

Tab 3	SB 670 by Rader; (Similar to H 00253) Assisted and Independent Living Facility Task Force						
642746	D	S	RCS	GO, Rader	Delete everything after	03/19 05:37 PM	

Tab 4	SB 980 by Harrell; (Identical to H 00845) Public Records/Petition for Certain Protective Injunctions						
238352	A	S	RCS	GO, Harrell	Delete L.44 - 53:	03/19 05:37 PM	

Tab 5	SB 7046 by CJ; (Similar to H 07057) Critical Infrastructure Facilities and Staff						
894836	A	S	RCS	GO, Perry	btw L.48 - 49:	03/19 05:37 PM	

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

GOVERNMENTAL OVERSIGHT AND ACCOUNTABILITY

Senator Hooper, Chair
Senator Rader, Vice Chair

MEETING DATE: Tuesday, March 19, 2019

TIME: 4:00—6:00 p.m.

PLACE: 301 Senate Building

MEMBERS: Senator Hooper, Chair; Senator Rader, Vice Chair; Senators Albritton, Bean, and Torres

TAB	OFFICE and APPOINTMENT (HOME CITY)	FOR TERM ENDING	COMMITTEE ACTION
<p>Senate Confirmation Hearing: A public hearing will be held for consideration of the below-named executive appointments to the offices indicated.</p>			
Secretary of State			
1	Lee, Laurel M. ()	Pleasure of Governor	Recommend Confirm Yeas 5 Nays 0
Secretary of Management Services			
2	Satter, Jonathan R. (North Palm Beach)	Pleasure of Governor	Recommend Confirm Yeas 5 Nays 0
TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	SB 670 Rader (Similar H 253)	Assisted and Independent Living Facility Task Force; Establishing the Assisted and Independent Living Facility Task Force within the Agency for Persons with Disabilities; requiring the task force to submit a report to the Governor and Legislature by a specified date, etc. CF 03/04/2019 Favorable GO 03/19/2019 Fav/CS RC	Fav/CS Yeas 5 Nays 0
4	SB 980 Harrell (Identical H 845)	Public Records/Petition for Certain Protective Injunctions; Providing an exemption from public records requirements for all information contained in a petition for certain protective injunctions, and any related affidavit, notice of hearing, and temporary injunction, until the respondent has been personally served; providing a statement of public necessity, etc. JU 03/04/2019 Favorable GO 03/19/2019 Fav/CS RC	Fav/CS Yeas 5 Nays 0
5	SB 7046 Criminal Justice (Similar H 7057)	Critical Infrastructure Facilities and Staff; Redefining the term "critical infrastructure facility"; requiring any person employed as a full-time, a part-time, or an auxiliary correctional officer be at least 18 years of age, etc. GO 03/19/2019 Fav/CS RC	Fav/CS Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Governmental Oversight and Accountability
Tuesday, March 19, 2019, 4:00—6:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
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Other Related Meeting Documents

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Laurel M. Lee
Secretary of State

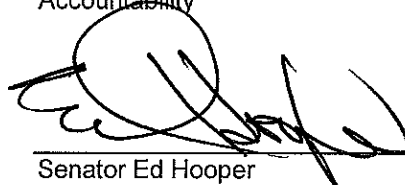
NOTICE OF HEARING

TO: Mrs. Laurel M. Lee

YOU ARE HEREBY NOTIFIED that the Committee on Governmental Oversight and Accountability of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, March 19, 2019, in 301 Senate Building, commencing at 4:00 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 14th day of March, 2019

Committee on Governmental Oversight and
Accountability



Senator Ed Hooper
As Chair and by authority of the committee

cc: Members, Committee on Governmental Oversight and Accountability
Office of the Sergeant at Arms

2260

**STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections**

I, Laurel M. Lee, Secretary of State,
do hereby certify that

Laurel Lee

is duly appointed

Secretary of State

for a term beginning on the Fourth day of February, A.D., 2019,
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 Fourteenth day of February, A.D., 2019.*



Secretary of State



RON DESANTIS
GOVERNOR

REF ID: A7
2019 JAN 30 AM 10:12

TAL
STATE

January 28, 2019

Secretary Jennifer Kennedy
Department of State
R.A. Gray Building, Room 316
500 South Bronough Street
Tallahassee, FL 32399-0250

Dear Secretary Kennedy,

Please be advised I have made the following appointment under the provisions of Section 20.10, Florida Statutes:

Ms. Laurel Lee

as Secretary of the Florida Department of State, subject to confirmation by the Senate. This appointment is effective February 4, 2019 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/mm

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

2019 FEB 4 AM 10:13

STATE OF FLORIDA

County of LEON

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 of State
(Title of Office)

on which I am now about to enter, so help me God.

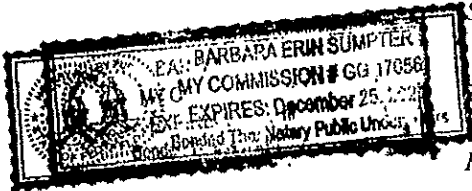
[NOTE: If you affirm, you may omit the words "so help me God." See § 92.52, Fla. Stat.]

Samuel M. Bee
Signature

Sworn to and subscribed before me this 4th day of February, 2019.

[Signature]
Signature of Officer Administering Oath or of Notary Public

Erin Sumpter
Print, Type, or Stamp Commissioned Name of Notary Public



Personally Known OR Produced Identification

Type of Identification Produced _____

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

Laurel Lee
Print Name

[Signature]
Signature

CERTIFICATION

RECEIVED

STATE OF FLORIDA
COUNTY OF Leon

2019 FEB 16 PM 1:51

DIVISION OF ELECTIONS
TALLAHASSEE, FL

Before me, the undersigned Notary Public of Florida, personally appeared Laurel M. Lee, who, after being duly sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.

Laurel M. Lee
Signature of Applicant-Affiant

Sworn to and subscribed before me this 13th day of February, 2019.

Margaret Swain
Signature of Notary Public-State of Florida



Margaret Swain
(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: May 17, 2022

Personally Known OR Produced Identification

Type of Identification Produced _____

(seal)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19/19
Meeting Date

N/A
Bill Number (if applicable)

N/A
Amendment Barcode (if applicable)

Topic Secretary Confirmation

Name Laurel Lee

Job Title Secretary of State

Address 500 S. Bronough St.

Street

Phone _____

Tallahassee
City

FL
State

32399
Zip

Email _____

Speaking: For Against Information

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

Representing Department of State

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

The Florida Senate
Committee Notice Of Hearing

IN THE FLORIDA SENATE
TALLAHASSEE, FLORIDA

IN RE: Executive Appointment of
Jonathan R. Satter
Secretary of Management Services

NOTICE OF HEARING

TO: Secretary Jonathan R. Satter

YOU ARE HEREBY NOTIFIED that the Committee on Governmental Oversight and Accountability of the Florida Senate will conduct a hearing on your executive appointment on Tuesday, March 19, 2019, in 301 Senate Building, commencing at 4:00 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 14th day of March, 2019

Committee on Governmental Oversight and
Accountability



Senator Ed Hooper
As Chair and by authority of the committee

cc: Members, Committee on Governmental Oversight and Accountability
Office of the Sergeant at Arms

1425

STATE OF FLORIDA
DEPARTMENT OF STATE
Division of Elections

I, Laurel M. Lee, Secretary of State,
do hereby certify that

Jonathan R. Satter

is duly appointed

Secretary,

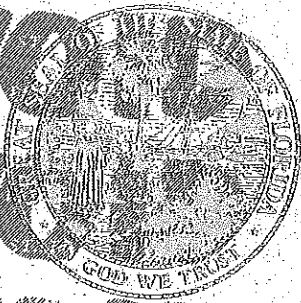
Department of Management Services

for a term beginning on the Fifth day of February, A.D., 2019, 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 February, A.D., 2019.

Laurel M. Lee

Secretary of State



DSDE 96 (3/03)

The original document has a reflective line mark in paper. Hold at an angle to view when checking.

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.

RON DESANTIS
GOVERNOR

RECEIVED
DEPARTMENT OF STATE
2019 FEB -6 AM 10:01
DIVISION OF ELECTIONS
TALLAHASSEE, FL

February 5, 2019

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

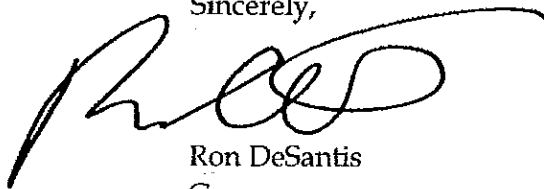
Dear Secretary Lee:

Please be advised I have made the following appointment under the provisions of Section 20.22, Florida Statutes:

Mr. Jonathan Satter
786 Village Rd
North Palm Beach, FL 33408

as Secretary of the Department of Management Services. This appointment is effective February 5, 2019, for a term ending at the pleasure of the Governor.

Sincerely,



Ron DeSantis
Governor

RD/mm

HAND DELIVERED

RECEIVED

OATH OF OFFICE

(Art. II, § 5(b), Fla. Const.)

2019 FEB 12 PM 2:30

STATE OF FLORIDA

County of Leon

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, Department of Management Services
(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.]

Signature

[Handwritten Signature]

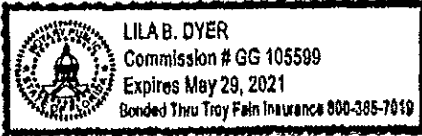
Sworn to and subscribed before me this 11 day of February 2019

[Handwritten Signature]

Signature of Officer Administering Oath or of Notary Public

LILA DYER

Print Name of Notary Public



Personally Known OR

Produced Identification

Type of Identification Produced

PASSPORT

ACCEPTANCE

I accept the office listed in the above Oath of Office.

Mailing Address: Home Office

786 Village Road
Street or Post Office Box

Worth Palm Bch, FL
City, State, Zip Code
33408

Jonathan R. Satter
Print Name

[Handwritten Signature]

Signature

HAND DELIVERED

RECEIVED

CERTIFICATION

2019 FEB 12 PM 2:32

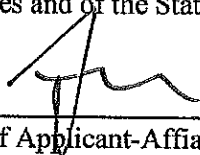
STATE OF FLORIDA

COUNTY OF Leon

DIVISION OF ELECTIONS
TALLAHASSEE, FL

Before me, the undersigned Notary Public of Florida, personally appeared
Jonathan R. Satter

who, after being duty sworn, say: (1) that he/she has carefully and personally prepared or read the answers to the foregoing questions; (2) that the information contained in said answers is complete and true; and (3) that he/she will, as an appointee, fully support the Constitutions of the United States and of the State of Florida.



Signature of Applicant-Affiant

Sworn to and subscribed before me this 11 day of February, 2019



Signature of Notary Public-State of Florida

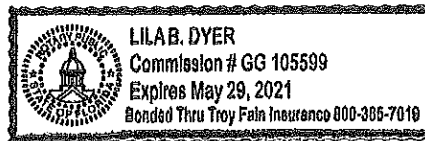


(Print, Type, or Stamp Commissioned Name of Notary Public)

My commission expires: May 20, 2021

Personally Known OR Produced Identification

Type of Identification Produced Passport



(seal)

THE FLORIDA SENATE

APPEARANCE RECORD

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

03/19/19

Meeting Date

Bill Number (if applicable)

Topic Confirmation Hearing

Amendment Barcode (if applicable)

Name Sonathan Satter

Job Title Secretary

Address 4050 Esplanade Way

Phone 850-922-0535

Street

Tallahassee

FL

32399

Email Andrew.Forst@dms.myflorida.com

City

State

Zip

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

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

Representing Dept. of Management Services

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

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

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 670

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Rader

SUBJECT: Assisted and Independent Living Facility Task Force

DATE: March 20, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Delia</u>	<u>Hendon</u>	<u>CF</u>	Favorable
2.	<u>Ponder</u>	<u>McVaney</u>	<u>GO</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 670 creates a 20 member Assisted and Independent Living Task Force (the task force) adjunct to the Agency for Persons with Disabilities. The objective of the task force is to develop and evaluate policy proposals that incentivize building contractors and developers to create space for assisted living facilities and independent living communities within mixed-use developments which may be used as low-cost, supportive, and affordable housing for individuals who are in need of such housing and who have an intellectual disability, autism, or a mental illness.

The task force is required to review the funding methodology for assisted living facilities and make recommendations for policy changes to the funding methodology for assisted living facilities that accept residents with mental illness or intellectual disabilities, including autism for consideration by the state agencies and submit a written stage one report to the Governor, the President of the Senate and the Speaker of the House of Representatives, no later than November 1, 2019. The task force must submit a final report, which must include its findings, conclusions, and recommendations, by February 1, 2020, to the Governor, the President of the Senate, and the Speaker of the House of Representatives.

The bill requires the Agency for Persons with Disabilities to use existing resources to administer and support the task force.

The bill provides for termination of the task force upon the submission of its final report.

The bill takes effect upon becoming a law.

II. Present Situation:

Task Force Requirements under section 20.03, Florida Statutes

Section 20.03(8), F.S., defines “task force” to mean an “advisory body created without specific statutory enactment for a time not to exceed 1 year or created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative related to that problem.” This provision specifies that the existence of a task force terminates upon the completion of its assignment.

Agency for Persons with Disabilities

The Agency for Persons with Disabilities (APD) is responsible for providing services to persons with developmental disabilities in the state. A developmental disability is defined as a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.¹ APD’s overarching goal is to prevent or reduce the severity of the developmental disability and implement community-based services that will help individuals with developmental disabilities achieve their greatest potential for independent and productive living in the least restrictive means.²

Persons with developmental disabilities reside in various types of residential settings. Some individuals with developmental disabilities live with family, some live in their own homes, while others may live in community-based residential facilities.³ Pursuant to s. 393.067, F.S., APD licenses and regulates community-based residential facilities that serve and assist individuals with developmental disabilities; these include foster care facilities, group home facilities, and residential habilitation centers.⁴

Individuals who meet Medicaid eligibility requirements may choose to receive services in the community through the state’s Medicaid Home and Community-Based Services (HCBS) waiver for individuals with developmental disabilities administered by APD or in an intermediate care facility for the developmentally disabled (ICF/DD).⁵ While the majority of APD clients live in the community, a small number live in ICF/DDs. ICF/DDs are considered institutional placements and are licensed and certified by the Agency for Health Care Administration pursuant to part VIII of ch. 400, F.S.⁶

¹ Section 393.063(9), F.S.

² Section 393.062, F.S.

³ A “residential facility” is a facility providing room and board and personal care for persons who have developmental disabilities, s. 393.063(28), F.S.

⁴ Agency for Persons with Disabilities, *Planning Resources*, <http://apd.myflorida.com/planning-resources/> (last visited Feb. 25, 2019).

⁵ Section 393.0662, F.S.

⁶ Section 393.063(25), F.S.

Section 393.063, F.S., identifies the various types of congregate living facilities available to APD clients based on individual needs and choices.⁷ Pursuant to s. 393.067, F.S., APD licenses foster care facilities, group home facilities, residential habilitation center facilities, and comprehensive transitional education programs.⁸

Assisted Living Facilities

An Assisted Living Facility (ALF) is a residential establishment, or part of a residential establishment, that provides housing, meals, and one or more personal services for a period exceeding 24 hours to one or more adults who are not relatives of the owner or administrator.⁹ A personal service is direct physical assistance with, or supervision of, the activities of daily living and the self-administration of medication.¹⁰ Activities of daily living include ambulation, bathing, dressing, eating, grooming, toileting, and other similar tasks.¹¹

An ALF must have a standard license issued by the AHCA under part I of ch. 429, F.S., and part II of ch. 408, F.S.¹² In addition to a standard license, an ALF may have one or more specialty licenses that allow the ALF to provide additional care. These specialty licenses include limited nursing services,¹³ limited mental health services,¹⁴ and extended congregate care services.¹⁵

Currently, there are 3,083 licensed ALF's in Florida.¹⁶

Independent Living

The term “independent living” is not defined in Florida Statutes. “Independent living” can refer to when an elderly person still has the physical and mental capacity to live independently but wants companionship or otherwise needs supportive services.¹⁷ It can also encompass a living arrangement for people with disabilities who need supportive services.

In 1988, the Legislature created the Florida Independent Living Council.¹⁸ The council is responsible for, among other things, jointly developing and submitting the state plan for independent living.¹⁹ The council works to ensure that persons with disabilities have an

⁷ Agency for Persons with Disabilities, *Senate Bill 670 Agency Analysis* (February 7, 2019) (on file with the Senate Committee on Children, Families and Elder Affairs).

⁸ *Id.*

⁹ Section 429.02(5), F.S. An ALF does not include an adult family-care home or a non-transient public lodging establishment.

¹⁰ Section 429.02(17), F.S.

¹¹ Section 429.02(1), F.S.

¹² Section 429.07(2), F.S.

¹³ Section 429.07(3)(c), F.S.

¹⁴ Section 429.075, F.S.

¹⁵ Section 429.07(3)(b), F.S.

¹⁶ Agency for Health Care Administration, Florida Health Finder Search, *facility/provider type: Assisted Living Facility*, (search conducted Feb. 26, 2019), available at <http://www.floridahealthfinder.gov/facilitylocator/FacilitySearch.aspx> (last visited Feb. 26, 2019).

¹⁷ According to the senior living search website, aPlaceforMom, *Independent Living in Florida*, available at <http://www.aPlaceforMom.com/independent-living/florida> (last visited March 13, 2019).

¹⁸ Chapter 88-214, Laws of Fla.

¹⁹ Section 413.395, F.S.

opportunity for input into the development of the State Plan for Independent living and works for systematic change in the areas that are the biggest barriers to people with disabilities participating fully in their communities.²⁰ The council describes the independent living philosophy as “promot[ing] consumer control of services, self-determination and equal access and participation in every aspect of community life, to the level that individual wishes.”²¹

Independent living communities are communities in which healthy individuals can live on their own but that do not offer assisted living or nursing services. Independent living communities can offer amenities such as transportation, security, yard maintenance, laundry service, group meals, and social and cultural activities.²² Currently, there are over 200 independent living communities in Florida.²³

III. Effect of Proposed Changes:

Section 1 establishes the Assisted and Independent Living Task Force adjunct to APD for administrative purposes only. APD is to use existing and available resources to support the activities of the task force.

The bill directs the task force to evaluate policy proposals that incentivize building contractors and developers to create space for ALFs or independent living facilities within mixed-use developments for individuals who have an intellectual disability, autism, or a mental illness.

The task force is to be chaired by the director of APD, or his or her designee, and composed of 20 members, to include:

- The Secretary of Children Families, or his or her designee;
- The executive director of the Department of Economic Opportunity, or his or her designee;
- The Secretary of Business and Professional Regulation, or his or her designee;
- The executive director of the Commission for the Transportation Disadvantaged, or his or her designee;
- A representative from the Florida Supportive Housing Coalition;
- A representative from the Florida Housing Finance Corporation;
- A representative from the Florida Housing Coalition;
- A representative from the Florida Independent Living Council;
- A representative from the National Alliance on mental Illness of Florida;
- A representative from the Florida Council for Community Health;
- A representative from the Florida League of Cities;
- A representative from the Florida Association of Counties;
- A representative from the Florida Coalition for the Homeless;
- A representative from the Association of Florida Community Developers;

²⁰ Floridasilc.org, *About Independent Living*, available at <https://www.floridasilc.org/independent-living/> (last visited March 13, 2019).

²¹ *Id.*

²² Senior Living.org, *Selecting an Independent Living Community* (Feb. 14, 2011), available at <http://www.seniorliving.org/lifestyles/independent-living-communities/> (last visited Feb. 26, 2019).

²³ According to the senior living search website, aPlaceforMom, *Independent Living in Florida*, available at <http://www.aplaceformom.com/independent-living/florida> (last visited Feb. 26, 2019).

- A representative from the Associated Builders and Contractors, Inc., of Florida;
- A representative from the Florida Alliance for Assistive Services and Technology;
- A representative from the Florida Assisted Living Association;
- A representative from the Florida Association of Managing Entities; and
- An attorney who is a member in good standing of the Elder Law Section of the Florida Bar.

Members of the task force shall serve without compensation or reimbursement for per diem or travel expenses. The task force is directed to convene its first meeting by August 1, 2019. The task force must meet as often as necessary to fulfill its responsibilities under the bill, and meetings may be conducted in person, by teleconference, or by other electronic means.

The bill directs the task force to review the funding methodology for assisted living facilities that provide care to adults with mental illness and those with intellectual disabilities or autism. The task force must develop recommendations for policy changes to the funding methodology for assisted living facilities that accept residents with mental illness or intellectual disabilities, including autism for consideration by the state agencies, and submit a written stage one report to the Governor, the President of the Senate, and the Speaker of the House, no later than November 1, 2019.

The task force must work in consultation with local and state government to identify potential barriers and opportunities in current law, recommend modifications to existing laws, rules, or policies, recommend financial and regulatory incentives, and propose funding mechanisms to incentivize building contractors and developers to create space for ALFs and independent living facilities within mixed-use developments. The task force must also propose an overall governing structure for managing spaces for ALFs and independent living facilities within mixed-use developments.

The task force must submit a final report containing its findings, conclusions, and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by February 1, 2020. The task force will terminate upon the submission of its final report.

Section 2 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

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:

The bill provides that the task force members are to serve without compensation and are not entitled to reimbursement for per diem or travel expense. Thus, to the extent travel is required, the members will incur associated costs.

C. Government Sector Impact:

APD will incur an indeterminate amount of administrative expenses as the agency directed to use existing resources to administer and support the activities of the task force. The APD advises that it does not anticipate a fiscal impact to the state or the private sector.²⁴

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill does not amend the Florida Statutes.

²⁴ *Supra* note 7.

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 Governmental Oversight and Accountability on March 19, 2019:

The committee substitute:

- Provides that the creation of the task force is under the laws of Florida.
- Adds four members to the task force to make it a 20 member task force.
- Changes all mentions of “Independent Living Facilities” to “Independent Living Communities.”
- Adds the requirement that the task force submit a stage one report regarding the funding methodology of Assisted Living Facilities no later than November 1, 2019, to the Governor and the legislature.
- Provides that the task force is terminated upon the submission of its final report.

- B. **Amendments:**

None.



642746

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/19/2019	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Rader) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. There is created the Assisted and Independent
Living Task Force, a task force as defined in s. 20.03(8),
Florida Statutes, that shall develop and evaluate policy
proposals that incentivize building contractors and developers
to create space for assisted living facilities and independent
living communities within mixed-use developments which may be



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11 used as low-cost, supportive, and affordable housing for
12 individuals who are in need of such housing and who have an
13 intellectual disability or autism, as those terms are defined in
14 s. 393.063, or a mental illness, as defined in s. 394.455.

15 (1) The task force is established adjunct to the Agency for
16 Persons with Disabilities for administrative purposes only. The
17 agency shall use existing and available resources to administer
18 and support the activities of the task force under this section.

19 (2) The task force shall be composed of the following 20
20 members:

21 (a) The director of the Agency for Persons with
22 Disabilities or his or her designee, who shall serve as the
23 chair of the task force.

24 (b) The Secretary of Children and Families or his or her
25 designee.

26 (c) The executive director of the Department of Economic
27 Opportunity or his or her designee.

28 (d) The Secretary of Business and Professional Regulation
29 or his or her designee.

30 (e) The executive director of the Commission for the
31 Transportation Disadvantaged or his or her designee.

32 (f) A representative from the Florida Supportive Housing
33 Coalition.

34 (g) A representative from the Florida Housing Finance
35 Corporation.

36 (h) A representative from the Florida Housing Coalition.

37 (i) A representative from the Florida Independent Living
38 Council.

39 (j) A representative from the National Alliance on Mental



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40 Illness of Florida.

41 (k) A representative from the Florida Council for Community
42 Mental Health.

43 (l) A representative from the Florida League of Cities.

44 (m) A representative from the Florida Association of
45 Counties.

46 (n) A representative from the Florida Coalition for the
47 Homeless.

48 (o) A representative from the Association of Florida
49 Community Developers.

50 (p) A representative from the Associated Builders and
51 Contractors, Inc., of Florida.

52 (q) A representative from the Florida Alliance for
53 Assistive Services and Technology.

54 (r) A representative from the Florida Assisted Living
55 Association.

56 (s) A representative from the Florida Association of
57 Managing Entities.

58 (t) An attorney who is a member in good standing of the
59 Elder Law Section of the Florida Bar.

60 (3) Members of the task force shall serve without
61 compensation and are not entitled to reimbursement for per diem
62 or travel expenses.

63 (4) The task force shall convene its first meeting by
64 August 1, 2019, and shall meet as often as necessary to fulfill
65 its responsibilities under this section. Meetings may be
66 conducted in person, by teleconference, or by other electronic
67 means.

68 (5) The task force shall review the funding methodology for



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69 assisted living facilities that provide care to adults with
70 mental illness and those with intellectual disabilities or
71 autism. The task force shall develop recommendations for policy
72 changes to the funding methodology for assisted living
73 facilities that accept residents with mental illness or
74 intellectual disabilities, including autism for consideration by
75 the state agencies and provide a written stage one report to the
76 Governor, the President of the Senate, and the Speaker of the
77 House no later than November 1, 2019.

78 (6) In consultation with the applicable local and state
79 governmental entities, the task force shall:

80 (a) Identify potential barriers and opportunities in
81 existing policies, rules, or laws to incentivize building
82 contractors and developers to create space for assisted living
83 facilities and independent living communities within mixed-use
84 developments.

85 (b) Recommend modifications to existing policies, rules, or
86 laws or propose new policies, rules, or laws that would allow
87 for the creation of space for assisted living facilities and
88 independent living communities within mixed-use developments.

89 (c) Recommend financial and regulatory incentives to
90 encourage building contractors and developers to create space
91 for assisted living facilities and independent living
92 communities within mixed-use developments.

93 (d) Propose funding mechanisms for the development and
94 maintenance of spaces for assisted living facilities and
95 independent living communities within mixed-use developments.

96 (e) Propose an overall governing structure for managing
97 spaces for assisted living facilities and independent living



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98 communities within mixed-use developments.

99 (7) The task force shall submit a final report by February
100 1, 2020, to the Governor, the President of the Senate, and the
101 Speaker of the House of Representatives which includes its
102 findings, conclusions, and recommendations.

103 (8) The task force is terminated upon the submission of its
104 final report.

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

106

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

108 And the title is amended as follows:

109 Delete everything before the enacting clause
110 and insert:

111 An act relating to the Assisted and Independent Living Task
112 Force; creating the task force to evaluate proposals that
113 incentivize building contractors and developers to create space
114 for assisted living facilities and independent living
115 communities within mixed-use developments; establishing the task
116 force adjunct to the Agency for Persons with Disabilities;
117 providing for duties, membership, and meetings of the task
118 force; requiring the task force to submit a written stage one
119 report and a final report to the Governor and Legislature by a
120 specified date; providing for termination of the task force;
121 providing an effective date.

By Senator Rader

29-01236-19

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A bill to be entitled

An act relating to the Assisted and Independent Living Facility Task Force; creating s. 393.25, F.S.; establishing the Assisted and Independent Living Facility Task Force within the Agency for Persons with Disabilities; providing for duties, membership, and meetings of the task force; requiring the task force to submit a report to the Governor and Legislature by a specified date; providing for termination of the task force; providing an effective date.

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

Section 1. Section 393.25, Florida Statutes, is created to read:

393.25 Assisted and Independent Living Facility Task Force.—

(1) The Assisted and Independent Living Facility Task Force is established within the Agency for Persons with Disabilities for administrative purposes only. The agency shall use existing and available resources to administer and support the activities of the task force under this section.

(2) The task force shall develop and evaluate policy proposals that incentivize building contractors and developers to create space for assisted living facilities or independent living facilities within mixed-use developments which may be used as low-cost, supportive, and affordable housing for individuals who are in need of such housing and who have an intellectual disability or autism, as those terms are defined in

Page 1 of 4

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

29-01236-19

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s. 393.063, or a mental illness, as defined in s. 394.455.

(3) The task force shall consist of the following members:

(a) The director of the Agency for Persons with Disabilities or his or her designee, who shall serve as the chair of the task force.

(b) The Secretary of Children Families or his or her designee.

(c) The executive director of the Department of Economic Opportunity or his or her designee.

(d) The Secretary of Business and Professional Regulation or his or her designee.

(e) The executive director of the Commission for the Transportation Disadvantaged or his or her designee.

(f) A representative from the Florida Supportive Housing Coalition.

(g) A representative from the Florida Housing Finance Corporation.

(h) A representative from the Florida Housing Coalition.

(i) A representative from the Florida Independent Living Council.

(j) A representative from the National Alliance on Mental Illness of Florida.

(k) A representative from the Florida Council for Community Mental Health.

(l) A representative from the Florida League of Cities.

(m) A representative from the Florida Association of Counties.

(n) A representative from the Florida Coalition for the Homeless.

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- 59 (o) A representative from the Association of Florida
 60 Community Developers.
- 61 (p) A representative from the Associated Builders and
 62 Contractors, Inc., of Florida.
- 63 (4) Members of the task force shall serve without
 64 compensation and are not entitled to reimbursement for per diem
 65 or travel expenses. The task force shall convene its first
 66 meeting by August 1, 2019, and shall meet as often as necessary
 67 to fulfill its responsibilities under this section. Meetings may
 68 be conducted in person, by teleconference, or by other
 69 electronic means.
- 70 (5) In consultation with the applicable local and state
 71 governmental entities, the task force shall:
- 72 (a) Identify potential barriers and opportunities in
 73 existing policies, rules, or laws to incentivize building
 74 contractors and developers to create space for assisted living
 75 facilities and independent living facilities within mixed-use
 76 developments.
- 77 (b) Recommend modifications to existing policies, rules, or
 78 laws or propose new policies, rules, or laws that would allow
 79 for the creation of space for assisted living facilities and
 80 independent living facilities within mixed-use developments.
- 81 (c) Recommend financial and regulatory incentives to
 82 encourage building contractors and developers to create space
 83 for assisted living facilities and independent living facilities
 84 within mixed-use developments.
- 85 (d) Propose funding mechanisms for the development and
 86 maintenance of spaces for assisted living facilities and
 87 independent living facilities within mixed-use developments.

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

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- 88 (e) Propose an overall governing structure for managing
 89 spaces for assisted living facilities and independent living
 90 facilities within mixed-use developments.
- 91 (6) The task force shall submit a report by February 1,
 92 2020, to the Governor, the President of the Senate, and the
 93 Speaker of the House of Representatives which includes its
 94 findings, conclusions, and recommendations. The task force shall
 95 terminate on the earlier of the date the report is submitted.
- 96 (7) This section expires February 2, 2021.
- 97 Section 2. This act shall take effect upon becoming a law.

Page 4 of 4

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/19/19

Meeting Date

SB670

Bill Number (if applicable)

642746DE

Amendment Barcode (if applicable)

Topic Assisted Living & IL Workgroup

Name Veronica Catoe

Job Title Chief Operating Officer

Address 1618 Mahan Center Blvd #103

Street

Phone 850 383 1159

Tallahassee FL 32308

City

State

Zip

Email veronica@fala.org

Speaking: For Against Information

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

Representing Florida Assisted Living Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/19/19 Meeting Date

670 Bill Number (if applicable)

Topic ASSISTED & INDEPENDENT LIVING FACILITY TASK FORCE

642746 Amendment Barcode (if applicable)

Name NATALIE KELLY, FLORIDA ASSOCIATION OF MANAGING ENTITIES

Job Title CFO

Address 122 S CALHOUN ST

Phone 850) 570-5747

Tallahassee FL 32301 City State Zip

Email NATALIE@FLMANAGINGENTITIES.COM

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

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

Representing FL ASSOCIATION OF MANAGING ENTITIES

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

March 19, 2019

Meeting Date

670

Bill Number (if applicable)

642746

Amendment Barcode (if applicable)

Topic Assisted Living Task Force

Name Brian Jogerst

Job Title

Address PO Box 11094

Street

Tallahassee

City

FL

State

32302

Zip

Phone 850.222.0191

Email brian@bhandassociates.com

Speaking: [] For [] Against [] Information

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

Representing Academy of Florida Elder Law Attorneys AND Elder Law Section/Florida Bar

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

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3/19/19
Meeting Date

SB 670
Bill Number (if applicable)

Topic Assisted Living & IL Workgroup

Amendment Barcode (if applicable)

Name Veronica Catoe

Job Title Chief Operating Officer

Address 1618 Mahan Center Blvd, #103

Phone 850 3831159

Tallahassee FL 32308
City State Zip

Email veronica@fala.org

Speaking: For Against Information

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

Representing Florida Assisted Living Association

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

3-19-19

Meeting Date

SB 670

Bill Number (if applicable)

Topic ASSISTED + INDEPENDENT LIVING TASK FORCE

Amendment Barcode (if applicable)

Name HEATHER DANZON

Job Title DIRECTOR OF PUBLIC POLICY + INITIATIVES

Address 1300 S. ANDREWS AVE.

Phone 954-462-4850

F. LAURENDALE FL 33316

City State Zip

Email HDANZON@UNITEDWAYBROWARD.ORG

Speaking: [] For [] Against [] Information

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

Representing UNITED WAY OF BROWARD COUNTY

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

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

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/19/19

Meeting Date

670

Bill Number (if applicable)

Topic Housing Task Force

Amendment Barcode (if applicable)

Name Alisa La Polt

Job Title Lobbyist

Address PO Box 1344

Phone 850-443-1319

Street

TLH

FL

State

Zip

Email alisa@go topsail.com

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

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

Representing National Alliance of Mental Illness - Palm Beach

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

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

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 980

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Harrell

SUBJECT: Public Records/Petition for Certain Protective Injunctions

DATE: March 20, 2019

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tulloch	Cibula	JU	Favorable
2.	Hackett	McVaney	GO	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 980 creates a public records exemption that temporarily blocks public access to any information that can be used to identify a petitioner or respondent in a petition for a protective injunction alleging domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking filed with the court. The information will be confidential and exempt only until the respondent, i.e., alleged batterer or stalker, is served by a law enforcement officer with a copy of the petition, the notice of hearing, and copies of any affidavits or temporary injunctions.

The bill provides that the temporary exemption is a public necessity as it will ensure the physical safety of alleged victims and their families from retaliation by an abuser, as well as the physical safety of the law enforcement officers serving these petitions.

The bill takes effect July 1, 2019.

II. Present Situation:

Public Records Law

Article I, section 24 of the Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ This applies to the official business of any public body, officer, or employee of the state, including all three

¹ FLA. CONST., art. I, s. 24(a).

branches of state government, local governmental entities, and any person acting on behalf of the government.²

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.³ The Public Records Act states that

[i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.⁴

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.⁵ The Florida Supreme Court has interpreted public records as being “any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

Only the Legislature may create an exemption to public records requirements.⁹ An exemption must be created by general law and must specifically state the public necessity justifying the exemption.¹⁰ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions¹¹ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.¹²

² *Id.*

³ Public records laws are found throughout the Florida Statutes.

⁴ Section 119.01(1), F.S.

⁵ Section 119.011(12), F.S., defines “public record” to mean “all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency.” Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ *Id.*

¹¹ The bill may, however, contain multiple exemptions that relate to one subject.

¹² FLA. CONST., art. I, s. 24(c).

When creating or expanding a public records exemption, the Legislature may provide that a record is “confidential and exempt” or “exempt.”¹³ Records designated as “confidential and exempt” may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁴

Open Government Sunset Review Act

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,¹⁵ with specified exceptions.¹⁶ It requires the automatic repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment, unless the Legislature reenacts the exemption.¹⁷ The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet such public purpose.¹⁸

Public Records and the Judicial Branch

The Public Records Act does not apply to judicial records.¹⁹ As a coequal branch of government, the judicial branch “is not an ‘agency’ subject to the supervision or control by another coequal branch of government.”²⁰

However, the judicial branch is required to maintain access to public records and court proceedings pursuant to article 1, section 24 of the Florida Constitution.²¹ To meet its

¹³ If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

¹⁵ Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).

¹⁶ Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁷ Section 119.15(3), F.S.

¹⁸ Section 119.15(6)(b), F.S.

¹⁹ *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). See also *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). Likewise, the Public Records Act does not apply to the Legislature. Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the Legislature.

²⁰ *Times Pub. Co. v. Ake*, 645 So. 2d 1003, 1004 (Fla. 2d DCA 1994), *approved*, 660 So. 2d 255 (Fla. 1995). See also FLA. CONST., art. II, s. 3 (providing for the separation of powers between the executive, judicial, and legislative branches; stating “[n]o person belonging to one branch shall exercise any powers appertaining to either of the other branches unless expressly provided herein.”). See also Florida Attorney General, GOVERNMENT-IN-THE-SUNSHINE MANUAL, A REFERENCE FOR COMPLIANCE WITH FLORIDA’S PUBLIC RECORDS AND OPEN MEETINGS LAWS, *Judiciary* at 10-11, (Vol. 39, 2017 Ed.), available at [http://myfloridalegal.com/webfiles.nsf/wf/mnos-akbs9l/\\$file/2017+sunshine+law+manual.pdf](http://myfloridalegal.com/webfiles.nsf/wf/mnos-akbs9l/$file/2017+sunshine+law+manual.pdf).

²¹ See GOVERNMENT-IN-THE-SUNSHINE MANUAL at 60-65, *supra*. Even before article I, section 24 was passed to require access to public records and meetings by all branches of government, the Florida Supreme Court had recognized that access to court proceedings must be safeguarded as open, “public events.” See *Barron v. Florida Freedom Newspapers, Inc.*, 531 So. 2d 113, 116–19 (Fla. 1988) (“[B]oth civil and criminal court proceedings in Florida are public events and adhere to the well-established common law right of access to court proceedings and records. . . . The reason for openness is basic to our

constitutional obligation, the judicial branch adopted Florida Rule of Judicial Administration 2.420 entitled “Public Access to and Protection of Judicial Branch Records.” In pertinent part, Rule 2.420 provides:

(a) Scope and Purpose. Subject to the rulemaking power of the Florida Supreme Court provided by article V, section 2, Florida Constitution, the following rule shall govern public access to and the protection of the records of the judicial branch of government. The public shall have access to all records of the judicial branch of government, except as provided below. . . .

(c) Confidential and Exempt Records. The following records of the judicial branch shall be confidential:

- (7) All records made confidential under the Florida and United States Constitutions and Florida and federal law;
- (8) All records presently deemed to be confidential by court rule, including the Rules for Admission to the Bar, by Florida Statutes, by prior case law of the State of Florida, and by the rules of the Judicial Qualifications Commission;

(d) Procedures for Determining Confidentiality of Court Records.

(1) The clerk of the court shall designate and maintain the confidentiality of any information contained within a court record that is described in subdivision (d)(1)(A) or (d)(1)(B) of this rule. The following information shall be maintained as confidential:

(B) except as provided by court order, information subject to subdivision (c)(7) or (c)(8) of this rule that is currently confidential or exempt from section 119.07, Florida Statutes, and article I, section 24(a) of the Florida Constitution as

form of government. Public trials are essential to the judicial system’s credibility in a free society.”) (citing *Craig v. Harney*, 331 U.S. 367, 374 (1947); *Richmond Newspapers, Inc. v. Virginia*, 448 U.S. 555, 580 n. 17 (1980)). See also William A. Buzzett and Deborah K. Kearney, *Commentary to 1992 Addition [of FLA. CONST., art. I, s. 24]*, Fla. Stat. Ann. (Westlaw 1992), noting the following history leading to the passage of article I, section 24:

Florida’s public records and open meetings laws have been a matter of statute since 1967. (Earlier requirements for public records had existed for some time.) Those statutes were not designed to apply to the legislative or judicial branches of state government, but were expressly intended to apply throughout the executive branch and to local governments, including counties, municipalities, and districts. The Supreme Court, the Senate and the House of Representatives each provided some form of access to records and proceedings by rule. In 1978, the Constitution Revision Commission proposed elevating these laws to constitutional status and applying them to records and meetings of the Legislature. That proposal was not adopted.

In *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992), the Florida Supreme Court determined that, based on separation of powers requirements, the public records law did not apply to the legislative branch, nor to constitutional officers of the other branches. The decision meant that records of legislators, as well as those of the governor and cabinet officers, at least with respect to the exercise of their constitutional powers, were not subject to the law. The decision caused a stir among the public and particularly the press. Efforts were quickly begun for constitutional change, which concluded with the successful passage of this amendment.

specifically stated in any of the following statutes or as they may be amended or renumbered:

....

(xii) The victim's address in a domestic violence action on petitioner's request. § 741.30(3)(b), Fla. Stat.

As evidenced by Rule 2.420, the judiciary may adopt, and has adopted, "legislative statements of policy as part of the rules governing matters within the jurisdiction of the judiciary," including the disclosure or public inspection of court records.²²

Public Record Exemptions for Certain Court Records and Files

In s. 119.0714(1), F.S., the Legislature has provided that certain information, such as social security numbers²³ and bank account numbers,²⁴ contained in court records and files should be either exempt or confidential and exempt from the disclosure requirements of the public records laws. Rule of Judicial Administration 2.420 has not expressly adopted all of the statutory public records exemptions contained in s. 119.0714, F.S. However, the rule cross-references s. 119.0714, F.S., in listing social security numbers and bank account numbers as information the clerk of court must keep confidential when it is contained in a court file.²⁵

Exemptions Relating to Petitions for Protective Injunctions for Domestic, Repeat, Dating, and Sexual Violence and Stalking

In 2017, the Legislature amended s. 119.0714(1), F.S., to add a public records exemption for information contained in a petition for a protective injunction that has been dismissed by a court.²⁶ The exemption is specific to dismissed petitions seeking protective injunctions against

²² See *Florida Pub. Co. v. State*, 706 So. 2d 54, 56 (Fla. 1st DCA 1998) (citing *Timmons v. Combs*, 608 So.2d 1, 3 (Fla.1992)). See also *Barron*, 531 So. 2d 113, 118 ("closure of court proceedings or records should occur only when necessary (a) to comply with established public policy set forth in the constitution, statutes, rules, or case law; (b) to protect trade secrets; (c) to protect a compelling governmental interest [e.g., national security; confidential informants]; (d) to obtain evidence to properly determine legal issues in a case; (e) to avoid substantial injury to innocent third parties [e.g., to protect young witnesses from offensive testimony; to protect children in a divorce]; or (f) to avoid substantial injury to a party by disclosure of matters protected by a common law or privacy right not generally inherent in the specific type of civil proceeding sought to be closed. We find that, under appropriate circumstances, the constitutional right of privacy established in Florida by the adoption of article I, section 23, could form a constitutional basis for closure under (e) or (f). . . . Further, we note that it is generally the content of the subject matter rather than the status of the party that determines whether a privacy interest exists and closure should be permitted. However, a privacy claim may be negated if the content of the subject matter directly concerns a position of public trust held by the individual seeking closure.") (holding that while a court has the power to close a proceeding, because a "strong presumption of openness exists for all court proceedings," the court must consider certain factors before granting a request to close a proceeding).

²³ Section 119.0714(1)(i), F.S.

²⁴ Section 119.0714(1)(j), F.S.

²⁵ See also Fla. R. Jud. Admin. 2.420(d)(1)(B)(iii) (recognizing exemption of "[s]ocial Security, bank account, charge, debit, and credit card numbers. § 119.0714(1)(i)-(j), (2)(a)-(e), Fla. Stat. (Unless redaction is requested pursuant to § 119.0714(2), Fla. Stat., this information is exempt only as of January 1, 2012.)).

²⁶ Section 119.0714(1)(k)1.-2., F.S. For petitions filed on or after July 1, 2017, the exemption is automatic. For petitions filed before July 1, 2017, a request to make the petition exempt must be submitted to the court. *Id.*

domestic violence,²⁷ repeat violence,²⁸ dating violence,²⁹ sexual violence,³⁰ stalking,³¹ and cyberstalking.³² Although Rule of Judicial Administration 2.420 does not expressly adopt the foregoing legislative exemption, it recognizes that a victim's address may be kept confidential when requested by the petitioner pursuant to s. 741.30(3)(b), F.S.³³ The Family Law Rules of Procedure 12.610 goes further, providing that a victim's address in a petition for a protective injunction against domestic, repeat, dating, or sexual violence and stalking may be kept confidential when requested by the victim in a separate document.

Petitions for Protective Injunctions for Domestic, Repeat, Dating, and Sexual Violence, and Stalking or Cyberstalking

Court Filing and Due Process

A petition for an injunction for protection against domestic violence,³⁴ repeat violence,³⁵ dating violence³⁶ sexual violence,³⁷ stalking, and cyberstalking³⁸ generally requires the following information:

- The petitioner's name and address.
- The respondent's information, including name and aliases, addresses of home and employment, and a physical description of the respondent.
- Information concerning any other cases open between the parties, including case numbers.

²⁷ Section 741.28(2), F.S. Domestic violence is an assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member

²⁸ Section 784.046(1)(b), F.S. Repeat violence constitutes two incidents of violence or stalking committed by the respondent, one of which must have been within 6 months of the filing of the petition, which are directed against the petitioner or the petitioner's immediate family member.

²⁹ Section 784.046(1)(d), F.S. Dating violence is violence between individuals who have or have had a continuing and significant romantic relationship.

³⁰ Section 784.046(1)(c), F.S. Sexual violence is any one incident of sexual battery; a lewd or lascivious act committed upon or in the presence of a person younger than 16 years of age; luring or enticing a child; sexual performance by a child; or any other forcible felony wherein a sexual act is committed or attempted, regardless of whether criminal charges were filed, reduced, or dismissed by the state attorney.

³¹ Section 784.048(2), F.S. Stalking is defined as a crime committed by a person who willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person.

³² Section 784.048(1)(d), F.S.

³³ The petitioner or victim must file a separate document requesting that his or her address be kept confidential. The petitioner may be in a safe place, such as a shelter or the home of a family member or friend, where disclosing the address not only puts him or herself in danger but others as well. *See* National Association for Court Management, A GUIDE TO DOMESTIC VIOLENCE CASES 25-26 (17th Ed.), available at https://cms.flcourts.org/core/fileparse.php/531/urlt/Domestic-Violence-Guide2017_0.pdf.

³⁴ Section 741.30(1), F.S.

³⁵ Section 784.046(2), F.S.

³⁶ *Id.*

³⁷ *Id.*

³⁸ Section 784.0485(1), F.S. Cyberstalking means to engage in a course of conduct to communicate, or to cause to be communicated, words, images, or language by or through the use of electronic mail or electronic communication, directed at a specific person, causing substantial emotional distress to that person and serving no legitimate purpose. Aggravated stalking occurs when a person willfully, maliciously, and repeatedly follows, harasses, or cyberstalks another person and makes a credible threat to that person. Section 784.048(3), F.S.

- Details concerning the respondent’s behavior leading the petitioner to file for a protective injunction.³⁹

Upon filing a petition for a protective injunction, the clerk of court will open a court file, assign a case number, and create a docket for the case. The fact that a case has been docketed is generally available online to the public, and the parties (including the petitioner and respondent) will have additional online access to the pleadings filed in the case, including the petition.⁴⁰ Even if the petitioner requests that his or her address be kept confidential,⁴¹ once the petition is filed and docketed, the other information in the petition becomes a public record.

The judge who is assigned the petition must hold a hearing at the earliest possible time.⁴² If an immediate and present danger of domestic violence appears to exist, a judge may issue a temporary injunction *ex parte* prior to the full hearing.⁴³ Otherwise, the respondent/alleged batterer or stalker is entitled to due process, including a copy of the petition, any attached affidavits or temporary injunctions, and notice of the full hearing.

Generally, due to the risk of violence, petitions for domestic, repeat, dating, or sexual violence and stalking or cyberstalking must be personally served on the respondent/alleged batterer or stalker by a law enforcement officer.⁴⁴

Safety Risks Associated with Filing for Protective Injunctions

Filing for an injunction for protection against domestic or other types of violence and stalking is often a victim’s first step toward separating from the abuser, but it is also the most dangerous time for a victim. Filing a petition for a protective injunctive places the abuser on notice that the victim is serious about the separation. “Men who have killed their wives state that threats of separation were most often the precipitating events that led to the murder.”⁴⁵

In light of today’s technology, it is possible that an abuser may know the victim’s every move.⁴⁶ Many victims report that abusers routinely check on-line or otherwise contact the courthouse to monitor whether the victim has filed for an injunction or a divorce. “The availability of information that the victim intends to leave the abuser prior to service of court documents

³⁹ See Section 741.30(3)(b), F.S. (providing a form petition for protective injunction against domestic violence); s. 784.046(4)(b), F.S. (providing a form petition for protective injunction against repeat, sexual, or dating violence); s. 784.0485(3)(b), F.S. (providing a form petition for protective injunction against stalking and cyberstalking).

⁴⁰ See Florida Courts, *Standards for Access to Electronic Court Records*, 2 (March 2014), available at <https://www.flcourts.org/Resources-Services/Court-Technology/Technology-Standards>.

⁴¹ *Id.*

⁴² Sections 741.30(4) and 784.046(5), F.S.

⁴³ Section 741.30(5)(a), F.S.

⁴⁴ See Section 741.30(4), (8)(a)1, F.S.; s. 784.046(5), (8)(a)1., F.S.; s. 784.0485(4), (8)(a)1., F.S.

⁴⁵ National Association for Court Management, *A GUIDE TO DOMESTIC VIOLENCE CASES 9-10* (17th Ed.), available at https://cms.flcourts.org/core/fileparse.php/531/urlt/Domestic-Violence-Guide2017_0.pdf. According to the Florida Coalition Against Domestic Violence, FDLE reported that, in 2017, there were 106,797 domestic violence offenses, including 180 domestic homicides. For the first half of 2018, FDLE reported that there were 51,433 domestic violence offenses, including 101 domestic violence homicides. See n. 44, *infra*.

⁴⁶ *Id.* at 15.

dramatically decreases the amount of time victims have to take additional affirmative actions to remain safe.”⁴⁷

Additionally, publicly accessible court records give an abuser advance warning of a visit from law enforcement officers. With this information, the abuser may plan to retaliate against those officers, placing them in danger, or attempt to elude being personally served with the petition.⁴⁸

III. Effect of Proposed Changes:

This bill creates a public records exemption that temporarily blocks public access to a court file containing a petition for a protective injunction alleging domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking.

Section 1 amends s. 119.0714, F.S., to require that any information that can be used to identify a petitioner or respondent in a petition for a protective injunction be maintained as confidential and exempt until the respondent has been personally served with a copy of the petition, the notice of hearing, and any affidavits or temporary injunctions.

Section 2 states that it is a public necessity that the information contained in petitions for protective injunctions be maintained as confidential and exempt until the respondent is served with process in order to ensure the physical safety of alleged victims and their families, as well as the law enforcement officers serving such petitions on respondents.

Section 3 provides that the bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties and municipalities to spend funds, reduce counties’ or municipalities’ ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Because the bill creates a public records exemption, Article I, s. 24(c) of the State Constitution requires passage by a two-thirds vote in each house of the Legislature.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution, requires that the exemption be no broader than necessary to accomplish the stated purpose of the law. The public necessity statement

⁴⁷ Florida Coalition Against Domestic Violence, *SB 980 Public Records/Petition for Certain Protective Injunctions* (2019) (on file with Senate Judiciary Committee).

⁴⁸ *Id.*

appears to support the public policy for the exemption, and is no broader than the stated purpose of the exemption.

Breadth of Exemption

Article I, s. 24(c) of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect the safety of those filing for protective injunctions in certain circumstances. This bill exempts only information contained in a petition for a protective injunction alleging domestic violence, repeat violence, dating violence, sexual violence, stalking, or cyberstalking filed with the court from the public records requirements, and only until the filing has been served. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Separation of Powers

The judicial branch is not subject to the Public Records Act. Florida Rule of Judicial Administration 2.420(c)(7), however, provides that records made confidential by Florida law shall be confidential, with the burden of having such documents treated as confidential within a court file upon the filing party. Additionally, the judicial branch may adopt the public records exemptions passed by the Legislature. To that end, the Florida Supreme Court has indicated that it has no objection to the Florida Steering Committee on Children and Families in the Courts pursuing this bill.⁴⁹

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill affords greater protection to victims of domestic and other violence and stalking from physical violence.

⁴⁹ See Judicial Branch 2019 Legislative Agenda, *Injunctions Against Violence of Stalking – Public Records*, p. 25 (on file with Senate Judiciary Committee).

C. **Government Sector Impact:**

The court system reports that the bill will not have a significant fiscal or operational impact.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends section 119.0714 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 Governmental Oversight and Accountability on March 19, 2019:

The committee substitute narrows the exemption by changing the language describing the information to be exempted from “all information contained within a petition for an injunction...” to “any information that can be used to identify a petitioner or respondent in a petition for an injunction...”

B. **Amendments:**

None.



238352

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/19/2019	.	
	.	
	.	
	.	

The Committee on Governmental Oversight and Accountability
(Harrell) recommended the following:

Senate Amendment (with title amendment)

Delete lines 44 - 53

and insert:

3. Any information that can be used to identify a
petitioner or respondent in a petition for an injunction against
domestic violence, repeat violence, dating violence, sexual
violence, stalking, or cyberstalking, and any affidavits, notice
of hearing, and temporary injunction, is confidential and exempt
from s. 119.07(1) and s. 24(a), Art. I of the State Constitution



238352

11 until the respondent has been personally served with a copy of
12 the petition for injunction, affidavits, notice of hearing, and
13 temporary injunction.

14 Section 2. The Legislature finds that it is a public
15 necessity that any information that can be used to identify a
16 petitioner or respondent in a petition for an

17

18

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

20 And the title is amended as follows:

21 Delete line 4

22 and insert:

23 records requirements for any information that can be
24 used to identify a petitioner or respondent in

By Senator Harrell

25-00893B-19

2019980__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 119.0714, F.S.; providing an exemption from public
 4 records requirements for all information contained in
 5 a petition for certain protective injunctions, and any
 6 related affidavit, notice of hearing, and temporary
 7 injunction, until the respondent has been personally
 8 served; providing a statement of public necessity;
 9 providing an effective date.

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

11 Section 1. Paragraph (k) of subsection (1) of section
 12 119.0714, Florida Statutes, is amended to read:

13 119.0714 Court files; court records; official records.—
 14 (1) COURT FILES.—Nothing in this chapter shall be construed
 15 to exempt from s. 119.07(1) a public record that was made a part
 16 of a court file and that is not specifically closed by order of
 17 court, except:

18 (k)1. A petition, and the contents thereof, for an
 19 injunction for protection against domestic violence, repeat
 20 violence, dating violence, sexual violence, stalking, or
 21 cyberstalking that is dismissed without a hearing, dismissed at
 22 an ex parte hearing due to failure to state a claim or lack of
 23 jurisdiction, or dismissed for any reason having to do with the
 24 sufficiency of the petition itself without an injunction being
 25 issued on or after July 1, 2017, is exempt from s. 119.07(1) and
 26 s. 24(a), Art. I of the State Constitution.

27 2. A petition, and the contents thereof, for an injunction

Page 1 of 3

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

25-00893B-19

2019980__

30 for protection against domestic violence, repeat violence,
 31 dating violence, sexual violence, stalking, or cyberstalking
 32 that is dismissed without a hearing, dismissed at an ex parte
 33 hearing due to failure to state a claim or lack of jurisdiction,
 34 or dismissed for any reason having to do with the sufficiency of
 35 the petition itself without an injunction being issued before
 36 July 1, 2017, is exempt from s. 119.07(1) and s. 24(a), Art. I
 37 of the State Constitution only upon request by an individual
 38 named in the petition as a respondent. The request must be in
 39 the form of a signed, legibly written request specifying the
 40 case name, case number, document heading, and page number. The
 41 request must be delivered by mail, facsimile, or electronic
 42 transmission or in person to the clerk of the court. A fee may
 43 not be charged for such request.

44 3. All information contained in a petition for an
 45 injunction against domestic violence, repeat violence, dating
 46 violence, sexual violence, stalking, or cyberstalking, and any
 47 affidavits, notice of hearing, and temporary injunction, is
 48 confidential and exempt from s. 119.07(1) and s. 24(a), Art. I
 49 of the State Constitution until the respondent has been
 50 personally served with a copy of the petition for injunction,
 51 affidavits, notice of hearing, and temporary injunction.

52 Section 2. The Legislature finds that it is a public
 53 necessity that all information contained in a petition for an
 54 injunction against domestic violence, repeat violence, dating
 55 violence, sexual violence, stalking, or cyberstalking, and
 56 affidavits, notice of hearing, and temporary injunction, be made
 57 confidential and exempt from s. 119.07(1), Florida Statutes, and
 58 s. 24(a), Article I of the State Constitution. Release of such

Page 2 of 3

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

25-00893B-19

2019980

59 information before the respondent has been personally served
60 with a copy of the petition, affidavits, notice of hearing, and
61 temporary injunction could significantly threaten the physical
62 safety and security of persons seeking protection through
63 injunctive proceedings and their families, and of law
64 enforcement tasked with serving the petition for injunction,
65 affidavits, notice of hearing, and temporary injunction on the
66 respondent. The harm that may result from the release of the
67 information outweighs any public benefit that might result from
68 public disclosure of the information.

69 Section 3. This act shall take effect July 1, 2019.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR GAYLE HARRELL
25th District

COMMITTEES:
Health Policy, *Chair*
Appropriations Subcommittee on Health
and Human Services, *Vice Chair*
Appropriations Subcommittee on Criminal
and Civil Justice
Children, Families, and Elder Affairs
Military and Veterans Affairs and Space

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

March 6, 2019

Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability
330 Knott
404 South Monroe Street
Tallahassee, FL 32399

Chair Hooper,

I respectfully request that **SB 980 – Public Records/Petition for Certain Protective Injunctions** be placed on the next available agenda for the Committee on Governmental Oversight and Accountability. SB 980 passed its last committee stop unanimously.

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

Thank you,

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

Senator Gayle Harrell
Senate District 25

Cc: Joe McVaney, Staff Director
Tamra Redig, Committee Administrative Assistant

REPLY TO:

- 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019
- 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

19 MAR 19

Meeting Date

SB 980

Bill Number (if applicable)

Topic Public Records - Petitions for Protective Injunctions

238352

Amendment Barcode (if applicable)

Name Scott Howell

Job Title Vice President for External Affairs

Address 425 Office Plaza Dr.

Street

Phone 850-325-3721

Tall.

City

FL

State

32301

Zip

Email howell-scott@fcadv.org

Speaking: For Against Information

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

Representing Florida Coalition Against Domestic Violence

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

19 MAR 19 Meeting Date

SB 980 Bill Number (if applicable)

Topic Public Records - Petitions for Protective Injunctions

Amendment Barcode (if applicable)

Name Scott Howell

Job Title Vice President for External Affairs

Address 425 Office Plaza Dr. Street

Phone (850) 325-3721

Tall. City FL State 32301 Zip

Email howell-scott@fcadv.org

Speaking: [] For [] Against [] Information

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

Representing Florida Coalition Against Domestic Violence

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

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

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

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

THE FLORIDA SENATE
APPEARANCE RECORD

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

3.19.19

Meeting Date

980

Bill Number (if applicable)

Topic Public Records/Petition for Certain Protective Injunctions

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email barney@barneybishop.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Governmental Oversight and Accountability

BILL: CS/SB 7046

INTRODUCER: Governmental Oversight and Accountability Committee and Criminal Justice Committee

SUBJECT: Critical Infrastructure Facilities and Staff

DATE: March 20, 2019 **REVISED:** _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cox</u> <u>Hackett</u>	<u>Jones</u> <u>McVaney</u>	<u>GO</u>	CJ Submitted as Committee Bill Fav/CS
2.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7046 amends various statutes to address security and staffing concerns found within critical infrastructure facilities.

The bill prohibits the use of drones in close proximity to any:

- State correctional institution,
- Private correctional facility,
- Secure juvenile detention center or facility,
- Nonsecure, high-risk, or maximum-risk residential facility, or
- County detention facility.

The bill lowers the minimum age for employment as a correctional officer from 19 years of age to 18 years of age. This change also allows a person between the age of 18 years and 19 years to be certified as a correctional officer.

The bill also reenacts a number of sections relating to employment qualifications for certain officers to incorporate the changes made to s. 943.13, F.S.

The bill does not appear to affect state revenues or expenditures.

The bill takes effect July 1, 2019.

II. Present Situation:

Drone Regulatory Structure – General

A drone, also called Unmanned Aerial Vehicle (UAV) and Unmanned Aerial System (UAS), is defined in s. 934.50, F.S., as a powered, aerial vehicle that:

- Does not carry a human operator;
- Uses aerodynamic forces to provide vehicle lift;
- Can fly autonomously or be piloted remotely;
- Can be expendable or recoverable; and
- Can carry a lethal or nonlethal payload.¹

Drones range in size from wingspans of 6 inches to 246 feet and can weigh from approximately 4 ounces to over 25,600 pounds.² They may be controlled manually or through an autopilot that uses a data link to connect the drone's pilot to the drone.³ Drones can be equipped with various items, such as infrared cameras⁴ and "LADAR" (laser radar).⁵

Drones are considered to be aircraft subject to the regulation by the Federal Aviation Administration (FAA).⁶ In February 2012, Congress passed the FAA Modernization and Reform Act of 2012 (Modernization Act), which required the FAA to safely open the nation's airspace to drones by September 2015.⁷ The Modernization Act vested authority to regulate the use of drones to the FAA, as it does all aircraft in the national airspace, with an emphasis on safety, efficiency, and national security.⁸ The FAA has stated that state and local restrictions affecting

¹ Section 934.50(2), F.S.

² Department of Transportation, Federal Aviation Administration, *Unmanned Aircraft Operations in the National Airspace System*, 14 CFR Part 91, Docket No. FAA-2006-25714, February 6, 2007.

³ *Id.*

⁴ Infrared cameras can see objects through walls based on the relative levels of heat produced by the objects. Congressional Research Service, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, April 3, 2013, available at www.fas.org/sgp/crs/natsec/R42701.pdf (last visited February 13, 2019); Search and rescue drones equipped with thermal imaging help first responders identify the location of people lost in chaotic scenes, and police departments have started using drones with thermal capabilities to identify the location of suspects while keeping an infrared eye on their officers. Spire Drones, *Best Infrared Drones (Buying Guide)*, available at <https://buythebestdrone.com/best-infrared-drones/> (last visited February 13, 2019).

⁵ The research and development laboratory at the Massachusetts Institute of Technology has developed airborne lidar systems that generate detailed 3D imagery of terrain and structures, including those beneath dense foliage. The lab reports that the micro-lidar could be used under both clear and heavy foliage conditions for surveillance and reconnaissance missions as well as for humanitarian assistance and disaster relief operations. Lincoln Laboratory, Massachusetts Institute of Technology, R & D Projects, *Micro-lidar*, available at <https://www.ll.mit.edu/r-d/projects/micro-lidar> (last visited February 13, 2019).

⁶ FAA, Office of the Chief Counsel, *State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet*, p. 1 (on file with the Senate Committee on Criminal Justice)(hereinafter cited as "FAA Fact Sheet").

⁷ Pub. L. No. 112-95, (2012), The FAA Modernization and Reform Act of 2012; Congressional Research Service, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, April 3, 2013, available at www.fas.org/sgp/crs/natsec/R42701.pdf (last visited February 13, 2019).

⁸ However, considerations such as privacy are beyond the scope of FAA authority. 14 CFR Parts 21, 43, 61, 91, 101, 107, 119, 133, and 183, *Operation and Certification of Small Unmanned Aircraft Systems*, 81 FR 42064-01, June 28, 2016; See also FAA Fact Sheet, p. 1.

drone operation should be consistent with federal statutory and regulatory framework pertaining to specified aspects of the airspace.⁹

Under the authority granted in the 2012 Act, the FAA issued its regulations on the operation and certification of small (less than 55 pounds at take-off) unmanned aircraft systems in June 2016.¹⁰ The 2016 small drone regulations are still in effect and include airspace restrictions and a waiver mechanism allowing for deviations from drone operational restrictions upon application and authorization by the FAA.¹¹ The FAA issued regulations for drones used for commercial purposes, but hobbyist drones continue to fall under the model airplane safety guidelines, including flying at or below 400 feet and keeping the drone within sight.¹² Subsequent to the 2016 FAA regulations, Congress approved a 17-month extension of the authority of the FAA, known as the “Extension, Safety, and Security Act of 2016 (Extension Act).”¹³ In addition to providing the FAA continued authority and funding to operate, the Extension Act required the FAA, by the end of 2016, to establish a process for operators or proprietors of fixed-site facilities to petition the FAA to prohibit or restrict the operation of an unmanned aircraft in close proximity to a fixed-site facility. The section provides that a “fixed-site facility” means critical infrastructure, oil refineries and chemical facilities, amusement parks, and other locations that warrant such restrictions.¹⁴ As of February 2019, the FAA has not established such an application process for state or local fixed site facility entities to apply for such restrictions.

The FAA Chief Counsel stated in 2016 that the longstanding doctrine is that when the federal government does act, state and local governments cannot enact even complementary rules; however, he believes there needs to be a conversation over where state and local governments can put restrictions on low-altitude drone use “so we can get past the issue of what’s state and what’s federal.”¹⁵

A number of states have enacted a wide range of laws that regulate, and even restrict, the operation of drones. Ten states, including Arizona, Louisiana, Nevada, New Jersey, North Carolina, Oregon, South Dakota, Tennessee, Texas and Wisconsin, prohibit drone operation near or over prisons.¹⁶ Additionally, the FAA recently, at the request of its federal security partners, prohibited the operation of drones over a number of federal correctional facilities. There are only a few exceptions that permit drone flights within these restrictions, and they must be coordinated with the individual facility and/or the FAA. Operators who violate the flight restrictions may be subject to enforcement action, including potential civil penalties and criminal charges.¹⁷

⁹ FAA Fact Sheet, p. 1.

¹⁰ *Supra*, n. 8.

¹¹ *Id.*

¹² NCSL, *Regulating Drones: Who and How?*, available at <http://www.ncsl.org/blog/2017/08/08/regulating-drones-who-and-how.aspx> (last visited February 20, 2019).

¹³ Pub. L. No. 114-190 (2016).

¹⁴ Pub. L. No. 114-190, s. 2209 (2016).

¹⁵ National Conference of State Legislators (NCSL), *Who Should Regulate Drones?*, available at <http://www.ncsl.org/blog/2016/12/09/who-should-regulate-drones.aspx> (last visited February 20, 2019).

¹⁶ NCSL, *2017 Unmanned Aircraft Systems (UAS) State Legislation Update*, January 17, 2018, available at <http://www.ncsl.org/research/transportation/2017-unmanned-aircraft-systems-uas-state-legislation-update.aspx> (last visited February 20, 2019).

¹⁷ FAA, News and Updates, *FAA Establishes Restrictions on Drone Operations over DOJ and DOD Facilities*, February 14, 2019, available at <https://www.faa.gov/news/updates/?newsId=93048> (last visited February 20, 2019). The FAA used its

Therefore, it appears that such regulations related to the operation of drones near or over correctional facilities is consistent with the federal statutory and regulatory framework for the operation of drones.

Protection of Critical Infrastructure Facilities in Florida from Drone Traffic

Florida has enacted laws to ensure safety of specified locations within the state. Section 330.41, F.S., protects critical infrastructure facilities by prohibiting any person from knowingly or willfully:

- Operating a drone over a critical infrastructure facility, unless the drone is in transit for commercial purposes and is in compliance with Federal Aviation Administration (FAA) regulations;
- Allowing a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or
- Allowing a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

“Critical infrastructure facility” means any of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and which are posted on the property in a manner reasonably likely to come to the attention of intruders:

- An electrical power generation or transmission facility, substation, switching station, or electrical control center.
- A chemical or rubber manufacturing or storage facility.
- A mining facility.
- A natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline.
- A liquid natural gas or propane gas terminal or storage facility with a capacity of 4,000 gallons or more. Any portion of an aboveground oil or gas pipeline.
- A wireless communications facility, including tower, antennae, support structures, and all associated ground-based equipment.¹⁸

A first violation of this prohibition is a second degree misdemeanor¹⁹ and a second or subsequent violation is a first degree misdemeanor.²⁰

existing authority under Title 14 of the Code of Federal Regulations to address concerns about drone operations over national security sensitive facilities by establishing temporary unmanned aircraft system (UAS) specific flight restrictions. 14 C.F.R. s. 99.7 (2016).

¹⁸ Section 33.41(2)(a), F.S.

¹⁹ A second degree misdemeanor is punishable by up to 60 days in jail and up to a \$500 fine. Sections 775.082 and 775.083, F.S.

²⁰ Section 330.41, F.S. A first degree misdemeanor is punishable by up to one year in jail and a fine of up to \$1,000.

The prohibition does not apply to prohibited actions which are committed by:

- A federal, state, or other governmental entity, or a person under contract or otherwise acting under the direction of a federal, state, or other governmental entity;
- A law enforcement agency that is in compliance with s. 934.50, F.S., or a person under contract with or otherwise acting under the direction of such law enforcement agency; or
- An owner, operator, or occupant of the critical infrastructure facility, or a person who has prior written consent of such owner, operator, or occupant.²¹

Section 330.41(3)(a), F.S., preempts regulation of the operation of drones to the state except as provided in federal regulations, authorizations, or exemptions.²² However, the statute does not limit the authority of a local government to enact or enforce local ordinances relating to nuisances, voyeurism, harassment, reckless endangerment, property damage, or other illegal acts arising from the use of drones if such laws or ordinances are not specifically related to the use of a drone for those illegal acts.²³

To ensure that Florida is compliant with Federal laws related to the regulation of drones, s. 330.41(4), F.S., requires that the provisions limiting the operation of drones near critical infrastructure facilities sunsets 60 days after the FAA adopts rules to designate critical infrastructure facilities and provides a process for specified entities to apply for exemptions and protection from drone use.²⁴ Section 330.41, F.S., must be construed in accordance with standards imposed by federal statutes, regulations, and FAA guidance on UAS.²⁵

Introduction of Contraband into State Facilities

The DOC asserts that the threat of the use of drones to introduce contraband into prison facilities is a major concern. The DOC reports that smaller items such as cell phones, illegal drugs, and tobacco can be easily carried by the inexpensive smaller drones sold at many retail stores and large items, such as guns, ammunition, and other weapons, are increasingly more likely to be introduced to a facility with drones becoming more and more capable, affordable, and available. Since the initiation of tracking in late 2016, the DOC reports that there have been 38 total reported incidents of drone sightings, some of which contain multiple drones sighted.²⁶

²¹ Section 330.41(4)(c), F.S.

²² “Except as otherwise expressly provided, a political subdivision may not enact or enforce an ordinance or resolution relating to the design, manufacture, testing, maintenance, licensing, registration, certification, or operation of an unmanned aircraft system, including airspace, altitude, flight paths, equipment or technology requirements; the purpose of operations; and pilot, operator, or observer qualifications, training, and certification.” Section 330.41(3)(b), F.S.

²³ Section 330.41(3)(c), F.S.

²⁴ Section 330.41(4)(e), F.S. As mentioned above, it does not appear that the FAA has adopted a process for designating critical infrastructure facilities at this time.

²⁵ Section 330.41(5), F.S.

²⁶ The DOC, *SPB 7046 Agency Analysis*, February 15, 2019, p. 2 (hereinafter cited as “The DOC SPB 7046 Analysis”)(on file with the Criminal Justice Committee). See also The DOC, Office of Institutions, Bureau of Security, *Drone Threat to FDC Facilities Background Information*, p. 1-5 (on file with the Criminal Justice Committee). The DOC provided statistics for various contraband recovered in the last Fiscal Year, including 9,009 cell phones, 11,910 weapons, approximately 51,000 grams of various drugs, and 809,198 grams of tobacco were recovered in facilities during Fiscal Year 2017-18.

It is a felony offense in Florida to introduce contraband into or upon the grounds of a state correctional institution, a juvenile detention facility or commitment program, or a county detention facility.²⁷

Florida Statutes define the following state facilities:

- *State correctional institution* means any prison, road camp, prison industry, prison forestry camp, or any prison camp or prison farm or other correctional facility, temporary or permanent, in which prisoners are housed, worked, or maintained, under the custody and jurisdiction of the Department of Corrections.²⁸
- *Privatized prisons* are authorized by ch. 957, F.S. The Department of Management Services contracts with private businesses who will establish cost-effective, privately operated correctional facilities in the State of Florida.²⁹
- *Detention center or facility* means a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention center or facility.³⁰
- *Nonsecure residential facilities* are either environmentally secure, staff secure, or are hardware-secure with walls, fencing, or locking doors. Youth assessed and classified for placement in programs at this commitment level represent a low or moderate risk to public safety and require close supervision.³¹
- *High-risk residential facilities* are hardware-secure with perimeter fencing and locking doors. Youth assessed and classified for this level of placement require close supervision in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower commitment levels.³²
- *Maximum-risk residential facilities* are maximum-custody, hardware-secure with perimeter security fencing and locking doors. Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting. Placement in a program at this level is prompted by a demonstrated need to protect the public.³³
- *County detention facility* means 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 felony or misdemeanor.³⁴

²⁷ Sections 944.47, 985.711, and 951.22, F.S.

²⁸ Section 944.02(8), F.S.

²⁹ Section 957.04(1)(e), F.S. Currently there are seven private prison facilities housing approximately 10,000 inmates in operation in Florida. The Department of Corrections, *2017-18 Annual Report*, p. 3 and 7, available at http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf (last visited February 14, 2019).

³⁰ Section 985.03(19), F.S.

³¹ Section 985.03(44)(b), F.S.

³² Section 985.03(44)(c), F.S.

³³ Section 985.03(44)(d), F.S.

³⁴ Section 951.23(1)(a), F.S.

Employment Qualifications for Certain Officers in Specified Facilities

The Criminal Justice Standards and Training Commission (Commission), which is housed within the Florida Department of Law Enforcement (FDLE), is responsible for implementing requirements related to the training, certification, and discipline of full-time, part-time,³⁵ and auxiliary³⁶ correctional officers.³⁷

Section 943.10(2), F.S., defines “correctional officer” to mean any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term “correctional officer” does not include any secretarial, clerical, or professionally trained personnel.³⁸

Section 943.13, F.S., provides that, to be eligible to be employed as a correctional officer, the person must:

1. Be at least 19 years of age;
2. Be a citizen of the United States, notwithstanding any law of the state to the contrary;
3. Be a high school graduate or its equivalent;³⁹
4. Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States;⁴⁰
5. Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections (DOC) or the Commission;⁴¹

³⁵ Section 943.10(7), F.S., defines “part-time correctional officer” to mean any person who is employed or appointed less than full time, as defined by the employing or appointing agency, with or without compensation, whose responsibilities include the supervision, protection, care, custody, and control of inmates within a correctional institution.

³⁶ Section 943.10(9), F.S., defines “auxiliary correctional officer” to mean any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional officer and who, while under the supervision of a full-time or part-time correctional officer, has the same authority as a full-time or part-time correctional officer for the purpose of providing supervision, protection, care, custody, and control of inmates within a correctional institution or a county or municipal detention facility.

³⁷ Correctional officers are eligible for special risk class benefits in accordance with s. 121.0515, F.S. Special risk class membership awards more retirement credit per year of service than is awarded to other employees due to the increased risk that such employees undertake as a part of their duties. Membership of correctional officers in the special risk class is determined by whether the officer’s primary duties and responsibilities involve the custody of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or whether the officer is the supervisor or command officer of a member or members who have such responsibilities. Section 121.0515(1) and (3)(c), F.S.

³⁸ Section 943.10(2), F.S.

³⁹ Section 943.13(3), F.S., provides that the Commission must define the term high school equivalency in rule.

⁴⁰ Section 943.13(4), F.S., further specifies that: a. Any person who, after July 1, 1981, pleads guilty or nolo contendere to or is found guilty of any felony or of a misdemeanor involving perjury or a false statement is not eligible for employment or appointment as an officer, notwithstanding suspension of sentence or withholding of adjudication; and b. Any person who has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had such record sealed or expunged shall not be deemed ineligible for employment or appointment as an officer.

⁴¹ Section 943.13(5), F.S., provides that the FDLE must retain and enter into the statewide automated biometric identification system all fingerprints submitted. Thereafter, the fingerprints must be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051, F.S. The FDLE is also

6. Have passed a physical examination by a licensed physician, physician assistant, or certified advanced registered nurse practitioner, based on specifications established by the Commission;
7. Have a good moral character as determined by a background investigation by the Commission;
8. Execute and submit a sworn affidavit-of-applicant form attesting to his or her compliance with the above-listed requirements to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity;
9. Complete a Commission approved basic recruit training program for the applicable criminal justice discipline, unless exempt under law;⁴² and
10. Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline.

If a critical need for officers exists, the employing agency may temporarily employ a person as a correctional officer, if he or she has met the first eight requirements listed above.⁴³ Any person employed as a temporary correctional officer must be supervised by another correctional officer anytime he or she is performing any duties of a correctional officer and must attend the first basic recruit training program offered in the geographic area within 180 consecutive days of employment.⁴⁴ A person temporarily employed as a correctional officer is prohibited from being employed in the position for more than 30 months. However, a person that is attending the first available basic recruit training program offered in his or her geographic area may continue to be employed as a temporary correctional officer until he or she:

- Fails or withdraws from the basic recruit training program; or
- Is separated from employment or appointment by the employing agency.⁴⁵

Any person employed as a correctional officer, regardless of age, must comply with all the above-described eligibility criteria and any other requirements imposed by the Commission, including such requirements as continuing education requirements proscribed in s. 943.135, F.S.

The DOC reports that 23 states permit 18 year olds to be employed as correctional officers.⁴⁶

required to search all arrest fingerprints received pursuant to s. 943.051, F.S., against the fingerprints retained in the statewide automated biometric identification system in accordance with s. 943.13, F.S., and report to the employing agency any arrest records that are identified with the retained employee's fingerprints. These fingerprints must be forwarded to the FDLE for processing and retention.

⁴² Section 943.13(9), F.S., provides an exemption for an applicant to be required to take the basic recruit training program, including that if the applicant has completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government and served as a full-time sworn officer in another state or for the Federal Government for at least 1 year. For the exemption to be available, the applicant cannot have more than an 8-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application is submitted for the exemption.

⁴³ Section 943.131(1)(a), F.S.

⁴⁴ Section 943.131(1)(a) and (c), F.S.

⁴⁵ Section 943.131(1)(b), F.S.

⁴⁶ The DOC SPB 7046 Analysis, p. 2. The DOC reported in its agency analysis for SB 854 (2017), which included this identical provision, that these states include Arkansas, Georgia, Illinois, Indiana, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Jersey, New Mexico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The DOC, *Senate Bill 854 (2017) Analysis*, at p. 2, (September 19, 2017) (on file with the Senate Committee on Criminal Justice).

Temporary Employment Authorization Assignments

Newly hired officers, unless previously certified as correctional officers under state regulations, are hired under “temporary employment authorization status” (TEA). TEA officers typically work in the institutions while waiting for training, which can take between three and six months.⁴⁷ TEA officers must work in positions under direct supervision by licensed correctional officers.⁴⁸ Department of Corrections Procedure 208.016, Officers in Temporary Employment Authorization Status, outlines procedures and requirements for the utilization of TEA officers and further establishes restrictions on their employment. TEA officers are not required to be firearms certified, must begin their basic recruit training within 180 consecutive days of beginning TEA status, and must complete basic recruit training within 18 months of beginning the training program. TEA officers are restricted from certain assignments, such as:

- Tower/vehicular/stationary perimeter posts,
- Vehicular gates,
- Outside work squads,
- Outside inmate transport/medical escort,
- Medical isolation/self-harm observation status,
- Canine, and
- Death row.

III. Effect of Proposed Changes:

Drones and Critical Infrastructure Facilities

Section 1 amends s. 330.41(2)(a), F.S., to include the following structures within the definition of the term “critical infrastructure facility”:

- A state correctional institution as defined in s. 944.02, F.S., and a private prison as authorized in ch. 957, F.S.
- A secure juvenile detention center as defined in s. 985.03(45), F.S., or facility, nonsecure residential facility, high-risk residential facility, and maximum-risk residential facility as defined in s. 985.03(44), F.S.
- A county detention facility, as defined by s. 951.23, F.S.

The DOC cites concerns about utilizing drones to deliver contraband to jails and prisons. Introducing contraband by any means constitutes a felony offense.

Minimum Age Requirement for Correctional Officers in Critical Infrastructure Facilities

Section 2 amends s. 943.13, F.S., to reduce the minimum age requirement for correctional officers in state correctional facilities, which are considered critical infrastructure facilities, from 19 years of age to 18 years of age. The bill does not place any limitations on the duties that may be performed by a correctional officer who is younger than 19 years of age. According to the

⁴⁷ Florida Legislature Office of Program Policy Analysis and Government Accountability, *Study of Operations of the Florida Department of Corrections*, November 2015, available at <http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/15-FDC.pdf> (last viewed March 16, 2019).

⁴⁸ Florida Department of Corrections, Procedure 602.030, *Security Staff Utilization*.

DOC factsheet, this change will help staff a position which is experiencing critical staffing and retention issues.

Sections 3 through 16 reenact ss. 943.131, 943.133, 943.137, 943.139, 943.1395, 943.14, 943.17, 943.253, 944.105, 944.714, 945.035, 948.01, 951.063, and 985.644, F.S., respectively, to incorporate the change made in section 2 regarding the minimum age requirement.

The bill takes effect July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of a state tax shares with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

The regulation of the national airspace and the aircraft that occupy that airspace is a federal matter.⁴⁹ The FAA Chief Counsel issued a document in 2015 about state and local regulation of drones in which he said that state and local restrictions affecting unmanned aerial system operations should be consistent with the extensive federal statutory and regulatory framework in order to “ensure the maintenance of a safe and sound air transportation system and of navigable airspace free from inconsistent restrictions.”⁵⁰ However, given the Chief Counsel’s acknowledgement that “laws traditionally related to state and local police power – including land use, zoning, privacy, trespass, and law enforcement operations – generally are not subject to federal regulation”⁵¹ it appears that

⁴⁹Congress has vested the FAA with authority to regulate the areas of airspace use, management and efficiency, air traffic control, safety, navigational facilities, and aircraft noise at its source. 49 U.S.C. ss. 40103, 44502, and 44701-44735.

⁵⁰FAA, Office of the Chief Counsel, *State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet*, December 17, 2015, available at https://www.faa.gov/uas/resources/policy_library/media/UAS_Fact_Sheet_Final.pdf (last viewed February 4, 2019).

⁵¹ *Id.*, citing *Skysign International, Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1115 (9th Cir. 2002).

the bill would not be an encroachment into an area exclusively regulated by the federal government.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill reduces the minimum age requirement to age 18 for a person to be (a) certified as a correctional officer if otherwise qualified, or (b) if a critical need for correctional officers exists, employed as a temporary correctional officer (and attend the next available training program in the geographic region). The bill may increase the number of persons eligible to be hired as a correctional officer, potentially reducing the number of vacant positions within the Department of Corrections. To the extent such hires have not completed the training program, the DOC may pay the new hire a state salary and incur the cost of the training program on behalf of the new hire.

VI. Technical Deficiencies:

None.

VII. Related Issues:

As of March 15, 2019, the DOC had 10,243 people employed as full-time correctional officers (class code 8003) statewide.⁵² The department had another 2,053 correctional officer positions vacant as of that date. Of the active correctional officers, 2,367 appear to be correctional officer trainees, of which, according to the DOC, 982 are attending academies at this time. According to PeopleFirst data, 129 of the correctional officers are 20 years of age or less.

As a correctional officer trainee, the employee is paid \$33,500 (the minimum salary of a certified correctional officer) until the employee completes the training and passes the certification test. The training is a 12-week program, paid for by the DOC. Costs incurred by the DOC include \$2,334 for institutional academy on-boarding and \$3,184 for academy tuition, equipment, and materials.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 930.41 and 943.13.

⁵²https://salaries.myflorida.com/?utf8=%E2%9C%93&by_name=&by_agency=Department+of+Corrections&by_class_code=8003&min_salary=0&max_salary=317200 (last viewed on March 15, 2019).

This bill reenacts the following sections of the Florida Statutes: 943.131, 943.133, 943.137, 943.139, 943.1395, 943.14, 943.17, 943.253, 944.105, 944.714, 945.035, 948.01, 951.063, and 985.644, F.S.

IX. Additional Information:

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

CS by Governmental Oversight and Accountability on March 19, 2019:

The committee substitute adds county detention facilities, as defined by s. 951.23, F.S., to the list of critical infrastructure facilities.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/19/2019	.	
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	.	

The Committee on Governmental Oversight and Accountability
(Perry) recommended the following:

Senate Amendment

Between lines 48 and 49

insert:

10. A county detention facility as defined in s. 951.23.

By the Committee on Criminal Justice

591-02476-19

20197046__

A bill to be entitled

An act relating to critical infrastructure facilities and staff; amending s. 330.41, F.S.; redefining the term "critical infrastructure facility"; reenacting and amending s. 943.13, F.S.; requiring any person employed as a full-time, a part-time, or an auxiliary correctional officer be at least 18 years of age; reenacting ss. 943.131(1)(a) and (c) and (4), 943.133(1) and (6), 943.137(1), 943.139(2), 943.1395(1), (2), and (3), 943.14(7), 943.17(4), 943.253, 944.105(7), 944.714(2), 945.035(3), 948.01(1)(a), 951.063, and 985.644(3)(b), F.S., all relating to employment qualifications or requirements for certain officers, to incorporate the amendment made to s. 943.13, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 330.41, Florida Statutes, is amended, and subsection (4) of that section is republished, to read:

330.41 Unmanned Aircraft Systems Act.—

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

(a) "Critical infrastructure facility" means any of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and which are posted on the property in a manner

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591-02476-19

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reasonably likely to come to the attention of intruders:

1. An electrical power generation or transmission facility, substation, switching station, or electrical control center.
 2. A chemical or rubber manufacturing or storage facility.
 3. A mining facility.
 4. A natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline.
 5. A liquid natural gas or propane gas terminal or storage facility with a capacity of 4,000 gallons or more.
 6. Any portion of an aboveground oil or gas pipeline.
 7. A wireless communications facility, including the tower, antennae, support structures, and all associated ground-based equipment.
 8. A state correctional institution as defined in s. 944.02 or a private correctional facility authorized under chapter 957.
 9. A secure detention center or facility as defined in s. 985.03(45) or a nonsecure residential facility, a high-risk residential facility, or a maximum-risk residential facility, as those terms are described in s. 985.03(44).
- (4) PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES.—
- (a) A person may not knowingly or willfully:
1. Operate a drone over a critical infrastructure facility;
 2. Allow a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or
 3. Allow a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.
- (b) A person who violates paragraph (a) commits a

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59 misdemeanor of the second degree, punishable as provided in s.
60 775.082 or s. 775.083. A person who commits a second or
61 subsequent violation commits a misdemeanor of the first degree,
62 punishable as provided in s. 775.082 or s. 775.083.

63 (c) This subsection does not apply to actions identified in
64 paragraph (a) which are committed by:

65 1. A federal, state, or other governmental entity, or a
66 person under contract or otherwise acting under the direction of
67 a federal, state, or other governmental entity.

68 2. A law enforcement agency that is in compliance with s.
69 934.50, or a person under contract with or otherwise acting
70 under the direction of such law enforcement agency.

71 3. An owner, operator, or occupant of the critical
72 infrastructure facility, or a person who has prior written
73 consent of such owner, operator, or occupant.

74 (d) Subparagraph (a)1. does not apply to a drone operating
75 in transit for commercial purposes in compliance with Federal
76 Aviation Administration regulations, authorizations, or
77 exemptions.

78 (e) This subsection shall sunset 60 days after the date
79 that a process pursuant to s. 2209 of the FAA Extension, Safety
80 and Security Act of 2016 becomes effective.

81 Section 2. Subsection (1) of section 943.13, Florida
82 Statutes, is amended, and subsection (8) is reenacted, to read:

83 943.13 Officers' minimum qualifications for employment or
84 appointment.—On or after October 1, 1984, any person employed or
85 appointed as a full-time, part-time, or auxiliary law
86 enforcement officer or correctional officer; on or after October
87 1, 1986, any person employed as a full-time, part-time, or

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88 auxiliary correctional probation officer; and on or after
89 October 1, 1986, any person employed as a full-time, part-time,
90 or auxiliary correctional officer by a private entity under
91 contract to the Department of Corrections, to a county
92 commission, or to the Department of Management Services shall:

93 (1) Be at least 19 years of age, except that any person
94 employed as a full-time, a part-time, or an auxiliary
95 correctional officer must be at least 18 years of age.

96 (8) Execute and submit to the employing agency or, if a
97 private correctional officer, submit to the appropriate
98 governmental entity an affidavit-of-applicant form, adopted by
99 the commission, attesting to his or her compliance with
100 subsections (1)-(7). The affidavit shall be executed under oath
101 and constitutes an official statement within the purview of s.
102 837.06. The affidavit shall include conspicuous language that
103 the intentional false execution of the affidavit constitutes a
104 misdemeanor of the second degree. The affidavit shall be
105 retained by the employing agency.

106 Section 3. For the purpose of incorporating the amendment
107 made by this act to section 943.13, Florida Statutes, in
108 references thereto, paragraphs (a) and (c) of subsection (1) and
109 subsection (4) of section 943.131, Florida Statutes, are
110 reenacted to read:

111 943.131 Temporary employment or appointment; minimum basic
112 recruit training exemptions.—

113 (1)(a) An employing agency may temporarily employ or
114 appoint a person who complies with the qualifications for
115 employment in s. 943.13(1)-(8), but has not fulfilled the
116 requirements of s. 943.13(9) and (10), if a critical need exists

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117 to employ or appoint the person and such person is or will be
 118 enrolled in the next approved basic recruit training program
 119 available in the geographic area or that no assigned state
 120 training program for state officers is available within a
 121 reasonable time. The employing agency must maintain
 122 documentation which demonstrates that a critical need exists to
 123 employ a person pursuant to this section. Prior to the
 124 employment or appointment of any person other than a
 125 correctional probation officer under this subsection, the person
 126 shall comply with the firearms provisions established pursuant
 127 to s. 943.17(1)(a). Any person temporarily employed or appointed
 128 as an officer under this subsection must attend the first
 129 training program offered in the geographic area, or the first
 130 assigned state training program for a state officer, subsequent
 131 to his or her employment or appointment. A person temporarily
 132 employed or appointed as an officer under this subsection must
 133 begin basic recruit training within 180 consecutive days after
 134 employment. Such person must fulfill the requirements of s.
 135 943.13(9) within 18 months after beginning basic recruit
 136 training and must fulfill the certification examination
 137 requirements of s. 943.13(10) within 180 consecutive days after
 138 completing basic recruit training. A person hired after he or
 139 she has commenced basic recruit training or after completion of
 140 basic recruit training must fulfill the certification
 141 examination requirements of s. 943.13(10) within 180 consecutive
 142 days after completion of basic recruit training or the
 143 commencement of employment, whichever occurs later.
 144 (c) No person temporarily employed or appointed under the
 145 provisions of this subsection may perform the duties of an

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146 officer unless he or she is adequately supervised by another
 147 officer of the same discipline. The supervising officer must be
 148 in full compliance with the provisions of s. 943.13 and must be
 149 employed or appointed by the employing agency.
 150 (4) Within 1 year after receiving an exemption, an
 151 applicant who is exempt from completing the commission-approved
 152 basic recruit training program must:
 153 (a) Complete all additional required training as required
 154 by the commission.
 155 (b) Demonstrate proficiency in the high-liability areas as
 156 defined by commission rule.
 157 (c) Complete the requirements of s. 943.13(10).
 158
 159 If the proficiencies and requirements of s. 943.13(10) are not
 160 met within the 1-year period, the applicant must seek an
 161 additional exemption as provided in this subsection. Except as
 162 provided in subsection (1), before the employing agency may
 163 employ or appoint the applicant as an officer, the applicant
 164 must meet the minimum qualifications described in s. 943.13(1)-
 165 (8) and must fulfill the requirements of s. 943.13(10).
 166 Section 4. For the purpose of incorporating the amendment
 167 made by this act to section 943.13, Florida Statutes, in
 168 references thereto, subsections (1) and (6) of section 943.133,
 169 Florida Statutes, are reenacted to read:
 170 943.133 Responsibilities of employing agency, commission,
 171 and program with respect to compliance with employment
 172 qualifications and the conduct of background investigations;
 173 injunctive relief.-
 174 (1) The employing agency is fully responsible for the

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 175 collection, verification, and maintenance of documentation
 176 establishing that an applicant complies with the requirements of
 177 ss. 943.13 and 943.131, and any rules adopted pursuant to ss.
 178 943.13 and 943.131.

179 (6) If an employing agency employs or appoints an officer
 180 in violation of this section or of s. 943.13, s. 943.131, or s.
 181 943.135, or any rules adopted pursuant thereto, the Department
 182 of Legal Affairs, at the request of the chair of the commission,
 183 shall apply to the circuit court in the county of the employing
 184 agency for injunctive relief prohibiting the employment or
 185 appointment of the person contrary to this section.

186 Section 5. For the purpose of incorporating the amendment
 187 made by this act to section 943.13, Florida Statutes, in a
 188 reference thereto, subsection (1) of section 943.137, Florida
 189 Statutes, is reenacted to read:

190 943.137 Establishment of qualifications and standards above
 191 the minimum.—

192 (1) Nothing herein may be construed to preclude an
 193 employing agency from establishing qualifications and standards
 194 for employment, appointment, training, or promotion of officers
 195 that exceed the minimum requirements set by ss. 943.13 and
 196 943.17, including establishing tobacco-use standards.

197 Section 6. For the purpose of incorporating the amendment
 198 made by this act to section 943.13, Florida Statutes, in a
 199 reference thereto, subsection (2) of section 943.139, Florida
 200 Statutes, is reenacted to read:

201 943.139 Notice of employment, appointment, or separation;
 202 response by the officer; duty of commission.—

203 (2) In a case of separation from employment or appointment,

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 204 the employing agency shall execute and maintain an affidavit-of-
 205 separation form adopted by the commission, setting forth in
 206 detail the facts and reasons for such separation. The
 207 information contained in the affidavit-of-separation form must
 208 be submitted, or electronically transmitted, to the commission.
 209 If the officer is separated for his or her failure to comply
 210 with s. 943.13, the notice must so specify. The affidavit must
 211 be executed under oath and constitutes an official statement
 212 within the purview of s. 837.06. The affidavit must include
 213 conspicuous language that intentional false execution of the
 214 affidavit constitutes a misdemeanor of the second degree. Any
 215 officer who has separated from employment or appointment must be
 216 permitted to respond to the separation, in writing, to the
 217 commission, setting forth the facts and reasons for the
 218 separation as he or she understands them.

219 Section 7. For the purpose of incorporating the amendment
 220 made by this act to section 943.13, Florida Statutes, in
 221 references thereto, subsections (1), (2), and (3) of section
 222 943.1395, Florida Statutes, are reenacted to read:

223 943.1395 Certification for employment or appointment;
 224 concurrent certification; reemployment or reappointment;
 225 inactive status; revocation; suspension; investigation.—

226 (1) The commission shall certify, under procedures
 227 established by rule, any person for employment or appointment as
 228 an officer if:

- 229 (a) The person complies with s. 943.13(1)-(10); and
 230 (b) The employing agency complies with s. 943.133(2) and
 231 (3).

232 (2) An officer who is certified in one discipline and who

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233 complies with s. 943.13 in another discipline shall hold
 234 concurrent certification and may be assigned in either
 235 discipline within his or her employing agency.

236 (3) Any certified officer who has separated from employment
 237 or appointment and who is not reemployed or reappointed by an
 238 employing agency within 4 years after the date of separation
 239 must meet the minimum qualifications described in s. 943.13,
 240 except for the requirement found in s. 943.13(9). Further, such
 241 officer must complete any training required by the commission by
 242 rule in compliance with s. 943.131(2). Any such officer who
 243 fails to comply with the requirements provided in s. 943.131(2)
 244 must meet the minimum qualifications described in s. 943.13, to
 245 include the requirement of s. 943.13(9).

246 Section 8. For the purpose of incorporating the amendment
 247 made by this act to section 943.13, Florida Statutes, in a
 248 reference thereto, subsection (7) of section 943.14, Florida
 249 Statutes, is reenacted to read:

250 943.14 Commission-certified criminal justice training
 251 schools; certificates and diplomas; exemptions; injunctive
 252 relief; fines.-

253 (7) Each criminal justice training school that offers law
 254 enforcement, correctional, or correctional probation officer
 255 basic recruit training, or selection center that provides
 256 applicant screening for criminal justice training schools, shall
 257 conduct a criminal history background check of an applicant
 258 prior to entrance into the basic recruit class. A complete set
 259 of fingerprints must be taken by an authorized criminal justice
 260 agency or by an employee of the criminal justice training school
 261 or selection center who is trained to take fingerprints. If the

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262 employing agency has previously taken a set of fingerprints from
 263 the applicant and has obtained a criminal history check of the
 264 applicant using the fingerprints, the requirements of this
 265 subsection shall be met when the employing agency submits to the
 266 criminal justice training school or selection center a letter
 267 stating the date on which the agency took the fingerprints of
 268 the applicant, a summary of the criminal history check based on
 269 the fingerprints, and a certification that the applicant is
 270 qualified to enroll in the basic recruit training program
 271 pursuant to s. 943.13. If the criminal justice training school
 272 or selection center takes the fingerprints, it shall submit the
 273 fingerprints to the Florida Department of Law Enforcement for a
 274 statewide criminal history check, and forward the fingerprints
 275 to the Federal Bureau of Investigation for a national criminal
 276 history check. Applicants found through fingerprint processing
 277 to have pled guilty to or been convicted of a crime which would
 278 render the applicant unable to meet the minimum qualifications
 279 for employment as an officer as specified in s. 943.13(4) shall
 280 be removed from the pool of qualified candidates by the criminal
 281 justice training school or selection center.

282 Section 9. For the purpose of incorporating the amendment
 283 made by this act to section 943.13, Florida Statutes, in a
 284 reference thereto, subsection (4) of section 943.17, Florida
 285 Statutes, is reenacted to read:

286 943.17 Basic recruit, advanced, and career development
 287 training programs; participation; cost; evaluation.-The
 288 commission shall, by rule, design, implement, maintain,
 289 evaluate, and revise entry requirements and job-related
 290 curricula and performance standards for basic recruit, advanced,

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291 and career development training programs and courses. The rules
292 shall include, but are not limited to, a methodology to assess
293 relevance of the subject matter to the job, student performance,
294 and instructor competency.

295 (4) The commission may, by rule, establish a sponsorship
296 program for prospective officers. The rule shall specify the
297 provisions of s. 943.13 that must be satisfied prior to the
298 prospective officer's enrollment in a basic recruit training
299 course. However, the rule shall not conflict with any laws or
300 rules of the State Board of Education relating to student
301 enrollment.

302 Section 10. For the purpose of incorporating the amendment
303 made by this act to section 943.13, Florida Statutes, in a
304 reference thereto, section 943.253, Florida Statutes, is
305 reenacted to read:

306 943.253 Exemption; elected officers.—Elected officers are
307 exempt from the requirements of ss. 943.085-943.25. However, an
308 elected officer may participate in the programs and benefits
309 under ss. 943.085-943.25 if he or she complies with s.
310 943.13(1)-(7).

311 Section 11. For the purpose of incorporating the amendment
312 made by this act to section 943.13, Florida Statutes, in a
313 reference thereto, subsection (7) of section 944.105, Florida
314 Statutes, is reenacted to read:

315 944.105 Contractual arrangements with private entities for
316 operation and maintenance of correctional facilities and
317 supervision of inmates.—

318 (7) The department shall require the certification of
319 private correctional officers at the private vendor's expense

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320 under s. 943.1395, and all such officers must meet the minimum
321 qualifications established in s. 943.13. All other employees of
322 the private vendor that perform their duties at the private
323 correctional facility shall receive, at a minimum, the same
324 quality and quantity of training as that required by the state
325 for employees of state-operated correctional facilities. All
326 training expenses shall be the responsibility of the private
327 vendor. The department shall be the contributor and recipient of
328 all criminal background information necessary for certification
329 by the Criminal Justice Standards and Training Commission.

330 Section 12. For the purpose of incorporating the amendment
331 made by this act to section 943.13, Florida Statutes, in a
332 reference thereto, subsection (2) of section 944.714, Florida
333 Statutes, is reenacted to read:

334 944.714 Quality assurance and standards of operation.—

335 (2) All private correctional officers employed by a private
336 vendor must be certified, at the private vendor's expense, as
337 having met the minimum qualifications established for
338 correctional officers under s. 943.13.

339 Section 13. For the purpose of incorporating the amendment
340 made by this act to section 943.13, Florida Statutes, in a
341 reference thereto, subsection (3) of section 945.035, Florida
342 Statutes, is reenacted to read:

343 945.035 Notice of employment, appointment, or separation;
344 response by the correctional officer; duty of department.—

345 (3) In a case of separation from employment or appointment,
346 the department shall execute and maintain an affidavit-of-
347 separation form adopted by the commission, setting forth in
348 detail the facts and reasons for such separation. A copy of the

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 349 affidavit-of-separation form must be submitted, or
 350 electronically transmitted, to the commission. If the
 351 correctional officer is separated for failure to comply with s.
 352 943.13, the notice must so specify. The affidavit must be
 353 executed under oath and constitutes an official statement within
 354 the purview of s. 837.06. The affidavit must include conspicuous
 355 language that intentional false execution of the affidavit
 356 constitutes a misdemeanor of the second degree. Any correctional
 357 officer who has separated from employment or appointment must be
 358 permitted to respond to the separation, in writing, to the
 359 commission, setting forth the facts and reasons for the
 360 separation as the officer understands them.

361 Section 14. For the purpose of incorporating the amendment
 362 made by this act to section 943.13, Florida Statutes, in a
 363 reference thereto, paragraph (a) of subsection (1) of section
 364 948.01, Florida Statutes, is reenacted to read:

365 948.01 When court may place defendant on probation or into
 366 community control.-

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

375 (a) If the court places the defendant on probation or into
 376 community control for a felony, the department shall provide
 377 immediate supervision by an officer employed in compliance with

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 378 the minimum qualifications for officers as provided in s.
 379 943.13. A private entity may not provide probationary or
 380 supervision services to felony or misdemeanor offenders
 381 sentenced or placed on probation or other supervision by the
 382 circuit court.

383 Section 15. For the purpose of incorporating the amendment
 384 made by this act to section 943.13, Florida Statutes, in a
 385 reference thereto, section 951.063, Florida Statutes, is
 386 reenacted to read:

387 951.063 Privately operated county correctional facilities.-
 388 Each private correctional officer employed by a private entity
 389 under contract to a county commission must be certified as a
 390 correctional officer under s. 943.1395 and must meet the minimum
 391 qualifications established in s. 943.13. The county shall
 392 provide to the Criminal Justice Standards and Training
 393 Commission all necessary fingerprints for Florida Department of
 394 Law Enforcement and Federal Bureau of Investigation background
 395 checks. The Criminal Justice Standards and Training Commission
 396 shall advise the county as to those employees whose
 397 certification has been denied or revoked. Neither the county nor
 398 the private entity shall be the direct recipient of criminal
 399 records.

400 Section 16. For the purpose of incorporating the amendment
 401 made by this act to section 943.13, Florida Statutes, in a
 402 reference thereto, paragraph (b) of subsection (3) of section
 403 985.644, Florida Statutes, is reenacted to read:

404 985.644 Departmental contracting powers; personnel
 405 standards and investigation.-

406 (3)

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407 (b) Law enforcement, correctional, and correctional
408 probation officers, certified pursuant to s. 943.13, are not
409 required to submit to level 2 screenings as long as they are
410 currently employed by a law enforcement agency or correctional
411 facility. The department shall electronically submit to the
412 Department of Law Enforcement:

413 1. Fingerprint information obtained during the employment
414 screening required by subparagraph (a)1.

415 2. Fingerprint information for all persons employed by the
416 department, or by a provider under contract with the department,
417 in delinquency facilities, services, or programs if such
418 fingerprint information has not previously been submitted
419 pursuant to this section.

420 Section 17. This act shall take effect July 1, 2019.

421



The Florida Senate

Committee Agenda Request

To: Senator Ed Hooper, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: March 13, 2019

I respectfully request that **Senate Bill #7046**, relating to Critical Infrastructure Facilities and Staff, be placed on the:

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

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

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

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

March 19, 2019

SB 7046

Meeting Date

Bill Number (if applicable)

Topic SB 7046 Critical Infrastructure Facilities and Staff

Amendment Barcode (if applicable)

Name Jared Torres

Job Title Legislative Affairs Director

Address 501 South Calhoun Street

Phone 850-717-3045

Street

Tallahassee

FL

32399

Email Jared.Torres@fdc.myflorida.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Department of Corrections

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

3.19.19

Meeting Date

7046

Bill Number (if applicable)

Topic Critical Infrastructure Facilities and Staff

Amendment Barcode (if applicable)

Name Barney Bishop III

Job Title President & CEO

Address 2215 Thomasville Road

Phone 850.510.9922

Street

Tallahassee

FL

32308

Email barney@barneybishop.com

City

State

Zip

Speaking: For Against Information

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

Representing Florida Smart Justice Alliance

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

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

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

S-001 (10/14/14)

CourtSmart Tag Report

Room: SB 301
Caption: Senate Governmental Oversight and Accountability Committee

Case No.:

Type:
Judge:

Started: 3/19/2019 4:00:52 PM

Ends: 3/19/2019 4:42:53 PM

Length: 00:42:02

4:00:51 PM Meeting called to order
4:00:55 PM Roll Call - Quorum is present
4:01:03 PM Comments by Chair to audience
4:01:29 PM Tab 1 - Confirmation Hearing for Appointment of Secretary of Florida Department of State, Laurel M. Lee
4:02:01 PM Chair calls Laurel M. Lee to come forward.
4:02:49 PM Secretary Laurel M. Lee sworn in as a witness
4:03:20 PM Secretary Lee addresses committee
4:07:48 PM Chair
4:08:48 PM Questions?
4:08:52 PM Senator Rader
4:09:51 PM Secretary Lee
4:10:21 PM Senator Rader
4:11:25 PM Secretary Lee
4:11:46 PM Chair
4:11:48 PM Senator Torres
4:12:14 PM Secretary Lee
4:13:17 PM Senator Bean
4:13:31 PM Secretary Lee
4:15:10 PM Questions? None
4:15:16 PM Chair
4:15:29 PM Chair asks for motion to confirm Secretary Lee
4:15:42 PM Senator Bean makes the motion to recommend confirmation
4:15:51 PM Senator Rader seconds the motion to recommend confirmation of Secretary Lee
4:16:02 PM Chair, show motions adopted.
4:16:06 PM Roll Call on Confirmation of Laurel M. Lee as Secretary to the Department of State
4:16:39 PM Confirmation of Laurel M. Lee is favorable
4:17:04 PM Tab 5 - SB 7046 by Criminal Justice, Senator Perry to introduce, Critical Infrastructure Facilities and Staff
4:17:35 PM Amendment 894836
4:17:44 PM Questions? None
4:17:50 PM Appearance Forms on the amendment? None
4:17:53 PM Debate on the amendment? None
4:17:57 PM Amendment 894836 is adopted
4:18:00 PM Back on bill as amended
4:18:07 PM Questions?
4:18:11 PM Senator Rader
4:18:33 PM Senator Perry
4:18:58 PM Senator Torres
4:19:02 PM Senator Perry
4:19:21 PM Senator Torres
4:20:03 PM Senator Perry
4:20:08 PM Senator Torres
4:20:15 PM Senator Perry
4:20:20 PM Senator Torres
4:20:23 PM Senator Perry
4:20:27 PM Chair
4:20:59 PM Senator Perry
4:21:05 PM Chair
4:21:10 PM Jared Torres, Legislative Affairs Director, Florida Department of Corrections, waives in support
4:21:21 PM Barney Bishop III, Florida Smart Justice, speaking in support
4:22:02 PM Debate? None
4:22:52 PM Senator Perry waives close
4:23:01 PM Roll Call CS/SB 7046 - Favorable

4:23:15 PM Tab 4 - SB 980 by Senator Harrell, Public Records/Petition for Certain Protective Injunctions
4:26:27 PM Amendment 238352 by Senator Harrell
4:26:52 PM Questions on amendment?
4:27:14 PM Appearance Cards?
4:27:21 PM Scott Howell, VP for External Affairs, Fla. Coalition Against Domestic Violence, waives in support
4:27:28 PM Debate on Amendment? None
4:27:34 PM Objection to adopt amendment? None. Show amendment adopted
4:27:40 PM Back on bill as amended
4:27:47 PM Scott Howell, waives in support
4:28:02 PM Barney Bishop, waives in support
4:28:06 PM Debate on bill as amended? None
4:28:12 PM Senator Harrell waives close
4:28:17 PM Questions on the bill as amended? None
4:28:19 PM Roll Call CS/SB 980 - Favorable
4:28:35 PM Tab 2 - Confirmation Hearing for Appointment of Secretary of Department of Management Services,
Jonathan R. Satter
4:28:41 PM Chair
4:28:59 PM Secretary Jonathan R. Satter sworn in as a witness
4:29:04 PM Secretary Satter addresses the committee
4:31:52 PM Chair
4:32:53 PM Questions?
4:32:57 PM Senator Torres
4:33:10 PM Secretary Satter
4:33:18 PM Senator Torres
4:33:40 PM Secretary Satter
4:34:00 PM Senator Torres
4:34:20 PM Senator Bean
4:34:23 PM Secretary Satter
4:36:08 PM Questions?
4:36:12 PM Chair
4:36:20 PM Appearance Forms? None
4:36:25 PM Senator Bean moves to recommend confirmation of Jonathan R. Satter as Secretary of Department of
Management Services
4:36:35 PM Roll Call. By your vote, the confirmation of Secretary Jonathan R. Satter is recommended favorably.
4:37:04 PM Tab 3 - SB 670 by Senator Rader, Assisted and Independent Living Facility Task Force
4:37:30 PM Chair
4:37:41 PM Amendment 642746 by Senator Rader
4:38:15 PM Questions on the amendment?
4:39:01 PM None
4:39:03 PM Appearance Cards on Amendment?
4:39:09 PM Veronica Catoe, Chief Operations Officer, Florida Assisted Living Association, waives in support
4:39:13 PM Natalie Kelly, CEO, Florida Association of Managing Entities, waives in support
4:39:22 PM Brian Jogerst. Academy of Florida Elder Law Attorneys and Elder Law Section/Florida Bar, waives in
support
4:39:42 PM Debate to amendment? None
4:39:48 PM Objections to amendment? None
4:39:50 PM Senator Rader waives close
4:39:53 PM Show amendment 672746 adopted
4:39:56 PM Back on bill as amended
4:40:01 PM Veronica Catoe, waives in support
4:40:08 PM Heather Davidson, Director of Public Policy and Initiatives, United Way of Broward County, waiving in
support
4:40:29 PM Alisa LaPort, Lobbyist, National Alliance of Mental Illness, Palm Beach, speaking in support
4:41:58 PM Debate? None
4:42:08 PM Senator Rader waives close
4:42:13 PM Roll Call CS/SB 670 - Favorable
4:42:25 PM Chair
4:42:38 PM Other business? None
4:42:44 PM Senator Albritton moves we adjourn
4:42:46 PM Is there objection? Seeing none, show the motion adopted. We are adjourned.