

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Health Policy

BILL: SB 846
 INTRODUCER: Senator Pizzo
 SUBJECT: HIV Prevention
 DATE: March 22, 2019 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Rossitto-Van Winkle	Brown	HP	Pre-meeting
2.	_____	_____	ACJ	_____
3.	_____	_____	AP	_____

I. Summary:

SB 846 revises provisions of law regarding the behavior of persons who are human immunodeficiency virus (HIV) positive and other persons concerning disease status. The bill:

- Reduces the offense of engaging in sex while knowingly HIV positive without the informed consent of the sexual partner from a third degree felony to a first degree misdemeanor;
- Requires the state to prove additional elements to convict for the crime of transmitting a sexually transmitted disease (STD), including:
 - Intent;
 - Conduct imposing a substantial risk of transmission of a specified STD; and
 - Actual transmission of a specified STD.
- Provides that a good faith effort to comply with a treatment regimen or behavioral recommendations is an affirmative defense to the charge of intending to transmit an STD and provides that a lack of compliance with a treatment regime or behavioral recommendations, alone, is insufficient to establish intent;
- Keeps the non-disclosure of HIV status in connection with prostitution a third degree felony, making the offence more severe than a first-time non-disclosure offense not connected with prostitution;
- Removes the donation of blood, plasma, organs, skin, or other human tissue from the list of specified offenses involving the transmission of bodily fluids that require mandatory Hepatitis and HIV testing at a victim’s request in certain situation;
- Permits the donation of blood, plasma, organs, skin, or other human tissue by a person with HIV if a licensed physician deems the donation “medically appropriate”;
- Reduces the offense of donation of blood, plasma, organs, skin, or other human tissue by a person with an STD, when not deemed medically appropriate, from a third degree felony to a first degree misdemeanor;
- Downgrades from a third degree felony to a first degree misdemeanor the offenses of:

- Maliciously spreading of any false information concerning a person's STD status; and,
- Maliciously spreading information regarding a person's STD status for monetary gain;
- Deletes the civil penalty for violating the Department of Health (DOH) rules regarding STDs; and,
- Makes conforming changes to the Criminal Punishment Code severity ranking.

The bill is effective July 1, 2019.

II. Present Situation:

The Human Immunodeficiency Virus (HIV)

HIV is a virus that can lead to acquired immunodeficiency syndrome (AIDS) if not treated. Unlike some other viruses, the human body cannot get rid of HIV completely, even with treatment. Once you get HIV, you have it for life.¹

HIV is spread through specific activities that result in contact with an infected person's blood, other bodily fluids, mucous membranes, or damaged tissue.² In the United States, HIV is mainly transmitted through unprotected anal or vaginal sex and the sharing of needles and syringes, rinse water, or other equipment used to prepare drugs for injection.³ Less common methods of HIV transmission are through:

- The passage of HIV from mother to child during pregnancy;
- Childbirth;
- Breastfeeding; and
- Being pierced with an HIV-contaminated needle or other sharp object.⁴

Rare methods of HIV transmission include the following activities with an untreated HIV positive person:

- Oral sex;
- Transfusion of blood and blood products;
- Organ or tissue transplants contaminated with HIV;
- Eating food that has been pre-chewed by a person with HIV;
- Human bites that break the skin by an HIV positive person;
- Contact with open wounds or mucus membranes of an HIV positive person; and
- Deep, open-mouth kissing if both persons have mouth sores or bleeding gums.⁵

HIV does not survive long outside the human body, such as on surfaces, and it cannot reproduce outside a human host. HIV is not spread by:

- Mosquitoes, ticks, or other insects;
- Saliva, tears, or sweat that is not mixed with the blood of an HIV positive person;

¹ Center for Disease Control and Prevention, *About HIV/AIDS*, (page updated March 1, 2019) available at <https://www.cdc.gov/hiv/basics/whatisshiv.html> (last visited Mar. 21, 2019).

² Centers for Disease Control and Prevention, *HIV Transmission*, (page updated October 31, 2018) available at <https://www.cdc.gov/hiv/basics/transmission.html> (last visited Mar. 21, 2019).

³ *Id.*

⁴ *Id.*

⁵ *Id.*

- Hugging, shaking hands, sharing toilets, sharing dishes, or closed-mouth kissing with someone who is HIV positive; or
- Other sexual activities that does not involve the exchange of body fluids.

Once transmitted, HIV attacks the infected person's immune system, specifically, the lymphocytes known as CD4 cells or T Cells, which participate in an immune response.⁶ Untreated, HIV reduces a body's ability to fight off infections and disease and can lead to AIDS, the most severe form of HIV infection.⁷ There is no effective cure for HIV, but antiretroviral therapy (ART) can slow or prevent the disease's progression and dramatically prolong the lifespan of an infected person.⁸ When treated, an infected person can expect to live nearly as long as a person without HIV.⁹ Antiretroviral therapy can also reduce the amount of HIV in a person's blood, known as the viral load.¹⁰ Persons who attain an undetectable viral load have effectively no risk of transmitting HIV through sexual conduct.¹¹

In the United States, about 51 percent of an estimated 1.1 million people with HIV¹² had achieved an undetectable viral load by the end of 2015.¹³ In Florida, 62 percent of the 116,944 people living with HIV¹⁴ had achieved an undetectable viral load.¹⁵

National Criminal HIV Exposure Laws

Nearly two-thirds of all states criminalize certain conduct related to HIV exposure.¹⁶ Such laws attempt to deter HIV transmission by:

- Criminalizing behaviors that result in HIV exposure;
- Criminalizing behaviors that result in STD or other communicable or infectious disease exposure, which may include HIV exposure;
- Increasing sentence lengths for certain crimes committed by a person infected with HIV; and

⁶ Centers for Disease Control and Prevention, *About HIV/AIDS*, (March 1, 2019) available at <https://www.cdc.gov/hiv/basics/whatishiv.html> (last visited Mar. 21, 2019).

⁷ *Id.*

⁸ *Id.*

⁹ Centers for Disease Control and Prevention, *HIV Care Saves Lives infographic*, available at <https://www.cdc.gov/vitalsigns/hiv-aids-medical-care/infographic.html> (last visited Mar. 21, 2019).

¹⁰ *Supra* note 6.

¹¹ *Id.*

¹² The annual number of new HIV diagnoses in the United States remained stable between 2012 and 2017, with 2017 resulting in approximately 38,739 new HIV diagnoses. Centers for Disease Control and Prevention, *HIV in the United States and Dependent Areas* (January 2019), available at <https://www.cdc.gov/hiv/pdf/statistics/overview/cdc-hiv-us-ataglance.pdf> (last visited Mar. 21, 2019).

¹³ Centers for Disease Control and Prevention, *HIV in the United States and Dependent Areas*, (January 2019) available at <https://www.cdc.gov/hiv/pdf/statistics/overview/cdc-hiv-us-ataglance.pdf> (last visited Mar. 21, 2019).

¹⁴ Florida reported an estimated 4,949 new HIV diagnoses in 2017. Florida Department of Health, *HIV Data Center*, (Nov 28, 2018) available at <http://www.floridahealth.gov/diseases-and-conditions/aids/surveillance/index.html> (last visited Mar. 21, 2019).

¹⁵ Florida Department of Health, *HIV Data Center*, available at <http://www.floridahealth.gov/diseases-and-conditions/aids/surveillance/index.html> (last visited Mar. 21, 2019).

¹⁶ J. Stan Lehman, et al., *Prevalence and Public Health Implications of State Laws that Criminalize Potential HIV Exposure in the United States*, *AIDS and Behavior* (March 15, 2014), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4019819/> (last visited Mar. 21, 2019).

- Increasing sentence lengths for certain crimes committed by a person infected with an STD, which may include HIV.¹⁷

Additionally, all 50 states have general criminal laws, such as assault, battery, reckless endangerment, and attempted murder, under which the state can prosecute a person with HIV for engaging in certain behaviors.¹⁸

Opponents of criminal HIV exposure laws argue that such laws can lead to unintended consequences by:

- Encouraging the deferral of HIV testing;
- Reinforcing hostility towards HIV-positive persons;
- Exacerbating HIV-related stigma; and
- Deterring HIV-positive status disclosure.¹⁹

Opponents also point out that most criminal HIV exposure laws do not account for scientifically supported risk levels associated with the type of activity the offender engages in or any risk reduction measures. As a result, these laws may criminalize behaviors that the federal Center for Disease Control and Prevention (CDC) regards as posing little or no risk for HIV transmission.²⁰ In light of scientific advancements in HIV treatment and prevention, the United States Department of Justice (DOJ) recommends that states reform HIV criminal exposure laws to eliminate HIV-specific penalties, except when a person knows he or she is HIV positive and:

- Commits a sex crime with the risk of transmission (e.g., rape or other sexual assault);
- Evidence clearly demonstrates that the person intended to transmit HIV; and
- The person's behavior posed a significant risk of transmission.²¹

Florida Law

STDs and Non-Disclosure

Under Florida law, a person commits a third degree felony²² if the person knows he or she has HIV, has been informed of the risk of transmission through sexual intercourse, and has sexual intercourse with another person, unless that person consented with knowledge of the diagnosis.²³ A person commits a first degree felony²⁴ for a second or subsequent non-disclosure offense.²⁵

¹⁷ Centers for Disease Control and Prevention, *HIV and STD Criminal Laws*, (November 30, 2018) available at <https://www.cdc.gov/hiv/policies/law/states/exposure.html> (last visited Mar. 21, 2019).

¹⁸ *Id.*

¹⁹ C. Galletly, Z. Lazzarini, C. Sanders, and S.D. Pinkerton, *Criminal HIV Exposure Laws: Moving Forward*, AIDS and Behavior (June 2014), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC4084714/> (last visited Mar. 21, 2019).

²⁰ U.S. Department of Justice (DOJ), *Best Practice Guide to Reform HIV-Specific Criminal Laws to Align with Scientifically-Supported Factors*, available at <https://www.hivlawandpolicy.org/sites/default/files/DOJ-HIV-Criminal-Law-Best-Practices-Guide.pdf> (last visited Mar. 21, 2019).

²¹ *Id.*

²² A third degree felony is punishable by up to 5 years imprisonment and a \$5,000 fine. See ss. 775.082(3)(e) and 775.083(1)(c), F.S.

²³ Sections 384.24(2) and 384.34(5), F.S.

²⁴ A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. See ss. 775.082(3)(b)1. and 775.083(1)(b), F.S.

²⁵ *Id.*

Conviction for a non-disclosure offense does not require the intent to transmit or the actual transmission of HIV.

Florida law does not currently define “sexual intercourse.” However, the Florida Supreme Court has defined sexual intercourse to include penile-vaginal penetration and acts of oral and anal intercourse.²⁶

Penalties for Sex Workers

A person who engages in sexual activity for hire, except as between spouses, commits the offense of prostitution.²⁷ The severity of the offense depends in part on the existence of any prior conviction for prostitution. Prostitution is a second degree misdemeanor for a first offense;²⁸ a first degree misdemeanor for a second offense;²⁹ and a third degree felony for a third or subsequent offense.³⁰ A person convicted of prostitution must undergo STD screening, including HIV screening.³¹

A person who commits or offers to commit prostitution, or who procures another for prostitution by engaging in sexual activity in a manner likely to transmit HIV, commits a third degree felony if, prior to the offense, he or she tested positive for HIV and was informed of the positive result and the risk of transmission through sexual activity.³² An offender may be convicted of, and sentenced separately for, this offense and for prostitution.³³ A conviction for this offense does not require the intent to transmit or the actual transmission of HIV.

Criminal Transmission of HIV

A person convicted of committing or attempting to commit a specified offense involving the transmission of bodily fluids from one person to another must undergo HIV testing.³⁴ Specified offenses include:³⁵

- Sexual battery;³⁶
- Incest;³⁷
- Lewd or lascivious offenses on a person under 16;³⁸
- Assault³⁹ or aggravated assault;⁴⁰

²⁶ *Debaun v. State*, 213 So. 3d 747 (Fla. 2017), Supreme Ct. Case # SC13-2336, available at <http://onlinedocketsc.flcourts.org/> (last visited Mar. 21, 2019).

²⁷ Section 796.07(1)(a), F.S.

²⁸ A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine. See ss. 775.082(4)(b) and 775.083(1)(e), F.S.

²⁹ A first degree misdemeanor is punishable by up to 1 year in jail and a \$1,000 fine. See ss. 775.082(4)(a) and 775.083(1)(d), F.S.

³⁰ Section 796.07(4)(a)1.- 3., F.S.

³¹ Section. 775.0877(1), F.S.

³² Section. 796.08(5)(a)-(b), F.S.

³³ Section 775.0877(5), F.S.

³⁴ Section 775.0877(1), F.S.

³⁵ *Id.*

³⁶ Section 794.011, F.S.

³⁷ Section 826.04, F.S.

³⁸ Section 800.04, F.S.

³⁹ Sections 784.011, 784.07(2)(a), and 784.08(2)(d), F.S.

⁴⁰ Sections 784.021, 784.07(2)(c), and 784.08(2)(b), F.S.

- Battery⁴¹ or aggravated battery;⁴²
- Child abuse⁴³ or aggravated child abuse;⁴⁴
- Abuse of an elderly person or disabled adult⁴⁵ or aggravated abuse of an elderly person or disabled adult;⁴⁶
- Sexual performance of a minor;⁴⁷
- Prostitution;⁴⁸
- Human trafficking;⁴⁹ and
- Donation of blood, plasma, organs, skin, or other human tissue under certain conditions.⁵⁰

A person who tests positive for HIV following a conviction for a specified offense, who is informed of the result, and who later commits another specified offense, commits criminal transmission of HIV.⁵¹ An offender may be convicted of, and sentenced separately for, criminal transmission of HIV and for the underlying offense.⁵² A conviction for criminal transmission of HIV does not require the intent to transmit or the actual transmission of HIV.⁵³

Court-Ordered Hepatitis and HIV Testing

At the request of a victim,⁵⁴ a court must order an offender charged with the commission of a specified offense to undergo Hepatitis and HIV testing if the offense:

- Involves the transmission of bodily fluids from one person to another;⁵⁵ or
- Is a sexual offense and the victim was a minor, a disabled adult, or an elderly person.⁵⁶

The specified offenses include all the offenses that form the basis for a conviction of criminal transmission of HIV, except human trafficking.⁵⁷

Organ, Blood, Plasma, Skin and Tissue Donation

Due to increased life expectancy, the number of HIV-positive persons in need of organ transplants has increased.⁵⁸ However, the number of people on the organ transplant waiting list

⁴¹ Sections 784.03, 784.07(2)(b), 784.08(2)(c), F.S.

⁴² Sections 784.045, 784.07(2)(d), and 784.08(2)(a), F.S.

⁴³ Section 827.03(2)(c), F.S.

⁴⁴ Section 827.03(2)(a), F.S.

⁴⁵ Section 825.102(1), F.S.

⁴⁶ Section 825.102(2), F.S.

⁴⁷ Section 827.071, F.S.

⁴⁸ Sections 796.07 and 796.08, F.S.

⁴⁹ Sections 787.06(3)(b), (d), (f), and (g), F.S.

⁵⁰ Section 381.0041(11)(b), F.S.

⁵¹ Section 775.0877(3), F.S.

⁵² *Id.*

⁵³ Section. 775.0877(5), F.S.

⁵⁴ A request may also come from a victim's legal guardian or the parents of a minor victim pursuant to s. 960.003, F.S.. *See* s. 775.0877(2), F.S.

⁵⁵ Section. 960.003(2)(a), F.S.

⁵⁶ Section 960.003(2)(b), F.S.

⁵⁷ *Id.*

⁵⁸ Christine Durand, M.D., *The Transformation of Transplantation*, HIV Specialist (July 2018), available at https://aahivm.org/wp-content/uploads/2018/07/FINALHIVspecialist_July2018FINAL-1.pdf (last visited Mar. 21, 2019).

far outweighs the number of available organs.⁵⁹ This shortage disproportionately affects persons with HIV, who have a higher mortality rate than persons without HIV on the organ transplant waiting list.⁶⁰

For decades, federal law prohibited persons with HIV from donating organs for transplantation, even to HIV-positive recipients.⁶¹ However, in 2013, the HIV Organ Policy Equity (HOPE) Act legalized HIV-positive organ donations for transplantation into HIV-positive candidates under approved research protocols designed to evaluate the feasibility, effectiveness, and safety of such organ transplants.⁶²

Although authorized by federal law, it is a third degree felony in Florida for an HIV-positive person to donate blood, plasma, organs, skin, or other human tissue when he or she knew of the HIV infection and was informed that transmission could occur through such donation.⁶³ Florida prohibits HIV-positive persons from donating human tissue to other HIV-positive recipients or as part of a clinical research study.⁶⁴

Release of Information

A person who maliciously disseminates any false information or report about the existence of any STD, including HIV, commits a third degree felony.⁶⁵ A person who obtains information identifying a person with an STD, including HIV, who knew or should have known the nature of the information and who maliciously, or for monetary gain, spreads such information to anyone other than a physician or a nurse employed by the DOH or to a law enforcement agency, commits a third degree felony.⁶⁶

The DOH promulgates rules regulating STD testing, confidentiality of information, disease reporting, quarantine orders, and notification requirements.⁶⁷ A person who violates DOH rules related to STDs⁶⁸ is subject to a \$500 fine for each violation.⁶⁹ The DOH can impose the fine in addition to other penalties provided by ch. 384, F.S.⁷⁰

⁵⁹ *Id.*

⁶⁰ *Id.*

⁶¹ UNOS, *At Two Years, HOPE Act Still Offering Hope*, (December 1, 2017) available at <https://unos.org/at-two-years-hope-act-still-offering-hope/> (last visited Mar. 21, 2019).

⁶² *Id.*

⁶³ Section. 381.0041(11)(b), F.S.

⁶⁴ *Id.*

⁶⁵ Section 384.34(3), F.S.

⁶⁶ Section 384.34(6), F.S.

⁶⁷ Rule 64D-3, F.A.C.

⁶⁸ For example, Rule 64D-3.029, F.A.C., requires practitioners, hospitals, and laboratories to report to DOH diseases or conditions identified by DOH as being of public health significance, including HIV, within specified timeframes.

⁶⁹ Section 384.34(4), F.S.

⁷⁰ *Id.* Other penalties include criminal misdemeanor penalties for violations of s. 384.29, F.S., relating to the confidentiality of information and records held by DOH, and for violations of s. 384.26, F.S., relating to the confidentiality of information gathered by DOH during an investigation into the source and spread of an STD.

III. Effect of Proposed Changes:

Sexually Transmitted Disease Definitions

SB 846 defines three terms previously undefined by in ch. 384, F.S., Sexually Transmitted Diseases. The definition for “sexual conduct,” is similar to that set forth by the Florida Supreme Court in DeBaun.⁷¹ The bill defines the term as conduct between persons, regardless of gender, which is capable of transmitting a sexually transmissible disease, including, but not limited to, contact between a:

- Penis and a vulva or an anus; or
- Mouth and a penis, a vulva, or an anus.

The bill defines “substantial risk of transmission” as a reasonable probability of disease transmission as proven by competent medical or epidemiological evidence. The bill also defines the term “behavioral recommendations” to include, but not be limited to, the use of a prophylactic device to limit the risk of transmission of the disease. Under the bill, evidence of the person’s failure to comply with such a treatment regimen or such behavioral recommendations is not, in and of itself, sufficient to establish that he or she acted with intent.

STDs and Non-Disclosure

The bill amends ss. 384.24 and 384.34, F.S., to replace the undefined phrase, “sexual intercourse” with the defined phrase “sexual conduct” and to reduce the offense of engaging in sex while knowingly HIV positive without the informed consent of the other party from a third degree felony to a first degree misdemeanor. This change makes non-disclosure of HIV the same offense level as non-disclosure of other enumerated STDs. However, the bill makes a second or subsequent non-disclosure offense under s. 384.24, F.S., for any enumerated STD a third degree felony.

The bill requires the state to prove additional elements for a conviction under s. 384.24, F.S., including that the offender:

- Acted with intent to transmit HIV or another specified STD;
- Engaged in conduct that imposed a substantial risk of transmission of HIV or another specified STD when the other person was unaware of the HIV or specified STD diagnosis; and,
- Actually transmitted HIV or another specified STD.

Finally, the bill specifies that a person does not act with the intent to transmit HIV or a specified STD if he or she:

- In good faith complies with a prescribed treatment regimen or with the behavioral recommendations of a health care provider or public health officials to limit the risk of transmission; or
- Offers to comply with such behavioral recommendations but the sexual partner rejects the offer.

⁷¹ See note 27.

The bill defines “behavioral recommendations” to include the use of a prophylactic device, such as a condom, and specifies that evidence of person’s failure to comply with a treatment regimen or behavioral recommendations does not, in and of itself, constitute sufficient evidence of intent to transmit HIV or another specified STD.

Penalties for Sex Workers

Under the bill, the non-disclosure of HIV in connection with prostitution remains a third degree felony. As a result, the bill makes the non-disclosure of HIV in connection with prostitution a more severe offense than a first-time non-disclosure of HIV offense not connected with prostitution, now reduced to a first degree misdemeanor. Further, a conviction under this section still does not require the intent to transmit or the actual transmission of HIV, though these elements are required for conviction of a non-disclosure offense not involving prostitution.

Criminal Transmission of HIV

The bill removes the donation of blood, plasma, organs, skin, or other human tissue from the list of specified offenses in s. 775.0877, F.S. As a result, a person convicted of donation of human tissue by an HIV positive person does not have to submit to HIV testing as part of his or her sentence, and a second or subsequent offense would not constitute criminal transmission of HIV.

However, a second or subsequent conviction for any of the remaining enumerated crimes constitutes criminal transmission of HIV, a third degree felony. A conviction for this offense still does not require the intent to transmit or the actual transmission of HIV.

Court-Ordered Hepatitis and HIV Testing

The bill deletes all references to s. 775.0877(1)(n), F.S., from the list of offenses that qualify for mandatory Hepatitis and HIV testing at a victim’s request if:

- The offense involves the transmission of bodily fluids from one person to another; or
- The offense is a sexual offense and the victim was a minor, a disabled adult, or an elderly person.

In effect, the commission of an offense involving the donation of human tissue by a person with HIV would not subject the offender to court-ordered Hepatitis or HIV testing at the request of a victim under this section. However, the donated tissue would still be tested for STDs and other communicable diseases.⁷²

Organ, Blood, Plasma, Skin and Tissue Donation

The bill amends s. 381.0041, F.S., to permit the donation of blood, plasma, organs, skin, or other human tissue by a person with HIV if a licensed physician deems the donation “medically appropriate,” but does not define what is “medically appropriate.” This may authorize persons with HIV to donate human tissue to other persons with HIV, or even non-HIV patients, and to participate in clinical research trials authorized by the HOPE Act.

⁷² Section 381.0041(1), F.S.

The bill also reduces the offense level for the donation of blood, plasma, organs, skin, or other human tissue by a person with HIV when not deemed medically appropriate by a licensed physician from a third degree felony to a first degree misdemeanor. The severity of the offense for unauthorized tissue donation by an HIV positive person aligns with most other HIV exposure offenses.

Release of Information

The bill amends s. 384.34, F.S., to downgrade from a third degree felony to a first degree misdemeanor the offenses of:

- Maliciously spreading any false information or report concerning the existence of any STD, including HIV; and
- Maliciously or for monetary gain spreading information identifying an individual with an STD, including HIV, when the offender knew or should have known the nature of the information.

The bill deletes the \$500 civil penalty for violating DOH rules regarding STDs.

Criminal Severity Ranking Chart

The bill amends s. 921.0022, F.S., to conform the Criminal Punishment Code offense severity ranking chart⁷³ to changes made by the bill. Specifically, the HIV related offenses reduced by the bill from felonies to first degree misdemeanors are removed from the chart.⁷⁴

The bill is effective July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

⁷³ The Criminal Punishment Code offense severity ranking chart sets forth 10 offense levels, ranked from least severe (level 1) to most severe (level 10). Each felony offense is assigned to an offense level according to the severity of the offense, and each offense level corresponds to a point value used to determine whether a felony offender must serve time in a state prison.

⁷⁴ As a misdemeanor offender will not serve time in a state prison, misdemeanor offenses are not ranked and do not appear in the chart. See ss. 775.082, 775.083, and 921.0022, F.S.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Corrections may experience a minimal financial impact for technology modifications due to the changes on the CPC severity ranking chart. The cost would likely be absorbed by existing resources.⁷⁵

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 381.0041, 384.23, 384.24, 384.34, 775.0877, 921.0022, and 960.003.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

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

None.

B. Amendments:

None.

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

⁷⁵ Department of Corrections (*Senate Bill 846 Fiscal Analysis*) (Mar. 15, 2019) (on file with the Senate Committee on Health Policy).