

1 A bill to be entitled
2 An act relating to criminal justice; amending s. 775.0877,
3 F.S.; requiring the court to order a person convicted of
4 any offense in s. 800.04 to undergo HIV testing in certain
5 instances; amending s. 775.25, F.S.; clarifying a
6 reference to repealed s. 947.177; amending s. 784.07,
7 F.S.; removing an outdated reference to "intake
8 counselors" in relation to assault and battery of
9 specified persons; amending s. 815.03, F.S.; defining the
10 term "property" in accordance with s. 812.012 in relation
11 to computer crimes; amending s. 817.554, F.S.; defining
12 the term "organized fraud" in accordance with s. 817.043
13 in relation to fraudulently offering for sale tour or
14 travel-related services; amending s. 828.17, F.S.;
15 removing an obsolete statutory citation relating to when
16 an officer may arrest a person without a warrant; amending
17 s. 831.16, F.S.; clarifying that it is a third degree
18 felony for a person to knowingly have in his or her
19 possession less than ten counterfeit coins with the intent
20 to utter or pass such coins; amending s. 831.17, F.S.;
21 clarifying that certain subsequent violations of s. 831.16
22 are punishable as a second degree felony; amending s.
23 831.18, F.S.; clarifying that the offense of making or
24 possessing instruments for forging bills is punishable as
25 a third degree felony; amending s. 831.21, F.S.;
26 clarifying that the offense of forging or counterfeiting a
27 doctor's certificate of examination is punishable as a
28 third degree felony; amending s. 831.27, F.S.; correcting

29 a reference relating to the offense of issuing notes;
 30 amending s. 831.30, F.S.; defining the term "prescription"
 31 in accordance with s. 465.003 in relation to offenses
 32 involving medicinal drug fraud; amending s. 838.021, F.S.;
 33 correcting grammatical errors; reenacting s. 847.0125,
 34 F.S.; relating to retail display of materials harmful to
 35 minors; amending s. 860.13, F.S.; correcting an outdated
 36 reference; amending s. 865.09, F.S.; correcting a
 37 statutory reference; amending s. 877.22, F.S.; correcting
 38 a statutory reference; amending s. 893.02, F.S.; defining
 39 the term "medicinal drug" in accordance with s. 465.003(8)
 40 in relation to drug trafficking offenses; amending s.
 41 893.10, F.S.; removing obsolete language relating to
 42 evidence in possession of controlled substances cases;
 43 reenacting s. 914.24, F.S.; reinstating language relating
 44 to victim and witness protection orders; amending s.
 45 916.12, F.S.; correcting a grammatical error; amending s.
 46 916.3012, F.S.; correcting a grammatical error; amending
 47 s. 918.0155, F.S.; deleting obsolete language directing
 48 the Legislature to request the Supreme Court to adopt
 49 emergency rules; amending s. 921.0022, F.S.; correcting a
 50 statutory reference in the offense severity ranking chart;
 51 removing an obsolete term in the offense severity ranking
 52 chart; reenacting s. 921.141, F.S.; relating to sentence
 53 of death or life imprisonment for capital felonies;
 54 amending s. 921.20, F.S.; correcting a statutory citation
 55 relating to the use of classification summaries; amending
 56 s. 932.704, F.S.; deleting an obsolete reference relating

57 | to the deadline for certifying compliance with the
 58 | Contraband Forfeiture Act; amending s. 933.18, F.S.;
 59 | correcting a reference in relation to when a warrant may
 60 | be issued to search a dwelling; amending s. 933.40, F.S.;
 61 | replacing an outdated reference to "magistrates" with
 62 | "trial court judge" in relation to who can issue
 63 | agricultural warrants; amending s. 934.03, F.S.; removing
 64 | an outdated statutory citation relating to the definition
 65 | of the term "public utility"; creating a definition of the
 66 | term public utility; amending s. 938.15, F.S.; specifying
 67 | that the term "commission" refers to the Criminal Justice
 68 | Standards and Training Commission; amending s. 943.051,
 69 | F.S.; clarifying a reference to repealed s. 827.05;
 70 | amending s. 943.053, F.S.; removing an obsolete reference;
 71 | amending s. 943.0581, F.S.; clarifying legislative intent;
 72 | reenacting s. 943.0582, F.S.; relating to prearrest,
 73 | postarrest, or teen court diversion program expunction;
 74 | reenacting s. 943.135, F.S.; relating to requirements for
 75 | continued employment; amending s. 944.023, F.S.;
 76 | correcting an obsolete statutory citation relating to the
 77 | comprehensive correctional master plan; amending s.
 78 | 944.053, F.S.; removing an obsolete statutory citation
 79 | relating to who is authorized to be housed at forestry
 80 | work camps; reenacting s. 944.28, F.S.; relating to gain
 81 | time; amending s. 944.474, F.S.; correcting a statutory
 82 | citation relating to Department of Corrections employee
 83 | drug testing programs; amending s. 944.708, F.S.;
 84 | replacing an obsolete reference to the Department of Labor

85 | and Employment Security with a reference to the Agency for
 86 | Workforce Innovation; amending s. 944.801, F.S.; replacing
 87 | an obsolete reference to the Department of Labor and
 88 | Employment Security with a reference to the Agency for
 89 | Workforce Innovation; amending s. 945.10, F.S.; replacing
 90 | an obsolete reference to the Department of Labor and
 91 | Employment Security with a reference to the Agency for
 92 | Workforce Innovation; reenacting s. 947.06, F.S.; relating
 93 | to when the Florida Parole Commission may meet and act;
 94 | amending s. 947.16, F.S.; correcting an obsolete statutory
 95 | citation in relation to eligibility for parole; amending
 96 | s. 949.071, F.S.; correcting a federal statutory citation
 97 | relating to the Interstate Compact for Adult Offender
 98 | Supervision; amending s. 951.23, F.S.; correcting a
 99 | statutory citation in relation to county and municipal
 100 | detention facilities; amending s. 951.231, F.S.;
 101 | correcting a statutory citation relating to requirements
 102 | of prisoners sentenced to county residential probation
 103 | centers; amending s. 957.07, F.S.; replacing an obsolete
 104 | reference to the Correctional Privatization Commission to
 105 | the Department of Management Services; amending s.
 106 | 960.003, F.S.; correcting an obsolete statutory citation
 107 | in relation to HIV testing of persons charged with certain
 108 | offenses; amending s. 984.225, F.S.; correcting a
 109 | statutory reference; amending s. 985.486, F.S.; correcting
 110 | statutory citations in relation to intensive residential
 111 | treatment programs for offenders less than 13 years of
 112 | age; amending s. 985.632, F.S.; removing a reference to a

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113 repealed statute; removing an obsolete requirement that
 114 the Department of Juvenile Justice submit a proposal
 115 concerning funding incentives and disincentives;
 116 reenacting s. 985.686, F.S.; relating to county and state
 117 responsibility for juvenile detention; providing an
 118 effective date.

119

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

121

122 Section 1. Subsection (1) of section 775.0877, Florida
 123 Statutes, is amended to read:

124 775.0877 Criminal transmission of HIV; procedures;
 125 penalties.--

126 (1) In any case in which a person has been convicted of or
 127 has pled nolo contendere or guilty to, regardless of whether
 128 adjudication is withheld, any of the following offenses, or the
 129 attempt thereof, which offense or attempted offense involves the
 130 transmission of body fluids from one person to another:

131 (a) Section 794.011, relating to sexual battery,

132 (b) Section 826.04, relating to incest,

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

137 (d) Sections 784.011, 784.07(2)(a), and 784.08(2)(d),
 138 relating to assault,

139 (e) Sections 784.021, 784.07(2)(c), and 784.08(2)(b),
 140 relating to aggravated assault,

141 (f) Sections 784.03, 784.07(2)(b), and 784.08(2)(c),
 142 relating to battery,
 143 (g) Sections 784.045, 784.07(2)(d), and 784.08(2)(a),
 144 relating to aggravated battery,
 145 (h) Section 827.03(1), relating to child abuse,
 146 (i) Section 827.03(2), relating to aggravated child abuse,
 147 (j) Section 825.102(1), relating to abuse of an elderly
 148 person or disabled adult,
 149 (k) Section 825.102(2), relating to aggravated abuse of an
 150 elderly person or disabled adult,
 151 (l) Section 827.071, relating to sexual performance by
 152 person less than 18 years of age,
 153 (m) Sections 796.03, 796.07, and 796.08, relating to
 154 prostitution, or
 155 (n) Section 381.0041(11)(b), relating to donation of
 156 blood, plasma, organs, skin, or other human tissue,
 157
 158 the court shall order the offender to undergo HIV testing, to be
 159 performed under the direction of the Department of Health in
 160 accordance with s. 381.004, unless the offender has undergone
 161 HIV testing voluntarily or pursuant to procedures established in
 162 s. 381.004(3)(h)6. or s. 951.27, or any other applicable law or
 163 rule providing for HIV testing of criminal offenders or inmates,
 164 subsequent to her or his arrest for an offense enumerated in
 165 paragraphs (a)-(n) for which she or he was convicted or to which
 166 she or he pled nolo contendere or guilty. The results of an HIV
 167 test performed on an offender pursuant to this subsection are

168 | not admissible in any criminal proceeding arising out of the
 169 | alleged offense.

170 | Section 2. Section 775.25, Florida Statutes, is amended to
 171 | read:

172 | 775.25 Prosecutions for acts or omissions.--A sexual
 173 | predator or sexual offender who commits any act or omission in
 174 | violation of s. 775.21, s. 943.0435, s. 944.605, s. 944.606, s.
 175 | 944.607, or former s. 947.177 may be prosecuted for the act or
 176 | omission in the county in which the act or omission was
 177 | committed, the county of the last registered address of the
 178 | sexual predator or sexual offender, or the county in which the
 179 | conviction occurred for the offense or offenses that meet the
 180 | criteria for designating a person as a sexual predator or sexual
 181 | offender. In addition, a sexual predator may be prosecuted for
 182 | any such act or omission in the county in which he or she was
 183 | designated a sexual predator.

184 | Section 3. Subsection (2) of section 784.07, Florida
 185 | Statutes, is amended to read:

186 | 784.07 Assault or battery of law enforcement officers,
 187 | firefighters, emergency medical care providers, public transit
 188 | employees or agents, or other specified officers;
 189 | reclassification of offenses; minimum sentences.--

190 | (2) Whenever any person is charged with knowingly
 191 | committing an assault or battery upon a law enforcement officer,
 192 | a firefighter, an emergency medical care provider, a traffic
 193 | accident investigation officer as described in s. 316.640, a
 194 | nonsworn law enforcement agency employee who is certified as an
 195 | agency inspector, blood alcohol analyst, or a breath test

196 operator while such employee is in uniform and engaged in
 197 processing, testing, evaluating, analyzing, or transporting a
 198 person who is detained or under arrest for DUI, a law
 199 enforcement explorer, a traffic infraction enforcement officer
 200 as described in s. 316.640, a parking enforcement specialist as
 201 defined in s. 316.640, a person licensed as a security officer
 202 as defined in s. 493.6101 and wearing a uniform that bears at
 203 least one patch or emblem that is visible at all times that
 204 clearly identifies the employing agency and that clearly
 205 identifies the person as a licensed security officer, or a
 206 security officer employed by the board of trustees of a
 207 community college, while the officer, firefighter, emergency
 208 medical care provider, ~~intake officer~~, traffic accident
 209 investigation officer, traffic infraction enforcement officer,
 210 inspector, analyst, operator, law enforcement explorer, parking
 211 enforcement specialist, public transit employee or agent, or
 212 security officer is engaged in the lawful performance of his or
 213 her duties, the offense for which the person is charged shall be
 214 reclassified as follows:

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

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

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

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

224 (d) In the case of aggravated battery, from a felony
 225 of the second degree to a felony of the first degree.
 226 Notwithstanding any other provision of law, any person convicted
 227 of aggravated battery of a law enforcement officer shall be
 228 sentenced to a minimum term of imprisonment of 5 years.

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

231 815.03 Definitions.--As used in this chapter, unless the
 232 context clearly indicates otherwise:

233 (11) "Property" means anything of value as defined in s.
 234 812.012 ~~812.011~~ and includes, but is not limited to, financial
 235 instruments, information, including electronically produced data
 236 and computer software and programs in either machine-readable or
 237 human-readable form, and any other tangible or intangible item
 238 of value.

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

241 817.554 Fraudulently offering for sale tour or travel-
 242 related services.--

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

246 Section 6. Section 828.17, Florida Statutes, is amended to
 247 read:

248 828.17 Officer to arrest without warrant.--Any sheriff or
 249 any other peace officer of the state, or any police officer of
 250 any city or town of the state, shall arrest without warrant any
 251 person found violating any of the provisions of ss. ~~828.04,~~

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252 828.08, 828.12, and 828.13-828.16, and the officer making the
 253 arrest shall hold the offender until a warrant can be procured,
 254 and he or she shall use proper diligence to procure such
 255 warrant.

256 Section 7. Section 831.16, Florida Statutes, is amended to
 257 read:

258 831.16 Having less than 10 counterfeit coins in
 259 possession, with intent to utter.--Whoever has in his or her
 260 possession any number of pieces less than 10 of the counterfeit
 261 coin mentioned in s. 831.15 ~~the preceding section~~, knowing the
 262 same to be counterfeit, with intent to utter or pass the same as
 263 true, or who utters, passes or tenders in payment as true any
 264 such counterfeit coin, knowing the same to be false and
 265 counterfeit, commits a felony of the third degree, punishable as
 266 provided in s. 775.082, s. 775.083, or s. 775.084 ~~shall be~~
 267 ~~punished by imprisonment in the state prison not exceeding 10~~
 268 ~~years, or in the county jail not exceeding 12 months, or by fine~~
 269 ~~not exceeding \$1,000.~~

270 Section 8. Section 831.17, Florida Statutes, is amended to
 271 read:

272 831.17 Violation of s. 831.16; second conviction.--Whoever
 273 having been convicted of either of the offenses mentioned in s.
 274 831.16 ~~the preceding section~~, is again convicted of either of
 275 the same offenses, committed after the former conviction, and
 276 whoever is at the same term of the court convicted upon three
 277 distinct charges of said offenses, commits a felony of the
 278 second degree, punishable as provided in s. 775.082, s. 775.083,
 279 or s. 775.084 ~~shall be deemed a common utterer of counterfeit~~

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280 ~~coin and punished by imprisonment in the state prison not~~
 281 ~~exceeding 20 years.~~

282 Section 9. Section 831.18, Florida Statutes, is amended to
 283 read:

284 831.18 Making or possessing instruments for forging
 285 bills.--Whoever engraves, makes or amends, or begins to engrave,
 286 make or amend, any plate, block, press, or other tool,
 287 instrument or implement, or makes or provides any paper or other
 288 material, adapted and designed for the making of a false and
 289 counterfeit note, certificate, or other bill of credit,
 290 purporting to be issued by lawful authority for a debt of this
 291 state, or a false or counterfeit note or bill, in the similitude
 292 of the notes or bills issued by any bank or banking company
 293 established in this state, or within the United States, or in
 294 any foreign province, state or government; and whoever has in
 295 his or her possession any such plate or block engraved in any
 296 part, or any press or other tool, instrument or any paper or
 297 other material adapted and designed as aforesaid, with intent to
 298 issue the same, or to cause or permit the same to be used in
 299 forging or making any such false and counterfeit certificates,
 300 bills or notes, commits a felony of the third degree, punishable
 301 as provided in s. 775.082, s. 775.083, or s. 775.084 ~~shall be~~
 302 ~~punished by imprisonment in the state prison not exceeding 10~~
 303 ~~years, or by fine not exceeding \$1,000.~~

304 Section 10. Section 831.21, Florida Statutes, is amended
 305 to read:

306 831.21 Forging or counterfeiting doctor's certificate of
 307 examination.--Whoever falsely makes, alters, forges or

308 counterfeits any doctor's certificate or record of examination
 309 to an application for a policy of insurance, or knowing such
 310 doctor's certificate or record of examination to be falsely
 311 made, altered, forged or counterfeited, shall pass, utter or
 312 publish such certificate as true, with intent to injure or
 313 defraud any person, commits a felony of the third degree,
 314 punishable as provided in s. 775.082, s. 775.083, or s.
 315 775.084~~shall be deemed guilty of forgery, and upon conviction~~
 316 ~~thereof shall be punished by imprisonment in the state~~
 317 ~~penitentiary not exceeding 5 years, or by fine not exceeding~~
 318 ~~\$500.~~

319 Section 11. Section 831.27, Florida Statutes, is amended
 320 to read:

321 831.27 Issuing notes.--Whoever issues any note, bill,
 322 order or check, other than foreign bills of exchange and notes
 323 or bills of some bank or company incorporated by the laws of
 324 this state, or by the laws of the United States, or by the laws
 325 of Canada ~~either of the British provinces in North America,~~ with
 326 intent that the same shall be circulated as currency, shall be
 327 guilty of a misdemeanor of the second degree, punishable as
 328 provided in s. 775.083.

329 Section 12. Subsection (1) of section 831.30, Florida
 330 Statutes, is amended to read:

331 831.30 Medicinal drugs; fraud in obtaining.--Whoever:

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

335

336 with intent to obtain such drug, shall be guilty of a
 337 misdemeanor of the second degree, punishable as provided in s.
 338 775.082 or s. 775.083. A second or subsequent conviction shall
 339 constitute a misdemeanor of the first degree, punishable as
 340 provided in s. 775.082 or s. 775.083.

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

343 838.021 Corruption by threat against public servant.--

344 (1) It shall be unlawful to ~~Whoever unlawfully~~ harms or
 345 threatens ~~unlawful~~ harm to any public servant, to his or her
 346 immediate family, or to any other person with whose welfare the
 347 public servant is interested, with the intent or purpose:

348 (a) To influence the performance of any act or omission
 349 which the person believes to be, or the public servant
 350 represents as being, within the official discretion of the
 351 public servant, in violation of a public duty, or in performance
 352 of a public duty.

353 (b) To cause or induce the public servant to use or exert,
 354 or procure the use or exertion of, any influence upon or with
 355 any other public servant regarding any act or omission which the
 356 person believes to be, or the public servant represents as
 357 being, within the official discretion of the public servant, in
 358 violation of a public duty, or in performance of a public duty.

359 Section 14. Section 847.0125, Florida Statutes, is
 360 reenacted to read:

361 847.0125 Retail display of materials harmful to minors
 362 prohibited.--

363 (1) "KNOWINGLY" DEFINED.--As used in this section,
 364 "knowingly" means having general knowledge of, reason to know,
 365 or a belief or ground for belief which warrants further
 366 inspection or inquiry of both:

367 (a) The character and content of any material described
 368 herein which is reasonably susceptible of examination by the
 369 defendant, and

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

374 (2) OFFENSES AND PENALTIES.--

375 (a) It is unlawful for anyone offering for sale in a
 376 retail establishment open to the general public any book,
 377 magazine, or other printed material, the cover of which depicts
 378 material which is harmful to minors, to knowingly exhibit such
 379 book, magazine, or material in such establishment in such a way
 380 that it is on open display to, or within the convenient reach
 381 of, minors who may frequent the retail establishment. Such items
 382 shall, however, be displayed, either individually or
 383 collectively, behind an opaque covering which conceals the book,
 384 magazine, or other printed material.

385 (b) It is unlawful for anyone offering for sale in a
 386 retail establishment open to the general public any book,
 387 magazine, or other printed material, the content of which
 388 exploits, is devoted to, or is principally made up of
 389 descriptions or depictions of material which is harmful to
 390 minors, to knowingly exhibit such book, magazine, or material in

391 such establishment in such a way that it is within the
 392 convenient reach of minors who may frequent the retail
 393 establishment.

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

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

399 860.13 Operation of aircraft while intoxicated or in
 400 careless or reckless manner; penalty.--

401 (4) It shall be the duty of any court in which there is a
 402 conviction for violation of this statute to report such
 403 conviction to the Federal Aviation Administration ~~Civil~~
 404 ~~Aeronautics Administration~~ for its guidance and information with
 405 respect to the pilot's certificate.

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

408 865.09 Fictitious name registration.-

409 (11) FORMS.--Registration, cancellation, and renewal shall
 410 be made on forms prescribed by the Department of State, which
 411 may include the uniform business report, pursuant to s. 606.06,
 412 as a means of satisfying the requirement of this section ~~part~~.

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

415 877.22 Minors prohibited in public places and
 416 establishments during certain hours; penalty; procedure.--

417 (4) If a minor violates a curfew and is taken into
 418 custody, the minor shall be transported immediately to a police

419 station or to a facility operated by a religious, charitable, or
 420 civic organization that conducts a curfew program in cooperation
 421 with a local law enforcement agency. After recording pertinent
 422 information about the minor, the law enforcement agency shall
 423 attempt to contact the parent of the minor and, if successful,
 424 shall request that the parent take custody of the minor and
 425 shall release the minor to the parent. If the law enforcement
 426 agency is not able to contact the minor's parent within 2 hours
 427 after the minor is taken into custody, or if the parent refuses
 428 to take custody of the minor, the law enforcement agency may
 429 transport the minor to her or his residence or proceed as
 430 authorized under part V ~~II~~ of chapter 39.

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

433 893.02 Definitions.--The following words and phrases as
 434 used in this chapter shall have the following meanings, unless
 435 the context otherwise requires:

436 (21) "Prescription" means and includes an order for drugs
 437 or medicinal supplies written, signed, or transmitted by word of
 438 mouth, telephone, telegram, or other means of communication by a
 439 duly licensed practitioner licensed by the laws of the state to
 440 prescribe such drugs or medicinal supplies, issued in good faith
 441 and in the course of professional practice, intended to be
 442 filled, compounded, or dispensed by another person licensed by
 443 the laws of the state to do so, and meeting the requirements of
 444 s. 893.04. The term also includes an order for drugs or
 445 medicinal supplies so transmitted or written by a physician,
 446 dentist, veterinarian, or other practitioner licensed to

447 | practice in a state other than Florida, but only if the
 448 | pharmacist called upon to fill such an order determines, in the
 449 | exercise of his or her professional judgment, that the order was
 450 | issued pursuant to a valid patient-physician relationship, that
 451 | it is authentic, and that the drugs or medicinal supplies so
 452 | ordered are considered necessary for the continuation of
 453 | treatment of a chronic or recurrent illness. However, if the
 454 | physician writing the prescription is not known to the
 455 | pharmacist, the pharmacist shall obtain proof to a reasonable
 456 | certainty of the validity of said prescription. A prescription
 457 | order for a controlled substance shall not be issued on the same
 458 | prescription blank with another prescription order for a
 459 | controlled substance which is named or described in a different
 460 | schedule, nor shall any prescription order for a controlled
 461 | substance be issued on the same prescription blank as a
 462 | prescription order for a medicinal drug, as defined in s.
 463 | 465.003(8)~~465.031(5)~~, which does not fall within the definition
 464 | of a controlled substance as defined in this act.

465 | Section 19. Subsection (2) of section 893.10, Florida
 466 | Statutes, is amended and current subsections (3) and (4) are
 467 | redesignated as subsections (2) and (3) respectively to read:

468 | 893.10 Burden of proof; photograph or video recording of
 469 | evidence.—

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

475 ~~practitioner while acting in the course of his or her~~
 476 ~~professional practice.~~

477 Section 20. Paragraph (a) of subsection (2) of section
 478 914.24, Florida Statutes, is reenacted to read:

479 914.24 Civil action to restrain harassment of a victim or
 480 witness.—

481 (2) (a) A circuit court, upon motion of the state attorney,
 482 shall issue a protective order prohibiting the harassment of a
 483 victim or witness in a criminal case if the court, after a
 484 hearing, finds by a preponderance of the evidence that
 485 harassment of an identified victim or witness in a criminal case
 486 exists or that such order is necessary to prevent and restrain
 487 an offense under s. 914.22, other than an offense consisting of
 488 misleading conduct, or to prevent and restrain an offense under
 489 914.23.

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

492 916.12 Mental competence to proceed.--

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

496 (a) Appreciate the charges or allegations against the
 497 defendant.

498 (b) Appreciate the range and nature of possible penalties,
 499 if applicable, that may be imposed in the proceedings against
 500 the defendant.

501 (c) Understand the adversarial nature of the legal
 502 process.

503 (d) Disclose to counsel facts pertinent to the proceedings
 504 at issue.

505 (e) Manifest appropriate courtroom behavior.

506 (f) Testify relevantly.

507 ~~(g)~~ In addition, an examining expert shall include in his
 508 or her report Any other factor deemed relevant by the expert.

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

511 916.3012 Mental competence to proceed.—

512 (3) In considering the issue of competence to proceed, the
 513 examining experts shall first consider and specifically include
 514 in their report the defendant's capacity to:

515 (a) Appreciate the charges or allegations against the
 516 defendant.

517 (b) Appreciate the range and nature of possible penalties,
 518 if applicable, that may be imposed in the proceedings against
 519 the defendant.

520 (c) Understand the adversarial nature of the legal
 521 process.

522 (d) Disclose to counsel facts pertinent to the proceedings
 523 at issue.

524 (e) Manifest appropriate courtroom behavior.

525 (f) Testify relevantly.

526 ~~(g)~~ In addition, the examining experts shall consider and
 527 include in their report Any other factor deemed relevant by the
 528 experts.

529 Section 23. Section 918.0155, Florida Statutes, is amended
 530 to read:

531 918.0155 Expeditious disposition of particular criminal
 532 cases involving a child under age 16.--Every criminal case
 533 prosecuted under chapter 782, chapter 784, chapter 787, chapter
 534 794, chapter 796, chapter 800, chapter 827, or chapter 847 which
 535 involves the abuse of a child or unlawful sexual contact or acts
 536 performed in the presence of, with, or upon a child under the
 537 age of 16 shall be heard and disposed of as expeditiously as
 538 possible. ~~The Legislature requests the Supreme Court to adopt~~
 539 ~~emergency rules regarding the expeditious handling of the~~
 540 ~~matters enumerated in this section.~~

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

543 921.0022 Criminal Punishment Code; offense severity
 544 ranking chart.--

545 (3) OFFENSE SEVERITY RANKING CHART

546 (b) LEVEL 2

Florida Statute	Felony Degree	Description
547 379.2431(1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
548 379.2431(1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
549 403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs.

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in weight or 100 cubic feet in volume
or any quantity for commercial
purposes, or hazardous waste.

550

517.07 3rd Registration of securities and
furnishing of prospectus required.

551

590.28 (1) 3rd ~~Willful, malicious, or intentional~~
burning of lands.

552

784.05 (3) 3rd Storing or leaving a loaded firearm
within reach of minor who uses it to
inflict injury or death.

553

787.04 (1) 3rd In violation of court order, take,
entice, etc., minor beyond state
limits.

554

806.13 (1) (b) 3. 3rd Criminal mischief; damage \$1,000 or
more to public communication or any
other public service.

555

810.061 (2) 3rd Impairing or impeding telephone or
power to a dwelling; facilitating or
furthering burglary.

556

810.09 (2) (e) 3rd Trespassing on posted commercial
horticulture property.

557

812.014 (2) (c) 1. 3rd Grand theft, 3rd degree; \$300 or more

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but less than \$5,000.

558

812.014 (2) (d) 3rd Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.

559

812.015 (7) 3rd Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.

560

817.234 (1) (a) 2. 3rd False statement in support of insurance claim.

561

817.481 (3) (a) 3rd Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.

562

817.52 (3) 3rd Failure to redeliver hired vehicle.

563

817.54 3rd With intent to defraud, obtain mortgage note, etc., by false representation.

564

817.60 (5) 3rd Dealing in credit cards of another.

565

817.60 (6) (a) 3rd Forgery; purchase goods, services with false card.

566

817.61 3rd Fraudulent use of credit cards over \$100 or more within 6 months.

567

826.04 3rd Knowingly marries or has sexual

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intercourse with person to whom
related.

568

831.01 3rd Forgery.

569

831.02 3rd Uttering forged instrument; utters or
publishes alteration with intent to
defraud.

570

831.07 3rd Forging bank bills, checks, drafts, or
promissory notes.

571

831.08 3rd Possessing 10 or more forged notes,
bills, checks, or drafts.

572

831.09 3rd Uttering forged notes, bills, checks,
drafts, or promissory notes.

573

831.11 3rd Bringing into the state forged bank
bills, checks, drafts, or notes.

574

832.05 (3) (a) 3rd Cashing or depositing item with intent
to defraud.

575

843.08 3rd Falsely impersonating an officer.

576

893.13 (2) (a) 2. 3rd Purchase of any s. 893.03(1) (c),
(2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5.,
(2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9.,
(3), or (4) drugs other than cannabis.

577

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578	893.147 (2)	3rd	Manufacture or delivery of drug paraphernalia.
	(d) LEVEL 4		
	Florida Statute	Felony	Description
		Degree	
579	316.1935 (3) (a)	2nd	Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated.
580	499.0051 (1)	3rd	Failure to maintain or deliver pedigree papers.
581	499.0051 (2)	3rd	Failure to authenticate pedigree papers.
582	499.0051 (6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
583	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
584	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
585	784.075	3rd	Battery on detention or commitment facility staff.

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586	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
587	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
588	784.081 (3)	3rd	Battery on specified official or employee.
589	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
590	784.083 (3)	3rd	Battery on code inspector.
591	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.
592	787.03 (1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
593	787.04 (2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
594	787.04 (3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering

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to designated person.

595	790.115 (1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
596	790.115 (2) (b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
597	790.115 (2) (c)	3rd	Possessing firearm on school property.
598	800.04 (7) (c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
599	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
600	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
601	810.06	3rd	Burglary; possession of tools.
602	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
603	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
604	812.014 (2) (c) 4.-	3rd	Grand theft, 3rd degree, a will,

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605	10.		firearm, motor vehicle, livestock, etc.
606	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
607	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
608	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
609	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
610	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
611	837.02(1)	3rd	Perjury in official proceedings.
612	837.021(1)	3rd	Make contradictory statements in official proceedings.
613	838.022	3rd	Official misconduct.
614	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
	839.13(2)(c)	3rd	Falsifying records of the Department of

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Children and Family Services.

615

843.021 3rd Possession of a concealed handcuff key by a person in custody.

616

843.025 3rd Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.

617

843.15(1)(a) 3rd Failure to appear while on bail for felony (bond estreature or bond jumping).

618

847.0135(5)(c) 3rd Lewd or lascivious exhibition using computer; offender less than 18 years.

619

874.05(1) 3rd Encouraging or recruiting another to join a criminal gang.

620

893.13(2)(a)1. 2nd Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a), (2)(b), or (2)(c)4. drugs).

621

914.14(2) 3rd Witnesses accepting bribes.

622

914.22(1) 3rd Force, threaten, etc., witness, victim, or informant.

623

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

624

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918.12 3rd Tampering with jurors.

625 934.215 3rd Use of two-way communications device to
facilitate commission of a crime.

626
627 Section 25. Paragraph (a) of subsection (5) of section
628 921.141, Florida Statutes, is reenacted to read:

629 921.141 Sentence of death or life imprisonment for capital
630 felonies; further proceedings to determine sentence.-

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

633 (a) The capital felony was committed by a person
634 previously convicted of a felony and under sentence of
635 imprisonment or placed on community control or on felony
636 probation.

637 Section 26. Section 921.20, Florida Statutes, is amended
638 to read:

639 921.20 Classification summary; Parole Commission.--As soon
640 as possible after a prisoner has been placed in the custody of
641 the Department of Corrections, the classification board shall
642 furnish a classification summary to the Parole Commission for
643 use as provided in s.945.25 ~~947.14~~. The summary shall include
644 the criminal, personal, social, and environmental background and
645 other relevant factors considered in classifying the prisoner
646 for a penal environment best suited for the prisoner's rapid
647 rehabilitation.

648 Section 27. Paragraph (a) of subsection (11) of section
649 932.704, Florida Statutes, is amended to read:

650 932.704 Forfeiture proceedings.—

651 (11) (a) The Department of Law Enforcement, in consultation

652 with the Florida Sheriffs Association and the Florida Police

653 Chiefs Association, shall develop guidelines and training

654 procedures to be used by state and local law enforcement

655 agencies and state attorneys in implementing the Florida

656 Contraband Forfeiture Act. ~~Each state or local law enforcement~~

657 ~~agency that files civil forfeiture actions under the Florida~~

658 ~~Contraband Forfeiture Act shall file, by December 31, 1995, a~~

659 ~~certificate signed by the agency head or his or her designee,~~

660 ~~which represents that the agency's policies and procedures are~~

661 ~~in compliance with the guidelines.~~ Each state or local law

662 enforcement agency that seizes property for the purpose of

663 forfeiture shall periodically review seizures of assets made by

664 the agency's law enforcement officers, settlements, and

665 forfeiture proceedings initiated by the agency, to determine

666 whether such seizures, settlements, and forfeitures comply with

667 the Florida Contraband Forfeiture Act and the guidelines adopted

668 under this subsection. The determination of whether an agency

669 will file a civil forfeiture action must be the sole

670 responsibility of the head of the agency or his or her designee.

671 Section 28. Subsection (7) of section 933.18, Florida

672 Statutes, is amended to read:

673 933.18 When warrant may be issued for search of private

674 dwelling.--No search warrant shall issue under this chapter or

675 under any other law of this state to search any private dwelling

676 occupied as such unless:

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

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

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

682 (c) Exposure of sexual organs to a child, in violation of
 683 s. 800.03. If, during a search pursuant to a warrant issued
 684 under this section, a child is discovered and appears to be in
 685 imminent danger, the law enforcement officer conducting such
 686 search may remove the child from the private dwelling and take
 687 the child into protective custody pursuant to chapter 39. The
 688 term "private dwelling" shall be construed to include the room
 689 or rooms used and occupied, not transiently but solely as a
 690 residence, in an apartment house, hotel, boardinghouse, or
 691 lodginghouse. No warrant shall be issued for the search of any
 692 private dwelling under any of the conditions hereinabove
 693 mentioned except on sworn proof by affidavit of some creditable
 694 witness that he or she has reason to believe that one of said
 695 conditions exists, which affidavit shall set forth the facts on
 696 which such reason for belief is based.

697 Section 29. Subsection (5), subsection (8) of section
 698 933.40, Florida Statutes, are amended to read:

699 933.40 Agriculture warrants.—

700 (5) Agriculture warrants may be signed by any person
 701 competent to issue search warrants under s. 933.01, either
 702 manually, by signature stamp, or by electronic signature. The
 703 trial court judge ~~or magistrate~~, upon examination of the
 704 application and proofs submitted, if satisfied that probable

705 cause exists for the issuing of one or more agriculture
 706 warrants, shall issue such agriculture warrants with his or her
 707 signature and office affixed thereto. Such agriculture warrants
 708 may be served and executed by employees of the department, with
 709 the assistance of third parties supervised by department
 710 employees, and shall authorize department employees with such
 711 assistance to undertake all actions authorized by the warrant.

712 (8) An agriculture warrant shall be effective for 60 days
 713 and shall authorize multiple executions of the warrant prior to
 714 its expiration. An agriculture warrant may be extended or
 715 renewed by the trial court judge ~~or magistrate~~ who signed and
 716 issued the original warrant upon satisfaction of such official
 717 that probable cause continues to exist for the reissuance of the
 718 warrant. Such warrant must be returned to the issuing official
 719 prior to the expiration date specified in the warrant or within
 720 the extended or renewed time.

721 Section 30. Paragraph (g) of subsection (2) of section
 722 934.03, Florida Statutes, is amended to read:

723 934.03 Interception and disclosure of wire, oral, or
 724 electronic communications prohibited.-

725 (2)(g) It is lawful under ss. 934.03-934.09 for an
 726 employee of:

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

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

734 3. The central abuse hotline operated pursuant to s.
 735 39.201, to intercept and record incoming wire communications;
 736 however, such employee may intercept and record incoming wire
 737 communications on designated "911" telephone numbers and
 738 published nonemergency telephone numbers staffed by trained
 739 dispatchers at public safety answering points only. It is also
 740 lawful for such employee to intercept and record outgoing wire
 741 communications to the numbers from which such incoming wire
 742 communications were placed when necessary to obtain information
 743 required to provide the emergency services being requested. For
 744 the purpose of this paragraph, the term public utility shall be
 745 defined as provided in s. 366.02 and shall also include a
 746 person, partnership, association, or corporation now or
 747 hereafter owning or operating in the state equipment or
 748 facilities for conveying or transmitting messages or
 749 communications by telephone, or telegraph to the public for
 750 compensation.

751 Section 31. Subsection (2) of section 938.15, Florida
 752 Statutes, is amended to read:

753 938.15 Criminal justice education for local government.--
 754 In addition to the costs provided for in s. 938.01,
 755 municipalities and counties may assess an additional \$2 for
 756 expenditures for criminal justice education degree programs and
 757 training courses, including basic recruit training, for their
 758 respective officers and employing agency support personnel,
 759 provided such education degree programs and training courses are

760 approved by the employing agency administrator, on a form
 761 provided by the commission, for local funding.

762 (2) The Criminal Justice Standards and Training commission
 763 may inspect and copy the documentation of independent audits
 764 conducted of the municipalities and counties which make such
 765 assessments to ensure that such assessments have been made and
 766 that expenditures are in conformance with the requirements of
 767 this subsection and with other applicable procedures.

768 Section 32. Subsection (3) of section 943.051, Florida
 769 Statutes, is amended to read:

770 943.051 Criminal justice information; collection and
 771 storage; fingerprinting.—

772 (3) (a) A minor who is charged with or found to have
 773 committed an offense that would be a felony if committed by an
 774 adult shall be fingerprinted and the fingerprints shall be
 775 submitted to the department in the manner prescribed by rule.

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

- 779 1. Assault, as defined in s. 784.011.
- 780 2. Battery, as defined in s. 784.03.
- 781 3. Carrying a concealed weapon, as defined in s.
 782 790.01(1).
- 783 4. Unlawful use of destructive devices or bombs, as
 784 defined in s. 790.1615(1).
- 785 5. Negligent treatment of children, as defined in former
 786 s. 827.05.

787 6. Assault or battery on a law enforcement officer, a
 788 firefighter, or other specified officers, as defined in s.
 789 784.07(2) (a) and (b).

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

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

792 9. Unlawful possession of a firearm, as defined in s.
 793 790.22(5).

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

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

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

797 13. Unlawful possession or discharge of a weapon or
 798 firearm at a school-sponsored event or on school property as
 799 defined in s. 790.115.

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

802 943.053 Dissemination of criminal justice information;
 803 fees.—

804 (6) Notwithstanding any other provision of law, the
 805 department shall provide to the Florida Department of Revenue
 806 ~~Child Support Enforcement~~ access to Florida criminal records
 807 which are not exempt from disclosure under chapter 119, and to
 808 such information as may be lawfully available from other states
 809 via the National Law Enforcement Telecommunications System, for
 810 the purpose of locating subjects who owe or potentially owe
 811 support, as defined in s. 409.2554, or to whom such obligation
 812 is owed pursuant to Title IV-D of the Social Security Act. Such
 813 information may be provided to child support enforcement
 814 authorities in other states for these specific purposes.

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

817 943.0581 Administrative expunction.—

818 (6) An application or endorsement under this section is not
 819 admissible as evidence in any judicial or administrative
 820 proceeding and shall not ~~or otherwise~~ be construed in any way as
 821 an admission of liability in connection with an arrest.

822 Section 35. Paragraph (a) of subsections (3) and
 823 subsection (5) of section 943.0582, Florida Statutes, are
 824 reenacted to read:

825 943.0582 Prearrest, postarrest, or teen court diversion
 826 program expunction.—

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

830 (a) Submits an application for prearrest or postarrest
 831 diversion expunction, on a form prescribed by the department,
 832 signed by the minor's parent or legal guardian, or by the minor
 833 if he or she has reached the age of majority at the time of
 834 applying.

835 (5) This section operates retroactively to permit the
 836 expunction of any nonjudicial record of the arrest of a minor
 837 who has successfully completed a prearrest or postarrest
 838 diversion program on or after July 1, 2000; however, in the case
 839 of a minor whose completion of the program occurred before the
 840 effective date of this section, the application for prearrest or
 841 postarrest diversion expunction must be submitted within 6
 842 months after the effective date of this section.

843 Section 36. Paragraph (b) of subsection (4) of section
 844 943.135, Florida Statutes, is reenacted to read:
 845 943.135 Requirements for continued employment.-
 846 (4) (b) Any person who qualifies under paragraph (a) may,
 847 for purposes of meeting the minimum mandatory continuing
 848 training or education requirements of this section, at the
 849 option of an employing agency, associate with that agency for
 850 the sole purpose of securing continuing training or education as
 851 required by this section and for allowing the agency to report
 852 completion of the education or training to the Criminal Justice
 853 Standards and Training Commission. The employing agency with
 854 which the person has associated shall submit proof of completion
 855 of any education or training so obtained for purposes of
 856 demonstrating compliance with this section and shall indicate
 857 that the person for whom the credits are reported has secured
 858 the training under the special status authorized by this
 859 section. An employing agency may require any person so
 860 associated to attend continuing training or education at the
 861 person's own expense and may determine the courses or training
 862 that a person is to attend while associated with the agency. Any
 863 person who is permitted to associate with an employing agency
 864 for purposes of obtaining and reporting education or continuing
 865 training credits while serving in an elected or appointed public
 866 office shall not be considered to be employed by the employing
 867 agency or considered by the association with the employing
 868 agency to maintain an office under s. 5(a), Art. II of the State
 869 Constitution.

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

872 944.023 Comprehensive correctional master plan.—

873 (5) The comprehensive correctional master plan shall
874 project by year the total operating and capital outlay costs
875 necessary for constructing a sufficient number of prison beds to
876 avoid a deficiency in prison beds. Included in the master plan
877 which projects operating and capital outlay costs shall be a
878 siting plan which shall assess, rank, and designate appropriate
879 sites pursuant to s. 944.095(2)(a)—(k). The master plan shall
880 include an assessment of the department's current capability for
881 providing the degree of security necessary to ensure public
882 safety and should reflect the levels of security needed for the
883 forecasted admissions of various types of offenders based upon
884 sentence lengths and severity of offenses. The plan shall also
885 provide construction options for targeting violent and habitual
886 offenders for incarceration while providing specific
887 alternatives for the various categories of lesser offenders.

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

890 944.053 Forestry Work Camps.—

891 (4) Forestry Work Camps shall house minimum custody
892 inmates and medium custody inmates who are not serving a
893 sentence for, or who have not been previously convicted of,
894 sexual battery pursuant to s. 794.011 ~~or any sexual offense~~
895 ~~specified in s. 917.012(1), unless they have successfully~~
896 ~~completed a treatment program pursuant to s. 917.012.~~

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

899 944.28 Forfeiture of gain-time and the right to earn gain-
 900 time in the future.—

901 (1) If a prisoner is convicted of escape, or if the
 902 clemency, conditional release as described in chapter 947,
 903 probation or community control as described in chapter 948,
 904 provisional release as described in s. 944.277, parole, or
 905 control release as described in s. 947.146 granted to the
 906 prisoner is revoked, the department may, without notice or
 907 hearing, declare a forfeiture of all gain-time earned according
 908 to the provisions of law by such prisoner prior to such escape
 909 or his or her release under such clemency, conditional release,
 910 probation, community control, provisional release, control
 911 release, or parole.

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

914 944.474 Legislative intent; employee wellness program;
 915 drug and alcohol testing.—

916 (2) Under no circumstances shall employees of the
 917 department test positive for illegal use of controlled
 918 substances. An employee of the department may not be under the
 919 influence of alcohol while on duty. In order to ensure that
 920 these prohibitions are adhered to by all employees of the
 921 department and notwithstanding s. 112.0455, the department may
 922 develop a program for the random drug testing of all employees.
 923 The department may randomly evaluate employees for the
 924 contemporaneous use or influence of alcohol through the use of

925 alcohol tests and observation methods. Notwithstanding s.
 926 112.0455(5)(a), the department may develop a program for the
 927 reasonable suspicion drug testing of employees who are in
 928 safety-sensitive or special risk positions, as defined in s.
 929 112.0455(5), for the controlled substances listed in s.
 930 893.03(3)(d). The reasonable suspicion drug testing authorized
 931 by this subsection shall be conducted in accordance with s.
 932 112.0455, but may also include testing upon reasonable suspicion
 933 based on violent acts or violent behavior of an employee who is
 934 on or off duty. The department shall adopt rules pursuant to ss.
 935 120.536(1) and 120.54 that are necessary to administer this
 936 subsection.

937 Section 41. Section 944.708, Florida Statutes, is amended
 938 to read:

939 944.708 Rules.--The Department of Corrections and the
 940 Agency for Workforce Innovation ~~Department of Labor and~~
 941 ~~Employment Security~~ shall promulgate rules to implement the
 942 provisions of ss. 944.701-944.707.

943 Section 42. Paragraph (h) of subsection (3) of section
 944 944.801, Florida Statutes, is amended to read:

945 944.801 Education for state prisoners.--

946 (3) The responsibilities of the Correctional Education
 947 Program shall be to:

948 (h) Develop a written procedure for selecting programs to
 949 add to or delete from the vocational curriculum. The procedure
 950 shall include labor market analyses which demonstrate the
 951 projected demand for certain occupations and the projected
 952 supply of potential employees. In conducting these analyses, the

953 department shall evaluate the feasibility of adding vocational
 954 education programs which have been identified by the Agency for
 955 Workforce Innovation ~~Department of Labor and Employment Security~~
 956 or a regional coordinating council as being in undersupply in
 957 this state. The department shall periodically reevaluate the
 958 vocational education programs in major institutions to determine
 959 which of the programs support and provide relevant skills to
 960 inmates who could be assigned to a correctional work program
 961 that is operated as a Prison Industry Enhancement Program.

962 Section 43. Subsection (3) of section 945.10, Florida
 963 Statutes, is amended to read:

964 945.10 Confidential information.—

965 (3) Due to substantial concerns regarding institutional
 966 security and unreasonable and excessive demands on personnel and
 967 resources if an inmate or an offender has unlimited or routine
 968 access to records of the Department of Corrections, an inmate or
 969 an offender who is under the jurisdiction of the department may
 970 not have unrestricted access to the department's records or to
 971 information contained in the department's records. However,
 972 except as to another inmate's or offender's records, the
 973 department may permit limited access to its records if an inmate
 974 or an offender makes a written request and demonstrates an
 975 exceptional need for information contained in the department's
 976 records and the information is otherwise unavailable.

977 Exceptional circumstances include, but are not limited to:

978 (a) The inmate or offender requests documentation to
 979 resolve a conflict between the inmate's court documentation and

980 the commitment papers or court orders received by the department
 981 regarding the inmate or offender.

982 (b) The inmate's or offender's release is forthcoming and
 983 a prospective employer requests, in writing, documentation of
 984 the inmate's or offender's work performance.

985 (c) The inmate or offender needs information concerning
 986 the amount of victim restitution paid during the inmate's or
 987 offender's incarceration.

988 (d) The requested records contain information required to
 989 process an application or claim by the inmate or offender with
 990 the Internal Revenue Service, the Social Security
 991 Administration, the Agency for Workforce Innovation ~~Department~~
 992 ~~of Labor and Employment Security~~, or any other similar
 993 application or claim with a state agency or federal agency.

994 (e) The inmate or offender wishes to obtain the current
 995 address of a relative whose address is in the department's
 996 records and the relative has not indicated a desire not to be
 997 contacted by the inmate or offender.

998 (f) Other similar circumstances that do not present a
 999 threat to the security, order, or rehabilitative objectives of
 1000 the correctional system or to any person's safety.

1001 Section 44. Section 947.06, Florida Statutes, is reenacted
 1002 to read:

1003 947.06 Meeting; when commission may act.--The commission
 1004 shall meet at regularly scheduled intervals and from time to
 1005 time as may otherwise be determined by the chair. The making of
 1006 recommendations to the Governor and Cabinet in matters relating
 1007 to modifications of acts and decisions of the chair as provided

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1008 | in s. 947.04(1) shall be by a majority vote of the commission.
 1009 | No prisoner shall be placed on parole except as provided in ss.
 1010 | 947.172 and 947.174 by a panel of no fewer than two
 1011 | commissioners appointed by the chair. All matters relating to
 1012 | the granting, denying, or revoking of parole shall be decided in
 1013 | a meeting at which the public shall have the right to be
 1014 | present. Victims of the crime committed by the inmate shall be
 1015 | permitted to make an oral statement or submit a written
 1016 | statement regarding their views as to the granting, denying, or
 1017 | revoking of parole. Persons not members or employees of the
 1018 | commission or victims of the crime committed by the inmate may
 1019 | be permitted to participate in deliberations concerning the
 1020 | granting and revoking of paroles only upon the prior written
 1021 | approval of the chair of the commission. To facilitate the
 1022 | ability of victims and other persons to attend commission
 1023 | meetings, the commission shall meet in various counties
 1024 | including, but not limited to, Broward, Duval, Escambia,
 1025 | Hillsborough, Leon, Miami-Dade, Orange, and Palm Beach, with the
 1026 | location chosen being as close as possible to the location where
 1027 | the parole-eligible inmate committed the offense for which the
 1028 | parole-eligible inmate was sentenced. The commission shall adopt
 1029 | rules governing the oral participation of victims and the
 1030 | submission of written statements by victims.

1031 | Section 45. Paragraph (a) of subsection (4) of section
 1032 | 947.16, Florida Statutes, is amended to read:

1033 | 947.16 Eligibility for parole; initial parole interviews;
 1034 | powers and duties of commission.-

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1035 (4) A person who has become eligible for an initial parole
1036 interview and who may, according to the objective parole
1037 guidelines of the commission, be granted parole shall be placed
1038 on parole in accordance with the provisions of this law; except
1039 that, in any case of a person convicted of murder, robbery,
1040 burglary of a dwelling or burglary of a structure or conveyance
1041 in which a human being is present, aggravated assault,
1042 aggravated battery, kidnapping, sexual battery or attempted
1043 sexual battery, incest or attempted incest, an unnatural and
1044 lascivious act or an attempted unnatural and lascivious act,
1045 lewd and lascivious behavior, assault or aggravated assault when
1046 a sexual act is completed or attempted, battery or aggravated
1047 battery when a sexual act is completed or attempted, arson, or
1048 any felony involving the use of a firearm or other deadly weapon
1049 or the use of intentional violence, at the time of sentencing
1050 the judge may enter an order retaining jurisdiction over the
1051 offender for review of a commission release order. This
1052 jurisdiction of the trial court judge is limited to the first
1053 one-third of the maximum sentence imposed. When any person is
1054 convicted of two or more felonies and concurrent sentences are
1055 imposed, then the jurisdiction of the trial court judge as
1056 provided herein applies to the first one-third of the maximum
1057 sentence imposed for the highest felony of which the person was
1058 convicted. When any person is convicted of two or more felonies
1059 and consecutive sentences are imposed, then the jurisdiction of
1060 the trial court judge as provided herein applies to one-third of
1061 the total consecutive sentences imposed.

1062 (a) In retaining jurisdiction for the purposes of this
 1063 act, the trial court judge shall state the justification with
 1064 individual particularity, and such justification shall be made a
 1065 part of the court record. A copy of such justification shall be
 1066 delivered to the department together with the commitment issued
 1067 by the court pursuant to s. 944.17 ~~944.16~~.

1068 Section 46. Subsection (2) of section 949.071, Florida
 1069 Statutes, is amended to read:

1070 949.071 Definition of "state" as used in s. 949.07;
 1071 further declaration relating to interstate compacts.—

1072 (2) It is hereby recognized and further declared that
 1073 pursuant to the consent and authorization contained in s. 112
 1074 ~~111(b)~~ of Title 4 of the United States Code ~~as added by Pub. L.~~
 1075 ~~No. 970—84th Congress, Ch. 941—2d Session~~, this state shall be a
 1076 party to the Interstate Compact for Adult Offender Supervision,
 1077 with any additional jurisdiction legally joining in the compact
 1078 when such jurisdiction enacts the compact in accordance with the
 1079 terms thereof.

1080 Section 47. Subsection (9) of section 951.23, Florida
 1081 Statutes, is amended to read:

1082 951.23 County and municipal detention facilities;
 1083 definitions; administration; standards and requirements.—

1084 (9) INMATE COMMISSARY AND WELFARE FUND.—

1085 (a) A commissary may be operated in the detention
 1086 facility. If a commissary is established, then an inmate welfare
 1087 fund shall also be established. The officer in charge will
 1088 establish a procedure for providing commissary or canteen
 1089 facilities or access to canteen items for the benefit of the

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1090 inmate. The commissary or canteen shall not sell food that
1091 competes with the detention facility food program. It is
1092 recommended that inmates routinely carry no money and that a
1093 check-off system from their account be implemented. If money is
1094 permitted, a limit shall be set and all money in possession in
1095 excess of that limit shall be confiscated and deposited
1096 immediately in the inmate welfare fund, if there is one, unless
1097 it is needed as evidence in a trial or disciplinary hearing. If
1098 a detention facility does not have an inmate welfare fund,
1099 confiscated moneys shall be receipted and placed in the inmate's
1100 personal property or inmate bank account. A shopping list shall
1101 be developed and printed for the information of all inmates with
1102 the prices and special conditions governing each sale shown
1103 clearly on such a list. Valuable items purchased by inmates
1104 shall be added to their personal property list after purchase
1105 and marked for identification.

1106 (b) Canteen prices shall be set so as not to exceed the
1107 fair market value for comparable products sold in the community
1108 where the facility is located.

1109 (c) Expenses involved in the commissary operation,
1110 including compensation for commissary employees and gratuities
1111 for inmates who may assist such employees, may be paid from the
1112 profit.

1113 (d) Profits from the commissary shall be used for overall
1114 inmate welfare, and an inmate welfare fund committee shall
1115 recommend what expenditures are to be made. Activities of the
1116 committee shall be reviewed by the officer in charge who shall

1117 have final authority on expenditures. It is recommended that the
 1118 jail chaplain be a member of the committee.

1119 (e) The officer in charge shall be responsible for an
 1120 audit of the fiscal management of the commissary by a
 1121 disinterested party on an annual basis, which shall include
 1122 certification of compliance with the pricing requirements of
 1123 paragraph (9)~~(1)~~(b) above. Appropriate transaction records and
 1124 stock inventory shall be kept current.

1125 Section 48. Paragraph (c) of subsection (1) of section
 1126 951.231, Florida Statutes, is amended to read:

1127 951.231 County residential probation program.—

1128 (1) Any prisoner who has been sentenced under s. 921.18 to
 1129 serve a sentence in a county residential probation center as
 1130 described in s. 951.23 shall:

1131 (c) Participate in and complete the program required by s.
 1132 958.045 ~~958.04(4)~~, if required by the supervisor of the center.

1133 Section 49. Subsection (4) of section 957.07, Florida
 1134 Statutes, is amended to read:

1135 957.07 Cost-saving requirements.—

1136 (4) The Department of Corrections shall provide a report
 1137 detailing the state cost to design, finance, acquire, lease,
 1138 construct, and operate a facility similar to the private
 1139 correctional facility on a per diem basis. This report shall be
 1140 provided to the Auditor General in sufficient time that it may
 1141 be certified to the Department of Management Services ~~commission~~
 1142 to be included in the request for proposals.

1143 Section 50. Subsection (3) of section 960.003, Florida
 1144 Statutes, is amended to read:

1145 960.003 HIV testing for persons charged with or alleged by
 1146 petition for delinquency to have committed certain offenses;
 1147 disclosure of results to victims.-

1148 (3) DISCLOSURE OF RESULTS.-

1149 (a) The results of the test shall be disclosed no later
 1150 than 2 weeks after the court receives such results, under the
 1151 direction of the Department of Health, to the person charged
 1152 with or alleged by petition for delinquency to have committed or
 1153 to the person convicted of or adjudicated delinquent for any
 1154 offense enumerated in s. 775.0877(1)(a)-(n), which involves the
 1155 transmission of body fluids from one person to another, and,
 1156 upon request, to the victim or the victim's legal guardian, or
 1157 the parent or legal guardian of the victim if the victim is a
 1158 minor, and to public health agencies pursuant to s. 775.0877. If
 1159 the alleged offender is a juvenile, the test results shall also
 1160 be disclosed to the parent or guardian. When the victim is a
 1161 victim as described in paragraph (2)(b), the test results must
 1162 also be disclosed no later than 2 weeks after the court receives
 1163 such results, to the person charged with or alleged by petition
 1164 for delinquency to have committed or to the person convicted of
 1165 or adjudicated delinquent for any offense enumerated in s.
 1166 775.0877(1)(a)-(n), or s. 825.1025 regardless of whether the
 1167 offense involves the transmission of bodily fluids from one
 1168 person to another, and, upon request, to the victim or the
 1169 victim's legal guardian, or the parent or legal guardian of the
 1170 victim, and to public health agencies pursuant to s. 775.0877.
 1171 Otherwise, HIV test results obtained pursuant to this section
 1172 are confidential and exempt from the provisions of s. 119.07(1)

1173 and s. 24(a), Art. I of the State Constitution and shall not be
 1174 disclosed to any other person except as expressly authorized by
 1175 law or court order.

1176 (b) At the time that the results are disclosed to the
 1177 victim or the victim's legal guardian, or to the parent or legal
 1178 guardian of a victim if the victim is a minor, the same
 1179 immediate opportunity for face-to-face counseling which must be
 1180 made available under s. 381.004~~(3)(e)~~ to those who undergo HIV
 1181 testing shall also be afforded to the victim or the victim's
 1182 legal guardian, or to the parent or legal guardian of the victim
 1183 if the victim is a minor.

1184 Section 51. Subsection (6), subsection (7) of section
 1185 984.225, Florida Statutes, are amended to read:

1186 984.225 Powers of disposition; placement in a staff-secure
 1187 shelter.—

1188 (6) The department is deemed to have exhausted the
 1189 reasonable remedies offered under this chapter if, at the end of
 1190 the commitment period, the parent, guardian, or legal custodian
 1191 continues to refuse to allow the child to remain at home or
 1192 creates unreasonable conditions for the child's return. If, at
 1193 the end of the commitment period, the child is not reunited with
 1194 his or her parent, guardian, or custodian due solely to the
 1195 continued refusal of the parent, guardian, or custodian to
 1196 provide food, clothing, shelter, and parental support, the child
 1197 is considered to be threatened with harm as a result of such
 1198 acts or omissions, and the court shall direct that the child be
 1199 handled in every respect as a dependent child. Jurisdiction
 1200 shall be transferred to the Department of Children and Family

1201 Services and the child's care shall be governed under the
 1202 relevant provisions ~~parts II and III~~ of chapter 39.

1203 (7) The court shall review the child's commitment once
 1204 every 45 days as provided in s. 984.20. The court shall
 1205 determine if the parent, guardian, or custodian has reasonably
 1206 participated in and financially contributed to the child's
 1207 counseling and treatment program. The court shall also determine
 1208 whether the department's efforts to reunite the family have been
 1209 reasonable. If the court finds an inadequate level of support or
 1210 participation by the parent, guardian, or custodian prior to the
 1211 end of the commitment period, the court shall direct that the
 1212 child be handled in every respect as a dependent child.
 1213 Jurisdiction shall be transferred to the Department of Children
 1214 and Family Services and the child's care shall be governed under
 1215 the relevant provisions ~~parts II and III~~ of chapter 39.

1216 Section 52. Section 985.486, Florida Statutes, is amended
 1217 to read:

1218 985.486 Intensive residential treatment programs for
 1219 offenders less than 13 years of age; prerequisite for
 1220 commitment.--No child who is eligible for commitment to an
 1221 intensive residential treatment program for offenders less than
 1222 13 years of age under s 985.483 ~~as established in s. 985.483(1),~~
 1223 may be committed to any intensive residential treatment program
 1224 for offenders less than 13 years of age under s 985.483 ~~as~~
 1225 ~~established in s. 985.483,~~ unless such program has been
 1226 established by the department through existing resources or
 1227 specific appropriation, for such program.

1228 Section 53. Paragraph (a) of subsection (4) and subsection
 1229 (7) of section 985.632, Florida Statutes, are amended to read:

1230 985.632 Quality assurance and cost-effectiveness.—

1231 (4) (a) The Department of Juvenile Justice, in consultation
 1232 with the Office of Economic and Demographic Research, and
 1233 contract service providers, shall develop a cost-effectiveness
 1234 model and apply the model to each commitment program. Program
 1235 recidivism rates shall be a component of the model. The cost-
 1236 effectiveness model shall compare program costs to client
 1237 outcomes and program outputs. It is the intent of the
 1238 Legislature that continual development efforts take place to
 1239 improve the validity and reliability of the cost-effectiveness
 1240 model and to integrate the standard methodology developed under
 1241 s. 985.401(4) for interpreting program outcome evaluations.

1242 ~~(7) No later than November 1, 2001, the department shall~~
 1243 ~~submit a proposal to the Legislature concerning funding~~
 1244 ~~incentives and disincentives for the department and for~~
 1245 ~~providers under contract with the department. The~~
 1246 ~~recommendations for funding incentives and disincentives shall~~
 1247 ~~be based upon both quality assurance performance and cost-~~
 1248 ~~effectiveness performance. The proposal should strive to achieve~~
 1249 ~~consistency in incentives and disincentives for both department-~~
 1250 ~~operated and contractor-provided programs. The department may~~
 1251 ~~include recommendations for the use of liquidated damages in the~~
 1252 ~~proposal; however, the department is not presently authorized to~~
 1253 ~~contract for liquidated damages in non-hardware-secure~~
 1254 ~~facilities until January 1, 2002.—~~

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1255 Section 54. Paragraph (b) of subsection (2) of section
 1256 985.686, Florida Statutes, is reenacted to read:

1257 985.686 Shared county and state responsibility for
 1258 juvenile detention.—

1259 (2) As used in this section, the term:

1260 (b) "Fiscally constrained county" means a county within a
 1261 rural area of critical economic concern as designated by the
 1262 Governor pursuant to s. 288.0656 or each county for which the
 1263 value of a mill will raise no more than \$5 million in revenue,
 1264 based on the certified school taxable value certified pursuant
 1265 to s. 1011.62(4)(a)1.a., from the previous July 1.

1266 Section 55. This act shall take effect July 1, 2010.

1267