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**PUBLIC SAFETY  
&  
DOMESTIC SECURITY POLICY  
COMMITTEE**

**THURSDAY, JANUARY 21, 2010  
10:00 A.M. – 12:00 P.M.  
404 HOB**

**MEETING PACKET  
REVISED**

Larry Cretul  
Speaker

Kevin C. Ambler  
Chair

# Committee Meeting Notice

## HOUSE OF REPRESENTATIVES

### Public Safety & Domestic Security Policy Committee

**Start Date and Time:** Thursday, January 21, 2010 10:00 am

**End Date and Time:** Thursday, January 21, 2010 12:00 pm

**Location:** 404 HOB

**Duration:** 2.00 hrs

**Consideration of the following bill(s):**

HB 23 Parole for Adolescent Offenders by Weinstein

HB 183 Special Organized Crime Investigators by Pafford

HB 203 Community Corrections Assistance to Counties or County Consortiums by Reed

HB 369 Murder by Snyder

**NOTICE FINALIZED on 01/14/2010 16:20 by Church.Linda**



## **The Florida House of Representatives**

**Criminal & Civil Justice Policy Council**

**Committee on Public Safety & Domestic Security Policy**

**Larry Cretul**  
Speaker

**Kevin C. Ambler**  
Chair

### **AGENDA**

**Thursday, January 21, 2010**  
**10:00 AM – 12:00 PM**  
**(404 HOB)**

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- I. Opening remarks by Chair Ambler**
- II. Roll call by CAA**
- III. Consideration of the following bill(s)**
  - HB 23 Parole for Adolescent Offenders by Weinstein**
  - HB 183 Special Organized Crime Investigators by Pafford**
  - HB 203 Community Corrections Assistance to Counties or County Consortiums by Reed**
  - HB 369 Murder by Snyder**
- IV. Closing Remarks**
- V. Meeting Adjourned**



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 23 Parole for Adolescent Offenders  
**SPONSOR(S):** Weinstein and others  
**TIED BILLS:** **IDEN./SIM. BILLS:** SB 184

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee		Krol <i>JK</i>	Cunningham <i>RC</i>
2)	Criminal & Civil Justice Appropriations Committee			
3)	Criminal & Civil Justice Policy Council			
4)				
5)				

**SUMMARY ANALYSIS**

This bill creates the possibility of parole release for adolescent offenders. The bill creates a new inmate designation, "adolescent offender," which is defined as an offender, 15 years old or younger at the time the criminal act was committed, who was sentenced to life or to a single or cumulative term of imprisonment of 10 years or more. The bill excludes an adolescent offender from parole eligibility if he or she had a prior conviction or was adjudicated delinquent for a number of specified offenses. Also, the bill provides that the offender must serve a minimum of 8 years of their sentence before becoming eligible for release.

The bill requires the Florida Parole Commission to conduct an initial eligibility interview with the adolescent offender during the 8<sup>th</sup> year of incarceration, and every 2 years thereafter. To be eligible for parole, the offender must have completed a General Educational Development (GED) program and received no disciplinary reports during the two years prior to the interview and subsequent interviews. The bill provides additional criteria for the consideration of the offender's rehabilitation status.

The bill specifies that an eligible offender must be placed in a facility that has a GED program, unless they have already completed a GED program.

The bill provides that if the offender is granted parole, he or she must participate in any available reentry program for 2 years.

This bill will take effect upon becoming a law and applies with respect to offenses committed before, on, or after that date.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Parole**

Parole is a discretionary prison release mechanism administered by the Florida Parole Commission (commission) through chs. 947, 948, and 949, F.S. An inmate who is granted parole is allowed to serve the remainder of his or her prison sentence outside of confinement according to terms and conditions established by the commission. Parolees are supervised by Correctional Probation Officers of the Department of Corrections (department). Inmates who were sentenced as adults for offenses committed prior to reaching 18 years of age are eligible for parole on the same basis as other inmates. Parole is not available for most crimes that were committed on or after October 1, 1983.<sup>1</sup> There is no parole eligibility for any crime committed on or after October 1, 1995. The commission reported that on June 30, 2009, there were 5,826 inmates currently eligible for parole consideration with about 450 under supervision. This includes a small percentage who committed their parole-eligible crime when they were less than 18 years of age.<sup>2</sup>

The parole process begins with the setting of a presumptive parole release date (PPRD) by the commission after a parole examiner reviews the inmate's file and makes an initial recommendation. The date of the initial interview depends upon the length and type of the parole-eligible sentence. For example, an inmate with a minimum mandatory sentence of 7 to 15 years is not eligible to have an initial interview sooner than 12 months prior to expiration of the minimum mandatory portion of the sentence. An inmate may request one review of the initial PPRD within 60 days after notification.

If the PPRD is more than 2 years after the date of the initial interview a hearing examiner must interview the inmate to review the PPRD within 2 years after the initial interview and every 2 years thereafter.<sup>3</sup> These interviews are limited to determining whether or not information has been gathered

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<sup>1</sup> The exceptions are for capital felony murders committed prior to October 1, 1994, and capital felony sexual battery prior to October 1, 1995.

<sup>2</sup> Parole Commission 2010 Analysis of HB 23.

<sup>3</sup> However, s. 947.174(1)(b), F.S., provides for less frequent reviews for an inmate whose PPRD is more than 5 years from the date of the initial interview if he or she was convicted of murder, attempted murder, sexual battery, or attempted sexual battery, or is serving a 25-year minimum mandatory sentence under s. 775.082, F.S. In such cases, subsequent interviews to review the PPRD may be conducted every 5 years if the commission makes a written finding that it is not reasonable to expect that parole will be granted.

which might affect the PPRD.<sup>4</sup> The department is responsible for bringing to the attention of the commission any information that may be pertinent for review, such as current progress reports, psychological reports, and disciplinary reports.<sup>5</sup> In consultation with the department, the commission has developed guidelines defining unsatisfactory institutional record.<sup>6</sup> The commission has defined what constitutes a satisfactory release plan and verification of the plan prior to release.<sup>7</sup>

The commission determines the terms and conditions of parole. Statutorily, conditions of parole are not specific, except for provisions that require:

- The offender to submit to random substance abuse testing, if the offender's conviction was for a controlled substance violation.
- The offender to not knowingly associate with other criminal gang members or associates, if the offender's conviction was for a crime that involved criminal gang activity.
- The offender to pay debt due and owing to the state under s. 960.17, F.S., or attorney's fees and costs due and owing to the state under s. 938.29, F.S.<sup>8</sup>
- The offender to pay victim restitution.<sup>9</sup>
- The offender to apply for services from the Agency for Persons with Disabilities, if the offender has been diagnosed as mentally retarded.<sup>10</sup>

Most crimes committed by juveniles<sup>11</sup> are dealt with through delinquency proceedings as set forth in ch. 985, F.S. However, the law provides a mechanism for juvenile offenders to be tried and handled as adults. A person who commits a crime while 13 years old or younger may only be tried as an adult if a grand jury indictment is returned.<sup>12</sup> A juvenile who is fourteen or older at the time of committing certain felony offenses may be tried as an adult if a grand jury indictment is returned; if juvenile court jurisdiction is waived and the case is transferred for prosecution as an adult pursuant to s. 985.556, F.S.; or if the state attorney direct files an information in adult court pursuant to s. 985.557, F.S. Section 985.56, F.S., provides that a juvenile charged with an offense punishable by death or life imprisonment may not be tried as an adult unless a grand jury indictment is returned.

### **Sentencing and Classification of Offenders**

A court may sentence as a "youthful offender" any person:

- Who is at least 18 years of age or who has been transferred for prosecution to the criminal division of the circuit court pursuant to ch. 985, F.S.;
- Who is found guilty of or who has tendered, and the court has accepted, a plea of nolo contendere or guilty to a crime that is, under the laws of this state, a felony if such crime was committed before the defendant's 21st birthday; and

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<sup>4</sup> Section 947.174(1)(c), F.S.

<sup>5</sup> Section 947.174(3), F.S.

<sup>6</sup> Section 947.174(5)(a), F.S.

<sup>7</sup> Section 947.174(5)(b), F.S.

<sup>8</sup> Section 947.18, F.S.

<sup>9</sup> Section 947.181, F.S.

<sup>10</sup> Section 947.185, F.S.

<sup>11</sup> Section 985.03(6), F.S., defines juvenile as "any unmarried person under the age of 18 who has not been emancipated by order of the court and who has been found or alleged to be dependent, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years."

<sup>12</sup> See *Tate v. State*, 864 So.2d 44 (Fla. 4th Dist. 2003).

- Who has not previously been classified as a youthful offender under the provisions of the Florida Youthful Offender Act;<sup>13</sup> however, any person found guilty of a capital or life felony may not be sentenced as a youthful offender under the act.<sup>14</sup>

Separate institutions and programs exist for youthful offenders that fall into two age groups: age 14 to 18 years old and age 19 to 24 years old.<sup>15</sup> The department may initially assign inmates who are less than 18 years of age and who have not been assigned by the sentencing judge to a facility for youthful offenders under the provisions of chapter 958 to a facility designated for youthful offenders.<sup>16</sup> The department is required to screen all institutions, facilities, and programs for inmates who meet the requirements specified in s. 958.04(1)(a) and (c) whose age does not exceed 24 years and whose total length of sentence does not exceed 10 years and the department may classify those inmates as a youthful offender.<sup>17</sup> The department may classify any inmate 19 years of age or younger, except a capital or life felon, as a youthful offender if the department determines that the inmate's mental or physical vulnerability would substantially or materially jeopardize his or her safety in a non-youthful facility.<sup>18</sup>

Parole for juveniles who received more than a 10 year adult prison sentence was one of the recommendations made by the Blueprint Commission through the Department of Juvenile Justice.<sup>19</sup>

### **Proposed Changes**

HB 23 creates the offender designation of adolescent offender, which is defined as an offender who was 15 years old or younger at the time of the criminal act who is sentenced to life or to a single or cumulative term of imprisonment of 10 years or more. An adolescent offender may be eligible for parole release.

The bill defines the term "current offense" as one or more crimes committed by the adolescent offender within a 1-month period of time or for which sentences run concurrently.

The bill excludes an adolescent offender from parole eligibility if he or she, before the current offense, had a prior conviction or was adjudicated delinquent for a number of specified offenses:

- Murder,
- Felony battery,
- Aggravated battery,
- Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents or other specified officers,
- Assault or battery on persons 65 years of age or older,
- Kidnapping,
- Persons engaged in criminal offense, having weapons,
- Sexual battery,
- Carjacking,
- Home-invasion robbery,

<sup>13</sup> Sections 958.011-958.15, F.S.

<sup>14</sup> Section 958.04(1)(c), F.S.

<sup>15</sup> Section 958.11(1), F.S.

<sup>16</sup> Section 944.1905(5)(a), F.S.

<sup>17</sup> Section 958.11(4), F.S.

<sup>18</sup> Section 958.11(6), F.S.

<sup>19</sup> "Getting Smart about Juvenile Justice in Florida," January 2008.



- Abuse, aggravated abuse, and neglect of a child, or
- Cruelty to animals.

The bill requires the commission to conduct an initial eligibility interview during the 8<sup>th</sup> year of incarceration, and every 2 years thereafter. To be eligible for parole, the offender must have completed a General Educational Development (GED) program unless waived due to a disability, and received no disciplinary reports for a period of at least two years. The bill provides additional criteria for the consideration of the offender's rehabilitation status. The hearing examiner must take into serious consideration the wishes of the victim or the opinions of the victim's next of kin, and consider whether:

- The offender was principal to the criminal offense or an accomplice, a relatively minor participant, or acted under extreme duress or domination of another person,
- The offender has shown remorse for the criminal offense,
- The offender's age, maturity, and psychological development at the time of the offense affected her or his behavior,
- The offender, while in the custody of the department, aided inmates suffering from catastrophic or terminal medical, mental or physical conditions or has prevented risk or injury to staff, citizens, or other inmates,
- The offender has successfully completed educational and self-rehabilitation programs, and
- The offender was a victim of sexual, physical, or emotional abuse.

The bill specifies that an adolescent offender must be placed in a facility that has a GED program,<sup>20</sup> unless the offender has already completed a GED program.

The department reports that 432 inmates currently incarcerated committed their primary offense at age 15 or younger and are serving a sentence of 10 years or more. Of these inmates, 154 have served 8 years of their sentence and would be eligible for an initial interview. Of these 154 inmates, 72 have attained GEDs. Of those 72 inmates, only 23 have had no disciplinary reports in the preceding 2 years.<sup>21</sup>

The bill provides that if the offender is granted parole, he or she must participate in any available reentry program for 2 years. The bill defines "re-entry program" as a program that promotes effective reintegration of adolescent offenders back into communities upon release and provides one or more of the following: vocational training, placement services, transitional housing, mentoring, or drug rehabilitation. Priority shall be given to re-entry programs that are residential, highly structured, self-reliant, and therapeutic communities.

This bill will take effect upon becoming a law and will apply with respect to offenses committed before, on, or after that date.

B. SECTION DIRECTORY: Section 1. Provides a title for this act as the "Second Chance for Children in Prison Act."

Section 2. Amends s. 947.16, F.S.; relating to eligibility for parole; initial parole interviews; powers and duties of commission.

Section 3. Provides that if an adolescent offender is eligible, he or she must receive an initial interview in their 8th or subsequent year of incarceration on the effective date of this act.

Section 4. This bill takes effect upon becoming a law and applies with respect to offenses committed before, on, or after that date.

<sup>20</sup> According to the Department of Corrections 2009 Analysis of HB 757, only one third of the adult facilities have GED programs.

<sup>21</sup> Department of Corrections 2010 Analysis of HB 23.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:  
See "Fiscal Comments."
2. Expenditures:  
See "Fiscal Comments."

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:  
None.
2. Expenditures:  
None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The Department of Corrections (department) reports that if classification staff are tasked with the responsibilities of a commission's "field examiner," (similar to the duties related to conditional release under §947.1405) it may increase their workload depending on the number to be interviewed. In addition, the department's computerized Offender Based Information System (OBIS) would require some reprogramming to capture information that a given inmate is parole eligible.

For Fiscal Year 2007-2008, the annual cost to house a male youthful offender exceeded \$23,000. Although the department does not anticipate a significant number of inmates would be paroled to justify additional probation officers, the cost avoidance would be offset slightly as the average annual cost of supervision is \$1,856.

The Parole Commission reports that the work increase from reviewing existing and future cases would be slight and does not anticipate a need for increase staff.

The Criminal Justice Impact Conference has not yet provided an analysis of HB 23; however in 2009 it reported an indeterminate fiscal impact.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:  
Not applicable because this bill does not appear to: require cities or counties to spend funds or take actions requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.
2. Other:

**B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The bill provides very specific language for the hearing examiner to consider regarding whether the inmate has "aided inmates suffering from catastrophic or terminal medical, mental, or physical conditions or has prevented risk or injury to staff, citizens, or other inmates." This language may be tailored to a situation applicable to an inmate who may be affected by this bill if passed. The language provided in this section applies only to the consideration of the hearing examiner but does not specify if the commission should also consider this criterion when deciding whether the offender is rehabilitated.

The bill would allow adolescent offenders to circumvent the mandatory 85% minimum sentenced served requirement as provided in s. 944.275(4)(b)3., F.S.

The bill does not provide the department an alternative if a suitable re-entry program is not available for a paroled offender.

The bill does not specify which agency will waive the GED requirement.

On November 9, 2009, the Supreme Court of the United States heard oral arguments in the cases of Sullivan v. Florida and Graham v. Florida. Both petitioners were juveniles at the time of their offenses and were sentenced to life in prison without the possibility of parole. The issue in these cases is whether sentencing juveniles who committed non-homicide offenses to life in prison without the possibility of parole is cruel and unusual punishment under the Eighth Amendment.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                   A bill to be entitled  
 2           An act relating to parole for adolescent offenders;  
 3           providing a short title; amending s. 947.16, F.S.;  
 4           providing definitions; providing that an adolescent  
 5           offender who was 15 years of age or younger at the time of  
 6           commission of an offense and who is sentenced to life or a  
 7           single or cumulative term of 10 years or more in prison is  
 8           eligible for parole if the offender has been incarcerated  
 9           for a minimum period and has not previously been convicted  
 10          of or adjudicated delinquent for certain offenses;  
 11          requiring an initial eligibility interview to determine  
 12          whether the adolescent offender has been sufficiently  
 13          rehabilitated for parole; providing criteria to determine  
 14          sufficient rehabilitation; providing eligibility for a  
 15          reinterview after a specified period for adolescent  
 16          offenders denied parole; providing that the adolescent  
 17          offender be incarcerated in a facility that has a GED  
 18          program; providing that if the adolescent offender is  
 19          granted parole, the adolescent offender must participate  
 20          in any available reentry program for 2 years; defining the  
 21          term "reentry program"; providing priority for certain  
 22          programs; providing for eligibility for an initial  
 23          eligibility interview for offenders in their eighth or  
 24          subsequent year of incarceration on the effective date of  
 25          the act; providing for retroactive application; providing  
 26          an effective date.

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

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Section 1. This act may be cited as the "Second Chance for Children in Prison Act."

Section 2. Subsections (2) through (6) of section 947.16, Florida Statutes, are renumbered as subsections (3) through (7), respectively, and a new subsection (2) is added to that section to read:

947.16 Eligibility for parole; initial parole interviews; powers and duties of commission; adolescent offender eligibility.--

(2) (a) As used in this subsection, the term:

1. "Adolescent offender" means an offender who was 15 years of age or younger at the time the criminal act was committed and was sentenced to life or to a single or cumulative term of imprisonment of 10 years or more.

2. "Current offense" means the offense for which the adolescent offender is being considered for parole and any other crimes committed by the adolescent offender within a 1-month period of that offense, or for which sentences run concurrent to that offense.

(b) Notwithstanding the provisions of subsection (1) or of any other law to the contrary, an adolescent offender may be eligible for parole as provided in this subsection. An adolescent offender is ineligible under this subsection if she or he, before conviction of the current offense, was convicted of or adjudicated delinquent for any violation of:

- 1. Section 782.04, entitled "Murder";
- 2. Section 784.041, entitled "Felony battery; domestic

57 | battery by strangulation";  
 58 |       3. Section 784.045, entitled "Aggravated battery";  
 59 |       4. Section 784.07, entitled "Assault or battery of law  
 60 | enforcement officers, firefighters, emergency medical care  
 61 | providers, public transit employees or agents, or other  
 62 | specified officers; reclassification of offenses; minimum  
 63 | sentences";  
 64 |       5. Section 784.08, entitled "Assault or battery on persons  
 65 | 65 years of age or older; reclassification of offenses; minimum  
 66 | sentence";  
 67 |       6. Section 787.01, entitled "Kidnapping; kidnapping of  
 68 | child under age 13, aggravating circumstances";  
 69 |       7. Section 790.07, entitled "Persons engaged in criminal  
 70 | offense, having weapons";  
 71 |       8. Section 794.011, entitled "Sexual battery";  
 72 |       9. Section 812.133, entitled "Carjacking";  
 73 |       10. Section 812.135, entitled "Home-invasion robbery";  
 74 |       11. Section 827.03, entitled "Abuse, aggravated abuse, and  
 75 | neglect of a child; penalties"; or  
 76 |       12. Section 828.12(2), entitled "Cruelty to animals."  
 77 |       (c) Before an adolescent offender may be granted parole  
 78 | under this subsection, she or he must have an initial  
 79 | eligibility interview to determine whether she or he has been  
 80 | sufficiently rehabilitated while in the custody of the  
 81 | department to justify granting parole. The initial eligibility  
 82 | interview will occur in the eighth year of incarceration. In  
 83 | order to determine if the adolescent offender has been  
 84 | sufficiently rehabilitated, she or he must have successfully

85 completed the General Educational Development (GED) program  
86 unless waived based on disability and have received no approved  
87 disciplinary reports for a period of at least 2 years  
88 immediately prior to the current eligibility interview. The  
89 hearing examiner must also take into serious consideration the  
90 wishes of the victim or the opinions of the victim's next of kin  
91 and consider whether:

92 1. The adolescent offender was a principal to the criminal  
93 offense or an accomplice to the offense, a relatively minor  
94 participant in the criminal offense, or acted under extreme  
95 duress or domination of another person.

96 2. The adolescent offender has shown remorse for the  
97 criminal offense.

98 3. The adolescent offender's age, maturity, and  
99 psychological development at the time of the offense affected  
100 her or his behavior.

101 4. The adolescent offender, while in the custody of the  
102 department, has aided inmates suffering from catastrophic or  
103 terminal medical, mental, or physical conditions or has  
104 prevented risk or injury to staff, citizens, or other inmates.

105 5. The adolescent offender has successfully completed  
106 educational and self-rehabilitation programs.

107 6. The adolescent offender was a victim of sexual,  
108 physical, or emotional abuse.

109 (d) An adolescent offender who is not granted parole under  
110 this subsection after an initial eligibility interview shall be  
111 eligible for a reinterview 2 years after the date of the denial  
112 of the grant of parole and every 2 years thereafter.

113 (e) An adolescent offender must serve her or his sentence  
 114 in a facility that has a General Educational Development (GED)  
 115 program unless the adolescent offender has already successfully  
 116 completed a GED program.

117 (f) If the adolescent offender is granted parole, the  
 118 adolescent offender must participate in any available reentry  
 119 program for 2 years. As used in this paragraph, the term  
 120 "reentry program" means a program that promotes effective  
 121 reintegration of adolescent offenders back into communities upon  
 122 release and provides one or more of the following: vocational  
 123 training, placement services, transitional housing, mentoring,  
 124 or drug rehabilitation. Priority shall be given to those reentry  
 125 programs that are residential, highly structured, self-reliant,  
 126 and therapeutic communities.

127 Section 3. An adolescent offender, as defined in s.  
 128 947.16(2)(a), Florida Statutes, as created by this act, who is  
 129 in her or his eighth or subsequent year of incarceration on the  
 130 effective date of this act must receive an initial eligibility  
 131 interview as provided in s. 947.16(2)(c), Florida Statutes, as  
 132 created by this act, if she or he is otherwise eligible.

133 Section 4. This act shall take effect upon becoming a law,  
 134 and applies with respect to offenses committed before, on, or  
 135 after that date.





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 183

Special Organized Crime Investigators

SPONSOR(S): Pafford

TIED BILLS:

IDEN./SIM. BILLS: SB 502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Public Safety & Domestic Security Policy Committee		Krol TK	Cunningham <i>pl</i>
2) Criminal & Civil Justice Appropriations Committee			
3) Criminal & Civil Justice Policy Council			
4)			
5)			

SUMMARY ANALYSIS

Currently s. 27.251, F.S., authorizes the state attorney of each judicial circuit to employ any municipal or county police officer or sheriff s deputy on a full-time basis as an investigator for the state attorney's office with full powers of arrest throughout the judicial circuit provided such investigator serves on a special task force to investigate matters involving "organized crime."

HB 183 expands s. 27.251, F.S., to allow for broader use of special investigator appointments by specifying that organized crime includes gang violence and that the special investigators may investigate other criminal activities where the use of an interagency task force may be beneficial.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

Section 27.251, F.S., authorizes the state attorney of each judicial circuit to employ any municipal or county police officer or sheriff's deputy on a full-time basis as an investigator for the state attorney's office with full powers of arrest throughout the judicial circuit provided such investigator serves on a special task force to investigate matters involving organized crime. Consent from the county, sheriff or municipality must be given in order for the municipal or county police officer or sheriff's deputy to become an investigator for the state attorney. The salary of such municipal or county police officer or sheriff's deputy is paid by the city, county, or sheriff by which the investigator is principally employed.

The arrest powers granted by this section are only in the furtherance of the conduct of the business of the special task force to which the municipal or county police officer or sheriff's deputy is assigned by the employing state attorney.

Section 27.255, F.S., provides that a special investigator appointed by a state attorney pursuant to the provisions of s. 27.251, F.S., is a certified Florida law enforcement officer under the direction and control of the employing state attorney and is authorized to make arrests and serve arrest and search warrants and other documents as specified in the section.

Staff of the State Attorney for the 15th Judicial Circuit has described how special investigators are used and the benefits accruing from such use:

Currently, State Attorneys use state attorney investigators to assist and supplement other investigative law enforcement efforts in developing and prosecuting cases in their respective jurisdictions. State attorneys are authorized and employ their own staff of law enforcement officers. See Fl. Stat. 27.255. However, state attorneys also use specially sworn investigators pursuant to Fl. Stat. 27.251 in any matter involving "organized crime." Of course, "organized crime" is a broad term which can include a wide range of criminal activities which involve a degree of organization and structure. The special investigators perform duties in furtherance of the task force under the direction of the state attorney, but remain paid by their respective local agencies. The advantage of this practice is that the State Attorney can guide and coordinate important investigative matters while not having to bear the financial burden of employing the investigators full-time on a permanent basis. The arrangement works well and is fiscally responsible.<sup>1</sup>

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<sup>1</sup> E-mail from Nicky Solimene, State Attorney's Office, 15<sup>th</sup> Judicial Circuit, to House staff, dated December 2, 2009.

## **Proposed changes**

HB 183 amends s. 27.251, F.S., to allow for broader use of special investigator appointments by specifying that organized crime includes gang violence and that the special investigators may investigate other criminal activities where the use of an interagency task force may be beneficial.

### **B. SECTION DIRECTORY:**

Section 1. Amends s. 27.251, F.S.; relating to special organized crime investigators.

Section 2. Provides for an effective date of July 1, 2010.

## **II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

### **A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

### **B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

### **C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:**

None.

### **D. FISCAL COMMENTS:**

This bill will not have a fiscal impact on state attorneys. This bill will have a fiscal impact on local law enforcement agencies or counties or municipalities to the extent that they consent to appoint an officer or deputy as a special investigator with the state attorney's office.

## **III. COMMENTS**

### **A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties

2. Other:

None.

### **B. RULE-MAKING AUTHORITY:**

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

The term "or other criminal activity the detection of which might benefit from an interagency task force" on lines 18 and 19 of the bill may be unclear.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to special organized crime investigators;  
 3           amending s. 27.251, F.S.; specifying matters that may be  
 4           investigated by special organized crime investigators;  
 5           providing an effective date.

6  
 7   Be It Enacted by the Legislature of the State of Florida:

8  
 9           Section 1. Section 27.251, Florida Statutes, is amended to  
 10          read:

11           27.251 Special organized crime investigators.--The state  
 12          attorney of each judicial circuit is authorized to employ any  
 13          municipal or county police officer or sheriff's deputy on a  
 14          full-time basis as an investigator for the state attorney's  
 15          office with full powers of arrest throughout the judicial  
 16          circuit provided such investigator serves on a special task  
 17          force to investigate matters involving organized crime,  
 18          including gang violence, or other criminal activity the  
 19          detection of which might benefit from an interagency task force  
 20          and, provided further, that the salary of such municipal or  
 21          county police officer or sheriff's deputy shall be paid by the  
 22          city, county, or sheriff by which the investigator is  
 23          principally employed, and with the consent of the county,  
 24          sheriff, or municipality. The arrest powers granted in this  
 25          section may ~~herein shall~~ be exercised only in the furtherance of  
 26          the conduct of the business of the special task force to which  
 27          such municipal or county police officer or sheriff's deputy is  
 28          assigned by the ~~said~~ state attorney.

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29

Section 2. This act shall take effect July 1, 2010.





HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 203

Community Corrections Assistance to Counties or County Consortiums

SPONSOR(S): Reed

TIED BILLS:

IDEN./SIM. BILLS: SB 370

	REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1)	Public Safety & Domestic Security Policy Committee		Krol TK	Cunningham <i>re</i>
2)	Criminal & Civil Justice Appropriations Committee			
3)	Criminal & Civil Justice Policy Council			
4)				
5)				

SUMMARY ANALYSIS

This bill removes "military style boot camps" and adds "rehabilitative community reentry programs" to the list of programs that are specified as being eligible for community corrections funds if an appropriation is made.

This bill does not have a fiscal impact on state or local government.

## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

Section 948.51, F.S., provides for community corrections assistance to counties and consortiums of counties through the distribution of funds administered by the Department of Corrections (department). It creates a framework for effectively disbursing funds to counties for the purpose of building and operating corrections and public safety programs. The purposes of the community corrections funds are to:

- Provide community-based corrections programs within county-owned or county-contracted residential probation programs;
- Provide nonincarcerative diversionary programs, such as pretrial release programs for juvenile or adult offenders who would otherwise be housed in a county or state detention facility or a state correctional institute;
- Provide community-based drug treatment programs;
- Provide funds to enhance programs within county detention facilities; and to
- Provide funds to enhance public safety and crime prevention programs.<sup>1</sup>

No funds have been distributed through this funding mechanism in recent years.

In order to enter into a community corrections partnership contract with the department, a county or consortium of counties must have established a public safety coordinating council under the provisions of s. 951.26, F.S. In turn, the public safety coordinating council must develop a public safety plan that is approved by the governing board of the county or counties and by the Secretary of Corrections in order to be eligible for community corrections funds. The plan must cover at least a 5-year program and include specific information about the programs to be offered, the target population for the programs, measurable goals and objectives, and projected costs and sources of funds. Section 948.51(4), F.S., lists ten types of programs, services, or facilities for which the Secretary may contract for the issuance of community corrections assistance funds to the counties if funds are appropriated by the Legislature.

Eligibility for funding is not restricted to the items on the list, which are:

- Programs providing pretrial services.
- Specialized divisions within the circuit or county court established for the purpose of hearing specific types of cases, such as drug cases or domestic violence cases.
- Work camps.

---

<sup>1</sup> Section 948.51(4)(a)1.-5., F.S.

- Programs providing intensive probation supervision.
- Military-style boot camps.
- Work-release facilities.
- Centers to which offenders report during the day.
- Restitution centers.
- Inpatient or outpatient programs for substance abuse treatment and counseling.
- Vocational and educational programs.

Funds may not be used for fixed capital outlay to construct, add to, renovate, or operate a secure juvenile detention facility; for construction, addition to, renovation, or operation of any state facility; or for state probation officer salaries.

Congress passed the Second Chance Act (Public Law 110-199) in an attempt to help inmates safely and successfully transition back into the community. The Act adds numerous grants and opportunities for extending re-entry efforts at the state and local levels. It provides for community and faith-based organizations to deliver mentoring and transitional services to inmates returning to the community. It will also help connect inmates to mental health and substance abuse treatment, expand job training and placement services, and facilitate transitional housing and case management services. The department has three grants funded under the Second Chance Act: the 2006 Prisoner Reentry Initiative (Targeting Lifetime Success) in Broward, Palm Beach, and Dade Counties, the 2007 Prisoner Reentry Initiative (Bridges to Success) in Duval County, and the 2009 Prisoner Reentry Initiative (the Jacksonville Re-entry Center "Portal of Entry") in Duval County. However, none of these grants is funded through the community corrections assistance fund mechanism in s. 948.51, F.S.

HB 203 adds "rehabilitative community reentry programs" to the list of programs that are specified as being eligible for funding with community corrections funds. However, the term "rehabilitative community reentry programs" is not defined in the bill.

The bill also removes "military style boot camps" from the list of programs eligible for funding with community corrections funds.

**B. SECTION DIRECTORY:**

Section 1. Amends s. 948.51, F.S., relating to community corrections assistance to counties or county consortiums.

Section 2. Provides an effective date of July 1, 2010.

**II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT**

**A. FISCAL IMPACT ON STATE GOVERNMENT:**

1. Revenues:

None.

2. Expenditures:

See "Fiscal Comments."

**B. FISCAL IMPACT ON LOCAL GOVERNMENTS:**

1. Revenues:

See "Fiscal Comments."

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

HB 203 does not have a fiscal impact on state or local government.

Distribution of community assistance funds under s. 948.51, F.S., is subject to appropriation of funds.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because this bill does not appear to: require the counties or cities to spend funds or take an action requiring the expenditure of funds; reduce the authority that cities or counties have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with cities or counties.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to community corrections assistance to  
 3           counties or county consortiums; amending s. 948.51, F.S.;  
 4           adding rehabilitative community reentry programs to the  
 5           list of programs, services, and facilities that may be  
 6           funded using community corrections funds; deleting  
 7           military-style boot camps from such list; providing an  
 8           effective date.

9

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

11

12           Section 1. Paragraph (b) of subsection (4) of section  
 13           948.51, Florida Statutes, is amended to read:

14

14           948.51 Community corrections assistance to counties or  
 15           county consortiums.--

16

16           (4) PURPOSES OF COMMUNITY CORRECTIONS FUNDS.--

17

17           (b) Programs, services, and facilities that may be funded  
 18           under this section include, but are not limited to:

19

19           1. Programs providing pretrial services.

20

20           2. Specialized divisions within the circuit or county  
 21           court established for the purpose of hearing specific types of  
 22           cases, such as drug cases or domestic violence cases.

23

23           3. Work camps.

24

24           4. Programs providing intensive probation supervision.

25

25           ~~5. Military style boot camps.~~

26

26           5.6. Work-release facilities.

27

27           6.7. Centers to which offenders report during the day.

28

28           7.8. Restitution centers.

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29        ~~8.9.~~ Inpatient or outpatient programs for substance abuse  
30 treatment and counseling.

31        ~~9.10.~~ Vocational and educational programs.

32        10. Rehabilitative community reentry programs.

33        Section 2. This act shall take effect July 1, 2010.



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 369

**Murder**

**SPONSOR(S):** Snyder

**TIED BILLS:**

**IDEN./SIM. BILLS: SB 808**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) Public Safety & Domestic Security Policy Committee		Padgett <i>[Signature]</i>	Cunningham <i>[Signature]</i>
2) Criminal & Civil Justice Appropriations Committee			
3) Criminal & Civil Justice Policy Council			
4)			
5)			

**SUMMARY ANALYSIS**

Section 782.04(1)(a)3, F.S. provides the unlawful killing of a human being which resulted from the unlawful distribution of any substance controlled under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4, or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user is murder in the first degree and constitutes a capital felony, punishable as provided in s. 775.082.

In a recent court opinion, Florida's 4th District Court of Appeal upheld the dismissal of 1st degree murder charges against a defendant who sold methadone to a victim who later overdosed on the drug, holding that methadone is not a drug enumerated in Schedule I or a derivative of opium.

As a result of the court's decision, a death resulting from the unlawful distribution of methadone must be prosecuted as manslaughter under s. 782.07, F.S., which is a second degree felony.

The bill amends s. 782.04, F.S., to add methadone to the list of opium and opium derivatives in the first degree murder statute. This allows the state to prosecute a death resulting from the unlawful distribution of methadone as a capital felony in the same manner as a death resulting from opium and opium derivatives.



## HOUSE PRINCIPLES

Members are encouraged to evaluate proposed legislation in light of the following guiding principles of the House of Representatives

- Balance the state budget.
- Create a legal and regulatory environment that fosters economic growth and job creation.
- Lower the tax burden on families and businesses.
- Reverse or restrain the growth of government.
- Promote public safety.
- Promote educational accountability, excellence, and choice.
- Foster respect for the family and for innocent human life.
- Protect Florida's natural beauty.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

Section 782.04(1)(a)3, F.S. provides the unlawful killing of a human being which resulted from the unlawful distribution of any substance controlled under s. 893.03(1)<sup>1</sup>, cocaine as described in s. 893.03(2)(a)4, or opium or any synthetic or natural salt, compound, derivative, or preparation of opium by a person 18 years of age or older, when such drug is proven to be the proximate cause of the death of the user is murder in the first degree and constitutes a capital felony<sup>2</sup>, punishable as provided in s. 775.082.

In State v. McCartney, 1 So.3d. 326 (Fla. 4th DCA, 2009) defendant was charged with first degree murder as the result of a death caused by an overdose of methadone which was sold to the victim by the defendant. The trial court granted a motion to dismiss the case because methadone is not a drug enumerated in Schedule I under the above statute. The state appealed, arguing that methadone does fall within the statute because it is a synthetic of opium. The Fourth District Court of Appeal held that methadone is not a synthetic of opium, but a substance that affects the body in the same manner as opium.<sup>3</sup>

As a result of the court's decision, a death resulting from the unlawful distribution of methadone must be prosecuted as manslaughter under s. 782.07, F.S., which is a second degree felony<sup>4</sup>.

##### Proposed Changes

The bill amends s. 782.04, F.S., to add methadone to the list of opium and opium derivatives in the first degree murder statute. This allows the state to prosecute a death resulting from the unlawful distribution of methadone as a capital felony in the same manner as a death resulting from opium and opium derivatives.

#### B. SECTION DIRECTORY:

<sup>1</sup> Section 893.03(1), F.S. contains a list of Schedule I illegal substances. Schedule I substances have a high potential for abuse and have no currently accepted medical use in treatment and use under medical supervision does not meet accepted safety standards.

<sup>2</sup> A capital felony is punishable by death, or life imprisonment without the possibility of parole. Section 775.082(1), F.S.

<sup>3</sup> The court also noted that methadone is specifically listed as a Schedule II substance under s. 893.03(2)(b)14, F.S.

<sup>4</sup> A second degree felony is punishable by up to 15 years imprisonment and a maximum \$10,000 fine. Section 775.082, 775.083, 775.084, F.S.

Section 1: Amends s. 782.04, F.S., relating to murder.

Section 2: Reenacts s. 775.0823, F.S., relating to violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.

Section 3: Reenacts s. 782.065, F.S., relating to murder; law enforcement officer.

Section 4: Reenacts s. 921.0022, F.S., relating to criminal punishment code; offense severity ranking chart.

Section 5: Reenacts s. 947.146, F.S., relating to control release authority.

Section 6: Provides effective date of October 1, 2009.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

See fiscal comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

### D. FISCAL COMMENTS:

The Criminal Justice Impact Conference has not met to determine the prison bed impact of the bill.

## III. COMMENTS

### A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill appears to be exempt from the requirements of Article VII, Section 18 of the Florida Constitution because it is a criminal law.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

**C. DRAFTING ISSUES OR OTHER COMMENTS:**

None.

**IV. AMENDMENTS/COUNCIL OR COMMITTEE SUBSTITUTE CHANGES**

1                                   A bill to be entitled  
 2           An act relating to murder; amending s. 782.04, F.S.;  
 3           providing that murder in the first degree includes the  
 4           unlawful killing of a human being which resulted from the  
 5           unlawful distribution of methadone by a person aged 18 or  
 6           older when such drug is proven to be the proximate cause  
 7           of the death of the user; providing penalties; reenacting  
 8           ss. 775.0823(1) and (2), 782.065(1), 921.0022(3)(i), and  
 9           947.146(3)(i), F.S., relating to violent offenses  
 10          committed against law enforcement officers, correctional  
 11          officers, state attorneys, assistant state attorneys,  
 12          justices, or judges, murder of law enforcement officer,  
 13          the Criminal Punishment Code offense severity ranking  
 14          chart, and the Control Release Authority, respectively, to  
 15          incorporate the amendment to s. 782.04, F.S., in  
 16          references thereto; providing an effective date.

17  
 18   Be It Enacted by the Legislature of the State of Florida:

19  
 20           Section 1. Paragraph (a) of subsection (1) of section  
 21   782.04, Florida Statutes, is amended to read:

22           782.04   Murder.—

23           (1)(a)   The unlawful killing of a human being:

24           1.   When perpetrated from a premeditated design to effect  
 25   the death of the person killed or any human being;

26           2.   When committed by a person engaged in the perpetration  
 27   of, or in the attempt to perpetrate, any:

28           a.   Trafficking offense prohibited by s. 893.135(1),

- 29 |       b. Arson,
- 30 |       c. Sexual battery,
- 31 |       d. Robbery,
- 32 |       e. Burglary,
- 33 |       f. Kidnapping,
- 34 |       g. Escape,
- 35 |       h. Aggravated child abuse,
- 36 |       i. Aggravated abuse of an elderly person or disabled
- 37 | adult,
- 38 |       j. Aircraft piracy,
- 39 |       k. Unlawful throwing, placing, or discharging of a
- 40 | destructive device or bomb,
- 41 |       l. Carjacking,
- 42 |       m. Home-invasion robbery,
- 43 |       n. Aggravated stalking,
- 44 |       o. Murder of another human being,
- 45 |       p. Resisting an officer with violence to his or her
- 46 | person,
- 47 |       q. Felony that is an act of terrorism or is in furtherance
- 48 | of an act of terrorism; or
- 49 |       3. Which resulted from the unlawful distribution of any
- 50 | substance controlled under s. 893.03(1), cocaine as described in
- 51 | s. 893.03(2)(a)4., ~~or~~ opium or any synthetic or natural salt,
- 52 | compound, derivative, or preparation of opium, or methadone by a
- 53 | person 18 years of age or older, when such drug is proven to be
- 54 | the proximate cause of the death of the user,
- 55 |

56 | is murder in the first degree and constitutes a capital felony,  
 57 | punishable as provided in s. 775.082.

58 |       Section 2. For the purpose of incorporating the amendment  
 59 | made by this act to section 782.04, Florida Statutes, in  
 60 | references thereto, subsections (1) and (2) of section 775.0823,  
 61 | Florida Statutes, are reenacted to read:

62 |       775.0823 Violent offenses committed against law  
 63 | enforcement officers, correctional officers, state attorneys,  
 64 | assistant state attorneys, justices, or judges.—The Legislature  
 65 | does hereby provide for an increase and certainty of penalty for  
 66 | any person convicted of a violent offense against any law  
 67 | enforcement or correctional officer, as defined in s. 943.10(1),  
 68 | (2), (3), (6), (7), (8), or (9); against any state attorney  
 69 | elected pursuant to s. 27.01 or assistant state attorney  
 70 | appointed under s. 27.181; or against any justice or judge of a  
 71 | court described in Art. V of the State Constitution, which  
 72 | offense arises out of or in the scope of the officer's duty as a  
 73 | law enforcement or correctional officer, the state attorney's or  
 74 | assistant state attorney's duty as a prosecutor or investigator,  
 75 | or the justice's or judge's duty as a judicial officer, as  
 76 | follows:

77 |       (1) For murder in the first degree as described in s.  
 78 | 782.04(1), if the death sentence is not imposed, a sentence of  
 79 | imprisonment for life without eligibility for release.

80 |       (2) For attempted murder in the first degree as described  
 81 | in s. 782.04(1), a sentence pursuant to s. 775.082, s. 775.083,  
 82 | or s. 775.084.

83 |

84 Notwithstanding the provisions of s. 948.01, with respect to any  
 85 person who is found to have violated this section, adjudication  
 86 of guilt or imposition of sentence shall not be suspended,  
 87 deferred, or withheld.

88 Section 3. For the purpose of incorporating the amendment  
 89 made by this act to section 782.04, Florida Statutes, in a  
 90 reference thereto, subsection (1) of section 782.065, Florida  
 91 Statutes, is reenacted to read:

92 782.065 Murder; law enforcement officer.—Notwithstanding  
 93 ss. 775.082, 775.0823, 782.04, 782.051, and chapter 921, a  
 94 defendant shall be sentenced to life imprisonment without  
 95 eligibility for release upon findings by the trier of fact that,  
 96 beyond a reasonable doubt:

97 (1) The defendant committed murder in the first degree in  
 98 violation of s. 782.04(1) and a death sentence was not imposed;  
 99 murder in the second or third degree in violation of s.  
 100 782.04(2), (3), or (4); attempted murder in the first or second  
 101 degree in violation of s. 782.04(1)(a)1. or (2); or attempted  
 102 felony murder in violation of s. 782.051; and

103 Section 4. For the purpose of incorporating the amendment  
 104 made by this act to section 782.04, Florida Statutes, in a  
 105 reference thereto, paragraph (i) of subsection (3) of section  
 106 921.0022, Florida Statutes, is reenacted to read:

107 921.0022 Criminal Punishment Code; offense severity  
 108 ranking chart.—

109 (3) OFFENSE SEVERITY RANKING CHART

110 (i) LEVEL 9

111

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	Florida Statute	Felony Degree	Description
112	316.193(3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
113	327.35(3)(c)3.b.	1st	BUI manslaughter; failing to render aid or give information.
114	409.920(2)(b)1.c.	1st	Medicaid provider fraud; \$50,000 or more.
115	499.0051(9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
116	560.123(8)(b)3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
117	560.125(5)(c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
118	655.50(10)(b)3.	1st	Failure to report financial transactions totaling or exceeding



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119			\$100,000 by financial institution.
120	775.0844	1st	Aggravated white collar crime.
121	782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
122	782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
123	782.051(1)	1st	Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).
124	782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
125	787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
126	787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
	787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere

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			with performance of any governmental or political function.
127	787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.
128	790.161	1st	Attempted capital destructive device offense.
129	790.166(2)	1st, PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.
130	794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
131	794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
132	794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
133			

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134	794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
135	794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.
136	800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.
137	812.13(2)(a)	1st, PBL	Robbery with firearm or other deadly weapon.
138	812.133(2)(a)	1st, PBL	Carjacking; firearm or other deadly weapon.
139	812.135(2)(b)	1st	Home-invasion robbery with weapon.
140	817.568(7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.

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141	827.03(2)	1st	Aggravated child abuse.
142	847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
143	847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
144	859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.
145	893.135	1st	Attempted capital trafficking offense.
146	893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
147	893.135(1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
148	893.135(1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.

F L O R I D A H O U S E O F R E P R E S E N T A T I V E S

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2010

149	893.135(1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
150	893.135(1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
151	893.135(1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
152	893.135(1)(h)1.c.	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 10 kilograms or more.
153	893.135(1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
154	893.135(1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
155	896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
156	896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.

157 Section 5. For the purpose of incorporating the amendment  
 158 made by this act to section 782.04, Florida Statutes, in a  
 159 reference thereto, paragraph (i) of subsection (3) of section  
 160 947.146, Florida Statutes, is reenacted to read:

161 947.146 Control Release Authority.—

162 (3) Within 120 days prior to the date the state  
 163 correctional system is projected pursuant to s. 216.136 to  
 164 exceed 99 percent of total capacity, the authority shall  
 165 determine eligibility for and establish a control release date  
 166 for an appropriate number of parole ineligible inmates committed  
 167 to the department and incarcerated within the state who have  
 168 been determined by the authority to be eligible for  
 169 discretionary early release pursuant to this section. In  
 170 establishing control release dates, it is the intent of the  
 171 Legislature that the authority prioritize consideration of  
 172 eligible inmates closest to their tentative release date. The  
 173 authority shall rely upon commitment data on the offender  
 174 information system maintained by the department to initially  
 175 identify inmates who are to be reviewed for control release  
 176 consideration. The authority may use a method of objective risk  
 177 assessment in determining if an eligible inmate should be  
 178 released. Such assessment shall be a part of the department's  
 179 management information system. However, the authority shall have  
 180 sole responsibility for determining control release eligibility,  
 181 establishing a control release date, and effectuating the  
 182 release of a sufficient number of inmates to maintain the inmate  
 183 population between 99 percent and 100 percent of total capacity.

184 Inmates who are ineligible for control release are inmates who  
 185 are parole eligible or inmates who:

186 (i) Are convicted, or have been previously convicted, of  
 187 committing or attempting to commit murder in the first, second,  
 188 or third degree under s. 782.04(1), (2), (3), or (4), or have  
 189 ever been convicted of any degree of murder or attempted murder  
 190 in another jurisdiction;

191

192 In making control release eligibility determinations under this  
 193 subsection, the authority may rely on any document leading to or  
 194 generated during the course of the criminal proceedings,  
 195 including, but not limited to, any presentence or postsentence  
 196 investigation or any information contained in arrest reports  
 197 relating to circumstances of the offense.

198 Section 6. This act shall take effect October 1, 2010.



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**PUBLIC SAFETY  
&  
DOMESTIC SECURITY POLICY  
COMMITTEE**

**THURSDAY, JANUARY 21, 2010  
10:00 A.M. – 12:00 P.M.  
404 HOB**

**AMENDMENT PACKET**

Larry Cretul  
Speaker

Kevin C. Ambler  
Chair



COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 23 (2010)

Amendment No. 1

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Public Safety & Domestic  
2 Security Policy Committee  
3 Representative(s) Ambler offered the following:

4  
5 **Amendment**

6 Remove lines 111-112 and insert:  
7 eligible for a reinterview 5 years after the date of the denial  
8 of the grant of parole and every 5 years thereafter.

Amendment No. 2

COUNCIL/COMMITTEE ACTION

ADOPTED	___	(Y/N)
ADOPTED AS AMENDED	___	(Y/N)
ADOPTED W/O OBJECTION	___	(Y/N)
FAILED TO ADOPT	___	(Y/N)
WITHDRAWN	___	(Y/N)
OTHER	_____	

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1 Council/Committee hearing bill: Public Safety & Domestic  
2 Security Policy Committee  
3 Representative Weinstein offered the following:  
4

5 **Amendment**

6 Remove lines 91-108 and insert:

7 and consider:

8 1. Whether the adolescent offender was a principal to the  
9 criminal offense or an accomplice to the offense, a relatively  
10 minor participant in the criminal offense, or acted under  
11 extreme duress or domination of another person.

12 2. Whether the adolescent offender has shown remorse for  
13 the criminal offense.

14 3. Whether the adolescent offender's age, maturity, and  
15 psychological development at the time of the offense affected  
16 her or his behavior.

17 4. Whether the adolescent offender, while in the custody  
18 of the department, has aided inmates suffering from catastrophic

COUNCIL/COMMITTEE AMENDMENT

Bill No. HB 23 (2010)

Amendment No. 2

19 or terminal medical, mental, or physical conditions or has  
20 prevented risk or injury to staff, citizens, or other inmates.

21 5. Whether the adolescent offender has successfully  
22 completed educational, technical, or vocational programs and any  
23 available self-rehabilitation programs.

24 6. Whether the adolescent offender was a victim of sexual,  
25 physical, or emotional abuse.

26 7. The results of any mental health assessment or  
27 evaluation that has been performed on the adolescent offender.