

<b>Tab 1</b>	<b>SB 688</b> by <b>Collins</b> ; Identical to H 00603 Canine Support Grant Program for First Responders					
<b>Tab 2</b>	<b>SB 716</b> by <b>Martin</b> ; Similar to H 01455 Sexual Offenses by Registered Sexual Offenders or Sexual Predators					
554438	A	S	CJ, Martin	Delete L.16 - 17:	03/10 01:15 PM	
<b>Tab 3</b>	<b>SB 710</b> by <b>Osgood</b> ; Identical to H 00397 Public Records/Crime Stoppers Organizations					
694258	A	S	CJ, Osgood	Delete L.351 - 358:	03/10 01:15 PM	
<b>Tab 4</b>	<b>SB 878</b> by <b>Martin</b> ; Identical to H 00091 Probation for Misdemeanor Offenses					
<b>Tab 5</b>	<b>SB 952</b> by <b>Ingoglia</b> ; Identical to H 06025 Restrictions on Firearms and Ammunition During Emergencies					
<b>Tab 6</b>	<b>SB 1022</b> by <b>Wright</b> ; Compare to H 01343 Public Nuisances					
933252	D	S	L	CJ, Wright	Delete everything after	03/10 03:10 PM
<b>Tab 7</b>	<b>SB 1054</b> by <b>Garcia</b> ; Identical to H 00437 Tampering with an Electronic Monitoring Device					
<b>Tab 8</b>	<b>SB 1168</b> by <b>Leek</b> ; Similar to H 00663 Installation or Use of Tracking Devices or Applications					
<b>Tab 9</b>	<b>SB 1198</b> by <b>DiCeglie</b> ; Similar to H 01007 Fraudulent Use of Gift Cards					
651406	D	S	CJ, DiCeglie	Delete everything after	03/10 01:16 PM	
644732	AA	S	CJ, DiCeglie	Delete L.36:	03/10 05:21 PM	

**The Florida Senate**  
**COMMITTEE MEETING EXPANDED AGENDA**

**CRIMINAL JUSTICE**  
**Senator Martin, Chair**  
**Senator Smith, Vice Chair**

**MEETING DATE:** Tuesday, March 11, 2025  
**TIME:** 1:30—3:30 p.m.  
**PLACE:** Mallory Horne Committee Room, 37 Senate Building

**MEMBERS:** Senator Martin, Chair; Senator Smith, Vice Chair; Senators Bernard, Bradley, Garcia, Gruters, Pizzo, Simon, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	<b>SB 688</b> Collins (Identical H 603)	Canine Support Grant Program for First Responders; Citing this act as the "Canine Heroes for First Responders Act"; defining the term "State Fire Marshal"; requiring the Department of Law Enforcement and the State Fire Marshal to establish and jointly administer the grant program; providing support dog requirements, etc.	CJ      03/11/2025 ACJ FP
2	<b>SB 716</b> Martin (Similar H 1455)	Sexual Offenses by Registered Sexual Offenders or Sexual Predators; Providing mandatory minimum terms of imprisonment for specified sexual offenses when committed by registered sexual offenders or sexual predators; providing requirements for such sentences, etc.	CJ      03/11/2025 ACJ FP
3	<b>SB 710</b> Osgood (Identical H 397)	Public Records/Crime Stoppers Organizations; Providing an exemption from public records requirements for specified personal identifying and location information of employees of crime stoppers organizations and the board members and volunteers of such crime stoppers organizations; providing for future legislative review and repeal of the exemption; providing for retroactive application; providing a statement of public necessity, etc.	CJ      03/11/2025 GO RC
4	<b>SB 878</b> Martin (Identical H 91)	Probation for Misdemeanor Offenses; Increasing probationary periods for certain misdemeanor offenses involving controlled or chemical substances, etc.	CJ      03/11/2025 ACJ RC

**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Tuesday, March 11, 2025, 1:30—3:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	<b>SB 952</b> Ingoglia (Identical H 6025)	Restrictions on Firearms and Ammunition During Emergencies; Repealing provisions relating to specified automatic restrictions on firearms and ammunition during certain declared emergencies, etc.  CJ      03/11/2025 CA RC	
6	<b>SB 1022</b> Wright (Compare H 1343)	Public Nuisances; Deleting a cap on the total amount of fines that may be imposed under specified provisions relating to places or premises declared to be public nuisances, etc.  CJ      03/11/2025 CA RC	
7	<b>SB 1054</b> Garcia (Identical H 437)	Tampering with an Electronic Monitoring Device; Reclassifying the offense of tampering with an electronic monitoring device to provide graduated penalties; requiring termination of pretrial release of a person who tampers with such a device while on pretrial release, etc.  CJ      03/11/2025 ACJ FP	
8	<b>SB 1168</b> Leek (Similar H 663)	Installation or Use of Tracking Devices or Applications; Providing enhanced penalties for a person who, in furtherance of a dangerous crime, knowingly installs or places a tracking device or tracking application on another person's property without consent or uses such a device or application to determine a person's or their property's location or movement without consent, etc.  CJ      03/11/2025 ACJ RC	

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**COMMITTEE MEETING EXPANDED AGENDA**

Criminal Justice

Tuesday, March 11, 2025, 1:30—3:30 p.m.

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TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	<b>SB 1198</b> DiCeglie (Similar H 1007)	Fraudulent Use of Gift Cards; Providing criminal penalties for persons who, with the intent to defraud, acquire or retain possession of certain gift cards or gift card redemption information or from altering or tampering with gift cards; providing criminal penalties for persons who, with the intent to defraud, use for certain purposes gift cards or gift card redemption information; providing enhanced criminal penalties if the value of such violation exceeds a specified amount, etc.	
		CJ 03/11/2025 ACJ RC	

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Other Related Meeting Documents

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**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 688

INTRODUCER: Senator Collins

SUBJECT: Canine Support Grant Program for First Responders

DATE: March 10, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaughan	Stokes	CJ	
2.			ACJ	
3.			FP	

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**I. Summary:**

SB 688 creates s. 943.701, F.S., the “Canine Heroes for First Responders Act” to create a canine support grant program for first responders. The program is to be administered jointly by the Florida Department of Law Enforcement (FDLE) and the Division of State Fire Marshall within the Department of Financial Services. The purpose of the program is to provide funding to law enforcement agencies and first responder agencies for the procurement, training and maintenance of support dogs, to enhance the mental health and wellness of personnel by providing support dogs that help reduce stress and improve emotional well-being in high-stress work environments.

The bill provides that grants awarded under the program must be used for specific purposes and the bill specifies the requirements for the support dogs, handlers, agency eligibility, the application process and oversight measures.

There is not a specific appropriation in the bill and the impact is indeterminate at this time. *See Section V. Fiscal Impact Statement.*

The bill takes effect on July 1, 2025.

**II. Present Situation:**

Post-traumatic stress (PTSD) is prevalent among law enforcement officers. Significant correlations have been found between years of service and traumatic events; traumatic events and post-traumatic stress symptoms; and traumatic events and worldview/perception of others.<sup>1</sup>

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<sup>1</sup> National Library of Medicine, *Police Stress and Deleterious Outcomes: Efforts Towards Improving Police Mental Health*, available at <https://pmc.ncbi.nlm.nih.gov/articles/PMC8575544/> (last visited March 6, 2025).

Thirty-five percent of police officers have PTSD, compared to 6.8 percent of the general population.<sup>2</sup>

Utilizing support dogs to boost mental wellness and resiliency is a concept that was inspired by the military for recovering service members for animal assisted therapy.<sup>3</sup> For almost two decades, specially trained dogs have helped combat veterans cope with depression, anxiety and PTSD.<sup>4</sup> Therapy dogs are also used in victim assistance programs, courts and medical settings especially children's hospitals. The St. Lucie County Fire District has three canines as part of a behavioral health program to help firefighters and first responders after stressful situations.<sup>5</sup>

### **Post-Traumatic Stress Disorder (PTSD)**

The American Psychiatric Association provides diagnostic criteria for mental disorders, including PTSD, in its *Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition* (DSM-5). PTSD is a psychiatric disorder that can occur in people who have experienced or witnessed a traumatic event such as a natural disaster, a serious accident, a terrorist act, war, combat, rape, or other violent personal assault.

A diagnosis of PTSD requires exposure to an upsetting traumatic event; however, exposure can be indirect rather than first hand. Symptoms fall into the following four categories: intrusion, avoidance, alterations in cognition and mood, and alterations in arousal and reactivity. In order to diagnose a person with PTSD, symptoms must last for more than a month and must cause significant distress or problems in the individual's daily functioning. Many individuals develop symptoms within three months of the trauma; but symptoms may appear later and often persist for months and sometimes years. Further, PTSD often occurs with other related conditions, such as depression, substance use, memory problems and other physical and mental health problems.<sup>6</sup>

One study noted that the onset of PTSD symptoms is usually in the first month after the traumatic event; however, in about 15 percent of the cases, there may be a delay of months or years before symptoms appear. At least a third of the individuals who initially develop PTSD remain symptomatic for three years or longer and are at risk of secondary problems such as substance abuse.<sup>7</sup>

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<sup>2</sup> Stella Mental Health, *Police Trauma Syndrome-Mental Health of Law Enforcement*, available at <https://stellamentalhealth.com/resources/10111/police-trauma-syndrome--mental-health-of-law-enforcement> (last visited March 6, 2025).

<sup>3</sup> United States Department of Defense, *Guidance on the Use of Service Dogs by Service Members 1300.27* available at <https://www.esd.whs.mil/Portals/54/Documents/DD/issuances/dodi/130027p.pdf> (last visited March 5, 2025).

<sup>4</sup> Police 1, *Healing paws: The rise of therapy dogs in law enforcement*, available at <https://www.police1.com/what-cops-want/healing-paws-the-rise-of-therapy-dogs-in-law-enforcement> (last visited March 5, 2025).

<sup>5</sup> The Palm Beach Post, *Three therapy dogs training to help first responders at St. Lucie County Fire District*, Will Greenlee, available at <https://www.palmbeachpost.com/story/news/local/st-lucie-county/2025/02/13/therapy-dogs-help-first-responders-at-st-lucie-county-fire-district/78474843007/>, (last visited March 5, 2025).

<sup>6</sup> American Psychiatric Association, *What is Posttraumatic Stress Disorder?* available at <https://www.psychiatry.org/patients-families/ptsd/what-is-ptsd> (last visited March 5, 2025)

<sup>7</sup> National Collaborating Centre for Mental Health (UK), *Post-Traumatic Stress Disorder: The Management of PTSD in Adults and Children in Primary and Secondary Care*, available at <https://www.ncbi.nlm.nih.gov/books/NBK56506/> (last visited March 5, 2025).

## Emotional Support Animals

According to the U.S. Department of Housing and Urban Development (HUD), an emotional support animal is any animal that provides emotional support alleviating one or more symptoms or effects of a person's disability. Emotional support animals (ESA) provide companionship, relieve loneliness, and sometimes help with depression, anxiety, and certain phobias, but do not have special training to perform tasks that assist people with disabilities.<sup>8</sup> Unlike a service animal, an ESA is not trained to work or perform certain tasks, but provides emotional support alleviating one or more symptoms or effects of a person's disability.<sup>9</sup> The most common type of ESA is a dog; however, other species of animals may be an ESA. ESAs provide therapeutic support to relieve symptoms of psychiatric disabilities, including depression, anxiety, and post-traumatic stress disorder.<sup>10</sup>

### III. Effect of Proposed Changes:

The bill creates s. 943.701, F.S., the "Canine Heroes for First Responders Act" to create a canine support grant program for first responders. The program is to be administered jointly by the Florida Department of Law Enforcement (FDLE) and the Division of State Fire Marshall within the Department of Financial Services. The purpose of the program is to provide funding to law enforcement agencies and first responder agencies for the procurement, training and maintenance of support dogs, to enhance the mental health and wellness of personnel by providing support dogs that help reduce stress and improve emotional well-being in high-stress work environments.

The grants awarded under this section must be used to do all of the following:

- Procure support dogs that meet the specific requirements.
- Train handlers and establish effective support dog teams.
- Maintain the health, well-being, and training of the support dogs.
- Develop and implement law enforcement agency policies and first responder agency policies for the deployment and management of support dog teams.
- Support the establishment of training standards for handlers and support dog teams consistent with established best practices, with up to 10 percent of the awarded funds allocated to provide training on these standards.

A law enforcement agency or first responder agency applying for grants must meet eligibility requirements as follows:

- Require all support dog teams to pass the American Kennel Club Urban Canine Good Citizen Public Access Test or an equivalent standardized evaluation.
- Adopt and implement a policy indicating that support dogs are working animals specifically designated for mental health and wellness purposes
- Designate a program coordinator to oversee the implementation and evaluation of the support dog program.

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<sup>8</sup> ADA National Network, *Service Animal or Emotional Support Animal: What's the Difference?*, available at <https://adata.org/service-animal-resource-hub/differences> (last visited March 5, 2025).

<sup>9</sup> U.S. Department of Housing and Urban Development, *FEHO Notice: FHEO-2013-01*, (available at [https://archives.hud.gov/news/2013/servanimals\\_ntcfheo2013-01.pdf](https://archives.hud.gov/news/2013/servanimals_ntcfheo2013-01.pdf) (last visited March 5, 2025).

<sup>10</sup> Brazelon Center for Mental Health Law, *Right to Emotional Support Animals in "No Pet" Housing*, available at [https://archives.hud.gov/news/2013/servanimals\\_ntcfheo2013-01.pdf](https://archives.hud.gov/news/2013/servanimals_ntcfheo2013-01.pdf), (last visited March 5, 2025).

- Submit an annual report to the department and the State Fire Marshal detailing the use, outcomes, and costs associated with the support dog program.
- Provide appropriate facilities and resources for the care and deployment of the support dogs.
- Develop training standards for handlers and support dog teams, consistent with established best practices and in collaboration with the department and the State Fire Marshall.

A law enforcement agency or first responder agency applying for a grant must submit an application that includes several key components. Applications should include a description of the proposed support dog program including a justification of need for the support dog program in the agency. Additionally, the application should include a budget for the use of grant funds, as well as a detailed allocation of up to 10 percent for training initiatives. Agencies must include policies and procedures for maintaining the health, welfare, and effectiveness of support dog teams.

A support dog procured under the grant program must meet all of the following requirements:

- Be spayed or neutered.
- Be medically cleared for support work by a licensed veterinarian, including up-to-date vaccinations.
- Exhibit a temperament conducive to support work, with no aggressive or overly protective behaviors.
- Demonstrate aptitude for support work, including being friendly, approachable, and people oriented.
- Meet height and weight standards outlined by the grant program, and measure between 20 and 30 inches at the withers, ensuring the dogs are large enough for easy interaction with people but not so large as to present kenneling and transportation issues.
- Have never received any form of aggression training at any stage of their lives.
- Demonstrate social behavior and trainability to a high degree of obedience control, as evidenced by having passed the American Kennel Club Canine Good Citizen test or by having been trained to an equivalent level.
- Successfully complete an evaluation by a professional training organization.
- Be at least one year of age to ensure sufficient maturity for support work.

Support dog handlers must meet requirements as outlined in the bill including:

- Be a full-time employee of the law enforcement agency or first responder agency receiving the grant.
- Complete certified handler training for working with support dogs, including public access and emotional support protocols.
- Demonstrate the ability to manage and care for a support dog in the workplace.
- Pass a background check confirming suitability to work in mental health and wellness roles.
- Commit to ongoing training and annual certification as a support dog handler.

The FDLE and the State Fire Marshal will monitor grantee compliance through periodic reviews and site visits. Additionally, grant recipients must submit an annual report detailing the outcomes and effectiveness of the support dog program. This report should include metrics such as employee satisfaction, reduction in stress levels, and participation rates of first responders.



The bill takes effect on July 1, 2025.

**IV. Constitutional Issues:**

A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

There is not a specific appropriation in the bill and the impact is indeterminate at this time.<sup>11</sup>

**VI. Technical Deficiencies:**

None.

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<sup>11</sup> FDLE Agency Bill Analysis, *SB 688-Canine Support for First Responders* (on file with Senate Criminal Justice Committee)

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

943.701 This bill creates the following sections of the Florida Statutes: 943.701, F.S

**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.

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

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By Senator Collins

14-00425-25

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1 A bill to be entitled  
 2 An act relating to the canine support grant program  
 3 for first responders; providing a short title;  
 4 creating s. 943.701, F.S.; providing legislative  
 5 findings and a purpose; defining the term "State Fire  
 6 Marshal"; requiring the Department of Law Enforcement  
 7 and the State Fire Marshal to establish and jointly  
 8 administer the grant program; providing requirements  
 9 for the grants awarded under the program; providing  
 10 support dog requirements; providing handler  
 11 requirements; providing agency eligibility  
 12 requirements; providing application requirements;  
 13 providing for oversight and annual reporting  
 14 requirements; providing an effective date.

15  
 16 Be It Enacted by the Legislature of the State of Florida:

17  
 18 Section 1. This act may be cited as the "Canine Heroes for  
 19 First Responders Act."

20 Section 2. Section 943.701, Florida Statutes, is created to  
 21 read:

22 943.701 Canine support grant program for first responders.—

23 (1) LEGISLATIVE FINDINGS AND PURPOSE.—

24 (a) The Legislature finds that:

25 1. Law enforcement officers and first responders experience  
 26 significant mental health challenges due to occupational stress;

27 2. Support dogs have been demonstrated to reduce stress,  
 28 improve emotional well-being, and support mental health in high-  
 29 stress work environments; and

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

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30 3. A standardized approach to support dog acquisition,  
 31 training, and use will ensure the effectiveness and safety of  
 32 support dog programs.

33 (b) The purpose of this section is to establish a grant  
 34 program, administered jointly by the Department of Law  
 35 Enforcement and the Division of State Fire Marshal within the  
 36 Department of Financial Services, to provide funding to law  
 37 enforcement agencies and first responder agencies for the  
 38 procurement, training, and maintenance of support dogs to  
 39 enhance the mental health and wellness of their personnel.

40 (2) DEFINITION.—As used in this section, the term "State  
 41 Fire Marshal" means the Division of State Fire Marshal within  
 42 the Department of Financial Services.

43 (3) GRANT PROGRAM ESTABLISHMENT.—

44 (a) The department and the State Fire Marshal shall jointly  
 45 establish and administer a competitive grant program to provide  
 46 funding to law enforcement agencies and first responder agencies  
 47 for the procurement, training, and maintenance of support dogs.

48 (b) Grants awarded under this section must be used to do  
 49 all of the following:

50 1. Procure support dogs that meet the requirements in  
 51 subsection (4).

52 2. Train handlers and establish effective support dog  
 53 teams.

54 3. Maintain the health, well-being, and training of the  
 55 support dogs.

56 4. Develop and implement law enforcement agency policies  
 57 and first responder agency policies for the deployment and  
 58 management of support dog teams.

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59 5. Support the establishment of training standards for  
 60 handlers and support dog teams consistent with established best  
 61 practices, with up to 10 percent of the awarded funds allocated  
 62 to provide training on these standards.

63 (4) SUPPORT DOG REQUIREMENTS.—A support dog procured under  
 64 the grant program must meet all of the following requirements:

65 (a) Be spayed or neutered.

66 (b) Be medically cleared for support work by a licensed  
 67 veterinarian, including up-to-date vaccinations.

68 (c) Exhibit a temperament conducive to support work, with  
 69 no aggressive or overly protective behaviors.

70 (d) Demonstrate aptitude for support work, including being  
 71 friendly, approachable, and people oriented.

72 (e) Meet height and weight standards outlined by the grant  
 73 program, and measure between 20 and 30 inches at the withers,  
 74 ensuring the dogs are large enough for easy interaction with  
 75 people but not so large as to present kenneling and  
 76 transportation issues.

77 (f) Have never received any form of aggression training at  
 78 any stage of their lives.

79 (g) Demonstrate social behavior and trainability to a high  
 80 degree of obedience control, as evidenced by having passed the  
 81 American Kennel Club Canine Good Citizen test or by having been  
 82 trained to an equivalent level.

83 (h) Successfully complete an evaluation by a professional  
 84 training organization.

85 (i) Be at least 1 year of age to ensure sufficient maturity  
 86 for support work.

87 (5) HANDLER REQUIREMENTS.—A handler for support dogs under

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88 the grant program must meet all of the following requirements:

89 (a) Be a full-time employee of the law enforcement agency  
 90 or first responder agency receiving the grant.

91 (b) Complete certified handler training for working with  
 92 support dogs, including public access and emotional support  
 93 protocols.

94 (c) Demonstrate the ability to manage and care for a  
 95 support dog in the workplace.

96 (d) Pass a background check confirming suitability to work  
 97 in mental health and wellness roles.

98 (e) Commit to ongoing training and annual certification as  
 99 a support dog handler.

100 (6) AGENCY ELIGIBILITY REQUIREMENTS.—A law enforcement  
 101 agency or first responder agency applying for a grant under this  
 102 section must meet all of the following requirements:

103 (a) Require all support dog teams to pass the American  
 104 Kennel Club Urban Canine Good Citizen Public Access Test or an  
 105 equivalent standardized evaluation.

106 (b) Adopt and implement a policy indicating that support  
 107 dogs are working animals specifically designated for mental  
 108 health and wellness purposes.

109 (c) Designate a program coordinator to oversee the  
 110 implementation and evaluation of the support dog program.

111 (d) Submit an annual report to the department and the State  
 112 Fire Marshal detailing the use, outcomes, and costs associated  
 113 with the support dog program.

114 (e) Provide appropriate facilities and resources for the  
 115 care and deployment of the support dogs.

116 (f) Develop training standards for handlers and support dog

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117 teams, consistent with established best practices and in  
118 collaboration with the department and the State Fire Marshal.  
119 (7) APPLICATION REQUIREMENTS.—A law enforcement agency or  
120 first responder agency that applies for a grant must submit an  
121 application that includes all of the following:  
122 (a) A description of the proposed support dog program.  
123 (b) A justification of need for the support dog program in  
124 the agency.  
125 (c) A budget for the use of grant funds, including a  
126 detailed allocation of up to 10 percent for training  
127 initiatives.  
128 (d) Policies and procedures for maintaining the health,  
129 welfare, and effectiveness of support dog teams.  
130 (8) OVERSIGHT AND REPORTS.—  
131 (a) The department and the State Fire Marshal shall jointly  
132 monitor grantee compliance with the requirements of this  
133 section, including periodic reviews and site visits.  
134 (b) A grant recipient shall submit an annual report to the  
135 department and the State Fire Marshal detailing the outcomes and  
136 effectiveness of the support dog program, including, but not  
137 limited to, metrics such as employee satisfaction, whether there  
138 was any reduction in stress levels, and the participation rate  
139 of first responders of an eligible agency.  
140 Section 3. This act shall take effect July 1, 2025.

**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 716

INTRODUCER: Senator Martin

SUBJECT: Sexual Offenses by Registered Sexual Offenders or Sexual Predators

DATE: March 10, 2025

REVISED: \_\_\_\_\_

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</u>	<u>Stokes</u>	<u>CJ</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 716 creates s. 794.0116, F.S., to provide that certain sexual offenses will carry mandatory minimum sentences if committed by a registered sexual offender or sexual predator. The bill also sets forth that offenders sentenced under this section are not eligible for gain-time or any other early release options before serving their minimum sentence.

Sexual offenders and sexual predators who are required to register under ss. 943.0435 or 775.21, F.S., and subsequently commit a violation of any of the following shall be sentenced to a mandatory minimum term of imprisonment of 10 years:

- Luring or enticing a child,<sup>1</sup>
- Lewd and Lascivious battery or molestation upon or in the presence of persons less than 16 years of age,<sup>2</sup>
- Lewd and Lascivious battery or molestation upon an elderly or disabled person,<sup>3</sup>
- Sexual performance by a child (victims older than 12 years of age),<sup>4</sup>
- Selling or buying of minors,<sup>5</sup>
- Sexual battery.<sup>6</sup>

Sexual offenders and sexual predators who are required to register and are subsequently convicted of a new crime of sexual performance by a child (victims 12 years of age or younger) shall be sentenced to a minimum mandatory term of imprisonment of 20 years.<sup>7</sup>

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<sup>1</sup> Section 787.025(2)(c), F.S.

<sup>2</sup> Section 800.04(4) or (5), F.S.

<sup>3</sup> Section 825.1025(2) or (3), F.S.

<sup>4</sup> Section 827.071, F.S.

<sup>5</sup> Section 847.0145, F.S.

<sup>6</sup> Section 794.011, excluding 794.011(10), F.S.

<sup>7</sup> Section 827.071, F.S.

The bill specifies that if the mandatory minimum term of imprisonment imposed exceeds or is less than the maximum sentence authorized under ss. 775.082, 775.084, or ch. 921, F.S., the mandatory minimum term of imprisonment must be imposed.

The bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections. *See Section V. Fiscal Impact Statement.*

The bill takes effect on October 1, 2025.

## II. Present Situation:

### Sexual Predators and Offenders

The Florida Department of Law Enforcement (FDLE) is the state agency responsible for Florida's sex offender registry. The information contained in the sex offender registry is reported directly to FDLE by the Florida Department of Corrections (DOC), the Florida Department of Highway Safety and Motor Vehicles, and law enforcement officials.<sup>8</sup> Florida's sexual offender and sexual predator registration laws were implemented in 1993 and 1997.<sup>9</sup> The sex offender registry database is a statewide system that collects and disseminates sex offender information to the public and law enforcement agencies through the Sexual Offender Predator System (SOPS). The designation of a person as a sexual offender is not a sentence or a punishment but is simply the status of the offender which is the result of a conviction for having committed certain crimes.<sup>10</sup>

### *Florida's Sexual Predator and Sexual Offender Registration Laws*

Florida law requires registration of any person who has been convicted or adjudicated delinquent of a specified sex offense or offenses and who meets other statutory criteria that qualify the person for designation as a sexual predator or classification as a sexual offender.<sup>11</sup> The registration laws also require reregistration and provide for public and community notification of certain information about sexual predators and sexual offenders. The laws span several different chapters and numerous statutes<sup>12</sup> and are implemented through the combined efforts of the FDLE, all Florida sheriffs, the DOC, the Department of Juvenile Justice, the Department of Highway Safety and Motor Vehicles, and the Department of Children and Families.

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<sup>8</sup> Florida Department of Law Enforcement, *Sexual Offender and Predator System*, available at <https://offender.fdle.state.fl.us/offender/sops/search.jsf>, (last visited on February 20, 2025).

<sup>9</sup> Sections 775.21 and 943.0435, F.S.

<sup>10</sup> *State v. McKenzie*, 331 So.3d 666 (Fla. 2021).

<sup>11</sup> Sections 775.21 and 943.0435, F.S.

<sup>12</sup> Sections 775.21-775.25, 943.043-943.0437, 944.606, 944.607, and 985.481-985.4815, F.S.

A person is designated as a sexual predator by a court if the person:<sup>13</sup>

- Has been convicted of a qualifying capital, life, or first degree felony sex offense committed on or after October 1, 1993;<sup>14</sup>
- Has been convicted of a qualifying sex offense committed on or after October 1, 1993, and has a prior conviction for a qualifying sex offense; or
- Was found to be a sexually violent predator in a civil commitment proceeding.<sup>15</sup>

A person is classified as a sexual offender if the person:<sup>16</sup>

- Has been convicted of a qualifying sex offense and has been released on or after October 1, 1997, from the sanction imposed for that offense;
- Establishes or maintains a Florida residence and is subject to registration or community or public notification in another state or jurisdiction or is in the custody or control of, or under the supervision of, another state or jurisdiction as a result of a conviction for a qualifying sex offense; or
- On or after July 1, 2007, has been adjudicated delinquent of a qualifying sexual battery or lewd offense committed when the juvenile was 14 years of age or older.<sup>17</sup>

### ***Sex Offender Recidivism***

Sex crimes have historically been difficult to measure due to the nature of the crimes, underreporting and timeframes surrounding the crimes. These factors contribute to the complex nature of measuring offenses and rates of recidivism. Sexual recidivism rates vary widely, ranging from 5% after three years to 24% after 15 years.<sup>18</sup>

The Department of Corrections defines recidivism as a return to prison, as the result of either a new conviction or a violation of post-prison supervision, within three years of their prison release date. 2024 Recidivism Report reflects the following for inmates incarcerated with the primary offense of a sexual/lewd behavior:

- 11.4% of inmates reoffend within 12 months of release,
- 8.5% of inmates reoffend within 24 months of release,
- 6.3% of inmates reoffend within 36 months of release.<sup>19</sup>

<sup>13</sup> Section 775.21, F.S.

<sup>14</sup> Examples of qualifying sex offenses are sexual battery by an adult on a child under 12 years of age (s. 794.011(2)(a), F.S.) and lewd battery by an adult on a child 12 years of age or older but under 16 years of age (s. 800.04(4)(a), F.S.).

<sup>15</sup> Sections 775.21(4) and (5), F.S., The Jimmy Ryce Involuntary Civil Commitment for Sexually Violent Predators' Treatment and Care Act, part V, ch. 394, F.S., provides for the civil confinement of a group of sexual offenders who, due to their criminal history and the presence of mental abnormality, are found likely to engage in future acts of sexual violence if they are not confined in a secure facility for long-term control, care, and treatment.

<sup>16</sup> Section 943.0435, F.S.

<sup>17</sup> Sections 943.0435(1)(h) and 985.4815(1)(h), F.S.; Sections 944.606(1)(f) and 944.607(1)(f), F.S., which address sexual offenders in the custody of or under the DOC's supervision, also define the term "sexual offender."

<sup>18</sup> U.S. Department of Justice, Office of Sex Offender Sentencing, Monitoring, Apprehending, Registering and Tracking, *Chapter 5: Adult Sex Offender Recidivism*, available at <https://smart.ojp.gov/somapi/chapter-5-adult-sex-offender-recidivism> (last visited February 19, 2025).

<sup>19</sup> Florida Department of Corrections, *Florida Prison Recidivism Report: Releases from 2009 to 2021*, available at <https://fdc-media.ccplatform.net/content/download/25944/file/FDC%20Recidivism%20Report%202019%20Cohort%20July%202024.pdf> (last visited February 19, 2025).



### ***Jessica Lunsford Act***

The Jessica Lunsford Act<sup>20</sup> was enacted in Florida in 2005 following the tragic abduction, rape, and murder of nine-year-old Jessica Lunsford by a repeat sex offender. Individuals convicted of lewd or lascivious molestation of a child under 12 years old face a mandatory minimum sentence of 25 years in prison,<sup>21</sup> with the exception of a life felony committed on or after September 1, 2005 which is punishable by life imprisonment or at least 25 years in prison followed by probation or community control for the offenders natural life.<sup>22</sup>

### **Sex Offenses and Crimes Against Children**

#### ***Luring or Enticing a Child***

Section 787.025(2)(c), F.S., provides that it is a third degree felony to commit the offense of luring or enticing a child, after having been previously convicted of a specified offense. A person 18 years of age or older commits such offense if he or she:

- Was previously been convicted of a sexual battery offense under ch. 794, F.S., or a lewd or lascivious offense under s. 800.04, F.S., or s.847.0135(5), F.S., or a violation of a similar law of another jurisdiction; and
- Intentionally lures or entices, or attempt to lure or entice, a child under the age of 12 into a structure, dwelling, or conveyance for other than a lawful purpose.

The Florida Supreme Court has interpreted “for other than a lawful purpose” as “for an ‘illegal’ purpose, i.e., with intent to violate Florida law by committing a crime.”<sup>23</sup>

#### ***Lewd and Lascivious Battery on an Elderly or Disabled Person***

A person commits a lewd and lascivious battery upon an elderly person or disabled person, when he or she encourages, forces, or entices an elderly person or disabled person to engage in sadomasochistic abuse, sexual bestiality, prostitution, or any other act involving sexual activity, when the person knows or reasonably should know that the elderly person or disabled person either lacks the capacity to consent or fails to give consent.<sup>24</sup>

Sexual activity, as it relates to lewd and lascivious battery on an elderly or disabled person, means the oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object.<sup>25</sup>

#### ***Lewd or Lascivious Molestation on Persons Under the Age of 16***

A person who intentionally touches in a lewd or lascivious manner the breasts, genitals, genital area, or buttocks, or the clothing covering them, of a person less than 16 years of age, or forces

<sup>20</sup> Chapter 2005-28, L.O.F.

<sup>21</sup> Section 800.04(5)(b), F.S.

<sup>22</sup> Section 775.082(3)(a)(4), F.S.

<sup>23</sup> *State v. Brake*, 796 So. 2d at 529, (Fla. 2001). While the Court in Brake upheld the constitutionality of the statute on a vagueness challenge to the “other than a lawful purpose” language, the court struck down a provision of the law that provides that luring a child “without the consent of the child’s parent or legal guardian shall be prima facie evidence of other than a lawful purpose.”

<sup>24</sup> Section 825.1025(2), F.S. A lewd or lascivious battery on an elderly person or disabled person is a second degree felony.

<sup>25</sup> Section 825.1025(1), F.S. Sexual activity does not include an act done for a bona fide medical purpose.

or entices a person under 16 years of age to so touch the perpetrator, commits lewd or lascivious molestation.<sup>26</sup>

The terms “lewd” and “lascivious” are not defined in statute, but are commonly understood by the courts. The Supreme Court of Florida has found that these terms are in common use, and the plain meaning of the words gives notice as to what conduct is prohibited. The court further stated that the words lewd and lascivious “are synonyms and connote wicked, lustful, unchaste, licentious, or sensual design on the part of the perpetrator.”<sup>27</sup>

An offender 18 years of age or older who commits lewd or lascivious molestation against a victim:

- Less than 12 years of age, commits a life felony.<sup>28</sup>
- Twelve years of age or older but less than 16 years of age, commits a second degree felony.<sup>29</sup>
- Twelve years of age or older but less than 16 years of age and the person was previously convicted of specified offenses,<sup>30</sup> commits a first degree felony.<sup>31</sup>

An offender less than 18 years of age who commits lewd or lascivious molestation against a victim:

- Less than 12 years of age, commits a second degree felony.<sup>32</sup>
- Twelve years of age or older but less than 16 years of age, commits a third degree felony.<sup>33</sup>

<sup>26</sup> Section 800.04(5)(a), F.S.

<sup>27</sup> *Chesebrough v. State*, 255 So. 2d 675, 677 (Fla. 1971).

<sup>28</sup> Section 800.04(5)(b), F.S. A life felony is generally punishable by life imprisonment or by a term of imprisonment not exceeding 40 years. Section 775.082, F.S.

<sup>29</sup> Section 800.04(5)(c)2., F.S. A second degree felony is punishable by up to 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

<sup>30</sup> Section 800.04(5)(e)1.-7., F.S., provides the following specified offenses: Kidnapping under s. 787.01(2) F.S., or False Imprisonment under s. 787.02(2), F.S., when the violation involved a victim who was a minor and, in the course of committing the violation, the defendant committed against the minor a sexual battery under ch. 794, F.S., or a lewd act under s. 800.04, F.S., or a computer pornography transmission under s. 847.0135(5), F.S.; Kidnapping under s. 787.01(3)(a)2. or 3., F.S., and in the course of committing the kidnapping committed a sexual battery under ch. 794, F.S., or a lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct or lewd or lascivious exhibition under s. 800.04, F.S., or a computer pornography transmission under s. 847.0135(5), F.S.; False Imprisonment under s. 787.02(3)(a)2. or 3., F.S., and in the course of committing the false imprisonment committed a sexual battery under ch. 794, F.S., or a lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct or lewd or lascivious exhibition under s. 800.04, F.S., or a computer pornography transmission under s. 847.0135(5), F.S.; Sexual Battery under ch. 794, F.S., excluding s. 794.011(10), F.S.; Lewd or Lascivious offenses committed against or in the presence of an elderly or disabled person under s. 825.1025, F.S.; Computer Pornography Transmission under s. 847.0135(5), F.S.; or Lewd or Lascivious offenses under s. 800.04, F.S.

<sup>31</sup> Section 800.04(5)(e), F.S. A first degree felony is generally punishable by up to 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S. However, when specifically provided by statute, a first degree felony may be punished by imprisonment for a terms of years not exceeding life imprisonment. Section 775.082, F.S.

<sup>32</sup> Section 800.04(5)(c)1., F.S.

<sup>33</sup> Section 800.04(5)(d), F.S. A third degree felony is punishable by up to five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

### ***Sexual Performance by a Child***

Section 827.071, F.S., provides that it is a second degree felony to employ, authorize, or induce a child younger than 18 years of age to engage in a sexual performance,<sup>34</sup> or for a parent, legal guardian, or custodian of such child to consent to the participation by such child in a sexual performance.<sup>35</sup> It is also a second degree felony for any person to produce, direct, or promote any performance which includes sexual conduct by a child less than 18 years of age.<sup>36</sup>

A person may not possess with the intent to promote any photograph, motion picture, exhibition, show, representation, or other presentation which, in whole or in part, includes any sexual conduct by a child.<sup>37</sup>

Additionally, it is a third degree felony for a person to knowingly possess, control, or intentionally view a photograph, motion picture, exhibition, show, representation, image, data, computer depiction, or other presentation which, in whole or in part, he or she knows to include any sexual conduct by a child.<sup>38</sup>

### ***Selling or Buying of Minors***

Section 847.0145, F.S. provides that selling or buying of minors is when any parent, legal guardian, or other person having custody or control of a minor sells or otherwise transfers custody or control of such minor, or offers to sell or otherwise transfer custody of such minor, either with knowledge that the minor will be portrayed in a visual depiction engaging in, or assisting another person to engage in, sexually explicit conduct. Intending to promote the engaging in of sexually explicit conduct by such minor for the purpose of producing any visual depiction of such conduct or rendering of assistance by the minor to any other person to engage in sexually explicit conduct for the purpose of producing any visual depiction of such conduct.<sup>39</sup> Whoever sells, transfers or obtains custody or control of a minor commits the first degree felony.<sup>40</sup>

### ***Sexual Battery***

Chapter 794, of the Florida Statutes contains numerous sections of law relating to sexual battery. Section 794.011, F.S., defines the crime of “sexual battery” to mean oral, anal, or female genital penetration by, or union with, the sexual organ of another or the anal or female genital penetration of another by any other object; however, sexual battery does not include an act done for a bona fide medical purpose.<sup>41</sup>

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<sup>34</sup> Section 827.071(1)(i), F.S., defines “sexual performance” to mean any performance or part therefor which includes sexual conduct by a child less than 18 years of age. Additionally, s. 827.071(1)(c), F.S., defines “performance” to mean any play, motion picture, photograph, or dance or any other visual representation exhibited before an audience.

<sup>35</sup> Section 827.071(2), F.S.

<sup>36</sup> Section 827.071(3), F.S.

<sup>37</sup> Section 827.071(4), F.S.

<sup>38</sup> Section 827.071(5), F.S.

<sup>39</sup> Section 847.0145, F.S.

<sup>40</sup> Section 847.0145(1) and (2), F.S.

<sup>41</sup> Section 794.011(1)(j), F.S.

Sexual battery is a capital felony<sup>42</sup> or life felony<sup>43</sup> when:

- A person 18 years of age or older commits a sexual battery on, or in an attempt to commit a sexual battery injures the sexual organs of, a person less than 12 years of age.<sup>44</sup>
- A person less than 18 years of age commits sexual battery on, or in an attempt to commit sexual battery injures the sexual organs of, a person less than 12 years of age.<sup>45</sup>
- A person commits sexual battery on a person 12 years of age or older, without that person's consent, and in the process thereof uses or threatens to use a deadly weapon or uses actual physical force likely to cause serious personal injury.<sup>46</sup>
- Without regard to the willingness or consent of the victim, a person who is in a position of familial or custodial authority to a person less than 18 years of age engages in any act, which constitutes sexual battery, with that person while the person is less than 12 years of age, or in an attempt to commit sexual battery injures the sexual organs of the person.<sup>47</sup>

Sexual battery is a first degree felony, punishable by a term of years not exceeding life,<sup>48</sup> when:

- A person 18 years of age or older commits sexual battery on a person 12 years of age or older, but younger than 18 years of age without that person's consent, under specified circumstances.<sup>49,50</sup>
- A person commits sexual battery on a person 12 years of age or older without that person's consent, under specified circumstances, and that person was previously convicted of specified crimes.<sup>51</sup>

<sup>42</sup> A capital felony is generally punishable by death or life imprisonment. Section 775.082, F.S. The courts have held that the death penalty may not be imposed for sex offenses. In Florida, the only crime for which the death penalty may be imposed is murder in the first degree. *See Rowe v. State*, 417 So. 2d 981, 982 (Fla. 1982). *See also Buford v. State*, 403 So. 2d 943, 951 (Fla. 1981)(holding that the Eighth Amendment prohibits death penalty for rape or sexual battery, even of a child).

<sup>43</sup> A life felony is generally punishable by a term of imprisonment for life or by imprisonment for a term of years not exceeding life imprisonment and a fine not exceeding \$15,000. Sections 775.082 and 775.083, F.S.

<sup>44</sup> Section 794.011(2)(a), F.S.

<sup>45</sup> Section 794.011(2)(b), F.S.

<sup>46</sup> Section 794.011(3), F.S.

<sup>47</sup> Section 794.011(8)(c), F.S.

<sup>48</sup> A first degree felony may be punishable by a term of years not exceeding life imprisonment when specifically provided by statute and a fine not exceeding \$10,000. Sections 775.082 and 775.083 F.S.

<sup>49</sup> Section 794.011(4)(a), F.S.

<sup>50</sup> Section 794.011(4)(e)1.-7., F.S., provides the following circumstances apply to certain crimes of sexual battery: the victim is physically helpless to resist; the offender coerces the victim to submit by threatening to use force or violence likely to cause serious personal injury on the victim, and the victim reasonably believes that the offender has the present ability to execute the threat; the offender coerces the victim to submit by threatening to retaliate against the victim or any other person, and the victim reasonably believes that the offender has the ability to execute the threat in the future; the offender, without prior knowledge or consent of the victim, administers or has knowledge of someone else administering to the victim any narcotic, anesthetic, or other intoxicating substance that mentally or physically incapacitates the victim; the victim is mentally defective, and the offender has reason to believe this or has actual knowledge of this fact; the victim is physically incapacitated, the offender is a law enforcement officer, correctional officer, or correctional probation officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9), who is certified under s. 943.1395 or is an elected official exempt from such certification by virtue of s. 943.253, or any other person in a position of control or authority in a probation, community control, controlled release, detention, custodial, or similar setting, and such officer, official, or person is acting in such a manner as to lead the victim to reasonably believe that the offender is in a position of control or authority as an agent or employee of government.

<sup>51</sup> Section 794.011(4)(d), F.S. Specified crimes include: s. 787.01(2), F.S., relating to kidnapping, or s. 787.02(2), F.S., relating to false imprisonment, when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5), F.S.; s. 787.01(3)(a)2. or 3., F.S., relating to kidnapping; s. 787.02(3)(a)2. or 3., F.S., relating to false

- Without regard to the willingness or consent of the victim, a person who is in a position of familial or custodial authority to a person less than 18 years of age engages in any act, which constitutes sexual battery, with that person while the person is 12 years of age or older but younger than 18 years of age.<sup>52</sup>

Sexual battery is a first degree felony, punishable by a term of imprisonment not exceeding 30 years,<sup>53</sup> when:

- A person 18 years of age or older commits sexual battery on a person 18 years of age or older without that person's consent, under specified circumstances.<sup>54, 55</sup>
- A person younger than 18 years of age commits sexual battery on a person 12 years of age or older without that person's consent, under specified circumstances.<sup>56, 57</sup>
- A person 18 years of age or older commits sexual battery on a person 12 years of age or older but younger than 18 years of age, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury.<sup>58</sup>
- A person commits sexual battery on a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury and the person was previously convicted of specified crimes.<sup>59</sup>

Sexual battery is a second degree felony<sup>60</sup> when:

- A person 18 years of age or older commits sexual battery on a person 18 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury.<sup>61</sup>
- A person younger than 18 years of age commits sexual battery on a person 12 years of age or older, without that person's consent, and in the process does not use physical force and violence likely to cause serious personal injury.<sup>62</sup>

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imprisonment; s. 800.04, F.S., relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age; s. 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person; s. 847.0135(5), F.S., relating to computer pornography; or ch. 794, F.S., relating to sexual battery, except s. 794.011(10), F.S., which criminalizes false allegations against specified persons.

<sup>52</sup> Section 794.011(8)(b), F.S.

<sup>53</sup> The maximum term of imprisonment for a first degree felony is generally 30 years imprisonment and a fine not exceeding \$10,000. Sections 775.082 and 775.083 F.S.

<sup>54</sup> See note 50.

<sup>55</sup> Section 794.011(4)(b), F.S.

<sup>56</sup> See note 50.

<sup>57</sup> Section 794.011(4)(c), F.S.

<sup>58</sup> Section 794.011(5)(a), F.S.

<sup>59</sup> Section 794.011(5)(d), F.S. Specified crimes include: s. 787.01(2), F.S., relating to kidnapping, or s. 787.02(2), F.S., relating to false imprisonment, when the violation involved a victim who was a minor and, in the course of committing that violation, the defendant committed against the minor a sexual battery under this chapter or a lewd act under s. 800.04 or s. 847.0135(5), F.S.; s. 787.01(3)(a)2. or 3. F.S., relating to kidnapping; s. 787.02(3)(a)2. or 3., F.S., relating to false imprisonment; s. 800.04, F.S., relating to lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age; s. 825.1025, F.S., relating to lewd or lascivious offenses committed upon or in the presence of an elderly or disabled person; s. 847.0135(5), F.S., relating to computer pornography; or ch. 794, F.S., relating to sexual battery, except s. 794.011(10), F.S., which criminalizes false allegations against specified persons.

<sup>60</sup> The maximum term of imprisonment for a second degree felony is 15 years imprisonment and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

<sup>61</sup> Section 794.011(5)(b), F.S.

<sup>62</sup> Section 794.011(5)(c), F.S.

Sexual battery is a third degree felony<sup>63</sup> when:

- Without regard to the willingness or consent of the victim, a person who is in a position of familial or custodial authority to a person less than 18 years of age solicits that person to engage in any act which constitutes sexual battery.<sup>64</sup>

### **Criminal Punishment Code**

The Criminal Punishment Code<sup>65</sup> (Code) is Florida's primary sentencing policy. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10).<sup>66</sup> The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- 60 days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- 15 years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.<sup>67</sup>

### ***Offense Severity Ranking Chart***

Section 921.0022(1) and (2), F.S., provides the offense severity ranking chart that must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender whose offense was committed on or after October 1, 1998. The chart has 10 offense levels, ranked from least severe to most severe.

Section 921.0023, F.S., provides that until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

- A third degree felony is within offense level 1;
- A second degree felony is within offense level 4;
- A first degree felony is within offense level 7;
- A first degree punishable by life felony is within offense level 9; and
- A life felony is within offense level 10.

Points are assigned and accrue based upon the offense severity level ranking assigned to the primary offense, additional offenses, and prior offenses. Sentence points escalate as the severity level escalates. Points may also be added or multiplied for other factors such as victim injury or the commission of certain offenses. The lowest permissible sentence is any non-state prison

<sup>63</sup> The maximum term of imprisonment for a third degree felony is 5 years imprisonment and a fine not exceeding \$5,000. Sections 775.082 and 775.083 F.S.

<sup>64</sup> Section 794.011(8)(a), F.S.

<sup>65</sup> Sections 921.002-921.0027, F.S. See chs. 97-194 and 98-204, L.O.F. The Code is effective for offenses committed on or after October 1, 1998.

<sup>66</sup> Offenses are either ranked in the offense severity level ranking chart in section 921.0022, F.S., or are ranked by default based on a ranking assigned to the felony degree of the offense as provided in section 921.0023, F.S.

<sup>67</sup> Section 775.082, F.S. Fines may also be imposed, and those fines escalate based on the degree of the offense. section 775.083, F.S., provides the following maximum fines; \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

sanction in which total sentence points equal or are less than 44 points, unless the court determines that a prison sentence is appropriate. If total sentence points exceed 44 points, the lowest permissible sentence in prison months is calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent.<sup>68</sup> Absent mitigation,<sup>69</sup> the permissible sentencing range under the Code is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S.<sup>70</sup>

### ***Mandatory Minimum Sentencing***

Mandatory minimum sentencing in Florida began in the 1980's and is designed to ensure consistent and severe penalties for specific crimes. Sentencing offenders to mandatory minimum terms of imprisonment prevents the use of early release mechanisms and ensures that offenders serve most or all of their court-imposed sentences.<sup>71</sup> These laws require judges to impose a predetermined minimum sentence for certain offenses, regardless of the circumstances surrounding the crime or the individual's background. Generally, mandatory minimum sentences often apply to specific crimes like drug offenses, firearm violations, and repeat offenses.

### **Gain-Time**

Section 944.275, F.S., allows the Department of Corrections (DOC) to grant deductions from sentences in the form of gain-time to encourage satisfactory inmate behavior, to provide incentive for inmates to participate in productive activities, and to reward inmates who perform outstanding deeds or services. There are currently three types of gain-time inmates may earn: basic, incentive, and meritorious.<sup>72</sup>

Inmates serving sentences for specified convictions committed on or after October 1, 2014, are ineligible to earn incentive gain-time, including inmates serving sentences for attempt to commit, solicitation to commit, or conspiracy to commit one of these underlying offenses. Gain-time earned by an inmate may also be forfeited for violations of state law or department rules.<sup>73</sup>

### ***Incentive Gain-Time***

The DOC may grant incentive gain-time for each month during which an inmate works diligently, participates in training, uses time constructively, or otherwise engages in positive activities.<sup>74</sup> The rate of incentive gain-time in effect on the date the inmate committed the offense that resulted in his or her incarceration is the inmate's rate of eligibility to earn incentive gain-time throughout the period of incarceration and cannot be altered by a subsequent change in

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<sup>68</sup> Section 921.0024, F.S., Unless otherwise noted, information on the Code is from this source.

<sup>69</sup> The court may "mitigate" or "depart downward" from the scored lowest permissible sentence, if the court finds a mitigating circumstance. Section 921.0026, F.S., provides a list of mitigating circumstances.

<sup>70</sup> If the scored lowest permissible sentence exceeds the maximum penalty in Section 775.082, F.S., the sentence required by the Code must be imposed. If total sentence points are greater than or equal to 363 points, the court may sentence the offender to life imprisonment. Section 921.0024(2), F.S.

<sup>71</sup> U.S. Department of Justice, Office of Justice Programs, *Mandatory Minimum Sentencing in Florida: Past Trends and Future Implications*, available at <https://www.ojp.gov/ncjrs/virtual-library/abstracts/mandatory-minimum-sentencing-florida-past-trends-and-future> (last visited on February 20, 2025).

<sup>72</sup> Section 944.275, F.S.

<sup>73</sup> Section 944.275, F.S.

<sup>74</sup> Section 944.274(1), F.S.

the severity level of the offense for which the inmate was sentenced.<sup>75</sup> For sentences imposed for:

- Offenses committed prior to January 1, 1994, up to 20 days per month of incentive gain-time may be granted;
- Offenses committed on or after January 1, 1994, and before October 1, 1995:
  - Up to 25 days per month of incentive gain-time may be granted for offenses ranked in offense severity levels 1 through 7 of the former sentencing guidelines;
  - Up to 20 days per month of incentive gain-time may be granted for offenses ranked in offense severity levels 8, 9, and 10 of the former sentencing guidelines; and
- Offenses committed after October 1, 1995, up to 10 days per month of incentive gain-time may be granted.<sup>76</sup>

The DOC may grant, upon a recommendation of the education program manager, a one-time award of 60 additional days of incentive gain-time to an inmate who is otherwise eligible and who successfully completes requirements for and is awarded a high school equivalency diploma or vocational certificate. An inmate may not receive more than 60 days for educational attainment.<sup>77</sup> The DOC may grant an additional six days of incentive gain-time if an inmate attends and actively participates in 150 hours of adult basic education to attain basic and functional literacy.<sup>78</sup>

The DOC may not grant incentive gain-time for sentences imposed for the following offenses committed on or after October 1, 2014:

- Homicide occurring in the perpetration of or attempted perpetration of a sexual battery;
- Kidnapping of a child under the age of 13, and in the course of committing the offense, commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- False imprisonment of a child under the age of 13, and in the course of committing the offense commits sexual battery against the child or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition;
- Sexual battery;
- Lewd or lascivious offenses upon or in the presence of persons less than 16 years of age;
- Lewd or lascivious offenses upon or in the presence of an elderly person or disabled person;
- or
- Transmission of certain images over a computer to a person who is less than 16 years of age.<sup>79</sup>

The DOC may not grant incentive gain-time for sentences imposed for the following offenses committed on or after October 1, 2014:

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<sup>75</sup> Section 944.275(4)(b), F.S.

<sup>76</sup> Section 944.275(4)(a)3.(b)1.-3., F.S.

<sup>77</sup> Section 944.275(4)(d), F.S.

<sup>78</sup> Section 944.801(3)(i)5., F.S., “Active participation” means at a minimum, that the inmate is attentive, responsive, cooperative, and completes assigned work.

<sup>79</sup> Section 944.275(4)(e), F.S.



- Murder, when committed by a person engaged in the perpetration of, or in the attempt to perpetrate a sexual battery),<sup>80</sup>
- Kidnapping, upon a child under the age of 13 and who, in the course of committing the offense, commits sexual battery,<sup>81</sup>
- False imprisonment of a child under the age 13, and who, in the course of committing the offense, commits sexual battery or lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition,<sup>82</sup>
- Sexual battery,<sup>83</sup>
- Lewd and Lascivious battery or molestation upon or in the presence of persons less than 16 years of age,<sup>84</sup>
- Lewd and Lascivious battery or molestation upon an elderly or disabled person,<sup>85</sup>
- Computer pornography involving a victim less than 16 years of age.<sup>86</sup>

Sentences imposed for offenses committed on or after July 1, 2023 are ineligible to receive incentive gain-time if the offense is for committing or attempting, soliciting, or conspiring to commit a violation of the above crimes.

### ***Basic Gain-Time***

The DOC grants basic gain-time at the rate of 10 days for each month of each sentence imposed on an inmate to encourage satisfactory behavior, subject to the following:

- Portions of any sentences to be served concurrently are treated as a single sentence when determining basic gain-time;
- Basic gain-time for a partial month is prorated on the basis of a 30-day month; and
- When an inmate receives a new maximum sentence expiration date because of additional sentences imposed, basic gain-time is granted for the amount of time the maximum sentence expiration date was extended.<sup>87</sup>

A “tentative release date” is calculated utilizing the date projected for the inmate’s release from custody by virtue of gain-time granted or forfeited. The initial tentative release date shall be determined by deducting basic gain-time granted from the maximum sentence expiration date.<sup>88</sup> Basic gain-time applies to sentences imposed or offenses committed on or after July 1, 1978, and before January 1, 1994.<sup>89</sup>

The DOC may not grant basic gain-time to inmates who are convicted of committing a sexual battery on or after October 1, 1992.<sup>90</sup>

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<sup>80</sup> Section 782.04(1)(a)c., F.S.

<sup>81</sup> Section 787.01(3)(a)2., F.S.

<sup>82</sup> Section 787.02(3)(a)2. or 3., F.S.

<sup>83</sup> Section 794.011(10), F.S.

<sup>84</sup> Section 800.04(4) or (5), F.S.

<sup>85</sup> Section 825.1025(2) or (3), F.S.

<sup>86</sup> Section 847.0135(5), F.S.

<sup>87</sup> Section 944.275(4)(a), F.S.

<sup>88</sup> Section 944.275(3)(a), F.S.

<sup>89</sup> Section 944.275(6), F.S.

<sup>90</sup> Section 794.011(7), F.S.

### *Meritorious Gain-Time*

The DOC may grant meritorious gain-time to an inmate who performs some outstanding deed, such as saving a life or assisting in recapturing an escaped inmate, or who in some manner performs an outstanding service that would merit the granting of additional deductions from the term of his or her sentence. The grant of meritorious gain-time may be from one to 60 days.<sup>91</sup> Inmates sentenced as a habitual offender are only eligible for meritorious gain time if the deed occurs after the designation has been removed.<sup>92</sup>

### *Limitations on Earning Gain-Time*

For sentences imposed for offenses committed on or after October 1, 1995, an inmate may not earn any type of gain-time in an amount that would cause a sentence to expire, end, or terminate, or that would result in an inmate's release, prior to serving a minimum of 85 percent of the sentence imposed. Credits awarded by the court for time physically incarcerated are credited toward satisfaction of 85 percent of the sentence imposed. Except as provided by s. 944.275, F.S., an inmate may not accumulate further gain-time awards at any point when the tentative release date is the same as that date at which the inmate will have served 85 percent of the sentence imposed.<sup>93</sup> If an inmate is found to have violated state law or department rules, gain-time may be forfeited according to law.<sup>94</sup>

Inmates sentenced to life imprisonment must be incarcerated for the rest of their natural lives, unless granted pardon or clemency.<sup>95</sup> Certain offenders are statutorily prohibited from earning gain-time:

- Prison releasee reoffenders must serve 100 percent of the court-imposed sentence and may not earn gain-time to shorten the length of incarceration.<sup>96</sup>
- Certain inmates convicted of offenses involving the fleeing or attempting to elude a law enforcement officer are ineligible for statutory gain-time.<sup>97</sup>
- Inmates convicted of committing or attempting to commit certain felonies while possessing or using a firearm or destructive device.<sup>98</sup>
- Inmates convicted of committing or attempting to commit certain felonies while possessing or using a semiautomatic firearm and its high-capacity box magazine or a machine gun.<sup>99</sup>

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<sup>91</sup> Section 944.275(4)(c), F.S.

<sup>92</sup> Section 775.084, F.S.

<sup>93</sup> Section 944.275(4)(f), F.S.

<sup>94</sup> Sections 944.275(5) and 944.28, F.S.

<sup>95</sup> Section 944.275(4)(f), F.S.

<sup>96</sup> Under s. 775.082(9), F.S., a defendant may be designated a "prison releasee offender" if within three years of being released from incarceration commits or attempts to commit: treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, arson, kidnaping, aggravated assault with a deadly weapon, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive devise or bomb, any felony that involves the use or threat of physical force or violence against an individual, armed burglary, burglary of a dwelling, or burglary of an occupied structure, or any felony violation of ss. 790.07, 800.04, 827.03, 827.071, or 847.0135(5), F.S. A "prison releasee offender" also means any defendant who commits or attempts to commit one of the aforementioned offenses while serving a prison sentence or on escape status from a correctional facility.

<sup>97</sup> Section 316.1935(6), F.S.

<sup>98</sup> Section 775.087(2)(b), F.S.

<sup>99</sup> Section 775.087(3)(b), F.S.

- Inmates convicted of battery on a law enforcement officer, firefighter, emergency medical providers, public transit employees or agents, or other specified officers while possessing a firearm or semiautomatic firearm and its high-capacity box magazine.<sup>100</sup>
- Inmates convicted under the dangerous sexual felony offender statute.<sup>101</sup>

### ***Dangerous Sexual Felony Offender***

Section 794.0115, F.S., provides that a person is a “dangerous sexual felony offender” if he or she is convicted of specified violation of luring a child,<sup>102</sup> sexual battery,<sup>103</sup> lewd battery and lewd molestation committed upon or in the presence of persons less than 16 years of age,<sup>104</sup> lewd battery and lewd molestation committed upon or in the presence of an elderly or disabled person,<sup>105</sup> sexual performance by a child,<sup>106</sup> offenses relating to selling or buying of minors,<sup>107</sup> or a similar offense under a former designation, if such offense was committed when the person was 18 years of age or older and the person:

- Caused serious personal injury to the victim as a result of the commission of the offense;
- Used or threatened to use a deadly weapon during the commission of the offense;
- Victimized more than one person during the course of the criminal episode applicable to the offense;
- Committed the offense while under the jurisdiction of a court for a felony offense committed in Florida or another jurisdiction, or for a non-felony offense in another jurisdiction that would have been a felony if it had been committed in Florida; or
- Has previously been convicted of any of the previously described offenses or any offense under a former statutory designation which is similar in elements to any of the previously described offenses.

Dangerous sexual felony offenders must be sentenced to a mandatory minimum term of 25 years imprisonment. They may be sentenced above that threshold up to, and including, life imprisonment.

### **III. Effect of Proposed Changes:**

The bill creates s. 794.0116, F.S., to provide that certain sexual offenses will carry mandatory minimum sentences if committed by a registered sexual offender or sexual predator. The bill also sets forth that offenders sentenced under this section are not eligible for gain-time or any other early release options before serving their minimum sentence.

Sexual offenders and sexual predators who are required to register under ss. 943.0435 or 775.21, F.S., and subsequently commit a violation of any of the following shall be sentenced to a mandatory minimum term of imprisonment of 10 years:

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<sup>100</sup> Section 784.07(3), F.S.

<sup>101</sup> Section 794.0115(7), F.S.

<sup>102</sup> Section 787.025(2)(c), F.S.

<sup>103</sup> Sections 794.011(2), (3), (4), (5), or (8), F.S.

<sup>104</sup> Sections 800.04(4) or (5), F.S.

<sup>105</sup> Sections 825.1025(2) or (3), F.S.

<sup>106</sup> Sections 827.071(2), (3), or (4), F.S.

<sup>107</sup> Sections 847.0145, F.S.

- Luring or enticing a child,<sup>108</sup>
- Lewd and Lascivious battery or molestation upon or in the presence of persons less than 16 years of age,<sup>109</sup>
- Lewd and Lascivious battery or molestation upon an elderly or disabled person,<sup>110</sup>
- Sexual performance by a child (victims older than 12 years of age),<sup>111</sup>
- Selling or buying of minors,<sup>112</sup>
- Sexual battery.<sup>113</sup>

Sexual offenders and sexual predators who are required to register and are subsequently convicted of a new crime of sexual performance by a child (victims 12 years of age or younger) shall be sentenced to a minimum mandatory term of imprisonment of 20 years.<sup>114</sup>

The bill specifies that if the mandatory minimum term of imprisonment imposed exceeds or is less than the maximum sentence authorized under ss. 775.082, 775.084, or ch.921, F.S., the mandatory minimum term of imprisonment must be imposed.

Excluding early releases such as pardon or executive clemency, sexual offenders and sexual predators who are sentenced under this new section of law are not eligible for any of the following sentence reduction mechanisms:

- Gain-time or any form of discretionary early release.<sup>115</sup>
- Conditional medical release.<sup>116</sup>

The bill takes effect on October 1, 2025.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

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<sup>108</sup> Section 787.025(2)(c), F.S.

<sup>109</sup> Section 800.04(4) or (5), F.S.

<sup>110</sup> Section 825.1025(2) or (3), F.S.

<sup>111</sup> Section 827.071, F.S.

<sup>112</sup> Section 847.0145, F.S.

<sup>113</sup> Section 794.011, F.S. excluding 794.011(10), F.S.

<sup>114</sup> Section 827.071, F.S.

<sup>115</sup> Section 944.275, F.S.

<sup>116</sup> Section 947.149, F.S.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per the DOC, there are currently 11,914 inmates incarcerated under these statutes, with several of these offenses already having a higher average sentence length than the proposed mandatory minimum sentence. It is not known if these inmates were registered sexual offenders or sexual predators prior to committing the offenses for which they are currently incarcerated. Therefore, the magnitude of the prison bed impact cannot be determined.<sup>117</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

Sexual offender and sexual predator registration under ss. 775.21 and 943.0435, F.S., is a non-punitive, regulatory, civil law. There are numerous ways a person can be relieved of their requirement to register as a sexual offender but maintain their sexual offense conviction. The language provided in the bill may not require certain sexual offenders and sexual predators to receive minimum mandatory sentences if the defendant is relieved of the registration requirement or if the registry fails.

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<sup>117</sup> Office of Economic and Demographic Research, *SB 716 – Sexual Offenses by Registered Sexual Offenders or Sexual Predators*, (on file with the Senate Committee on Criminal Justice).

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 794.0116

**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.

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

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554438

LEGISLATIVE ACTION

Senate

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House

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The Committee on Criminal Justice (Martin) recommended the following:

**Senate Amendment (with title amendment)**

Delete lines 16 - 17

and insert:

(1) A person who was previously convicted of or had adjudication withheld for any offense listed in s. 775.21 or s.

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

And the title is amended as follows:

Delete lines 2 - 3



554438

11 and insert:

12 An act relating to sexual offenses by persons

13 previously convicted of sexual offenses; creating s.



By Senator Martin

33-01452-25 2025716\_\_

1 A bill to be entitled  
 2 An act relating to sexual offenses by registered  
 3 sexual offenders or sexual predators; creating s.  
 4 794.0116, F.S.; providing mandatory minimum terms of  
 5 imprisonment for specified sexual offenses when  
 6 committed by registered sexual offenders or sexual  
 7 predators; providing requirements for such sentences;  
 8 providing an effective date.

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

12 Section 1. Section 794.0116, Florida Statutes, is created  
 13 to read:

14 794.0116 Sexual offenses by registered sexual offenders or  
 15 sexual predators; mandatory sentencing.-

16 (1) A person who is required to register as a sexual  
 17 predator under s. 775.21 or as a sexual offender under s.  
 18 943.0435 and commits a violation of s. 787.025(2)(c); s.  
 19 794.011, excluding s. 794.011(10); s. 800.04(4) or (5); s.  
 20 825.1025(2) or (3); s. 827.071; or s. 847.0145 shall be  
 21 sentenced to a mandatory minimum term of imprisonment as  
 22 follows:

<u>Statute</u>	<u>Mandatory Minimum</u>
<u>787.025(2)(c)</u>	<u>10 years</u>

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28		
29	<u>794.011, excluding s.</u>	<u>10 years</u>
	<u>794.011(10)</u>	
30		
31	<u>800.04(4) or (5)</u>	<u>10 years</u>
32		
33	<u>827.071 (victims older</u>	<u>10 years</u>
	<u>than 12 years of age)</u>	
34	<u>827.071 (victim 12 years</u>	<u>20 years</u>
	<u>of age or younger)</u>	
35		
36	<u>847.0145</u>	<u>10 years</u>
37	<u>(2) Notwithstanding s. 775.082(3), chapter 958, any other</u>	
38	<u>law, or any interpretation or construction thereof, a person</u>	
39	<u>subject to sentencing under this section must be sentenced to</u>	
40	<u>the mandatory term of imprisonment provided under this section.</u>	
41	<u>If the mandatory minimum term of imprisonment imposed under this</u>	
42	<u>section exceeds the maximum sentence authorized under s.</u>	
43	<u>775.082, s. 775.084, or chapter 921, the mandatory minimum term</u>	
44	<u>of imprisonment under this section must be imposed. If the</u>	
45	<u>mandatory minimum term of imprisonment under this section is</u>	
46	<u>less than the sentence that could be imposed under s. 775.082,</u>	
47	<u>s. 775.084, or chapter 921, the sentence imposed must include</u>	
	<u>the mandatory minimum term of imprisonment under this section.</u>	

33-01452-25

2025716\_\_

48       (3) A defendant sentenced to a mandatory minimum term of  
49 imprisonment under this section is not eligible for statutory  
50 gain-time under s. 944.275 or any form of discretionary early  
51 release, other than pardon or executive clemency, or conditional  
52 medical release under s. 947.149, before serving the minimum  
53 sentence.

54       Section 2. This act shall take effect October 1, 2025.

**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 710

INTRODUCER: Senator Osgood

SUBJECT: Public Records/Crime Stoppers Organizations

DATE: March 10, 2025

REVISED: \_\_\_\_\_

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	<b>Pre-meeting</b>
2.	_____	_____	GO	_____
3.	_____	_____	RC	_____

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**I. Summary:**

SB 710 exempts from public records copying and inspection requirements certain identifying and location information of employees, board members and volunteers, and their spouses and children, of crime stoppers organizations.<sup>1</sup>

The bill exempts from public disclosure the following information:

- The home addresses, telephone numbers, dates of birth, and photographs of employees, board members, and volunteers of crime stoppers organizations;
- The names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of the employees, board members, and volunteers;
- The names and locations of schools and day care facilities attended by the children of the employees, board members, and volunteers.

This exemption applies to information held by an agency before, on, or after July 1, 2025, and is repealed on October 2, 2030, unless reenacted by the Legislature.

The bill provides a statement of public necessity as required by the State Constitution.

The bill creates a new public records exemption and, therefore, requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill takes effect July 1, 2025.

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<sup>1</sup> “Crime stoppers organization” means a private not-for-profit organization that collects and expends donations for rewards to persons who report to the organization information concerning criminal activity, and forwards that information to appropriate law enforcement agencies. Section 16.557(1)(a), F.S.

## II. Present Situation:

### Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.<sup>2</sup> The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.<sup>3</sup>

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, s. 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.<sup>4</sup> Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.<sup>5</sup> Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive branch and local government agencies.

### Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.<sup>6</sup>

Section 119.011(12), F.S., defines “public records” to include:

[a]ll documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connections with the transaction of official business by any agency.

The Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”<sup>7</sup>

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<sup>2</sup> FLA. CONST. art. I, s. 24(a).

<sup>3</sup> *Id.*

<sup>4</sup> See Rule 1.48, *Rules and Manual of the Florida Senate*, (2022-2024) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 1, (2022-2024).

<sup>5</sup> *State v. Wooten*, 260 So. 3d 1060 (Fla. 4<sup>th</sup> DCA 2018).

<sup>6</sup> Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency.”

<sup>7</sup> *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person's right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.<sup>8</sup> A violation of the Public Records Act may result in civil or criminal liability.<sup>9</sup>

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.<sup>10</sup> The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.<sup>11</sup>

General exemptions from the public records requirements are contained in the Public Records Act.<sup>12</sup> Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.<sup>13</sup>

When creating a public records exemption, the Legislature may provide that a record is "exempt" or "confidential and exempt." There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.<sup>14</sup> Records designated as "confidential and exempt" are not subject to inspection by the public and may only be released under the circumstances defined by statute.<sup>15</sup> Records designated as "exempt" may be released at the discretion of the records custodian under certain circumstances.<sup>16</sup>

#### **Public Records Exemptions for Specified Personnel and their Families (s. 119.071(4), F.S.)**

Section 119.071(4), F.S., exempts from public record disclosure the personal information of specific government employees when held by government agencies. In paragraph (d), "home addresses" is defined as the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address. Additionally, "telephone numbers" is defined to include home telephone numbers, personal cellular telephone

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<sup>8</sup> Section 119.07(1)(a), F.S.

<sup>9</sup> Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

<sup>10</sup> FLA. CONST. art. I, s. 24(c).

<sup>11</sup> *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

<sup>12</sup> *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

<sup>13</sup> *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

<sup>14</sup> *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5<sup>th</sup> DCA 2004).

<sup>15</sup> *Id.*

<sup>16</sup> *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5<sup>th</sup> DCA 1991).

numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

Section 119.071(4)(d)2., F.S., generally exempts from public disclosure the home addresses, dates of birth, photographs, and telephone numbers of specified public employees and their spouses and children. Additionally exempted, typically, are the spouse's place of work as well as the name and location of any schools or day care facilities of the public employee's children, if any. These public employees include, but are not limited to, sworn law enforcement personnel and active or former civilian personnel employed by a law enforcement agency;<sup>17</sup> current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges;<sup>18</sup> current or former state attorneys;<sup>19</sup> current or former public defenders;<sup>20</sup> county tax collectors;<sup>21</sup> and clerks of a circuit court.<sup>22</sup>

Records that include exempt information about the above-specified personnel and their spouses and children (minor or adult) may be held by, among others, their employing agency, clerks of court and comptrollers, county tax collectors and property appraisers, school districts, and law enforcement agencies. County property appraisers<sup>23</sup> and county tax collectors<sup>24</sup> holding exempted information need only remove the name of an individual with exempt status and the instrument number or Official Records book and page number identifying the property with the exemption status from all publicly available records. County property appraisers and county tax collectors may not remove the street address, legal description, or other information identifying real property so long as the name or personal information otherwise exempt is not associated with the property or otherwise displayed in the public records.<sup>25</sup>

The personnel, their spouses or children, or their employing agency claiming an exemption under s. 119.071(4)(d)2., F.S., must affirmatively assert the right to the exemption by submitting a written and notarized request to each non-employer agency that holds the employee's or their spouse or child's information. The individual or entity asserting the exemption must provide, under oath, the statutory basis for the individual's exemption and confirm the individual's status as a party eligible for exempt status.<sup>26</sup>

These exemptions under s. 119.071(4)(d)2., F.S., have retroactive application, applying to information held by an agency before, on, or after the effective date of the exemption.<sup>27</sup> Home

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<sup>17</sup> Section 119.071(4)(d)2.a., F.S. This would presumably include elected law enforcement officers such as sheriffs.

<sup>18</sup> Section 119.071(4)(d)2.e., F.S.

<sup>19</sup> Section 119.071(4)(d)2.f., F.S.

<sup>20</sup> Section 119.071(4)(d)2.l., F.S.

<sup>21</sup> Section 119.071(4)(d)2.n., F.S.

<sup>22</sup> Section 119.071(4)(d)2.y., F.S. Circuit court clerks' exemption from public records under this statute is set to repeal on October 2, 2029, unless saved by the Legislature.

<sup>23</sup> See s. 192.001(3), F.S.

<sup>24</sup> See s. 192.001(4), F.S.

<sup>25</sup> Section 119.071(4)(d)4., F.S.

<sup>26</sup> Section 119.071(4)(d)3., F.S.

<sup>27</sup> Section 119.071(4)(d)6., F.S.

addresses, however, are no longer exempt in the Official Records if the protected party no longer resides at the dwelling<sup>28</sup> or upon his or her death.<sup>29</sup>

### **Open Government Sunset Review Act**

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act<sup>30</sup> (the act), prescribe a legislative review process for newly created or substantially amended<sup>31</sup> public records or open meetings exemptions, with specified exceptions.<sup>32</sup> The act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.<sup>33</sup> In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.<sup>34</sup> An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption and it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;<sup>35</sup>
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;<sup>36</sup> or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.<sup>37</sup>

The Act also requires specified questions to be considered during the review process.<sup>38</sup> In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

<sup>28</sup> The protected individual must submit a notarized, written request to release the removed information. Section 119.071(4)(d)8., F.S.

<sup>29</sup> A certified copy of a death certificate or court order must be presented with a notarized request to release the information to remove the exemption. Section 119.071(4)(d)9., F.S. Note, the Clerk is also called the "county recorder." See s. 28.222(2), F.S.

<sup>30</sup> Section 119.15, F.S.

<sup>31</sup> An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

<sup>32</sup> Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

<sup>33</sup> Section 119.15(3), F.S.

<sup>34</sup> Section 119.15(6)(b), F.S.

<sup>35</sup> Section 119.15(6)(b)1., F.S.

<sup>36</sup> Section 119.15(6)(b)2., F.S.

<sup>37</sup> Section 119.15(6)(b)3., F.S.

<sup>38</sup> Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?

If the exemption is continued and expanded, then a public necessity statement and a two-thirds vote for passage are again required.<sup>39</sup> If the exemption is continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.<sup>40</sup>

### **Crime Stoppers**

Crime Stoppers programs are non-profit organizations led by citizens against crime, founded on the concept that someone other than the criminal has information that can help solve a crime. These programs offer anonymity to anyone who can provide information about crimes and subsequently pay rewards when such information leads to the felony arrest of criminals and fugitives.<sup>41</sup>

The idea of providing a reward to someone with information about a crime originated in Albuquerque, New Mexico, when a detective was tasked with solving a homicide with no leads. He thought to make a video re-enactment of the murder and guarantee anonymity for anyone who was willing to call with information about the crime. After receiving calls following the re-enactment, one of which allowed police to solve a different crime, the detective persuaded the Albuquerque Police Department to permit citizens to establish the first Crime Stoppers program.<sup>42</sup>

The Florida Association of Crime Stoppers (FACS) is a statewide umbrella organization operated by a volunteer board of directors from the 27 Crime Stopper programs throughout the state of Florida. The aim of FACS is to help establish local programs, and provide ongoing training, advocacy and mentoring to established programs and new programs alike.<sup>43</sup>

Local citizens are responsible for forming local Crime Stopper programs. Civilian-based boards of directors generally oversee the program, establishing policies and providing direction as to the financial and promotional activities of the program.

### **III. Effect of Proposed Changes:**

The bill exempts from public records copying and inspection requirements certain identifying and location information of employees, board members and volunteers, and their spouses and children, of crime stoppers organizations.

- 
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
  - Is the record or meeting protected by another exemption?
  - Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

<sup>39</sup> See generally s. 119.15, F.S.

<sup>40</sup> Section 119.15(7), F.S.

<sup>41</sup> Crime Stoppers USA, *About CSUSA*, available at: <https://www.crimestoppersusa.org/profile/> (last visited March 5, 2025).

<sup>42</sup> Florida Association of Crime Stoppers, *Our History*, available at: <https://facsflorida.org/who-we-are/our-history/> (last visited March 5, 2025).

<sup>43</sup> Florida Association of Crime Stoppers, *Who We Are?*, available at: <https://facsflorida.org/#pg-8-4> (last visited March 4, 2025).



The bill exempts from public disclosure the following information:

- The home addresses, telephone numbers, dates of birth, and photographs of employees, board members, and volunteers of crime stoppers organizations;
- The names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of the employees, board members, and volunteers;
- The names and locations of schools and day care facilities attended by the children of the employees, board members, and volunteers.

Consistent with s. 119.15, F.S., the new exemptions will expire on October 2, 2030, unless reviewed and saved from repeal by the Legislature.

Additionally, the bill provides a statement of public necessity as required by the State Constitution. The public necessity statement provides that the release of certain personal identifying and location information may jeopardize the safety of the employees, board members, volunteers of crime stoppers organizations, and their family members.

The bill takes effect July 1, 2025.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require the cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

###### **Vote Requirement**

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the public records requirements. This bill enacts a new exemption for records pertaining to employees, board members, and volunteers of crime stopper organizations; therefore, the bill requires a two-thirds vote of each chamber for enactment.

###### **Public Necessity Statement**

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

###### **Breadth of Exemption**

Article I, s. 24(c), of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect employees, board members, and volunteers of crime stopper organizations and their family members, and the bill exempts only records pertaining to those persons from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None identified.

**V. Fiscal Impact Statement:**

**A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

**C. Government Sector Impact:**

None.

**VI. Technical Deficiencies:**

The public necessity statement references the information of former crime stopper employees, board members and volunteers. However, the public record exemption is not being applied to former employees, board members, or volunteers in section one of the bill.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 119.071 of the Florida Statutes.

**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.

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

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LEGISLATIVE ACTION

Senate

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House

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The Committee on Criminal Justice (Osgood) recommended the following:

**Senate Amendment**

Delete lines 351 - 358

and insert:

and photographs of current or former employees of crime stoppers organizations as defined in s. 16.557(1), and the board members and volunteers of such crime stoppers organizations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of the current or former employees, board members, and volunteers of such crime stoppers



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11 organizations; and the names and locations of schools and day  
12 care facilities attended by the children of the current or  
13 former employees, board members, and volunteers of such

By Senator Osgood

32-01645-25

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1 A bill to be entitled  
 2 An act relating to public records; amending s.  
 3 119.071, F.S.; providing an exemption from public  
 4 records requirements for specified personal  
 5 identifying and location information of employees of  
 6 crime stoppers organizations and the board members and  
 7 volunteers of such crime stoppers organizations;  
 8 providing for future legislative review and repeal of  
 9 the exemption; providing for retroactive application;  
 10 providing a statement of public necessity; providing  
 11 an effective date.  
 12  
 13 Be It Enacted by the Legislature of the State of Florida:  
 14  
 15 Section 1. Paragraph (d) of subsection (4) of section  
 16 119.071, Florida Statutes, is amended to read:  
 17 119.071 General exemptions from inspection or copying of  
 18 public records.—  
 19 (4) AGENCY PERSONNEL INFORMATION.—  
 20 (d)1. For purposes of this paragraph, the term:  
 21 a. "Home addresses" means the dwelling location at which an  
 22 individual resides and includes the physical address, mailing  
 23 address, street address, parcel identification number, plot  
 24 identification number, legal property description, neighborhood  
 25 name and lot number, GPS coordinates, and any other descriptive  
 26 property information that may reveal the home address.  
 27 b. "Judicial assistant" means a court employee assigned to  
 28 the following class codes: 8140, 8150, 8310, and 8320.  
 29 c. "Telephone numbers" includes home telephone numbers,

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30 personal cellular telephone numbers, personal pager telephone  
 31 numbers, and telephone numbers associated with personal  
 32 communications devices.  
 33 2.a. The home addresses, telephone numbers, dates of birth,  
 34 and photographs of active or former sworn law enforcement  
 35 personnel or of active or former civilian personnel employed by  
 36 a law enforcement agency, including correctional and  
 37 correctional probation officers, personnel of the Department of  
 38 Children and Families whose duties include the investigation of  
 39 abuse, neglect, exploitation, fraud, theft, or other criminal  
 40 activities, personnel of the Department of Health whose duties  
 41 are to support the investigation of child abuse or neglect, and  
 42 personnel of the Department of Revenue or local governments  
 43 whose responsibilities include revenue collection and  
 44 enforcement or child support enforcement; the names, home  
 45 addresses, telephone numbers, photographs, dates of birth, and  
 46 places of employment of the spouses and children of such  
 47 personnel; and the names and locations of schools and day care  
 48 facilities attended by the children of such personnel are exempt  
 49 from s. 119.07(1) and s. 24(a), Art. I of the State  
 50 Constitution.  
 51 b. The home addresses, telephone numbers, dates of birth,  
 52 and photographs of current or former nonsworn investigative  
 53 personnel of the Department of Financial Services whose duties  
 54 include the investigation of fraud, theft, workers' compensation  
 55 coverage requirements and compliance, other related criminal  
 56 activities, or state regulatory requirement violations; the  
 57 names, home addresses, telephone numbers, dates of birth, and  
 58 places of employment of the spouses and children of such

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59 personnel; and the names and locations of schools and day care  
60 facilities attended by the children of such personnel are exempt  
61 from s. 119.07(1) and s. 24(a), Art. I of the State  
62 Constitution.

63 c. The home addresses, telephone numbers, dates of birth,  
64 and photographs of current or former nonsworn investigative  
65 personnel of the Office of Financial Regulation's Bureau of  
66 Financial Investigations whose duties include the investigation  
67 of fraud, theft, other related criminal activities, or state  
68 regulatory requirement violations; the names, home addresses,  
69 telephone numbers, dates of birth, and places of employment of  
70 the spouses and children of such personnel; and the names and  
71 locations of schools and day care facilities attended by the  
72 children of such personnel are exempt from s. 119.07(1) and s.  
73 24(a), Art. I of the State Constitution.

74 d. The home addresses, telephone numbers, dates of birth,  
75 and photographs of current or former firefighters certified in  
76 compliance with s. 633.408; the names, home addresses, telephone  
77 numbers, photographs, dates of birth, and places of employment  
78 of the spouses and children of such firefighters; and the names  
79 and locations of schools and day care facilities attended by the  
80 children of such firefighters are exempt from s. 119.07(1) and  
81 s. 24(a), Art. I of the State Constitution.

82 e. The home addresses, dates of birth, and telephone  
83 numbers of current or former justices of the Supreme Court,  
84 district court of appeal judges, circuit court judges, and  
85 county court judges and current judicial assistants; the names,  
86 home addresses, telephone numbers, dates of birth, and places of  
87 employment of the spouses and children of current or former

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88 justices and judges and current judicial assistants; and the  
89 names and locations of schools and day care facilities attended  
90 by the children of current or former justices and judges and  
91 current judicial assistants are exempt from s. 119.07(1) and s.  
92 24(a), Art. I of the State Constitution. This sub-subparagraph  
93 is subject to the Open Government Sunset Review Act in  
94 accordance with s. 119.15 and shall stand repealed on October 2,  
95 2028, unless reviewed and saved from repeal through reenactment  
96 by the Legislature.

97 f. The home addresses, telephone numbers, dates of birth,  
98 and photographs of current or former state attorneys, assistant  
99 state attorneys, statewide prosecutors, or assistant statewide  
100 prosecutors; the names, home addresses, telephone numbers,  
101 photographs, dates of birth, and places of employment of the  
102 spouses and children of current or former state attorneys,  
103 assistant state attorneys, statewide prosecutors, or assistant  
104 statewide prosecutors; and the names and locations of schools  
105 and day care facilities attended by the children of current or  
106 former state attorneys, assistant state attorneys, statewide  
107 prosecutors, or assistant statewide prosecutors are exempt from  
108 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

109 g. The home addresses, dates of birth, and telephone  
110 numbers of general magistrates, special magistrates, judges of  
111 compensation claims, administrative law judges of the Division  
112 of Administrative Hearings, and child support enforcement  
113 hearing officers; the names, home addresses, telephone numbers,  
114 dates of birth, and places of employment of the spouses and  
115 children of general magistrates, special magistrates, judges of  
116 compensation claims, administrative law judges of the Division

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117 of Administrative Hearings, and child support enforcement  
 118 hearing officers; and the names and locations of schools and day  
 119 care facilities attended by the children of general magistrates,  
 120 special magistrates, judges of compensation claims,  
 121 administrative law judges of the Division of Administrative  
 122 Hearings, and child support enforcement hearing officers are  
 123 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 124 Constitution.

125 h. The home addresses, telephone numbers, dates of birth,  
 126 and photographs of current or former human resource, labor  
 127 relations, or employee relations directors, assistant directors,  
 128 managers, or assistant managers of any local government agency  
 129 or water management district whose duties include hiring and  
 130 firing employees, labor contract negotiation, administration, or  
 131 other personnel-related duties; the names, home addresses,  
 132 telephone numbers, dates of birth, and places of employment of  
 133 the spouses and children of such personnel; and the names and  
 134 locations of schools and day care facilities attended by the  
 135 children of such personnel are exempt from s. 119.07(1) and s.  
 136 24(a), Art. I of the State Constitution.

137 i. The home addresses, telephone numbers, dates of birth,  
 138 and photographs of current or former code enforcement officers;  
 139 the names, home addresses, telephone numbers, dates of birth,  
 140 and places of employment of the spouses and children of such  
 141 personnel; and the names and locations of schools and day care  
 142 facilities attended by the children of such personnel are exempt  
 143 from s. 119.07(1) and s. 24(a), Art. I of the State  
 144 Constitution.

145 j. The home addresses, telephone numbers, places of

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146 employment, dates of birth, and photographs of current or former  
 147 guardians ad litem, as defined in s. 39.01; the names, home  
 148 addresses, telephone numbers, dates of birth, and places of  
 149 employment of the spouses and children of such persons; and the  
 150 names and locations of schools and day care facilities attended  
 151 by the children of such persons are exempt from s. 119.07(1) and  
 152 s. 24(a), Art. I of the State Constitution.

153 k. The home addresses, telephone numbers, dates of birth,  
 154 and photographs of current or former juvenile probation  
 155 officers, juvenile probation supervisors, detention  
 156 superintendents, assistant detention superintendents, juvenile  
 157 justice detention officers I and II, juvenile justice detention  
 158 officer supervisors, juvenile justice residential officers,  
 159 juvenile justice residential officer supervisors I and II,  
 160 juvenile justice counselors, juvenile justice counselor  
 161 supervisors, human services counselor administrators, senior  
 162 human services counselor administrators, rehabilitation  
 163 therapists, and social services counselors of the Department of  
 164 Juvenile Justice; the names, home addresses, telephone numbers,  
 165 dates of birth, and places of employment of spouses and children  
 166 of such personnel; and the names and locations of schools and  
 167 day care facilities attended by the children of such personnel  
 168 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 169 Constitution.

170 l. The home addresses, telephone numbers, dates of birth,  
 171 and photographs of current or former public defenders, assistant  
 172 public defenders, criminal conflict and civil regional counsel,  
 173 and assistant criminal conflict and civil regional counsel; the  
 174 names, home addresses, telephone numbers, dates of birth, and



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175 places of employment of the spouses and children of current or  
 176 former public defenders, assistant public defenders, criminal  
 177 conflict and civil regional counsel, and assistant criminal  
 178 conflict and civil regional counsel; and the names and locations  
 179 of schools and day care facilities attended by the children of  
 180 current or former public defenders, assistant public defenders,  
 181 criminal conflict and civil regional counsel, and assistant  
 182 criminal conflict and civil regional counsel are exempt from s.  
 183 119.07(1) and s. 24(a), Art. I of the State Constitution.

184 m. The home addresses, telephone numbers, dates of birth,  
 185 and photographs of current or former investigators or inspectors  
 186 of the Department of Business and Professional Regulation; the  
 187 names, home addresses, telephone numbers, dates of birth, and  
 188 places of employment of the spouses and children of such current  
 189 or former investigators and inspectors; and the names and  
 190 locations of schools and day care facilities attended by the  
 191 children of such current or former investigators and inspectors  
 192 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 193 Constitution.

194 n. The home addresses, telephone numbers, and dates of  
 195 birth of county tax collectors; the names, home addresses,  
 196 telephone numbers, dates of birth, and places of employment of  
 197 the spouses and children of such tax collectors; and the names  
 198 and locations of schools and day care facilities attended by the  
 199 children of such tax collectors are exempt from s. 119.07(1) and  
 200 s. 24(a), Art. I of the State Constitution.

201 o. The home addresses, telephone numbers, dates of birth,  
 202 and photographs of current or former personnel of the Department  
 203 of Health whose duties include, or result in, the determination

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204 or adjudication of eligibility for social security disability  
 205 benefits, the investigation or prosecution of complaints filed  
 206 against health care practitioners, or the inspection of health  
 207 care practitioners or health care facilities licensed by the  
 208 Department of Health; the names, home addresses, telephone  
 209 numbers, dates of birth, and places of employment of the spouses  
 210 and children of such personnel; and the names and locations of  
 211 schools and day care facilities attended by the children of such  
 212 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of  
 213 the State Constitution.

214 p. The home addresses, telephone numbers, dates of birth,  
 215 and photographs of current or former impaired practitioner  
 216 consultants who are retained by an agency or current or former  
 217 employees of an impaired practitioner consultant whose duties  
 218 result in a determination of a person's skill and safety to  
 219 practice a licensed profession; the names, home addresses,  
 220 telephone numbers, dates of birth, and places of employment of  
 221 the spouses and children of such consultants or their employees;  
 222 and the names and locations of schools and day care facilities  
 223 attended by the children of such consultants or employees are  
 224 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 225 Constitution.

226 q. The home addresses, telephone numbers, dates of birth,  
 227 and photographs of current or former emergency medical  
 228 technicians or paramedics certified under chapter 401; the  
 229 names, home addresses, telephone numbers, dates of birth, and  
 230 places of employment of the spouses and children of such  
 231 emergency medical technicians or paramedics; and the names and  
 232 locations of schools and day care facilities attended by the

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233 children of such emergency medical technicians or paramedics are  
 234 exempt from s. 119.07(1) and s. 24(a), Art. I of the State  
 235 Constitution.

236 r. The home addresses, telephone numbers, dates of birth,  
 237 and photographs of current or former personnel employed in an  
 238 agency's office of inspector general or internal audit  
 239 department whose duties include auditing or investigating waste,  
 240 fraud, abuse, theft, exploitation, or other activities that  
 241 could lead to criminal prosecution or administrative discipline;  
 242 the names, home addresses, telephone numbers, dates of birth,  
 243 and places of employment of spouses and children of such  
 244 personnel; and the names and locations of schools and day care  
 245 facilities attended by the children of such personnel are exempt  
 246 from s. 119.07(1) and s. 24(a), Art. I of the State  
 247 Constitution.

248 s. The home addresses, telephone numbers, dates of birth,  
 249 and photographs of current or former directors, managers,  
 250 supervisors, nurses, and clinical employees of an addiction  
 251 treatment facility; the home addresses, telephone numbers,  
 252 photographs, dates of birth, and places of employment of the  
 253 spouses and children of such personnel; and the names and  
 254 locations of schools and day care facilities attended by the  
 255 children of such personnel are exempt from s. 119.07(1) and s.  
 256 24(a), Art. I of the State Constitution. For purposes of this  
 257 sub-subparagraph, the term "addiction treatment facility" means  
 258 a county government, or agency thereof, that is licensed  
 259 pursuant to s. 397.401 and provides substance abuse prevention,  
 260 intervention, or clinical treatment, including any licensed  
 261 service component described in s. 397.311(27).

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262 t. The home addresses, telephone numbers, dates of birth,  
 263 and photographs of current or former directors, managers,  
 264 supervisors, and clinical employees of a child advocacy center  
 265 that meets the standards of s. 39.3035(2) and fulfills the  
 266 screening requirement of s. 39.3035(3), and the members of a  
 267 Child Protection Team as described in s. 39.303 whose duties  
 268 include supporting the investigation of child abuse or sexual  
 269 abuse, child abandonment, child neglect, and child exploitation  
 270 or to provide services as part of a multidisciplinary case  
 271 review team; the names, home addresses, telephone numbers,  
 272 photographs, dates of birth, and places of employment of the  
 273 spouses and children of such personnel and members; and the  
 274 names and locations of schools and day care facilities attended  
 275 by the children of such personnel and members are exempt from s.  
 276 119.07(1) and s. 24(a), Art. I of the State Constitution.

277 u. The home addresses, telephone numbers, places of  
 278 employment, dates of birth, and photographs of current or former  
 279 staff and domestic violence advocates, as defined in s.  
 280 90.5036(1)(b), of domestic violence centers certified by the  
 281 Department of Children and Families under chapter 39; the names,  
 282 home addresses, telephone numbers, places of employment, dates  
 283 of birth, and photographs of the spouses and children of such  
 284 personnel; and the names and locations of schools and day care  
 285 facilities attended by the children of such personnel are exempt  
 286 from s. 119.07(1) and s. 24(a), Art. I of the State  
 287 Constitution.

288 v. The home addresses, telephone numbers, dates of birth,  
 289 and photographs of current or former inspectors or investigators  
 290 of the Department of Agriculture and Consumer Services; the

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291 names, home addresses, telephone numbers, dates of birth, and  
 292 places of employment of the spouses and children of current or  
 293 former inspectors or investigators; and the names and locations  
 294 of schools and day care facilities attended by the children of  
 295 current or former inspectors or investigators are exempt from s.  
 296 119.07(1) and s. 24(a), Art. I of the State Constitution. This  
 297 sub-subparagraph is subject to the Open Government Sunset Review  
 298 Act in accordance with s. 119.15 and shall stand repealed on  
 299 October 2, 2028, unless reviewed and saved from repeal through  
 300 reenactment by the Legislature.

301 w. The home addresses, telephone numbers, dates of birth,  
 302 and photographs of current county attorneys, assistant county  
 303 attorneys, deputy county attorneys, city attorneys, assistant  
 304 city attorneys, and deputy city attorneys; the names, home  
 305 addresses, telephone numbers, photographs, dates of birth, and  
 306 places of employment of the spouses and children of current  
 307 county attorneys, assistant county attorneys, deputy county  
 308 attorneys, city attorneys, assistant city attorneys, and deputy  
 309 city attorneys; and the names and locations of schools and day  
 310 care facilities attended by the children of current county  
 311 attorneys, assistant county attorneys, deputy county attorneys,  
 312 city attorneys, assistant city attorneys, and deputy city  
 313 attorneys are exempt from s. 119.07(1) and s. 24(a), Art. I of  
 314 the State Constitution. This exemption does not apply to a  
 315 county attorney, assistant county attorney, deputy county  
 316 attorney, city attorney, assistant city attorney, or deputy city  
 317 attorney who qualifies as a candidate for election to public  
 318 office. This sub-subparagraph is subject to the Open Government  
 319 Sunset Review Act in accordance with s. 119.15 and shall stand

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320 repealed on October 2, 2029, unless reviewed and saved from  
 321 repeal through reenactment by the Legislature.

322 x. The home addresses, telephone numbers, dates of birth,  
 323 and photographs of current or former commissioners of the  
 324 Florida Gaming Control Commission; the names, home addresses,  
 325 telephone numbers, dates of birth, photographs, and places of  
 326 employment of the spouses and children of such current or former  
 327 commissioners; and the names and locations of schools and day  
 328 care facilities attended by the children of such current or  
 329 former commissioners are exempt from s. 119.07(1) and s. 24(a),  
 330 Art. I of the State Constitution. This sub-subparagraph is  
 331 subject to the Open Government Sunset Review Act in accordance  
 332 with s. 119.15 and shall stand repealed on October 2, 2029,  
 333 unless reviewed and saved from repeal through reenactment by the  
 334 Legislature.

335 y. The home addresses, telephone numbers, dates of birth,  
 336 and photographs of current clerks of the circuit court, deputy  
 337 clerks of the circuit court, and clerk of the circuit court  
 338 personnel; the names, home addresses, telephone numbers, dates  
 339 of birth, and places of employment of the spouses and children  
 340 of current clerks of the circuit court, deputy clerks of the  
 341 circuit court, and clerk of the circuit court personnel; and the  
 342 names and locations of schools and day care facilities attended  
 343 by the children of current clerks of the circuit court, deputy  
 344 clerks of the circuit court, and clerk of the circuit court  
 345 personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of  
 346 the State Constitution. This sub-subparagraph is subject to the  
 347 Open Government Sunset Review Act in accordance with s. 119.15  
 348 and shall stand repealed on October 2, 2029, unless reviewed and

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349 saved from repeal through reenactment by the Legislature.

350 z. The home addresses, telephone numbers, dates of birth,

351 and photographs of employees of crime stoppers organizations as

352 defined in s. 16.557(1), and the board members and volunteers of

353 such crime stoppers organizations; the names, home addresses,

354 telephone numbers, dates of birth, and places of employment of

355 the spouses and children of the employees, board members, and

356 volunteers of such crime stoppers organizations; and the names

357 and locations of schools and day care facilities attended by the

358 children of the employees, board members, and volunteers of such

359 crime stoppers organizations are exempt from s. 119.07(1) and s.

360 24(a), Art. I of the State Constitution. This sub-subparagraph

361 is subject to the Open Government Sunset Review Act in

362 accordance with s. 119.15 and shall stand repealed on October 2,

363 2030, unless reviewed and saved from repeal through reenactment

364 by the Legislature.

365 3. An agency that is the custodian of the information

366 specified in subparagraph 2. and that is not the employer of the

367 officer, employee, justice, judge, or other person specified in

368 subparagraph 2. must maintain the exempt status of that

369 information only if the officer, employee, justice, judge, other

370 person, or employing agency of the designated employee submits a

371 written and notarized request for maintenance of the exemption

372 to the custodial agency. The request must state under oath the

373 statutory basis for the individual's exemption request and

374 confirm the individual's status as a party eligible for exempt

375 status.

376 4.a. A county property appraiser, as defined in s.

377 192.001(3), or a county tax collector, as defined in s.

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378 192.001(4), who receives a written and notarized request for

379 maintenance of the exemption pursuant to subparagraph 3. must

380 comply by removing the name of the individual with exempt status

381 and the instrument number or Official Records book and page

382 number identifying the property with the exempt status from all

383 publicly available records maintained by the property appraiser

384 or tax collector. For written requests received on or before

385 July 1, 2021, a county property appraiser or county tax

386 collector must comply with this sub-subparagraph by October 1,

387 2021. A county property appraiser or county tax collector may

388 not remove the street address, legal description, or other

389 information identifying real property within the agency's

390 records so long as a name or personal information otherwise

391 exempt from inspection and copying pursuant to this section is

392 not associated with the property or otherwise displayed in the

393 public records of the agency.

394 b. Any information restricted from public display,

395 inspection, or copying under sub-subparagraph a. must be

396 provided to the individual whose information was removed.

397 5. An officer, an employee, a justice, a judge, or other

398 person specified in subparagraph 2. may submit a written request

399 for the release of his or her exempt information to the

400 custodial agency. The written request must be notarized and must

401 specify the information to be released and the party authorized

402 to receive the information. Upon receipt of the written request,

403 the custodial agency must release the specified information to

404 the party authorized to receive such information.

405 6. The exemptions in this paragraph apply to information

406 held by an agency before, on, or after the effective date of the

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407 exemption.

408 7. Information made exempt under this paragraph may be  
 409 disclosed pursuant to s. 28.2221 to a title insurer authorized  
 410 pursuant to s. 624.401 and its affiliates as defined in s.  
 411 624.10; a title insurance agent or title insurance agency as  
 412 defined in s. 626.841(1) or (2), respectively; or an attorney  
 413 duly admitted to practice law in this state and in good standing  
 414 with The Florida Bar.

415 8. The exempt status of a home address contained in the  
 416 Official Records is maintained only during the period when a  
 417 protected party resides at the dwelling location. Upon  
 418 conveyance of real property after October 1, 2021, and when such  
 419 real property no longer constitutes a protected party's home  
 420 address as defined in sub-subparagraph 1.a., the protected party  
 421 must submit a written request to release the removed information  
 422 to the county recorder. The written request to release the  
 423 removed information must be notarized, must confirm that a  
 424 protected party's request for release is pursuant to a  
 425 conveyance of his or her dwelling location, and must specify the  
 426 Official Records book and page, instrument number, or clerk's  
 427 file number for each document containing the information to be  
 428 released.

429 9. Upon the death of a protected party as verified by a  
 430 certified copy of a death certificate or court order, any party  
 431 can request the county recorder to release a protected  
 432 decedent's removed information unless there is a related request  
 433 on file with the county recorder for continued removal of the  
 434 decedent's information or unless such removal is otherwise  
 435 prohibited by statute or by court order. The written request to

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436 release the removed information upon the death of a protected  
 437 party must attach the certified copy of a death certificate or  
 438 court order and must be notarized, must confirm the request for  
 439 release is due to the death of a protected party, and must  
 440 specify the Official Records book and page number, instrument  
 441 number, or clerk's file number for each document containing the  
 442 information to be released. A fee may not be charged for the  
 443 release of any document pursuant to such request.

444 Section 2. The Legislature finds that it is a public  
 445 necessity that the home addresses, telephone numbers, dates of  
 446 birth, and photographs of employees of crime stoppers  
 447 organizations as defined in s. 16.557(1), Florida Statutes, and  
 448 the board members and volunteers of such crime stoppers  
 449 organizations; the names, home addresses, telephone numbers,  
 450 dates of birth, and places of employment of the spouses and  
 451 children of such employees, board members, and volunteers; and  
 452 the names and locations of schools and day care facilities  
 453 attended by the children of such employees, board members and  
 454 volunteers be made exempt from s. 119.07(1), Florida Statutes,  
 455 and s. 24(a), Article I of the State Constitution. The friends,  
 456 associates, and family members of people who are involved in  
 457 criminal investigations may retaliate against crime stoppers  
 458 employees, board members, and volunteers while they perform  
 459 their duties, which include collecting sensitive tip  
 460 information, forwarding this information to appropriate law  
 461 enforcement agencies, and paying out rewards to anonymous  
 462 tipsters. Such retaliatory acts may also be targeted at the  
 463 spouses and children of crime stoppers employees, board members,  
 464 and volunteers. If such identifying and location information is

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465 released, the safety of current and former crime stoppers  
466 employees, board members, and volunteers and their spouses and  
467 children could be seriously jeopardized. The Legislature  
468 therefore finds that the harm that may result from the release  
469 of such personal identifying and location information outweighs  
470 any public benefit that may be derived from the disclosure of  
471 the information.

472 Section 3. This act shall take effect July 1, 2025.

**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 878

INTRODUCER: Senator Martin

SUBJECT: Probation for Misdemeanor Offenses

DATE: March 10, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaughan	Stokes	CJ	<b>Pre-meeting</b>
2.	_____	_____	ACJ	_____
3.	_____	_____	RC	_____

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**I. Summary:**

SB 878 amends s. 948.15, F.S., to authorize the court to sentence a defendant who is found guilty of any misdemeanor to a term of probation of up to one year if a controlled substance, a controlled substance analog or a chemical substance was a significant factor in the commission of the crime.

The bill is not expected to have a fiscal impact on state or local governments. *See Section V. Fiscal Impact Statement.*

The bill takes effect on July 1, 2025.

**II. Present Situation:**

**Court Jurisdiction**

Florida has a two-tiered trial court system that consists of circuit courts and county courts. The state Constitution requires a circuit court to be established in each judicial circuit established by the Legislature, of which there are twenty.<sup>1</sup>

Circuit courts have exclusive original jurisdiction all felonies and all misdemeanors arising out of the same circumstances as a felony which is also charged. The state Constitution also establishes a county court in each county.<sup>2</sup> County courts have original jurisdiction over misdemeanor cases not cognizable by the circuit courts.

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<sup>1</sup> Art. V, ss. 1 and 5, FLA. CONST. A list of judicial circuits can be found at <https://www.flcourts.org/Florida-Courts/Trial-Courts-Circuit> (last visited March 3, 2025).

<sup>2</sup> Art. V, s. 6, FLA. CONST.

Generally, felony offenses are adjudicated by the circuit court and misdemeanor offenses are adjudicated by the county court. However, circuit courts routinely adjudicate misdemeanor charges when:

- A misdemeanor charge arises out of the same circumstances as a felony; or
- A felony charge is reduced or dismissed in circuit court and the court retains jurisdiction over the remaining misdemeanor charge.

### **Probation and Other Supervision**

Probation is a form of community supervision requiring specified contacts with probation officers and compliance with certain terms and conditions.<sup>3,4</sup> The court determines the terms and conditions of probation.<sup>5</sup> Section 948.03, F.S., provides standard conditions of probation,<sup>6</sup> however, a court may sentence an offender to special terms and conditions at the time of sentencing, such as substance abuse treatment.

#### ***Maximum Term of Probation***

The Florida Supreme Court addressed the issue of whether a trial court must credit previous time served on probation toward any newly-imposed term of probation upon revocation, to ensure that the total probationary term does not exceed the statutory maximum for a single offense.<sup>7</sup> The maximum term of probation to which a judge may sentence a defendant depends on the offense that the defendant committed. Penalties for misdemeanors are:

- A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine.<sup>8</sup>
- A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine.<sup>9</sup>
- A term of probation for a misdemeanor may not to exceed six months unless otherwise specified in s. 948.15, F.S.<sup>10</sup>

#### ***County Court***

A defendant who is placed on probation after being found guilty of a misdemeanor may not be sentenced to a term of supervision exceeding six months, unless otherwise ordered by the court.<sup>11</sup> Any person sentenced to misdemeanor probation by the county court must pay at least \$40 per month, as determined by the court, to the court approved public or private entity providing misdemeanor supervision.<sup>12</sup>

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<sup>3</sup> Section 948.001(8), F.S.

<sup>4</sup> Florida Department of Corrections, *Probation Services*, available at <https://www.fdc.myflorida.com/probation-services> (last visited March 3, 2025).

<sup>5</sup> Section 948.03, F.S.

<sup>6</sup> Section 948.03(1)(a-1), F.S. Standard conditions include, in part, reporting to the probation officer as directed, permitting visits by the probation officer, work at suitable employment, and live without violating any law.

<sup>7</sup> *State v. Summers*, 642 So. 2d 742 (Fla. 1994). *State v. Holmes*, 360 So. 2d 380 (Fla. 1978).

<sup>8</sup> Sections 775.082 and 775.083, F.S.

<sup>9</sup> Sections 775.082 and 775.083, F.S.

<sup>10</sup> Section 948.15(1), F.S. In relation to any offense other than a felony in which the use of alcohol is a significant factor, the period of probation may be up to 1 year.

<sup>11</sup> Section 948.15(1), F.S.

<sup>12</sup> Section 948.09(1)(b), F.S.



A private entity or public entity, including licensed substance abuse education and intervention programs, may provide probation services to offenders sentenced by a county court, when such services are provided under the supervision of the board of county commissioners or the court.<sup>13</sup>

### ***Circuit Court***

If the circuit court places a defendant on probation for a felony, the Florida Department of Corrections (DOC) must supervise the defendant.<sup>14</sup> A defendant who is placed on probation for a misdemeanor may not be placed under the DOC's supervision unless the circuit court was the court of original jurisdiction.<sup>15</sup> The DOC currently supervises 145,000 offenders on probation or in community control throughout Florida.<sup>16</sup>

Any person placed on probation under ch. 948, F.S., must pay the DOC supervision fees equal to the total month or portion of a month of supervision times the court-ordered amount, but such amount cannot exceed the actual per diem cost of supervision.<sup>17</sup> The DOC must consider an offender's ability to pay in establishing a written pay plan. Any funds collected from felony probationers may be used by the DOC to offset the costs associated with community supervision programs.<sup>18</sup>

Subsections 948.01(1) and (5), F.S., prohibit a private entity from providing probationary or supervision services to felony or misdemeanor offenders sentenced to probation or other supervision by the circuit court. As such, a private entity is authorized to provide supervision services to a misdemeanor offender sentenced by the county court, but cannot provide such services to a misdemeanor offender sentenced by the circuit court.

### **Florida Controlled Substance Schedules**

Section 893.03, F.S., classifies controlled substances into five categories or classifications, known as schedules. The schedules regulate the manufacture, distribution, preparation, and dispensing of substances listed in the schedules. The most important factors in determining which schedule may apply to a substance are the "potential for abuse"<sup>19</sup> of the substance and whether there is a currently accepted medical use for the substance. The controlled substance schedules are described as follows:

- Schedule I substances (s. 893.03(1), F.S.) have a high potential for abuse and no currently accepted medical use in treatment in the United States. Use of these substances under medical supervision does not meet accepted safety standards.

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<sup>13</sup> Section 948.15(2), F.S.

<sup>14</sup> Section 948.01(1)(a), F.S.

<sup>15</sup> Section 948.01(2), F.S.

<sup>16</sup> Florida Department of Corrections, *Probation Services*, available at <https://www.fdc.myflorida.com/probation-services> (Last visited March 4, 2025).

<sup>17</sup> Section 948.09(1)(a)1., F.S.

<sup>18</sup> *Id.* Additionally, a felony probationer must pay a \$2-per-month surcharge to be used by the DOC to pay for correctional probation officers' training and equipment, including radios, and firearms training, firearms, and similar equipment. Section 948.09(1)(a)2., F.S.

<sup>19</sup> Section 893.035(3)(a), F.S., defines "potential for abuse" as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of the substance being: used in amounts that create a hazard to the user's health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user's own initiative rather than on the basis of professional medical advice.

- Schedule II substances (s. 893.03(2), F.S.) have a high potential for abuse and a currently accepted but severely restricted medical use in treatment in the United States. Abuse of these substances may lead to severe psychological or physical dependence.
- Schedule III substances (s. 893.03(3), F.S.) have a potential for abuse less than the Schedule I and Schedule II substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to moderate or low physical dependence or high psychological dependence. Abuse of anabolic steroids may lead to physical damage.
- Schedule IV substances (s. 893.03(4), F.S.) have a low potential for abuse relative to Schedule III substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule III substances.
- Schedule V substances (s. 893.03(5), F.S.) have a low potential for abuse relative to Schedule IV substances and a currently accepted medical use in treatment in the United States. Abuse of these substances may lead to limited physical or psychological dependence relative to Schedule IV substances.

#### ***Controlled Substance Analog***

A “controlled substance analog” is defined in s. 893.0356(2)(a), F.S., as a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

- The substance is substantially similar to that of a controlled substance listed in Schedule I; or
- Schedule II of s. 893.03, F.S.; and
- The substance has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03, F.S.

#### ***Chemical Substance***

A chemical substance is any substance identified in s. 877.111, F.S., which is the criminal statute identifying certain harmful chemical substances, the inhalation, ingestion, possession, sale, purchase, or transfer of which is punishable by law; or ch. 893, F.S., which identifies controlled substances.<sup>20</sup> However, the term does not include any drug or medication obtained pursuant to a prescription which was taken in accordance with the prescription,<sup>21</sup> or any medication that is authorized under state or federal law for general distribution and use without a prescription in treating human diseases, ailments, or injuries and that was taken in the recommended dosage.

### **III. Effect of Proposed Changes:**

The bill amends s. 948.15, F.S. to authorize a court to sentence a defendant who is found guilty of a misdemeanor to a term of probation of up to one year if a controlled substance,<sup>22</sup> a

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<sup>20</sup> Section 768.36(1), F.S.

<sup>21</sup> A “prescription” includes any order for drugs or medicinal supplies which is written or transmitted by any means of communication by a licensed practitioner authorized by the laws of Florida to prescribe such drugs or medicinal supplies, it issued in good faith and in the course of professional practice, is intended to be dispensed by a person authorized by the laws of Florida to do so, and meets the requirements of s. 893.04, F.S. (regulating pharmacists and practitioners). Section 893.02(24), F.S.

<sup>22</sup> Section 893.02, F.S.

controlled substance analog,<sup>23</sup> or a chemical substance<sup>24</sup> is a significant factor in the commission of the offense.

Current law provides that the maximum term of probation is 6 months unless otherwise specified by a court.

The bill takes effect on July 1, 2025.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

##### **E. Other Constitutional Issues:**

None.

#### **V. Fiscal Impact Statement:**

##### **A. Tax/Fee Issues:**

None.

##### **B. Private Sector Impact:**

None.

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<sup>23</sup> Section 893.0356, F.S.

<sup>24</sup> Section 877.111(1), F.S.

C. Government Sector Impact:

The bill is not expected to impact state or local government revenues and expenditures.<sup>25</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 948.15

**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.

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

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<sup>25</sup> Office of Economic and Demographic Research, *SB 878 – Probation for Misdemeanor Offenses*, (on file with the Senate Committee on Criminal Justice).

By Senator Martin

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A bill to be entitled

An act relating to probation for misdemeanor offenses;  
amending s. 948.15, F.S.; increasing probationary  
periods for certain misdemeanor offenses involving  
controlled or chemical substances; providing an  
effective date.

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

Section 1. Subsection (1) of section 948.15, Florida  
Statutes, is amended to read:

948.15 Misdemeanor probation services.—

(1) A defendant found guilty of a misdemeanor who is placed  
on probation shall be under supervision not to exceed 6 months  
unless otherwise specified by the court. Probation supervision  
services for a defendant found guilty of a misdemeanor for  
possession of a controlled substance or drug paraphernalia under  
chapter 893 may be provided by a licensed substance abuse  
education and intervention program, which may provide substance  
abuse education and intervention as well as any other terms and  
conditions of probation. In relation to any offense other than a  
felony in which the use of alcohol; a controlled substance, as  
defined in s. 893.02; a controlled substance analog, as defined  
in s. 893.0356; or a chemical substance described in s.  
877.111(1) is a significant factor, the period of probation may  
be up to 1 year.

Section 2. This act shall take effect July 1, 2025.

**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 952

INTRODUCER: Senator Ingoglia

SUBJECT: Restrictions on Firearms and Ammunition During Emergencies

DATE: March 10, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Stokes	CJ	<b>Pre-meeting</b>
2.			CA	
3.			RC	

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**I. Summary:**

SB 952 repeals s. 870.044, F.S., which provides that when there is a local state of emergency declared by a county sheriff or a city official,<sup>1</sup> a person may not:

- Sell or offer to sell firearms or ammunition,
- Intentionally display firearms for the purpose of selling, or;
- Intentionally possess a firearm in a public place unless he or she is an authorized law enforcement official or person in military service acting in the official performance of her or his duty.

There is no fiscal impact from the bill.

The bill takes effect upon becoming a law.

**II. Present Situation:**

In the event of an emergency beyond local control, the Governor may assume direct operational control over all or any part of the emergency management functions within this state and is authorized to delegate such powers as she or he may deem prudent.<sup>2</sup> Additionally, the Governor may suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.<sup>3</sup> However, nothing contained in ss. 252.31-252.90, F.S. will be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in the commission of a criminal act.<sup>4</sup>

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<sup>1</sup> Sections 870.042 and 870.043, F.S., convey the county sheriff and a city official the power to declare a local state of emergency within their jurisdictions.

<sup>2</sup> Section 252.36, F.S.

<sup>3</sup> Section 252.36(6)(h), F.S.

<sup>4</sup> *Id.*

Section 870.042, F.S., empowers a county sheriff to declare that a state of emergency exists within the unincorporated areas of the county and to exercise the emergency powers conferred in ss. 870.041-870.047, F.S.<sup>5</sup>

The governing body of any municipality within this state may designate by an ordinance a city official who will be empowered to declare that a state of emergency exists within the boundaries of the municipality and to exercise the emergency powers conferred in ss. 870.041-870.047, F.S. The designated city official will be either the mayor or chief of police or the person who performs the duties of a mayor or chief of police in the municipality. In the absence of an ordinance designating the official to act, the chief of police of the municipality is designated as the city official to assume the duties and powers set forth in the statute.<sup>6</sup>

Whenever the sheriff or designated city official determines that there has been an act of violence or a flagrant and substantial defiance of, or resistance to, a lawful exercise of public authority and that, on account thereof, there is reason to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to property, all of which constitute an imminent threat to public peace or order and to the general welfare of the jurisdiction affected or a part or parts thereof, he or she may declare that a state of emergency exists within that jurisdiction or any part or parts thereof.

Section 870.044, F.S., prohibits the following acts, throughout the specified jurisdiction, during a state of emergency declared by a sheriff or designated city official:<sup>7</sup>

- The sale of, or offer to sell, with or without consideration, any ammunition or gun or other firearm of any size or description.
- The intentional display, after the emergency is declared, by or in any store or shop of any ammunition or gun or other firearm of any size or description.
- The intentional possession in a public place of a firearm by any person, except an authorized law enforcement official or person in military service acting in the official performance of her or his duty.<sup>8</sup>

Nothing contained in ch. 870, F.S., may be construed to authorize the seizure, taking, or confiscation of firearms that are lawfully possessed, unless a person is engaged in a criminal act.<sup>9</sup> It is not unlawful for a person to carry a concealed weapon or a concealed firearm while in the act of evacuating during a mandatory evacuation order issued during a state of emergency.<sup>10</sup>

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<sup>5</sup> Section 870.042(1), F.S.

<sup>6</sup> Section 870.042(2), F.S.

<sup>7</sup> Section 870.043, F.S.

<sup>8</sup> Section 870.044, F.S.

<sup>9</sup> *Id.* See also Section 790.01(5), F.S., which specifies that it is not unlawful for a person to carry a concealed weapon or a concealed firearm while in the act of evacuating during a mandatory evacuation order issued during a state of emergency declared by the Governor pursuant to ch. 252 F.S., or declared by a local authority pursuant to ch. 870, F.S.

<sup>10</sup> Section 790.01(5), F.S.

**III. Effect of Proposed Changes:**

The bill repeals s. 870.044, F.S., which prohibits a person from selling or offering to sell firearms or ammunition, intentionally displaying for the purpose of selling firearms or ammunition or intentionally possessing a firearm in a public place during a local state of emergency<sup>11</sup> unless he or she is an authorized law enforcement official or person in military service acting in the official performance of her or his duty.

The bill takes effect upon becoming a law.

**IV. Constitutional Issues:****A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s.18, of the State Constitution.

**B. Public Records/Open Meetings Issues:**

None.

**C. Trust Funds Restrictions:**

None.

**D. State Tax or Fee Increases:**

None.

**E. Other Constitutional Issues:**

None noted.

**V. Fiscal Impact Statement:****A. Tax/Fee Issues:**

None.

**B. Private Sector Impact:**

None.

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<sup>11</sup> Whenever the sheriff or designated city official determines that there has been an act of violence or a flagrant and substantial defiance of, or resistance to, a lawful exercise of public authority and that, on account thereof, there is reason to believe that there exists a clear and present danger of a riot or other general public disorder, widespread disobedience of the law, and substantial injury to persons or to property, all of which constitute an imminent threat to public peace or order and to the general welfare of the jurisdiction affected or a part or parts thereof, he or she may declare that a state of emergency exists within that jurisdiction or any part or parts thereof. Section 870.043, F.S.



C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill repeals the following section of the Florida Statutes: 870.044.

**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.

By Senator Ingoglia

11-00242-25

2025952\_\_

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A bill to be entitled

An act relating to restrictions on firearms and  
ammunition during emergencies; repealing s. 870.044,  
F.S., relating to specified automatic restrictions on  
firearms and ammunition during certain declared  
emergencies; providing an effective date.

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

Section 1. Section 870.044, Florida Statutes, is repealed.

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

**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 1022

INTRODUCER: Senator Wright

SUBJECT: Public Nuisances

DATE: March 10, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	<b>Pre-meeting</b>
2.			CA	
3.			RC	

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**I. Summary:**

SB 1022 amends s. 893.138, F.S., to remove the limit of total fines that may be imposed by a local or municipal ordinance for public nuisances.

The bill takes effect on July 1, 2025.

**II. Present Situation:**

**Nuisance Abatement**

Section 893.138, F.S., allows local governments to establish a nuisance abatement board to hear public nuisance complaints. These boards may take various administrative actions to abate violence-related, drug-related, prostitution-related, or stolen property-related public nuisances and criminal gang activity, including a closure of the place or premises.

Section 893.138(2), F.S., lists criminal activities which, if committed at any place or premises during a specified period of time, may create a public nuisance. Such nuisance may be abated by order of a nuisance abatement board. Those properties subject to nuisance abatement by the board include any place or premises that has been used:

- On more than two occasions within a 6-month period as the site of a violation of s. 796.07, F.S., prohibiting prostitution;<sup>1</sup>
- On more than two occasions within a 6-month period as a site for the unlawful sale, delivery, manufacture, or cultivation of a controlled substance;<sup>2</sup>

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<sup>1</sup> Section 893.138(2)(a), F.S.

<sup>2</sup> Section 893.138(2)(b), F.S.

- On one occasion as the site of a felony involving the unlawful possession of a controlled substance and that has been previously used as the site for the unlawful sale, delivery, manufacture, or cultivation of a controlled substance;<sup>3</sup>
- By a criminal street gang for a pattern of criminal street gang activity;<sup>4,5</sup>
- On more than two occasions within a 6-month period for a violation of s. 812.019, F.S., relating to stolen property;<sup>6</sup>
- On two or more occasions within a 6-month period, as the site of a violation of ch. 499, F.S., relating to the Florida Drug and Cosmetic Act;<sup>7</sup>
- On more than two occasions within a 6-month period, as the site of a violation of any combination of murder and other specified aggravated batteries;<sup>8,9</sup> or
- On more than two occasions within a 12-month period, as the site of a violation of s. 562.12, F.S., relating to the unlicensed or unlawful sale of alcoholic beverages.<sup>10</sup>

Additionally, any pain-management clinic which has been used on more than two occasions within a 6-month period as the site of a violation relating to assault and battery, burglary, theft, robbery by sudden snatching, or the unlawful distribution of controlled substances may be declared a public nuisance and subject to nuisance abatement.<sup>11</sup>

Under s. 893.138(5), F.S., a local administrative board created to address public nuisances may order the owner of such place or premises to adopt appropriate procedures to abate a nuisance, or enter an order immediately prohibiting:

- Maintaining the nuisance;
- Operating or maintaining the place or premises, including the closure or operation of the place or premises; and
- Conduct, operation, or maintenance of any business or activity on the premises which is conducive to such nuisance.

Penalties that may be imposed under s. 893.138, F.S., may be supplemented by a county or municipal ordinance, which may include, but is not limited to, the following penalties:<sup>12</sup>

- Imposing additional penalties for public nuisances, including fines not to exceed \$250 per day;
- Requiring the payment of reasonable costs, including reasonable attorney fees associated with investigations of and hearings on public nuisances;

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<sup>3</sup> Section 893.138(2)(c), F.S.

<sup>4</sup> “Criminal gang-related activity” means, in part, an activity committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purposes of increasing a person’s own standing within a criminal gang. Section 874.03(4)(a), F.S.

<sup>5</sup> Section 893.138(2)(d), F.S.

<sup>6</sup> Section 893.138(2)(e), F.S.

<sup>7</sup> Section 893.138(2)(f), F.S.

<sup>8</sup> Section 893.138(2)(g), F.S.

<sup>9</sup> Offenses include murder pursuant to s. 782.04, F.S., attempted felony murder pursuant to s. 782.051, F.S., aggravated battery with a deadly weapon pursuant to s. 784.045(1)(a)2., F.S., and aggravated assault with a deadly weapon without intent to kill pursuant to s. 784.021(1)(a), F.S.

<sup>10</sup> Section 893.138(2)(h), F.S.

<sup>11</sup> Section 893.138(3), F.S.

<sup>12</sup> Section 893.138(11), F.S.

- Providing continuing jurisdiction for a period of one year over any place or premises that has been or is declared to be a public nuisance;
- Imposing penalties, including fines not to exceed \$500 per day for recurring public nuisances;
- Requiring the recording of orders on public nuisances so that notice must be given to subsequent purchasers, successors in interest, or assigns of the real property that is the subject of the order;
- Providing that recorded orders on public nuisances may become liens against the real property that is the subject of the order; and
- Providing for the foreclosure of property subject to a lien and the recovery of all costs, including reasonable attorney fees, associated with the recording of orders and foreclosure. However, a lien may not be created to foreclose on real property which is a homestead under s. 4, Art. X of the State Constitution.

The total fines imposed in a county or municipal ordinance may not exceed \$15,000.

The nuisance abatement board may also bring a complaint under s. 60.05, F.S., seeking temporary and permanent injunctive relief against any nuisance described in s. 893.138(2), F.S.

Section 60.05, F.S., also provides a process for an Attorney General, state attorney, city attorney, county attorney, sheriff, or any citizen of the county to sue in the name of the state to prohibit the nuisance, the person or persons maintaining it, and the owner or agent of the building or ground on which the nuisance exists. For other types of public nuisances such as the disposal of dead animals, the abandonment of refrigerators and other appliances, and abandoned or derelict vessels, ch. 823, F.S., provides penalties for the maintenance of those nuisances.

### **III. Effect of Proposed Changes:**

The bill amends s. 893.138, F.S., to remove the limit of total fines that may be imposed by a local or municipal ordinance for public nuisances.

The bill takes effect on July 1, 2025.

### **IV. Constitutional Issues:**

#### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require the cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

#### **B. Public Records/Open Meetings Issues:**

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends 893.138 of the Florida Statutes.

**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.



933252

LEGISLATIVE ACTION

Senate

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House

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The Committee on Criminal Justice (Wright) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Subsection (11) of section 893.138, Florida  
Statutes, is amended to read:

893.138 Local administrative action to abate certain  
activities declared public nuisances.—

(11) The provisions of this section may be supplemented by  
a county or municipal ordinance. The ordinance may include, but



933252

11 is not limited to:

12 (a) ~~provisions that establish additional~~ Penalties for  
13 public nuisances, including fines not to exceed \$250 per day. If  
14 the nuisance activity is not abated within 1 year, the fines  
15 increase to \$500 per day. In determining the amount of the fine,  
16 if any, the nuisance abatement board shall consider the gravity  
17 of the public nuisance and any actions taken by the owner to  
18 correct the public nuisance.

19 (b) ~~provide for the payment of reasonable costs,~~  
20 including Reasonable attorney fees associated with  
21 investigations of and hearings on public nuisances. If attorney  
22 fees are requested, the nuisance abatement board shall award  
23 attorney fees after considering, among other things, time and  
24 labor of any legal assistants who contributed nonclerical,  
25 meaningful legal support to the matter involved and who are  
26 working under the supervision of an attorney. For purposes of  
27 this paragraph, the term "legal assistant" means a person who,  
28 under the supervision and direction of a licensed attorney,  
29 engages in legal research, and case development or planning.

30 (c) ~~Provide for continuing jurisdiction for periods a~~  
31 period of 1 year over any place or premises that has been or is  
32 declared to be a public nuisance until the public nuisance is  
33 abated.

34 (d) The county or municipality may enter into an agreement  
35 with the tax collector to recover the fines via non-ad valorem  
36 special assessments.

37 (e) ~~establish penalties, including fines not to exceed~~  
38 \$500 per day for recurring public nuisances; provide for the  
39 recording of orders on public nuisances so that notice must be





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40 ~~given to subsequent purchasers, successors in interest, or~~  
41 ~~assigns of the real property that is the subject of the order;~~  
42 ~~provide that recorded orders on public nuisances may become~~  
43 ~~liens against the real property that is the subject of the~~  
44 ~~order; and provide for the Foreclosure of property subject to a~~  
45 ~~lien and the recovery of all costs, including reasonable~~  
46 ~~attorney fees, associated with the recording of orders and~~  
47 ~~foreclosure. After 3 months from the filing of any such lien~~  
48 ~~which remains unpaid, the nuisance abatement board may authorize~~  
49 ~~the appropriate entity to foreclose on the lien. If the nuisance~~  
50 ~~abatement activity is unabated after 2 years, the nuisance~~  
51 ~~abatement board shall authorize and require the appropriate~~  
52 ~~entity to foreclose on the lien.~~ No lien created pursuant to the  
53 provisions of this section may be foreclosed on real property  
54 which is a homestead under s. 4, Art. X of the State  
55 Constitution. Where a local government seeks to bring an  
56 administrative action, based on a stolen property nuisance,  
57 against a property owner operating an establishment where  
58 multiple tenants, on one site, conduct their own retail  
59 business, the property owner shall not be subject to a lien  
60 against his or her property or the prohibition of operation  
61 provision if the property owner evicts the business declared to  
62 be a nuisance within 90 days after notification by registered  
63 mail to the property owner of a second stolen property  
64 conviction of the tenant. ~~The total fines imposed pursuant to~~  
65 ~~the authority of this section shall not exceed \$15,000. Nothing~~  
66 ~~contained within This section does not prohibit prohibits a~~  
67 county or municipality from proceeding against a public nuisance  
68 by any other means.



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69           Section 2. This act shall take effect July 1, 2025.

70

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

72 And the title is amended as follows:

73           Delete everything before the enacting clause

74 and insert:

75                           A bill to be entitled

76           An act relating to fines for public nuisance  
77           abatement; amending s. 893.138, F.S.; revising  
78           provisions relating to the assessment and collection  
79           of fines for public nuisances; defining the term  
80           "legal assistant"; removing a limit on the total  
81           amount of fines that may be imposed on a public  
82           nuisance; providing an effective date.

By Senator Wright

8-00658-25

20251022\_\_

1                                   A bill to be entitled  
 2       An act relating to public nuisances; amending s.  
 3       893.138, F.S.; deleting a cap on the total amount of  
 4       fines that may be imposed under specified provisions  
 5       relating to places or premises declared to be public  
 6       nuisances; providing an effective date.  
 7  
 8   Be It Enacted by the Legislature of the State of Florida:  
 9  
 10       Section 1. Subsection (11) of section 893.138, Florida  
 11       Statutes, is amended to read:  
 12       893.138 Local administrative action to abate certain  
 13       activities declared public nuisances.—  
 14       (11) The provisions of this section may be supplemented by  
 15       a county or municipal ordinance. The ordinance may include, but  
 16       is not limited to, provisions that establish additional  
 17       penalties for public nuisances, including fines not to exceed  
 18       \$250 per day; provide for the payment of reasonable costs,  
 19       including reasonable attorney fees associated with  
 20       investigations of and hearings on public nuisances; provide for  
 21       continuing jurisdiction for a period of 1 year over any place or  
 22       premises that has been or is declared to be a public nuisance;  
 23       establish penalties, including fines not to exceed \$500 per day  
 24       for recurring public nuisances; provide for the recording of  
 25       orders on public nuisances so that notice must be given to  
 26       subsequent purchasers, successors in interest, or assigns of the  
 27       real property that is the subject of the order; provide that  
 28       recorded orders on public nuisances may become liens against the  
 29       real property that is the subject of the order; and provide for

Page 1 of 2

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

8-00658-25

20251022\_\_

30   the foreclosure of property subject to a lien and the recovery  
 31   of all costs, including reasonable attorney fees, associated  
 32   with the recording of orders and foreclosure. No lien created  
 33   pursuant to the provisions of this section may be foreclosed on  
 34   real property which is a homestead under s. 4, Art. X of the  
 35   State Constitution. Where a local government seeks to bring an  
 36   administrative action, based on a stolen property nuisance,  
 37   against a property owner operating an establishment where  
 38   multiple tenants, on one site, conduct their own retail  
 39   business, the property owner shall not be subject to a lien  
 40   against his or her property or the prohibition of operation  
 41   provision if the property owner evicts the business declared to  
 42   be a nuisance within 90 days after notification by registered  
 43   mail to the property owner of a second stolen property  
 44   conviction of the tenant. ~~The total fines imposed pursuant to~~  
 45   ~~the authority of this section shall not exceed \$15,000.~~ Nothing  
 46   contained within this section prohibits a county or municipality  
 47   from proceeding against a public nuisance by any other means.  
 48       Section 2. This act shall take effect July 1, 2025.

Page 2 of 2

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

**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 1054

INTRODUCER: Senator Garcia

SUBJECT: Tampering with an Electronic Monitoring Device

DATE: March 10, 2025

REVISED: \_\_\_\_\_

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	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Vaughan</u>	<u>Stokes</u>	<u>CJ</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>FP</u>	_____

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**I. Summary:**

SB 1054 amends s. 843.23, F.S., to reclassify the penalties regarding tampering with an electronic device. If a person is charged with or serving a sentence for a:

- Misdemeanor,<sup>1</sup> tampering with an electronic device is a third degree felony.<sup>2</sup>
- Third degree felony, tampering with an electronic device is a second degree felony.<sup>3</sup>
- Second degree felony, tampering with an electronic device is a first degree felony.<sup>4</sup>
- First degree felony or a first degree felony punishable by a term of years not exceeding life, tampering with an electronic device is a first degree felony punishable by a term of years not exceeding life.
- Life or capital felony, tampering with an electronic device is a life felony.

If a person on pretrial release tampers with an electronic monitoring device, his or her pretrial release will be terminated, and will no longer be eligible for pretrial release for the offenses for which they were on release.

The bill may have a positive indeterminate prison bed impact. *See Section V. Fiscal Impact Statement.*

The bill takes effect on October 1, 2025.

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<sup>1</sup> A first degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year and a fine not exceeding \$1000; a second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500, as provided in ss. 775.082 and 775.083, F.S.

<sup>2</sup> A third degree felony is punishable by a term of imprisonment not to exceed five years and a \$5,000 fine, as provided in ss. 775.082, 775.083, or 775.084, F.S.

<sup>3</sup> A second degree felony is punishable by a term of imprisonment not exceeding fifteen years and a fine not exceeding \$5,000, as provided in ss. 775.082, 775.083, or 775.084, F.S.

<sup>4</sup> A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

## II. Present Situation:

### Use of Electronic Monitoring in Florida's Criminal Justice System

There are several stages of the criminal justice system in which a court or another authorized entity may order a person to wear an electronic monitoring device. An electronic monitoring (EM) device is a tamper-resistant device worn on the body that monitors the location of a person at all times of the day. The monitoring agency is notified for various violations of the terms of supervision, such as if the person travels to a location he or she is not authorized to be or if the device is removed. Electronic monitoring systems can be either "passive" or "active" and are typically operated through radio frequency or global positioning system (GPS) monitoring.<sup>5</sup> Some of the instances where a person may be placed on an EM include:

- A court order allowing the release from custody to a pretrial release program while the defendant awaits trial.<sup>6</sup>
- A judge placing an offender on probation<sup>7</sup> or community control<sup>8</sup> in lieu of or in addition to incarceration.<sup>9</sup>
- Supervision by the Florida Commission on Offender Review (FCOR).<sup>10</sup>

### *Electronic Monitoring*

The Department of Corrections (DOC) must electronically monitor an offender sentenced to community control when the court has imposed such condition.<sup>11</sup> Any offender placed under supervision who violates the terms and conditions of supervision and is restored to supervision may be supervised by means of an electronic monitoring device or system if ordered by the court.<sup>12</sup>

Electronic monitoring is a condition of a court or commission order for probationers, community controllees, or conditional releasees who have current or prior convictions for violent or sexual offenses. A system that actively monitors and identifies the offender's locations and timely reports or records the offender's presence near or within a crime scene or in a prohibited area or the offender's departure from specified geographic limitations must be used.<sup>13</sup>

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<sup>5</sup> Office of Juvenile Justice and Delinquency Prevention, *Home Confinement and Electronic Monitoring*, October 2014, available at [https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/home\\_confinement\\_em.pdf](https://ojjdp.ojp.gov/sites/g/files/xyckuh176/files/media/document/home_confinement_em.pdf) (last visited March 3, 2025).

<sup>6</sup> Office of Program Policy Analysis & Gov't Accountability, *County Pretrial Release Programs: Calendar Year 2017*, Report No. 18-06, at 1, 2, and 8-9, November 2018, available at <https://oppaga.fl.gov/Documents/Reports/18-06.pdf> (last visited March 3, 2025); See also s. 907.041, F.S., which provides a presumption in favor of release on nonmonetary

conditions for any person who is granted pretrial release unless such person is charged with an enumerated dangerous crime.  
<sup>7</sup> Section 948.001(8), F.S., Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose. Standard conditions of probation are enumerated in s. 948.03, F.S., and are not required to be announced on the record, but the court must orally pronounce, as well as provide in writing, any special conditions of probation imposed.

<sup>8</sup> Section 948.001(3), F.S., defines "community control" as a form of intensive, supervised custody in the community, including surveillance on weekends and holidays, administered by officers with restricted caseloads. Section 948.10(2), F.S., provides that caseloads must be no more than 30 cases per officer.

<sup>9</sup> Sections 948.01 and 948.11, F.S.

<sup>10</sup> Section 947.1405(7), (8), and (10), F.S.

<sup>11</sup> Section 948.11(1), F.S.

<sup>12</sup> Section 948.11(2), F.S.

<sup>13</sup> Section 948.11(6), F.S.

### ***Probation***

The Office of Community Corrections currently supervises more than 145,000 offenders throughout Florida. These adult offenders are monitored and supervised by probation officers located in 130 probation offices. This includes offenders released from prison on parole, conditional release, or conditional medical release. It also includes offenders placed on court ordered supervision including regular probation, administrative probation, drug offender probation, sex offender probation, and community control.<sup>14</sup>

### ***Tampering with an Electronic Monitoring Device***

Section 843.23, F.S., provides it is a third-degree felony<sup>15</sup> to tamper with an EM, which includes any device that is used to track the location of a person. It is unlawful for a person to intentionally and without authority:

- Remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device that must be worn or used by that person or another person pursuant to a court or order by the FCOR; or
- Request, authorize, or solicit a person to remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device.

### ***Reclassification and Ranking***

Reclassification occurs when the Legislature *increases the degree of a conviction*. The reclassification attaches at the time the charges are filed.<sup>16</sup> Reclassification of a criminal conviction from one degree to a higher degree stems from an express and explicit grant of statutory authority.<sup>17</sup> The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony.

- 60 days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- 15 years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.<sup>18</sup>

Section 775.087(1)(a-c), F.S., reclassifies the penalty in cases that a weapon or a firearm is an essential element during the commission of a felony by reclassifying the penalty to a higher degree.<sup>19</sup>

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<sup>14</sup> Florida Department of Corrections, *Probation Services*, available at <http://www.dc.state.fl.us/cc/index.html> (last visited March 3, 2025).

<sup>15</sup> A third degree felony is punishable by up to 5 years of incarceration and a fine of up to \$5,000. Sections 775.082 and 775.083, F.S.

<sup>16</sup> *Cooper v. State*, 455 So.2d 588 (Fla. 1st DCA 1984); *Jackson v. State*, 515 So.2d 394 (Fla. 1st DCA 1987).

<sup>17</sup> *Cf. Spicer v. State*, 615 So.2d 725, 726 (Fla. 2d DCA 1993) (reversing reclassification of robbery with a mask conviction because “[p]enal statutes must be construed in terms of their literal meaning .... [I]f the legislature had intended section 775.0845 [Florida Statutes (1989)] to reclassify offenses, it would have so stated ....”).

<sup>18</sup> Section 775.082, F.S. Fines may also be imposed, and those fines escalate based on the degree of the offense.

Section 775.083, F.S., provides the following maximum fines; \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

<sup>19</sup> Section 775.087(1)(a-c), F.S.

### III. Effect of Proposed Changes:

The bill amends s. 843.23, F.S., to reclassify the penalties regarding tampering with an electronic device. If a person is charged with or serving a sentence for a:

- Misdemeanor,<sup>20</sup> tampering with an electronic device is a third degree felony.<sup>21</sup>
- Third degree felony, tampering with an electronic device is a second degree felony.<sup>22</sup>
- Second degree felony, tampering with an electronic device is a first degree felony.<sup>23</sup>
- First degree felony or a first degree felony punishable by a term of years not exceeding life, tampering with an electronic device is a first degree felony punishable by a term of years not exceeding life.
- Life or capital felony, tampering with an electronic device is a life felony.

If a person on pretrial release tampers with an electronic monitoring device, his or her pretrial release will be terminated, and will no longer be eligible for pretrial release for the offenses for which they were on release.

The bill takes effect on October 1, 2025.

### IV. Constitutional Issues:

#### A. Municipality/County Mandates Restrictions:

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

#### B. Public Records/Open Meetings Issues:

None.

#### C. Trust Funds Restrictions:

None.

#### D. State Tax or Fee Increases:

None.

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<sup>20</sup> A first degree misdemeanor is punishable by a term of imprisonment not exceeding 1 year and a fine not exceeding \$1000; a second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days and a fine not exceeding \$500, as provided in ss. 775.082 and 775.083, F.S.

<sup>21</sup> A third degree felony is punishable by a term of imprisonment not to exceed five years and a \$5,000 fine, as provided in ss. 775.082, 775.083, or 775.084, F.S.

<sup>22</sup> A second degree felony is punishable by a term of imprisonment not exceeding fifteen years and a fine not exceeding \$5,000, as provided in ss. 775.082, 775.083, or 775.084, F.S.

<sup>23</sup> A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, 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 Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

- Per the FDLE, in FY 23-24, there were 503 arrests for tampering with an electronic monitoring device, with 222 guilty/convicted and 45 adjudications withheld.
- Per the DOC, in FY 23-24, there were 12 new commitments to prison for tampering with an electronic monitoring device. It is not known what felony degree they were when tampering with the electronic monitoring device. Therefore, it cannot be determined how many of those incarcerated and those not incarcerated would be impacted by this language.
- Per the DOC, in FY 23-24, the incarceration rate for a Level 1, 3rd degree felony was 9.7%. The incarceration rate for a Level 4, 2nd degree felony was 29.5%. The incarceration rate for a Level 7, 1st degree felony was 68.4%, the incarceration rate for a 1st degree felony, punishable by a term of years not exceeding life was 75.4%, and the incarceration rate for a life felony was 87.5%.<sup>24</sup>

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 843.23

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<sup>24</sup> Office of Economic and Demographic Research, *SB 1054 – Tampering with Electronic Monitoring Devices*, (on file with the Senate Committee on Criminal Justice).



**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.

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

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By Senator Garcia

36-01555-25

20251054\_\_

A bill to be entitled

An act relating to tampering with an electronic monitoring device; amending s. 843.23, F.S.; reclassifying the offense of tampering with an electronic monitoring device to provide graduated penalties; requiring termination of pretrial release of a person who tampers with such a device while on pretrial release; providing an effective date.

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

Section 1. Section 843.23, Florida Statutes, is amended to read:

843.23 Tampering with an electronic monitoring device.—

(1) As used in this section, the term "electronic monitoring device" includes any device that is used to track the location of a person.

(2) It is unlawful for a person to intentionally and without authority:

(a) Remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device that must be worn or used by that person or another person pursuant to a court order or pursuant to an order by the Florida Commission on Offender Review; or

(b) Request, authorize, or solicit a person to remove, destroy, alter, tamper with, damage, or circumvent the operation of an electronic monitoring device required to be worn or used pursuant to a court order or pursuant to an order by the Florida Commission on Offender Review.

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

36-01555-25

20251054\_\_

(3) A person who violates this section commits a:

(a) Felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person is charged with or serving a sentence for a misdemeanor.

(b) Felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person is charged with or serving a sentence for a third degree felony.

(c) Felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person is charged with or serving a sentence for a second degree felony.

(d) Felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084, if the person is charged with or serving a sentence for a first degree felony or a first degree felony punishable by a term of years not exceeding life.

(e) Life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, if the person is charged with or serving a sentence for a life or capital felony.

(4) A person on pretrial release who commits a violation of this section shall have his or her pretrial release terminated and shall no longer be eligible for pretrial release for the offenses for which he or she was on release.

Section 2. This act shall take effect October 1, 2025.

Page 2 of 2

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

**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 1168

INTRODUCER: Senator Leek

SUBJECT: Installation or Use of Tracking Devices or Applications

DATE: March 10, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	<u>Pre-meeting</u>
2.	_____	_____	<u>ACJ</u>	_____
3.	_____	_____	<u>RC</u>	_____

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**I. Summary:**

SB 1168 amends s. 934.425, F.S., to provide that a person who, in furtherance of a dangerous crime as defined in s. 907.041(5)(a)<sup>1</sup>, F.S., knowingly installs or places a tracking device or tracking application on another person’s property without consent or uses such a device or application to determine a person’s location or their property’s location or movement without consent, commits a second degree felony.<sup>2</sup>

The bill has a positive indeterminate fiscal impact. *See Section V. Fiscal Impact Statement.*

The bill takes effect on October 1, 2025.

**II. Present Situation:**

In recent years, compact tracking devices like Apple AirTags have changed the way that we locate lost items. These devices have also opened avenues for misuse in the area of personal surveillance. Tracking devices and tracking applications can be used to follow the location or movement of another person, potentially without that person’s knowledge or consent. Some applications have legitimate uses, but may be accessed by third parties without the user’s consent. Other applications are developed and marketed as surveillance applications, commonly targeting potential customers interested in using the technology to track the movements and communication of another without consent.

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<sup>1</sup> Section 907.041(5)(a), F.S., defines “dangerous crime” to mean any of the follow: offenses: Arson, Aggravated assault, Aggravated battery, Illegal use of explosives, Child abuse or aggravated child abuse, Abuse of an elderly person or disabled adult, Aircraft piracy, Kidnapping; Homicide, Manslaughter, Sexual battery, Robbery, carjacking, and the remaining offenses listed under this section.

<sup>2</sup> A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine of \$10,000 as provided in ss. 775.082, 775.083, and 775.084, F.S.

Bluetooth trackers like Apple AirTag, Google's Nest tags and Tile devices work by transmitting a signal to nearby phones or tablets, which report the tracker's location for the tracker's owner and display its moves in real time on a map.<sup>3</sup>

## Location Tracking Technology

### *Global Positioning System*

The Global Positioning System (GPS) is a space-based radio navigation system, owned by the United States Government and operated by the United States Space Force. GPS consists of three segments, including the:

- Space Segment: A constellation of 31 operational satellites that circle the Earth at an altitude of approximately 11,000 miles every 12 hours;
- Control Segment: Stations on Earth that monitor and maintain the GPS satellites; and
- User Segment: Receivers that process the navigation signals from the GPS satellites and calculate position and time.<sup>4</sup>

Each GPS satellite transmits its position and time at regular intervals and the signals are intercepted by GPS receivers. The receiver is then able to determine its position by calculating how long it took for the signal to reach the receiver. GPS currently provides two levels of service: standard positioning service and precise positioning service. Access to precise positioning service is restricted to the United States Armed Forces, Federal agencies, and select allied armed forces and governments. Standard positioning service is available to all users on a continuous basis, free of any direct charge to users.<sup>5</sup>

GPS is widely used in a variety of applications because its capabilities are accessible using small, inexpensive equipment.<sup>6</sup>

### *Wi-Fi Positioning*

Wi-Fi is a radio-frequency technology for wireless communication that is used by nearly all devices and network infrastructure, including smartphones, computers, Internet of Things devices, routers, and more can be used to transmit data between devices using radio waves.<sup>7</sup> Wi-Fi can be leveraged to detect and track the location of people, devices, and assets, and can be easily activated for indoor positioning with existing Wi-Fi access points. The most commonly used Wi-Fi positioning techniques determine a device's location by using a measure called received signal strength indicator (RSSI). In RSSI applications, multiple existing Wi-Fi access points or Wi-Fi enabled sensors deployed in a fixed position detect transmitting Wi-Fi devices

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<sup>3</sup> WUFT, *Florida cracking down on cyber stalking with Apple AirTags, other hidden tracking devices*, (April 7, 2024), available at: <https://www.wusf.org/politics-issues/2024-04-07/florida-cracking-down-on-cyber-stalking-with-apple-airtags-other-hidden-tracking-devices> (last visited March 5, 2025).

<sup>4</sup> NASA, *GPS-What is GPS*, Catherine G. Manning, September 25, 2023, available at: <https://www.nasa.gov/directorates/somd/space-communications-navigation-program/gps/> (last visited on March 5, 2025).

<sup>5</sup> *Id.*

<sup>6</sup> Federal Aviation Administration, *Satellite Navigation- Global Positioning System (GPS)*, available at: [https://www.faa.gov/about/office\\_org/headquarters\\_offices/ato/service\\_units/techops/navservices/gnss/gps](https://www.faa.gov/about/office_org/headquarters_offices/ato/service_units/techops/navservices/gnss/gps) (last visited on March 5, 2025).

<sup>7</sup> Inpixon Indoor Intelligence, *Wi-Fi RTLS, Location Tracking and Positioning, What is Wi-Fi Positioning*, available at: <https://www.inpixon.com/technology/standards/wifi> (last visited on March 5, 2025).

and the received signal strength of a device's signal. The location data collected by the access points or sensors is sent to the central indoor positioning or realtime location system, which analyzes the data to estimate the position of the transmitting device. Alternatively, the signal strength of nearby access points can be used to determine a device's location.<sup>8</sup> Wi-Fi positioning technology is particularly popular in providing location services in indoor spaces where GPS may not work as effectively.

### **Unlawful Installation of a Tracking Device or Application**

Section 934.425, F.S., provides that the installation or placement of a tracking device or tracking application on another person's property without that person's consent; or use of a tracking device or tracking application to determine the location or movement of another person or another person's property without that person's consent is a third degree felony.<sup>9</sup>

A person's consent to be tracked is presumed to be revoked if:

- The consenting person and the person to whom consent was given are lawfully married and one person files a petition for dissolution of marriage from the other;<sup>10</sup> or
- The consenting person or the person to whom consent was given files an injunction for protection against the other person.<sup>11</sup>

The prohibition against installing a tracking device or tracking application does not apply to:

- A law enforcement officer, or any local, state, federal, or military law enforcement agency, that lawfully installs a tracking device or tracking application on another person's property as part of a criminal investigation;<sup>12</sup>
- A parent or legal guardian of a minor child who installs a tracking device or tracking application on the minor child's property if:
  - The parents or legal guardians are lawfully married to each other and are not separated or otherwise living apart, and either parent or legal guardian consents to the installation of the tracking device or tracking application;<sup>13</sup>
  - The parent or legal guardian is the sole surviving parent or legal guardian of the minor child;<sup>14</sup>
  - The parent or legal guardian has sole custody of the minor child;<sup>15</sup> or
  - The parents or legal guardians are divorced, separated, or otherwise living apart and both consent to the installation of the tracking device or tracking application.<sup>16</sup>

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<sup>8</sup> *Id.*

<sup>9</sup> A third degree felony is punishable by a term of imprisonment of not exceeding 5 years and a fine of \$5,000, as provided in ss. 775.082, 775.083, and 775.084, F.S.

<sup>10</sup> Section 934.425(3)(a), F.S.

<sup>11</sup> Section 934.425(3)(b), F.S., references the following injunctions for protection: s. 741.30, F.S., relating to domestic violence; s. 741.315, F.S., relating to foreign protection orders; s. 784.046, F.S., relating to repeat violence, sexual violence, or dating violence; s. 784.048, F.S., relating to stalking.

<sup>12</sup> Section 934.425(4)(a), F.S.

<sup>13</sup> Section 934.425(4)(b)1., F.S.

<sup>14</sup> Section 934.425(4)(b)2., F.S.

<sup>15</sup> Section 934.425(4)(b)3., F.S.

<sup>16</sup> Section 934.425(4)(b)4., F.S.

- A caregiver of an elderly person<sup>17</sup> or disabled adult,<sup>18</sup> if the elderly person or disabled adult’s treating physician certifies that the installation of a tracking device or tracking application onto the elderly person or disabled adult’s property is necessary to ensure the safety of the elderly person or disabled adult;<sup>19</sup>
- A person acting in good faith on behalf of a business entity for a legitimate business purpose;<sup>20</sup> or
- An owner or lessee of a motor vehicle that installs, or directs the installation of, a tracking device or tracking application on such vehicle during the period of ownership or lease, provided that:<sup>21</sup>
  - The tracking device or tracking application is removed before the vehicle’s title is transferred or the vehicle’s lease expires;<sup>22</sup>
  - The new owner or lessor of the vehicle consents in writing for the tracking device or tracking application to remain installed;<sup>23</sup> or
  - The owner of the vehicle at the time of the installation of the tracking device or tracking application was the original manufacturer of the vehicle.<sup>24</sup>

### III. Effect of Proposed Changes:

SB 1168 amends s. 934.425, F.S., to provide that a person who, in furtherance of a dangerous crime as defined in s. 907.041(5)(a), F.S., knowingly installs or places a tracking device or tracking application on another person’s property without consent or uses such a device or application to determine a person’s location or their property’s location or movement without consent, commits a second degree felony.<sup>25</sup>

Section 907.041(5)(a), F.S., defines “dangerous crime” to mean any of the following:

- Arson;
- Aggravated assault;
- Aggravated battery;
- Illegal use of explosives;
- Child abuse or aggravated child abuse;

<sup>17</sup> Section 825.101(4), F.S., defines “Elderly person” to mean a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunction to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.

<sup>18</sup> Section 825.101(3), F.S., defines “Disabled adult” to mean a person 18 years of age or older who suffers from a condition of physical or mental incapacitation due to a developmental disability, organic brain damage, or mental illness, or who has one or more physical or mental limitations that restrict the person’s ability to perform the normal activities of daily living.

<sup>19</sup> Section 934.425(4)(c), F.S.

<sup>20</sup> Section 934.425(4)(d), F.S., This paragraph does not apply to a person engaged in private investigation, as defined in s. 493.6101, F.S., on behalf of another person unless such activities would otherwise be exempt under this subsection if performed by the person engaging the private investigator.

<sup>21</sup> Section 934.425(4)(e), F.S.

<sup>22</sup> Section 934.425(4)(e)1., F.S.

<sup>23</sup> Section 934.425(4)(e)2., F.S.

<sup>24</sup> Section 934.425(4)(e)3., F.S.

<sup>25</sup> A second degree felony is punishable by a term of imprisonment not exceeding 15 years and a fine of \$10,000 as provided in ss. 775.082, 775.083, and 775.084, F.S.

- Abuse of an elderly person or disabled adult, or aggravated abuse of an elderly person or disabled adult;
- Aircraft piracy;
- Kidnapping;
- Homicide;
- Manslaughter, including DUI manslaughter and BUI manslaughter;
- Sexual battery;
- Robbery;
- Carjacking;
- Lewd, lascivious, or indecent assault or act upon or in presence of a child under the age of 16 years;
- Sexual activity with a child, who is 12 years of age or older but less than 18 years of age, by or at solicitation of person in familial or custodial authority.
- Burglary of a dwelling;
- Stalking and aggravated stalking;
- Act of domestic violence as defined in s. 741.28, F.S.;
- Home invasion robbery;
- Act of terrorism as defined in s. 775.30, F.S.;
- Manufacturing any substances in violation of chapter 893, F.S.;
- Attempting or conspiring to commit any such crime;
- Human trafficking;
- Trafficking in any controlled substance described in s. 893.135(1)(c)4, F.S.;
- Extortion in violation of s. 836.05, F.S.; and
- Written threats to kill in violation of s. 836.10, F.S.

The bill takes effect on October 1, 2025.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

##### **C. Trust Funds Restrictions:**

None.

##### **D. State Tax or Fee Increases:**

None.

E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

It is estimated that the bill will have a “positive indeterminate” fiscal impact on the Department of Corrections due to the enhanced criminal penalties created in the bill that have the potential for an unquantifiable increase in prison beds.

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends section 934.425 of the Florida Statutes.

**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.



By Senator Leek

7-01392-25

20251168\_\_

1 A bill to be entitled  
 2 An act relating to the installation or use of tracking  
 3 devices or applications; amending s. 934.425, F.S.;  
 4 providing enhanced penalties for a person who, in  
 5 furtherance of a dangerous crime, knowingly installs  
 6 or places a tracking device or tracking application on  
 7 another person's property without consent or uses such  
 8 a device or application to determine a person's or  
 9 their property's location or movement without consent;  
 10 providing an effective date.  
 11

12 Be It Enacted by the Legislature of the State of Florida:  
 13

14 Section 1. Subsection (6) is added to section 934.425,  
 15 Florida Statutes, and subsections (2) and (5) of that section  
 16 are republished, to read:

17 934.425 Installation or use of tracking devices or tracking  
 18 applications; exceptions; penalties.—

19 (2) Except as provided in subsection (4), a person may not  
 20 knowingly:

21 (a) Install or place a tracking device or tracking  
 22 application on another person's property without that person's  
 23 consent; or

24 (b) Use a tracking device or tracking application to  
 25 determine the location or movement of another person or another  
 26 person's property without that person's consent.

27 (5) A person who violates this section commits a felony of  
 28 the third degree, punishable as provided in s. 775.082, s.  
 29 775.083, or s. 775.084.

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

7-01392-25

20251168\_\_

30 (6) A person who violates this section in furtherance of a  
 31 dangerous crime as defined in s. 907.041(5)(a) commits a felony  
 32 of the second degree, punishable as provided in s. 775.082, s.  
 33 775.083, or s. 775.084.

34 Section 2. This act shall take effect October 1, 2025.

Page 2 of 2

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

**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.)

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Prepared By: The Professional Staff of the Committee on Criminal Justice

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BILL: SB 1198

INTRODUCER: Senator DiCeglie

SUBJECT: Fraudulent Use of Gift Cards

DATE: March 10, 2025

REVISED: \_\_\_\_\_

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Vaughan	Stokes	CJ	<b>Pre-meeting</b>
2.	_____	_____	ACJ	_____
3.	_____	_____	RC	_____

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**I. Summary:**

SB 1198 creates s. 817.091, F.S., relating to the fraudulent use of gift cards to establish guidelines and penalties for fraudulent activities involving gift cards. It is a first degree misdemeanor<sup>1</sup> for a person with intent to defraud to:

- Acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller.
- To alter or tamper with a gift card.
- To use, for the purpose of obtaining money, goods, or services or anything else of value,<sup>2</sup> a gift card or gift card redemption information that has been obtained in violation of the above.

The bill provides definitions for the terms cardholder, card issuer, closed loop gift card, gift card, gift card redemption information, gift card seller, open-loop gift card, and value.

Any person that is in use of gift card or gift card redemption information that has been fraudulently obtained is guilty of a first degree misdemeanor and punishable by term of imprisonment not exceeding 1 year and a \$1,000 fine.<sup>3</sup>

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<sup>1</sup> A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

<sup>2</sup> The bill defines “value” as the greatest amount of economic loss the owner of the property might reasonably suffer, including, in the case of a gift card, the full monetary face value or potential value for variable load gift cards.

<sup>3</sup> A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

If the value<sup>4</sup> of the money, goods, services or other things of value<sup>5</sup> obtained as a result of the fraudulent act exceeds \$950, the person is guilty of a first degree felony.<sup>6</sup>

The bill may have a positive indeterminate fiscal impact. *See Section V. Fiscal Impact Statement.*

The bill takes effect on October 1, 2025.

## II. Present Situation:

### Gift Cards

A gift card is a prepaid debit card that contains a specific amount of money available for use for a variety of purchases. Store gift cards are designed to be used at specific merchants or retailers, while general-use prepaid gift cards are not affiliated with any specific merchant and can also be used to withdraw cash at automated teller machines (ATMs).<sup>7</sup>

### Gift Card Scams

According to a December 2020 analysis by the Federal Trade Commission (FTC), “About one in four who lost money to a fraud say they paid with a gift card. In fact, gift cards have topped the list of reported fraud payment methods every year since 2018. During that time, people reported losing a total of nearly \$245 million, with a median individual loss of \$840.” The FTC’s statistics exclude reports categorized as online shopping scams and come from consumer complaints directly to the FTC.<sup>8</sup> Scammers tamper with gift cards in stores using handheld scanners to capture card information, then periodically check the balance by calling the retailer’s 800 number. Once the card is activated, they either clone and create counterfeit cards, use the information to shop online, or divert the funds to their own cards, leaving the unsuspecting buyer with an empty gift card.<sup>9</sup>

In June 2023, the Alachua County Sheriff’s Office conducted a traffic stop and seized 1,764 gift cards that were reportedly altered and forged, with a value of \$158,600. Another 208 gift cards were reportedly found, but deputies could not determine whether they had been altered; the known value of those cards is \$10,500, but only 77 of the 208 have dollar amounts on the cards.<sup>10</sup>

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<sup>4</sup> The bill defines “value” as the greatest amount of economic loss the owner of the property might reasonably suffer, including, in the case of a gift card, the full monetary face value or potential value for variable load gift cards.

<sup>5</sup> The bill defines “value” as the greatest amount of economic loss the owner of the property might reasonably suffer, including, in the case of a gift card, the full monetary face value or potential value for variable load gift cards.

<sup>6</sup> A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. When specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.

<sup>7</sup> Investopedia, *Gift Card: definition, types and scams to avoid*, available at <https://www.investopedia.com/terms/g/gift-card.asp> (last visited March 5, 2025).

<sup>8</sup> Better Business Bureau, *Gift Card Payment Scams*, available at <https://www.bbb.org/all/scamstudies/gift-card-scams/gift-card-scams-full-study> (last visited March 5, 2025).

<sup>9</sup> Better Business Bureau, *BBB Tip: Don't get scammed out of a gift card*, available at <https://www.bbb.org/article/news-releases/14400-dont-get-scammed-out-of-a-gift-card-this-season> (last visited March 3, 2025).

<sup>10</sup> Alachua Chronicle, *Pair arrested with 1,764 fraudulent gift cards, may be part of organized ring*, available at <https://alachuachronicle.com/pair-arrested-with-1764-fraudulent-gift-cards-may-be-part-of-organized-ring/> (last visited March 5, 2025).

## **Theft and Fraud**

Theft and fraud are offenses that involve unlawfully taking or using someone else's property and engaging in deceptive practices for gain or profit. These offenses are currently prosecuted under several different statutes including the Florida Communications Fraud Act,<sup>11</sup> theft,<sup>12</sup> and retail theft.<sup>13</sup> The penalties vary depending on the severity of the crime.

### ***Theft***

Theft is generally punished in s. 812.014, F.S., which provides that a person commits a theft if he or she knowingly obtains or uses, or endeavors to obtain or to use, the property of another with intent to either temporarily or permanently:

- Deprive the other person of a right to the property or a benefit from the property; or
- Appropriate the property to his or her own use or to the use of any person not entitled to use the property.<sup>14</sup>

Generally, a person commits a third degree felony<sup>15</sup> crime of grand theft if the property stolen is valued at \$750 or more, but less than \$20,000.<sup>16</sup> If the property stolen is \$20,000 or more, but less than \$100,000, the offender commits a second degree felony,<sup>17</sup> and if the property stolen is \$100,000 or more, the offender commits a first degree felony.<sup>18</sup> Other items listed under this section such as the theft of a firearm, a motor vehicle, or a stop sign, may also constitute grand theft.<sup>19</sup>

Theft of any property not specified is a second degree misdemeanor,<sup>20</sup> and property stolen valued at \$100 or more but less than \$750 is a first degree misdemeanor.<sup>21,22</sup>

### ***Retail Theft***

Section 812.015, F.S., is specifically directed at punishing “retail theft,”<sup>23</sup> which the statute defines as “the taking possession of or carrying away of merchandise,<sup>24</sup> property, money, or negotiable documents; altering or removing a label, universal product code, or price tag;

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<sup>11</sup> Section 817.034, F.S.

<sup>12</sup> Section 812.014, F.S.

<sup>13</sup> Section 812.015, F.S.

<sup>14</sup> Section 812.014(1), F.S.

<sup>15</sup> A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

<sup>16</sup> Section 812.014(2)(c)1.-3., F.S.

<sup>17</sup> Section 812.014(2)(b), F.S.

<sup>18</sup> Section 812.014(2)(a)1., F.S.

<sup>19</sup> Section 812.014(2)(c), F.S.

<sup>20</sup> A second degree misdemeanor is punishable by a term of imprisonment not exceeding 60 days, as provided in s. 775.082 or s. 775.083, F.S.

<sup>21</sup> Section 812.014(3)(a), F.S., Section 812.014(2)(f), F.S.

<sup>22</sup> A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

<sup>23</sup>Section 812.015, F.S.

<sup>24</sup> “Merchandise” means “any personal property, capable of manual delivery, displayed, held, or offered for retail sale by a merchant.” Section 812.015(1)(g), F.S.

transferring merchandise from one container to another; or removing a shopping cart, with intent to deprive the merchant<sup>25</sup> of possession, use, benefit, or full retail value.<sup>26,27</sup>

Section 812.015(8), F.S., provides that it is a third degree felony to commit retail theft, if the property stolen is valued at \$750 or more, and the person:

- Individually, or in concert with one or more other persons, coordinates the activities of one or more individuals in committing the offense, which may occur through multiple acts of retail theft, in which the amount of each individual theft is aggregated within a 120-day period to determine the value of the property stolen and such value is \$750 or more;
- Conspires with another person to commit retail theft with the intent to sell the stolen property for monetary or other gain, and subsequently takes or causes such property to be placed in the control of another person in exchange for consideration, in which the stolen property taken or placed within a 120-day period is aggregated to determine the value of the stolen property and such value is \$750 or more;
- Individually, or in concert with one or more other persons, commits theft from more than one location within a 120-day period, in which the amount of each individual theft is aggregated to determine the value of the property stolen and such value is \$750 or more;
- Acts in concert with one or more other individuals within one or more establishments to distract the merchant, merchant's employee, or law enforcement officer in order to carry out the offense, or acts in other ways to coordinate efforts to carry out the offense and such value is \$750 or more;
- Commits the offense through the purchase of merchandise in a package or box that contains merchandise other than, or in addition to, the merchandise purported to be contained in the package or box and such value is \$750 or more;
- Individually, or in concert with one or more other persons, commits three or more retail thefts within a 120-day period and in committing such thefts obtains or uses 10 or more items of merchandise, and the number of items stolen during each theft is aggregated within the 120-day period to determine the total number of items stolen, regardless of the value of such merchandise, and two or more of the thefts occur at different physical merchant locations; or
- Acts in concert with five or more other persons within one or more establishments for the purpose of overwhelming the response of a merchant, merchant's employee, or law enforcement officer in order to carry out the offense or avoid detection or apprehension for the offense.<sup>28</sup>

Section 812.015(9), F.S., provides that it is a second degree felony if the person has committed specified acts of retail theft, and has previously been convicted of retail theft.

Section 812.015(10), F.S., provides that if a person commits retail theft in more than one judicial circuit within a 120-day period, the value of the stolen property resulting from the thefts in each

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<sup>25</sup> "Merchant" means "an owner or operator, or the agent, consignee, employee, lessee, or officer of an owner or operator, of any premises or apparatus used for retail purchase or sale of any merchandise." Section 812.015(1)(h), F.S.

<sup>26</sup> Section 812.015(1)(i), F.S.

<sup>27</sup> Section 812.015, F.S. defines "value of merchandise" as the sale price of the merchandise at the time it was stolen or otherwise removed, depriving the owner of her or his lawful right to ownership and sale of said item.

<sup>28</sup> Section 812.015(8)(a)-(g), F.S.

judicial circuit may be aggregated, and the person must be prosecuted by the Office of the Statewide Prosecutor in accordance with s. 16.56, F.S.

### **Schemes to Defraud**

Section 817.034(3)(d), F.S., defines “scheme to defraud” means a systematic, ongoing course of conduct with intent to defraud one or more persons, or with intent to obtain property from one or more persons by false or fraudulent pretenses, representations, endorsements of nonconsenting parties, or promises or willful misrepresentations of a future act.<sup>29</sup> Any person who engages in a scheme to defraud and obtains property thereby commits organized fraud, punishable as follows:

- If the amount of property obtained has an aggregate value<sup>30</sup> of \$50,000 or more, the person commits a first degree felony.<sup>31</sup>
- If the amount of property obtained has an aggregate value<sup>32</sup> of \$20,000 or more, but less than \$50,000, the person commits a second degree felony.<sup>33</sup>

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<sup>29</sup> Section 817.034(3)(d), F.S.

<sup>30</sup> Section 817.034, F.S., defines “value” as the value determined according to any of the following: the market value of the property at the time and place of the offense, or, if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense; the value of a written instrument that does not have a readily ascertainable market value, in the case of an instrument such as a check, draft, or promissory note, is the amount due or collectible or is, in the case of any other instrument which creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation, the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument; the value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner, suffered by reason of losing an advantage over those who do not know of or use the trade secret; if the value of property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than \$300; amounts of value of separate properties obtained in one scheme to defraud, whether from the same person or from several persons, shall be aggregated in determining the grade of the offense under paragraph (4)(a).

<sup>31</sup> A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. When specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.

<sup>32</sup> Section 817.034, F.S., defines “value” as the value determined according to any of the following: the market value of the property at the time and place of the offense, or, if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense; the value of a written instrument that does not have a readily ascertainable market value, in the case of an instrument such as a check, draft, or promissory note, is the amount due or collectible or is, in the case of any other instrument which creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation, the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument; the value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner, suffered by reason of losing an advantage over those who do not know of or use the trade secret; if the value of property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than \$300; amounts of value of separate properties obtained in one scheme to defraud, whether from the same person or from several persons, shall be aggregated in determining the grade of the offense under paragraph (4)(a).

<sup>33</sup> A second degree felony is punishable by a term of imprisonment not exceeding 30 years and a \$10,000 fine. Sections 775.082 and 775.083, F.S.

- If the amount of property obtained has an aggregate value<sup>34</sup> of less than \$20,000, the person commits a third degree felony.<sup>35,36</sup>

Section 832.05(3), F.S., provides if any person, by act or scheme, to cashes or deposits any item in a bank or depository with intent to defraud commits a third degree felony.<sup>37</sup>

### III. Effect of Proposed Changes:

The bill creates s. 817.091, F.S., relating to the fraudulent use of gift cards to establish guidelines and penalties for fraudulent activities involving gift cards. It is a first degree misdemeanor<sup>38</sup> for a person with intent to defraud to:

- Acquire or retain possession of a gift card or of gift card redemption information without the consent of the cardholder, card issuer, or gift card seller.
- To alter or tamper with a gift card.
- To use, for the purpose of obtaining money, goods, or services or anything else of value,<sup>39</sup> a gift card or gift card redemption information that has been obtained in violation of the above.

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<sup>34</sup> Section 817.034, F.S., defines “value” as the value determined according to any of the following: the market value of the property at the time and place of the offense, or, if such cannot be satisfactorily ascertained, the cost of replacement of the property within a reasonable time after the offense; the value of a written instrument that does not have a readily ascertainable market value, in the case of an instrument such as a check, draft, or promissory note, is the amount due or collectible or is, in the case of any other instrument which creates, releases, discharges, or otherwise affects any valuable legal right, privilege, or obligation, the greatest amount of economic loss that the owner of the instrument might reasonably suffer by virtue of the loss of the instrument; the value of a trade secret that does not have a readily ascertainable market value is any reasonable value representing the damage to the owner, suffered by reason of losing an advantage over those who do not know of or use the trade secret; if the value of property cannot be ascertained, the trier of fact may find the value to be not less than a certain amount; if no such minimum value can be ascertained, the value is an amount less than \$300; amounts of value of separate properties obtained in one scheme to defraud, whether from the same person or from several persons, shall be aggregated in determining the grade of the offense under paragraph (4)(a).

<sup>35</sup> A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

<sup>36</sup> Section 817.034(4)(a), F.S.

<sup>37</sup> A third degree felony is generally punishable by not more than 5 years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

<sup>38</sup> A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

<sup>39</sup> The bill defines “value” as the greatest amount of economic loss the owner of the property might reasonably suffer, including, in the case of a gift card, the full monetary face value or potential value for variable load gift cards.

The bill provides definitions for the terms cardholder,<sup>40</sup> card issuer,<sup>41</sup> closed loop gift card,<sup>42</sup> gift card,<sup>43</sup> gift card redemption information,<sup>44</sup> gift card seller,<sup>45</sup> open-loop gift card,<sup>46</sup> and value.<sup>47</sup>

Any person that is in use of gift card or gift card redemption information that has been fraudulently obtained is guilty of a first degree misdemeanor and punishable by term of imprisonment not exceeding 1 year and a \$1,000 fine.<sup>48</sup>

If the value<sup>49</sup> of the money, goods, services or other things of value obtained as a result of the fraudulent act exceeds \$950, the person is guilty of a first degree felony.<sup>50</sup>

The bill takes effect on October 1, 2025.

#### **IV. Constitutional Issues:**

##### **A. Municipality/County Mandates Restrictions:**

The bill does not appear to require cities and counties to expend funds or limit their authority to raise revenue or receive state-shared revenues as specified by Article VII, s. 18, of the State Constitution.

##### **B. Public Records/Open Meetings Issues:**

None.

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<sup>40</sup> The bill defines “cardholder” as a person to whom a gift card is issued or any person who has agreed with the card issuer to pay obligations arising from the issuance of a gift card to another person.

<sup>41</sup> The bill defines “card issuer” as a person that issues a gift card or the agent of that person with respect to that card.

<sup>42</sup> The bill defines “closed-loop gift card” as a card, code, or device that is issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and which is redeemable upon presentation by a consumer at a single merchant or group of affiliated merchants.

<sup>43</sup> The bill defines “gift card” as a physical or digital gift card closed-loop gift card or open-loop gift card that is either activated or de-activated.

<sup>44</sup> The bill defines “gift card redemption information” as information unique to each gift card which allows the cardholder to access, transfer, or spend the funds on that gift card.

<sup>45</sup> The bill defines “gift card seller” as a merchant that is engaged in the business of selling open-loop or closed-loop gift cards to consumers.

<sup>46</sup> The bill defines “open-loop gift card” as card, code, or device that is issued to a consumer on a prepaid basis primarily for personal, family, or household purposes in a specified amount, regardless of whether that amount may be increased or reloaded in exchange for payment, and which is redeemable upon presentation at multiple unaffiliated merchants for goods or services within the payment card network.

<sup>47</sup> The bill defines “value” as the greatest amount of economic loss the owner of the property might reasonably suffer, including, in the case of a gift card, the full monetary face value or potential value for variable load gift cards.

<sup>48</sup> A first degree misdemeanor is punishable by not more than one year in a county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

<sup>49</sup> The bill defines “value” as the greatest amount of economic loss the owner of the property might reasonably suffer, including, in the case of a gift card, the full monetary face value or potential value for variable load gift cards.

<sup>50</sup> A first degree felony is generally punishable by not more than 30 years in state prison and a fine not exceeding \$10,000. When specifically provided by statute, a first degree felony may be punished by imprisonment for a term of years not exceeding life imprisonment. Sections 775.082 and 775.083, F.S.



## C. Trust Funds Restrictions:

None.

## D. State Tax or Fee Increases:

None.

## E. Other Constitutional Issues:

None.

**V. Fiscal Impact Statement:**

## A. Tax/Fee Issues:

None.

## B. Private Sector Impact:

None.

## C. Government Sector Impact:

The Legislature's Office of Economic and Demographic Research (EDR) and the Criminal Justice Impact Conference, which provides the final, official estimate of the prison bed impact, if any, of legislation, has determined that the bill may have a positive indeterminate prison bed impact (unquantifiable increase in prison beds) on the Department of Corrections (DOC). The EDR provides the following additional information regarding its estimate:

Under current law, these offenders are likely getting convicted under theft statutes, with that \$950 threshold falling under the Level 2, 3rd degree felony for grand theft (\$750 or more but less than \$5,000).

- Per the DOC, in FY 23-24, there were 366 new commitments for violating this statute. Additionally, there were 197 new commitments for grand theft at or above the \$5,000 threshold, with only 46 of those at the Level 7, 1st degree felony threshold (\$100,000 or more). It is not known how many of these new commitments fit the criteria outlined in the bill, nor is it known how these new offenses will be used relative to grand theft, since grand theft has a lower monetary threshold for it to reach a felony and a higher monetary threshold before becoming a 1st degree felony. Per the DOC, in FY 23-24, the incarceration rate for a Level 7, 1st degree felony was 68.4%.<sup>51</sup>

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<sup>51</sup> Office of Economic and Demographic Research, *SB 1198 – Fraudulent Use of Gift Cards*, (on file with the Senate Committee on Criminal Justice).

**VI. Technical Deficiencies:**

None.

**VII. Related Issues:**

None.

**VIII. Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 817.091

**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.



651406

LEGISLATIVE ACTION

Senate

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House

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The Committee on Criminal Justice (DiCeglie) recommended the following:

**Senate Amendment (with title amendment)**

Delete everything after the enacting clause  
and insert:

Section 1. Section 817.091, Florida Statutes, is created to  
read:

817.091 Fraudulent use of gift cards.-

(1) As used in this section, the term:

(a) "Cardholder" means a person to whom a physical or  
virtual gift card is sold, gifted, or issued following the



651406

11 authorized sale of the gift card.

12 (b) "Card issuer" means a person that issues a gift card or  
13 the agent of that person with respect to that card.

14 (c) "Gift card" means a card, code, or device that is  
15 issued to a consumer on a prepaid basis primarily for personal,  
16 family, or household purposes in a specified amount, regardless  
17 of whether that amount may be increased or reloaded in exchange  
18 for payment, and that is redeemable upon presentation by a  
19 consumer at a single merchant, a group of affiliated merchants,  
20 or a group of unaffiliated merchants.

21 (d) "Gift card redemption information" means information  
22 unique to each gift card which allows the cardholder to access,  
23 transfer, or spend the funds on that gift card.

24 (e) "Gift card seller" means a merchant that is engaged in  
25 the business of selling gift cards to consumers.

26 (f) "Value" means the greatest amount of economic loss the  
27 card issuer, gift card seller, or cardholder might reasonably  
28 suffer, including the full or maximum monetary face or load  
29 value of the gift card, regardless of whether the gift card has  
30 been activated.

31 (2) It is unlawful for a person, with the intent to  
32 defraud:

33 (a) To acquire or retain possession of a gift card or of  
34 gift card redemption information without the consent of the  
35 cardholder, card issuer, or gift card seller.

36 (b) To alter or tamper with a gift card.

37 (c) To devise a scheme to obtain a gift card or gift card  
38 redemption information from a cardholder, card issuer, or gift  
39 card seller by means of false or fraudulent pretenses,



651406

40 representations, or promises.

41 (d) To use, for the purpose of obtaining money, goods,  
42 services, or anything else of value, a gift card or gift card  
43 redemption information that has been obtained in violation of  
44 paragraph (a), paragraph (b), or paragraph (c).

45 (3) (a) Except as provided in paragraph (b), a person who  
46 violates subsection (2) commits a misdemeanor of the first  
47 degree, punishable as provided in s. 775.082 or s. 775.083.

48 (b) If the value of the money, goods, services, or other  
49 things of value obtained as a result of violating subsection (2)  
50 exceeds \$750, the person commits a felony of the third degree,  
51 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

52 Section 2. This act shall take effect October 1, 2025.

53  
54 ===== T I T L E A M E N D M E N T =====

55 And the title is amended as follows:

56 Delete everything before the enacting clause  
57 and insert:

58 A bill to be entitled  
59 An act relating to fraudulent use of gift cards;  
60 creating s. 817.091, F.S.; defining terms; providing  
61 criminal penalties for persons who, with the intent to  
62 defraud, commit specified prohibited acts related to  
63 gift cards; providing criminal penalties for persons  
64 who, with the intent to defraud, use for certain  
65 purposes gift cards or gift card redemption  
66 information; providing enhanced criminal penalties if  
67 the value of such violation exceeds a specified  
68 amount; providing an effective date.



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LEGISLATIVE ACTION

Senate

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House

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The Committee on Criminal Justice (DiCeglie) recommended the following:

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**Senate Amendment to Amendment (651406)**

Delete line 36

and insert:

(b) To alter or tamper with a gift card or its packaging.

By Senator DiCeglie

18-00866-25

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1 A bill to be entitled  
 2 An act relating to fraudulent use of gift cards;  
 3 creating s. 817.091, F.S.; defining terms; providing  
 4 criminal penalties for persons who, with the intent to  
 5 defraud, acquire or retain possession of certain gift  
 6 cards or gift card redemption information or from  
 7 altering or tampering with gift cards; providing  
 8 criminal penalties for persons who, with the intent to  
 9 defraud, use for certain purposes gift cards or gift  
 10 card redemption information; providing enhanced  
 11 criminal penalties if the value of such violation  
 12 exceeds a specified amount; providing an effective  
 13 date.

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

16 Section 1. Section 817.091, Florida Statutes, is created to  
 17 read:

18 817.091 Fraudulent use of gift cards.-

19 (1) As used in this section, the term:

20 (a) "Cardholder" means a person to whom a gift card is  
 21 issued or any person who has agreed with the card issuer to pay  
 22 obligations arising from the issuance of a gift card to another  
 23 person.

24 (b) "Card issuer" means a person that issues a gift card or  
 25 the agent of that person with respect to that card.

26 (c) "Closed-loop gift card" means a card, code, or device  
 27 that is issued to a consumer on a prepaid basis primarily for  
 28 personal, family, or household purposes in a specified amount,  
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**CODING:** Words ~~stricken~~ are deletions; words underlined are additions.

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30 regardless of whether that amount may be increased or reloaded  
 31 in exchange for payment, and which is redeemable upon  
 32 presentation by a consumer at a single merchant or group of  
 33 affiliated merchants.

34 (d) "Gift card" means a physical or digital closed-loop  
 35 gift card or open-loop gift card that is either activated or  
 36 deactivated.

37 (e) "Gift card redemption information" means information  
 38 unique to each gift card which allows the cardholder to access,  
 39 transfer, or spend the funds on that gift card.

40 (f) "Gift card seller" means a merchant that is engaged in  
 41 the business of selling open-loop or closed-loop gift cards to  
 42 consumers.

43 (g) "Open-loop gift card" means a card, code, or device  
 44 that is issued to a consumer on a prepaid basis primarily for  
 45 personal, family, or household purposes in a specified amount,  
 46 regardless of whether that amount may be increased or reloaded  
 47 in exchange for payment, and which is redeemable upon  
 48 presentation at multiple unaffiliated merchants for goods or  
 49 services within the payment card network.

50 (h) "Value" means the greatest amount of economic loss the  
 51 owner of the property might reasonably suffer, including, in the  
 52 case of a gift card, the full monetary face value or potential  
 53 value for variable load gift cards.

54 (2) It is unlawful for a person, with the intent to  
 55 defraud:

56 (a) To acquire or retain possession of a gift card or of  
 57 gift card redemption information without the consent of the  
 58 cardholder, card issuer, or gift card seller.

Page 2 of 3

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(b) To alter or tamper with a gift card.

(c) To use, for the purpose of obtaining money, goods, services, or anything else of value, a gift card or gift card redemption information that has been obtained in violation of paragraph (a) or paragraph (b).

(3)(a) Except as provided in paragraph (b), a person who violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the value of the money, goods, services, or other things of value obtained as a result of violating subsection (2) exceeds \$950, the person commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect October 1, 2025.