitted on school grounds when students are present unless the
658 contractor has received a full pardon or has had his or her
659 civil rights restored. A noninstructional contractor who is
660 present on school grounds in violation of this subsection
661 commits a felony of the third degree, punishable as provided in
662 s. 775.082 or s. 775.083.

663 (5) If a school district has reasonable cause to believe
664 that grounds exist for the denial of a contractor's access to
665 school grounds when students are present, it shall notify the
666 contractor in writing, stating the specific record that
667 indicates noncompliance with the standards set forth in this
668 section. It is the responsibility of the affected contractor to
669 contest his or her denial. The only basis for contesting the
670 denial is proof of mistaken identity or that an offense from
671 another jurisdiction is not disqualifying under paragraph (2) (b)
672 ~~(2) (g)~~.

673 (6) Each contractor who is subject to the requirements of
674 this section shall agree to inform his or her employer or the
675 party to whom he or she is under contract and the school
676 district within 48 hours if he or she is arrested for any of the
677 disqualifying offenses in paragraph (2) (b) ~~(2) (g)~~. A contractor



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678 who willfully fails to comply with this subsection commits a
679 felony of the third degree, punishable as provided in s. 775.082
680 or s. 775.083. If the employer of a contractor or the party to
681 whom the contractor is under contract knows the contractor has
682 been arrested for any of the disqualifying offenses in paragraph
683 (2) (b) ~~(2) (g)~~ and authorizes the contractor to be present on
684 school grounds when students are present, such employer or such
685 party commits a felony of the third degree, punishable as
686 provided in s. 775.082 or s. 775.083.

687 (7) (a) ~~The Department of Law Enforcement shall implement a~~
688 ~~system that allows for the results of a criminal history check~~
689 ~~shall provided to a school district to be shared among~~
690 ~~educational entities under s. 435.12 with other school districts~~
691 ~~through a secure Internet website or other secure electronic~~
692 ~~means.~~ School districts must accept reciprocity of level 2
693 screenings for Florida High School Athletic Association
694 officials.

695 Section 11. Paragraphs (a) and (b) of subsection (10) of
696 section 1012.56, Florida Statutes, are amended to read:

697 1012.56 Educator certification requirements.—

698 (10) BACKGROUND SCREENING REQUIRED, INITIALLY AND
699 PERIODICALLY.—

700 (a) Each person who seeks certification under this chapter
701 must be fingerprinted and screened in accordance with s. 1012.32
702 and must not be ineligible for such certification under s.
703 435.04(2) or (3) or s. 1012.315. A person who has been screened
704 in accordance with s. 1012.32 by a district school board or the
705 Department of Education within 12 months before the date the
706 person initially obtains certification under this chapter, the



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707 results of which are submitted to the district school board or
708 to the Department of Education, is not required to repeat the
709 screening under this paragraph.

710 (b) A person may not receive a certificate under this
711 chapter until the person's screening under s. 1012.32 is
712 completed and the results have been submitted to the Department
713 of Education or to the district school superintendent of the
714 school district that employs the person. Every 5 years after
715 obtaining initial certification, each person who is required to
716 be certified under this chapter must be rescreened in accordance
717 with s. 435.12 ~~s. 1012.32~~, at which time the school district
718 shall request the Department of Law Enforcement to forward the
719 fingerprints to the Federal Bureau of Investigation for federal
720 criminal records checks. If, for any reason after obtaining
721 initial certification, the fingerprints of a person who is
722 required to be certified under this chapter are not retained by
723 the Department of Law Enforcement under s. 1012.32(3)(a) and
724 (b), the person must file a complete set of fingerprints with
725 the district school superintendent of the employing school
726 district. Upon submission of fingerprints for this purpose, the
727 school district shall request the Department of Law Enforcement
728 to forward the fingerprints to the Federal Bureau of
729 Investigation for federal criminal records checks, and the
730 fingerprints shall be retained by the Department of Law
731 Enforcement under s. 1012.32(3)(a) and (b). The cost of the
732 state and federal criminal history checks required by paragraph
733 (a) and this paragraph may be borne by the district school board
734 or the employee. Under penalty of perjury, each person who is
735 certified under this chapter must agree to inform his or her



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736 employer within 48 hours if convicted of any disqualifying
737 offense while he or she is employed in a position for which such
738 certification is required.

739 Section 12. This act shall take effect July 1, 2023.

740

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

742 And the title is amended as follows:

743 Delete everything before the enacting clause
744 and insert:

745 A bill to be entitled
746 An act relating to background screenings; amending s.
747 435.02, F.S.; defining the term "educational
748 entities"; amending s. 435.04, F.S.; deleting obsolete
749 language; amending s. 435.12, F.S.; authorizing
750 criminal history results to be provided to and shared
751 between certain parties; providing that existing
752 retention provisions apply to persons included in the
753 Care Provider Background Screening Clearinghouse;
754 removing obsolete language; amending s. 943.0438,
755 F.S.; requiring an independent sanctioning authority
756 to conduct level 2 background screenings of current
757 and prospective athletic coaches; requiring specified
758 entities to participate in a certain criminal history
759 system; amending s. 943.05, F.S.; deleting provisions
760 concerning conditions precedent to the retention of
761 certain fingerprints; requiring the Criminal Justice
762 Information Program to develop a certain
763 identification method; amending s. 943.0542, F.S.;
764 requiring specified entities to initiate criminal



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765 history checks through the clearinghouse; requiring
766 the Department of Law Enforcement to audit certain
767 entities; requiring certain fingerprints to be entered
768 into the clearinghouse; requiring a waiver to include
769 specified information; prohibiting providers of child
770 care from specified associations with certain persons;
771 deleting a requirement that the Department of Law
772 Enforcement establish a certain database; amending s.
773 1002.33, F.S.; prohibiting a charter school from
774 employing specified persons; amending s. 1012.32,
775 F.S.; revising the procedure for background
776 screenings; expanding the types of background
777 screenings used by certain schools; deleting the right
778 to appeal certain terminations; deleting provisions
779 specifying financial responsibility and reimbursement
780 for background screenings; providing requirements of
781 and procedures for background screenings; providing
782 responsibility for background screening costs;
783 amending ss. 1012.465, 1012.467, and 1012.56, F.S.;
784 conforming provisions to changes made by the act;
785 providing an effective date.

By Senator Brodeur

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1 A bill to be entitled
 2 An act relating to background screenings; amending s.
 3 435.02, F.S.; revising the definition of the term
 4 "specified agency"; amending s. 435.04, F.S.; deleting
 5 obsolete language; amending s. 435.12, F.S.;
 6 conforming a cross-reference; deleting obsolete
 7 language; amending s. 943.0438, F.S.; requiring
 8 independent sanctioning authorities to conduct level 2
 9 instead of level 1 background screenings of current
 10 and prospective athletic coaches; requiring certain
 11 athletic coaches to be rescreened every 5 years
 12 following the date of their most recent background
 13 screening or exemption; providing an exception;
 14 conforming provisions to changes made by the act;
 15 amending s. 943.05, F.S.; requiring the Criminal
 16 Justice Information Program to develop a method for
 17 establishing direct identification in a certain
 18 manner; requiring the program to retain certain
 19 information without the need for an official written
 20 request; requiring the program to search all arrest
 21 fingerprint submissions without the need for a
 22 request; amending s. 943.0542, F.S.; requiring, rather
 23 than authorizing, the Department of Law Enforcement to
 24 periodically audit qualified entities; requiring
 25 certain entities to use the Care Provider Background
 26 Screening Clearinghouse for screening an employee or a
 27 volunteer; requiring a certain signed waiver to
 28 include a specified statement; requiring the
 29 clearinghouse to provide certain information directly

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30 to qualified entities; deleting a requirement for the
 31 Department of Law Enforcement to provide national
 32 criminal history data directly to qualified entities;
 33 prohibiting a qualified entity from employing or
 34 allowing a volunteer under specified circumstances;
 35 requiring the Department of Law Enforcement to design
 36 a compliance decal that meets specified requirements;
 37 requiring qualified entities to comply with certain
 38 provisions of law; authorizing the Department of Law
 39 Enforcement to issue a fine of a specified minimum
 40 amount for noncompliance; amending s. 1012.32, F.S.;
 41 requiring certain fingerprints to be submitted to the
 42 clearinghouse; deleting a requirement that district
 43 school boards reimburse charter schools for the cost
 44 of background screenings under certain circumstances;
 45 requiring the clearinghouse to notify certain school
 46 districts of any arrest records that are identified
 47 with the retained fingerprints of certain individuals;
 48 conforming provisions to changes made by the act;
 49 amending s. 1012.465, F.S.; requiring school districts
 50 to make a certain request through the clearinghouse;
 51 amending s. 1012.467, F.S.; requiring certain
 52 information to be filed or submitted through the
 53 clearinghouse; authorizing school districts to
 54 participate in a certain search process by using the
 55 clearinghouse and paying any applicable annual fee to
 56 the Agency for Health Care Administration and the
 57 Department of Law Enforcement; conforming provisions
 58 to changes made by the act; amending s. 1012.56, F.S.;

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59 requiring school districts to make certain requests
60 through the clearinghouse; amending ss. 381.986,
61 381.988, 408.809, 456.0135, 494.00312, 494.00321,
62 494.00611, 496.4101, 559.555, 560.141, and 581.217,
63 F.S.; conforming cross-references; providing an
64 effective date.

65
66 Be It Enacted by the Legislature of the State of Florida:

67
68 Section 1. Subsection (5) of section 435.02, Florida
69 Statutes, is amended to read:

70 435.02 Definitions.—For the purposes of this chapter, the
71 term:

72 (5) "Specified agency" means the Department of Health, the
73 Department of Children and Families, the Department of
74 Education, the Division of Vocational Rehabilitation within the
75 Department of Education, the Agency for Health Care
76 Administration, the Department of Elderly Affairs, the
77 Department of Juvenile Justice, the Agency for Persons with
78 Disabilities, regional workforce boards providing services as
79 defined in s. 445.002(3), each district unit pursuant to s.
80 1001.30, special district units pursuant to s. 1011.24, the
81 Florida School for the Deaf and the Blind pursuant to s.
82 1002.36, the Florida Virtual School pursuant to s. 1002.37,
83 virtual instruction programs pursuant to s. 1002.45, charter
84 schools pursuant to s. 1002.33, a School of Hope operator
85 pursuant to s. 1002.333, early learning coalitions pursuant to
86 s. 1002.83, a qualified entity pursuant to s. 943.0542(1), and
87 local licensing agencies approved pursuant to s. 402.307, when

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88 these agencies are conducting state and national criminal
89 history background screening on persons who work with children
90 or persons who are elderly or disabled.

91 Section 2. Paragraphs (b) and (d) of subsection (1) of
92 section 435.04, Florida Statutes, are amended to read:

93 435.04 Level 2 screening standards.—

94 (1)

95 (b) Fingerprints submitted pursuant to this section ~~on or~~
96 ~~after July 1, 2012,~~ must be submitted electronically to the
97 Department of Law Enforcement.

98 ~~(d) An agency may require by rule that fingerprints~~
99 ~~submitted pursuant to this section must be submitted~~
100 ~~electronically to the Department of Law Enforcement on a date~~
101 ~~earlier than July 1, 2012.~~

102 Section 3. Paragraph (a) of subsection (2) and subsection
103 (3) of section 435.12, Florida Statutes, are amended to read:

104 435.12 Care Provider Background Screening Clearinghouse.—

105 (2) (a) To ensure that the information in the clearinghouse
106 is current, the fingerprints of an employee required to be
107 screened by a specified agency and included in the clearinghouse
108 must be:

109 1. Retained by the Department of Law Enforcement pursuant
110 to s. 943.05(2) (h) and (i) and (3) ~~s. 943.05(2) (g) and (h) and~~
111 ~~(3)~~, and the Department of Law Enforcement must report the
112 results of searching those fingerprints against state incoming
113 arrest fingerprint submissions to the Agency for Health Care
114 Administration for inclusion in the clearinghouse.

115 2. Retained by the Federal Bureau of Investigation in the
116 national retained print arrest notification program as soon as

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127 the Department of Law Enforcement begins participation in such
 128 program. Arrest prints will be searched against retained prints
 129 at the Federal Bureau of Investigation and notification of
 130 arrests will be forwarded to the Florida Department of Law
 131 Enforcement and reported to the Agency for Health Care
 132 Administration for inclusion in the clearinghouse.

133 3. Resubmitted for a Federal Bureau of Investigation
 134 national criminal history check every 5 years until such time as
 135 the fingerprints are retained by the Federal Bureau of
 136 Investigation.

137 4. Subject to retention on a 5-year renewal basis with fees
 138 collected at the time of initial submission or resubmission of
 139 fingerprints.

140 5. Submitted with a photograph of the person taken at the
 141 time the fingerprints are submitted.

142 ~~(3) An employee who has undergone a fingerprint based
 143 criminal history check by a specified agency before the
 144 clearinghouse is operational is not required to be checked again
 145 solely for the purpose of entry in the clearinghouse. Every
 employee who is or will become subject to fingerprint based
 criminal history checks to be eligible to be licensed, have
 their license renewed, or meet screening or rescreening
 requirements by a specified agency once the specified agency
 participates in the clearinghouse shall be subject to the
 requirements of this section with respect to entry of records in
 the clearinghouse and retention of fingerprints for reporting
 the results of searching against state incoming arrest
 fingerprint submissions.~~

Section 4. Paragraphs (a) and (b) of subsection (2) of

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166 section 943.0438, Florida Statutes, are amended to read:
 167 943.0438 Athletic coaches for independent sanctioning
 168 authorities.-

169 (2) An independent sanctioning authority shall:

170 (a)1. Conduct a level 2 ~~±~~ background screening pursuant to
 171 s. 435.04 ~~s. 435.03~~ of each current and prospective athletic
 172 coach. The authority may not delegate this responsibility to an
 173 individual team and may not authorize any person to act as an
 174 athletic coach unless a level 2 ~~±~~ background screening is
 conducted and does not result in disqualification under s.
~~435.04(2) paragraph (b). Level 1 background screenings shall be
 conducted annually for each athletic coach. For purposes of this
 section, a background screening shall include a search of the
 athletic coach's name or other identifying information against
 state and federal registries of sexual predators and sexual
 offenders, which are available to the public on Internet sites
 provided by:~~

175 a. The Department of Law Enforcement under s. 943.043; and
 176 b. The Attorney General of the United States under 42
 U.S.C. s. 16920.

177 2. For purposes of this section, an athletic coach who is
 178 required to be screened according to the level 2 screening
 179 standards contained in s. 435.04 pursuant to this section shall
 180 be rescreened every 5 years following the date of his or her
 181 most recent background screening or exemption, unless such
 182 individual's fingerprints are continuously retained and
 183 monitored by the Department of Law Enforcement in the federal
 184 fingerprint retention program according to the procedures
 185 specified in s. 943.05 ~~a background screening conducted by a~~

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 175 ~~commercial consumer reporting agency in compliance with the~~
 176 ~~federal Fair Credit Reporting Act using the identifying~~
 177 ~~information referenced in subparagraph 1. that includes a level~~
 178 ~~1 background screening and a search of that information against~~
 179 ~~the sexual predator and sexual offender Internet sites listed in~~
 180 ~~sub-subparagraphs 1.a. and b. shall be deemed to satisfy the~~
 181 ~~requirements of this paragraph.~~

182 (b) Disqualify any person from acting as an athletic coach
 183 as provided in s. 435.04 ~~e. 435.03~~ or if he or she is identified
 184 ~~on a registry described in paragraph (a).~~ The authority may
 185 allow a person disqualified under this paragraph to act as an
 186 athletic coach if it determines that the person meets the
 187 requirements for an exemption from disqualification under s.
 188 435.07.

189 Section 5. Present paragraphs (g) and (h) of subsection (2)
 190 of section 943.05, Florida Statutes, are redesignated as
 191 paragraphs (h) and (i), respectively, a new paragraph (g) is
 192 added to that subsection, and present paragraphs (g) and (h) of
 193 that subsection and subsection (4) of that section are amended,
 194 to read:

195 943.05 Criminal Justice Information Program; duties; crime
 196 reports.—

197 (2) The program shall:

198 (g) Develop a method for establishing direct identification
 199 through automated biometrics, which may include, but is not
 200 limited to, the use of latent fingerprints, palm prints, facial
 201 recognition, or retina scans.

202 ~~(h)(g) Upon official written request, and subject to the~~
 203 ~~department having sufficient funds and equipment to participate~~

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 204 ~~in such a request, from the agency executive director or~~
 205 ~~secretary or from his or her designee, or from qualified~~
 206 ~~entities participating in the volunteer and employee criminal~~
 207 ~~history screening system under s. 943.0542, or as otherwise~~
 208 ~~required by law,~~ Retain fingerprints submitted by criminal and
 209 noncriminal justice agencies to the department for a criminal
 210 history background screening as provided by rule and enter the
 211 fingerprints in the statewide automated biometric identification
 212 system authorized by paragraph (b). Such fingerprints shall
 213 thereafter be available for all purposes and uses authorized for
 214 arrest fingerprint submissions entered into the statewide
 215 automated biometric identification system pursuant to s.
 216 943.051.

217 ~~(i)(h) For each agency or qualified entity that officially~~
 218 ~~requests retention of fingerprints or for which retention is~~
 219 ~~otherwise required by law,~~ Search all arrest fingerprint
 220 submissions received under s. 943.051 against the fingerprints
 221 retained in the statewide automated biometric identification
 222 system under paragraph (h) ~~(g)~~.

223 1. Any arrest record that is identified with the retained
 224 fingerprints of a person subject to background screening as
 225 provided in paragraph (h) ~~(g)~~ shall be reported to the
 226 appropriate agency or qualified entity.

227 2. To participate in this search process, agencies or
 228 qualified entities must notify each person fingerprinted that
 229 his or her fingerprints will be retained, pay an annual fee to
 230 the department unless otherwise provided by law, and inform the
 231 department of any change in the affiliation, employment, or
 232 contractual status of each person whose fingerprints are

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233 retained under paragraph (h) ~~(g)~~ if such change removes or
 234 eliminates the agency or qualified entity's basis or need for
 235 receiving reports of any arrest of that person, so that the
 236 agency or qualified entity is not obligated to pay the upcoming
 237 annual fee for the retention and searching of that person's
 238 fingerprints to the department. The department shall adopt a
 239 rule setting the amount of the annual fee to be imposed upon
 240 each participating agency or qualified entity for performing
 241 these searches and establishing the procedures for the retention
 242 of fingerprints and the dissemination of search results. The fee
 243 may be borne by the agency, qualified entity, or person subject
 244 to fingerprint retention or as otherwise provided by law.
 245 Consistent with the recognition of criminal justice agencies
 246 expressed in s. 943.053(3), these services shall be provided to
 247 criminal justice agencies for criminal justice purposes free of
 248 charge. Qualified entities that elect to participate in the
 249 fingerprint retention and search process are required to timely
 250 remit the fee to the department by a payment mechanism approved
 251 by the department. If requested by the qualified entity, and
 252 with the approval of the department, such fees may be timely
 253 remitted to the department by a qualified entity upon receipt of
 254 an invoice for such fees from the department. Failure of a
 255 qualified entity to pay the amount due on a timely basis or as
 256 invoiced by the department may result in the refusal by the
 257 department to permit the qualified entity to continue to
 258 participate in the fingerprint retention and search process
 259 until all fees due and owing are paid.
 260 3. Agencies that participate in the fingerprint retention
 261 and search process may adopt rules pursuant to ss. 120.536(1)

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262 and 120.54 to require employers to keep the agency informed of
 263 any change in the affiliation, employment, or contractual status
 264 of each person whose fingerprints are retained under paragraph
 265 (h) ~~(g)~~ if such change removes or eliminates the agency's basis
 266 or need for receiving reports of any arrest of that person, so
 267 that the agency is not obligated to pay the upcoming annual fee
 268 for the retention and searching of that person's fingerprints to
 269 the department.
 270 (4) Upon notification that a federal fingerprint retention
 271 program is in effect, and subject to the department being funded
 272 and equipped to participate in such a program, the department
 273 shall, if state and national criminal history records checks and
 274 retention of submitted prints are authorized or required by law,
 275 retain the fingerprints as provided in paragraphs (2) (h) and (i)
 276 ~~(2) (g)~~ and ~~(h)~~ and advise the Federal Bureau of Investigation to
 277 retain the fingerprints at the national level for searching
 278 against arrest fingerprint submissions received at the national
 279 level.
 280 Section 6. Present subsections (8) and (9) of section
 281 943.0542, Florida Statutes, are redesignated as subsections (9)
 282 and (10), respectively, a new subsection (8) is added to that
 283 section, and paragraphs (a), (b), and (d) of subsection (2) and
 284 subsections (3), (4), (5), and (7) of that section are amended,
 285 to read:
 286 943.0542 Access to criminal history information provided by
 287 the department to qualified entities.—
 288 (2) (a) A qualified entity must register with the department
 289 before submitting a request for screening under this section.
 290 Each such request must be voluntary and conform to the

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291 requirements established in the National Child Protection Act of
 292 1993, as amended. As a part of the registration, the qualified
 293 entity must agree to comply with state and federal law and must
 294 so indicate by signing an agreement approved by the department.
 295 The department ~~shall~~ may periodically audit qualified entities
 296 to ensure compliance with federal law and this section.

297 (b) A qualified entity shall use the Care Provider
 298 Background Screening Clearinghouse under s. 435.12 ~~submit to the~~
 299 ~~department a request~~ for screening an employee or volunteer or
 300 person applying to be an employee or volunteer by submitting
 301 fingerprints, ~~or the request may be submitted electronically.~~
 302 The qualified entity must maintain a signed waiver allowing the
 303 release of the state and national criminal history record
 304 information to the qualified entity. The waiver must include a
 305 statement that the qualifying entity understands that the
 306 department will retain the fingerprints of the criminal history
 307 background screening of each employee or volunteer as provided
 308 by rule and enter the fingerprints in the statewide automated
 309 biometric identification system established in s. 943.05(2)(b).

310 ~~(d) Any current or prospective employee or volunteer who is~~
 311 ~~subject to a request for screening must indicate to the~~
 312 ~~qualified entity submitting the request the name and address of~~
 313 ~~each qualified entity that has submitted a previous request for~~
 314 ~~screening regarding that employee or volunteer.~~

315 (3) The clearinghouse ~~department~~ shall provide directly to
 316 the qualified entity the state criminal history records that are
 317 not exempt from disclosure under chapter 119 or otherwise
 318 confidential under law. A person who is the subject of a state
 319 criminal history record may challenge the record only as

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320 provided in s. 943.056.

321 (4) The national criminal history data is available to
 322 qualified entities to use only for the purpose of screening
 323 employees and volunteers or persons applying to be an employee
 324 or volunteer with a qualified entity. ~~The department shall~~
 325 ~~provide this national criminal history record information~~
 326 ~~directly to the qualified entity as authorized by the written~~
 327 ~~waiver required for submission of a request to the department.~~

328 (5) The determination whether the criminal history record
 329 shows that the employee or volunteer has been convicted of or is
 330 under pending indictment for any crime that bears upon the
 331 fitness of the employee or volunteer to have responsibility for
 332 the safety and well-being of children, the elderly, or disabled
 333 persons shall solely be made by the qualified entity, except
 334 that a qualified entity may not employ or allow a volunteer
 335 whose criminal history record disqualifies them under s.
 336 435.04(2) and (3). This section does not require the department
 337 to make such a determination on behalf of any qualified entity.

338 (7) The department shall design an annually dated
 339 compliance decal that must be sent to each qualified entity
 340 registered with the department to be displayed by each qualified
 341 entity in a place easily accessible to the general public ~~may~~
 342 ~~establish a database of registered qualified entities and make~~
 343 ~~this data available free of charge to all registered qualified~~
 344 ~~entities. The database must include, at a minimum, the name,~~
 345 ~~address, and phone number of each qualified entity.~~

346 (8) Qualified entities shall comply with this section.
 347 Failure to comply may result in the department issuing a minimum
 348 fine of \$1,000 per instance of noncompliance.

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349 Section 7. Subsection (2) and paragraphs (b) and (c) of
350 subsection (3) of section 1012.32, Florida Statutes, are amended
351 to read:

352 1012.32 Qualifications of personnel.—

353 (2) (a) Instructional and noninstructional personnel who are
354 hired or contracted to fill positions that require direct
355 contact with students in any district school system or
356 university lab school must, upon employment or engagement to
357 provide services, undergo background screening as required under
358 s. 1012.465 or s. 1012.56, whichever is applicable.

359 (b)1. Instructional and noninstructional personnel who are
360 hired or contracted to fill positions in a charter school other
361 than a school of hope as defined in s. 1002.333, and members of
362 the governing board of such charter school, in compliance with
363 s. 1002.33(12)(g), upon employment, engagement of services, or
364 appointment, shall undergo background screening as required
365 under s. 1012.465 or s. 1012.56, whichever is applicable, by
366 filing with the district school board for the school district in
367 which the charter school is located a complete set of
368 fingerprints taken by an authorized law enforcement agency or an
369 employee of the school or school district who is trained to take
370 fingerprints.

371 2. Instructional and noninstructional personnel who are
372 hired or contracted to fill positions in a school of hope as
373 defined in s. 1002.333, and members of the governing board of
374 such school of hope, shall file with the school of hope a
375 complete set of fingerprints taken by an authorized law
376 enforcement agency, by an employee of the school of hope or
377 school district who is trained to take fingerprints, or by any

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378 other entity recognized by the Department of Law Enforcement to
379 take fingerprints.

380 (c) Instructional and noninstructional personnel who are
381 hired or contracted to fill positions that require direct
382 contact with students in an alternative school that operates
383 under contract with a district school system must, upon
384 employment or engagement to provide services, undergo background
385 screening as required under s. 1012.465 or s. 1012.56, whichever
386 is applicable, by filing with the district school board for the
387 school district to which the alternative school is under
388 contract a complete set of fingerprints taken by an authorized
389 law enforcement agency or an employee of the school or school
390 district who is trained to take fingerprints.

391 (d) Student teachers and persons participating in a field
392 experience pursuant to s. 1004.04(5) or s. 1004.85 in any
393 district school system, lab school, or charter school must, upon
394 engagement to provide services, undergo background screening as
395 required under s. 1012.56.

396
397 Required fingerprints must be submitted to the Care Provider
398 Background Screening Clearinghouse under s. 435.12, to the
399 Department of Law Enforcement for statewide criminal and
400 juvenile records checks, and to the Federal Bureau of
401 Investigation for federal criminal records checks. A person
402 subject to this subsection who is found ineligible for
403 employment under s. 435.04(2) and (3) or s. 1012.315, or
404 otherwise found through background screening to have been
405 convicted of any crime involving moral turpitude as defined by
406 rule of the State Board of Education, ~~may shall~~ not be employed,

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407 engaged to provide services, or serve in any position that
 408 requires direct contact with students. Probationary persons
 409 subject to this subsection terminated because of their criminal
 410 record have the right to appeal such decisions. The cost of the
 411 background screening may be borne by the district school board,
 412 the charter school, the employee, the contractor, or a person
 413 subject to this subsection. ~~A district school board shall~~
 414 ~~reimburse a charter school the cost of background screening if~~
 415 ~~it does not notify the charter school of the eligibility of a~~
 416 ~~governing board member or instructional or noninstructional~~
 417 ~~personnel within the earlier of 14 days after receipt of the~~
 418 ~~background screening results from the Florida Department of Law~~
 419 ~~Enforcement or 30 days of submission of fingerprints by the~~
 420 ~~governing board member or instructional or noninstructional~~
 421 ~~personnel.~~

422 (3)

423 (b) The Department of Law Enforcement shall search all
 424 arrest fingerprints received under s. 943.051 against the
 425 fingerprints retained in the statewide automated biometric
 426 identification system under paragraph (a). Any arrest record
 427 that is identified with the retained fingerprints of a person
 428 subject to the background screening under this section shall be
 429 reported to the employing or contracting school district or the
 430 school district with which the person is affiliated through an
 431 alert from the clearinghouse. Each school district is required
 432 to participate in this search process by payment of an annual
 433 fee to the Department of Law Enforcement and by informing the
 434 Department of Law Enforcement of any change in the affiliation,
 435 employment, or contractual status or place of affiliation,

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436 employment, or contracting of its instructional and
 437 noninstructional personnel whose fingerprints are retained under
 438 paragraph (a) through the clearinghouse. The Department of Law
 439 Enforcement shall adopt a rule setting the amount of the annual
 440 fee to be imposed upon each school district for performing these
 441 searches and establishing the procedures for the retention of
 442 instructional and noninstructional personnel fingerprints and
 443 the dissemination of search results. The fee may be borne by the
 444 district school board, the contractor, or the person
 445 fingerprinted.

446 ~~(c) Personnel whose fingerprints are not retained by the~~
 447 ~~Department of Law Enforcement under paragraphs (a) and (b) must~~
 448 ~~be refingerprinted and rescreened in accordance with subsection~~
 449 ~~(2) upon reemployment or reengagement to provide services in~~
 450 ~~order to comply with the requirements of this subsection.~~

451 Section 8. Subsection (2) of section 1012.465, Florida
 452 Statutes, is amended to read:

453 1012.465 Background screening requirements for certain
 454 noninstructional school district employees and contractors.—

455 (2) Every 5 years following employment or entry into a
 456 contract in a capacity described in subsection (1), each person
 457 who is so employed or under contract with the school district
 458 must meet level 2 screening requirements as described in s.
 459 1012.32, at which time the school district shall request through
 460 the Care Provider Background Screening Clearinghouse under s.
 461 435.12 the Department of Law Enforcement to forward the
 462 fingerprints to the Federal Bureau of Investigation for the
 463 level 2 screening. If, for any reason following employment or
 464 entry into a contract in a capacity described in subsection (1),

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465 the fingerprints of a person who is so employed or under
 466 contract with the school district are not retained by the
 467 Department of Law Enforcement under s. 1012.32(3)(a) and (b),
 468 the person must file a complete set of fingerprints with the
 469 district school superintendent of the employing or contracting
 470 school district through the clearinghouse. Upon submission of
 471 fingerprints for this purpose, the school district shall request
 472 the Department of Law Enforcement to forward the fingerprints to
 473 the Federal Bureau of Investigation for the level 2 screening,
 474 and the fingerprints shall be retained by the Department of Law
 475 Enforcement under s. 1012.32(3)(a) and (b). The cost of the
 476 state and federal criminal history check required by level 2
 477 screening may be borne by the district school board, the
 478 contractor, or the person fingerprinted. Under penalty of
 479 perjury, each person who is employed or under contract in a
 480 capacity described in subsection (1) must agree to inform his or
 481 her employer or the party with whom he or she is under contract
 482 within 48 hours if convicted of any disqualifying offense while
 483 he or she is employed or under contract in that capacity.

484 Section 9. Paragraphs (a), (b), (d), and (e) of subsection
 485 (2), subsections (3) through (6), and paragraph (a) of
 486 subsection (7) of section 1012.467, Florida Statutes, are
 487 amended to read:

488 1012.467 Noninstructional contractors who are permitted
 489 access to school grounds when students are present; background
 490 screening requirements.—

491 (2)(a) A fingerprint-based criminal history check shall be
 492 performed on each noninstructional contractor who is permitted
 493 access to school grounds when students are present, whose

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494 performance of the contract with the school or school board is
 495 not anticipated to result in direct contact with students, and
 496 for whom any unanticipated contact would be infrequent and
 497 incidental. Criminal history checks shall be performed at least
 498 once every 5 years. For the initial criminal history check, each
 499 noninstructional contractor who is subject to the criminal
 500 history check shall file with the Department of Law Enforcement
 501 through the Care Provider Background Screening Clearinghouse
 502 under s. 435.12 a complete set of fingerprints taken by an
 503 authorized law enforcement agency or an employee of a school
 504 district, a public school, or a private company who is trained
 505 to take fingerprints. The fingerprints shall be electronically
 506 submitted for state processing through the clearinghouse to the
 507 Department of Law Enforcement, which shall in turn submit the
 508 fingerprints to the Federal Bureau of Investigation for national
 509 processing. The results of each criminal history check shall be
 510 reported to the school district in which the individual is
 511 seeking access and entered into the shared system described in
 512 subsection (7). The school district shall screen the results
 513 using the disqualifying offenses in paragraph (f) ~~(g)~~. The cost
 514 of the criminal history check may be borne by the district
 515 school board, the school, or the contractor. A fee that is
 516 charged by a district school board for such checks may not
 517 exceed 30 percent of the total amount charged by the Department
 518 of Law Enforcement and the Federal Bureau of Investigation.

519 (b) As authorized by law, the Department of Law Enforcement
 520 shall retain the fingerprints submitted by the school districts
 521 pursuant to this subsection ~~to the Department of Law Enforcement~~
 522 ~~for a criminal history background screenings screening in a~~

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523 ~~manner provided by rule~~ and enter the fingerprints in the
 524 statewide automated biometric identification system authorized
 525 by s. 943.05(2)(b). The fingerprints shall thereafter be
 526 available for all purposes and uses authorized for arrest
 527 fingerprints entered into the statewide automated biometric
 528 identification system under s. 943.051.

529 (d) School districts may participate in the search process
 530 described in this subsection by using the clearinghouse and
 531 paying any applicable ~~an~~ annual fee to the Agency for Health
 532 Care Administration or the Department of Law Enforcement.

533 ~~(e) A fingerprint retained pursuant to this subsection~~
 534 ~~shall be purged from the automated biometric identification~~
 535 ~~system 5 years following the date the fingerprint was initially~~
 536 ~~submitted. The Department of Law Enforcement shall set the~~
 537 ~~amount of the annual fee to be imposed upon each participating~~
 538 ~~agency for performing these searches and establishing the~~
 539 ~~procedures for retaining fingerprints and disseminating search~~
 540 ~~results. The fee may be borne as provided by law. Fees may be~~
 541 ~~waived or reduced by the executive director of the Department of~~
 542 ~~Law Enforcement for good cause shown.~~

543 (3) If it is found that a noninstructional contractor has
 544 been convicted of any of the offenses listed in paragraph (2)(f)
 545 ~~(2)(g)~~, the individual shall be immediately suspended from
 546 having access to school grounds and shall remain suspended
 547 unless and until the conviction is set aside in any
 548 postconviction proceeding.

549 (4) A noninstructional contractor who has been convicted of
 550 any of the offenses listed in paragraph (2)(f) ~~(2)(g)~~ may not be
 551 permitted on school grounds when students are present unless the

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552 contractor has received a full pardon or has had his or her
 553 civil rights restored. A noninstructional contractor who is
 554 present on school grounds in violation of this subsection
 555 commits a felony of the third degree, punishable as provided in
 556 s. 775.082 or s. 775.083.

557 (5) If a school district has reasonable cause to believe
 558 that grounds exist for the denial of a contractor's access to
 559 school grounds when students are present, it shall notify the
 560 contractor in writing, stating the specific record that
 561 indicates noncompliance with the standards set forth in this
 562 section. It is the responsibility of the affected contractor to
 563 contest his or her denial. The only basis for contesting the
 564 denial is proof of mistaken identity or that an offense from
 565 another jurisdiction is not disqualifying under paragraph (2)(f)
 566 ~~(2)(g)~~.

567 (6) Each contractor who is subject to the requirements of
 568 this section shall agree to inform his or her employer or the
 569 party to whom he or she is under contract and the school
 570 district within 48 hours if he or she is arrested for any of the
 571 disqualifying offenses in paragraph (2)(f) ~~(2)(g)~~. A contractor
 572 who willfully fails to comply with this subsection commits a
 573 felony of the third degree, punishable as provided in s. 775.082
 574 or s. 775.083. If the employer of a contractor or the party to
 575 whom the contractor is under contract knows the contractor has
 576 been arrested for any of the disqualifying offenses in paragraph
 577 (2)(f) ~~(2)(g)~~ and authorizes the contractor to be present on
 578 school grounds when students are present, such employer or such
 579 party commits a felony of the third degree, punishable as
 580 provided in s. 775.082 or s. 775.083.

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581 (7) (a) The clearinghouse must allow ~~Department of Law~~
 582 ~~Enforcement shall implement a system that allows~~ for the results
 583 of a criminal history check provided to a school district to be
 584 shared with other school districts through a secure Internet
 585 website or other secure electronic means. School districts must
 586 accept reciprocity of level 2 screenings for Florida High School
 587 Athletic Association officials.

588 Section 10. Paragraph (b) of subsection (10) of section
 589 1012.56, Florida Statutes, is amended to read:

590 1012.56 Educator certification requirements.—

591 (10) BACKGROUND SCREENING REQUIRED, INITIALLY AND
 592 PERIODICALLY.—

593 (b) A person may not receive a certificate under this
 594 chapter until the person's screening under s. 1012.32 is
 595 completed and the results have been submitted to the Department
 596 of Education or to the district school superintendent of the
 597 school district that employs the person. Every 5 years after
 598 obtaining initial certification, each person who is required to
 599 be certified under this chapter must be rescreened in accordance
 600 with s. 1012.32, at which time the school district shall,
 601 through the Care Provider Background Screening Clearinghouse
 602 under s. 435.12, request the Department of Law Enforcement to
 603 forward the fingerprints to the Federal Bureau of Investigation
 604 for federal criminal records checks. If, for any reason after
 605 obtaining initial certification, the fingerprints of a person
 606 who is required to be certified under this chapter are not
 607 retained by the Department of Law Enforcement under s.
 608 1012.32(3)(a) and (b), the person must file a complete set of
 609 fingerprints with the district school superintendent of the

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610 employing school district. Upon submission of fingerprints for
 611 this purpose, the school district shall use the clearinghouse to
 612 request the Department of Law Enforcement to forward the
 613 fingerprints to the Federal Bureau of Investigation for federal
 614 criminal records checks, and the fingerprints shall be retained
 615 by the Department of Law Enforcement under s. 1012.32(3)(a) and
 616 (b). The cost of the state and federal criminal history checks
 617 required by paragraph (a) and this paragraph may be borne by the
 618 district school board or the employee. Under penalty of perjury,
 619 each person who is certified under this chapter must agree to
 620 inform his or her employer within 48 hours if convicted of any
 621 disqualifying offense while he or she is employed in a position
 622 for which such certification is required.

623 Section 11. Paragraph (c) of subsection (9) of section
 624 381.986, Florida Statutes, is amended to read:

625 381.986 Medical use of marijuana.—

626 (9) BACKGROUND SCREENING.—An individual required to undergo
 627 a background screening pursuant to this section must pass a
 628 level 2 background screening as provided under chapter 435,
 629 which, in addition to the disqualifying offenses provided in s.
 630 435.04, shall exclude an individual who has an arrest awaiting
 631 final disposition for, has been found guilty of, regardless of
 632 adjudication, or has entered a plea of nolo contendere or guilty
 633 to an offense under chapter 837, chapter 895, or chapter 896 or
 634 similar law of another jurisdiction.

635 (c) Fingerprints submitted to the Department of Law
 636 Enforcement pursuant to this subsection shall be retained by the
 637 Department of Law Enforcement as provided in s. 943.05(2)(h) and
 638 (i) ~~s. 943.05(2)(g) and (h)~~ and, when the Department of Law

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639 Enforcement begins participation in the program, enrolled in the
 640 Federal Bureau of Investigation's national retained print arrest
 641 notification program. Any arrest record identified shall be
 642 reported to the department.

643 Section 12. Paragraph (d) of subsection (1) of section
 644 381.988, Florida Statutes, is amended to read:

645 381.988 Medical marijuana testing laboratories; marijuana
 646 tests conducted by a certified laboratory.—

647 (1) A person or entity seeking to be a certified marijuana
 648 testing laboratory must:

649 (d) Require all owners and managers to submit to and pass a
 650 level 2 background screening pursuant to s. 435.04 and shall
 651 deny certification if the person or entity has been found guilty
 652 of, or has entered a plea of guilty or nolo contendere to,
 653 regardless of adjudication, any offense listed in chapter 837,
 654 chapter 895, or chapter 896 or similar law of another
 655 jurisdiction.

656 1. Such owners and managers must submit a full set of
 657 fingerprints to the department or to a vendor, entity, or agency
 658 authorized by s. 943.053(13). The department, vendor, entity, or
 659 agency shall forward the fingerprints to the Department of Law
 660 Enforcement for state processing, and the Department of Law
 661 Enforcement shall forward the fingerprints to the Federal Bureau
 662 of Investigation for national processing.

663 2. Fees for state and federal fingerprint processing and
 664 retention shall be borne by such owners or managers. The state
 665 cost for fingerprint processing shall be as provided in s.
 666 943.053(3) (e) for records provided to persons or entities other
 667 than those specified as exceptions therein.

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668 3. Fingerprints submitted to the Department of Law
 669 Enforcement pursuant to this paragraph shall be retained by the
 670 Department of Law Enforcement as provided in s. 943.05(2) (h) and
 671 (i) ~~s. 943.05(2) (g) and (h)~~ and, when the Department of Law
 672 Enforcement begins participation in the program, enrolled in the
 673 Federal Bureau of Investigation's national retained print arrest
 674 notification program. Any arrest record identified shall be
 675 reported to the department.

676 Section 13. Subsection (2) of section 408.809, Florida
 677 Statutes, is amended to read:

678 408.809 Background screening; prohibited offenses.—

679 (2) Every 5 years following his or her licensure,
 680 employment, or entry into a contract in a capacity that under
 681 subsection (1) would require level 2 background screening under
 682 chapter 435, each such person must submit to level 2 background
 683 rescreening as a condition of retaining such license or
 684 continuing in such employment or contractual status. For any
 685 such rescreening, the agency shall request the Department of Law
 686 Enforcement to forward the person's fingerprints to the Federal
 687 Bureau of Investigation for a national criminal history record
 688 check unless the person's fingerprints are enrolled in the
 689 Federal Bureau of Investigation's national retained print arrest
 690 notification program. If the fingerprints of such a person are
 691 not retained by the Department of Law Enforcement under s.
 692 943.05(2) (h) and (i) ~~s. 943.05(2) (g) and (h)~~, the person must
 693 submit fingerprints electronically to the Department of Law
 694 Enforcement for state processing, and the Department of Law
 695 Enforcement shall forward the fingerprints to the Federal Bureau
 696 of Investigation for a national criminal history record check.

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697 The fingerprints shall be retained by the Department of Law
 698 Enforcement under s. 943.05(2)(h) and (i) ~~s. 943.05(2)(g) and~~
 699 ~~(h)~~ and enrolled in the national retained print arrest
 700 notification program when the Department of Law Enforcement
 701 begins participation in the program. The cost of the state and
 702 national criminal history records checks required by level 2
 703 screening may be borne by the licensee or the person
 704 fingerprinted. The agency may accept as satisfying the
 705 requirements of this section proof of compliance with level 2
 706 screening standards submitted within the previous 5 years to
 707 meet any provider or professional licensure requirements of the
 708 Department of Financial Services for an applicant for a
 709 certificate of authority or provisional certificate of authority
 710 to operate a continuing care retirement community under chapter
 711 651, provided that:

712 (a) The screening standards and disqualifying offenses for
 713 the prior screening are equivalent to those specified in s.
 714 435.04 and this section;

715 (b) The person subject to screening has not had a break in
 716 service from a position that requires level 2 screening for more
 717 than 90 days; and

718 (c) Such proof is accompanied, under penalty of perjury, by
 719 an attestation of compliance with chapter 435 and this section
 720 using forms provided by the agency.

721 Section 14. Subsection (2) of section 456.0135, Florida
 722 Statutes, is amended to read:

723 456.0135 General background screening provisions.—

724 (2) All fingerprints submitted to the Department of Law
 725 Enforcement as required under subsection (1) shall be retained

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726 by the Department of Law Enforcement as provided under s.
 727 943.05(2)(h) and (i) and (3) ~~s. 943.05(2)(g) and (h) and (2)~~ and
 728 enrolled in the national retained print arrest notification
 729 program at the Federal Bureau of Investigation when the
 730 Department of Law Enforcement begins participation in the
 731 program. The department shall notify the Department of Law
 732 Enforcement regarding any person whose fingerprints have been
 733 retained but who is no longer licensed.

734 Section 15. Paragraph (f) of subsection (2) of section
 735 494.00312, Florida Statutes, is amended to read:

736 494.00312 Loan originator license.—

737 (2) In order to apply for a loan originator license, an
 738 applicant must:

739 (f) Submit fingerprints in accordance with rules adopted by
 740 the commission:

741 1. The fingerprints may be submitted to the registry, the
 742 office, or a vendor acting on behalf of the registry or the
 743 office.

744 2. The office may contract with a third-party vendor to
 745 provide live-scan fingerprinting.

746 3. A state criminal history background check must be
 747 conducted through the Department of Law Enforcement, and a
 748 federal criminal history background check must be conducted
 749 through the Federal Bureau of Investigation.

750 4. All fingerprints submitted to the Department of Law
 751 Enforcement must be submitted electronically and entered into
 752 the statewide automated biometric identification system
 753 established in s. 943.05(2)(b) and available for use in
 754 accordance with s. 943.05(2)(h) and (i) ~~s. 943.05(2)(g) and (h)~~.

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755 The office shall pay an annual fee to the department to
 756 participate in the system and inform the department of any
 757 person whose fingerprints are no longer required to be retained.
 758 5. The costs of fingerprint processing, including the cost
 759 of retaining the fingerprints, shall be borne by the person
 760 subject to the background check.
 761 6. The office is responsible for reviewing the results of
 762 the state and federal criminal history checks and determining
 763 whether the applicant meets licensure requirements.
 764 Section 16. Paragraph (d) of subsection (2) of section
 765 494.00321, Florida Statutes, is amended to read:
 766 494.00321 Mortgage broker license.—
 767 (2) In order to apply for a mortgage broker license, an
 768 applicant must:
 769 (d) Submit fingerprints for each of the applicant's control
 770 persons in accordance with rules adopted by the commission:
 771 1. The fingerprints may be submitted to the registry, the
 772 office, or a vendor acting on behalf of the registry or the
 773 office.
 774 2. The office may contract with a third-party vendor to
 775 provide live-scan fingerprinting.
 776 3. A state criminal history background check must be
 777 conducted through the Department of Law Enforcement, and a
 778 federal criminal history background check must be conducted
 779 through the Federal Bureau of Investigation.
 780 4. All fingerprints submitted to the Department of Law
 781 Enforcement must be submitted electronically and entered into
 782 the statewide automated biometric identification system
 783 established in s. 943.05(2)(b) and available for use in

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784 accordance with s. 943.05(2)(h) and (i) ~~e. 943.05(2)(g) and (h).~~
 785 The office shall pay an annual fee to the department to
 786 participate in the system and inform the department of any
 787 person whose fingerprints are no longer required to be retained.
 788 5. The costs of fingerprint processing, including the cost
 789 of retaining the fingerprints, shall be borne by the person
 790 subject to the background check.
 791 6. The office is responsible for reviewing the results of
 792 the state and federal criminal history checks and determining
 793 whether the applicant meets licensure requirements.
 794 Section 17. Paragraph (d) of subsection (2) of section
 795 494.00611, Florida Statutes, is amended to read:
 796 494.00611 Mortgage lender license.—
 797 (2) In order to apply for a mortgage lender license, an
 798 applicant must:
 799 (d) Submit fingerprints for each of the applicant's control
 800 persons in accordance with rules adopted by the commission:
 801 1. The fingerprints may be submitted to the registry, the
 802 office, or a vendor acting on behalf of the registry or the
 803 office.
 804 2. The office may contract with a third-party vendor to
 805 provide live-scan fingerprinting.
 806 3. A state criminal history background check must be
 807 conducted through the Department of Law Enforcement, and a
 808 federal criminal history background check must be conducted
 809 through the Federal Bureau of Investigation.
 810 4. All fingerprints submitted to the Department of Law
 811 Enforcement must be submitted electronically and entered into
 812 the statewide automated biometric identification system

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813 established in s. 943.05(2)(b) and available for use in
 814 accordance with s. 943.05(2)(h) and (i) ~~s. 943.05(2)(g) and (h)~~.

815 The office shall pay an annual fee to the department to
 816 participate in the system and inform the department of any
 817 person whose fingerprints are no longer required to be retained.

818 5. The costs of fingerprint processing, including the cost
 819 of retaining the fingerprints, shall be borne by the person
 820 subject to the background check.

821 6. The office is responsible for reviewing the results of
 822 the state and federal criminal history checks and determining
 823 whether the applicant meets licensure requirements.

824 Section 18. Paragraph (c) of subsection (3) of section
 825 496.4101, Florida Statutes, is amended to read:

826 496.4101 Licensure of professional solicitors and certain
 827 employees thereof.—

828 (3)

829 (c) All fingerprints submitted to the Department of Law
 830 Enforcement as required under this subsection shall be retained
 831 by the Department of Law Enforcement as provided under s.
 832 943.05(2)(h) and (i) ~~s. 943.05(2)(g) and (h)~~ and enrolled in the
 833 Federal Bureau of Investigation's national retained print arrest
 834 notification program. Fingerprints shall not be enrolled in the
 835 national retained print arrest notification program until the
 836 Department of Law Enforcement begins participation with the
 837 Federal Bureau of Investigation. Arrest fingerprints will be
 838 searched against the retained prints by the Department of Law
 839 Enforcement and the Federal Bureau of Investigation.

840 Section 19. Paragraph (c) of subsection (2) of section
 841 559.555, Florida Statutes, is amended to read:

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842 559.555 Registration of consumer collection agencies;
 843 procedure.—

844 (2) In order to apply for a consumer collection agency
 845 registration, an applicant must:

846 (c) Submit fingerprints for each of the applicant's control
 847 persons in accordance with rules adopted by the commission.

848 1. The fingerprints may be submitted through a third-party
 849 vendor authorized by the Department of Law Enforcement to
 850 provide live-scan fingerprinting.

851 2. A state criminal history background check must be
 852 conducted through the Department of Law Enforcement, and a
 853 national criminal history background check must be conducted
 854 through the Federal Bureau of Investigation.

855 3. All fingerprints submitted to the Department of Law
 856 Enforcement must be submitted electronically and entered into
 857 the statewide automated biometric identification system
 858 established in s. 943.05(2)(b) and available for use in
 859 accordance with s. 943.05(2)(h) and (i) ~~s. 943.05(2)(g) and (h)~~.

860 The office shall pay an annual fee to the Department of Law
 861 Enforcement to participate in the system and inform the
 862 Department of Law Enforcement of any person whose fingerprints
 863 are no longer required to be retained.

864 4. The costs of fingerprint processing, including the cost
 865 of retaining the fingerprints, shall be borne by the person
 866 subject to the background check.

867 5. The office is responsible for reviewing the results of
 868 the state and national criminal history background checks and
 869 determining whether the applicant meets registration
 870 requirements.

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871 Section 20. Paragraph (c) of subsection (1) of section
 872 560.141, Florida Statutes, is amended to read:
 873 560.141 License application.—
 874 (1) To apply for a license as a money services business
 875 under this chapter, the applicant must submit:
 876 (c) Fingerprints for each person listed in subparagraph
 877 (a)3. for live-scan processing in accordance with rules adopted
 878 by the commission.
 879 1. The fingerprints may be submitted through a third-party
 880 vendor authorized by the Department of Law Enforcement to
 881 provide live-scan fingerprinting.
 882 2. The Department of Law Enforcement must conduct the state
 883 criminal history background check, and a federal criminal
 884 history background check must be conducted through the Federal
 885 Bureau of Investigation.
 886 3. All fingerprints submitted to the Department of Law
 887 Enforcement must be submitted electronically and entered into
 888 the statewide automated fingerprint identification system
 889 established in s. 943.05(2)(b) and available for use in
 890 accordance with s. 943.05(2)(h) and (i) ~~s. 943.05(2)(g) and (h)~~.
 891 The office shall pay an annual fee to the Department of Law
 892 Enforcement to participate in the system and shall inform the
 893 Department of Law Enforcement of any person whose fingerprints
 894 no longer must be retained.
 895 4. The costs of fingerprint processing, including the cost
 896 of retaining the fingerprints, shall be borne by the person
 897 subject to the background check.
 898 5. The office shall review the results of the state and
 899 federal criminal history background checks and determine whether

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900 the applicant meets licensure requirements.
 901 6. For purposes of this paragraph, fingerprints are not
 902 required to be submitted if the applicant is a publicly traded
 903 corporation or is exempted from this chapter under s.
 904 560.104(1). The term "publicly traded" means a stock is
 905 currently traded on a national securities exchange registered
 906 with the federal Securities and Exchange Commission or traded on
 907 an exchange in a country other than the United States regulated
 908 by a regulator equivalent to the Securities and Exchange
 909 Commission and the disclosure and reporting requirements of such
 910 regulator are substantially similar to those of the commission.
 911 7. Licensees initially approved before October 1, 2013, who
 912 are seeking renewal must submit fingerprints for each person
 913 listed in subparagraph (a)3. for live-scan processing pursuant
 914 to this paragraph. Such fingerprints must be submitted before
 915 renewing a license that is scheduled to expire between April 30,
 916 2014, and December 31, 2015.
 917 Section 21. Paragraph (b) of subsection (5) of section
 918 581.217, Florida Statutes, is amended to read:
 919 581.217 State hemp program.—
 920 (5) LICENSURE.—
 921 (b) A person seeking to cultivate hemp must apply to the
 922 department for a license on a form prescribed by the department
 923 and must submit a full set of fingerprints to the department
 924 along with the application.
 925 1. The department shall forward the fingerprints to the
 926 Department of Law Enforcement for state processing, and the
 927 Department of Law Enforcement shall forward the fingerprints to
 928 the Federal Bureau of Investigation for national processing.

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929 2. Fingerprints submitted to the Department of Law
930 Enforcement pursuant to this paragraph must be retained by the
931 Department of Law Enforcement as provided in s. 943.05(2) (h) and
932 (i) ~~s. 943.05(2) (g) and (h)~~ and must be retained as provided in
933 s. 943.05(4) when the Department of Law Enforcement begins
934 participation in the Federal Bureau of Investigation's national
935 retained fingerprint arrest notification program.

936 3. Any arrest record identified shall be reported to the
937 department.

938 Section 22. This act shall take effect July 1, 2023.



2022 AGENCY LEGISLATIVE BILL ANALYSIS

Florida Department of Education

BILL INFORMATION

| | |
|------------------------|-----------------------|
| BILL NUMBER: | Senate Bill 1830 |
| BILL TITLE: | Background Screenings |
| BILL SPONSOR: | Senator Brodeur |
| EFFECTIVE DATE: | July 1, 2023 |

COMMITTEES OF REFERENCE

| |
|--|
| 1) Criminal Justice |
| 2) Appropriations Subcommittee on Criminal and Civil Justice |
| 3) Appropriations |
| 4) |
| 5) |

CURRENT COMMITTEE

| |
|------------------|
| Criminal Justice |
|------------------|

SIMILAR BILLS

| | |
|---------------------|-------------------------------|
| BILL NUMBER: | HB 1505 SB 1386 |
| SPONSOR: | Rep. Trabulsy Senator Diaz |

PREVIOUS LEGISLATION

| | |
|---------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |
| YEAR: | |
| LAST ACTION: | |

IDENTICAL BILLS

| | |
|---------------------|--|
| BILL NUMBER: | |
| SPONSOR: | |

Is this bill part of an agency package?

No.

BILL ANALYSIS INFORMATION

| | |
|-------------------------------|---|
| DATE OF ANALYSIS: | 1/21/2022 |
| LEAD AGENCY ANALYST: | Dr. Paul O. Burns, Deputy Chancellor for Educator Quality |
| ADDITIONAL ANALYST(S): | Randy Kosec, Chief, Professional Practices Services |
| LEGAL ANALYST: | Judy Bone and Bonnie Wilmot, Deputy General Counsels |
| FISCAL ANALYST: | Suzanne Pridgeon, Deputy Commissioner, Finance and Operations |

POLICY ANALYSIS

1. EXECUTIVE SUMMARY

Section 1 amends s. 435.02(5), F.S., to:

- Expand the term “specified agency” to include the Department of Education, each district unit pursuant to s. 1001.30, F.S., special district units pursuant to s. 1011.24, F.S., the Florida School for the Deaf and the Blind pursuant to s. 1002.36, F.S., the Florida Virtual School pursuant to s. 1002.37, F.S., virtual instruction programs pursuant to s. 1002.45, F.S., charter schools pursuant to s. 1002.33, F.S., a School of Hope operator pursuant to s. 1002.333, F.S., early learning coalitions pursuant to s. 1002.83, F.S., and a qualified entity pursuant to s. 943.0542(1), F.S..

Section 2 amends s. 435.04(1)(b) and (d), F.S., to:

- Remove July 1, 2012, as the effective date by which fingerprints must be submitted electronically.
- Delete obsolete language that an agency may require fingerprints to be submitted electronically on a date earlier than July 1, 2012.

Section 3 amends s. 435.12(2)(a) and (3), F.S., to:

- Update Florida Statutes that require the retention of fingerprints by the Department of Law Enforcement.
- Remove the option that allowed individuals who had been previously fingerprinted prior to the implementation of the clearinghouse not to have to be re-fingerprinted upon entry into the clearinghouse.

Section 4 amends s. 943.0438(2)(a) and (b), F.S., to:

- Require athletic coaches for independent sanctioning authorities to submit to a level 2 screening.
- Require fingerprint results to be retained by the Department of Law Enforcement.
- Require athletic coaches to be rescreened every five (5) years.
- Remove the option of a background screening being conducted by a commercial consumer-reporting agency in compliance with the federal Fair Credit Reporting Act.
- Update Florida Statutes for disqualifying an individual from acting as an athletic coach.

Section 5 amends s. 943.05(2)(g) and (h), F.S., to:

- Remove the fingerprint requirement from being conducted based on an official written request and sufficient funds.
- Require the Criminal Justice Information Program to “develop a method for establishing direct identification through automated biometrics, which may include, but is not limited to the use of latent fingerprints, palm prints, facial recognition, or retina scans.”
- Remove the provision that an agency or qualified entity needs to request that fingerprints be retained.

Section 6 amends s. 943.0542(8) and (9), F.S., to:

- Require the Department of Law Enforcement to conduct periodical audits of qualified entities.
- Require qualified entities to use the Care Provider Background Screening Clearinghouse.
- Require the athletic coach’s signed waiver to include “a statement that the qualifying entity understands that the department will retain the fingerprints of the criminal history background screening of each employee or volunteer as provided by rule and enter the fingerprints in the statewide automated biometric identification system established in s. 943.05(2)(b).”
- Require the clearinghouse to provide criminal history directly to the qualified entity rather than the Department of Law Enforcement.
- Require the Department of Law Enforcement to create an annually dated compliance decal that must be sent to each qualified entity registered with the department to be displayed in a place easily accessible to the general public.
- Allow for a minimum fine of \$1,000 per instance of noncompliance to be issued to qualified entities.

Section 7 amends s. 1012.32(3)(b)2. and (3)(c)2., F.S., to:

- Require fingerprints also be submitted to the Care Provider Background Screening Clearinghouse.
- Remove the requirement of a district school board to reimburse a charter school the cost of the background screening within the specified time.
- Remove the requirements for individuals whose fingerprints are not retained by the Department of Law Enforcement.

Section 8 amends s. 1012.465(2), F.S., to:

- Require the school district to request fingerprints be submitted through the Care Provider Background Screening Clearinghouse.

Section 9 amends s. 1012.467(2)(a), (b), (d) and (e), (3), (4), (5), (6) and (7)(a), F.S., to:

- Require the initial criminal history check for non-instructional contractor who is the subject of a criminal history check to file with the Department of Law Enforcement through the Care Provider Background Screening Clearinghouse.
- Require school districts using the clearinghouse to pay an annual fee to the Agency for Health Care Administration or the Department of Law Enforcement.
- Remove the requirement for the Department of Law Enforcement to set the annual fee for retaining fingerprints, performing searches and establishing procedures for retention.
- Replace the Department of Law Enforcement with the clearinghouse must allow for the results of a criminal history check provided to a school district to be shared with other school districts through a secure Internet website or electronic means.

Section 10 amends s. 1012.56(10)(b), F.S., to:

- Require school districts to submit requests for re-screenings every five (5) years through the Care Provider Background Screening Clearinghouse.

Sections 11 – 21

- Updates Florida Statutes citations with the newly created statute numbers in Sections 1 – 10.

Section 22 provides an effective date of July 1, 2023.

2. SUBSTANTIVE BILL ANALYSIS

1. PRESENT SITUATION:

Section 1

- Currently, the Florida Department of Education, each district unit pursuant to s. 1001.30, F.S., special district units pursuant to s. 1011.24, F.S., the Florida School for the Deaf and the Blind pursuant to s. 1002.36, F.S., the Florida Virtual School pursuant to s. 1002.37, F.S., virtual instruction programs pursuant to s. 1002.45, F.S., charter schools pursuant to s. 1002.33, F.S., a School of Hope operator pursuant to s. 1002.333, F.S., early learning coalitions pursuant to s. 1002.83, F.S., and a qualified entity pursuant to s. 943.0542(1), F.S., are not identified as a “specified agency.”

Section 2

- Currently, all fingerprints submitted on or after July 1, 2012, must be submitted electronically to the Department of Law Enforcement.
- Currently, an agency may require that fingerprints be submitted electronically.

Section 3

- Currently, an individual who has been fingerprinted prior to the implementation of the clearinghouse, is not required to be re-printed until his or her license is renewed or at the time to meet rescreening requirements.

Section 4

- Currently athletic coaches for independent sanctioning authorities are required to submit to a Level 1 background screenings annually.
- The Department of Law Enforcement does not retain fingerprints for athletic coaches for independent sanctioning authorities.
- Athletic coaches for independent sanctioning authorities may use a background screening conducted by a commercial consumer-reporting agency in compliance with the federal Fair Credit Reporting Act.
- Currently, section 435.03, F.S., is the statute that independent sanctioning authorities may use to disqualify people from acting as athletic coaches because it is the “Level 1 Screening Standards” statute.

Section 5

- The Criminal Justice Information Program accepts written requests, and based on sufficient funding, to retain fingerprints submitted by criminal and noncriminal justice agencies for a criminal history background screening.
- An agency or qualified entity must officially request the retention of fingerprints.

Section 6

- The Department of Law Enforcement may periodically audit qualified entities to ensure compliance.
- Qualified entities use the Department of Law Enforcement for screening an employee or volunteer or a person applying to become an employee or volunteer.
- Waivers are not required to include a statement that the qualifying entity understands that the department will retain the fingerprints of the criminal history background screening of each employee or volunteer.
- The Department of Law Enforcement is required to provide criminal history directly to the qualified entity.
- The Department of Law Enforcement may maintain a database of registered qualified entities that is available free of charge to all registered qualified entities, which includes the name, address, and telephone number of each qualified entity.
- Currently, there are no statutory penalties for violations.

Section 7

- Fingerprints are only submitted to the Department of Law Enforcement and the Federal Bureau of Investigation for instructional personnel and non-personnel.
- District schools are required to reimburse a charter school the cost of the background screening if they do not notify the charter school of the results within the designated timeframe.
- Personnel whose fingerprints are not retained by the Department of Law Enforcement have separate fingerprinting and rescreening requirements.

Section 8

- Currently, school districts request fingerprint submissions through the Department of Law Enforcement for non instructional district employees who have access to school grounds when students are present as part of the level two background screening.

Section 9

- Each non-instructional contractor files for fingerprint submissions directly through the Department of Law Enforcement.
- The Department of Law Enforcement has authority to set the annual fee for retaining fingerprints, performing searches, and establishing procedures for retention.
- School districts are only applicable to fees from the Department of Law Enforcement if they choose to participate.
- The Department of Law Enforcement maintains the system for the sharing of results between a school and the district.

Section 10

- Currently, school districts submit requests for re-screenings every five (5) years directly to the Department of Law Enforcement. School districts do not currently have access to the clearinghouse.

Sections 11 – 21

- Updates Florida Statutes citations with the newly created statutory numbers in sections 1–10.

2. EFFECT OF THE BILL:

Section 1

- The newly designated entities that conduct state and national criminal history background screenings on persons who work with children or persons who are elderly or disabled would have access to records restricted to “specified agency.”

Section 2

- Removes the outdated effective date of July 1, 2012, since the statute is in effect.

- Removes the option for fingerprints to be submitted in a different option other than electronically.

Section 3

- Updates the Florida Statutes citations used by the Department of Law Enforcement for retention of fingerprints.
- Since the clearinghouse is already optional, there would be no additional screenings required; therefore, this subsection is not needed.

Section 4

- Athletic coaches for independent sanctioning authorities will submit to Level 2 screening requirements, which would include a national background screening.
- The screenings and fingerprints for athletic coaches would now be retained for five (5) years by the Department of Law Enforcement.
- Athletic coaches will no longer be able to use a background screening conducted by a commercial consumer-reporting agency in compliance with the federal Fair Credit Reporting Act.
- The disqualifying statute will be updated to comply with the enacted law.

Section 5

- The Criminal Justice Information Program will retain fingerprints submitted by criminal and noncriminal justice agencies. A written request and sufficient funding will not be required for retention.
- The Criminal Justice Information Program will need to “develop a method for establishing direct identification through automated biometrics, which may include, but is not limited to the use of latent fingerprints, palm prints, facial recognition, or retina scans.”
- Will remove the requirement for each agency or qualified entity to officially requests retention of fingerprints. The retention will now occur automatically.

Section 6

- Qualified entities will be required to use the Care Provider Background Screening Clearinghouse for screening an employee or volunteer or a person applying to become an employee or volunteer.
- Waivers will now be required to include a statement that the qualifying entity understands that the department will retain the fingerprints of the criminal history background screening of each employee or volunteer.
- The clearinghouse will now be required to provide criminal history directly to the qualified entity instead of the Department of Law Enforcement.
- The Department of Law Enforcement will now be required to design an annually dated compliance decal that each qualified entity registered with the department must display in a place easily accessible to the general public.
- The Department of Law Enforcement will not be required to maintain a database of qualified entities.
- The Department of Law Enforcement will be required to periodically audit qualified entities to ensure compliance.
- Will allow a minimum fine of \$1,000.00, per instance of noncompliance to be issued to qualified entities.

Section 7

- Fingerprints will now be submitted to the Care Provider Background Screening Clearinghouse, the Department of Law Enforcement and the Federal Bureau of Investigation.
- District schools will no longer be required to reimburse a charter school the cost of the background screening if they do not notify the charter school of the results within the designated timeframe.
- The requirements for personnel whose fingerprints are not retained by the Department of Law Enforcement will be lifted because their fingerprints will be retained within the clearinghouse.

Section 8

- School districts will now need to request fingerprint submissions through the Care Provider Background Screening Clearinghouse.

Section 9

- Each non-instructional contractor will be required to file through the clearinghouse for fingerprint submissions to be processed by the Department of Law Enforcement.

- School districts will be subject to applicable to fees from both the Agency for Health Care Administration and the Department of Law Enforcement.
- The Department of Law Enforcement will no longer have the authority to set the annual fee for retaining fingerprints, performing searches, and establishing procedures for retention.
- The clearinghouse will replace the Department of Law Enforcement for maintaining the system for the sharing results between school districts.

Section 10

- School districts will be required to submit requests for re-screening of qualified individuals every five (5) years through the clearinghouse.

Sections 11 – 21

- Updates Florida Statutes citations with the newly created statute numbers in Sections 1 – 10.

3. 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: | Unknown. In order to implement the legislation, rules that oversee educator certification may be affected; specifically any rule related to background screenings. |
| 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: | Unknown. |
| Opponents and summary of position: | Unknown. |

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. FISCAL IMPACT TO LOCAL GOVERNMENT

Y N

| | |
|---|---|
| Revenues: | |
| Expenditures: | School districts would incur additional expenditures by selecting another vendor meeting the requirements of performing a background check, as well as from having background screening performed on all athletic coaches every five years. The exact impact is indeterminable and will vary by district. |
| 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. FISCAL IMPACT TO STATE GOVERNMENT

Y N

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

3. FISCAL IMPACT TO THE PRIVATE SECTOR

Y N

| | |
|---------------|--|
| Revenues: | As a result of this bill, there could be a decrease in revenue for some commercial consumer-reporting agencies since athletic coaches will no longer be able to use a background screening conducted by a commercial consumer-reporting agency in compliance with the federal Fair Credit Reporting Act. |
| Expenditures: | |
| 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

LEGAL - GENERAL COUNSEL'S OFFICE REVIEW

| | |
|---------------------------|---|
| Issues/concerns/comments: | <p>Lines 150-174: Clarification is needed on how the provision would be applied to current coaches, requiring a Level 2 rather than a Level 1. If the intention is for school districts to fire employees with a prior conviction, language could be added to clarify this.</p> <p>Lines 304-309: With the new addition, it is unclear whether the waiver is signed by the entity or employee.</p> <p>Lines 397-400: Are fingerprints to be submitted to FDLE in addition to the clearinghouse?</p> <p>Lines 403: The provision expands the offenses which renders a person ineligible for employment by a school district in a position with direct contact with students. Clarification of how the provision would be applied to current employees and where there are prior offenses could be helpful. If the intention is for school districts to fire employees with a prior conviction, language could be added to clarify this, such as "regardless of when the conduct occurred."</p> |
|---------------------------|---|

Judy Bone and Bonnie Wilmot
Legal Analyst Signature

1/25/2022
Date

APPROVALS

Dr. Paul O. Burns
Lead Program Policy Analyst

1/21/2022
Date

850-245-0509
Phone Number

Jacob Oliva
Chancellor/Director/Direct Report

1/21/2022
Date

Suzanne Pridgeon
Fiscal Analyst

1/26/2022
Date

Jessica A. Fowler
Governmental Relations

1/27/2022
Date

APPEARANCE RECORD

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

2/1/22

Meeting Date

Senate Criminal Justice

Committee

1830

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Michele Watson**

Phone **850-320-2388**

Address **1126 Lee Avenue Suite B**

Email **mwatson@facct.com**

Street

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 Alliance of Children's Councils & Trusts

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 \(flsenate.gov\)](#)

The Florida Senate

APPEARANCE RECORD

SB 1830

2/1/2022

Meeting Date

Bill Number or Topic

Criminal Justice

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

Committee

Amendment Barcode (if applicable)

Name Megan Turetsky

Phone 954-551-0735

Address 6600 W. Commercial Blvd

Email mturetsky@cscbroward.org

Street

Lauderhill FL 33319

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:

Children Services Council of Broward County

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

Committee Agenda Request

To: Senator Jason W.B. Pizzo, Chair
Committee on Criminal justice

Subject: Committee Agenda Request

Date: January 12, 2022

I respectfully request that **Senate Bill 1830**, relating to **Background Screenings**, be placed on the:

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

A handwritten signature in cursive script that reads "Jason Brodeur".

Senator Jason Brodeur
Florida Senate, District 9

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Eric Hall
Secretary of Juvenile Justice

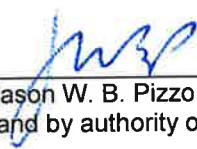
NOTICE OF HEARING

TO: Mr. Eric Hall

YOU ARE HEREBY NOTIFIED that the Committee on Criminal Justice of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, February 1, 2022, in the Toni Jennings Committee Room, 110 Senate Building, commencing at 1:00 p.m., pursuant to Rule 12.7(1) of the Rules of the Florida Senate.

Please be present at the time of the hearing.
DATED this the 27th day of January, 2022

Committee on Criminal Justice



Senator Jason W. B. Pizzo
As Chair and by authority of the committee

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



RON DESANTIS
GOVERNOR

RECEIVED

2021 DEC -8 AM 10:19

DIVISION OF ELECTIONS
TALLAHASSEE, FL

November 29, 2021

Secretary Laurel M. Lee
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, Florida 32399-0250

Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 20.316, Florida Statutes:

Dr. Eric Hall
5108 Bonnie Lake Road
Tallahassee, Florida 32311

as Secretary of the Florida Department of Juvenile Justice, succeeding Simone Marsteller, subject to confirmation by the Senate. This appointment is effective November 29, 2021, for a term ending at the pleasure of the Governor.

Sincerely,

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

Ron DeSantis
Governor

RD/kk

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

RECEIVED

STATE OF FLORIDA

2022 JAN 12 AM 11:58

County of Leon

FLORIDA COLLECTIONS
TALLAHASSEE, FL

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

Secretary, Florida Department of Juvenile Justice

(Title of Office)

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

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

[Handwritten Signature]

Signature

Sworn to and subscribed before me by means of physical presence or
 online notarization, this 10th day of January, 2022.

[Handwritten Signature]

Signature of Officer Administering Oath or of Notary Public

[Handwritten Name]

Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known OR Produced Identification

Type of Identification Produced DL

ACCEPTANCE

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

Mailing Address: Home Office

2737 Centerview Drive

Street or Post Office Box

Tallahassee, FL 32399-3100

City, State, Zip Code

Eric S. Hall

Print Name

[Handwritten Signature]

Signature

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

I, Laurel M. Lee, Secretary of State,
do hereby certify that

Eric Hall

is duly appointed

**Secretary,
Department of Juvenile Justice**

for a term beginning on the Twenty-Ninth day of November,
A.D., 2021, to serve at the pleasure of the Governor and is
subject to be confirmed by the Senate during the next regular
session of the Legislature.

*Given under my hand and the Great Seal of the
State of Florida, at Tallahassee, the Capital, this
the Thirteenth day of January, A.D., 2022.*



Secretary of State

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

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

THE FLORIDA SENATE

COMMITTEE WITNESS OATH

CHAIR:

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

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

WITNESS'S NAME: Eric Hall
Secretary of Juvenile Justice

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

COMMITTEE NAME: Senate Criminal Justice Committee

DATE: February 1, 2022

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

COMMITTEE: Committee on Criminal Justice
MEETING DATE: Tuesday, February 1, 2022
TIME: 1:00—3:00 p.m.
PLACE: Toni Jennings Committee Room, 110 Senate Building

TO: The Honorable Wilton Simpson, President
FROM: The Committee on Criminal Justice

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

Office: Secretary of Juvenile Justice
Appointee: Hall, Eric
Term: 11/29/2021-Pleasure of Governor

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

Next Reference: Ethics and Elections

REPORTING INSTRUCTION: With Chair's approval, file 1 copy with Secretary of the Senate and 2 copies with the Committee on Ethics and Elections

Note: Electronic notification upon publication may serve as the filing.
02012022.1449

S-067 (06/28/21)

Page 1 of 1

The Florida Senate

APPEARANCE RECORD

Confirmation

2/1/22

Meeting Date

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

Bill Number or Topic

Sen. Crim. Justice

Committee

Amendment Barcode (if applicable)

Name Eric Hall: DJJ Sec.

Phone _____

Address 2737 Centerview Dr.

Email _____

Street

Tallahassee

FL

32399

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 \(flsenate.gov\)](#)

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

S-001 (08/10/2021)



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on
Transportation,
Tourism, and Economic Development,
Chair
Appropriations
Appropriations Subcommittee on Criminal
and Civil Justice
Criminal Justice
Ethics and Elections
Transportation

SENATOR GEORGE B. GAINER
2nd District

February 1, 2022

Dear Chair Pizzo,

I am respectfully requesting a formal excusal for the upcoming Criminal Justice meeting on February 1, 2022. I regret that I will be unable to attend, as I am still recovering from surgery.

If there are any questions or concerns, please do not hesitate to call my office at (850) 487-5002.

Thank you,

A handwritten signature in blue ink that reads "George B. Gainer". The signature is fluid and cursive, with the first name "George" being the most prominent.

Senator George Gainer
District 2

REPLY TO:

- 840 West 11th Street, Panama City, Florida 32401 (850) 747-5454
- Northwest Florida State College, 100 East College Boulevard, Building 330, Rooms 105 and 112, Niceville,
- 408 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5002

Florida 32578 (850) 747-5454

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: 2/1/2022 1:02:09 PM

Ends: 2/1/2022 1:48:32 PM Length: 00:46:24

1:02:07 PM Meeting called to order by Chair Pizzo
1:02:16 PM Roll call by CAA Sue Arnold
1:02:34 PM Quorum present
1:02:36 PM Comments from Chair Pizzo, Senator Gainer is excused
1:02:53 PM Introduction of Tab 5, Confirmation Hearing, Secretary of Juvenile Justice by Chair Pizzo
1:03:23 PM Swearing in of Mr. Eric Hall
1:03:40 PM Comments from Mr. Hall
1:06:26 PM Comments from Chair Pizzo
1:06:59 PM Question from Senator Baxley
1:07:15 PM Response from Mr. Hall
1:08:48 PM Comments from Senator Baxley
1:09:24 PM Question from Chair Pizzo
1:09:34 PM Response from Mr. Hall
1:10:19 PM Question from Senator Burgess
1:10:25 PM Response from Mr. Hall
1:10:40 PM Comments from Senator Bean
1:11:05 PM Senator Bean moves to confirm Eric Hall as Secretary
1:11:19 PM Motion second by Senator Burgess
1:11:34 PM Comments from Senator Powell
1:12:22 PM Roll call by CAA
1:12:31 PM Eric Hall confirmed as Secretary of Juvenile Justice
1:12:52 PM Introduction of Tab 3, SB 1244 by Chair Pizzo
1:13:04 PM Explanation of SB 1244, Statutes of Limitations for Sexual Offenses by Senator Gibson
1:13:15 PM Introduction of Amendment Barcode No. 373630 by Chair Pizzo
1:13:33 PM Explanation of Substitute Delete-All Amendment Barcode No. 331236 by Senator Gibson
1:14:46 PM Comments from Chair Pizzo
1:14:50 PM Question from Senator Baxley
1:14:58 PM Response from Senator Gibson
1:17:27 PM Comments from Chair Pizzo
1:17:43 PM Closure waived
1:17:46 PM Amendment adopted
1:17:49 PM Comments from Chair Pizzo
1:17:53 PM Barbara DeVane, FL National Organization for Women in support
1:18:00 PM Speaker Rena Romano in support
1:22:59 PM Speaker Stefan Turkheimer in support
1:25:50 PM Question from Chair Pizzo
1:26:50 PM Response from Mr. Turkheimer
1:27:50 PM Follow-up question from Chair Pizzo
1:27:56 PM Response from Mr. Turkheimer
1:28:14 PM Follow-up question from Chair Pizzo
1:28:20 PM Response from Mr. Turkheimer
1:28:50 PM Question from Senator Brandes
1:28:54 PM Response from Mr. Turkheimer
1:29:50 PM Follow-up question from Senator Brandes
1:29:58 PM Response from Mr. Turkheimer
1:31:23 PM Speaker Gail Gardner in support
1:36:36 PM Aaron Wayt, Florida Association of Criminal Defense Lawyers waives in opposition
1:37:35 PM Comments from Chair Pizzo
1:37:41 PM Senator Gibson in closure
1:37:47 PM Roll call by CAA
1:37:55 PM CS/SB 1244 reported favorably
1:38:10 PM Introduction of Tab 1, SB 722 by Chair Pizzo

1:38:26 PM Introduction of Late-filed Amendment Barcode No. 572074 by Chair Pizzo
1:38:38 PM Explanation of Amendment by Senator Perry
1:39:00 PM Comments from Chair Pizzo
1:39:03 PM Amendment adopted
1:39:06 PM Question from Senator Powell
1:39:13 PM Response from Senator Perry
1:40:04 PM Brenda Spitzbarth, Florida PPR Families United waives in support
1:40:08 PM Liam McClay, Santa Fe College waives in support
1:40:14 PM Nate Schaidt waives in support
1:40:19 PM Denise Rock, Florida Cares waives in support
1:40:22 PM Laurette Philipsen waives in support
1:40:25 PM Nancy Daniels, Florida Public Defender Association waives in support
1:40:30 PM Lacey Hofmeyer, Broward College waives in support
1:40:38 PM Aaron Wayt, Florida Association of Criminal Defense Lawyers waives in support
1:40:42 PM Phillip Suderman, Americans for Prosperity waives in support
1:40:48 PM Comments from Chair Pizzo
1:40:55 PM Senator Perry in closure
1:40:58 PM Roll call by CAA
1:41:13 PM CS/SB 722 reported favorably
1:41:28 PM Introduction of Tab 4, SB 1830 by Chair Pizzo
1:41:40 PM Explanation of SB 1830, Background Screenings by Senator Brodeur
1:41:52 PM Introduction of Amendment Barcode No. 463154 by Chair Pizzo
1:41:56 PM Explanation of Amendment by Senator Brodeur
1:43:01 PM Comments from Chair Pizzo
1:43:07 PM Closure waived
1:43:10 PM Amendment adopted
1:43:12 PM Comments from Chair Pizzo
1:43:18 PM Megan Turetsky, Children Services Council of Broward County waives in support
1:43:25 PM Michele Watson, Florida Alliance of Children's Councils & Trusts waives in support
1:43:31 PM Comments from Chair Pizzo
1:43:35 PM Closure by Senator Brodeur
1:43:39 PM Roll call by CAA
1:43:43 PM CS/SB 1830 reported favorably
1:43:54 PM Chair turned over to Senator Perry
1:44:10 PM Introduction of CS/SB 876, Stunt Driving on Highways by Chair Perry
1:44:13 PM Explanation of CS/SB 876 by Senator Pizzo
1:44:24 PM Introduction of Amendment Barcode No. 442374 by Chair Perry
1:45:05 PM Explanation of Amendment by Senator Pizzo
1:45:34 PM Comments from Chair Perry
1:45:40 PM Amendment adopted
1:45:44 PM Comments from Chair Perry
1:45:51 PM Question from Senator Brandes
1:45:55 PM Response from Senator Pizzo
1:46:10 PM Comments from Chair Perry
1:47:10 PM Matt Dunagan, Florida Sheriffs Association waives in support
1:47:12 PM Comments from Chair Perry
1:47:18 PM Senator Pizzo in closure
1:47:23 PM Roll call by CAA
1:47:27 PM CS/CS/SB 876 reported favorably
1:47:44 PM Chair returned to Senator Pizzo
1:47:53 PM Comments from Chair Pizzo
1:47:54 PM Senator Brandes would like to be shown voting in the affirmative on Tabs 5 and 4
1:48:04 PM Comments from Chair Pizzo
1:48:08 PM Senator Hooper moves to give staff license to make technical and conforming changes to the Committee Substitutes
1:48:16 PM Senator Perry moves to adjourn
1:48:22 PM Meeting Adjourned