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1                   A bill to be entitled  
2           An act relating to criminal justice; amending s. 775.0877,  
3           F.S.; revising obsolete references; amending s. 775.25,  
4           F.S.; clarifying a reference to a repealed section;  
5           amending s. 784.07, F.S.; removing an outdated reference  
6           to certain employees in relation to assault and battery of  
7           specified persons; amending s. 831.16, F.S.; clarifying a  
8           cross-reference; clarifying that it is a third degree  
9           felony for a person to knowingly have in his or her  
10          possession fewer than 10 counterfeit coins with the intent  
11          to utter or pass such coins; amending s. 831.17, F.S.;  
12          clarifying a cross-reference; clarifying that certain  
13          subsequent violations of s. 831.16, F.S., are punishable  
14          as a second degree felony; amending s. 831.18, F.S.;  
15          clarifying that the offense of making or possessing  
16          instruments for forging bills is punishable as a third  
17          degree felony; amending s. 831.21, F.S.; clarifying that  
18          the offense of forging or counterfeiting a doctor's  
19          certificate of examination is punishable as a third degree  
20          felony; amending s. 831.27, F.S.; correcting a reference  
21          relating to the offense of issuing notes; amending s.  
22          838.021, F.S.; correcting grammatical errors; reenacting  
23          s. 847.0125, F.S., relating to retail display of materials  
24          harmful to minors; amending s. 860.13, F.S.; correcting an  
25          obsolete reference; amending s. 865.09, F.S.; correcting a  
26          reference; amending s. 893.10, F.S.; removing obsolete  
27          language relating to evidence in possession of controlled  
28          substances cases; reenacting s. 914.24(2)(a), F.S.,

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

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29 relating to victim and witness protection orders; amending  
30 ss. 916.12 and 916.3012, F.S.; revising and clarifying  
31 provisions; amending s. 918.0155, F.S.; deleting obsolete  
32 language directing the Legislature to request the Supreme  
33 Court to adopt emergency rules; amending s. 921.0022,  
34 F.S.; correcting references in the offense severity  
35 ranking chart; reenacting s. 921.141(5)(a), F.S., relating  
36 to sentence of death or life imprisonment for capital  
37 felonies; amending s. 932.704, F.S.; deleting an obsolete  
38 provision relating to the deadline for certifying  
39 compliance with the Contraband Forfeiture Act; amending s.  
40 933.18, F.S.; correcting a reference in relation to when a  
41 warrant may be issued to search a dwelling; amending s.  
42 933.40, F.S.; replacing obsolete references to  
43 "magistrate" with references to "trial court judge";  
44 amending s. 934.03, F.S.; deleting an obsolete cross-  
45 reference; defining the term "public utility"; amending s.  
46 938.15, F.S.; clarifying that the term "commission" refers  
47 to the Criminal Justice Standards and Training Commission;  
48 amending s. 943.051, F.S.; clarifying a reference to a  
49 repealed section; amending s. 943.053, F.S.; removing an  
50 obsolete reference; amending s. 943.0581, F.S.; clarifying  
51 provisions; reenacting s. 943.0582(3)(a) and (5), F.S.,  
52 relating to prearrest, postarrest, or teen court diversion  
53 program expunction; reenacting s. 943.135(4)(b), F.S.,  
54 relating to requirements for continued employment;  
55 amending s. 944.053, F.S.; updating obsolete provisions;  
56 reenacting s. 944.28(1), F.S., relating to gain-time;

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57 amending ss. 944.708, 944.801, and 945.10, F.S.; replacing  
 58 obsolete references to the Department of Labor and  
 59 Employment Security with references to the Agency for  
 60 Workforce Innovation; reenacting s. 947.06, F.S., relating  
 61 to when the Florida Parole Commission may meet and act;  
 62 amending s. 949.071, F.S.; correcting a federal statutory  
 63 citation; amending s. 957.07, F.S.; replacing an obsolete  
 64 reference to the Correctional Privatization Commission  
 65 with a reference to the Department of Management Services;  
 66 amending s. 985.486, F.S.; correcting references  
 67 concerning intensive residential treatment programs for  
 68 offenders less than 13 years of age; amending s. 985.632,  
 69 F.S.; removing a reference to a repealed provision;  
 70 removing obsolete provisions; reenacting s. 985.686(2)(b),  
 71 F.S., relating to county and state responsibility for  
 72 juvenile detention; amending ss. 815.03, 817.554, 828.17,  
 73 831.30, 877.22, 893.02, 921.20, 944.023, 944.474, 947.16,  
 74 951.23, 951.231, 960.003, and 984.225, F.S.; correcting  
 75 cross-references; providing an effective date.

76

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

78

79 Section 1. Paragraph (c) of subsection (1) of section  
 80 775.0877, Florida Statutes, is amended to read:

81 775.0877 Criminal transmission of HIV; procedures;  
 82 penalties.—

83 (1) In any case in which a person has been convicted of or  
 84 has pled nolo contendere or guilty to, regardless of whether

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85 adjudication is withheld, any of the following offenses, or the  
 86 attempt thereof, which offense or attempted offense involves the  
 87 transmission of body fluids from one person to another:

88 (c) Section 800.04~~(1), (2), and (3)~~, relating to lewd or  
 89 lascivious offenses committed upon or in the presence of persons  
 90 ~~lewd, lascivious, or indecent assault or act upon any person~~  
 91 less than 16 years of age,

92  
 93 the court shall order the offender to undergo HIV testing, to be  
 94 performed under the direction of the Department of Health in  
 95 accordance with s. 381.004, unless the offender has undergone  
 96 HIV testing voluntarily or pursuant to procedures established in  
 97 s. 381.004(3)(h)6. or s. 951.27, or any other applicable law or  
 98 rule providing for HIV testing of criminal offenders or inmates,  
 99 subsequent to her or his arrest for an offense enumerated in  
 100 paragraphs (a)-(n) for which she or he was convicted or to which  
 101 she or he pled nolo contendere or guilty. The results of an HIV  
 102 test performed on an offender pursuant to this subsection are  
 103 not admissible in any criminal proceeding arising out of the  
 104 alleged offense.

105 Section 2. Section 775.25, Florida Statutes, is amended to  
 106 read:

107 775.25 Prosecutions for acts or omissions.—A sexual  
 108 predator or sexual offender who commits any act or omission in  
 109 violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s.  
 110 944.607, or former s. 947.177 may be prosecuted for the act or  
 111 omission in the county in which the act or omission was  
 112 committed, the county of the last registered address of the

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113 sexual predator or sexual offender, or the county in which the  
 114 conviction occurred for the offense or offenses that meet the  
 115 criteria for designating a person as a sexual predator or sexual  
 116 offender. In addition, a sexual predator may be prosecuted for  
 117 any such act or omission in the county in which he or she was  
 118 designated a sexual predator.

119 Section 3. Subsection (2) of section 784.07, Florida  
 120 Statutes, is amended to read:

121 784.07 Assault or battery of law enforcement officers,  
 122 firefighters, emergency medical care providers, public transit  
 123 employees or agents, or other specified officers;  
 124 reclassification of offenses; minimum sentences.-

125 (2) Whenever any person is charged with knowingly  
 126 committing an assault or battery upon a law enforcement officer,  
 127 a firefighter, an emergency medical care provider, a traffic  
 128 accident investigation officer as described in s. 316.640, a  
 129 nonsworn law enforcement agency employee who is certified as an  
 130 agency inspector, a blood alcohol analyst, or a breath test  
 131 operator while such employee is in uniform and engaged in  
 132 processing, testing, evaluating, analyzing, or transporting a  
 133 person who is detained or under arrest for DUI, a law  
 134 enforcement explorer, a traffic infraction enforcement officer  
 135 as described in s. 316.640, a parking enforcement specialist as  
 136 defined in s. 316.640, a person licensed as a security officer  
 137 as defined in s. 493.6101 and wearing a uniform that bears at  
 138 least one patch or emblem that is visible at all times that  
 139 clearly identifies the employing agency and that clearly  
 140 identifies the person as a licensed security officer, or a

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141 security officer employed by the board of trustees of a  
 142 community college, while the officer, firefighter, emergency  
 143 medical care provider, ~~intake officer,~~ traffic accident  
 144 investigation officer, traffic infraction enforcement officer,  
 145 inspector, analyst, operator, law enforcement explorer, parking  
 146 enforcement specialist, public transit employee or agent, or  
 147 security officer is engaged in the lawful performance of his or  
 148 her duties, the offense for which the person is charged shall be  
 149 reclassified as follows:

150 (a) In the case of assault, from a misdemeanor of the  
 151 second degree to a misdemeanor of the first degree.

152 (b) In the case of battery, from a misdemeanor of the  
 153 first degree to a felony of the third degree.

154 (c) In the case of aggravated assault, from a felony of  
 155 the third degree to a felony of the second degree.

156 Notwithstanding any other provision of law, any person convicted  
 157 of aggravated assault upon a law enforcement officer shall be  
 158 sentenced to a minimum term of imprisonment of 3 years.

159 (d) In the case of aggravated battery, from a felony of  
 160 the second degree to a felony of the first degree.

161 Notwithstanding any other provision of law, any person convicted  
 162 of aggravated battery of a law enforcement officer shall be  
 163 sentenced to a minimum term of imprisonment of 5 years.

164 Section 4. Subsection (11) of section 815.03, Florida  
 165 Statutes, is amended to read:

166 815.03 Definitions.—As used in this chapter, unless the  
 167 context clearly indicates otherwise:

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168 (11) "Property" means anything of value as defined in s.  
 169 812.012 ~~812.011~~ and includes, but is not limited to, financial  
 170 instruments, information, including electronically produced data  
 171 and computer software and programs in either machine-readable or  
 172 human-readable form, and any other tangible or intangible item  
 173 of value.

174 Section 5. Subsection (4) of section 817.554, Florida  
 175 Statutes, is amended to read:

176 817.554 Fraudulently offering for sale tour or travel-  
 177 related services.-

178 (4) Any individual or group which meets the standards of  
 179 organized fraud as defined in s. 817.034 ~~817.036~~ shall be  
 180 punished as provided in s. 817.034 ~~817.036~~.

181 Section 6. Section 828.17, Florida Statutes, is amended to  
 182 read:

183 828.17 Officer to arrest without warrant.-Any sheriff or  
 184 any other peace officer of the state, or any police officer of  
 185 any city or town of the state, shall arrest without warrant any  
 186 person found violating any of the provisions of ss. ~~828.04,~~  
 187 828.08, 828.12, and 828.13-828.16, and the officer making the  
 188 arrest shall hold the offender until a warrant can be procured,  
 189 and he or she shall use proper diligence to procure such  
 190 warrant.

191 Section 7. Section 831.16, Florida Statutes, is amended to  
 192 read:

193 831.16 Having fewer ~~less~~ than 10 counterfeit coins in  
 194 possession, with intent to utter.-Whoever has in his or her  
 195 possession any number of pieces fewer ~~less~~ than 10 of the

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196 counterfeit coin mentioned in s. 831.15 ~~the preceding section,~~  
 197 knowing the same to be counterfeit, with intent to utter or pass  
 198 the same as true, or who utters, passes or tenders in payment as  
 199 true any such counterfeit coin, knowing the same to be false and  
 200 counterfeit, commits a felony of the third degree, punishable as  
 201 provided in s. 775.082, s. 775.083, or s. 775.084 ~~shall be~~  
 202 ~~punished by imprisonment in the state prison not exceeding 10~~  
 203 ~~years, or in the county jail not exceeding 12 months, or by fine~~  
 204 ~~not exceeding \$1,000.~~

205 Section 8. Section 831.17, Florida Statutes, is amended to  
 206 read:

207 831.17 Violation of s. 831.16; second conviction.—Whoever  
 208 having been convicted of either of the offenses mentioned in s.  
 209 831.16 ~~the preceding section,~~ is again convicted of either of  
 210 the same offenses, committed after the former conviction, and  
 211 whoever is at the same term of the court convicted upon three  
 212 distinct charges of said offenses, commits a felony of the  
 213 second degree, punishable as provided in s. 775.082, s. 775.083,  
 214 or s. 775.084 ~~shall be deemed a common utterer of counterfeit~~  
 215 ~~coin and punished by imprisonment in the state prison not~~  
 216 ~~exceeding 20 years.~~

217 Section 9. Section 831.18, Florida Statutes, is amended to  
 218 read:

219 831.18 Making or possessing instruments for forging  
 220 bills.—Whoever engraves, makes, or amends, or begins to engrave,  
 221 make, or amend, any plate, block, press, or other tool,  
 222 instrument, or implement, or makes or provides any paper or  
 223 other material, adapted and designed for the making of a false

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224 and counterfeit note, certificate, or other bill of credit,  
 225 purporting to be issued by lawful authority for a debt of this  
 226 state, or a false or counterfeit note or bill, in the similitude  
 227 of the notes or bills issued by any bank or banking company  
 228 established in this state, or within the United States, or in  
 229 any foreign province, state, or government; and whoever has in  
 230 his or her possession any such plate or block engraved in any  
 231 part, or any press or other tool, instrument, or any paper or  
 232 other material adapted and designed as aforesaid, with intent to  
 233 issue the same, or to cause or permit the same to be used in  
 234 forging or making any such false and counterfeit certificates,  
 235 bills, or notes, commits a felony of the third degree,  
 236 punishable as provided in s. 775.082, s. 775.083, or s. 775.084  
 237 ~~shall be punished by imprisonment in the state prison not~~  
 238 ~~exceeding 10 years, or by fine not exceeding \$1,000.~~

239 Section 10. Section 831.21, Florida Statutes, is amended  
 240 to read:

241 831.21 Forging or counterfeiting doctor's certificate of  
 242 examination.—Whoever falsely makes, alters, forges, or  
 243 counterfeits any doctor's certificate or record of examination  
 244 to an application for a policy of insurance, or knowing such  
 245 doctor's certificate or record of examination to be falsely  
 246 made, altered, forged, or counterfeited, passes ~~shall pass,~~  
 247 utters, utter or publishes ~~publish~~ such certificate as true,  
 248 with intent to injure or defraud any person, commits a felony of  
 249 the third degree, punishable as provided in s. 775.082, s.  
 250 775.083, or s. 775.084 ~~shall be deemed guilty of forgery, and~~  
 251 ~~upon conviction thereof shall be punished by imprisonment in the~~

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252 ~~state penitentiary not exceeding 5 years, or by fine not~~  
 253 ~~exceeding \$500.~~

254 Section 11. Section 831.27, Florida Statutes, is amended  
 255 to read:

256 831.27 Issuing notes.—Whoever issues any note, bill,  
 257 order, or check, other than foreign bills of exchange and notes  
 258 or bills of some bank or company incorporated by the laws of  
 259 this state, or by the laws of the United States, or by the laws  
 260 of Canada ~~either of the British provinces in North America~~, with  
 261 intent that the same shall be circulated as currency, commits  
 262 ~~shall be guilty of~~ a misdemeanor of the second degree,  
 263 punishable as provided in s. 775.083.

264 Section 12. Section 831.30, Florida Statutes, is amended  
 265 to read:

266 831.30 Medicinal drugs; fraud in obtaining.—Whoever:

267 (1) Falsely makes, alters, or forges any prescription, as  
 268 defined in s. 465.003 ~~465.031(2)~~, for a medicinal drug other  
 269 than a drug controlled by chapter 893;

270 (2) Knowingly causes such prescription to be falsely made,  
 271 altered, forged, or counterfeited; or

272 (3) Passes, utters, or publishes such prescription or  
 273 otherwise knowingly holds out such false or forged prescription  
 274 as true~~;~~

275  
 276 with intent to obtain such drug commits, ~~shall be guilty of~~ a  
 277 misdemeanor of the second degree, punishable as provided in s.  
 278 775.082 or s. 775.083. A second or subsequent conviction

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279 constitutes ~~shall constitute~~ a misdemeanor of the first degree,  
 280 punishable as provided in s. 775.082 or s. 775.083.

281 Section 13. Subsection (1) of section 838.021, Florida  
 282 Statutes, is amended to read:

283 838.021 Corruption by threat against public servant.—

284 (1) It is unlawful to harm ~~Whoever unlawfully harms~~ or  
 285 threaten to ~~threatens unlawful harm to~~ any public servant, ~~to~~  
 286 his or her immediate family, or ~~to~~ any other person with whose  
 287 welfare the public servant is interested, with the intent to ~~or~~  
 288 purpose:

289 (a) ~~To~~ Influence the performance of any act or omission  
 290 that ~~which~~ the person believes to be, or that the public servant  
 291 represents as being, within the official discretion of the  
 292 public servant, in violation of a public duty, or in performance  
 293 of a public duty.

294 (b) ~~To~~ Cause or induce the public servant to use or exert,  
 295 or procure the use or exertion of, any influence upon or with  
 296 any other public servant regarding any act or omission that  
 297 ~~which~~ the person believes to be, or that the public servant  
 298 represents as being, within the official discretion of the  
 299 public servant, in violation of a public duty, or in performance  
 300 of a public duty.

301 Section 14. Section 847.0125, Florida Statutes, is  
 302 reenacted to read:

303 847.0125 Retail display of materials harmful to minors  
 304 prohibited.—

305 (1) "KNOWINGLY" DEFINED.—As used in this section,  
 306 "knowingly" means having general knowledge of, reason to know,

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307 or a belief or ground for belief which warrants further  
308 inspection or inquiry of both:

309 (a) The character and content of any material described  
310 herein which is reasonably susceptible of examination by the  
311 defendant, and

312 (b) The age of the minor; however, an honest mistake shall  
313 constitute an excuse from liability hereunder if the defendant  
314 made a reasonable bona fide attempt to ascertain the true age of  
315 such minor.

316 (2) OFFENSES AND PENALTIES.—

317 (a) It is unlawful for anyone offering for sale in a  
318 retail establishment open to the general public any book,  
319 magazine, or other printed material, the cover of which depicts  
320 material which is harmful to minors, to knowingly exhibit such  
321 book, magazine, or material in such establishment in such a way  
322 that it is on open display to, or within the convenient reach  
323 of, minors who may frequent the retail establishment. Such items  
324 shall, however, be displayed, either individually or  
325 collectively, behind an opaque covering which conceals the book,  
326 magazine, or other printed material.

327 (b) It is unlawful for anyone offering for sale in a  
328 retail establishment open to the general public any book,  
329 magazine, or other printed material, the content of which  
330 exploits, is devoted to, or is principally made up of  
331 descriptions or depictions of material which is harmful to  
332 minors, to knowingly exhibit such book, magazine, or material in  
333 such establishment in such a way that it is within the

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334 convenient reach of minors who may frequent the retail  
 335 establishment.

336 (c) A violation of any provision of this section  
 337 constitutes a misdemeanor of the first degree, punishable as  
 338 provided in s. 775.082 or s. 775.083.

339 Section 15. Subsection (4) of section 860.13, Florida  
 340 Statutes, is amended to read:

341 860.13 Operation of aircraft while intoxicated or in  
 342 careless or reckless manner; penalty.—

343 (4) It shall be the duty of any court in which there is a  
 344 conviction for violation of this statute to report such  
 345 conviction to the Federal Aviation Civil Aeronautics  
 346 Administration for its guidance and information with respect to  
 347 the pilot's certificate.

348 Section 16. Subsection (11) of section 865.09, Florida  
 349 Statutes, is amended to read:

350 865.09 Fictitious name registration.—

351 (11) FORMS.—Registration, cancellation, and renewal shall  
 352 be made on forms prescribed by the Department of State, which  
 353 may include the uniform business report, pursuant to s. 606.06,  
 354 as a means of satisfying the requirement of this section part.

355 Section 17. Subsection (4) of section 877.22, Florida  
 356 Statutes, is amended to read:

357 877.22 Minors prohibited in public places and  
 358 establishments during certain hours; penalty; procedure.—

359 (4) If a minor violates a curfew and is taken into  
 360 custody, the minor shall be transported immediately to a police  
 361 station or to a facility operated by a religious, charitable, or

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362 civic organization that conducts a curfew program in cooperation  
363 with a local law enforcement agency. After recording pertinent  
364 information about the minor, the law enforcement agency shall  
365 attempt to contact the parent of the minor and, if successful,  
366 shall request that the parent take custody of the minor and  
367 shall release the minor to the parent. If the law enforcement  
368 agency is not able to contact the minor's parent within 2 hours  
369 after the minor is taken into custody, or if the parent refuses  
370 to take custody of the minor, the law enforcement agency may  
371 transport the minor to her or his residence or proceed as  
372 authorized under part V ~~II~~ of chapter 39.

373 Section 18. Subsection (21) of section 893.02, Florida  
374 Statutes, is amended to read:

375 893.02 Definitions.—The following words and phrases as  
376 used in this chapter shall have the following meanings, unless  
377 the context otherwise requires:

378 (21) "Prescription" means and includes an order for drugs  
379 or medicinal supplies written, signed, or transmitted by word of  
380 mouth, telephone, telegram, or other means of communication by a  
381 duly licensed practitioner licensed by the laws of the state to  
382 prescribe such drugs or medicinal supplies, issued in good faith  
383 and in the course of professional practice, intended to be  
384 filled, compounded, or dispensed by another person licensed by  
385 the laws of the state to do so, and meeting the requirements of  
386 s. 893.04. The term also includes an order for drugs or  
387 medicinal supplies so transmitted or written by a physician,  
388 dentist, veterinarian, or other practitioner licensed to  
389 practice in a state other than Florida, but only if the

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390 pharmacist called upon to fill such an order determines, in the  
 391 exercise of his or her professional judgment, that the order was  
 392 issued pursuant to a valid patient-physician relationship, that  
 393 it is authentic, and that the drugs or medicinal supplies so  
 394 ordered are considered necessary for the continuation of  
 395 treatment of a chronic or recurrent illness. However, if the  
 396 physician writing the prescription is not known to the  
 397 pharmacist, the pharmacist shall obtain proof to a reasonable  
 398 certainty of the validity of said prescription. A prescription  
 399 order for a controlled substance shall not be issued on the same  
 400 prescription blank with another prescription order for a  
 401 controlled substance which is named or described in a different  
 402 schedule, nor shall any prescription order for a controlled  
 403 substance be issued on the same prescription blank as a  
 404 prescription order for a medicinal drug, as defined in s.  
 405 465.003(8) ~~465.031(5)~~, which does not fall within the definition  
 406 of a controlled substance as defined in this act.

407 Section 19. Subsections (3) and (4) of section 893.10,  
 408 Florida Statutes, are renumbered as subsections (2) and (3),  
 409 respectively, and present subsection (2) of that section is  
 410 amended to read:

411 893.10 Burden of proof; photograph or video recording of  
 412 evidence.—

413 ~~(2) In the case of a person charged under s. 893.14(1)~~  
 414 ~~with the possession of a controlled substance, the label~~  
 415 ~~required under s. 893.04(1) or s. 893.05(2) is admissible in~~  
 416 ~~evidence and prima facie evidence that such substance was~~  
 417 ~~obtained pursuant to a valid prescription form or dispensed by a~~

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418 ~~practitioner while acting in the course of his or her~~  
 419 ~~professional practice.~~

420 Section 20. Paragraph (a) of subsection (2) of section  
 421 914.24, Florida Statutes, is reenacted to read:

422 914.24 Civil action to restrain harassment of a victim or  
 423 witness.—

424 (2)(a) A circuit court, upon motion of the state attorney,  
 425 shall issue a protective order prohibiting the harassment of a  
 426 victim or witness in a criminal case if the court, after a  
 427 hearing, finds by a preponderance of the evidence that  
 428 harassment of an identified victim or witness in a criminal case  
 429 exists or that such order is necessary to prevent and restrain  
 430 an offense under s. 914.22, other than an offense consisting of  
 431 misleading conduct, or to prevent and restrain an offense under  
 432 s. 914.23.

433 Section 21. Subsection (3) of section 916.12, Florida  
 434 Statutes, is amended to read:

435 916.12 Mental competence to proceed.—

436 (3) In considering the issue of competence to proceed, an  
 437 examining expert shall first consider and specifically include  
 438 in his or her report the defendant's capacity to:

439 (a) Appreciate the charges or allegations against the  
 440 defendant.

441 (b) Appreciate the range and nature of possible penalties,  
 442 if applicable, that may be imposed in the proceedings against  
 443 the defendant.

444 (c) Understand the adversarial nature of the legal  
 445 process.

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446 (d) Disclose to counsel facts pertinent to the proceedings  
447 at issue.

448 (e) Manifest appropriate courtroom behavior.

449 (f) Testify relevantly.

450

451 ~~(g)~~ In addition, an examining expert shall consider and  
452 include in his or her report any other factor deemed relevant by  
453 the expert.

454 Section 22. Subsection (3) of section 916.3012, Florida  
455 Statutes, is amended to read:

456 916.3012 Mental competence to proceed.—

457 (3) In considering the issue of competence to proceed, an  
458 ~~the~~ examining expert ~~experts~~ shall first consider and  
459 specifically include in his or her ~~their~~ report the defendant's  
460 capacity to:

461 (a) Appreciate the charges or allegations against the  
462 defendant.

463 (b) Appreciate the range and nature of possible penalties,  
464 if applicable, that may be imposed in the proceedings against  
465 the defendant.

466 (c) Understand the adversarial nature of the legal  
467 process.

468 (d) Disclose to counsel facts pertinent to the proceedings  
469 at issue.

470 (e) Manifest appropriate courtroom behavior.

471 (f) Testify relevantly.

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473 ~~(e)~~ In addition, an examining expert shall consider and  
 474 include in his or her report any other factor deemed relevant by  
 475 the expert ~~experts.~~

476 Section 23. Section 918.0155, Florida Statutes, is amended  
 477 to read:

478 918.0155 Expeditious disposition of particular criminal  
 479 cases involving a child under age 16.—Every criminal case  
 480 prosecuted under chapter 782, chapter 784, chapter 787, chapter  
 481 794, chapter 796, chapter 800, chapter 827, or chapter 847 which  
 482 involves the abuse of a child or unlawful sexual contact or acts  
 483 performed in the presence of, with, or upon a child under the  
 484 age of 16 shall be heard and disposed of as expeditiously as  
 485 possible. ~~The Legislature requests the Supreme Court to adopt~~  
 486 ~~emergency rules regarding the expeditious handling of the~~  
 487 ~~matters enumerated in this section.~~

488 Section 24. Paragraphs (b) and (d) of subsection (3) of  
 489 section 921.0022, Florida Statutes, are amended to read:

490 921.0022 Criminal Punishment Code; offense severity  
 491 ranking chart.—

492 (3) OFFENSE SEVERITY RANKING CHART

493 (b) LEVEL 2

Florida Statute	Felony	Description
	Degree	

494

379.2431(1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
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496	379.2431 (1) (e) 4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
497	403.413 (5) (c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
498	517.07	3rd	Registration of securities and furnishing of prospectus required.
499	590.28 (1)	3rd	<del>Willful, malicious, or</del> Intentional burning <u>of lands</u> .
500	784.05 (3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
501	787.04 (1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
502	806.13 (1) (b) 3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.

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503	810.061 (2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
504	810.09 (2) (e)	3rd	Trespassing on posted commercial horticulture property.
505	812.014 (2) (c) 1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
506	812.014 (2) (d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
507	812.015 (7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
508	817.234 (1) (a) 2.	3rd	False statement in support of insurance claim.
509	817.481 (3) (a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
510	817.52 (3)	3rd	Failure to redeliver hired vehicle.

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511	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
512	817.60 (5)	3rd	Dealing in credit cards of another.
513	817.60 (6) (a)	3rd	Forgery; purchase goods, services with false card.
514	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
515	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
516	831.01	3rd	Forgery.
517	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
518	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
519	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.

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520	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
521	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
522	832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
523	843.08	3rd	Falsely impersonating an officer.
524	893.13(2)(a)2.	3rd	Purchase of any 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 other than cannabis.
525	893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
526	(d) LEVEL 4		
527	Florida Statute	Felony Degree	Description
	316.1935(3)(a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.

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528	499.0051 (1)	3rd	Failure to maintain or deliver pedigree papers.
529	499.0051 (2)	3rd	Failure to authenticate pedigree papers.
530	499.0051 (6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
531	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, <del>intake officer,</del> etc.
532	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
533	784.075	3rd	Battery on detention or commitment facility staff.
534	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
535	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
	784.081 (3)	3rd	Battery on specified official or

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employee.

536

784.082 (3) 3rd Battery by detained person on visitor or other detainee.

537

784.083 (3) 3rd Battery on code inspector.

538

784.085 3rd Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.

539

787.03 (1) 3rd Interference with custody; wrongly takes minor from appointed guardian.

540

787.04 (2) 3rd Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.

541

787.04 (3) 3rd Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.

542

790.115 (1) 3rd Exhibiting firearm or weapon within 1,000 feet of a school.

543

790.115 (2) (b) 3rd Possessing electric weapon or device,

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destructive device, or other weapon on school property.

544

790.115 (2) (c) 3rd Possessing firearm on school property.

545

800.04 (7) (c) 3rd Lewd or lascivious exhibition; offender less than 18 years.

546

810.02 (4) (a) 3rd Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.

547

810.02 (4) (b) 3rd Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.

548

810.06 3rd Burglary; possession of tools.

549

810.08 (2) (c) 3rd Trespass on property, armed with firearm or dangerous weapon.

550

812.014 (2) (c) 3. 3rd Grand theft, 3rd degree \$10,000 or more but less than \$20,000.

551

812.014 (2) (c) 4.- 3rd Grand theft, 3rd degree, a will, 10. firearm, motor vehicle, livestock, etc.

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553	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
554	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
555	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
556	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
557	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
558	837.02(1)	3rd	Perjury in official proceedings.
559	837.021(1)	3rd	Make contradictory statements in official proceedings.
560	838.022	3rd	Official misconduct.
561	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.

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562	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Family Services.
563	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
564	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
565	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
566	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
567	874.05(1)	3rd	Encouraging or recruiting another to join a criminal gang.
568	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).
569	914.14(2)	3rd	Witnesses accepting bribes.
	914.22(1)	3rd	Force, threaten, etc., witness, victim,

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or informant.

570

914.23(2) 3rd Retaliation against a witness, victim,  
or informant, no bodily injury.

571

918.12 3rd Tampering with jurors.

572

934.215 3rd Use of two-way communications device to  
facilitate commission of a crime.

573

574 Section 25. Paragraph (a) of subsection (5) of section  
575 921.141, Florida Statutes, is reenacted to read:

576 921.141 Sentence of death or life imprisonment for capital  
577 felonies; further proceedings to determine sentence.—

578 (5) AGGRAVATING CIRCUMSTANCES.—Aggravating circumstances  
579 shall be limited to the following:

580 (a) The capital felony was committed by a person  
581 previously convicted of a felony and under sentence of  
582 imprisonment or placed on community control or on felony  
583 probation.

584 Section 26. Section 921.20, Florida Statutes, is amended  
585 to read:

586 921.20 Classification summary; Parole Commission.—As soon  
587 as possible after a prisoner has been placed in the custody of  
588 the Department of Corrections, the classification board shall  
589 furnish a classification summary to the Parole Commission for  
590 use as provided in s. 945.25 ~~947.14~~. The summary shall include  
591 the criminal, personal, social, and environmental background and

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592 other relevant factors considered in classifying the prisoner  
 593 for a penal environment best suited for the prisoner's rapid  
 594 rehabilitation.

595 Section 27. Paragraph (a) of subsection (11) of section  
 596 932.704, Florida Statutes, is amended to read:

597 932.704 Forfeiture proceedings.—

598 (11) (a) The Department of Law Enforcement, in consultation  
 599 with the Florida Sheriffs Association and the Florida Police  
 600 Chiefs Association, shall develop guidelines and training  
 601 procedures to be used by state and local law enforcement  
 602 agencies and state attorneys in implementing the Florida  
 603 Contraband Forfeiture Act. ~~Each state or local law enforcement~~  
 604 ~~agency that files civil forfeiture actions under the Florida~~  
 605 ~~Contraband Forfeiture Act shall file, by December 31, 1995, a~~  
 606 ~~certificate signed by the agency head or his or her designee,~~  
 607 ~~which represents that the agency's policies and procedures are~~  
 608 ~~in compliance with the guidelines.~~ Each state or local law  
 609 enforcement agency that seizes property for the purpose of  
 610 forfeiture shall periodically review seizures of assets made by  
 611 the agency's law enforcement officers, settlements, and  
 612 forfeiture proceedings initiated by the agency, to determine  
 613 whether such seizures, settlements, and forfeitures comply with  
 614 the Florida Contraband Forfeiture Act and the guidelines adopted  
 615 under this subsection. The determination of whether an agency  
 616 will file a civil forfeiture action must be the sole  
 617 responsibility of the head of the agency or his or her designee.

618 Section 28. Subsection (7) of section 933.18, Florida  
 619 Statutes, is amended to read:

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620           933.18 When warrant may be issued for search of private  
 621 dwelling.—No search warrant shall issue under this chapter or  
 622 under any other law of this state to search any private dwelling  
 623 occupied as such unless:

624           (7) One or more of the following ~~misdemeanor~~ child abuse  
 625 offenses is being committed there:

626           (a) Interference with custody, in violation of s. 787.03.

627           (b) Commission of an unnatural and lascivious act with a  
 628 child, in violation of s. 800.02.

629           (c) Exposure of sexual organs to a child, in violation of  
 630 s. 800.03. If, during a search pursuant to a warrant issued  
 631 under this section, a child is discovered and appears to be in  
 632 imminent danger, the law enforcement officer conducting such  
 633 search may remove the child from the private dwelling and take  
 634 the child into protective custody pursuant to chapter 39. The  
 635 term "private dwelling" shall be construed to include the room  
 636 or rooms used and occupied, not transiently but solely as a  
 637 residence, in an apartment house, hotel, boardinghouse, or  
 638 lodginghouse. No warrant shall be issued for the search of any  
 639 private dwelling under any of the conditions hereinabove  
 640 mentioned except on sworn proof by affidavit of some creditable  
 641 witness that he or she has reason to believe that one of said  
 642 conditions exists, which affidavit shall set forth the facts on  
 643 which such reason for belief is based.

644           Section 29. Subsections (5) and (8) of section 933.40,  
 645 Florida Statutes, are amended to read:

646           933.40 Agriculture warrants.—

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647 (5) Agriculture warrants may be signed by any person  
 648 competent to issue search warrants under s. 933.01, either  
 649 manually, by signature stamp, or by electronic signature. The  
 650 trial court judge ~~or magistrate~~, upon examination of the  
 651 application and proofs submitted, if satisfied that probable  
 652 cause exists for the issuing of one or more agriculture  
 653 warrants, shall issue such agriculture warrants with his or her  
 654 signature and office affixed thereto. Such agriculture warrants  
 655 may be served and executed by employees of the department, with  
 656 the assistance of third parties supervised by department  
 657 employees, and shall authorize department employees with such  
 658 assistance to undertake all actions authorized by the warrant.

659 (8) An agriculture warrant shall be effective for 60 days  
 660 and shall authorize multiple executions of the warrant prior to  
 661 its expiration. An agriculture warrant may be extended or  
 662 renewed by the trial court judge ~~or magistrate~~ who signed and  
 663 issued the original warrant upon his or her satisfaction ~~of such~~  
 664 ~~official~~ that probable cause continues to exist for the  
 665 reissuance of the warrant. Such warrant must be returned to the  
 666 issuing official prior to the expiration date specified in the  
 667 warrant or within the extended or renewed time.

668 Section 30. Paragraph (g) of subsection (2) of section  
 669 934.03, Florida Statutes, is amended to read:

670 934.03 Interception and disclosure of wire, oral, or  
 671 electronic communications prohibited.—

672 (2)

673 (g) It is lawful under ss. 934.03-934.09 for an employee  
 674 of:

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675 1. An ambulance service licensed pursuant to s. 401.25, a  
 676 fire station employing firefighters as defined by s. 633.30, a  
 677 public utility ~~as defined by ss. 365.01 and 366.02~~, a law  
 678 enforcement agency as defined by s. 934.02(10), or any other  
 679 entity with published emergency telephone numbers;

680 2. An agency operating an emergency telephone number "911"  
 681 system established pursuant to s. 365.171; or

682 3. The central abuse hotline operated pursuant to s.  
 683 39.201~~7~~

684  
 685 to intercept and record incoming wire communications; however,  
 686 such employee may intercept and record incoming wire  
 687 communications on designated "911" telephone numbers and  
 688 published nonemergency telephone numbers staffed by trained  
 689 dispatchers at public safety answering points only. It is also  
 690 lawful for such employee to intercept and record outgoing wire  
 691 communications to the numbers from which such incoming wire  
 692 communications were placed when necessary to obtain information  
 693 required to provide the emergency services being requested. For  
 694 the purpose of this paragraph, the term "public utility" has the  
 695 same meaning as provided in s. 366.02 and includes a person,  
 696 partnership, association, or corporation now or hereafter owning  
 697 or operating equipment or facilities in the state for conveying  
 698 or transmitting messages or communications by telephone or  
 699 telegraph to the public for compensation.

700 Section 31. Section 938.15, Florida Statutes, is amended  
 701 to read:

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702           938.15 Criminal justice education for local government.—In  
 703 addition to the costs provided for in s. 938.01, municipalities  
 704 and counties may assess an additional \$2 for expenditures for  
 705 criminal justice education degree programs and training courses,  
 706 including basic recruit training, for their respective officers  
 707 and employing agency support personnel, provided such education  
 708 degree programs and training courses are approved by the  
 709 employing agency administrator, on a form provided by the  
 710 Criminal Justice Standards and Training Commission, for local  
 711 funding.

712           (1) Workshops, meetings, conferences, and conventions  
 713 shall, on a form approved by the Criminal Justice Standards and  
 714 Training Commission for use by the employing agency, be  
 715 individually approved by the employing agency administrator  
 716 prior to attendance. The form shall include, but not be limited  
 717 to, a demonstration by the employing agency of the purpose of  
 718 the workshop, meeting, conference, or convention; the direct  
 719 relationship of the training to the officer's job; the direct  
 720 benefits the officer and agency will receive; and all  
 721 anticipated costs.

722           (2) The Criminal Justice Standards and Training Commission  
 723 may inspect and copy the documentation of independent audits  
 724 conducted of the municipalities and counties which make such  
 725 assessments to ensure that such assessments have been made and  
 726 that expenditures are in conformance with the requirements of  
 727 this subsection and with other applicable procedures.

728           Section 32. Paragraph (b) of subsection (3) of section  
 729 943.051, Florida Statutes, is amended to read:

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730 943.051 Criminal justice information; collection and  
 731 storage; fingerprinting.—

732 (3)

733 (b) A minor who is charged with or found to have committed  
 734 the following offenses shall be fingerprinted and the  
 735 fingerprints shall be submitted to the department:

736 1. Assault, as defined in s. 784.011.

737 2. Battery, as defined in s. 784.03.

738 3. Carrying a concealed weapon, as defined in s.  
 739 790.01(1).

740 4. Unlawful use of destructive devices or bombs, as  
 741 defined in s. 790.1615(1).

742 5. Negligent treatment of children, as defined in former  
 743 s. 827.05.

744 6. Assault or battery on a law enforcement officer, a  
 745 firefighter, or other specified officers, as defined in s.  
 746 784.07(2) (a) and (b).

747 7. Open carrying of a weapon, as defined in s. 790.053.

748 8. Exposure of sexual organs, as defined in s. 800.03.

749 9. Unlawful possession of a firearm, as defined in s.  
 750 790.22(5).

751 10. Petit theft, as defined in s. 812.014(3).

752 11. Cruelty to animals, as defined in s. 828.12(1).

753 12. Arson, as defined in s. 806.031(1).

754 13. Unlawful possession or discharge of a weapon or  
 755 firearm at a school-sponsored event or on school property as  
 756 defined in s. 790.115.

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757 Section 33. Subsection (6) of section 943.053, Florida  
 758 Statutes, is reenacted to read:

759 943.053 Dissemination of criminal justice information;  
 760 fees.—

761 (6) Notwithstanding any other provision of law, the  
 762 department shall provide to the ~~Florida~~ Department of Revenue  
 763 ~~Child Support Enforcement~~ access to Florida criminal records  
 764 which are not exempt from disclosure under chapter 119, and to  
 765 such information as may be lawfully available from other states  
 766 via the National Law Enforcement Telecommunications System, for  
 767 the purpose of locating subjects who owe or potentially owe  
 768 support, as defined in s. 409.2554, or to whom such obligation  
 769 is owed pursuant to Title IV-D of the Social Security Act. Such  
 770 information may be provided to child support enforcement  
 771 authorities in other states for these specific purposes.

772 Section 34. Subsection (6) of section 943.0581, Florida  
 773 Statutes, is amended to read:

774 943.0581 Administrative expunction.—

775 (6) An application or endorsement under this section is  
 776 not admissible as evidence in any judicial or administrative  
 777 proceeding and may not ~~or otherwise~~ be construed in any way as  
 778 an admission of liability in connection with an arrest.

779 Section 35. Paragraph (a) of subsection (3) and subsection  
 780 (5) of section 943.0582, Florida Statutes, are reenacted to  
 781 read:

782 943.0582 Prearrest, postarrest, or teen court diversion  
 783 program expunction.—

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784 (3) The department shall expunge the nonjudicial arrest  
 785 record of a minor who has successfully completed a prearrest or  
 786 postarrest diversion program if that minor:

787 (a) Submits an application for prearrest or postarrest  
 788 diversion expunction, on a form prescribed by the department,  
 789 signed by the minor's parent or legal guardian, or by the minor  
 790 if he or she has reached the age of majority at the time of  
 791 applying.

792 (5) This section operates retroactively to permit the  
 793 expunction of any nonjudicial record of the arrest of a minor  
 794 who has successfully completed a prearrest or postarrest  
 795 diversion program on or after July 1, 2000; however, in the case  
 796 of a minor whose completion of the program occurred before the  
 797 effective date of this section, the application for prearrest or  
 798 postarrest diversion expunction must be submitted within 6  
 799 months after the effective date of this section.

800 Section 36. Paragraph (b) of subsection (4) of section  
 801 943.135, Florida Statutes, is reenacted to read:

802 943.135 Requirements for continued employment.—

803 (4)

804 (b) Any person who qualifies under paragraph (a) may, for  
 805 purposes of meeting the minimum mandatory continuing training or  
 806 education requirements of this section, at the option of an  
 807 employing agency, associate with that agency for the sole  
 808 purpose of securing continuing training or education as required  
 809 by this section and for allowing the agency to report completion  
 810 of the education or training to the Criminal Justice Standards  
 811 and Training Commission. The employing agency with which the

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812 person has associated shall submit proof of completion of any  
 813 education or training so obtained for purposes of demonstrating  
 814 compliance with this section and shall indicate that the person  
 815 for whom the credits are reported has secured the training under  
 816 the special status authorized by this section. An employing  
 817 agency may require any person so associated to attend continuing  
 818 training or education at the person's own expense and may  
 819 determine the courses or training that a person is to attend  
 820 while associated with the agency. Any person who is permitted to  
 821 associate with an employing agency for purposes of obtaining and  
 822 reporting education or continuing training credits while serving  
 823 in an elected or appointed public office shall not be considered  
 824 to be employed by the employing agency or considered by the  
 825 association with the employing agency to maintain an office  
 826 under s. 5(a), Art. II of the State Constitution.

827 Section 37. Subsection (5) of section 944.023, Florida  
 828 Statutes, is amended to read:

829 944.023 Comprehensive correctional master plan.—

830 (5) The comprehensive correctional master plan shall  
 831 project by year the total operating and capital outlay costs  
 832 necessary for constructing a sufficient number of prison beds to  
 833 avoid a deficiency in prison beds. Included in the master plan  
 834 which projects operating and capital outlay costs shall be a  
 835 siting plan which shall assess, rank, and designate appropriate  
 836 sites pursuant to s. 944.095(2) ~~(a)-(k)~~. The master plan shall  
 837 include an assessment of the department's current capability for  
 838 providing the degree of security necessary to ensure public  
 839 safety and should reflect the levels of security needed for the

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840 forecasted admissions of various types of offenders based upon  
841 sentence lengths and severity of offenses. The plan shall also  
842 provide construction options for targeting violent and habitual  
843 offenders for incarceration while providing specific  
844 alternatives for the various categories of lesser offenders.

845 Section 38. Subsection (4) of section 944.053, Florida  
846 Statutes, is amended to read:

847 944.053 Forestry Work Camps.—

848 (4) Forestry Work Camps shall house minimum custody  
849 inmates and medium custody inmates who are not serving a  
850 sentence for, or who have not been previously convicted of,  
851 sexual battery pursuant to s. 794.011 ~~or any sexual offense~~  
852 ~~specified in s. 917.012(1), unless they have successfully~~  
853 ~~completed a treatment program pursuant to s. 917.012.~~

854 Section 39. Subsection (1) of section 944.28, Florida  
855 Statutes, is reenacted to read:

856 944.28 Forfeiture of gain-time and the right to earn gain-  
857 time in the future.—

858 (1) If a prisoner is convicted of escape, or if the  
859 clemency, conditional release as described in chapter 947,  
860 probation or community control as described in chapter 948,  
861 provisional release as described in s. 944.277, parole, or  
862 control release as described in s. 947.146 granted to the  
863 prisoner is revoked, the department may, without notice or  
864 hearing, declare a forfeiture of all gain-time earned according  
865 to the provisions of law by such prisoner prior to such escape  
866 or his or her release under such clemency, conditional release,

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867 probation, community control, provisional release, control  
 868 release, or parole.

869 Section 40. Subsection (2) of section 944.474, Florida  
 870 Statutes, is amended to read:

871 944.474 Legislative intent; employee wellness program;  
 872 drug and alcohol testing.-

873 (2) Under no circumstances shall employees of the  
 874 department test positive for illegal use of controlled  
 875 substances. An employee of the department may not be under the  
 876 influence of alcohol while on duty. In order to ensure that  
 877 these prohibitions are adhered to by all employees of the  
 878 department and notwithstanding s. 112.0455, the department may  
 879 develop a program for the random drug testing of all employees.  
 880 The department may randomly evaluate employees for the  
 881 contemporaneous use or influence of alcohol through the use of  
 882 alcohol tests and observation methods. Notwithstanding s.  
 883 112.0455~~(5)(a)~~, the department may develop a program for the  
 884 reasonable suspicion drug testing of employees who are in  
 885 safety-sensitive or special risk positions, as defined in s.  
 886 112.0455(5), for the controlled substances listed in s.  
 887 893.03(3)(d). The reasonable suspicion drug testing authorized  
 888 by this subsection shall be conducted in accordance with s.  
 889 112.0455, but may also include testing upon reasonable suspicion  
 890 based on violent acts or violent behavior of an employee who is  
 891 on or off duty. The department shall adopt rules pursuant to ss.  
 892 120.536(1) and 120.54 that are necessary to administer this  
 893 subsection.

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894 Section 41. Section 944.708, Florida Statutes, is amended  
 895 to read:

896 944.708 Rules.—The Department of Corrections and the  
 897 Agency for Workforce Innovation ~~Department of Labor and~~  
 898 ~~Employment Security~~ shall adopt ~~promulgate~~ rules to implement  
 899 the provisions of ss. 944.701-944.707.

900 Section 42. Paragraph (h) of subsection (3) of section  
 901 944.801, Florida Statutes, is amended to read:

902 944.801 Education for state prisoners.—

903 (3) The responsibilities of the Correctional Education  
 904 Program shall be to:

905 (h) Develop a written procedure for selecting programs to  
 906 add to or delete from the vocational curriculum. The procedure  
 907 shall include labor market analyses which demonstrate the  
 908 projected demand for certain occupations and the projected  
 909 supply of potential employees. In conducting these analyses, the  
 910 department shall evaluate the feasibility of adding vocational  
 911 education programs which have been identified by the Agency for  
 912 Workforce Innovation ~~Department of Labor and Employment Security~~  
 913 or a regional coordinating council as being in undersupply in  
 914 this state. The department shall periodically reevaluate the  
 915 vocational education programs in major institutions to determine  
 916 which of the programs support and provide relevant skills to  
 917 inmates who could be assigned to a correctional work program  
 918 that is operated as a Prison Industry Enhancement Program.

919 Section 43. Paragraph (d) of subsection (3) of section  
 920 945.10, Florida Statutes, is amended to read:

921 945.10 Confidential information.—

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922 (3) Due to substantial concerns regarding institutional  
 923 security and unreasonable and excessive demands on personnel and  
 924 resources if an inmate or an offender has unlimited or routine  
 925 access to records of the Department of Corrections, an inmate or  
 926 an offender who is under the jurisdiction of the department may  
 927 not have unrestricted access to the department's records or to  
 928 information contained in the department's records. However,  
 929 except as to another inmate's or offender's records, the  
 930 department may permit limited access to its records if an inmate  
 931 or an offender makes a written request and demonstrates an  
 932 exceptional need for information contained in the department's  
 933 records and the information is otherwise unavailable.

934 Exceptional circumstances include, but are not limited to:

935 (d) The requested records contain information required to  
 936 process an application or claim by the inmate or offender with  
 937 the Internal Revenue Service, the Social Security  
 938 Administration, the Agency for Workforce Innovation Department  
 939 ~~of Labor and Employment Security~~, or any other similar  
 940 application or claim with a state agency or federal agency.

941 Section 44. Section 947.06, Florida Statutes, is reenacted  
 942 to read:

943 947.06 Meeting; when commission may act.—The commission  
 944 shall meet at regularly scheduled intervals and from time to  
 945 time as may otherwise be determined by the chair. The making of  
 946 recommendations to the Governor and Cabinet in matters relating  
 947 to modifications of acts and decisions of the chair as provided  
 948 in s. 947.04(1) shall be by a majority vote of the commission.  
 949 No prisoner shall be placed on parole except as provided in ss.

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950 947.172 and 947.174 by a panel of no fewer than two  
951 commissioners appointed by the chair. All matters relating to  
952 the granting, denying, or revoking of parole shall be decided in  
953 a meeting at which the public shall have the right to be  
954 present. Victims of the crime committed by the inmate shall be  
955 permitted to make an oral statement or submit a written  
956 statement regarding their views as to the granting, denying, or  
957 revoking of parole. Persons not members or employees of the  
958 commission or victims of the crime committed by the inmate may  
959 be permitted to participate in deliberations concerning the  
960 granting and revoking of paroles only upon the prior written  
961 approval of the chair of the commission. To facilitate the  
962 ability of victims and other persons to attend commission  
963 meetings, the commission shall meet in various counties  
964 including, but not limited to, Broward, Duval, Escambia,  
965 Hillsborough, Leon, Miami-Dade, Orange, and Palm Beach, with the  
966 location chosen being as close as possible to the location where  
967 the parole-eligible inmate committed the offense for which the  
968 parole-eligible inmate was sentenced. The commission shall adopt  
969 rules governing the oral participation of victims and the  
970 submission of written statements by victims.

971 Section 45. Paragraph (a) of subsection (4) of section  
972 947.16, Florida Statutes, is amended to read:

973 947.16 Eligibility for parole; initial parole interviews;  
974 powers and duties of commission.—

975 (4) A person who has become eligible for an initial parole  
976 interview and who may, according to the objective parole  
977 guidelines of the commission, be granted parole shall be placed

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978 | on parole in accordance with the provisions of this law; except  
979 | that, in any case of a person convicted of murder, robbery,  
980 | burglary of a dwelling or burglary of a structure or conveyance  
981 | in which a human being is present, aggravated assault,  
982 | aggravated battery, kidnapping, sexual battery or attempted  
983 | sexual battery, incest or attempted incest, an unnatural and  
984 | lascivious act or an attempted unnatural and lascivious act,  
985 | lewd and lascivious behavior, assault or aggravated assault when  
986 | a sexual act is completed or attempted, battery or aggravated  
987 | battery when a sexual act is completed or attempted, arson, or  
988 | any felony involving the use of a firearm or other deadly weapon  
989 | or the use of intentional violence, at the time of sentencing  
990 | the judge may enter an order retaining jurisdiction over the  
991 | offender for review of a commission release order. This  
992 | jurisdiction of the trial court judge is limited to the first  
993 | one-third of the maximum sentence imposed. When any person is  
994 | convicted of two or more felonies and concurrent sentences are  
995 | imposed, then the jurisdiction of the trial court judge as  
996 | provided herein applies to the first one-third of the maximum  
997 | sentence imposed for the highest felony of which the person was  
998 | convicted. When any person is convicted of two or more felonies  
999 | and consecutive sentences are imposed, then the jurisdiction of  
1000 | the trial court judge as provided herein applies to one-third of  
1001 | the total consecutive sentences imposed.

1002 |       (a) In retaining jurisdiction for the purposes of this  
1003 | act, the trial court judge shall state the justification with  
1004 | individual particularity, and such justification shall be made a  
1005 | part of the court record. A copy of such justification shall be

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1006 delivered to the department together with the commitment issued  
 1007 by the court pursuant to s. 944.17 ~~944.16~~.

1008 Section 46. Subsection (2) of section 949.071, Florida  
 1009 Statutes, is amended to read:

1010 949.071 Definition of "state" as used in s. 949.07;  
 1011 further declaration relating to interstate compacts.-

1012 (2) It is hereby recognized and further declared that  
 1013 pursuant to the consent and authorization contained in s. 112  
 1014 ~~111(b)~~ of Title 4 of the United States Code as ~~added by Pub. L.~~  
 1015 ~~No. 970-84th Congress, Ch. 941-2d Session~~, this state shall be a  
 1016 party to the Interstate Compact for Adult Offender Supervision,  
 1017 with any additional jurisdiction legally joining in the compact  
 1018 when such jurisdiction enacts the compact in accordance with the  
 1019 terms thereof.

1020 Section 47. Paragraph (e) of subsection (9) of section  
 1021 951.23, Florida Statutes, is amended to read:

1022 951.23 County and municipal detention facilities;  
 1023 definitions; administration; standards and requirements.-

1024 (9) INMATE COMMISSARY AND WELFARE FUND.-

1025 (e) The officer in charge shall be responsible for an  
 1026 audit of the fiscal management of the commissary by a  
 1027 disinterested party on an annual basis, which shall include  
 1028 certification of compliance with the pricing requirements of  
 1029 paragraph ~~(1)~~(b) ~~above~~. Appropriate transaction records and  
 1030 stock inventory shall be kept current.

1031 Section 48. Paragraph (c) of subsection (1) of section  
 1032 951.231, Florida Statutes, is amended to read:

1033 951.231 County residential probation program.-

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1034 (1) Any prisoner who has been sentenced under s. 921.18 to  
 1035 serve a sentence in a county residential probation center as  
 1036 described in s. 951.23 shall:

1037 (c) Participate in and complete the program required by s.  
 1038 958.045 ~~958.04(4)~~, if required by the supervisor of the center.

1039 Section 49. Subsection (4) of section 957.07, Florida  
 1040 Statutes, is amended to read:

1041 957.07 Cost-saving requirements.—

1042 (4) The Department of Corrections shall provide a report  
 1043 detailing the state cost to design, finance, acquire, lease,  
 1044 construct, and operate a facility similar to the private  
 1045 correctional facility on a per diem basis. This report shall be  
 1046 provided to the Auditor General in sufficient time that it may  
 1047 be certified to the Department of Management Services ~~commission~~  
 1048 to be included in the request for proposals.

1049 Section 50. Paragraph (b) of subsection (3) of section  
 1050 960.003, Florida Statutes, is amended to read:

1051 960.003 HIV testing for persons charged with or alleged by  
 1052 petition for delinquency to have committed certain offenses;  
 1053 disclosure of results to victims.—

1054 (3) DISCLOSURE OF RESULTS.—

1055 (b) At the time that the results are disclosed to the  
 1056 victim or the victim's legal guardian, or to the parent or legal  
 1057 guardian of a victim if the victim is a minor, the same  
 1058 immediate opportunity for face-to-face counseling which must be  
 1059 made available under s. 381.004~~(3)(e)~~ to those who undergo HIV  
 1060 testing shall also be afforded to the victim or the victim's

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1061 legal guardian, or to the parent or legal guardian of the victim  
 1062 if the victim is a minor.

1063 Section 51. Subsections (6) and (7) of section 984.225,  
 1064 Florida Statutes, are amended to read:

1065 984.225 Powers of disposition; placement in a staff-secure  
 1066 shelter.-

1067 (6) The department is deemed to have exhausted the  
 1068 reasonable remedies offered under this chapter if, at the end of  
 1069 the commitment period, the parent, guardian, or legal custodian  
 1070 continues to refuse to allow the child to remain at home or  
 1071 creates unreasonable conditions for the child's return. If, at  
 1072 the end of the commitment period, the child is not reunited with  
 1073 his or her parent, guardian, or custodian due solely to the  
 1074 continued refusal of the parent, guardian, or custodian to  
 1075 provide food, clothing, shelter, and parental support, the child  
 1076 is considered to be threatened with harm as a result of such  
 1077 acts or omissions, and the court shall direct that the child be  
 1078 handled in every respect as a dependent child. Jurisdiction  
 1079 shall be transferred to the Department of Children and Family  
 1080 Services, and the child's care shall be governed under the  
 1081 relevant provisions ~~parts II and III~~ of chapter 39.

1082 (7) The court shall review the child's commitment once  
 1083 every 45 days as provided in s. 984.20. The court shall  
 1084 determine whether ~~if~~ the parent, guardian, or custodian has  
 1085 reasonably participated in and financially contributed to the  
 1086 child's counseling and treatment program. The court shall also  
 1087 determine whether the department's efforts to reunite the family  
 1088 have been reasonable. If the court finds an inadequate level of

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1089 support or participation by the parent, guardian, or custodian  
 1090 prior to the end of the commitment period, the court shall  
 1091 direct that the child be handled in every respect as a dependent  
 1092 child. Jurisdiction shall be transferred to the Department of  
 1093 Children and Family Services, and the child's care shall be  
 1094 governed under the relevant provisions ~~parts II and III~~ of  
 1095 chapter 39.

1096 Section 52. Section 985.486, Florida Statutes, is amended  
 1097 to read:

1098 985.486 Intensive residential treatment programs for  
 1099 offenders less than 13 years of age; prerequisite for  
 1100 commitment.—No child who is eligible for commitment to an  
 1101 intensive residential treatment program for offenders less than  
 1102 13 years of age under ~~as established in~~ s. 985.483(1), may be  
 1103 committed to any intensive residential treatment program for  
 1104 offenders less than 13 years of age under ~~as established in~~ s.  
 1105 985.483, unless such program has been established by the  
 1106 department through existing resources or specific appropriation,  
 1107 for such program.

1108 Section 53. Paragraph (a) of subsection (4) and subsection  
 1109 (7) of section 985.632, Florida Statutes, are amended to read:

1110 985.632 Quality assurance and cost-effectiveness.—

1111 (4) (a) The department ~~of Juvenile Justice~~, in consultation  
 1112 with the Office of Economic and Demographic Research, and  
 1113 contract service providers, shall develop a cost-effectiveness  
 1114 model and apply the model to each commitment program. Program  
 1115 recidivism rates shall be a component of the model. The cost-  
 1116 effectiveness model shall compare program costs to client

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1117 outcomes and program outputs. It is the intent of the  
1118 Legislature that continual development efforts take place to  
1119 improve the validity and reliability of the cost-effectiveness  
1120 model ~~and to integrate the standard methodology developed under~~  
1121 ~~s. 985.401(4) for interpreting program outcome evaluations.~~

1122 ~~(7) No later than November 1, 2001, the department shall~~  
1123 ~~submit a proposal to the Legislature concerning funding~~  
1124 ~~incentives and disincentives for the department and for~~  
1125 ~~providers under contract with the department. The~~  
1126 ~~recommendations for funding incentives and disincentives shall~~  
1127 ~~be based upon both quality assurance performance and cost-~~  
1128 ~~effectiveness performance. The proposal should strive to achieve~~  
1129 ~~consistency in incentives and disincentives for both department-~~  
1130 ~~operated and contractor-provided programs. The department may~~  
1131 ~~include recommendations for the use of liquidated damages in the~~  
1132 ~~proposal; however, the department is not presently authorized to~~  
1133 ~~contract for liquidated damages in non-hardware-secure~~  
1134 ~~facilities until January 1, 2002.~~

1135 Section 54. Paragraph (b) of subsection (2) of section  
1136 985.686, Florida Statutes, is reenacted to read:

1137 985.686 Shared county and state responsibility for  
1138 juvenile detention.—

1139 (2) As used in this section, the term:

1140 (b) "Fiscally constrained county" means a county within a  
1141 rural area of critical economic concern as designated by the  
1142 Governor pursuant to s. 288.0656 or each county for which the  
1143 value of a mill will raise no more than \$5 million in revenue,

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1144 based on the certified school taxable value certified pursuant  
1145 to s. 1011.62(4)(a)1.a., from the previous July 1.

1146 Section 55. This act shall take effect July 1, 2010.