

By Senator Atwater

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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

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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:

55  
56 Section 1. Section 790.231, Florida Statutes, is created to  
57 read:

58 790.231 Felons and delinquents; possession of bulletproof

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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 a  
64 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 against  
67 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 that  
73 is a felony in another state, territory, or country and which was  
74 punishable by imprisonment for a term exceeding 1 year.

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

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

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

83 823.05 Places declared a nuisance; may be abated and  
84 enjoined.--Whoever shall erect, establish, continue, or maintain,  
85 own or lease any building, booth, tent or place which tends to  
86 annoy the community or injure the health of the community, or  
87 become manifestly injurious to the morals or manners of the

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88 | people as described in s. 823.01, or ~~shall~~ be frequented by  
89 | persons who are involved in criminal gangs as described in s.  
90 | 874.03 ~~the class of persons mentioned in s. 856.02~~, or any house  
91 | or place of prostitution, assignation, lewdness or place or  
92 | building where games of chance are engaged in violation of law or  
93 | any place where any law of the state is violated, shall be deemed  
94 | guilty of maintaining a nuisance, and the building, erection,  
95 | place, tent or booth and the furniture, fixtures and contents are  
96 | declared a nuisance. All such places or persons shall be abated  
97 | or enjoined as provided in ss. 60.05 and 60.06.

98 |       Section 3. Section 874.01, Florida Statutes, is amended to  
99 | read:

100 |       874.01 Short title.--This chapter may be cited as the  
101 | "Criminal ~~Street~~ Gang Prevention Act ~~of 1996~~."

102 |       Section 4. Section 874.02, Florida Statutes, is amended to  
103 | read:

104 |       874.02 Legislative findings and intent.--

105 |       (1) The Legislature finds that it is the right of every  
106 | person, regardless of race, color, creed, religion, national  
107 | origin, sex, age, sexual orientation, or handicap, to be secure  
108 | and protected from fear, intimidation, and physical harm caused  
109 | by the activities of criminal ~~street~~ gangs and their members. It  
110 | is not the intent of this chapter to interfere with the exercise  
111 | of the constitutionally protected rights of freedom of expression  
112 | and association. The Legislature recognizes the constitutional  
113 | right of every citizen to harbor and express beliefs on any  
114 | lawful subject whatsoever, to lawfully associate with others who  
115 | share similar beliefs, to petition lawfully constituted authority  
116 | for a redress of perceived grievances, and to participate in the

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117 | electoral process.

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

133 |       (3) It is the intent of the Legislature to outlaw certain  
134 | conduct associated with the existence and proliferation of  
135 | criminal gangs, provide ~~eradicate the terror created by criminal~~  
136 | ~~street gangs and their members by providing~~ enhanced criminal  
137 | penalties, and eliminate ~~and by eliminating~~ the patterns,  
138 | profits, proceeds, instrumentalities, and property facilitating  
139 | criminal ~~street~~ gang activity, including criminal ~~street~~ gang  
140 | recruitment.

141 |       Section 5. Section 874.03, Florida Statutes, is amended to  
142 | read:

143 |       874.03 Definitions.--As used in this chapter:

144 |       (1) "Criminal ~~street~~ gang" means a formal or informal  
145 | ongoing organization, association, or group that has as one of

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146 its primary activities the commission of criminal or delinquent  
147 acts, and that consists of three or more persons who have a  
148 common name or common identifying signs, colors, or symbols and  
149 have two or more members who, individually or collectively,  
150 engage in or have engaged in a pattern of criminal ~~street~~ gang  
151 activity, including, but not limited to, street gangs, terrorist  
152 organizations, and hate groups.

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

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

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

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

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

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

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

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

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

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

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

184 (4) For purposes of law enforcement identification and  
185 tracking only, ÷

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

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

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

190 ~~(b) "Gang-related incident" means an incident that, upon~~  
191 ~~investigation, meets any of the following conditions:~~

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

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

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

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

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204 ethnicity, or national origin.

205 (6)(3) "Pattern of criminal ~~street~~ gang activity" means the  
206 commission or attempted commission of, or solicitation or  
207 conspiracy to commit, as a criminal gang member, two or more  
208 felony or three or more misdemeanor offenses, or one felony and  
209 two misdemeanor offenses, or the comparable number of delinquent  
210 acts or violations of law which would be felonies or misdemeanors  
211 if committed by an adult, on separate occasions within a 3-year  
212 period, excluding any period of incarceration.

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

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

225 Section 6. Section 874.04, Florida Statutes, is amended to  
226 read:

227 874.04 Criminal ~~street~~ gang activity; enhanced penalties.--  
228 Upon a finding ~~by the court at sentencing~~ that the defendant  
229 committed the charged offense for the purpose of benefiting,  
230 promoting, or furthering the interests of a criminal ~~street~~ gang,  
231 the penalty for any felony or misdemeanor, or any delinquent act  
232 or violation of law which would be a felony or misdemeanor if



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233 committed by an adult, may be enhanced. Penalty enhancement  
234 affects the applicable statutory maximum penalty only. Each of  
235 the findings required as a basis for such sentence shall be found  
236 beyond a reasonable doubt ~~by a preponderance of the evidence.~~ The  
237 enhancement will be as follows:

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

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

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

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

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

253

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

260 Section 7. Section 874.045, Florida Statutes, is created to  
261 read:

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262       874.045 Arrest and prosecution under other provisions.--  
263 Nothing in this chapter shall prohibit the arrest and prosecution  
264 of a criminal gang member under chapter 876, chapter 895, chapter  
265 896, s. 893.20, or any other applicable provision of law except  
266 to the extent otherwise prohibited pursuant to a statutory or  
267 constitutional provision.

268       Section 8. Section 874.05, Florida Statutes, is amended to  
269 read:

270       874.05 Causing, encouraging, soliciting, or recruiting  
271 criminal ~~street~~ gang membership.--

272       (1) Except as provided in subsection (2), a person who  
273 intentionally causes, encourages, solicits, or recruits another  
274 person to become a criminal gang member where ~~join a criminal~~  
275 ~~street gang that requires as a condition of membership or~~  
276 continued membership is the commission of any crime commits a  
277 felony of the third degree, punishable as provided in s. 775.082,  
278 s. 775.083, or s. 775.084.

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

283       Section 9. Section 874.06, Florida Statutes, is amended to  
284 read:

285       874.06 Civil cause of action.--

286       (1) A person or organization establishing, by clear and  
287 convincing evidence, coercion, intimidation, threats, or other  
288 harm to that person or organization in violation of this chapter  
289 has a civil cause of action for treble damages, an injunction, or  
290 any other appropriate relief in law or equity. Upon prevailing,

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291 | the plaintiff may recover ~~reasonable~~ attorney's fees in the trial  
292 | and appellate courts and the costs of investigation and  
293 | litigation that reasonably incurred ~~and costs.~~

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

297 |       (b) In addition to any remedies provided for by ss. 60.05  
298 | and 823.05, the state has a civil cause of action against any  
299 | person or organization if it proves by clear and convincing  
300 | evidence that it has been injured by reason of a violation of  
301 | this chapter by the person or organization. The state has a civil  
302 | cause of action for treble damages, injunctive relief, or any  
303 | other relief in law or equity which the court deems appropriate.  
304 | If the state prevails, it may also recover attorney's fees in the  
305 | trial and appellate courts and the costs of investigation and  
306 | litigation that are reasonably incurred. The state may not  
307 | recover punitive damages. The defendant is entitled to recover  
308 | reasonable attorney's fees and court costs if the court finds  
309 | that the state raised a claim that was without factual or legal  
310 | support.

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

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

318 |       Section 10. Section 874.08, Florida Statutes, is amended to  
319 | read:

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320           874.08 Criminal gang activity and Profits, proceeds, and  
321 ~~instrumentalities of criminal street gangs or criminal street~~  
322 ~~gang~~ recruitment; forfeiture.--All profits, proceeds, and  
323 instrumentalities of criminal ~~street~~ gang activity and all  
324 property used or intended or attempted to be used to facilitate  
325 the criminal activity of any criminal ~~street~~ gang or of any  
326 criminal ~~street~~ gang member; and all profits, proceeds, and  
327 instrumentalities of criminal ~~street~~ gang recruitment and all  
328 property used or intended or attempted to be used to facilitate  
329 criminal ~~street~~ gang recruitment are subject to seizure and  
330 forfeiture under the Florida Contraband Forfeiture Act, s.  
331 932.704.

332           Section 11. Section 874.09, Florida Statutes, is amended to  
333 read:

334           874.09 Crime data information.--

335           (1) The Department of Law Enforcement may:

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

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

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

348           (d) Compile and maintain a history data repository relating

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349 to criminal gangs and their members and associates in order to  
350 develop and improve techniques used by law enforcement agencies  
351 and prosecutors in the investigation, apprehension, and  
352 prosecution of members and affiliates of criminal gangs.

353 (2) Local law enforcement agencies may:

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

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

359 Section 12. Section 874.10, Florida Statutes, is created to  
360 read:

361 874.10 Electronic communication.--Any person who, for the  
362 purpose of benefiting, promoting, or furthering the interests of  
363 a criminal gang, uses electronic communication to intimidate or  
364 harass other persons, or to advertise his or her presence in the  
365 community, including, but not limited to, such activities as  
366 distributing, selling, transmitting, or posting on the Internet  
367 any audio, video, or still image of criminal activity, commits a  
368 felony of the third degree, punishable as provided in s. 775.082,  
369 s. 775.083, or s. 775.084.

370 Section 13. Section 874.11, Florida Statutes, is created to  
371 read:

372 874.11 Identification documents; unlawful possession or  
373 creation.--

374 (1) For purposes of this section, the term "identification  
375 document" includes, but is not limited to, a social security card  
376 or number, a birth certificate, a driver's license, an  
377 identification card pursuant to s. 322.051, a naturalization

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378 certificate, an alien registration number, a passport, and any  
379 access credentials for a publicly operated facility or an  
380 infrastructure facility covered under 18 U.S.C. s. 2332f.

381 (2) Any person possessing or manufacturing any blank,  
382 forged, stolen, fictitious, fraudulent, counterfeit, or otherwise  
383 unlawfully issued identification document for the purpose of  
384 benefiting, promoting, or furthering the interests of a criminal  
385 gang commits a felony of the second degree, punishable as  
386 provided in s. 775.082, s. 775.083, or s. 775.084.

387 Section 14. Section 874.13, Florida Statutes, is created to  
388 read:

389 874.13 Suspension of driver's license.--

390 (1) For purposes of this section:

391 (a) "Department" means the Department of Highway Safety and  
392 Motor Vehicles.

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

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

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

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

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

412       Section 15. Section 943.031, Florida Statutes, is amended  
413 to read:

414       943.031 Florida Violent Crime and Drug Control Council.--

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

423       (2)~~(1)~~ MEMBERSHIP.--The council shall consist of 14  
424 members, as follows:

425       (a) The Attorney General or a designate.

426       (b) A designate of the executive director of the Department  
427 of Law Enforcement.

428       (c) The secretary of the Department of Corrections or a  
429 designate.

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

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

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

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

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

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

440

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

449 (3)~~(2)~~ TERMS OF MEMBERSHIP; OFFICERS; COMPENSATION;  
450 STAFF.--

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

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



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

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

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

478 (4)~~(3)~~ MEETINGS.--The council must meet at least  
479 semiannually. Additional meetings may be held when it is  
480 determined by the chair that extraordinary circumstances require  
481 an additional meeting of the council. A majority of the members  
482 of the council constitutes a quorum.

483 (5)~~(4)~~ DUTIES OF COUNCIL.--The council shall provide advice  
484 and make recommendations, as necessary, to the executive director  
485 of the department.

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

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

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

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

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523 Council established under s. 397.333.

524 2. Expanding the use of automated fingerprint  
525 identification systems at the state and local level.

526 3. Identifying methods to prevent violent crime.

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

537 5. Enhancing criminal justice training programs which  
538 address violent crime, efforts to control and eliminate criminal  
539 gangs, drug control, or illicit money laundering investigative  
540 techniques or efforts.

541 6. Developing and promoting crime prevention services and  
542 educational programs that serve the public, including, but not  
543 limited to:

544 a. Enhanced victim and witness counseling services that  
545 also provide crisis intervention, information referral,  
546 transportation, and emergency financial assistance.

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

549 7. Enhancing information sharing and assistance in the  
550 criminal justice community by expanding the use of community  
551 partnerships and community policing programs. Such expansion may

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552 include the use of civilian employees or volunteers to relieve  
553 law enforcement officers of clerical work in order to enable the  
554 officers to concentrate on street visibility within the  
555 community.

556 (b) The full council shall:

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

566 2. Maintain and use ~~utilize~~ criteria for the disbursement  
567 of funds from the Violent Crime Investigative Emergency and Drug  
568 Control Strategy Implementation Account or any other account from  
569 which the council may disburse proactive investigative funds as  
570 may be established within the Department of Law Enforcement  
571 Operating Trust Fund or other appropriations provided to the  
572 Department of Law Enforcement by the Legislature in the General  
573 Appropriations Act. The criteria shall allow for the advancement  
574 of funds to reimburse agencies regarding violent crime  
575 investigations as approved by the full council and the  
576 advancement of funds to implement proactive drug control  
577 strategies or significant criminal gang investigative efforts as  
578 authorized by the Drug Control Strategy and Criminal Gang  
579 Committee or the Victim and Witness Protection Review Committee.  
580 Regarding violent crime investigation reimbursement, an expedited

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581 approval procedure shall be established for rapid disbursement of  
582 funds in violent crime emergency situations.

583 3. As used in this section, "significant criminal gang  
584 investigative efforts" eligible for proactive funding must  
585 involve as a minimum an effort against a known criminal gang  
586 that:

587 a. Involves multiple law enforcement agencies.

588 b. Reflects a dedicated significant investigative effort on  
589 the part of each participating agency in personnel, time devoted  
590 to the investigation, and agency resources dedicated to the  
591 effort.

592 c. Reflects a dedicated commitment by a prosecuting  
593 authority to ensure that cases developed by the investigation  
594 will be timely and effectively prosecuted.

595 d. Demonstrates a strategy and commitment to dismantling  
596 the criminal gang via seizures of assets, significant money  
597 laundering, and organized crime investigations and prosecutions,  
598 or similar efforts.

599  
600 The council may require satisfaction of additional elements, to  
601 include reporting criminal investigative and criminal  
602 intelligence information related to criminal gang activity and  
603 members in a manner required by the department, as a prerequisite  
604 for receiving proactive criminal gang funding.

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

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

609 1. The Attorney General or a designate.

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610       2. The designate of the executive director of the  
611 Department of Law Enforcement.

612       3. The secretary of the Department of Corrections or a  
613 designate.

614       4. The director of the Office of Drug Control within the  
615 Executive Office of the Governor.

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

618       (b) The committee shall

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

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

633       (7)~~(5)~~ REPORTS.--The council shall report annually on its  
634 activities, on or before December 30 of each calendar year, to  
635 the executive director, the President of the Senate, the Speaker  
636 of the House of Representatives, and the chairs of the Senate and  
637 House committees having principal jurisdiction over criminal law.  
638 Comments and responses of the executive director to the report

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639 are to be included.

640 (8)~~(6)~~ VICTIM AND WITNESS PROTECTION REVIEW COMMITTEE.--

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

651 (b) The committee shall:

652 1. Maintain and use ~~utilize~~ criteria for disbursing funds  
653 to reimburse law enforcement agencies for costs associated with  
654 providing victim and witness protective or temporary relocation  
655 services.

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

658 (c) The lead law enforcement agency providing victim or  
659 witness protective or temporary relocation services pursuant to  
660 the provisions of s. 914.25 may submit a request for  
661 reimbursement to the Victim and Witness Protection Review  
662 Committee in a format approved by the committee. The lead law  
663 enforcement agency shall submit such reimbursement request on  
664 behalf of all law enforcement agencies that cooperated in  
665 providing protective or temporary relocation services related to  
666 a particular criminal investigation or prosecution. As part of  
667 the reimbursement request, the lead law enforcement agency must

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668 indicate how any reimbursement proceeds will be distributed among  
669 the agencies that provided protective or temporary relocation  
670 services.

671 (d) The committee, in its discretion, may use funds  
672 available to the committee to provide all or partial  
673 reimbursement to the lead law enforcement agency for such costs,  
674 or may decline to provide any reimbursement.

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

680 (9) ~~(7)~~ CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL  
681 MEETINGS AND RECORDS.--

682 (a) The Legislature finds that during limited portions of  
683 the meetings of the Florida Violent Crime and Drug Control  
684 Council it is necessary that the council be presented with and  
685 discuss details, information, and documents related to active  
686 criminal investigations or matters constituting active criminal  
687 intelligence, as those concepts are defined by s. 119.011. These  
688 presentations and discussions are necessary for the council to  
689 make its funding decisions as required by the Legislature. The  
690 Legislature finds that to reveal the contents of documents  
691 containing active criminal investigative or intelligence  
692 information or to allow active criminal investigative or active  
693 criminal intelligence matters to be discussed in a meeting open  
694 to the public negatively impacts the ability of law enforcement  
695 agencies to efficiently continue their investigative or  
696 intelligence gathering activities. The Legislature finds that



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697 information coming before the council that pertains to active  
698 criminal investigations or intelligence should remain  
699 confidential and exempt from public disclosure. The Legislature  
700 finds that the Florida Violent Crime and Drug Control Council  
701 may, by declaring only those portions of council meetings in  
702 which active criminal investigative or active criminal  
703 intelligence information is to be presented or discussed closed  
704 to the public, assure an appropriate balance between the policy  
705 of this state that meetings be public and the policy of this  
706 state to facilitate efficient law enforcement efforts.

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

710 (c)1. The Florida Violent Crime and Drug Control Council  
711 may close portions of meetings during which the council will hear  
712 or discuss active criminal investigative information or active  
713 criminal intelligence information, and such portions of meetings  
714 shall be exempt from the provisions of s. 286.011 and s. 24(b),  
715 Art. I of the State Constitution, provided that the following  
716 conditions are met:

717 a. The chair of the council shall advise the council at a  
718 public meeting that, in connection with the performance of a  
719 council duty, it is necessary that the council hear or discuss  
720 active criminal investigative information or active criminal  
721 intelligence information.

722 b. The chair's declaration of necessity for closure and the  
723 specific reasons for such necessity shall be stated in writing in  
724 a document that shall be a public record and shall be filed with  
725 the official records of the council.

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726 c. The entire closed session shall be recorded. The  
727 recording shall include the times of commencement and termination  
728 of the closed session, all discussion and proceedings, and the  
729 names of all persons present. No portion of the session shall be  
730 off the record. Such recording shall be maintained by the  
731 council.

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

740 (d) A tape recording of, and any minutes and notes  
741 generated during, that portion of a Florida Violent Crime and  
742 Drug Control Council meeting which is closed to the public  
743 pursuant to this section are confidential and exempt from s.  
744 119.07(1) and s. 24(a), Art. I of the State Constitution until  
745 such time as the criminal investigative information or criminal  
746 intelligence information ceases to be active.

747 Section 16. Section 948.033, Florida Statutes, is created  
748 to read:

749 948.033 Condition of probation or community control;  
750 criminal gang.--Effective for a probationer or community  
751 controllee whose crime was committed on or after July 1, 2008,  
752 and who has been found to have committed the crime for the  
753 purpose of benefiting, promoting, or furthering the interests of  
754 criminal gang, the court shall, in addition to any other

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755 conditions imposed, impose a condition prohibiting the  
756 probationer or community controllee from knowingly associating  
757 with other criminal gang members or associates, except as  
758 authorized by law enforcement officials, prosecutorial  
759 authorities, or the court, for the purpose of aiding in the  
760 investigation of criminal gang activity.

761 Section 17. Section 947.18, Florida Statutes, is amended to  
762 read:

763 947.18 Conditions of parole.--No person shall be placed on  
764 parole merely as a reward for good conduct or efficient  
765 performance of duties assigned in prison. No person shall be  
766 placed on parole until and unless the commission finds that there  
767 is reasonable probability that, if the person is placed on  
768 parole, he or she will live and conduct himself or herself as a  
769 respectable and law-abiding person and that the person's release  
770 will be compatible with his or her own welfare and the welfare of  
771 society. No person shall be placed on parole unless and until the  
772 commission is satisfied that he or she will be suitably employed  
773 in self-sustaining employment or that he or she will not become a  
774 public charge. The commission shall determine the terms upon  
775 which such person shall be granted parole. If the person's  
776 conviction was for a controlled substance violation, one of the  
777 conditions must be that the person submit to random substance  
778 abuse testing intermittently throughout the term of supervision,  
779 upon the direction of the correctional probation officer as  
780 defined in s. 943.10(3). In addition to any other lawful  
781 condition of parole, the commission may make the payment of the  
782 debt due and owing to the state under s. 960.17 or the payment of  
783 the attorney's fees and costs due and owing to the state under s.

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784 938.29 a condition of parole subject to modification based on  
785 change of circumstances. If the person's conviction was for a  
786 crime that was found to have been committed for the purpose of  
787 benefiting, promoting, or furthering the interests of a criminal  
788 gang, one of the conditions must be that the person be prohibited  
789 from knowingly associating with other criminal gang members or  
790 associates, except as authorized by law enforcement officials,  
791 prosecutorial authorities, or the court, for the purpose of  
792 aiding in the investigation of criminal gang.

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

795 947.1405 Conditional release program.--

796 (11) Effective for a releasee whose crime was committed on  
797 or after July 1, 2008, and who has been found to have committed  
798 the crime for the purpose of benefiting, promoting, or furthering  
799 the interests of a criminal gang, the commission shall, in  
800 addition to any other conditions imposed, impose a condition  
801 prohibiting the releasee from knowingly associating with other  
802 criminal gang members or associates, except as authorized by law  
803 enforcement officials, prosecutorial authorities, or the court,  
804 for the purpose of aiding in the investigation of criminal gang  
805 activity.

806 Section 19. Section 893.138, Florida Statutes, is amended  
807 to read:

808 893.138 Local administrative action to abate drug-related,  
809 prostitution-related, or stolen-property-related public nuisances  
810 and criminal ~~street~~ gang activity.--

811 (1) It is the intent of this section to promote, protect,  
812 and improve the health, safety, and welfare of the citizens of

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813 the counties and municipalities of this state by authorizing the  
814 creation of administrative boards with authority to impose  
815 administrative fines and other noncriminal penalties in order to  
816 provide an equitable, expeditious, effective, and inexpensive  
817 method of enforcing ordinances in counties and municipalities  
818 under circumstances when a pending or repeated violation  
819 continues to exist.

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

821 (a) On more than two occasions within a 6-month period, as  
822 the site of a violation of s. 796.07;

823 (b) On more than two occasions within a 6-month period, as  
824 the site of the unlawful sale, delivery, manufacture, or  
825 cultivation of any controlled substance;

826 (c) On one occasion as the site of the unlawful possession  
827 of a controlled substance, where such possession constitutes a  
828 felony and that has been previously used on more than one  
829 occasion as the site of the unlawful sale, delivery, manufacture,  
830 or cultivation of any controlled substance;

831 (d) By a criminal ~~street~~ gang for the purpose of conducting  
832 a pattern of criminal ~~street~~ gang activity as defined by s.  
833 874.03; or

834 (e) On more than two occasions within a 6-month period, as  
835 the site of a violation of s. 812.019 relating to dealing in  
836 stolen property

837  
838 may be declared to be a public nuisance, and such nuisance may be  
839 abated pursuant to the procedures provided in this section.

840 (3) Any county or municipality may, by ordinance, create an  
841 administrative board to hear complaints regarding the nuisances

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842 described in subsection (2). Any employee, officer, or resident  
843 of the county or municipality may bring a complaint before the  
844 board after giving not less than 3 days' written notice of such  
845 complaint to the owner of the place or premises at his or her  
846 last known address. After a hearing in which the board may  
847 consider any evidence, including evidence of the general  
848 reputation of the place or premises, and at which the owner of  
849 the premises shall have an opportunity to present evidence in his  
850 or her defense, the board may declare the place or premises to be  
851 a public nuisance as described in subsection (2).

852 (4) If the board declares a place or premises to be a  
853 public nuisance, it may enter an order requiring the owner of  
854 such place or premises to adopt such procedure as may be  
855 appropriate under the circumstances to abate any such nuisance or  
856 it may enter an order immediately prohibiting:

857 (a) The maintaining of the nuisance;

858 (b) The operating or maintaining of the place or premises,  
859 including the closure of the place or premises or any part  
860 thereof; or

861 (c) The conduct, operation, or maintenance of any business  
862 or activity on the premises which is conducive to such nuisance.

863 (5) An order entered under subsection (4) shall expire  
864 after 1 year or at such earlier time as is stated in the order.

865 (6) An order entered under subsection (4) may be enforced  
866 pursuant to the procedures contained in s. 120.69. This  
867 subsection does not subject a municipality that creates a board  
868 under this section, or the board so created, to any other  
869 provision of chapter 120.

870 (7) The board may bring a complaint under s. 60.05 seeking

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871 temporary and permanent injunctive relief against any nuisance  
872 described in subsection (2).

873 (8) This section does not restrict the right of any person  
874 to proceed under s. 60.05 against any public nuisance.

875 (9) As used in this section, the term "controlled  
876 substance" includes any substance sold in lieu of a controlled  
877 substance in violation of s. 817.563 or any imitation controlled  
878 substance defined in s. 817.564.

879 (10) The provisions of this section may be supplemented by  
880 a county or municipal ordinance. The ordinance may include, but  
881 is not limited to, provisions that establish additional penalties  
882 for public nuisances, including fines not to exceed \$250 per day;  
883 provide for the payment of reasonable costs, including reasonable  
884 attorney fees associated with investigations of and hearings on  
885 public nuisances; provide for continuing jurisdiction for a  
886 period of 1 year over any place or premises that has been or is  
887 declared to be a public nuisance; establish penalties, including  
888 fines not to exceed \$500 per day for recurring public nuisances;  
889 provide for the recording of orders on public nuisances so that  
890 notice must be given to subsequent purchasers, successors in  
891 interest, or assigns of the real property that is the subject of  
892 the order; provide that recorded orders on public nuisances may  
893 become liens against the real property that is the subject of the  
894 order; and provide for the foreclosure of property subject to a  
895 lien and the recovery of all costs, including reasonable attorney  
896 fees, associated with the recording of orders and foreclosure. No  
897 lien created pursuant to the provisions of this section may be  
898 foreclosed on real property which is a homestead under s. 4, Art.  
899 X of the State Constitution. Where a local government seeks to

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900 bring an administrative action, based on a stolen property  
901 nuisance, against a property owner operating an establishment  
902 where multiple tenants, on one site, conduct their own retail  
903 business, the property owner shall not be subject to a lien  
904 against his or her property or the prohibition of operation  
905 provision if the property owner evicts the business declared to  
906 be a nuisance within 90 days after notification by registered  
907 mail to the property owner of a second stolen property conviction  
908 of the tenant. The total fines imposed pursuant to the authority  
909 of this section shall not exceed \$15,000. Nothing contained  
910 within this section prohibits a county or municipality from  
911 proceeding against a public nuisance by any other means.

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

914 895.02 Definitions.--As used in ss. 895.01-895.08, the  
915 term:

916 (1) "Racketeering activity" means to commit, to attempt to  
917 commit, to conspire to commit, or to solicit, coerce, or  
918 intimidate another person to commit:

919 (a) Any crime that is chargeable by indictment or  
920 information under the following provisions of the Florida  
921 Statutes:

922 1. Section 210.18, relating to evasion of payment of  
923 cigarette taxes.

924 2. Section 403.727(3)(b), relating to environmental  
925 control.

926 3. Section 409.920 or s. 409.9201, relating to Medicaid  
927 fraud.

928 4. Section 414.39, relating to public assistance fraud.



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- 929           5. Section 440.105 or s. 440.106, relating to workers'  
930 compensation.
- 931           6. Section 443.071(4), relating to creation of a fictitious  
932 employer scheme to commit unemployment compensation fraud.
- 933           7. Section 465.0161, relating to distribution of medicinal  
934 drugs without a permit as an Internet pharmacy.
- 935           8. Sections 499.0051, 499.0052, 499.00535, 499.00545, and  
936 499.0691, relating to crimes involving contraband and adulterated  
937 drugs.
- 938           9. Part IV of chapter 501, relating to telemarketing.
- 939           10. Chapter 517, relating to sale of securities and  
940 investor protection.
- 941           11. Section 550.235, s. 550.3551, or s. 550.3605, relating  
942 to dogracing and horseracing.
- 943           12. Chapter 550, relating to jai alai frontons.
- 944           13. Section 551.109, relating to slot machine gaming.
- 945           14. Chapter 552, relating to the manufacture, distribution,  
946 and use of explosives.
- 947           15. Chapter 560, relating to money transmitters, if the  
948 violation is punishable as a felony.
- 949           16. Chapter 562, relating to beverage law enforcement.
- 950           17. Section 624.401, relating to transacting insurance  
951 without a certificate of authority, s. 624.437(4)(c)1., relating  
952 to operating an unauthorized multiple-employer welfare  
953 arrangement, or s. 626.902(1)(b), relating to representing or  
954 aiding an unauthorized insurer.
- 955           18. Section 655.50, relating to reports of currency  
956 transactions, when such violation is punishable as a felony.
- 957           19. Chapter 687, relating to interest and usurious

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- 958 | practices.
- 959 |       20. Section 721.08, s. 721.09, or s. 721.13, relating to
- 960 | real estate timeshare plans.
- 961 |       21. Chapter 782, relating to homicide.
- 962 |       22. Chapter 784, relating to assault and battery.
- 963 |       23. Chapter 787, relating to kidnapping or human
- 964 | trafficking.
- 965 |       24. Chapter 790, relating to weapons and firearms.
- 966 |       25. Section 796.03, s. 796.035, s. 796.04, s. 796.045, s.
- 967 | 796.05, or s. 796.07, relating to prostitution and sex
- 968 | trafficking.
- 969 |       26. Chapter 806, relating to arson.
- 970 |       27. Section 810.02(2)(c), relating to specified burglary of
- 971 | a dwelling or structure.
- 972 |       28. Chapter 812, relating to theft, robbery, and related
- 973 | crimes.
- 974 |       29. Chapter 815, relating to computer-related crimes.
- 975 |       30. Chapter 817, relating to fraudulent practices, false
- 976 | pretenses, fraud generally, and credit card crimes.
- 977 |       31. Chapter 825, relating to abuse, neglect, or
- 978 | exploitation of an elderly person or disabled adult.
- 979 |       32. Section 827.071, relating to commercial sexual
- 980 | exploitation of children.
- 981 |       33. Chapter 831, relating to forgery and counterfeiting.
- 982 |       34. Chapter 832, relating to issuance of worthless checks
- 983 | and drafts.
- 984 |       35. Section 836.05, relating to extortion.
- 985 |       36. Chapter 837, relating to perjury.
- 986 |       37. Chapter 838, relating to bribery and misuse of public

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987 office.

988 38. Chapter 843, relating to obstruction of justice.

989 39. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
990 s. 847.07, relating to obscene literature and profanity.

991 40. Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s.  
992 849.25, relating to gambling.

993 41. Chapter 874, entitled "Organized Criminal Activity  
994 Enforcement and Prevention." ~~relating to criminal street gangs.~~

995 42. Chapter 893, relating to drug abuse prevention and  
996 control.

997 43. Chapter 896, relating to offenses related to financial  
998 transactions.

999 44. Sections 914.22 and 914.23, relating to tampering with  
1000 a witness, victim, or informant, and retaliation against a  
1001 witness, victim, or informant.

1002 45. Sections 918.12 and 918.13, relating to tampering with  
1003 jurors and evidence.

1004 (3) "Enterprise" means any individual, sole proprietorship,  
1005 partnership, corporation, business trust, union chartered under  
1006 the laws of this state, or other legal entity, or any unchartered  
1007 union, association, or group of individuals associated in fact  
1008 although not a legal entity; and it includes illicit as well as  
1009 licit enterprises and governmental, as well as other, entities. A  
1010 criminal ~~street~~ gang, as defined in s. 874.03, constitutes an  
1011 enterprise.

1012 Section 21. Paragraphs (d) and (e) of subsection (3) of  
1013 section 921.0022, Florida Statutes, are amended to read:

1014 921.0022 Criminal Punishment Code; offense severity ranking  
1015 chart.--

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1016	(3)	OFFENSE SEVERITY RANKING CHART		
1017	(d)	LEVEL 4		
1018				
	Florida		Felony	Description
	Statute		Degree	
1019	316.1935 (3) (a)		2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
1020	499.0051 (1)		3rd	Failure to maintain or deliver pedigree papers.
1021	499.0051 (2)		3rd	Failure to authenticate pedigree papers.
1022	499.0051 (6)		2nd	Sale or delivery, or possession with intent to sell, contraband legend drugs.
1023	784.07 (2) (b)		3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
1024	784.074 (1) (c)		3rd	Battery of sexually violent predators facility staff.
1025				

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1026	784.075	3rd	Battery on detention or commitment facility staff.
1027	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
1028	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
1029	784.081 (3)	3rd	Battery on specified official or employee.
1030	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
1031	784.083 (3)	3rd	Battery on code inspector.
1032	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
1033	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending

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			custody proceedings.
1034	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
1035	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
1036	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
1037	790.115 (2) (c)	3rd	Possessing firearm on school property.
1038	800.04 (7) (d)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
1039	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
1040	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

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1041	810.06	3rd	Burglary; possession of tools.
1042	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
1043	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
1044	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
1045	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
1046	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
1047	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.
1048	817.625 (2) (a)	3rd	Fraudulent use of scanning device or reencoder.
1049	828.125 (1)	2nd	Kill, maim, or cause great bodily harm or permanent

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1050	837.02 (1)	3rd	breeding disability to any registered horse or cattle. Perjury in official proceedings.
1051	837.021 (1)	3rd	Make contradictory statements in official proceedings.
1052	838.022	3rd	Official misconduct.
1053	839.13 (2) (a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
1054	839.13 (2) (c)	3rd	Falsifying records of the Department of Children and Family Services.
1055	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
1056	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
1057	843.15 (1) (a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
1058			



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1059	874.05 (1)	3rd	Encouraging or recruiting another to join a criminal <del>street</del> gang.
1060	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).
1061	914.14 (2)	3rd	Witnesses accepting bribes.
1062	914.22 (1)	3rd	Force, threaten, etc., witness, victim, or informant.
1063	914.23 (2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
1064	918.12	3rd	Tampering with jurors.
1065	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
1066	(e) LEVEL 5		
1067	Florida Statute	Felony Degree	Description
1068	316.027 (1) (a)	3rd	Accidents involving personal injuries, failure to stop;

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			leaving scene.
1069	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
1070	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
1071	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
1072	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
1073	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
1074	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
1075	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
1076	624.401 (4) (b) 2.	2nd	Transacting insurance without

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			a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
1077	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
1078	790.01 (2)	3rd	Carrying a concealed firearm.
1079	790.162	2nd	Threat to throw or discharge destructive device.
1080	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
1081	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
1082	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
1083	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
1084	800.04 (7) (c)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
1085	806.111 (1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or

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			property.
1086	812.0145 (2) (b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
1087	812.015 (8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
1088	812.019 (1)	2nd	Stolen property; dealing in or trafficking in.
1089	812.131 (2) (b)	3rd	Robbery by sudden snatching.
1090	812.16 (2)	3rd	Owning, operating, or conducting a chop shop.
1091	817.034 (4) (a) 2.	2nd	Communications fraud, value \$20,000 to \$50,000.
1092	817.234 (11) (b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
1093	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

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1094			entity.
	817.568 (2) (b)	2nd	Fraudulent use of personal 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.
1095			
	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
1096			
	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
1097			
	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
1098			
	827.071 (5)	3rd	Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.
1099			

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1100	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.
1101	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
1102	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
1103	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
1104	874.05 (2)	2nd	Encouraging or recruiting another to join a criminal <del>street</del> gang; second or subsequent offense.
1105	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).
	893.13 (1) (c) 2.	2nd	Sell, manufacture, or deliver

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1106	893.13(1)(d)1.	1st	<p>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.</p>
1107	893.13(1)(e)2.	2nd	<p>Sell, manufacture, or deliver              cocaine (or other s.              893.03(1)(a), (1)(b), (1)(d),              (2)(a), (2)(b), or (2)(c)4.              drugs) within 1,000 feet of              university.</p>
1108			<p>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.</p>

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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.

1109

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).

1110

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

1111

1112

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

1113

1114

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

1115

1116

1117

FLORIDA CRIMINAL PUNISHMENT CODE

1118

WORKSHEET

1119

1120

OFFENSE SCORE

1121

1122

Primary Offense

1123

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

1124



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1125	10	116	=	_____
1126	9	92	=	_____
1127	8	74	=	_____
1128	7	56	=	_____
1129	6	36	=	_____
1130	5	28	=	_____
1131	4	22	=	_____
1132	3	16	=	_____
1133	2	10	=	_____
1134	1	4	=	_____

---

1136

Total

---

1137

1138 Additional Offenses

1139

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

---

1140

1141

10	58	x	_____	=	_____
----	----	---	-------	---	-------

1142

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1143	9	46	x	_____	=	_____
1144	8	37	x	_____	=	_____
1145	7	28	x	_____	=	_____
1146	6	18	x	_____	=	_____
1147	5	5.4	x	_____	=	_____
1148	4	3.6	x	_____	=	_____
1149	3	2.4	x	_____	=	_____
1150	2	1.2	x	_____	=	_____
1151	1	0.7	x	_____	=	_____
1152	M	0.2	x	_____	=	_____

---

Total

---

Victim Injury

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

---

1158	2nd degree murder- death	240	x	_____	=	_____
------	--------------------------------	-----	---	-------	---	-------

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1159	Death	120	x	_____	=	_____
1160	Severe	40	x	_____	=	_____
1161	Moderate	18	x	_____	=	_____
1162	Slight	4	x	_____	=	_____
1163	Sexual penetration	80	x	_____	=	_____
1164	Sexual contact	40	x	_____	=	_____

---

Total  
\_\_\_\_\_

1168 Primary Offense + Additional Offenses + Victim Injury =  
1169 TOTAL OFFENSE SCORE

1171 PRIOR RECORD SCORE

1173 Prior Record

Level	Sentence Points		Number		Total
1176	10	29	x	_____	= _____
1177	9	23	x	_____	= _____

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1179	8	19	x	_____	=	_____
1180	7	14	x	_____	=	_____
1181	6	9	x	_____	=	_____
1182	5	3.6	x	_____	=	_____
1183	4	2.4	x	_____	=	_____
1184	3	1.6	x	_____	=	_____
1185	2	0.8	x	_____	=	_____
1186	1	0.5	x	_____	=	_____
1187	M	0.2	x	_____	=	_____

---

1188

Total

---

1189

1190 TOTAL OFFENSE SCORE

1191 TOTAL PRIOR RECORD SCORE

1192

1193 LEGAL STATUS

1194 COMMUNITY SANCTION VIOLATION

1195 PRIOR SERIOUS FELONY

1196 PRIOR CAPITAL FELONY

1197 FIREARM OR SEMIAUTOMATIC WEAPON

1198 SUBTOTAL \_\_\_\_\_

1199

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1200 PRISON RELEASEE REOFFENDER (no) (yes)  
 1201 VIOLENT CAREER CRIMINAL (no) (yes)  
 1202 HABITUAL VIOLENT OFFENDER (no) (yes)  
 1203 HABITUAL OFFENDER (no) (yes)  
 1204 DRUG TRAFFICKER (no) (yes) (x multiplier)  
 1205 LAW ENF. PROTECT. (no) (yes) (x multiplier)  
 1206 MOTOR VEHICLE THEFT (no) (yes) (x multiplier)  
 1207 CRIMINAL ~~STREET~~ GANG OFFENSE (no) (yes) (x multiplier)  
 1208 DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (no) (yes)  
 1209 (x multiplier)  
 1210  
 1211 TOTAL SENTENCE POINTS \_\_\_\_\_  
 1212

1213 (b) WORKSHEET KEY:  
 1214

1215 Legal status points are assessed when any form of legal status  
 1216 existed at the time the offender committed an offense before the  
 1217 court for sentencing. Four (4) sentence points are assessed for  
 1218 an offender's legal status.  
 1219

1220 Community sanction violation points are assessed when a community  
 1221 sanction violation is before the court for sentencing. Six (6)  
 1222 sentence points are assessed for each community sanction  
 1223 violation and each successive community sanction violation,  
 1224 unless any of the following apply:

1225 1. If the community sanction violation includes a new  
 1226 felony conviction before the sentencing court, twelve (12)  
 1227 community sanction violation points are assessed for the

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1228 violation, and for each successive community sanction violation  
1229 involving a new felony conviction.

1230 2. If the community sanction violation is committed by a  
1231 violent felony offender of special concern as defined in s.  
1232 948.06:

1233 a. Twelve (12) community sanction violation points are  
1234 assessed for the violation and for each successive violation of  
1235 felony probation or community control where:

1236 (I) The violation does not include a new felony conviction;  
1237 and

1238 (II) The community sanction violation is not based solely  
1239 on the probationer or offender's failure to pay costs or fines or  
1240 make restitution payments.

1241 b. Twenty-four (24) community sanction violation points are  
1242 assessed for the violation and for each successive violation of  
1243 felony probation or community control where the violation  
1244 includes a new felony conviction.

1245

1246 Multiple counts of community sanction violations before the  
1247 sentencing court shall not be a basis for multiplying the  
1248 assessment of community sanction violation points.

1249

1250 Prior serious felony points: If the offender has a primary  
1251 offense or any additional offense ranked in level 8, level 9, or  
1252 level 10, and one or more prior serious felonies, a single  
1253 assessment of thirty (30) points shall be added. For purposes of  
1254 this section, a prior serious felony is an offense in the  
1255 offender's prior record that is ranked in level 8, level 9, or  
1256 level 10 under s. 921.0022 or s. 921.0023 and for which the

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1257 offender is serving a sentence of confinement, supervision, or  
1258 other sanction or for which the offender's date of release from  
1259 confinement, supervision, or other sanction, whichever is later,  
1260 is within 3 years before the date the primary offense or any  
1261 additional offense was committed.

1262

1263 Prior capital felony points: If the offender has one or more  
1264 prior capital felonies in the offender's criminal record, points  
1265 shall be added to the subtotal sentence points of the offender  
1266 equal to twice the number of points the offender receives for the  
1267 primary offense and any additional offense. A prior capital  
1268 felony in the offender's criminal record is a previous capital  
1269 felony offense for which the offender has entered a plea of nolo  
1270 contendere or guilty or has been found guilty; or a felony in  
1271 another jurisdiction which is a capital felony in that  
1272 jurisdiction, or would be a capital felony if the offense were  
1273 committed in this state.

1274

1275 Possession of a firearm, semiautomatic firearm, or machine gun:  
1276 If the offender is convicted of committing or attempting to  
1277 commit any felony other than those enumerated in s. 775.087(2)  
1278 while having in his or her possession: a firearm as defined in s.  
1279 790.001(6), an additional eighteen (18) sentence points are  
1280 assessed; or if the offender is convicted of committing or  
1281 attempting to commit any felony other than those enumerated in s.  
1282 775.087(3) while having in his or her possession a semiautomatic  
1283 firearm as defined in s. 775.087(3) or a machine gun as defined  
1284 in s. 790.001(9), an additional twenty-five (25) sentence points  
1285 are assessed.

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1286

1287 Sentencing multipliers:

1288

1289 Drug trafficking: If the primary offense is drug trafficking  
1290 under s. 893.135, the subtotal sentence points are multiplied, at  
1291 the discretion of the court, for a level 7 or level 8 offense, by  
1292 1.5. The state attorney may move the sentencing court to reduce  
1293 or suspend the sentence of a person convicted of a level 7 or  
1294 level 8 offense, if the offender provides substantial assistance  
1295 as described in s. 893.135(4).

1296

1297 Law enforcement protection: If the primary offense is a violation  
1298 of the Law Enforcement Protection Act under s. 775.0823(2), (3),  
1299 or (4), the subtotal sentence points are multiplied by 2.5. If  
1300 the primary offense is a violation of s. 775.0823(5), (6), (7),  
1301 (8), or (9), the subtotal sentence points are multiplied by 2.0.  
1302 If the primary offense is a violation of s. 784.07(3) or s.  
1303 775.0875(1), or of the Law Enforcement Protection Act under s.  
1304 775.0823(10) or (11), the subtotal sentence points are multiplied  
1305 by 1.5.

1306

1307 Grand theft of a motor vehicle: If the primary offense is grand  
1308 theft of the third degree involving a motor vehicle and in the  
1309 offender's prior record, there are three or more grand thefts of  
1310 the third degree involving a motor vehicle, the subtotal sentence  
1311 points are multiplied by 1.5.

1312

1313 Offense related to a criminal ~~street~~ gang: If the offender is  
1314 convicted of the primary offense and committed that offense for



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1315 the purpose of benefiting, promoting, or furthering the interests  
1316 of a criminal ~~street~~ gang as prohibited under s. 874.04, the  
1317 subtotal sentence points are multiplied by 1.5.

1318  
1319 Domestic violence in the presence of a child: If the offender is  
1320 convicted of the primary offense and the primary offense is a  
1321 crime of domestic violence, as defined in s. 741.28, which was  
1322 committed in the presence of a child under 16 years of age who is  
1323 a family or household member as defined in s. 741.28(3) with the  
1324 victim or perpetrator, the subtotal sentence points are  
1325 multiplied by 1.5.

1326 Section 23. Paragraph (n) of subsection (5) of section  
1327 921.141, Florida Statutes, is amended to read:

1328 921.141 Sentence of death or life imprisonment for capital  
1329 felonies; further proceedings to determine sentence.--

1330 (5) AGGRAVATING CIRCUMSTANCES.--Aggravating circumstances  
1331 shall be limited to the following:

1332 (n) The capital felony was committed by a criminal ~~street~~  
1333 gang member, as defined in s. 874.03.

1334 Section 24. Subsection (30) of section 984.03, Florida  
1335 Statutes, is amended to read:

1336 984.03 Definitions.--When used in this chapter, the term:

1337 (30) "Juvenile justice continuum" includes, but is not  
1338 limited to, delinquency prevention programs and services designed  
1339 for the purpose of preventing or reducing delinquent acts,  
1340 including criminal activity by criminal ~~youth~~ gangs and juvenile  
1341 arrests, as well as programs and services targeted at children  
1342 who have committed delinquent acts, and children who have  
1343 previously been committed to residential treatment programs for

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1344 delinquents. The term includes children-in-need-of-services and  
1345 families-in-need-of-services programs; conditional release;  
1346 substance abuse and mental health programs; educational and  
1347 vocational programs; recreational programs; community services  
1348 programs; community service work programs; and alternative  
1349 dispute resolution programs serving children at risk of  
1350 delinquency and their families, whether offered or delivered by  
1351 state or local governmental entities, public or private for-  
1352 profit or not-for-profit organizations, or religious or  
1353 charitable organizations.

1354 Section 25. Paragraph (c) of subsection (15) and subsection  
1355 (29) of section 985.03, Florida Statutes, are amended to read:

1356 985.03 Definitions.--As used in this chapter, the term:  
1357 (15)

1358 (c) "Delinquency prevention programs" means programs  
1359 designed for the purpose of reducing the occurrence of  
1360 delinquency, including criminal ~~youth and street~~ gang activity,  
1361 and juvenile arrests. The term excludes arbitration, diversionary  
1362 or mediation programs, and community service work or other  
1363 treatment available subsequent to a child committing a delinquent  
1364 act.

1365 (29) "Juvenile justice continuum" includes, but is not  
1366 limited to, delinquency prevention programs and services designed  
1367 for the purpose of preventing or reducing delinquent acts,  
1368 including criminal activity by criminal ~~youth~~ gangs, and juvenile  
1369 arrests, as well as programs and services targeted at children  
1370 who have committed delinquent acts, and children who have  
1371 previously been committed to residential treatment programs for  
1372 delinquents. The term includes children-in-need-of-services and

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1373 families-in-need-of-services programs; conditional release;  
1374 substance abuse and mental health programs; educational and  
1375 career programs; recreational programs; community services  
1376 programs; community service work programs; and alternative  
1377 dispute resolution programs serving children at risk of  
1378 delinquency and their families, whether offered or delivered by  
1379 state or local governmental entities, public or private for-  
1380 profit or not-for-profit organizations, or religious or  
1381 charitable organizations.

1382 Section 26. Paragraph (c) of subsection (1) of section  
1383 985.047, Florida Statutes, is amended to read:

1384 985.047 Information systems.--

1385 (1)

1386 (c) As used in this section, "a juvenile who is at risk of  
1387 becoming a serious habitual juvenile offender" means a juvenile  
1388 who has been adjudicated delinquent and who meets one or more of  
1389 the following criteria:

1390 1. Is arrested for a capital, life, or first degree felony  
1391 offense or sexual battery.

1392 2. Has five or more arrests, at least three of which are  
1393 for felony offenses. Three of such arrests must have occurred  
1394 within the preceding 12-month period.

1395 3. Has 10 or more arrests, at least 2 of which are for  
1396 felony offenses. Three of such arrests must have occurred within  
1397 the preceding 12-month period.

1398 4. Has four or more arrests, at least one of which is for a  
1399 felony offense and occurred within the preceding 12-month period.

1400 5. Has 10 or more arrests, at least 8 of which are for any  
1401 of the following offenses:

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- 1402 a. Petit theft;  
1403 b. Misdemeanor assault;  
1404 c. Possession of a controlled substance;  
1405 d. Weapon or firearm violation; or  
1406 e. Substance abuse.

1407

1408 Four of such arrests must have occurred within the preceding 12-  
1409 month period.

1410 6. Meets at least one of the criteria for criminal youth  
1411 ~~and street~~ gang membership.

1412 Section 27. Paragraph (a) of subsection (6) and subsection  
1413 (7) of section 985.433, Florida Statutes, are amended to read:

1414 985.433 Disposition hearings in delinquency cases.--When a  
1415 child has been found to have committed a delinquent act, the  
1416 following procedures shall be applicable to the disposition of  
1417 the case:

1418 (6) The first determination to be made by the court is a  
1419 determination of the suitability or nonsuitability for  
1420 adjudication and commitment of the child to the department. This  
1421 determination shall include consideration of the recommendations  
1422 of the department, which may include a predisposition report. The  
1423 predisposition report shall include, whether as part of the  
1424 child's multidisciplinary assessment, classification, and  
1425 placement process components or separately, evaluation of the  
1426 following criteria:

1427 (a) The seriousness of the offense to the community. If the  
1428 court determines under chapter 874 that the child was a member of  
1429 a criminal ~~street~~ gang at the time of the commission of the  
1430 offense, the seriousness of the offense to the community shall be

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1431 | given great weight.

1432 |

1433 | It is the intent of the Legislature that the criteria set forth  
1434 | in this subsection are general guidelines to be followed at the  
1435 | discretion of the court and not mandatory requirements of  
1436 | procedure. It is not the intent of the Legislature to provide for  
1437 | the appeal of the disposition made under this section.

1438 |         (7) If the court determines that the child should be  
1439 | adjudicated as having committed a delinquent act and should be  
1440 | committed to the department, such determination shall be in  
1441 | writing or on the record of the hearing. The determination shall  
1442 | include a specific finding of the reasons for the decision to  
1443 | adjudicate and to commit the child to the department, including  
1444 | any determination that the child was a member of a criminal  
1445 | ~~street~~ gang.

1446 |         (a) The juvenile probation officer shall recommend to the  
1447 | court the most appropriate placement and treatment plan,  
1448 | specifically identifying the restrictiveness level most  
1449 | appropriate for the child. If the court has determined that the  
1450 | child was a member of a criminal ~~street~~ gang, that determination  
1451 | shall be given great weight in identifying the most appropriate  
1452 | restrictiveness level for the child. The court shall consider the  
1453 | department's recommendation in making its commitment decision.

1454 |         (b) The court shall commit the child to the department at  
1455 | the restrictiveness level identified or may order placement at a  
1456 | different restrictiveness level. The court shall state for the  
1457 | record the reasons that establish by a preponderance of the  
1458 | evidence why the court is disregarding the assessment of the  
1459 | child and the restrictiveness level recommended by the

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1460 department. Any party may appeal the court's findings resulting  
1461 in a modified level of restrictiveness under this paragraph.

1462 (c) The court may also require that the child be placed in  
1463 a probation program following the child's discharge from  
1464 commitment. Community-based sanctions under subsection (8) may be  
1465 imposed by the court at the disposition hearing or at any time  
1466 prior to the child's release from commitment.

1467 Section 28. The Division of Statutory Revision is directed  
1468 to redesignate the title of chapter 874, Florida Statutes, as  
1469 "Organized Criminal Activity Enforcement and Prevention."

1470 Section 29. This act shall take effect July 1, 2008.