

1 A bill to be entitled

2 An act relating to criminal activity; creating s. 790.231,
3 F.S.; prohibiting possession of bulletproof vests by
4 certain individuals; providing penalties; amending s.
5 823.05, F.S.; revising provisions relating to the
6 enjoining of public nuisances to include certain places
7 frequented by members of criminal gangs; amending s.
8 874.01, F.S.; revising a short title; amending s. 874.02,
9 F.S.; revising legislative findings and intent; amending
10 s. 874.03, F.S.; creating and revising definitions;
11 redefining "criminal street gangs" as "criminal gangs";
12 amending s. 874.04, F.S.; conforming provisions; revising
13 an evidentiary standard; creating s. 874.045, F.S.;
14 providing that chapter 874, F.S., does not preclude arrest
15 and prosecution under other specified provisions; amending
16 s. 874.05, F.S.; revising provisions relating to
17 soliciting or causing another to join a criminal gang;
18 amending s. 874.06, F.S.; authorizing the state to bring
19 civil actions for certain violations; providing that a
20 plaintiff has a superior claim to property or proceeds;
21 providing penalties for knowing violation of certain
22 orders; amending s. 874.08, F.S.; conforming provisions
23 relating to forfeiture; amending s. 874.09, F.S.;
24 providing additional powers for the Department of Law
25 Enforcement and local law enforcement agencies relating to
26 crime data information; creating s. 874.10, F.S.;
27 prohibiting use of electronic communications to further
28 the interests of a criminal gang; providing penalties;

29 creating s. 874.11, F.S.; defining the term
30 "identification document"; prohibiting possession of
31 identification documents for specified purposes; providing
32 penalties; creating s. 874.13, F.S.; providing for the
33 suspension of driver's licenses for certain offenses;
34 amending s. 943.031, F.S.; revising provisions relating to
35 the Florida Violent Crime and Drug Control Council;
36 providing duties concerning criminal gangs; creating the
37 Drug Control Strategy and Criminal Gangs Committee;
38 providing for duties of the committee concerning funding
39 of certain programs; providing for reports; creating s.
40 948.033, F.S., prohibiting certain offenders from
41 communicating with criminal gang members; providing
42 exceptions; amending s. 947.18, F.S.; prohibiting certain
43 parolees from communicating with criminal gang members;
44 providing exceptions; amending s. 947.1405, F.S.;
45 prohibiting certain conditional releasees from
46 communicating with criminal gang members; providing
47 exceptions; amending ss. 893.138, 895.02, 921.0022,
48 921.0024, 921.141, 984.03, 985.03, 985.047, and 985.433,
49 F.S.; conforming cross-references and terminology to
50 changes made by this act; providing a directive to the
51 Division of Statutory Revision; providing an effective
52 date.

53
54 Be It Enacted by the Legislature of the State of Florida:
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56 Section 1. Section 790.231, Florida Statutes, is created
 57 to read:

58 790.231 Felons and delinquents; possession of bulletproof
 59 vests.--

60 (1) It is unlawful for any person to possess a bulletproof
 61 vest, as defined in s. 775.0846, if he or she has been:

62 (a) Convicted of a felony in the courts of this state;

63 (b) Found, in the courts of this state, to have committed
 64 a delinquent act that would be a felony if committed by an adult
 65 and such person is under 24 years of age;

66 (c) Convicted of or found to have committed a crime
 67 against the United States which is designated as a felony;

68 (d) Found to have committed a delinquent act in another
 69 state, territory, or country that would be a felony if committed
 70 by an adult and which was punishable by imprisonment for a term
 71 exceeding 1 year and such person is under 24 years of age; or

72 (e) Convicted of or found to have committed an offense
 73 that is a felony in another state, territory, or country and
 74 which was punishable by imprisonment for a term exceeding 1
 75 year.

76 (2) This section shall not apply to a person convicted of
 77 a felony whose civil rights and firearm authority have been
 78 restored.

79 (3) Any person who violates this section commits a felony
 80 of the third degree, punishable as provided in s. 775.082, s.
 81 775.083, or s. 775.084.

82 Section 2. Section 823.05, Florida Statutes, is amended to
 83 read:

84 823.05 Places declared a nuisance; may be abated and
 85 enjoined.--Whoever shall erect, establish, continue, or
 86 maintain, own or lease any building, booth, tent or place which
 87 tends to annoy the community or injure the health of the
 88 community, or become manifestly injurious to the morals or
 89 manners of the people as described in s. 823.01, or ~~shall~~ be
 90 frequented by persons who are involved in criminal gangs as
 91 described in s. 874.03 ~~the class of persons mentioned in s.~~
 92 ~~856.02~~, or any house or place of prostitution, assignation,
 93 lewdness or place or building where games of chance are engaged
 94 in violation of law or any place where any law of the state is
 95 violated, shall be deemed guilty of maintaining a nuisance, and
 96 the building, erection, place, tent or booth and the furniture,
 97 fixtures and contents are declared a nuisance. All such places
 98 or persons shall be abated or enjoined as provided in ss. 60.05
 99 and 60.06.

100 Section 3. Section 874.01, Florida Statutes, is amended to
 101 read:

102 874.01 Short title.--This chapter may be cited as the
 103 "Criminal ~~Street~~ Gang Prevention Act ~~of 1996~~."

104 Section 4. Section 874.02, Florida Statutes, is amended to
 105 read:

106 874.02 Legislative findings and intent.--

107 (1) The Legislature finds that it is the right of every
 108 person, regardless of race, color, creed, religion, national
 109 origin, sex, age, sexual orientation, or handicap, to be secure
 110 and protected from fear, intimidation, and physical harm caused
 111 by the activities of criminal ~~street~~ gangs and their members. It

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112 is not the intent of this chapter to interfere with the exercise
113 of the constitutionally protected rights of freedom of
114 expression and association. The Legislature recognizes the
115 constitutional right of every citizen to harbor and express
116 beliefs on any lawful subject whatsoever, to lawfully associate
117 with others who share similar beliefs, to petition lawfully
118 constituted authority for a redress of perceived grievances, and
119 to participate in the electoral process.

120 (2) The Legislature finds, however, that the state is
121 facing a mounting crisis caused by criminal ~~street~~ gangs whose
122 members threaten and terrorize peaceful citizens and commit a
123 multitude of crimes. These criminal ~~street~~ gang activities, both
124 individually and collectively, present a clear and present
125 danger. Street gangs, terrorist organizations, and hate groups
126 have evolved into increasingly sophisticated and complex
127 organized crime groups in their criminal tactics, their schemes,
128 and their brutality. The state has a compelling interest in
129 preventing criminal ~~street~~ gang activity and halting the real
130 and present danger posed by the proliferation of criminal gangs
131 and the graduation from more primitive forms of criminal gangs
132 to highly sophisticated criminal gangs. For these reasons, ~~and~~
133 the Legislature finds that the provisions of this chapter ~~are~~
134 are essential necessary to maintain ~~the~~ public order and safety.

135 (3) It is the intent of the Legislature to outlaw certain
136 conduct associated with the existence and proliferation of
137 criminal gangs, provide ~~eradicate the terror created by criminal~~
138 ~~street gangs and their members by providing~~ enhanced criminal
139 penalties, and eliminate ~~and by eliminating~~ the patterns,

140 profits, proceeds, instrumentalities, and property facilitating
 141 criminal ~~street~~ gang activity, including criminal ~~street~~ gang
 142 recruitment.

143 Section 5. Section 874.03, Florida Statutes, is amended to
 144 read:

145 874.03 Definitions.--As used in this chapter:

146 (1) "Criminal ~~street~~ gang" means a formal or informal
 147 ongoing organization, association, or group that has as one of
 148 its primary activities the commission of criminal or delinquent
 149 acts, and that consists of three or more persons who have a
 150 common name or common identifying signs, colors, or symbols and
 151 have two or more members who, individually or collectively,
 152 engage in or have engaged in a pattern of criminal ~~street~~ gang
 153 activity, including, but not limited to, street gangs, terrorist
 154 organizations, and hate groups.

155 (2) "Criminal ~~street~~ gang member" is a person who ~~is a~~
 156 ~~member of a criminal street gang as defined in subsection (1)~~
 157 ~~and who~~ meets two or more of the following criteria:

158 (a) Admits to criminal ~~street~~ gang membership.

159 (b) Is identified as a criminal ~~street~~ gang member by a
 160 parent or guardian.

161 (c) Is identified as a criminal ~~street~~ gang member by a
 162 documented reliable informant.

163 (d) Resides in or frequents a particular criminal ~~street~~
 164 gang's area and adopts their style of dress, their use of hand
 165 signs, or their tattoos, and associates with known criminal
 166 ~~street~~ gang members.

167 (e) Is identified as a criminal ~~street~~ gang member by an
 168 informant of previously untested reliability and such
 169 identification is corroborated by independent information.

170 (f) Has been arrested more than once in the company of
 171 identified criminal ~~street~~ gang members for offenses that ~~which~~
 172 are consistent with usual criminal ~~street~~ gang activity.

173 (g) Is identified as a criminal ~~street~~ gang member by
 174 physical evidence such as photographs or other documentation.

175 (h) Has been stopped in the company of known criminal
 176 ~~street~~ gang members four or more times.

177 (i) Has authored any communication indicating
 178 responsibility for the commission of any crime by the criminal
 179 gang.

180 (3) "Electronic communication" has the meaning provided in
 181 s. 934.02 and includes, but is not limited to, photographs,
 182 video, telephone communications, text messages, facsimile,
 183 electronic mail messages as defined in s. 668.602, and instant
 184 message real-time communications with other individuals through
 185 the Internet or other means.

186 (4) For purposes of law enforcement identification and
 187 tracking only, +

188 ~~(a)~~ "criminal ~~street~~ gang associate" means a person who:

189 (a)1. Admits to criminal ~~street~~ gang association; or

190 (b)2. Meets any single defining criterion for criminal
 191 ~~street~~ gang membership described in subsection (2).

192 ~~(b) "Gang-related incident" means an incident that, upon~~
 193 ~~investigation, meets any of the following conditions.~~

194 ~~1. The participants are identified as criminal street gang~~
 195 ~~members or criminal street gang associates, acting, individually~~
 196 ~~or collectively, to further any criminal purpose of the gang;~~

197 ~~2. A reliable informant identifies an incident as criminal~~
 198 ~~street gang activity; or~~

199 ~~3. an informant of previously untested reliability~~
 200 ~~identifies an incident as criminal street gang activity and it~~
 201 ~~is corroborated by independent information.~~

202 (5) "Hate group" means an organization whose primary
 203 purpose is to promote animosity, hostility, and malice against a
 204 person or persons or against the property of a person or persons
 205 because of race, religion, disability, sexual orientation,
 206 ethnicity, or national origin.

207 (6)(3) "Pattern of criminal street gang activity" means
 208 the commission or attempted commission of, or solicitation or
 209 conspiracy to commit, as a criminal gang member, two or more
 210 felony or three or more misdemeanor offenses, or one felony and
 211 two misdemeanor offenses, or the comparable number of delinquent
 212 acts or violations of law which would be felonies or
 213 misdemeanors if committed by an adult, on separate occasions
 214 within a 3-year period, excluding any period of incarceration.

215 (7) "Street gang" is a formal or informal ongoing
 216 organization, entity, association, or group consisting of three
 217 or more persons with a common name or common identifying signs,
 218 colors, or symbols and two or more members who, individually or
 219 collectively, have as one of their primary activities the
 220 commission of criminal or delinquent acts and engage in or have
 221 engaged in a pattern of criminal activity.

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222 (8) "Terrorist organization" means any organized group
223 engaged in or organized for the purpose of engaging in terrorism
224 as defined in s. 775.30. This definition shall not be construed
225 to prevent prosecution of individuals acting alone under this
226 chapter.

227 Section 6. Section 874.04, Florida Statutes, is amended to
228 read:

229 874.04 Criminal ~~street~~ gang activity; enhanced
230 penalties.--Upon a finding ~~by the court at sentencing~~ that the
231 defendant committed the charged offense for the purpose of
232 benefiting, promoting, or furthering the interests of a criminal
233 ~~street~~ gang, the penalty for any felony or misdemeanor, or any
234 delinquent act or violation of law which would be a felony or
235 misdemeanor if committed by an adult, may be enhanced. Penalty
236 enhancement affects the applicable statutory maximum penalty
237 only. Each of the findings required as a basis for such sentence
238 shall be found beyond a reasonable doubt ~~by a preponderance of~~
239 ~~the evidence.~~ The enhancement will be as follows:

240 (1) (a) A misdemeanor of the second degree may be punished
241 as if it were a misdemeanor of the first degree.

242 (b) A misdemeanor of the first degree may be punished as
243 if it were a felony of the third degree. For purposes of
244 sentencing under chapter 921 and determining incentive gain-time
245 eligibility under chapter 944, such offense is ranked in level 1
246 of the offense severity ranking chart. The criminal ~~street~~ gang
247 multiplier in s. 921.0024 does not apply to misdemeanors
248 enhanced under this paragraph.

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249 (2) (a) A felony of the third degree may be punished as if
 250 it were a felony of the second degree.

251 (b) A felony of the second degree may be punished as if it
 252 were a felony of the first degree.

253 (c) A felony of the first degree may be punished as if it
 254 were a life felony.

255

256 For purposes of sentencing under chapter 921 and determining
 257 incentive gain-time eligibility under chapter 944, such felony
 258 offense is ranked as provided in s. 921.0022 or s. 921.0023, and
 259 without regard to the penalty enhancement in this subsection.

260 ~~For purposes of this section, penalty enhancement affects the~~
 261 ~~applicable statutory maximum penalty only.~~

262 Section 7. Section 874.045, Florida Statutes, is created
 263 to read:

264 874.045 Arrest and prosecution under other
 265 provisions.--Nothing in this chapter shall prohibit the arrest
 266 and prosecution of a criminal gang member under chapter 876,
 267 chapter 895, chapter 896, s. 893.20, or any other applicable
 268 provision of law except to the extent otherwise prohibited
 269 pursuant to a statutory or constitutional provision.

270 Section 8. Section 874.05, Florida Statutes, is amended to
 271 read:

272 874.05 Causing, encouraging, soliciting, or recruiting
 273 criminal ~~street~~ gang membership.--

274 (1) Except as provided in subsection (2), a person who
 275 intentionally causes, encourages, solicits, or recruits another
 276 person to become a criminal gang member where ~~join a criminal~~

277 ~~street gang that requires as~~ a condition of membership or
 278 continued membership is the commission of any crime commits a
 279 felony of the third degree, punishable as provided in s.
 280 775.082, s. 775.083, or s. 775.084.

281 (2) A person who commits ~~Upon~~ a second or subsequent
 282 violation ~~offense, the person~~ commits a felony of the second
 283 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 284 775.084.

285 Section 9. Section 874.06, Florida Statutes, is amended to
 286 read:

287 874.06 Civil cause of action.--

288 (1) A person or organization establishing, by clear and
 289 convincing evidence, coercion, intimidation, threats, or other
 290 harm to that person or organization in violation of this chapter
 291 has a civil cause of action for treble damages, an injunction,
 292 or any other appropriate relief in law or equity. Upon
 293 prevailing, the plaintiff may recover ~~reasonable~~ attorney's fees
 294 in the trial and appellate courts and the costs of investigation
 295 and litigation that reasonably incurred ~~and costs.~~

296 (2) (a) For purposes of this subsection, the term "state"
 297 includes any of the state's agencies, instrumentalities,
 298 subdivisions, or municipalities.

299 (b) In addition to any remedies provided for by ss. 60.05
 300 and 823.05, the state has a civil cause of action against any
 301 person or organization if it proves by clear and convincing
 302 evidence that it has been injured by reason of a violation of
 303 this chapter by the person or organization. The state has a
 304 civil cause of action for treble damages, injunctive relief, or

305 any other relief in law or equity which the court deems
 306 appropriate. If the state prevails, it may also recover
 307 attorney's fees in the trial and appellate courts and the costs
 308 of investigation and litigation that are reasonably incurred.
 309 The state may not recover punitive damages. The defendant is
 310 entitled to recover reasonable attorney's fees and court costs
 311 if the court finds that the state raised a claim that was
 312 without factual or legal support.

313 (3) A prevailing plaintiff under subsection (1) has a
 314 right or claim that is superior to any right or claim that the
 315 state has in the same property or proceeds.

316 (4) A person who knowingly violates a temporary or
 317 permanent order issued under this section or s. 60.05 commits a
 318 misdemeanor of the first degree, punishable as provided in s.
 319 775.082 or s. 775.083.

320 Section 10. Section 874.08, Florida Statutes, is amended
 321 to read:

322 874.08 Criminal gang activity and Profits, proceeds, and
 323 ~~instrumentalities of criminal street gangs or criminal street~~
 324 ~~gang~~ recruitment; forfeiture.--All profits, proceeds, and
 325 instrumentalities of criminal ~~street~~ gang activity and all
 326 property used or intended or attempted to be used to facilitate
 327 the criminal activity of any criminal ~~street~~ gang or of any
 328 criminal ~~street~~ gang member; and all profits, proceeds, and
 329 instrumentalities of criminal ~~street~~ gang recruitment and all
 330 property used or intended or attempted to be used to facilitate
 331 criminal ~~street~~ gang recruitment are subject to seizure and

332 forfeiture under the Florida Contraband Forfeiture Act, s.
 333 932.704.

334 Section 11. Section 874.09, Florida Statutes, is amended
 335 to read:

336 874.09 Crime data information.--

337 (1) The Department of Law Enforcement may:

338 (a) Develop and manage a statewide criminal ~~street~~ gang
 339 database to facilitate the exchange of information pursuant to
 340 the intent and purpose of this chapter.

341 (b) Notify all law enforcement agencies that reports of
 342 arrested criminal gang members or associates shall be entered
 343 into the database as soon as the minimum level of data specified
 344 by the department is available to the reporting agency and no
 345 waiting period for the entry of that data exists.

346 (c) Compile and retain information regarding criminal
 347 gangs and their members and associates in a manner that allows
 348 the information to be used by law enforcement and other agencies
 349 deemed appropriate for investigative purposes.

350 (d) Compile and maintain a history data repository
 351 relating to criminal gangs and their members and associates in
 352 order to develop and improve techniques used by law enforcement
 353 agencies and prosecutors in the investigation, apprehension, and
 354 prosecution of members and affiliates of criminal gangs.

355 (2) Local law enforcement agencies may:

356 (a) After carrying out any arrest of any individual who
 357 they believe is a member or associate of a criminal gang, create
 358 or update that individual's electronic file within the database.

359 (b) Notify the prosecutor of the accused individual's
 360 suspected criminal gang membership or associate status.

361 Section 12. Section 874.10, Florida Statutes, is created
 362 to read:

363 874.10 Electronic communication.--Any person who, for the
 364 purpose of benefiting, promoting, or furthering the interests of
 365 a criminal gang, uses electronic communication to intimidate or
 366 harass other persons, or to advertise his or her presence in the
 367 community, including, but not limited to, such activities as
 368 distributing, selling, transmitting, or posting on the Internet
 369 any audio, video, or still image of criminal activity, commits a
 370 felony of the third degree, punishable as provided in s.
 371 775.082, s. 775.083, or s. 775.084.

372 Section 13. Section 874.11, Florida Statutes, is created
 373 to read:

374 874.11 Identification documents; unlawful possession or
 375 creation.--

376 (1) For purposes of this section, the term "identification
 377 document" includes, but is not limited to, a social security
 378 card or number, a birth certificate, a driver's license, an
 379 identification card pursuant to s. 322.051, a naturalization
 380 certificate, an alien registration number, a passport, and any
 381 access credentials for a publicly operated facility or an
 382 infrastructure facility covered under 18 U.S.C. s. 2332f.

383 (2) Any person possessing or manufacturing any blank,
 384 forged, stolen, fictitious, fraudulent, counterfeit, or
 385 otherwise unlawfully issued identification document for the
 386 purpose of benefiting, promoting, or furthering the interests of

387 a criminal gang commits a felony of the second degree,
388 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

389 Section 14. Section 874.13, Florida Statutes, is created
390 to read:

391 874.13 Suspension of driver's license.--

392 (1) For purposes of this section:

393 (a) "Department" means the Department of Highway Safety
394 and Motor Vehicles.

395 (b) "Convicted" means a determination of guilt that is the
396 result of a trial or the entry of a plea of guilty or nolo
397 contendere, regardless of whether adjudication is withheld.

398 (2) In addition to any other penalty provided by law, the
399 court shall order the suspension of the driver's license of each
400 person convicted or adjudicated delinquent of any offense
401 contained in this chapter and of any person whose penalty has
402 been enhanced pursuant to s. 874.04. Upon ordering the
403 suspension of the driver's license, the court shall forward the
404 driver's license to the department in accordance with s. 322.25.

405 (a) The first suspension of a driver's license under this
406 section shall be for a period of 6 months.

407 (b) A second or subsequent suspension of a driver's
408 license under this section shall be for 1 year.

409 (3) A court that suspends a driver's license pursuant to
410 subsection (2) shall, if the person is sentenced to a term of
411 incarceration, direct the department to commence the suspension
412 of the person's driver's license upon the person's release from
413 incarceration.

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414 Section 15. Section 943.031, Florida Statutes, is amended
415 to read:

416 943.031 Florida Violent Crime and Drug Control Council.--

417 (1) FINDINGS.--The Legislature finds that there is a need
418 to develop and implement a statewide strategy to address violent
419 criminal activity, including crimes committed by criminal gangs,
420 and drug control efforts by state and local law enforcement
421 agencies, including investigations of illicit money laundering.
422 In recognition of this need, the Florida Violent Crime and Drug
423 Control Council is created within the department. The council
424 shall serve in an advisory capacity to the department.

425 (2)~~(1)~~ MEMBERSHIP.--The council shall consist of 14
426 members, as follows:

427 (a) The Attorney General or a designate.

428 (b) A designate of the executive director of the
429 Department of Law Enforcement.

430 (c) The secretary of the Department of Corrections or a
431 designate.

432 (d) The Secretary of Juvenile Justice or a designate.

433 (e) The Commissioner of Education or a designate.

434 (f) The president of the Florida Network of Victim/Witness
435 Services, Inc., or a designate.

436 (g) The director of the Office of Drug Control within the
437 Executive Office of the Governor, or a designate.

438 (h) The Chief Financial Officer, or a designate.

439 (i) Six members appointed by the Governor, consisting of
440 two sheriffs, two chiefs of police, one medical examiner, and
441 one state attorney or their designates.

442
443 The Governor, when making appointments under this subsection,
444 must take into consideration representation by geography,
445 population, ethnicity, and other relevant factors to ensure that
446 the membership of the council is representative of the state at
447 large. Designates appearing on behalf of a council member who is
448 unable to attend a meeting of the council are empowered to vote
449 on issues before the council to the same extent the designating
450 council member is so empowered.

451 (3)~~(2)~~ TERMS OF MEMBERSHIP; OFFICERS; COMPENSATION;
452 STAFF.--

453 (a) Members appointed by the Governor shall be appointed
454 for terms of 2 years. The other members are standing members of
455 the council. In no event shall a member serve beyond the time he
456 or she ceases to hold the office or employment which was the
457 basis for appointment to the council. In the event of a vacancy,
458 an appointment to fill the vacancy shall be only for the
459 unexpired term.

460 (b) The Legislature finds that the council serves a
461 legitimate state, county, and municipal purpose and that service
462 on the council is consistent with a member's principal service
463 in a public office or employment. Membership on the council does
464 not disqualify a member from holding any other public office or
465 being employed by a public entity, except that no member of the
466 Legislature shall serve on the council.

467 (c) The members of the council shall elect a chair and a
468 vice chair every 2 years, to serve for a 2-year term. As deemed
469 appropriate, other officers may be elected by the members.

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470 (d) Members of the council or their designates shall serve
471 without compensation but are entitled to reimbursement for per
472 diem and travel expenses pursuant to s. 112.061. Reimbursements
473 made pursuant to this paragraph may be paid from either the
474 Violent Crime Investigative Emergency and Drug Control Strategy
475 Implementation Account within the Department of Law Enforcement
476 Operating Trust Fund or from other appropriations provided to
477 the department by the Legislature in the General Appropriations
478 Act.

479 (e) The department shall provide the council with staff
480 necessary to assist the council in the performance of its
481 duties.

482 (4)~~(3)~~ MEETINGS.--The council must meet at least
483 semiannually. Additional meetings may be held when it is
484 determined by the chair that extraordinary circumstances require
485 an additional meeting of the council. A majority of the members
486 of the council constitutes a quorum.

487 (5)~~(4)~~ DUTIES OF COUNCIL.--The council shall provide
488 advice and make recommendations, as necessary, to the executive
489 director of the department.

490 (a) The council may advise the executive director on the
491 feasibility of undertaking initiatives which include, but are
492 not limited to, the following:

493 1. Establishing a program which provides grants to
494 criminal justice agencies that develop and implement effective
495 violent crime prevention and investigative programs and which
496 provides grants to law enforcement agencies for the purpose of
497 drug control, criminal gang, and illicit money laundering

498 | investigative efforts or task force efforts that are determined
499 | by the council to significantly contribute to achieving the
500 | state's goal of reducing drug-related crime as articulated by
501 | the Office of Drug Control, that represent significant criminal
502 | gang investigative efforts, that represent a significant illicit
503 | money laundering investigative effort, or that otherwise
504 | significantly support statewide strategies developed by the
505 | Statewide Drug Policy Advisory Council established under s.
506 | 397.333, subject to the limitations provided in this section.
507 | The grant program may include an innovations grant program to
508 | provide startup funding for new initiatives by local and state
509 | law enforcement agencies to combat violent crime or to implement
510 | drug control, significant criminal gang investigative efforts,
511 | or illicit money laundering investigative efforts or task force
512 | efforts by law enforcement agencies, including, but not limited
513 | to, initiatives such as:

- 514 | a. Providing enhanced community-oriented policing.
- 515 | b. Providing additional undercover officers and other
516 | investigative officers to assist with violent crime
517 | investigations in emergency situations.
- 518 | c. Providing funding for multiagency or statewide drug
519 | control, criminal gang, or illicit money laundering
520 | investigative efforts or task force efforts that cannot be
521 | reasonably funded completely by alternative sources and that
522 | significantly contribute to achieving the state's goal of
523 | reducing drug-related crime as articulated by the Office of Drug
524 | Control, that represent significant criminal gang investigative
525 | efforts, that represent a significant illicit money laundering

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526 investigative effort, or that otherwise significantly support
527 statewide strategies developed by the Statewide Drug Policy
528 Advisory Council established under s. 397.333.

529 2. Expanding the use of automated fingerprint
530 identification systems at the state and local level.

531 3. Identifying methods to prevent violent crime.

532 4. Identifying methods to enhance multiagency or statewide
533 drug control, criminal gang, or illicit money laundering
534 investigative efforts or task force efforts that significantly
535 contribute to achieving the state's goal of reducing drug-
536 related crime as articulated by the Office of Drug Control, that
537 represent significant criminal gang investigative efforts, that
538 represent a significant illicit money laundering investigative
539 effort, or that otherwise significantly support statewide
540 strategies developed by the Statewide Drug Policy Advisory
541 Council established under s. 397.333.

542 5. Enhancing criminal justice training programs which
543 address violent crime, efforts to control and eliminate criminal
544 gangs, drug control, or illicit money laundering investigative
545 techniques or efforts.

546 6. Developing and promoting crime prevention services and
547 educational programs that serve the public, including, but not
548 limited to:

549 a. Enhanced victim and witness counseling services that
550 also provide crisis intervention, information referral,
551 transportation, and emergency financial assistance.

552 b. A well-publicized rewards program for the apprehension
553 and conviction of criminals who perpetrate violent crimes.

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554 7. Enhancing information sharing and assistance in the
555 criminal justice community by expanding the use of community
556 partnerships and community policing programs. Such expansion may
557 include the use of civilian employees or volunteers to relieve
558 law enforcement officers of clerical work in order to enable the
559 officers to concentrate on street visibility within the
560 community.

561 (b) The full council shall:

562 1. Receive periodic reports from regional violent crime
563 investigation and statewide drug control strategy implementation
564 coordinating teams which relate to violent crime trends or the
565 investigative needs or successes in the regions, including
566 discussions regarding the activity of significant criminal gangs
567 in the region, factors, and trends relevant to the
568 implementation of the statewide drug strategy, and the results
569 of drug control and illicit money laundering investigative
570 efforts funded in part by the council.

571 2. Maintain and use ~~utilize~~ criteria for the disbursement
572 of funds from the Violent Crime Investigative Emergency and Drug
573 Control Strategy Implementation Account or any other account
574 from which the council may disburse proactive investigative
575 funds as may be established within the Department of Law
576 Enforcement Operating Trust Fund or other appropriations
577 provided to the Department of Law Enforcement by the Legislature
578 in the General Appropriations Act. The criteria shall allow for
579 the advancement of funds to reimburse agencies regarding violent
580 crime investigations as approved by the full council and the
581 advancement of funds to implement proactive drug control

582 strategies or significant criminal gang investigative efforts as
583 authorized by the Drug Control Strategy and Criminal Gang
584 Committee or the Victim and Witness Protection Review Committee.
585 Regarding violent crime investigation reimbursement, an
586 expedited approval procedure shall be established for rapid
587 disbursement of funds in violent crime emergency situations.

588 3. As used in this section, "significant criminal gang
589 investigative efforts" eligible for proactive funding must
590 involve as a minimum an effort against a known criminal gang
591 that:

592 a. Involves multiple law enforcement agencies.

593 b. Reflects a dedicated significant investigative effort
594 on the part of each participating agency in personnel, time
595 devoted to the investigation, and agency resources dedicated to
596 the effort.

597 c. Reflects a dedicated commitment by a prosecuting
598 authority to ensure that cases developed by the investigation
599 will be timely and effectively prosecuted.

600 d. Demonstrates a strategy and commitment to dismantling
601 the criminal gang via seizures of assets, significant money
602 laundering, and organized crime investigations and prosecutions,
603 or similar efforts.

604

605 The council may require satisfaction of additional elements, to
606 include reporting criminal investigative and criminal
607 intelligence information related to criminal gang activity and
608 members in a manner required by the department, as a
609 prerequisite for receiving proactive criminal gang funding.

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610 (6) DRUG CONTROL STRATEGY AND CRIMINAL GANG COMMITTEE.--

611 (a) The Drug Control Strategy and Criminal Gang Committee
612 is created within the Florida Violent Crime and Drug Control
613 Council, consisting of the following council members:

614 1. The Attorney General or a designate.

615 2. The designate of the executive director of the
616 Department of Law Enforcement.

617 3. The secretary of the Department of Corrections or a
618 designate.

619 4. The director of the Office of Drug Control within the
620 Executive Office of the Governor.

621 5. The state attorney, the two sheriffs, and the two
622 chiefs of police, or their designates.

623 (b) The committee shall

624 ~~3-~~ review and approve all requests for disbursement of
625 funds from the Violent Crime Investigative Emergency and Drug
626 Control Strategy Implementation Account within the Department of
627 Law Enforcement Operating Trust Fund and from other
628 appropriations provided to the department by the Legislature in
629 the General Appropriations Act. An expedited approval procedure
630 shall be established for rapid disbursement of funds in violent
631 crime emergency situations.

632 (c) Those receiving any proactive funding provided by the
633 council through the committee shall be required to report the
634 results of the investigations to the council once the
635 investigation has been completed. The committee shall also
636 require ongoing status reports on ongoing investigations using
637 such findings in its closed sessions.

638 ~~(7)(5)~~ REPORTS.--The council shall report annually on its
639 activities, on or before December 30 of each calendar year, to
640 the executive director, the President of the Senate, the Speaker
641 of the House of Representatives, and the chairs of the Senate
642 and House committees having principal jurisdiction over criminal
643 law. Comments and responses of the executive director to the
644 report are to be included.

645 ~~(8)(6)~~ VICTIM AND WITNESS PROTECTION REVIEW COMMITTEE.--

646 (a) The Victim and Witness Protection Review Committee is
647 created within the Florida Violent Crime and Drug Control
648 Council, consisting of the statewide prosecutor or a state
649 attorney, a sheriff, a chief of police, and the designee of the
650 executive director of the Department of Law Enforcement. The
651 committee shall be appointed from the membership of the council
652 by the chair of the council after the chair has consulted with
653 the executive director of the Department of Law Enforcement.
654 Committee members shall meet in conjunction with the meetings of
655 the council.

656 (b) The committee shall:

657 1. Maintain and use ~~utilize~~ criteria for disbursing funds
658 to reimburse law enforcement agencies for costs associated with
659 providing victim and witness protective or temporary relocation
660 services.

661 2. Review and approve or deny, in whole or in part, all
662 reimbursement requests submitted by law enforcement agencies.

663 (c) The lead law enforcement agency providing victim or
664 witness protective or temporary relocation services pursuant to
665 the provisions of s. 914.25 may submit a request for

666 reimbursement to the Victim and Witness Protection Review
667 Committee in a format approved by the committee. The lead law
668 enforcement agency shall submit such reimbursement request on
669 behalf of all law enforcement agencies that cooperated in
670 providing protective or temporary relocation services related to
671 a particular criminal investigation or prosecution. As part of
672 the reimbursement request, the lead law enforcement agency must
673 indicate how any reimbursement proceeds will be distributed
674 among the agencies that provided protective or temporary
675 relocation services.

676 (d) The committee, in its discretion, may use funds
677 available to the committee to provide all or partial
678 reimbursement to the lead law enforcement agency for such costs,
679 or may decline to provide any reimbursement.

680 (e) The committee may conduct its meeting by
681 teleconference or conference phone calls when the chair of the
682 committee finds that the need for reimbursement is such that
683 delaying until the next scheduled council meeting will adversely
684 affect the requesting agency's ability to provide the protection
685 services.

686 (9)~~(7)~~ CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL
687 MEETINGS AND RECORDS.--

688 (a) The Legislature finds that during limited portions of
689 the meetings of the Florida Violent Crime and Drug Control
690 Council it is necessary that the council be presented with and
691 discuss details, information, and documents related to active
692 criminal investigations or matters constituting active criminal
693 intelligence, as those concepts are defined by s. 119.011. These

694 presentations and discussions are necessary for the council to
695 make its funding decisions as required by the Legislature. The
696 Legislature finds that to reveal the contents of documents
697 containing active criminal investigative or intelligence
698 information or to allow active criminal investigative or active
699 criminal intelligence matters to be discussed in a meeting open
700 to the public negatively impacts the ability of law enforcement
701 agencies to efficiently continue their investigative or
702 intelligence gathering activities. The Legislature finds that
703 information coming before the council that pertains to active
704 criminal investigations or intelligence should remain
705 confidential and exempt from public disclosure. The Legislature
706 finds that the Florida Violent Crime and Drug Control Council
707 may, by declaring only those portions of council meetings in
708 which active criminal investigative or active criminal
709 intelligence information is to be presented or discussed closed
710 to the public, assure an appropriate balance between the policy
711 of this state that meetings be public and the policy of this
712 state to facilitate efficient law enforcement efforts.

713 (b) The Florida Violent Crime and Drug Control Council
714 shall be considered a "criminal justice agency" within the
715 definition of s. 119.011(4).

716 (c)1. The Florida Violent Crime and Drug Control Council
717 may close portions of meetings during which the council will
718 hear or discuss active criminal investigative information or
719 active criminal intelligence information, and such portions of
720 meetings shall be exempt from the provisions of s. 286.011 and

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721 s. 24(b), Art. I of the State Constitution, provided that the
722 following conditions are met:

723 a. The chair of the council shall advise the council at a
724 public meeting that, in connection with the performance of a
725 council duty, it is necessary that the council hear or discuss
726 active criminal investigative information or active criminal
727 intelligence information.

728 b. The chair's declaration of necessity for closure and
729 the specific reasons for such necessity shall be stated in
730 writing in a document that shall be a public record and shall be
731 filed with the official records of the council.

732 c. The entire closed session shall be recorded. The
733 recording shall include the times of commencement and
734 termination of the closed session, all discussion and
735 proceedings, and the names of all persons present. No portion of
736 the session shall be off the record. Such recording shall be
737 maintained by the council.

738 2. Only members of the council, Department of Law
739 Enforcement staff supporting the council's function, and other
740 persons whose presence has been authorized by the chair of the
741 council shall be allowed to attend the exempted portions of the
742 council meetings. The council shall assure that any closure of
743 its meetings as authorized by this section is limited so that
744 the general policy of this state in favor of public meetings is
745 maintained.

746 (d) A tape recording of, and any minutes and notes
747 generated during, that portion of a Florida Violent Crime and
748 Drug Control Council meeting which is closed to the public

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749 pursuant to this section are confidential and exempt from s.
750 119.07(1) and s. 24(a), Art. I of the State Constitution until
751 such time as the criminal investigative information or criminal
752 intelligence information ceases to be active.

753 Section 16. Section 948.033, Florida Statutes, is created
754 to read:

755 948.033 Condition of probation or community control;
756 criminal gang.--Effective for a probationer or community
757 controllee whose crime was committed on or after July 1, 2008,
758 and who has been found to have committed the crime for the
759 purpose of benefiting, promoting, or furthering the interests of
760 criminal gang, the court shall, in addition to any other
761 conditions imposed, impose a condition prohibiting the
762 probationer or community controllee from knowingly associating
763 with other criminal gang members or associates, except as
764 authorized by law enforcement officials, prosecutorial
765 authorities, or the court, for the purpose of aiding in the
766 investigation of criminal gang activity.

767 Section 17. Section 947.18, Florida Statutes, is amended
768 to read:

769 947.18 Conditions of parole.--No person shall be placed on
770 parole merely as a reward for good conduct or efficient
771 performance of duties assigned in prison. No person shall be
772 placed on parole until and unless the commission finds that
773 there is reasonable probability that, if the person is placed on
774 parole, he or she will live and conduct himself or herself as a
775 respectable and law-abiding person and that the person's release
776 will be compatible with his or her own welfare and the welfare

777 of society. No person shall be placed on parole unless and until
778 the commission is satisfied that he or she will be suitably
779 employed in self-sustaining employment or that he or she will
780 not become a public charge. The commission shall determine the
781 terms upon which such person shall be granted parole. If the
782 person's conviction was for a controlled substance violation,
783 one of the conditions must be that the person submit to random
784 substance abuse testing intermittently throughout the term of
785 supervision, upon the direction of the correctional probation
786 officer as defined in s. 943.10(3). In addition to any other
787 lawful condition of parole, the commission may make the payment
788 of the debt due and owing to the state under s. 960.17 or the
789 payment of the attorney's fees and costs due and owing to the
790 state under s. 938.29 a condition of parole subject to
791 modification based on change of circumstances. If the person's
792 conviction was for a crime that was found to have been committed
793 for the purpose of benefiting, promoting, or furthering the
794 interests of a criminal gang, one of the conditions must be that
795 the person be prohibited from knowingly associating with other
796 criminal gang members or associates, except as authorized by law
797 enforcement officials, prosecutorial authorities, or the court,
798 for the purpose of aiding in the investigation of criminal gang.

799 Section 18. Subsection (11) is added to section 947.1405,
800 Florida Statutes, to read:

801 947.1405 Conditional release program.--

802 (11) Effective for a releasee whose crime was committed on
803 or after July 1, 2008, and who has been found to have committed
804 the crime for the purpose of benefiting, promoting, or

805 furthering the interests of a criminal gang, the commission
 806 shall, in addition to any other conditions imposed, impose a
 807 condition prohibiting the releasee from knowingly associating
 808 with other criminal gang members or associates, except as
 809 authorized by law enforcement officials, prosecutorial
 810 authorities, or the court, for the purpose of aiding in the
 811 investigation of criminal gang activity.

812 Section 19. Paragraph (d) of subsection (2) of section
 813 893.138, Florida Statutes, is amended to read:

814 893.138 Local administrative action to abate drug-related,
 815 prostitution-related, or stolen-property-related public
 816 nuisances and criminal ~~street~~ gang activity.--

817 (2) Any place or premises that has been used:

818 (d) By a criminal ~~street~~ gang for the purpose of
 819 conducting a pattern of criminal ~~street~~ gang activity as defined
 820 by s. 874.03; or

821
 822 may be declared to be a public nuisance, and such nuisance may
 823 be abated pursuant to the procedures provided in this section.

824 Section 20. Paragraph (a) of subsection (1) and subsection
 825 (3) of section 895.02, Florida Statutes, are amended to read:

826 895.02 Definitions.--As used in ss. 895.01-895.08, the
 827 term:

828 (1) "Racketeering activity" means to commit, to attempt to
 829 commit, to conspire to commit, or to solicit, coerce, or
 830 intimidate another person to commit:

- 831 (a) Any crime that is chargeable by indictment or
832 information under the following provisions of the Florida
833 Statutes:
- 834 1. Section 210.18, relating to evasion of payment of
835 cigarette taxes.
 - 836 2. Section 403.727(3)(b), relating to environmental
837 control.
 - 838 3. Section 409.920 or s. 409.9201, relating to Medicaid
839 fraud.
 - 840 4. Section 414.39, relating to public assistance fraud.
 - 841 5. Section 440.105 or s. 440.106, relating to workers'
842 compensation.
 - 843 6. Section 443.071(4), relating to creation of a
844 fictitious employer scheme to commit unemployment compensation
845 fraud.
 - 846 7. Section 465.0161, relating to distribution of medicinal
847 drugs without a permit as an Internet pharmacy.
 - 848 8. Sections 499.0051, 499.0052, 499.00535, 499.00545, and
849 499.0691, relating to crimes involving contraband and
850 adulterated drugs.
 - 851 9. Part IV of chapter 501, relating to telemarketing.
 - 852 10. Chapter 517, relating to sale of securities and
853 investor protection.
 - 854 11. Section 550.235, s. 550.3551, or s. 550.3605, relating
855 to dogracing and horseracing.
 - 856 12. Chapter 550, relating to jai alai frontons.
 - 857 13. Section 551.109, relating to slot machine gaming.

- 858 14. Chapter 552, relating to the manufacture,
859 distribution, and use of explosives.
- 860 15. Chapter 560, relating to money transmitters, if the
861 violation is punishable as a felony.
- 862 16. Chapter 562, relating to beverage law enforcement.
- 863 17. Section 624.401, relating to transacting insurance
864 without a certificate of authority, s. 624.437(4)(c)1., relating
865 to operating an unauthorized multiple-employer welfare
866 arrangement, or s. 626.902(1)(b), relating to representing or
867 aiding an unauthorized insurer.
- 868 18. Section 655.50, relating to reports of currency
869 transactions, when such violation is punishable as a felony.
- 870 19. Chapter 687, relating to interest and usurious
871 practices.
- 872 20. Section 721.08, s. 721.09, or s. 721.13, relating to
873 real estate timeshare plans.
- 874 21. Chapter 782, relating to homicide.
- 875 22. Chapter 784, relating to assault and battery.
- 876 23. Chapter 787, relating to kidnapping or human
877 trafficking.
- 878 24. Chapter 790, relating to weapons and firearms.
- 879 25. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.
880 796.05, or s. 796.07, relating to prostitution and sex
881 trafficking.
- 882 26. Chapter 806, relating to arson.
- 883 27. Section 810.02(2)(c), relating to specified burglary
884 of a dwelling or structure.

- 885 28. Chapter 812, relating to theft, robbery, and related
886 crimes.
- 887 29. Chapter 815, relating to computer-related crimes.
- 888 30. Chapter 817, relating to fraudulent practices, false
889 pretenses, fraud generally, and credit card crimes.
- 890 31. Chapter 825, relating to abuse, neglect, or
891 exploitation of an elderly person or disabled adult.
- 892 32. Section 827.071, relating to commercial sexual
893 exploitation of children.
- 894 33. Chapter 831, relating to forgery and counterfeiting.
- 895 34. Chapter 832, relating to issuance of worthless checks
896 and drafts.
- 897 35. Section 836.05, relating to extortion.
- 898 36. Chapter 837, relating to perjury.
- 899 37. Chapter 838, relating to bribery and misuse of public
900 office.
- 901 38. Chapter 843, relating to obstruction of justice.
- 902 39. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or
903 s. 847.07, relating to obscene literature and profanity.
- 904 40. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.
905 849.25, relating to gambling.
- 906 41. Chapter 874, entitled "Organized Criminal Activity
907 Enforcement and Prevention." ~~relating to criminal street gangs.~~
- 908 42. Chapter 893, relating to drug abuse prevention and
909 control.
- 910 43. Chapter 896, relating to offenses related to financial
911 transactions.

912 44. Sections 914.22 and 914.23, relating to tampering with
 913 a witness, victim, or informant, and retaliation against a
 914 witness, victim, or informant.

915 45. Sections 918.12 and 918.13, relating to tampering with
 916 jurors and evidence.

917 (3) "Enterprise" means any individual, sole
 918 proprietorship, partnership, corporation, business trust, union
 919 chartered under the laws of this state, or other legal entity,
 920 or any unchartered union, association, or group of individuals
 921 associated in fact although not a legal entity; and it includes
 922 illicit as well as licit enterprises and governmental, as well
 923 as other, entities. A criminal ~~street~~ gang, as defined in s.
 924 874.03, constitutes an enterprise.

925 Section 21. Paragraphs (d) and (e) of subsection (3) of
 926 section 921.0022, Florida Statutes, are amended to read:

927 921.0022 Criminal Punishment Code; offense severity
 928 ranking chart.--

929 (3) OFFENSE SEVERITY RANKING CHART

930 (d) LEVEL 4

931

Florida Statute	Felony Degree	Description
316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights

932

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activated.

933

499.0051(1) 3rd Failure to maintain or deliver pedigree papers.

934

499.0051(2) 3rd Failure to authenticate pedigree papers.

935

499.0051(6) 2nd Sale or delivery, or possession with intent to sell, contraband legend drugs.

936

784.07(2)(b) 3rd Battery of law enforcement officer, firefighter, intake officer, etc.

937

784.074(1)(c) 3rd Battery of sexually violent predators facility staff.

938

784.075 3rd Battery on detention or commitment facility staff.

939

784.078 3rd Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.

940

784.08(2)(c) 3rd Battery on a person 65 years of age or older.

941

784.081(3) 3rd Battery on specified official or employee.

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943	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
944	784.083 (3)	3rd	Battery on code inspector.
945	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
946	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
947	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
948	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
949	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
950	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
951	790.115 (2) (c)	3rd	Possessing firearm on school property.

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952	800.04 (7) (d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
953	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
954	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
955	810.06	3rd	Burglary; possession of tools.
956	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
957	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
958	812.014 (2) (c) 4.- 10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
959	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
960	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03 (5) drugs.

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961	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
962	817.625 (2) (a)	3rd	Fraudulent use of scanning device or reencoder.
963	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
964	837.02 (1)	3rd	Perjury in official proceedings.
965	837.021 (1)	3rd	Make contradictory statements in official proceedings.
966	838.022	3rd	Official misconduct.
967	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
968	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
969	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of

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protection or communication.

970

843.15(1)(a) 3rd

Failure to appear while on bail for felony (bond estreature or bond jumping).

971

874.05(1) 3rd

Encouraging or recruiting another to join a criminal ~~street~~ gang.

972

893.13(2)(a)1. 2nd

Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).

973

914.14(2) 3rd

Witnesses accepting bribes.

974

914.22(1) 3rd

Force, threaten, etc., witness, victim, or informant.

975

914.23(2) 3rd

Retaliation against a witness, victim, or informant, no bodily injury.

976

918.12 3rd

Tampering with jurors.

977

934.215 3rd

Use of two-way communications device to facilitate commission of a crime.

978

979 (e) LEVEL 5

980

Florida Felony Description

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	Statute	Degree	
981	316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
982	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
983	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
984	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
985	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
986	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
987	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
988	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
989	624.401(4)(b)2.	2nd	Transacting insurance without a

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certificate or authority; premium collected \$20,000 or more but less than \$100,000.

990	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
991	790.01 (2)	3rd	Carrying a concealed firearm.
992	790.162	2nd	Threat to throw or discharge destructive device.
993	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
994	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
995	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
996	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
997	800.04 (7) (c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
998	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.

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999	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
1000	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
1001	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
1002	812.131 (2) (b)	3rd	Robbery by sudden snatching.
1003	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
1004	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
1005	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
1006	817.2341 (1), (2) (a) & (3) (a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
1007	817.568 (2) (b)	2nd	Fraudulent use of personal

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			identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.
1008	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
1009	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
1010	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
1011	827.071 (5)	3rd	Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.
1012	839.13 (2) (b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
1013	843.01	3rd	Resist officer with violence to person; resist arrest with violence.

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1014	847.0137(2)&(3)	3rd	Transmission of pornography by electronic device or equipment.
1015	847.0138(2)&(3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
1016	874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
1017	893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).
1018	893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
1019	893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a),

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1020

893.13 (1) (e) 2. 2nd

(1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs) within 1,000 feet of university.

Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site.

1021

893.13 (1) (f) 1. 1st

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

1022

893.13 (4) (b) 2nd

Deliver to minor cannabis (or other s. 893.03 (1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs).

1023

1024

1025

Section 22. Subsection (1) of section 921.0024, Florida Statutes, is amended to read:

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1026 921.0024 Criminal Punishment Code; worksheet computations;
 1027 scoresheets.--

1028 (1) (a) The Criminal Punishment Code worksheet is used to
 1029 compute the subtotal and total sentence points as follows:

1030

1031 FLORIDA CRIMINAL PUNISHMENT CODE

1032 WORKSHEET

1033

1034 OFFENSE SCORE

1035

1036 Primary Offense

1037

Level	Sentence Points	Total
-------	-----------------	-------

1038

1039

10	116	=	_____
----	-----	---	-------

1040

9	92	=	_____
---	----	---	-------

1041

8	74	=	_____
---	----	---	-------

1042

7	56	=	_____
---	----	---	-------

1043

6	36	=	_____
---	----	---	-------

1044

5	28	=	_____
---	----	---	-------

1045

4	22	=	_____
---	----	---	-------

1046

3	16	=	_____
---	----	---	-------

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1063

2	10		=	_____	
1	4		=	_____	
					Total
Additional Offenses					
Level	Sentence Points		Counts		Total
10	58	x	_____	=	_____
9	46	x	_____	=	_____
8	37	x	_____	=	_____
7	28	x	_____	=	_____
6	18	x	_____	=	_____
5	5.4	x	_____	=	_____
4	3.6	x	_____	=	_____
3	2.4	x	_____	=	_____

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1064	2	1.2	x	_____	=	_____
1065	1	0.7	x	_____	=	_____
1066	M	0.2	x	_____	=	_____
1067						
1068						Total
1069	Victim Injury					
1070						
1071	Level	Sentence Points		Number		Total
1072	2nd degree	240	x	_____	=	_____
1073	murder- death					
1074	Death	120	x	_____	=	_____
1075	Severe	40	x	_____	=	_____
1076	Moderate	18	x	_____	=	_____
1077	Slight	4	x	_____	=	_____

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1093

Sexual	80	x	_____	=	_____
penetrati					
on					
Sexual	40	x	_____	=	_____
contact					
					Total
Primary Offense + Additional Offenses + Victim Injury =					
TOTAL OFFENSE SCORE					
PRIOR RECORD SCORE					
Prior Record					
Level	Sentence		Number		Total
	Points				
10	29	x	_____	=	_____
9	23	x	_____	=	_____
8	19	x	_____	=	_____

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1094	7	14	x	_____	=	_____
1095	6	9	x	_____	=	_____
1096	5	3.6	x	_____	=	_____
1097	4	2.4	x	_____	=	_____
1098	3	1.6	x	_____	=	_____
1099	2	0.8	x	_____	=	_____
1100	1	0.5	x	_____	=	_____
1101	M	0.2	x	_____	=	_____

Total

1103

1104 TOTAL OFFENSE SCORE

1105 TOTAL PRIOR RECORD SCORE

1106

1107 LEGAL STATUS

1108 COMMUNITY SANCTION VIOLATION

1109 PRIOR SERIOUS FELONY

1110 PRIOR CAPITAL FELONY

1111 FIREARM OR SEMIAUTOMATIC WEAPON

1112 SUBTOTAL _____

1113

1114 PRISON RELEASEE REOFFENDER (no) (yes)

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1115 VIOLENT CAREER CRIMINAL (no) (yes)
 1116 HABITUAL VIOLENT OFFENDER (no) (yes)
 1117 HABITUAL OFFENDER (no) (yes)
 1118 DRUG TRAFFICKER (no) (yes) (x multiplier)
 1119 LAW ENF. PROTECT. (no) (yes) (x multiplier)
 1120 MOTOR VEHICLE THEFT (no) (yes) (x multiplier)
 1121 CRIMINAL ~~STREET~~ GANG OFFENSE (no) (yes) (x multiplier)
 1122 DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no) (yes)
 1123 (x multiplier)
 1124
 1125 TOTAL SENTENCE POINTS _____
 1126
 1127 (b) WORKSHEET KEY:
 1128
 1129 Legal status points are assessed when any form of legal status
 1130 existed at the time the offender committed an offense before the
 1131 court for sentencing. Four (4) sentence points are assessed for
 1132 an offender's legal status.
 1133
 1134 Community sanction violation points are assessed when a
 1135 community sanction violation is before the court for sentencing.
 1136 Six (6) sentence points are assessed for each community sanction
 1137 violation and each successive community sanction violation,
 1138 unless any of the following apply:
 1139 1. If the community sanction violation includes a new
 1140 felony conviction before the sentencing court, twelve (12)
 1141 community sanction violation points are assessed for the

1142 violation, and for each successive community sanction violation
 1143 involving a new felony conviction.

1144 2. If the community sanction violation is committed by a
 1145 violent felony offender of special concern as defined in s.
 1146 948.06:

1147 a. Twelve (12) community sanction violation points are
 1148 assessed for the violation and for each successive violation of
 1149 felony probation or community control where:

1150 (I) The violation does not include a new felony
 1151 conviction; and

1152 (II) The community sanction violation is not based solely
 1153 on the probationer or offender's failure to pay costs or fines
 1154 or make restitution payments.

1155 b. Twenty-four (24) community sanction violation points
 1156 are assessed for the violation and for each successive violation
 1157 of felony probation or community control where the violation
 1158 includes a new felony conviction.

1159
 1160 Multiple counts of community sanction violations before the
 1161 sentencing court shall not be a basis for multiplying the
 1162 assessment of community sanction violation points.

1163
 1164 Prior serious felony points: If the offender has a primary
 1165 offense or any additional offense ranked in level 8, level 9, or
 1166 level 10, and one or more prior serious felonies, a single
 1167 assessment of thirty (30) points shall be added. For purposes of
 1168 this section, a prior serious felony is an offense in the
 1169 offender's prior record that is ranked in level 8, level 9, or

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1170 level 10 under s. 921.0022 or s. 921.0023 and for which the
 1171 offender is serving a sentence of confinement, supervision, or
 1172 other sanction or for which the offender's date of release from
 1173 confinement, supervision, or other sanction, whichever is later,
 1174 is within 3 years before the date the primary offense or any
 1175 additional offense was committed.

1176
 1177 Prior capital felony points: If the offender has one or more
 1178 prior capital felonies in the offender's criminal record, points
 1179 shall be added to the subtotal sentence points of the offender
 1180 equal to twice the number of points the offender receives for
 1181 the primary offense and any additional offense. A prior capital
 1182 felony in the offender's criminal record is a previous capital
 1183 felony offense for which the offender has entered a plea of nolo
 1184 contendere or guilty or has been found guilty; or a felony in
 1185 another jurisdiction which is a capital felony in that
 1186 jurisdiction, or would be a capital felony if the offense were
 1187 committed in this state.

1188
 1189 Possession of a firearm, semiautomatic firearm, or machine gun:
 1190 If the offender is convicted of committing or attempting to
 1191 commit any felony other than those enumerated in s. 775.087(2)
 1192 while having in his or her possession: a firearm as defined in
 1193 s. 790.001(6), an additional eighteen (18) sentence points are
 1194 assessed; or if the offender is convicted of committing or
 1195 attempting to commit any felony other than those enumerated in
 1196 s. 775.087(3) while having in his or her possession a
 1197 semiautomatic firearm as defined in s. 775.087(3) or a machine

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1198 gun as defined in s. 790.001(9), an additional twenty-five (25)
1199 sentence points are assessed.

1200

1201 Sentencing multipliers:

1202

1203 Drug trafficking: If the primary offense is drug trafficking
1204 under s. 893.135, the subtotal sentence points are multiplied,
1205 at the discretion of the court, for a level 7 or level 8
1206 offense, by 1.5. The state attorney may move the sentencing
1207 court to reduce or suspend the sentence of a person convicted of
1208 a level 7 or level 8 offense, if the offender provides
1209 substantial assistance as described in s. 893.135(4).

1210

1211 Law enforcement protection: If the primary offense is a
1212 violation of the Law Enforcement Protection Act under s.
1213 775.0823(2), (3), or (4), the subtotal sentence points are
1214 multiplied by 2.5. If the primary offense is a violation of s.
1215 775.0823(5), (6), (7), (8), or (9), the subtotal sentence points
1216 are multiplied by 2.0. If the primary offense is a violation of
1217 s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement
1218 Protection Act under s. 775.0823(10) or (11), the subtotal
1219 sentence points are multiplied by 1.5.

1220

1221 Grand theft of a motor vehicle: If the primary offense is grand
1222 theft of the third degree involving a motor vehicle and in the
1223 offender's prior record, there are three or more grand thefts of
1224 the third degree involving a motor vehicle, the subtotal
1225 sentence points are multiplied by 1.5.

1226
 1227 Offense related to a criminal ~~street~~ gang: If the offender is
 1228 convicted of the primary offense and committed that offense for
 1229 the purpose of benefiting, promoting, or furthering the
 1230 interests of a criminal ~~street~~ gang as prohibited under s.
 1231 874.04, the subtotal sentence points are multiplied by 1.5.

1232
 1233 Domestic violence in the presence of a child: If the offender is
 1234 convicted of the primary offense and the primary offense is a
 1235 crime of domestic violence, as defined in s. 741.28, which was
 1236 committed in the presence of a child under 16 years of age who
 1237 is a family or household member as defined in s. 741.28(3) with
 1238 the victim or perpetrator, the subtotal sentence points are
 1239 multiplied by 1.5.

1240 Section 23. Paragraph (n) of subsection (5) of section
 1241 921.141, Florida Statutes, is amended to read:

1242 921.141 Sentence of death or life imprisonment for capital
 1243 felonies; further proceedings to determine sentence.--

1244 (5) AGGRAVATING CIRCUMSTANCES.--Aggravating circumstances
 1245 shall be limited to the following:

1246 (n) The capital felony was committed by a criminal ~~street~~
 1247 gang member, as defined in s. 874.03.

1248 Section 24. Subsection (30) of section 984.03, Florida
 1249 Statutes, is amended to read:

1250 984.03 Definitions.--When used in this chapter, the term:

1251 (30) "Juvenile justice continuum" includes, but is not
 1252 limited to, delinquency prevention programs and services
 1253 designed for the purpose of preventing or reducing delinquent

1254 acts, including criminal activity by criminal ~~youth~~ gangs and
 1255 juvenile arrests, as well as programs and services targeted at
 1256 children who have committed delinquent acts, and children who
 1257 have previously been committed to residential treatment programs
 1258 for delinquents. The term includes children-in-need-of-services
 1259 and families-in-need-of-services programs; conditional release;
 1260 substance abuse and mental health programs; educational and
 1261 vocational programs; recreational programs; community services
 1262 programs; community service work programs; and alternative
 1263 dispute resolution programs serving children at risk of
 1264 delinquency and their families, whether offered or delivered by
 1265 state or local governmental entities, public or private for-
 1266 profit or not-for-profit organizations, or religious or
 1267 charitable organizations.

1268 Section 25. Paragraph (c) of subsection (15) and
 1269 subsection (29) of section 985.03, Florida Statutes, are amended
 1270 to read:

1271 985.03 Definitions.--As used in this chapter, the term:
 1272 (15)

1273 (c) "Delinquency prevention programs" means programs
 1274 designed for the purpose of reducing the occurrence of
 1275 delinquency, including criminal ~~youth and street~~ gang activity,
 1276 and juvenile arrests. The term excludes arbitration,
 1277 diversionary or mediation programs, and community service work
 1278 or other treatment available subsequent to a child committing a
 1279 delinquent act.

1280 (29) "Juvenile justice continuum" includes, but is not
 1281 limited to, delinquency prevention programs and services

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1282 designed for the purpose of preventing or reducing delinquent
 1283 acts, including criminal activity by criminal ~~youth~~ gangs, and
 1284 juvenile arrests, as well as programs and services targeted at
 1285 children who have committed delinquent acts, and children who
 1286 have previously been committed to residential treatment programs
 1287 for delinquents. The term includes children-in-need-of-services
 1288 and families-in-need-of-services programs; conditional release;
 1289 substance abuse and mental health programs; educational and
 1290 career programs; recreational programs; community services
 1291 programs; community service work programs; and alternative
 1292 dispute resolution programs serving children at risk of
 1293 delinquency and their families, whether offered or delivered by
 1294 state or local governmental entities, public or private for-
 1295 profit or not-for-profit organizations, or religious or
 1296 charitable organizations.

1297 Section 26. Paragraph (c) of subsection (1) of section
 1298 985.047, Florida Statutes, is amended to read:

1299 985.047 Information systems.--

1300 (1)

1301 (c) As used in this section, "a juvenile who is at risk of
 1302 becoming a serious habitual juvenile offender" means a juvenile
 1303 who has been adjudicated delinquent and who meets one or more of
 1304 the following criteria:

1305 1. Is arrested for a capital, life, or first degree felony
 1306 offense or sexual battery.

1307 2. Has five or more arrests, at least three of which are
 1308 for felony offenses. Three of such arrests must have occurred
 1309 within the preceding 12-month period.

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1310 3. Has 10 or more arrests, at least 2 of which are for
 1311 felony offenses. Three of such arrests must have occurred within
 1312 the preceding 12-month period.

1313 4. Has four or more arrests, at least one of which is for
 1314 a felony offense and occurred within the preceding 12-month
 1315 period.

1316 5. Has 10 or more arrests, at least 8 of which are for any
 1317 of the following offenses:

- 1318 a. Petit theft;
- 1319 b. Misdemeanor assault;
- 1320 c. Possession of a controlled substance;
- 1321 d. Weapon or firearm violation; or
- 1322 e. Substance abuse.

1323
 1324 Four of such arrests must have occurred within the preceding 12-
 1325 month period.

1326 6. Meets at least one of the criteria for criminal youth
 1327 ~~and street~~ gang membership.

1328 Section 27. Paragraph (a) of subsection (6) and subsection
 1329 (7) of section 985.433, Florida Statutes, are amended to read:

1330 985.433 Disposition hearings in delinquency cases.--When a
 1331 child has been found to have committed a delinquent act, the
 1332 following procedures shall be applicable to the disposition of
 1333 the case:

1334 (6) The first determination to be made by the court is a
 1335 determination of the suitability or nonsuitability for
 1336 adjudication and commitment of the child to the department. This
 1337 determination shall include consideration of the recommendations

1338 of the department, which may include a predisposition report.
1339 The predisposition report shall include, whether as part of the
1340 child's multidisciplinary assessment, classification, and
1341 placement process components or separately, evaluation of the
1342 following criteria:

1343 (a) The seriousness of the offense to the community. If
1344 the court determines under chapter 874 that the child was a
1345 member of a criminal ~~street~~ gang at the time of the commission
1346 of the offense, the seriousness of the offense to the community
1347 shall be given great weight.

1348
1349 It is the intent of the Legislature that the criteria set forth
1350 in this subsection are general guidelines to be followed at the
1351 discretion of the court and not mandatory requirements of
1352 procedure. It is not the intent of the Legislature to provide
1353 for the appeal of the disposition made under this section.

1354 (7) If the court determines that the child should be
1355 adjudicated as having committed a delinquent act and should be
1356 committed to the department, such determination shall be in
1357 writing or on the record of the hearing. The determination shall
1358 include a specific finding of the reasons for the decision to
1359 adjudicate and to commit the child to the department, including
1360 any determination that the child was a member of a criminal
1361 ~~street~~ gang.

1362 (a) The juvenile probation officer shall recommend to the
1363 court the most appropriate placement and treatment plan,
1364 specifically identifying the restrictiveness level most
1365 appropriate for the child. If the court has determined that the

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1366 child was a member of a criminal ~~street~~ gang, that determination
1367 shall be given great weight in identifying the most appropriate
1368 restrictiveness level for the child. The court shall consider
1369 the department's recommendation in making its commitment
1370 decision.

1371 (b) The court shall commit the child to the department at
1372 the restrictiveness level identified or may order placement at a
1373 different restrictiveness level. The court shall state for the
1374 record the reasons that establish by a preponderance of the
1375 evidence why the court is disregarding the assessment of the
1376 child and the restrictiveness level recommended by the
1377 department. Any party may appeal the court's findings resulting
1378 in a modified level of restrictiveness under this paragraph.

1379 (c) The court may also require that the child be placed in
1380 a probation program following the child's discharge from
1381 commitment. Community-based sanctions under subsection (8) may
1382 be imposed by the court at the disposition hearing or at any
1383 time prior to the child's release from commitment.

1384 Section 28. The Division of Statutory Revision is directed
1385 to redesignate the title of chapter 874, Florida Statutes, as
1386 "Organized Criminal Activity Enforcement and Prevention."

1387 Section 29. This act shall take effect July 1, 2008.