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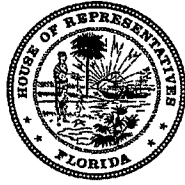
# **Justice Appropriations Subcommittee**

Monday, January 30, 2012  
2:00 p.m.  
Morris Hall

## **MEETING PACKET**

**Dean Cannon**  
Speaker

**Richard Glorioso**  
Chair



# The Florida House of Representatives

## Justice Appropriations Subcommittee

**Dean Cannon**  
Speaker

**Richard Glorioso**  
Chair

### AGENDA

Monday, January 30, 2012

2:00 p.m.

Morris Hall (17 HOB)

- I. Call to Order/Roll Call
- II. Opening Remarks
- III. **Consideration of the following bill(s):**
  - CS/HB 117 Veterans and Servicemembers by Criminal Justice Subcommittee, Nelson, Abruzzo, Gaetz
  - CS/HB 227 Prescription Drug Abuse by Health & Human Services Quality Subcommittee, Stargel
  - CS/CS/HB 481 Clerks of Court by Government Operations Subcommittee, Civil Justice Subcommittee, Pilon
  - HB 583 Murder of a Child 17 Years Of Age or Younger by Oliva
  - CS/HB 759 False Reports to Law Enforcement Officers by Criminal Justice Subcommittee, Hager
  - CS/HB 1175 Controlled Substances by Criminal Justice Subcommittee, Ingram
- IV. Closing Remarks and Adjournment


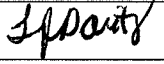


## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 117 Veterans and Servicemembers

**SPONSOR(S):** Criminal Justice Subcommittee; Nelson; Abruzzo; Gaetz and others

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 138

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	10 Y, 0 N, As CS	Cunningham	Cunningham
2) Justice Appropriations Subcommittee		Toms 	Jones Darity 
3) Judiciary Committee			

### SUMMARY ANALYSIS

The bill creates s. 394.48, F.S., authorizing the chief judge of each judicial circuit to establish a Military Veterans and Servicemembers Court Program (Program) for veterans and servicemembers who are convicted of a criminal offense and who suffer from a mental illness, traumatic brain injury (TBI), or substance abuse disorder as a result of their military service. Under the Program, a judge may sentence such veterans and servicemembers in accordance with ch. 921, F.S. in a manner that appropriately addresses the severity of the mental illness, TBI, or substance abuse disorder through services tailored to the individual needs of the participant. Entry must be based upon the sentencing court's assessment of the defendant's criminal history, military service, substance abuse treatment needs, mental health treatment needs, amenability to the services of the program, the recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.

The bill also creates s. 948.21, F.S., authorizing a court to impose a condition of supervision requiring probationers or community controllees whose crime was committed on or after July 1, 2012, and who is a servicemember or veteran, who suffers from a military service-related mental illness, TBI, or substance abuse disorder, to participate in a treatment program capable of treating the offender. The court must give preference to treatment programs for which the offender is eligible through the United States Department of Veterans Affairs or the Florida Department of Veterans' Affairs.

The bill could have a fiscal impact to the Department of Corrections if they are required to make payments for court ordered offenders on probation or community control that will require outpatient or residential substance abuse treatment or outpatient mental health treatment, if the treatment programs are not available through the U.S. Department of Veterans' Affairs or the Florida Department of Veterans' Affairs.

The bill is effective July 1, 2012.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

In 2008, the Florida Department of Veterans' Affairs and the Florida Office of Drug Control issued a paper examining the issue of mental health and substance abuse needs of returning veterans and their families.<sup>1</sup> The study noted that combat medical advances are enabling veterans of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) to survive wounds that would have been fatal in previous conflicts, and thus some are returning with "more complex physical and emotional disorders, such as Traumatic Brain Injuries (TBI) and Post-Traumatic Stress Disorder (PTSD), substance abuse and depression."<sup>2</sup> The study also estimated that approximately 29,000 returning veterans residing in Florida may suffer from PTSD or some form of major depression.<sup>3</sup>

A 2008 Rand Center report indicated that preliminary studies showed that 5 to 15 percent of OIF and OEF service members are returning with PTSD, 2 to 10 percent with depression, and an unknown number with TBI.<sup>4</sup> A person with any of these disorders also has a greater likelihood of experiencing other psychiatric diagnoses than do other persons.<sup>5</sup>

A report by the Center for Mental Health Services National GAINS Center of the federal Substance Abuse and Mental Health Services Administration (SAMHSA) noted that many veterans coming into contact with the criminal justice system may have unmet service needs.<sup>6</sup> Veterans' courts have been established across the country as some judges have begun to recognize a correlation between the commission of offenses by veterans and substance abuse issues, mental health issues, and cognitive functioning problems.

Veterans' courts have the goal of identifying veterans who would benefit from a treatment program instead of incarceration or other sanctions. They are typically patterned after successful specialty courts such as drug courts and mental health courts. Since 2008, legislation authorizing the establishment of veterans' courts has been adopted or at least considered in California, Colorado, Illinois, Oregon, Texas and Virginia, and has been considered in Connecticut, Minnesota, Nevada, New Mexico, New York and Oklahoma.<sup>7</sup>

##### Veterans' Courts in Florida

There are several veterans' court and veterans' jail diversion initiatives in Florida.

The veterans' court program in Miami-Dade County is available to veterans who are facing minor drug offenses and do not have a violent or extensive criminal history. In its initial stages, the program has drawn participants from defendants who are already involved with traditional drug court. They receive

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<sup>1</sup> Florida Department of Veterans' Affairs and Florida Office of Drug Control Green Paper, *Returning Veterans and Their Families with Substance Abuse and Mental Health Needs: Florida's Action Plan*, January 2009, page 5, [http://www.helppromotehope.com/documents/Veterans\\_Green\\_Paper.pdf](http://www.helppromotehope.com/documents/Veterans_Green_Paper.pdf) (last visited on January 10, 2012).

<sup>2</sup> *Id.*

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

<sup>4</sup> Rand Center for Military Health Policy Research, Benjamin R. Karney, Rajeev Ramchand, Karen Chan Osilla, Leah B. Caldarone, and Rachel M. Burns, *Invisible Wounds, Predicting the Immediate and Long-Term Consequences of Mental Health Problems in Veterans of Operation Enduring Freedom and Operation Iraqi Freedom*, April 2008, page 127, at [http://www.rand.org/pubs/working\\_papers/2008/RAND\\_WR546.pdf](http://www.rand.org/pubs/working_papers/2008/RAND_WR546.pdf) (last visited on January 10, 2012).

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

<sup>6</sup> GAINS Center, *Responding to the Needs of Justice-Involved Combat Veterans with Service-Related Trauma and Mental Health Conditions*, August 2008, page 6, at [http://gainscenter.samhsa.gov/pdfs/veterans/CVTJS\\_Report.pdf](http://gainscenter.samhsa.gov/pdfs/veterans/CVTJS_Report.pdf) (last visited on January 10, 2012).

<sup>7</sup> National Association of Drug Court Professionals website at <http://www.nadcp.org/learn/veterans-treatment-courts/veterans-treatment-court-studies-and-statistics> (last visited on January 10, 2012).

similar treatment, but also are assisted by a United States Department of Veterans Affairs (VA) psychologist and outreach coordinator.<sup>8</sup>

The Palm Beach County veterans' docket began operating in November 2010.<sup>9</sup> A feature of the program is the assignment of a VA social worker supervisor to act as the court's VA liaison. This VA employee has oversight of screening and case management services for eligible veterans. In addition to receiving any needed mental health and substance abuse treatment, participating veterans also have access to VA programs that address homelessness and unemployment.

In April 2011, the Okaloosa County Commission approved creation of a veterans' court for the county that is expected to begin operation in 2012. Although there is currently no formal veterans' court, many cases of veterans in the county are already being referred to a court docket with special knowledge of veterans and veterans' issues. To determine eligibility, offenders are asked at initial booking if they have ever served in the military and what type of discharge they received. Veterans are further asked if they will sign a release in order to share information with the VA. Further screening is conducted through the Pre-Trial Services Office, and the program uses drug court case managers to monitor participants.

The 12th Judicial Circuit (DeSoto, Sarasota and Manatee Counties) has established a program called "Courts Assisting Veterans." While not a true veterans' court, it seeks to achieve similar goals through the use of existing programs, including referral of veterans to existing drug and mental health courts.<sup>10</sup>

In October, 2009, the Department of Children and Families Mental Health Program Office (department) was awarded over \$1.8 million from SAMHSA over the next five years to provide services and support for Florida's returning veterans who served in Iraq and Afghanistan and who suffer from PTSD and other behavioral health disorders. The department describes the grant and the project as follows:

The project will redesign the state's response to the needs of veterans and their family members by helping returning veterans learn to cope with the trauma of war and the adjustments of coming home and avoiding unnecessary involvement with the criminal justice system. Florida's project is based on a foundation of evidence-based screening, assessment, treatment and recovery practices. The grant will enable the Department to implement two veteran's jail diversion pilot projects for 240 veterans over the next five years. This grant will expand the Department's existing jail diversion programs by identifying veterans who have an initial contact with the criminal justice system, helping them enroll in Veteran's Administration benefits for those who are eligible, providing trauma-related treatment services, linking them with support services in their community, and providing specialized peer support services. Additionally, this grant enables the Department to include family members as recipients of services. One unique aspect of this grant is Florida's creation and implementation of a new state-level Veteran Peer Support Specialist credential, possible through the Department's ongoing partnership with the Florida Certification Board. Certification of trained veterans will professionalize what we know works - trained veterans who've been there helping other returning veterans adjust to their home and community. In the first year, the grant from the federal Substance Abuse and Mental Health Services Administration (SAMHSA) will provide DCF with \$268,849. Hillsborough County is one of two sites that will launch Florida's Jail Diversion and Trauma Recovery Program. The location of the other pilot project has not yet been determined.<sup>11</sup>

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<sup>8</sup> "Miami-Dade starts specialized drug court for military veterans," May 4, 2011, <http://vetlawyers.com/vetblog/index.php/2011/05/miami-dade-starts-specialized-drug-court-for-military-veterans/> (last visited on January 10, 2012).

<sup>9</sup> The Veteran's Docket was established by Administrative Order No. 4.905-11/10 of the Fifteenth Judicial Circuit for Palm Beach County, which can be downloaded from <http://15thcircuit.co.palm-beach.fl.us/web/guest/adminorders/series4> (last visited on January 10, 2012).

<sup>10</sup> Courts Assisting Veterans, 12th Judicial Circuit, <http://12circuit.state.fl.us/ProgramsServices.aspx> (last visited on January 10, 2012).

<sup>11</sup> Florida Department of Children and Families' description of the Veterans Jail Diversion Grant at <http://www.dcf.state.fl.us/programs/samh/mentalhealth/consumerfamilyaffairs/currinitatives.shtml> (last visited on January 10, 2012).

## Terms and Conditions of Probation

Probation is a form of community supervision requiring specified contacts with parole and probation officers and compliance with court-ordered conditions of supervision.<sup>12</sup> When someone is sentenced to probation, the court determines the terms and conditions of his or her supervision.<sup>13</sup> Section 948.03, F.S., sets forth standard conditions of supervision that a court may impose on offenders sentenced probation. These include conditions such as a requirement that the offender report to the probation and parole supervisors as directed, permit such supervisors to visit him or her at his or her home or elsewhere, work faithfully at suitable employment insofar as may be possible, remain within a specified place, submit written monthly reports, abide by the laws of the state, etc.<sup>14</sup> In addition to the standard conditions of supervision, the court can impose any other special condition of supervision it considers proper (e.g., a condition requiring an offender to participate in treatment).<sup>15</sup>

## **Effect of the Bill**

The bill creates s. 394.48, F.S., entitled "Military veterans and servicemembers court programs." The bill authorizes the chief judge of each judicial circuit to establish a Military Veterans and Servicemembers Court Program (Program) under which veterans<sup>16</sup> and servicemembers<sup>17</sup> who are convicted of a criminal offense and who suffer from a mental illness, TBI, or substance abuse disorder as a result of their military service can be sentenced in accordance with ch. 921, F.S. in a manner that appropriately addresses the severity of the mental illness, TBI, or substance abuse disorder through services tailored to the individual needs of the participant.

The bill requires entry into a Program to be based upon the sentencing court's assessment of the defendant's criminal history, military service, substance abuse treatment needs, mental health treatment needs, amenability to the services of the program, the recommendation of the state attorney and the victim, if any, and the defendant's agreement to enter the program.

The bill also creates s. 948.21, F.S., entitled "Condition of probation or community control; military service members and veterans." The bill authorizes a court to impose a condition of supervision requiring probationers or community controllees whose crime was committed on or after July 1, 2012, and who is a servicemember or veteran, who suffers from a military service-related mental illness, TBI, or substance abuse disorder, to participate in a treatment program capable of treating the offender's mental illness, TBI, or substance abuse disorder. The bill requires the court to give preference to treatment programs for which the probationer or community controllee is eligible through the United States Department of Veterans Affairs or the Florida Department of Veterans' Affairs.

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<sup>12</sup> Section 948.001(8), F.S.

<sup>13</sup> Section 948.03, F.S.

<sup>14</sup> *Id.*

<sup>15</sup> Section 948.03(2), F.S.

<sup>16</sup> The bill defines the term "veteran" in accordance with s. 1.01(14), F.S., as a person who served in the active military, naval, or air service and who was discharged or released therefrom under honorable conditions only or who later received an upgraded discharge under honorable conditions, notwithstanding any action by the United States Department of Veterans Affairs on individuals discharged or released with other than honorable discharges. To receive benefits as a wartime veteran, a veteran must have served in a campaign or expedition for which a campaign badge has been authorized or a veteran must have served during one of the following periods of wartime service: Spanish-American War: April 21, 1898, to July 4, 1902, and including the Philippine Insurrection and the Boxer Rebellion; Mexican Border Period: May 9, 1916, to April 5, 1917, in the case of a veteran who during such period served in Mexico, on the borders thereof, or in the waters adjacent thereto; World War I: April 6, 1917, to November 11, 1918; extended to April 1, 1920, for those veterans who served in Russia; also extended through July 1, 1921, for those veterans who served after November 11, 1918, and before July 2, 1921, provided such veterans had at least 1 day of service between April 5, 1917, and November 12, 1918; World War II: December 7, 1941, to December 31, 1946; Korean Conflict: June 27, 1950, to January 31, 1955; Vietnam Era: February 28, 1961, to May 7, 1975; Persian Gulf War: August 2, 1990, to January 2, 1992; Operation Enduring Freedom: October 7, 2001, and ending on the date thereafter prescribed by presidential proclamation or by law; or Operation Iraqi Freedom: March 19, 2003, and ending on the date thereafter prescribed by presidential proclamation or by law.

<sup>17</sup> The bill defines the term "servicemember" in accordance with s.250.01(19), F.S., as any person serving as a member of the U.S. Armed Forces on active duty or state active duty and all members of the Florida National Guard and United States Reserve Forces.

**B. SECTION DIRECTORY:**

Section 1. Entitles the act, the "T. Patt Maney Military Veterans and Servicemembers Court Act."

Section 2. Creates s. 394.48, F.S., relating to military veterans and servicemembers court programs.

Section 3. Creates s. 948.21, F.S., relating to condition of probation or community control; military service members and veterans.

Section 4. Provides an effective date of July 1, 2012.

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

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

1. Revenues:

None.

2. Expenditures:

See "fiscal comments" section.

**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 determined that this bill will have no impact on state prison beds.

The bill does not indicate who would be responsible for payments of the court ordered offenders on probation or community control that will require outpatient or residential substance abuse treatment or outpatient mental health treatment, if treatment programs are not available through the U.S. Department of Veterans' Affairs or the Florida Department of Veterans' Affairs.<sup>18</sup> The bill could have a fiscal impact to the Department of Corrections if they are required to make payments.

The Office of State Courts Administrator anticipates an increase in workload because the bill will require judicial effort to become familiar with veterans' treatment options, and additional hearing time to determine if defendants qualify for programs.<sup>19</sup> The Office of State Courts Administrator has determined the cost of the increase in workload can be absorbed within existing means.<sup>20</sup>

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<sup>18</sup> E-mail from Tommy Maggitas, Department of Corrections, Office of Legislative Affairs, on file with Justice Appropriations Subcommittee Staff

<sup>19</sup> Office of State Courts Administrator, 2012 Judicial Impact Statement, HB 117, September 26, 2011

<sup>20</sup> E-mail from Eric Maclure, Director of Community and Intergovernmental Relations, Office of State Courts Administrator, January 25, 2012; On file with Justice Appropriations Subcommittee staff



### 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:

The bill does not appear to create a need for rulemaking or rulemaking authority.

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

The bill is unclear of how the treatment options will be funded, leaving a possible fiscal impact to the Department of Corrections.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2012, the Criminal Justice Subcommittee adopted a strike-all amendment and reported the bill favorably as a committee substitute. The strike-all amendment:

- Authorizes the chief judge of each judicial circuit to establish a Military Veterans and Servicemembers Court Program; and
- Authorizes a judge to impose a condition of supervision requiring specified veterans and servicemembers to participate in a treatment program capable of treating the offender's mental illness, TBI, or substance abuse disorder.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.



29 appropriately addresses the severity of the mental illness,  
 30 traumatic brain injury, or substance abuse disorder through  
 31 services tailored to the individual needs of the participant.  
 32 Entry into any Military Veterans and Servicemembers Court  
 33 Program must be based upon the sentencing court's assessment of  
 34 the defendant's criminal history, military service, substance  
 35 abuse treatment needs, mental health treatment needs,  
 36 amenability to the services of the program, the recommendation  
 37 of the state attorney and the victim, if any, and the  
 38 defendant's agreement to enter the program.

39 Section 3. Section 948.21, Florida Statutes, is created to  
 40 read:

41 948.21 Condition of probation or community control;  
 42 military servicemembers and veterans.—Effective for a  
 43 probationer or community controllee whose crime was committed on  
 44 or after July 1, 2012, and who is a servicemember, as defined in  
 45 s. 250.01, or veteran, as defined in s. 1.01, who suffers from a  
 46 military service-related mental illness, traumatic brain injury,  
 47 or substance abuse disorder, the court may, in addition to any  
 48 other conditions imposed, impose a condition requiring the  
 49 probationer or community controllee to participate in a  
 50 treatment program capable of treating the probationer or  
 51 community controllee's mental illness, traumatic brain injury,  
 52 or substance abuse disorder. The court shall give preference to  
 53 treatment programs for which the probationer or community  
 54 controllee is eligible through the United States Department of  
 55 Veterans Affairs or the Florida Department of Veterans' Affairs.

56 Section 4. This act shall take effect July 1, 2012.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 117 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Justice Appropriations  
2 Subcommittee

3 Representative Nelson offered the following:

4  
5 **Amendment (with title amendment)**

6 Between lines 55 and 56, insert:

7 The Department of Corrections is not required to spend  
8 state funds to implement the provisions of this act.

9  
10  
11  
12 -----  
13 **T I T L E A M E N D M E N T**

14 Remove line 13 and insert:

15 treatment programs; providing that the Department of Corrections  
16 is not required to spend state funds under this act; providing  
17 an effective date.  
18

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 117 (2012)

Amendment No. 1

19 WHEREAS, Florida has the third largest population of  
20 veterans in the nation with more than 1.6 million, and

21 WHEREAS, Florida has historically honored the noble  
22 sacrifices that veterans and members of the military have made  
23 to protect our freedoms by providing them certain benefits and  
24 rehabilitative services, and

25 WHEREAS, studies have shown that military service may exact  
26 a tremendous psychological toll on veterans and members of the  
27 military who are faced with the constant threat of death or  
28 injury over an extended period of time, and

29 WHEREAS, research has shown that a significant number of  
30 veterans and members of the military will suffer, as a result of  
31 their military service, mental health problems, such as post-  
32 traumatic stress disorder, traumatic brain injury, depression,  
33 anxiety, and acute stress, and

34 WHEREAS, such military service-related mental health  
35 problems, including the use of drugs and alcohol to cope with  
36 such problems, can lead to encounters with the criminal justice  
37 system that would not have occurred without the military  
38 service-related mental health problem, and

39 WHEREAS, as a grateful state, we must continue to honor the  
40 military service of our men and women by attempting to provide  
41 them with an alternative to incarceration when feasible,  
42 permitting them instead to access proper treatment for mental  
43 health and substance abuse problems resulting from military  
44 service, and

45 WHEREAS, therefore, the legislature finds that it is in the  
46 best interests of Florida citizens to assist veterans and

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 117 (2012)

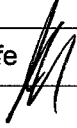
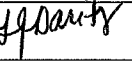
Amendment No. 1

47 | members of the military involved in the criminal justice system  
48 | who have a military service-related mental health problem.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 227 Prescription Drug Abuse  
**SPONSOR(S):** Health & Human Services Quality Subcommittee; Stargel  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 402

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Health & Human Services Quality Subcommittee	11 Y, 0 N, As CS	Poche	Calamas
2) Justice Appropriations Subcommittee		McAuliffe 	Jones Darity 
3) Health & Human Services Committee			

### SUMMARY ANALYSIS

House Bill 227 establishes the Statewide Task Force on Prescription Drug Abuse and Newborns to study the breadth and depth of Neonatal Withdrawal Syndrome in the state. Neonatal Withdrawal Syndrome is the complex group of physiological and behavioral symptoms and problems suffered by newborn children as a result of withdrawal from exposure to narcotics in the womb. Due to the prescription drug abuse problem in Florida, health care providers and facilities are experiencing a sharp increase in the number of babies born with Neonatal Withdrawal Syndrome.

The bill requires the Task Force to collect and analyze data, examine ways to increase public awareness, and explore possible solutions to the problem. The bill also specifies membership and other duties of the Task Force. The Task Force is required to submit an interim report and a final report to the Speaker of the House of Representatives and the President of the Senate containing policy recommendations to address the problem.

The bill has an insignificant fiscal impact on the Department of Legal Affairs which can be absorb with existing resources.

The bill provides an effective date of immediately upon becoming a law.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Prescription Drug Abuse

Prescription drug abuse is the fastest growing drug problem in the United States, constituting an epidemic, according to the Centers for Disease Control and Prevention.<sup>1</sup> Certain prescription drugs – opioid substances, central nervous system depressants, and stimulants – when abused can alter the brain's activity and lead to dependence and possible addiction. According to research by the National Institute on Drug Abuse, the three most abused classes of prescription drugs are:

- Opioids, used to treat pain. Examples include codeine (Schedules II, III, V), oxycodone (OxyContin, Percocet – Schedule II), and morphine (Kadian, Avinza -Schedule II);
- Central nervous system depressants, used to treat anxiety and sleep disorders. Examples include barbiturates (Mebaral, Nembutal) and benzodiazepines (Valium, Xanax) (all in Schedule IV); and
- Stimulants, used to treat ADHD, narcolepsy, and obesity. Examples include dextroamphetamine (Dexedrine, Adderall) and methylphenidate (Ritalin, Concerta) (all in Schedule II).<sup>2</sup>

The Substance Abuse and Mental Health Services Administration (SAMHSA) sponsors an annual national survey on drug use and health. The most recent survey indicates there are seven million persons aged 12 or older who used prescription-type psychotherapeutic drugs non-medically within the past month in 2010.<sup>3</sup> Of those seven million persons, 5.1 million used pain relievers non-medically within the past month in 2010.<sup>4</sup> It is estimated that 1.9 million people in the United States meet abuse or dependence criteria for prescription opioids.<sup>5</sup> Deaths from prescription painkiller overdoses have more than tripled in the past decade.<sup>6</sup>

The prescription drug abuse problem in Florida is particularly acute. The abuse of prescription drugs is becoming more prevalent and more deadly than the abuse of illicit drugs, such as heroin, cocaine, and methamphetamine.<sup>7</sup> The Florida Medical Examiners Commission reports on drug-related deaths in Florida, and specifically tracks deaths caused by the abuse of prescription drugs. According to the Commission, prescription drugs are found in deceased persons in lethal amounts more often than illicit drugs.<sup>8</sup> The most recent report found 5,647 deaths caused by one or more prescription drugs.<sup>9</sup> The rate of deaths caused by prescription drugs during 2010 averaged more than 15 fatalities per day.<sup>10</sup>

Florida may experience a downturn in prescription drug abuse due to reduced supply. Data from the Department of Health on controlled substance purchases by Florida physicians and pharmacies

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<sup>1</sup> Centers for Disease Control and Prevention, Vital Signs, *Prescription Painkiller Overdoses in the U.S.*, November 1, 2011, available at [www.cdc.gov/vitalsigns/PainkillerOverdoses/](http://www.cdc.gov/vitalsigns/PainkillerOverdoses/) (last viewed on January 11, 2012).

<sup>2</sup> National Institutes of Health, National Institute on Drug Abuse, *Prescription Medications*, available at [www.drugabuse.gov/drugs-abuse/prescription-medications](http://www.drugabuse.gov/drugs-abuse/prescription-medications) (last viewed January 12, 2012).

<sup>3</sup> U.S. Department of Health and Human Services, Substance Abuse and Mental Health Services Administration, *2010 National Survey on Drug Use and Health: Summary of National Findings*, [www.samhsa.gov/data/NSDUH/2k10NSDUH/2k10Results.htm](http://www.samhsa.gov/data/NSDUH/2k10NSDUH/2k10Results.htm) (last viewed on January 10, 2012).

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

<sup>5</sup> National Institutes of Health, National Institute on Drug Abuse, *Topics in Brief: Prescription Drug Abuse*, available at [www.drugabuse.gov/publications/topics-in-brief/prescription-drug-abuse](http://www.drugabuse.gov/publications/topics-in-brief/prescription-drug-abuse) (last viewed on January 12, 2012).

<sup>6</sup> See *supra* at FN 1.

<sup>7</sup> Florida Department of Law Enforcement, Medical Examiners Commission, *Drugs Identified in Deceased Persons by Florida Medical Examiners 2010 Report*, August 2011, page ii.

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

<sup>9</sup> *Id.*

<sup>10</sup> *Id.*

indicate a sharp decline in oxycodone purchases.<sup>11</sup> In the first five months of 2010, physicians purchased over 35 million dosage units of oxycodone; in the first five months of 2011, physicians purchased only about 925,000 dosage units of oxycodone.<sup>12</sup> Similarly, in the first five months of 2010, pharmacies purchased over 236 million dosage units of oxycodone; in the first five months of 2011, pharmacies purchased only about 225 million dosage units of oxycodone.<sup>13</sup> These changes may be a result of, or market anticipation of, legislative changes in 2009 and 2011 to address the problem of prescription drug abuse in Florida.<sup>14</sup>

### Neonatal Withdrawal Syndrome

Neonatal Withdrawal Syndrome (NWS), also known to as Neonatal Abstinence Syndrome, is defined as a complex group of physiological and behavioral signs and symptoms that a newborn exhibits and experiences when withdrawing from exposure to narcotics, including prescription medication, in the womb.<sup>15</sup> It is a multisystem disorder that involves the central nervous system, the gastrointestinal system, and the respiratory system.<sup>16</sup> Most drugs used by the mother are transferred to the fetus by the placenta. The amount and rate of drug transferred depend on the properties of the drug, including its half-life, or rate at which the drug is processed by the body.

Opiates produce the most dramatic effects on both the mother and the fetus. Because of its short half-life, withdrawal from opiates may start as early as 24 hours after birth in 50 percent to 80 percent of infants born to mothers addicted to opiates.<sup>17</sup> Narcotics are the most frequent cause of NWS, including methadone, morphine, oxycodone, codeine, and buprenorphine.<sup>18</sup> NWS symptoms usually peak at three to four days following birth, but may not appear for ten to fourteen days following birth.<sup>19</sup> Complete withdrawal from opiate addiction in infants may last for four to six months.<sup>20</sup>

NWS presents as neurologic symptoms, dysfunction of the gastrointestinal system, and other conditions. The kind and severity of symptoms depend on the type of drug used by the mother, how much of the drug was taken and for how long during the pregnancy, and whether the baby was born full-term or premature.<sup>21</sup> Neurologic symptoms include:

- Tremors
- Irritability
- Increased wakefulness
- High-pitched crying
- Increased muscle tone
- Seizures
- Increased sweating
- Frequent yawning and sneezing

Dysfunction of the gastrointestinal system includes:

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<sup>11</sup> Florida Department of Health, Division of Medical Quality Assurance, *Implementation of House Bill 7095 Relating to Prescription Drugs*, PowerPoint presentation to Health and Human Services Committee on September 21, 2011 (on file with committee staff).

<sup>12</sup> *Id.* at slide 11.

<sup>13</sup> *Id.* at slide 12.

<sup>14</sup> Ch. 2009-197, Ch. 2009-198, and Ch. 2011-141, Laws of Fla.

<sup>15</sup> Hamdan, M.D., A., Rosenkrantz, M.D., T., et. al, *Neonatal Abstinence Syndrome*, Medscape Reference, Drugs, Diseases, & Procedures, March 3, 2010, available at <http://emedicine.medscape.com/article/978763-overview> (last viewed on January 10, 2012).

<sup>16</sup> *Id.*

<sup>17</sup> *Id.*; see also Lucile Packard Children's Hospital at Stanford University Health Library, *Neonatal Abstinence Syndrome*, available at [www.lpch.org/DiseaseHealthInfo/HealthLibrary/hrnewborn/nas.html](http://www.lpch.org/DiseaseHealthInfo/HealthLibrary/hrnewborn/nas.html) (last viewed January 11, 2012).

<sup>18</sup> Naga, M.D., Osama, *Neonatal Abstinence Syndrome*, PowerPoint presentation, Texas Tech University Health Sciences Center, slide 3, available at [www.ttuhscc.edu/fostersom/pediatrics/neonatology/documents/NAGA-Neonatal\\_Abstinence\\_Syndrome.pdf](http://www.ttuhscc.edu/fostersom/pediatrics/neonatology/documents/NAGA-Neonatal_Abstinence_Syndrome.pdf) (last viewed on January 10, 2012).

<sup>19</sup> *Id.* at slide 4.

<sup>20</sup> *Id.*

<sup>21</sup> National Institutes of Health, National Library of Medicine, Medline Plus Medical Encyclopedia, *Neonatal abstinence syndrome*, available at [www.nlm.nih.gov/medlineplus/ency/article/007313.htm](http://www.nlm.nih.gov/medlineplus/ency/article/007313.htm) (last viewed on January 10, 2012).

- Poor feeding
- Uncoordinated and constant sucking
- Vomiting
- Diarrhea
- Dehydration
- Poor weight gain

Other conditions indicative of NWS include:

- Increased sweating
- Nasal stuffiness
- Fever
- Mottling (discolored patches on the skin)
- Temperature instability<sup>22</sup>

Treatment of infants with NWS includes gentle handling, reduction of noise and light stimuli, swaddling, and demand feeding.<sup>23</sup> Many infants must be “readdicted” to the opiate to which they were exposed in utero, usually morphine sulfate administered orally or buprenorphine, to ease the symptoms of withdrawal, then slowly weaned off of the medication.<sup>24</sup>

### Task Forces in Florida

A task force is defined in Florida statute as, in part, an advisory body created by specific statutory enactment for a time not to exceed 3 years and appointed to study a specific problem and recommend a solution or policy alternative with respect to the problem.<sup>25</sup> The existence of the task force ends once it completes its appointed task or duty.<sup>26</sup>

### **Effect of Proposed Changes**

House Bill 227 creates the Statewide Task Force on Prescription Drug Abuse and Newborns (Task Force) within the Department of Legal Affairs in the Office of the Attorney General to study NWS as a result of maternal prescription drug abuse during pregnancy. The Task Force is charged with researching the impact of prescription drug use and NWS in the state and evaluating effective strategies for treatment and prevention of NWS. In order to complete these tasks, the bill requires the Task Force to collect and organize data relating to the nature and scope of NWS as a result of prescription drug abuse. Also, the Task Force is to collect information that reflects the costs associated with treating pregnant women and newborns suffering from NWS. The Task Force must identify federal, state, and local programs that provide services to pregnant women addicted to prescription drugs and newborns suffering from NWS. Lastly, the Task Force must evaluate methods to increase public awareness of the dangers associated with prescription drug abuse by pregnant women and the dangers posed to newborns as a result of maternal prescription drug abuse during pregnancy.

The bill specifies 14 members of the Task Force:

- The Attorney General, who will serve as chairperson;
- The State Surgeon General, who will serve as vice chairperson;
- The Secretary of the Department of Children and Family Services;
- The Secretary of the Agency for Health Care Administration;
- The Executive Director of the Department of Law Enforcement;
- One Legislator, appointed by the President of the Senate;
- One Legislator, appointed by the Speaker of the House of Representatives;
- A representative from the Florida Medical Association;

<sup>22</sup> American Academy of Pediatrics, Committee on Drugs, *Neonatal Drug Withdrawal*, Pediatrics, vol. 101, page 1079 (1998).

<sup>23</sup> See *supra* at FN 13, slide 14.

<sup>24</sup> See *supra* at FN 13, slides 16 through 18.

<sup>25</sup> S. 20.03(8), F.S.

<sup>26</sup> *Id.*

- A representative from the Florida Hospital Association;
- A representative from an addiction and recovery association, appointed by the Attorney General;
- A representative from the Florida Osteopathic Medical Association;
- A representative from the March of Dimes;
- A representative from Healthy Start; and
- A resident of the state, appointed by the Attorney General.

The Task Force is directed to submit an interim report to the Speaker of the House of Representatives and the President of the Senate with its initial policy recommendations on or before January 15, 2013. The Task Force is directed to submit a final report including policy recommendations by January 15, 2015.

The bill is effective upon becoming a law.

**B. SECTION DIRECTORY:**

**Section 1:** Creates an unnumbered section of law, establishing the Statewide Task Force on Prescription Drug Abuse and Newborns.

**Section 2:** Provides an effective date of immediately upon becoming a law.

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

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

1. Revenues:

None.

2. Expenditures:

The Department of Legal Affairs will provide staff to assist the task force in completing its duties. Further, members of the task force will be entitled to per diem payments and travel reimbursement under current law.<sup>27</sup> The Office of the Attorney General estimates a fiscal impact of approximately \$14,500, which includes per diem payments, travel reimbursement, and staff costs.<sup>28</sup> The Department of Legal Affairs has identified settlement funds to offset any task force costs (see FISCAL COMMENTS).

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

1. Revenues:

None.

2. Expenditures:

None.

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

<sup>27</sup> S. 112.061, F.S. (per diem and travel expenses); Rule 69I-42.006, F.A.C. (per diem and subsistence allowance); Rule 69I-42.007, F.A.C. (transportation by common carrier); Rule 69I-42.008, F.A.C. (transportation by private vehicle); Rule 69I-42.010, F.A.C. (other incidental traveling expenses)

<sup>28</sup> Department of Legal Affairs, *HB 227 Bill Analysis*, page 2 (January 13, 2012).

None.

#### D. FISCAL COMMENTS:

In 2008, the Attorney General, along with the Attorneys General from 27 other states and the District of Columbia, entered into an Assurance of Voluntary Compliance and Discontinuance agreement with Express Scripts, Inc. (ESI), a pharmacy benefits management corporation.<sup>29</sup> The agreement resolved allegations of violations of the states' consumer protection statutes by ESI as a result of the company's advertising, marketing and other business practices.<sup>30</sup> As part of the settlement, ESI paid \$7 million, to be apportioned among the states involved in the matter.<sup>31</sup> Provisions of the agreement grant the Attorney General wide discretion in how the settlement funds are to be used by the state.<sup>32</sup> The Attorney General proposes to use the funds from Florida's portion of the settlement to cover the estimated \$14,500 in costs associated with the operation of the Task Force.

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

##### 1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

##### 2. Other:

None.

#### B. RULE-MAKING AUTHORITY:

Not applicable.

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

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 17, 2012, the Health and Human Services Quality Subcommittee adopted a strike-all amendment for House Bill 227. The strike-all amendment made the following changes to the bill:

- Added four members to the Task Force: a representative of the Florida Osteopathic Medical Association, a representative from the March of Dimes, a representative from Healthy Start, and a resident of the state to be appointed by the Attorney General; and
- Required an interim report containing recommendations to be submitted to the Speaker of the House of Representatives and the President of the Senate by January 15, 2013 and a final report containing policy recommendations to be submitted by January 15, 2015.

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<sup>29</sup> *In the Matter of: Express Scripts, Inc., Assurance of Voluntary Compliance and Discontinuance*, May 23, 2008 (on file with Health and Human Services Quality Subcommittee staff).

<sup>30</sup> *See id.* at pages 2-3.

<sup>31</sup> *See id.* at page 33.

<sup>32</sup> *See id.* at page 34.

The bill was reported favorably as a committee substitute. The analysis reflects the committee substitute.

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A bill to be entitled  
 An act relating to prescription drug abuse; creating  
 the Statewide Task Force on Prescription Drug Abuse  
 and Newborns; providing a purpose; providing  
 membership of the task force; providing for  
 reimbursement of per diem and travel expenses for  
 members of the task force; requiring that the  
 Department of Legal Affairs provide the task force  
 with necessary staff; specifying a date for the task  
 force's organizational session; providing meeting  
 times; providing the duties of the task force;  
 requiring that the task force submit reports to the  
 Legislature; providing an effective date.

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

Section 1. Statewide Task Force on Prescription Drug Abuse  
 and Newborns.

(1) The Legislature declares that the purpose of this act  
 is to create a task force to examine and analyze the emerging  
 problem of neonatal withdrawal syndrome as it pertains to  
 prescription drugs.

(2) (a) There is created within the Department of Legal  
 Affairs the Statewide Task Force on Prescription Drug Abuse and  
 Newborns, a task force as defined in s. 20.03, Florida Statutes.  
 The task force is created for the express purpose of researching  
 the impact of prescription drug use and neonatal withdrawal  
 syndrome, evaluating effective strategies for treatment and

29 prevention, and providing policy recommendations to the  
 30 Legislature.

31 (b) The task force shall consist of the following members,  
 32 or the member's designee:

- 33 1. The Attorney General, who shall serve as chair.
- 34 2. The Surgeon General, who shall serve as vice chair.
- 35 3. The Secretary of Children and Family Services.
- 36 4. The Secretary of Health Care Administration.
- 37 5. The executive director of the Department of Law  
 38 Enforcement.
- 39 6. A legislator appointed by the President of the Senate.
- 40 7. A legislator appointed by the Speaker of the House of  
 41 Representatives.
- 42 8. A representative from the Florida Medical Association.
- 43 9. A representative from the Florida Hospital Association.
- 44 10. A representative, appointed by the Attorney General,  
 45 from an addiction and recovery association.
- 46 11. A representative from the Florida Osteopathic Medical  
 47 Association.
- 48 12. A representative from the March of Dimes.
- 49 13. A representative of Healthy Start.
- 50 14. A resident of this state appointed by the Attorney  
 51 General.

52 (c) Members of the task force are entitled to receive  
 53 reimbursement for per diem and travel expenses pursuant to s.  
 54 112.061, Florida Statutes.

55 (d) The Department of Legal Affairs shall provide the task  
 56 force with staff necessary to assist the task force in the



57 | performance of its duties.

58 |       (3) The task force shall hold its organizational session  
 59 | by May 1, 2012. Thereafter, the task force shall meet at least  
 60 | four times per year. Additional meetings may be held if the  
 61 | chair determines that extraordinary circumstances require an  
 62 | additional meeting. A majority of the members of the task force  
 63 | constitutes a quorum.

64 |       (4) The task force shall:

65 |           (a) Collect and organize data concerning the nature and  
 66 | extent of neonatal withdrawal syndrome from prescription drugs  
 67 | in this state;

68 |           (b) Collect and organize data concerning the costs  
 69 | associated with treating expectant mothers and newborns  
 70 | suffering from withdrawal from prescription drugs;

71 |           (c) Identify available federal, state, and local programs  
 72 | that provide services to mothers who abuse prescription drugs  
 73 | and newborns who have neonatal withdrawal syndrome; and

74 |           (d) Evaluate methods to increase public awareness of the  
 75 | dangers associated with prescription drug abuse, particularly to  
 76 | women, expectant mothers, and newborns.

77 |       (5) The task force shall submit an interim report of its  
 78 | recommendations to the President of the Senate and the Speaker  
 79 | of the House of Representatives by January 15, 2013, and a final  
 80 | report of its recommendations to the President of the Senate and  
 81 | the Speaker of the House of Representatives by January 15, 2015.

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

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 227 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

1 Committee/Subcommittee hearing bill: Justice Appropriations  
2 Subcommittee  
3 Representative Stargel offered the following:

4

5 **Amendment**

6 Between lines 51 and 52, insert:

7 15. A representative from the Florida Nurses Association.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/CS/HB 481 Clerks of Court  
**SPONSOR(S):** Civil Justice Subcommittee, Pilon  
**TIED BILLS:** IDEN./SIM. **BILLS:** SB 860

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Civil Justice Subcommittee	14 Y, 0 N, As CS	Cary	Bond
2) Government Operations Subcommittee	14 Y, 0 N, As CS	Naf	Williamson
3) Justice Appropriations Subcommittee		Toms <i>ST</i>	Jones Darity <i>JDarity</i>
4) Judiciary Committee			

### SUMMARY ANALYSIS

Relating to the clerks of the circuit courts, this bill:

- Provides guidelines for electronic filing of documents;
- Requires clerks to seal or expunge certain court documents upon court order;
- Requires persons filing a written request to have their personal information protected under the general agency personnel information public record exemption to specify the document type, name, identification number, and page number of the court record or official record;
- Increases the minimum amount the clerks are required to refund without a written request in the event of an overpayment from \$5 to \$10;
- Limits the state agency exemption from payment of court-related fees to the state agency and the party it is representing;
- Authorizes the filing of electronic affidavits regarding publication of a legal advertisement; and
- Provides that following the sale of a tax certificate, if a property is redeemed prior to the clerk receiving full payment from the sale at a public auction, the high bidder must submit a written request in order to receive a refund of the deposit.

The bill may have a positive impact on the Clerks of the Court due to the increased efficiencies in day-to-day office operations the bill provides.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

This bill makes several changes relating to the clerks of courts.

##### ***Electronic Filings***

The clerk of the circuit court is required to keep all papers with the utmost care and security, arranged in appropriate files.<sup>1</sup> The clerk is also required to ensure that the papers do not leave the office without leave of court.<sup>2</sup> The statute does not address requirements to maintain electronic filings.

This bill amends s. 28.13, F.S., to address electronic filings. The bill specifically requires clerks to affix a stamp to submissions to the office indicating the date and time when it was filed. The bill also replaces a provision in current law that papers do not leave the office with language that the clerk must ensure that documents must not be removed from the control or custody of the clerk.

##### ***Clerk as County Recorder***

The clerk of the circuit court generally acts as the county recorder.<sup>3</sup> This bill amends s. 28.222, F.S., to add a new subsection (4) requiring the clerk, when acting in his or her capacity as a county recorder, to remove recorded court documents from the Official Records pursuant to a sealing or expunction order.

##### ***Public Records***

A clerk of court is a custodian of public records and is thus required to provide access to and copies of public records, if the requesting party is entitled by law to view the record.<sup>4</sup>

Certain information held by clerks of court is exempt from public record requirements pursuant to state statute or judicial rule.<sup>5</sup> Any information made confidential under state or federal constitutional or statutory law is confidential if contained in a court record.<sup>6</sup>

Certain personal information of some agency personnel, including law enforcement personnel, firefighters, justices and judges, state attorneys, magistrates, and specified others, is made exempt<sup>7</sup> from public records requirements by state law.<sup>8</sup> If such exempt information is held by an agency other than the employer of a specified person, the person must submit a written request for maintenance of the exemption to that agency.<sup>9</sup> Currently, a clerk of court usually requires a person requesting maintenance of the exemption to specify the document type, name, identification number, and page number of the court record or official record that contains the exempt information.<sup>10</sup>

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<sup>1</sup> Section 28.13, F.S.

<sup>2</sup> *Id.*

<sup>3</sup> Section 28.222(1), F.S.

<sup>4</sup> See art. I, s. 24(a) of the Florida Const., ch. 119, F.S., and s. 28.24, F.S. The Florida Constitution provides a process by which the Legislature may make certain records or portions of records exempt from public disclosure (art. I, s. 24(c) of the Fla. Const.).

<sup>5</sup> See art. I, s. 24 of the Florida Const. and Florida Rule of Judicial Administration 2.420.

<sup>6</sup> Florida Rule of Judicial Administration 2.420(c)(7).

<sup>7</sup> There is a difference between records the Legislature designates as exempt from public record requirements and those the Legislature deems confidential and exempt. A record classified as exempt from public disclosure may be disclosed under certain circumstances. (See *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 1994); *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption. (See Attorney General Opinion 85-62, August 1, 1985).

<sup>8</sup> Section 119.071(4)(d), F.S.

<sup>9</sup> Section 119.071(4)(d)2., F.S.

<sup>10</sup> Telephone call with Florida Association of Court Clerks staff (January 10, 2012).

This bill amends s. 119.0714, F.S., to require that a person who submits such written request to maintain the identification and location information exemption in a court record or official record to also specify the document type, name, identification number, and page number of the record that contains the exempt information.

### **Refunds**

If a clerk of court determines that an overpayment was made, the clerk is required to make a refund if the overpayment exceeds \$5.<sup>11</sup> If the amount of the overpayment is \$5 or less, the clerk need only refund the amount if the person who made the overpayment submits a written request.<sup>12</sup> This bill amends s. 24.244, F.S., to increase the minimum from \$5 to \$10.

### **Fee Exemption**

Certain individuals and groups, such as judges, state attorneys, and public defenders, are exempt from all court-related fees and charges assessed by the clerk of the circuit court, when acting in their official capacity.<sup>13</sup> State agencies are also exempt from all court-related fees and charges assessed by the clerk.<sup>14</sup> This bill amends ss. 28.24 and 28.345, F.S., limiting the state agency exemption to the agency and the party it is representing.

### **Proof of Publication**

Numerous statutes require the publication of legal notice for various actions.<sup>15</sup> Generally, proof of such publication is made by printed affidavit.<sup>16</sup> This bill amends s. 50.041(2), F.S., to authorize an alternative, electronic affidavit, provided the notarization of the affidavit complies with the electronic notarization statute in s. 117.021, F.S.<sup>17</sup>

### **Sale at Public Auction**

A tax certificate is issued by a local government relating to unpaid delinquent real property taxes, non-ad valorem assessments, special assessments, interest, and related costs and charges, issued in accordance with ch. 172, F.S., and against a specific parcel of real property.<sup>18</sup> An unpaid tax certificate is a lien against the real property that can lead to public sale of the property.

When a tax certificate is redeemed (paid by the property owner), the certificate holder receives the amount of his or her investment (the tax certificate face amount) plus the interest accrued up to the date of redemption. A tax certificate can be redeemed anytime before a tax deed is issued or the property is placed on the list of lands available for sale either by redeeming a tax certificate from the investor or by purchasing a county-held tax certificate. The person redeeming or purchasing the tax certificate is required to pay the face amount of the certificate, plus costs and charges and all interest due, which is either the interest rate due on the certificate or a 5 percent mandatory minimum interest, whichever is greater.<sup>19</sup> The tax collector then pays the certificate owner the amount received by the tax collector, less the redemption fee.<sup>20</sup>

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<sup>11</sup> Section 24.244, F.S.

<sup>12</sup> *Id.*

<sup>13</sup> Section 28.345, F.S.

<sup>14</sup> *Id.*

<sup>15</sup> *See, e.g.*, s. 50.011, F.S.

<sup>16</sup> Sections 50.031 and 50.041(1), F.S.

<sup>17</sup> Section 117.021, F.S., requires that when a document is notarized electronically, it contains an electronic signature that is unique to the notary public, capable of independent verification, retained under the notary public's sole control, and attached to or logically associated with the electronic document.

<sup>18</sup> Section 197.102(1)(f), F.S.

<sup>19</sup> Section 197.472, F.S.

<sup>20</sup> *Id.*

When property is sold by the clerk of court at a public auction, the certificate holder has the right to bid. The high bidder must post a nonrefundable deposit of 5 percent of the bid or \$200, whichever is greater, to be applied to the sale price at the time of full payment.<sup>21</sup> If full payment of the final bid is not made within 24 hours, the clerk cancels all bids, readvertises the sale, and pays all costs of the sale from the deposit.<sup>22</sup> Any remaining funds must be applied toward the opening bid.<sup>23</sup>

This bill amends s. 197.542(2), F.S., to provide that if the property is redeemed prior to the clerk receiving full payment from the sale at a public auction, the high bidder must submit a written request in order to receive a refund of the deposit. Upon receipt of a written request, the clerk must refund the cash deposit.

#### B. SECTION DIRECTORY:

Section 1 amends s. 28.13, F.S., relating to papers and electronic filings.

Section 2 creates a new subsection (4) of s. 28.222, F.S., relating to removal of certain recorded court documents from the official records, and renumbers subsequent subsections.

Section 3 amends s. 28.24, F.S., relating to service charges.

Section 4 amends s. 28.244, F.S., relating to refunds by the clerk of the circuit court.

Section 5 amends s. 28.345, F.S., relating to state access to records and exemption from court-related fees and charges.

Section 6 amends s. 50.041, F.S., relating to affidavits for proof of publication.

Section 7 amends s. 119.0714, F.S., relating to court files, court records, and official court records.

Section 8 amends s. 197.542, F.S., relating to sale at public auction.

Section 9 provides an effective date of upon becoming a law.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

See "fiscal comments" section.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

#### 2. Expenditures:

See "fiscal comments" section.

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<sup>21</sup> Section 197.542(2), F.S.

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Florida Association of Court Clerks anticipates an indeterminate, positive impact on the Clerks of Court due to the increased efficiencies in day-to-day office operations this bill provides.<sup>24</sup>

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

This bill does not appear to require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or municipalities.

2. Other:

None.

B. RULE-MAKING AUTHORITY:

The bill does not appear to create a need for rulemaking or rulemaking authority.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

Civil Justice Subcommittee

On November 16, 2011, the Civil Justice Subcommittee adopted three amendments and passed HB 481 as a committee substitute. The amendments:

- Moved a provision relating to fee exemptions for state agencies from the statute relating to service charges to the statute relating to fee state agency relations with the clerks; and
- Removed a potentially confusing cross-reference.

Government Operations Subcommittee

On January 11, 2012, the Government Operations Subcommittee adopted one amendment and passed CS/HB 481 as a committee substitute. The amendment clarified that the additional public record exemption requirement applies to records held by clerks of court, not to all agency records.

The analysis is drafted to the committee substitute as passed by the Government Operations Subcommittee.

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<sup>24</sup> Florida Association of Court Clerks, 2012 Impact Statement/Bill Analysis, HB 481, November 8, 2011



1 A bill to be entitled  
2 An act relating to clerks of court; amending s. 28.13,  
3 F.S.; providing requirements for storage of electronic  
4 filings; requiring papers and electronic filings to be  
5 electronically time stamped; amending s. 28.222, F.S.;  
6 authorizing the clerk to remove sealed or expunged  
7 court records from the Official Records; amending s.  
8 28.24, F.S.; revising language concerning an exemption  
9 from charges for services provided to specified  
10 officials and their staffs; amending s. 28.244, F.S.;  
11 increasing the threshold amount for automatic  
12 repayment of overpayments; amending s. 28.345, F.S.;  
13 providing for access to clerks' files by state  
14 agencies and an exemption from copying fees and  
15 charges; limiting the application of an exemption from  
16 payment of fees and charges assessed by clerks of  
17 circuit courts to official use; amending s. 50.041,  
18 F.S.; authorizing the use of electronic proof of  
19 publication affidavits; amending s. 119.0714, F.S.;  
20 requiring certain persons to provide specific  
21 information to the clerk to maintain the public  
22 records exemption status of certain information under  
23 specified provisions; amending s. 197.542, F.S.;  
24 authorizing the clerk to issue a refund to the  
25 depositor for redeemed property subject to a tax sale;  
26 providing an effective date.

27  
28 Be It Enacted by the Legislature of the State of Florida:

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Section 1. Section 28.13, Florida Statutes, is amended to read:

28.13 ~~To keep~~ Papers and electronic filings.—The clerk of the circuit court shall keep all papers and electronic filings ~~filed~~ in the clerk's office with the utmost care and security, storing them in association with related case arranged in ~~appropriate~~ files and affixing a stamp to the submission ~~indicating~~ (endorsing upon each the date and time when the ~~submission same was filed. The clerk ),~~ and shall not permit any attorney or other person to remove documents, ~~take papers~~ once filed, from the control or custody out of the office of the clerk without leave of the court, except as otherwise is ~~hereinafter~~ provided by law.

Section 2. Subsections (4) through (6) of section 28.222, Florida Statutes, are renumbered as subsections (5) through (7), respectively, and a new subsection (4) is added to that section to read:

28.222 Clerk to be county recorder.—

(4) The county recorder shall remove recorded court documents from the Official Records pursuant to a sealing or expunction order.

Section 3. Section 28.24, Florida Statutes, is amended to read:

28.24 ~~Service charges by clerk of the circuit court.~~—The clerk of the circuit court shall charge for services rendered by the clerk's office in recording documents and instruments and in performing the duties enumerated in amounts not to exceed those

57 specified in this section, except as provided in s. 28.345.  
 58 ~~Notwithstanding any other provision of this section, the clerk~~  
 59 ~~of the circuit court shall provide without charge to the state~~  
 60 ~~attorney, public defender, guardian ad litem, public guardian,~~  
 61 ~~attorney ad litem, criminal conflict and civil regional counsel,~~  
 62 ~~and private court appointed counsel paid by the state, and to~~  
 63 ~~the authorized staff acting on behalf of each, access to and a~~  
 64 ~~copy of any public record, if the requesting party is entitled~~  
 65 ~~by law to view the exempt or confidential record, as maintained~~  
 66 ~~by and in the custody of the clerk of the circuit court as~~  
 67 ~~provided in general law and the Florida Rules of Judicial~~  
 68 ~~Administration. The clerk of the circuit court may provide the~~  
 69 ~~requested public record in an electronic format in lieu of a~~  
 70 ~~paper format when capable of being accessed by the requesting~~  
 71 ~~entity.~~

Charges

- 72
- 73 (1) For examining, comparing, correcting, verifying, and  
 74 certifying transcripts of record in appellate proceedings,  
 75 prepared by attorney for appellant or someone else other than  
 76 clerk, per page 5.00
- 77 (2) For preparing, numbering, and indexing an original  
 78 record of appellate proceedings, per instrument 3.50
- 79 (3) For certifying copies of any instrument in the public  
 80 records 2.00
- 81 (4) For verifying any instrument presented for  
 82 certification prepared by someone other than clerk, per page  
 83 3.50
- 84 (5) (a) For making copies by photographic process of any

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85 | instrument in the public records consisting of pages of not more  
 86 | than 14 inches by 8 1/2 inches, per page 1.00  
 87 | (b) For making copies by photographic process of any  
 88 | instrument in the public records of more than 14 inches by 8 1/2  
 89 | inches, per page 5.00  
 90 | (6) For making microfilm copies of any public records:  
 91 | (a) 16 mm 100' microfilm roll 42.00  
 92 | (b) 35 mm 100' microfilm roll 60.00  
 93 | (c) Microfiche, per fiche 3.50  
 94 | (7) For copying any instrument in the public records by  
 95 | other than photographic process, per page 6.00  
 96 | (8) For writing any paper other than herein specifically  
 97 | mentioned, same as for copying, including signing and sealing  
 98 | 7.00  
 99 | (9) For indexing each entry not recorded 1.00  
 100 | (10) For receiving money into the registry of court:  
 101 | (a)1. First \$500, percent 3  
 102 | 2. Each subsequent \$100, percent 1.5  
 103 | (b) Eminent domain actions, per deposit 170.00  
 104 | (11) For examining, certifying, and recording plats and  
 105 | for recording condominium exhibits larger than 14 inches by 8  
 106 | 1/2 inches:  
 107 | (a) First page 30.00  
 108 | (b) Each additional page 15.00  
 109 | (12) For recording, indexing, and filing any instrument  
 110 | not more than 14 inches by 8 1/2 inches, including required  
 111 | notice to property appraiser where applicable:  
 112 | (a) First page or fraction thereof 5.00

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113 (b) Each additional page or fraction thereof 4.00

114 (c) For indexing instruments recorded in the official  
 115 records which contain more than four names, per additional name  
 116 1.00

117 (d) An additional service charge shall be paid to the  
 118 clerk of the circuit court to be deposited in the Public Records  
 119 Modernization Trust Fund for each instrument listed in s.  
 120 28.222, except judgments received from the courts and notices of  
 121 lis pendens, recorded in the official records:

- 122 1. First page 1.00
- 123 2. Each additional page 0.50

124

125 Said fund shall be held in trust by the clerk and used  
 126 exclusively for equipment and maintenance of equipment,  
 127 personnel training, and technical assistance in modernizing the  
 128 public records system of the office. In a county where the duty  
 129 of maintaining official records exists in an office other than  
 130 the office of the clerk of the circuit court, the clerk of the  
 131 circuit court is entitled to 25 percent of the moneys deposited  
 132 into the trust fund for equipment, maintenance of equipment,  
 133 training, and technical assistance in modernizing the system for  
 134 storing records in the office of the clerk of the circuit court.  
 135 The fund may not be used for the payment of travel expenses,  
 136 membership dues, bank charges, staff-recruitment costs, salaries  
 137 or benefits of employees, construction costs, general operating  
 138 expenses, or other costs not directly related to obtaining and  
 139 maintaining equipment for public records systems or for the  
 140 purchase of furniture or office supplies and equipment not

141 related to the storage of records. On or before December 1,  
 142 1995, and on or before December 1 of each year immediately  
 143 preceding each year during which the trust fund is scheduled for  
 144 legislative review under s. 19(f)(2), Art. III of the State  
 145 Constitution, each clerk of the circuit court shall file a  
 146 report on the Public Records Modernization Trust Fund with the  
 147 President of the Senate and the Speaker of the House of  
 148 Representatives. The report must itemize each expenditure made  
 149 from the trust fund since the last report was filed; each  
 150 obligation payable from the trust fund on that date; and the  
 151 percentage of funds expended for each of the following:  
 152 equipment, maintenance of equipment, personnel training, and  
 153 technical assistance. The report must indicate the nature of the  
 154 system each clerk uses to store, maintain, and retrieve public  
 155 records and the degree to which the system has been upgraded  
 156 since the creation of the trust fund.

157 (e) An additional service charge of \$4 per page shall be  
 158 paid to the clerk of the circuit court for each instrument  
 159 listed in s. 28.222, except judgments received from the courts  
 160 and notices of lis pendens, recorded in the official records.  
 161 From the additional \$4 service charge collected:

162 1. If the counties maintain legal responsibility for the  
 163 costs of the court-related technology needs as defined in s.  
 164 29.008(1)(f)2. and (h), 10 cents shall be distributed to the  
 165 Florida Association of Court Clerks and Comptroller, Inc., for  
 166 the cost of development, implementation, operation, and  
 167 maintenance of the clerks' Comprehensive Case Information  
 168 System, in which system all clerks shall participate on or

169 before January 1, 2006; \$1.90 shall be retained by the clerk to  
 170 be deposited in the Public Records Modernization Trust Fund and  
 171 used exclusively for funding court-related technology needs of  
 172 the clerk as defined in s. 29.008(1)(f)2. and (h); and \$2 shall  
 173 be distributed to the board of county commissioners to be used  
 174 exclusively to fund court-related technology, and court  
 175 technology needs as defined in s. 29.008(1)(f)2. and (h) for the  
 176 state trial courts, state attorney, public defender, and  
 177 criminal conflict and civil regional counsel in that county. If  
 178 the counties maintain legal responsibility for the costs of the  
 179 court-related technology needs as defined in s. 29.008(1)(f)2.  
 180 and (h), notwithstanding any other provision of law, the county  
 181 is not required to provide additional funding beyond that  
 182 provided herein for the court-related technology needs of the  
 183 clerk as defined in s. 29.008(1)(f)2. and (h). All court records  
 184 and official records are the property of the State of Florida,  
 185 including any records generated as part of the Comprehensive  
 186 Case Information System funded pursuant to this paragraph and  
 187 the clerk of court is designated as the custodian of such  
 188 records, except in a county where the duty of maintaining  
 189 official records exists in a county office other than the clerk  
 190 of court or comptroller, such county office is designated the  
 191 custodian of all official records, and the clerk of court is  
 192 designated the custodian of all court records. The clerk of  
 193 court or any entity acting on behalf of the clerk of court,  
 194 including an association, shall not charge a fee to any agency  
 195 as defined in s. 119.011, the Legislature, or the State Court  
 196 System for copies of records generated by the Comprehensive Case

197 Information System or held by the clerk of court or any entity  
198 acting on behalf of the clerk of court, including an  
199 association.

200 2. If the state becomes legally responsible for the costs  
201 of court-related technology needs as defined in s.  
202 29.008(1)(f)2. and (h), whether by operation of general law or  
203 by court order, \$4 shall be remitted to the Department of  
204 Revenue for deposit into the General Revenue Fund.

205 (13) Oath, administering, attesting, and sealing, not  
206 otherwise provided for herein 3.50

207 (14) For validating certificates, any authorized bonds,  
208 each 3.50

209 (15) For preparing affidavit of domicile 5.00

210 (16) For exemplified certificates, including signing and  
211 sealing 7.00

212 (17) For authenticated certificates, including signing and  
213 sealing 7.00

214 (18)(a) For issuing and filing a subpoena for a witness,  
215 not otherwise provided for herein (includes writing, preparing,  
216 signing, and sealing) 7.00

217 (b) For signing and sealing only 2.00

218 (19) For approving bond 8.50

219 (20) For searching of records, for each year's search 2.00

220 (21) For processing an application for a tax deed sale  
221 (includes application, sale, issuance, and preparation of tax  
222 deed, and disbursement of proceeds of sale), other than excess  
223 proceeds 60.00

224 (22) For disbursement of excess proceeds of tax deed sale,



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225 first \$100 or fraction thereof 10.00  
 226 (23) Upon receipt of an application for a marriage  
 227 license, for preparing and administering of oath; issuing,  
 228 sealing, and recording of the marriage license; and providing a  
 229 certified copy 30.00  
 230 (24) For solemnizing matrimony 30.00  
 231 (25) For sealing any court file or expungement of any  
 232 record 42.00  
 233 (26) (a) For receiving and disbursing all restitution  
 234 payments, per payment 3.50  
 235 (b) For receiving and disbursing all partial payments,  
 236 other than restitution payments, for which an administrative  
 237 processing service charge is not imposed pursuant to s. 28.246,  
 238 per month 5.00  
 239 (c) For setting up a payment plan, a one-time  
 240 administrative processing charge in lieu of a per month charge  
 241 under paragraph (b) 25.00  
 242 (27) Postal charges incurred by the clerk of the circuit  
 243 court in any mailing by certified or registered mail shall be  
 244 paid by the party at whose instance the mailing is made.  
 245 (28) For furnishing an electronic copy of information  
 246 contained in a computer database: a fee as provided for in  
 247 chapter 119.  
 248 Section 4. Section 28.244, Florida Statutes, is amended to  
 249 read:  
 250 28.244 Refunds.—A clerk of the circuit court or a filing  
 251 officer of another office where records are filed who receives  
 252 payment for services provided and thereafter determines that an

253 overpayment has occurred shall refund to the person who made the  
 254 payment the amount of any overpayment that exceeds \$10 ~~\$5~~. If  
 255 the amount of the overpayment is \$10 ~~\$5~~ or less, the clerk of  
 256 the circuit court or a filing officer of another office where  
 257 records are filed is not required to refund the amount of the  
 258 overpayment unless the person who made the overpayment makes a  
 259 written request.

260 Section 5. Section 28.345, Florida Statutes, is amended to  
 261 read:

262 28.345 State access to records; exemption from court-  
 263 related fees and charges.-

264 (1) Notwithstanding any other provision of law to the  
 265 contrary, the clerk of the circuit court shall provide without  
 266 charge to the state attorney, public defender, guardian ad  
 267 litem, public guardian, attorney ad litem, criminal conflict and  
 268 civil regional counsel, and private court-appointed counsel paid  
 269 by the state, and to the authorized staff acting on behalf of  
 270 each, access to and a copy of any public record. If the public  
 271 record is exempt or confidential, the requesting party is only  
 272 entitled by law to view or copy the exempt or confidential  
 273 record if authority is provided in general law or the Florida  
 274 Rules of Judicial Administration. The clerk of the circuit court  
 275 may provide the requested public record in an electronic format  
 276 in lieu of a paper format when the requesting entity is capable  
 277 of accessing it in an electronic format. For purposes of this  
 278 subsection, the term "copy of a public record" means any  
 279 facsimile, replica, photograph, or other reproduction of a  
 280 record.

281 |        (2) Notwithstanding any other ~~provision of this chapter or~~  
 282 | law to the contrary, judges and those court staff acting on  
 283 | behalf of judges, state attorneys, guardians ad litem, public  
 284 | guardians, attorneys ad litem, court-appointed private counsel,  
 285 | criminal conflict and civil regional counsel, ~~and~~ public  
 286 | defenders, and state agencies, while acting in their official  
 287 | capacity, ~~and state agencies,~~ are exempt from all court-related  
 288 | fees and charges assessed by the clerks of the circuit courts.

289 |        (3) The exemptions provided in subsections (1) and (2)  
 290 | apply only to state agencies and state entities and the party  
 291 | that an agency or entity is representing. The clerk of court  
 292 | shall collect the filing fees and services charges as required  
 293 | in this chapter from all other parties.

294 |        Section 6. Subsection (2) of section 50.041, Florida  
 295 | Statutes, is amended to read:

296 |        50.041 Proof of publication; uniform affidavits required.—

297 |        (2) Each such affidavit shall be printed upon white bond  
 298 | paper containing at least 25 percent rag material and shall be 8  
 299 | 1/2 inches in width and of convenient length, not less than 5  
 300 | 1/2 inches. A white margin of not less than 2 1/2 inches shall  
 301 | be left at the right side of each affidavit form and upon or in  
 302 | this space shall be substantially pasted a clipping which shall  
 303 | be a true copy of the public notice or legal advertisement for  
 304 | which proof is executed. Alternatively, each such affidavit may  
 305 | be provided in electronic rather than paper form, provided the  
 306 | notarization of the affidavit complies with the requirements of  
 307 | s. 117.021.

308 |        Section 7. Subsections (2) and (3) of section 119.0714,

309 Florida Statutes, are amended to read:

310 119.0714 Court files; court records; official records.—

311 (2) COURT RECORDS.—

312 (a)1. Until January 1, 2012, if a social security number  
 313 or a bank account, debit, charge, or credit card number is  
 314 included in a court file, such number may be included as part of  
 315 the court record available for public inspection and copying  
 316 unless redaction is requested by the holder of such number or by  
 317 the holder's attorney or legal guardian.

318 ~~2.(b)~~ A request for redaction must be a signed, legibly  
 319 written request specifying the case name, case number, document  
 320 heading, and page number. The request must be delivered by mail,  
 321 facsimile, electronic transmission, or in person to the clerk of  
 322 the court. The clerk of the court does not have a duty to  
 323 inquire beyond the written request to verify the identity of a  
 324 person requesting redaction.

325 ~~3.(e)~~ A fee may not be charged for the redaction of a  
 326 social security number or a bank account, debit, charge, or  
 327 credit card number pursuant to such request.

328 ~~4.(d)~~ The clerk of the court has no liability for the  
 329 inadvertent release of social security numbers, or bank account,  
 330 debit, charge, or credit card numbers, unknown to the clerk of  
 331 the court in court records filed on or before January 1, 2012.

332 5.a.(e)1. On January 1, 2012, and thereafter, the clerk of  
 333 the court must keep social security numbers confidential and  
 334 exempt as provided for in s. 119.071(5)(a), and bank account,  
 335 debit, charge, and credit card numbers exempt as provided for in  
 336 s. 119.071(5)(b), without any person having to request

337 redaction.

338 ~~b.2-~~ Section 119.071(5) (a)7. and 8. does not apply to the  
 339 clerks of the court with respect to court records.

340 (b) A request for maintenance of a public record exemption  
 341 in s. 119.071(4) (d)1. made pursuant to s. 119.071(4) (d)2. must  
 342 specify the document type, name, identification number, and page  
 343 number of the court record that contains the exempt information.

344 (3) OFFICIAL RECORDS.—

345 (a)1. Any person who prepares or files a record for  
 346 recording in the official records as provided in chapter 28 may  
 347 not include in that record a social security number or a bank  
 348 account, debit, charge, or credit card number unless otherwise  
 349 expressly required by law.

350 ~~2.a.(b)1-~~ If a social security number or a bank account,  
 351 debit, charge, or credit card number is included in an official  
 352 record, such number may be made available as part of the  
 353 official records available for public inspection and copying  
 354 unless redaction is requested by the holder of such number or by  
 355 the holder's attorney or legal guardian.

356 ~~b.2-~~ If such record is in electronic format, on January 1,  
 357 2011, and thereafter, the county recorder must use his or her  
 358 best effort, as provided in subparagraph 8. ~~paragraph (h),~~ to  
 359 keep social security numbers confidential and exempt as provided  
 360 for in s. 119.071(5) (a), and to keep complete bank account,  
 361 debit, charge, and credit card numbers exempt as provided for in  
 362 s. 119.071(5) (b), without any person having to request  
 363 redaction.

364 ~~c.3-~~ Section 119.071(5) (a)7. and 8. does not apply to the

365 county recorder with respect to official records.

366 3.~~(e)~~ The holder of a social security number or a bank  
 367 account, debit, charge, or credit card number, or the holder's  
 368 attorney or legal guardian, may request that a county recorder  
 369 redact from an image or copy of an official record placed on a  
 370 county recorder's publicly available Internet website or on a  
 371 publicly available Internet website used by a county recorder to  
 372 display public records, or otherwise made electronically  
 373 available to the public, his or her social security number or  
 374 bank account, debit, charge, or credit card number contained in  
 375 that official record.

376 4.~~(d)~~ A request for redaction must be a signed, legibly  
 377 written request and must be delivered by mail, facsimile,  
 378 electronic transmission, or in person to the county recorder.  
 379 The request must specify the identification page number of the  
 380 record that contains the number to be redacted.

381 5.~~(e)~~ The county recorder does not have a duty to inquire  
 382 beyond the written request to verify the identity of a person  
 383 requesting redaction.

384 6.~~(f)~~ A fee may not be charged for redacting a social  
 385 security number or a bank account, debit, charge, or credit card  
 386 number.

387 7.~~(g)~~ A county recorder shall immediately and  
 388 conspicuously post signs throughout his or her offices for  
 389 public viewing, and shall immediately and conspicuously post on  
 390 any Internet website or remote electronic site made available by  
 391 the county recorder and used for the ordering or display of  
 392 official records or images or copies of official records, a

393 notice stating, in substantially similar form, the following:

394 a.1- On or after October 1, 2002, any person preparing or  
 395 filing a record for recordation in the official records may not  
 396 include a social security number or a bank account, debit,  
 397 charge, or credit card number in such document unless required  
 398 by law.

399 b.2- Any person has a right to request a county recorder  
 400 to remove from an image or copy of an official record placed on  
 401 a county recorder's publicly available Internet website or on a  
 402 publicly available Internet website used by a county recorder to  
 403 display public records, or otherwise made electronically  
 404 available to the general public, any social security number  
 405 contained in an official record. Such request must be made in  
 406 writing and delivered by mail, facsimile, or electronic  
 407 transmission, or delivered in person, to the county recorder.  
 408 The request must specify the identification page number that  
 409 contains the social security number to be redacted. A fee may  
 410 not be charged for the redaction of a social security number  
 411 pursuant to such a request.

412 8.(h) If the county recorder accepts or stores official  
 413 records in an electronic format, the county recorder must use  
 414 his or her best efforts to redact all social security numbers  
 415 and bank account, debit, charge, or credit card numbers from  
 416 electronic copies of the official record. The use of an  
 417 automated program for redaction shall be deemed to be the best  
 418 effort in performing the redaction and shall be deemed in  
 419 compliance with the requirements of this subsection.

420 9.(i) The county recorder is not liable for the

421 | inadvertent release of social security numbers, or bank account,  
 422 | debit, charge, or credit card numbers, filed with the county  
 423 | recorder.

424 | (b) A request for maintenance of a public record exemption  
 425 | in s. 119.071(4)(d)1. made pursuant to s. 119.071(4)(d)2. must  
 426 | specify the document type, name, identification number, and page  
 427 | number of the official record that contains the exempt  
 428 | information.

429 | Section 8. Subsection (2) of section 197.542, Florida  
 430 | Statutes, is amended to read:

431 | 197.542 Sale at public auction.—

432 | (2) The certificateholder has the right to bid as others  
 433 | present may bid, and the property shall be struck off and sold  
 434 | to the highest bidder. The high bidder shall post with the clerk  
 435 | a nonrefundable deposit of 5 percent of the bid or \$200,  
 436 | whichever is greater, at the time of the sale, to be applied to  
 437 | the sale price at the time of full payment. Notice of the  
 438 | deposit requirement must be posted at the auction site, and the  
 439 | clerk may require bidders to show their willingness and ability  
 440 | to post the deposit. If full payment of the final bid and of  
 441 | documentary stamp tax and recording fees is not made within 24  
 442 | hours, excluding weekends and legal holidays, the clerk shall  
 443 | cancel all bids, readvertise the sale as provided in this  
 444 | section, and pay all costs of the sale from the deposit. Any  
 445 | remaining funds must be applied toward the opening bid. If the  
 446 | property is redeemed prior to the clerk receiving full payment  
 447 | for the issuance of a tax deed, in order to receive a refund of  
 448 | the deposit described in this subsection, the high bidder must



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449 | submit a request for such refund in writing to the clerk. Upon  
 450 | receipt of the refund request, the clerk shall refund the cash  
 451 | deposit. The clerk may refuse to recognize the bid of any person  
 452 | who has previously bid and refused, for any reason, to honor  
 453 | such bid.

454 |       Section 9. This act shall take effect upon becoming a law.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/CS/HB 481 (2012)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE 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 Committee/Subcommittee hearing bill: Justice Appropriations  
2 Subcommittee  
3 Representative Pilon offered the following:  
4

**Amendment (with title amendment)**

6 Between lines 293 and 294, insert:

7 Section 6. Subsection (2) of section 28.37, Florida  
8 Statutes, is amended to read:

9 28.37 Fines, fees, service charges, and costs remitted to  
10 the state.—

11 (2) Except as otherwise provided in ss. 28.241 and 34.041,  
12 all court-related fines, fees, service charges, and costs are  
13 considered state funds and shall be remitted by the clerk to the  
14 Department of Revenue for deposit into the Clerks of the Court  
15 Trust Fund within the Justice Administrative Commission.

16 However, 10 percent of all court-related fines collected by the  
17 clerk, except for penalties or fines distributed under  
18 316.0083(1)(b)3. or 318.18(15)(a) to counties or municipalities,  
19 shall be deposited into the clerk's Public Records Modernization

Amendment No. 1

20 Trust Fund to be used exclusively for additional clerk court-  
21 related operational needs and program enhancements.

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**T I T L E   A M E N D M E N T**

27

Remove line 17 and insert:

28

circuit courts to official use; amending s. 28.37, F.S.;

29

providing for remittance exceptions; amending s. 50.041

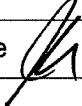
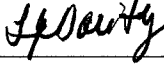


HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 583 Murder of a Child 17 Years Of Age or Younger

SPONSOR(S): Oliva and others

TIED BILLS: None IDEN./SIM. BILLS: SB 1734

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	14 Y, 0 N	Cunningham	Cunningham
2) Justice Appropriations Subcommittee		McAuliffe 	Jones Darity 
3) Judiciary Committee			

SUMMARY ANALYSIS

HB 583 provides that when a person is charged with second or third degree murder pursuant to s. 782.04(2) or (4), F.S., where the victim was a child 17 years of age or younger, the offense for which the person is charged may be reclassified, regardless of whether the person had a reason to know the age of the victim. The bill reclassifies the offenses as follows:

- In the case of a violation of s. 782.04(2), F.S. (second degree murder), from a first degree felony to a capital felony.
- In the case of a violation of s. 782.04(4), F.S. (third degree murder), from a second degree felony to a first degree felony.

The bill prohibits a court from suspending, deferring, or withholding adjudication of guilt or imposition of sentence for any violation of s. 782.066, F.S.

On December 14, 2012, the Criminal Justice Impact Conference determined that this bill would have an insignificant prison bed impact on the Department of Corrections.

The bill is effective July 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Second Degree Murder**

Section 782.04(2), F.S., provides that it is second degree murder to unlawfully kill a human being when perpetrated by any act imminently dangerous to another and evincing a depraved mind regardless of human life, although without any premeditated design to effect the death of any particular individual.

Second degree murder, as provided in s. 782.04(2), F.S., is a first degree felony punishable by imprisonment for a term of years not exceeding life or by up to 30 years imprisonment and a \$10,000 fine.<sup>1</sup>

#### **Third Degree Murder**

Section 782.04(4), F.S., defines third degree murder as the unlawful killing of a human being, when perpetrated without any design to effect death, by a person engaged in the perpetration of, or in the attempt to perpetrate, any felony other than any:

- Trafficking offense prohibited by s. 893.135(1), F.S.,
- Arson,
- Sexual battery,
- Robbery,
- Burglary,
- Kidnapping,
- Escape,
- Aggravated child abuse,
- Aggravated abuse of an elderly person or disabled adult,
- Aircraft piracy,
- Unlawful throwing, placing, or discharging of a destructive device or bomb,
- Unlawful distribution of any substance controlled under s. 893.03(1), F.S., cocaine as described in s. 893.03(2)(a)4., F.S., 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,
- Carjacking,
- Home-invasion robbery,
- Aggravated stalking,
- Murder of another human being,
- Resisting an officer with violence to his or her person, or
- Felony that is an act of terrorism or is in furtherance of an act of terrorism.

Third degree murder is a second degree felony punishable by up to 15 years imprisonment and a \$10,000 fine.<sup>2</sup>

#### **Effect of the Bill**

The bill creates s. 782.066, F.S., entitled "Murder; child 17 years of age or younger." The bill provides that when a person is charged with second or third degree murder pursuant to s. 782.04(2) or (4), F.S., where the victim was a child 17 years of age or younger, the offense for which the person is charged may be reclassified, regardless of whether the person had a reason to know the age of the victim. The bill reclassifies the offenses as follows:

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<sup>1</sup> Sections 775.082 and 775.083, F.S.

<sup>2</sup> *Id.*

- In the case of a violation of s. 782.04(2), F.S. (second degree murder), from a first degree felony to a capital felony.
- In the case of a violation of s. 782.04(4), F.S. (third degree murder), from a second degree felony to a first degree felony punishable by up to 30 years imprisonment and a \$10,000 fine.

The bill provides that notwithstanding s. 948.01, F.S.,<sup>3</sup> the court may not suspend, defer, or withhold adjudication of guilt or imposition of sentence for any violation of s. 782.066, F.S.

**B. SECTION DIRECTORY:**

Section 1. Creates s. 782.066, F.S., relating to murder; child 17 years of age or younger.

Section 2. The bill is effective July 1, 2012.

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

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

1. Revenues:

The bill does not appear to have any impact on state revenues.

2. Expenditures:

On December 14, 2012, the Criminal Justice Impact Conference determined that the bill would have an insignificant prison bed impact on the Department of Corrections.

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

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

The bill does not appear to have any impact on local government expenditures.

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

None.

**D. FISCAL COMMENTS:**

None.

**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.

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<sup>3</sup> Section 948.01(2), F.S., provides that if it appears to the court upon a hearing of the matter that a defendant is not likely again to engage in a criminal course of conduct and that the ends of justice and the welfare of society do not require that the defendant presently suffer the penalty imposed by law, the court, in its discretion, may either adjudge the defendant to be guilty or stay and withhold the adjudication of guilt. In either case, the court shall stay and withhold the imposition of sentence upon the defendant and shall place a felony defendant upon probation.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

The bill does not appear to create a need for rulemaking or rulemaking authority.

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

The bill provides an effective date of July 1, 2012. Generally, bills that impose or increase criminal penalties are effective on October 1 in order to give adequate notice to the public, state attorneys, public defenders, etc., of the new law's provisions.

It is unclear why there is a reference to s. 782.04(1), F.S. (first degree murder) on line 16. The bill only reclassifies the offenses contained in s. 782.04(2) and (4), F.S.

It appears that the provision prohibiting a court from suspending, deferring, or withholding adjudication of guilt or imposition of sentence should apply to "any offense reclassified by this section" rather than "any violation of this section."

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**



1 A bill to be entitled  
 2 An act relating to murder of a child 17 years of age  
 3 or younger; creating s. 782.066, F.S.; providing for  
 4 reclassification of specified murder offenses if  
 5 committed upon a child 17 years of age or younger;  
 6 prohibiting a court from suspending, deferring, or  
 7 withholding adjudication of guilt or imposition of  
 8 sentence; providing an effective date.

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

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12 Section 1. Section 782.066, Florida Statutes, is created  
 13 to read:

14 782.066 Murder; child 17 years of age or younger.—

15 (1) Whenever a person is charged with committing a  
 16 violation of s. 782.04, other than s. 782.04(1), upon a child 17  
 17 years of age or younger, the offense for which the person is  
 18 charged may be reclassified as follows, regardless of whether he  
 19 or she had a reason to know the age of the victim:

20 (a) In the case of a violation of s. 782.04(2), from a  
 21 felony of the first degree to a capital felony, punishable as  
 22 provided in s. 775.082.

23 (b) In the case of a violation of s. 782.04(4), from a  
 24 felony of the second degree to a felony of the first degree.

25 (2) Notwithstanding s. 948.01, a court may not suspend,  
 26 defer, or withhold adjudication of guilt or imposition of  
 27 sentence for any violation of this section.

28 Section 2. This act shall take effect July 1, 2012.

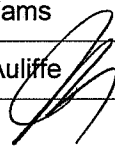
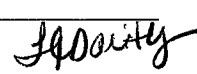


HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 759 False Reports to Law Enforcement Officers

**SPONSOR(S):** Criminal Justice Subcommittee; Hager

**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 302

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	14 Y, 0 N, As CS	Williams	Cunningham
2) Justice Appropriations Subcommittee		McAuliffe 	Jones Darity 
3) Judiciary Committee			

**SUMMARY ANALYSIS**

Section 837.05(1), F.S., makes it a first degree misdemeanor for a person to knowingly give false information to a law enforcement officer concerning the alleged commission of any crime.

The bill amends s. 837.05(1), F.S., to make a second or subsequent violation a third degree felony.

On December 14, 2011, the Criminal Justice Impact Conference met and determined that due to the unknown number of persons convicted of second or subsequent violations of s. 837.05(1), F.S., the prison bed impact of the bill is indeterminate.

The bill is effective October 1, 2012.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Present Situation**

Section 837.05(1), F.S., makes it a first degree misdemeanor<sup>1</sup> for a person to knowingly give false information to a law enforcement officer (LEO) concerning the alleged commission of any crime.<sup>2</sup>

#### **Effect of the Bill**

The bill amends s. 837.05(1), F.S., to make a second or subsequent violation a third degree felony.<sup>3</sup>

### B. SECTION DIRECTORY:

Section 1. Amends s. 837.05, F.S., relating to false reports to law enforcement authorities.

Section 2. Provides an effective date of October 1, 2012.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

The bill does not appear to have any impact on state government revenues.

#### 2. Expenditures:

The bill increases the penalty for second or subsequent violations of s. 837.05(1), F.S., from a first degree misdemeanor to a third degree felony. On December 14, 2011, the Criminal Justice Impact Conference determined that due to the unknown number of persons convicted of second or subsequent violations of s. 837.05(1), F.S., the prison bed impact of the bill is indeterminate. However, the bill increases penalties to an unranked third degree felony, therefore the prison bed impact will not likely be significant.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

The bill does not appear to have any impact on local government revenues.

#### 2. Expenditures:

The bill increases the criminal penalty for second or subsequent violations of s. 837.05(1), F.S., from a first degree misdemeanor to a third degree felony. To the extent that offenders who are convicted of the third degree felony offense and are sentenced to prison rather than county jail, the bill may have a positive jail bed impact on local governments.

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

None.

### D. FISCAL COMMENTS:

<sup>1</sup> A first degree misdemeanor is punishable by up to one year in county jail and a maximum \$1,000 fine. Sections 775.082 and 775.083, F.S.

<sup>2</sup> Section 837.05(2), F.S., makes it a third degree felony for a person to knowingly give false information to a LEO concerning the alleged commission of a capital felony.

<sup>3</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

None.

### 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:

The bill does not appear to create a need for rulemaking or rulemaking authority.

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

None.

### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

On January 12, 2012, the Criminal Justice Subcommittee adopted one strike-all amendment and reported the bill favorably as a committee substitute. The amendment corrected a drafting error to clarify that a person convicted of knowingly giving false information to an LEO concerning the alleged commission of a capital felony, commits a *third degree felony* and not a misdemeanor.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.

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A bill to be entitled  
An act relating to false reports to law enforcement officers; amending s. 837.05, F.S.; increasing criminal penalties for a second or subsequent conviction of providing false information to a law enforcement officer concerning the alleged commission of a crime; providing an effective date.

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

Section 1. Section 837.05, Florida Statutes, is amended to read:

837.05 False reports to law enforcement authorities.—

(1) Except as provided in subsection (2), a person who ~~whoever~~ knowingly gives false information to a ~~any~~ law enforcement officer concerning the alleged commission of any crime, commits:

(a) For a first offense resulting in conviction, a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) For a second or subsequent offense resulting in conviction, a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

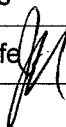
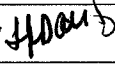
(2) A person who ~~whoever~~ knowingly gives false information to a law enforcement officer concerning the alleged commission of a capital felony, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 2. This act shall take effect October 1, 2012.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1175 Controlled Substances  
**SPONSOR(S):** Criminal Justice Subcommittee; Ingram and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1502

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	12 Y, 0 N, As CS	Williams	Cunningham
2) Justice Appropriations Subcommittee		McAuliffe 	Jones Darity 
3) Judiciary Committee			

### SUMMARY ANALYSIS

Synthetic cannabinoids (also known as "K2" or "Spice"), are chemically engineered substances containing one or more synthetic compounds that behave similarly to the primary psychoactive constituent of marijuana. Synthetic stimulants, routinely marketed as "bath salts," are psychoactive substances that, when used improperly, offer alternatives to illegal drugs. In recent years, synthetic cannabinoids and bath salts have begun being used as recreational drugs, and marketed as legal and safer alternatives to illegal methods of getting "high."

During the 2011 Legislative Session, s. 893.03, F.S., was amended to add specific synthetic cannabinoid and bath salt substances to Schedule I of Florida's controlled substance schedules. As a result, current law prohibits the possession, sale, manufacture, delivery and purchase of the synthetic cannabinoid and bath salt substances listed in Schedule I.

Since the 2011 Legislative Session, new formulas of synthetic cannabinoids and bath salts have been developed that are made up of chemicals not covered by current law.

The bill amends s. 893.03, F.S., to add additional synthetic cannabinoid and bath salt substances to Schedule I of Florida's controlled substance schedules. As a result, possession of these substances is a third degree felony ranked in Level 3 of the ranking chart. The offense of sale, manufacture or delivery or possession with intent to sell, manufacture or deliver these substances is a third degree felony ranked in Level 3 of the ranking chart. The purchase of these substances is a third degree felony ranked in Level 2 of the ranking chart.

According to FDLE, this bill could potentially increase the number of evidence submissions into FDLE's Crime Laboratory System. The lab system will need to acquire all of the required standards necessary to test the proposed chemical substances. However, FDLE's fiscal analysis stated that no expenditures would be required to implement the bill.

The Criminal Justice Impact Conference met on January 17, 2012, and determined the bill will have an insignificant impact on state prison beds.

The bill is effective October 1, 2012.



# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Background

##### Synthetic Cannabinoids

Synthetic cannabinoids (also known as "K2" or "Spice") are chemically engineered substances, similar to tetrahydrocannabinol (THC)—the active ingredient in marijuana—that, when smoked or ingested, can produce a high similar to marijuana.<sup>1</sup> Synthetic cannabinoids have been developed over the last 30 years for research purposes to investigate the cannabinoid system. No legitimate non-research uses have been identified for synthetic cannabinoids and they have not been approved by the U.S. Food and Drug Administration for human consumption.<sup>2</sup>

##### Bath Salts

3,4-Methylenedioxymethcathinone, 3,4-Methylenedioxypropylvalerone (MDPV), Methylmethcathinone, Methoxymethcathinone, Fluoromethcathinone, and Methylethcathinone, are psychoactive substances that, when used improperly, offer alternatives to illegal drugs.<sup>3</sup> Much like the marketing of synthetic cannabinoids as incense, these synthetic stimulant substances are commercially available and are being marketed as "bath salts."<sup>4,5</sup> While these substances have become popular under the guise of being sold as bath salts, they are sometimes sold as other products such as insect repellent or plant food, with names like "Bonsai Grow," among others.<sup>6</sup>

##### Substance Abuse

Despite being labeled "not for human consumption," synthetic cannabinoids and bath salts have begun being used as recreational drugs and have been marketed as legal and safer alternatives to illegal methods of getting "high."<sup>7</sup> They have been found accessible at convenience stores, discount tobacco outlets, gas stations, pawnshops, tattoo parlors, and truck stops, amongst other locations.<sup>8</sup> These substances are reportedly being used predominately by the youth population.<sup>9</sup>

Synthetic cannabinoids and bath salts are abused typically by smoking. However, bath salts have also been abused by injection, snorting and by the use of an atomizer.<sup>10</sup> Reports of side effects from synthetic cannabinoids and bath salts include: tachycardia, hypertension, anxiety, high blood pressure,

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<sup>1</sup> National Conference of State Legislatures, "Synthetic Drug Threats." October 24, 2011 (<http://www.ncsl.org/?tabid=21398>) (last visited on January 12, 2012).

<sup>2</sup> "Schedules of Controlled Substances: Temporary Placement of Five Synthetic Cannabinoids Into Schedule I," Federal Register, The Daily Journal of the United States Government, November 24, 2010 (<http://www.federalregister.gov/articles/2010/11/24/2010-29600/schedules-of-controlled-substances-temporary-placement-of-five-synthetic-cannabinoids-into-schedule>) (last visited on January 12, 2012).

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

<sup>4</sup> "Bath salts" are known by a variety of names, including "Red Dove," "Blue Silk," "Zoom," "Bloom," "Cloud Nine," "Ocean Snow," "Lunar Wave," "Vanilla Sky," "Ivory Wave," "White Lightning," "Scarface" "Purple Wave," "Blizzard," "Star Dust," "Lovey, Dovey," "Snow Leopard," "Aura," and "Hurricane Charlie." Hunterdon Drug Awareness Program, Comprehensive Drug Information on MDPV, Mephedrone ("Bath Salts"). Hunterdon Drug Awareness Program, Comprehensive Drug Information on MDPV, Mephedrone ("Bath Salts"). December 28, 2011. (<http://www.hdap.org/mdpv.html>) (last visited on January 12, 2012).

<sup>5</sup> Hunterdon Drug Awareness Program, Comprehensive Drug Information on MDPV, Mephedrone ("Bath Salts"). December 28, 2011. (<http://www.hdap.org/mdpv.html>) (last visited on January 12, 2012).

<sup>6</sup> Drug Enforcement Administration. Methylenedioxypropylvalerone (MDPV). October, 2011. ([http://www.deadiversion.usdoj.gov/drugs\\_concern/mdpv.pdf](http://www.deadiversion.usdoj.gov/drugs_concern/mdpv.pdf)) (last visited on January 12, 2012).

<sup>7</sup> See, Florida Fusion Center, Unit Reporting; Office of Statewide Intelligence. "Bath Salts" Receive Emergency Drug Scheduling. Brief # 10-194 Public, January 26, 2011. ([http://www.fdle.state.fl.us/Content/BathSalts/FDLEBrief10\\_194BathSaltsPublic.pdf](http://www.fdle.state.fl.us/Content/BathSalts/FDLEBrief10_194BathSaltsPublic.pdf)) (last visited on January 12, 2012). See also, *supra* note 2.

<sup>8</sup> National Drug Intelligence Center. U.S. Department of Justice. DRUG WATCH: Increasing abuse of bath salts. December 17, 2010. ([www.justice.gov/ndic/pubs43/43474/sw0007p.pdf](http://www.justice.gov/ndic/pubs43/43474/sw0007p.pdf)) (last visited on January 12, 2012).

<sup>9</sup> *Supra* note 6. See also, *supra* note 2.

<sup>10</sup> *Supra* note 8.

and hallucinations.<sup>11</sup> Additionally, there have been cases in which these substances have caused individuals to behave inappropriately, and in some instances cause public danger.<sup>12</sup>

### Drug Schedules

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act and classifies controlled substances into five categories, known as schedules. These schedules are used to regulate the manufacture, distribution, preparation and dispensing of the substances listed therein.

The distinguishing factors between the different drug schedules are the "potential for abuse"<sup>13</sup> of the substance listed therein and whether there is a currently accepted medical use for the substance. Schedule I substances have a high potential for abuse and have no currently accepted medical use in the United States.<sup>14</sup> Cannabis and heroin are examples of Schedule I drugs.<sup>15</sup>

### Florida law

#### *Synthetic Cannabinoids (Spice/K2)*

During the 2011 Legislative Session, the following synthetic cannabinoids and synthetic cannabinoid-mimicking compounds were added to Schedule I of Florida's controlled substance schedules:

- 2-[ (1R, 3S) -3-hydroxycyclohexyl] -5- (2-methyloctan-2-yl) phenol, also known as CP 47, 497 and its dimethyloctyl (C8) homologue.
- (6aR, 10aR) -9- (hydroxymethyl) -6, 6-dimethyl-3- (2-methyloctan-2-yl) -6a, 7, 10, 10a-tetrahydrobenzo [c] chromen-1-ol, also known as HU-210.
- 1-Pentyl-3- (1-naphthoyl) indole, also known as JWH-018.
- 1-Butyl-3- (1-naphthoyl) indole, also known as JWH-073.
- 1-[2-(4-morpholinyl)ethyl]-3-(1- naphthoyl) indole, also known as JWH-200.<sup>16</sup>

As a result, possession of these synthetic cannabinoids is a third degree felony<sup>17</sup> in conformity with other Schedule I hallucinogens.<sup>18</sup> This offense is ranked in Level 3 of the offense severity ranking chart (ranking chart). The offense of sale, manufacture or delivery or possession with intent to sell, manufacture or deliver synthetic cannabinoids is a third degree felony ranked in Level 3 of the ranking chart. The offense of purchase of synthetic cannabinoids is a third degree felony ranked in Level 2 of the ranking chart.

#### *Bath Salts*

During the 2011 Legislative Session, the following synthetic substances (bath salts) were added to Schedule I of Florida's controlled substance schedules:

- 3,4-Methylenedioxymethcathinone.
- 3,4-Methylenedioxypropylvalerone (MDPV).
- Methylenedioxymethcathinone.
- Methoxymethcathinone.
- Fluoromethcathinone.
- Methylethcathinone.<sup>19</sup>

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<sup>11</sup> *Supra* note 6. *See also, supra* note 2.

<sup>12</sup> According to Panama City Beach police, one of the most shocking cases of bath salts abuse involved a woman who burst into her 71-year-old mother's room swinging a machete. Alexia Campbell and Aaron Deslatte, Sun Sentinel, *Florida bans 'bath salt' drugs after violent outbursts*. January 27, 2011. ([http://articles.sun-sentinel.com/2011-01-27/news/fl-bath-salts-florida-20110126\\_1\\_salts-fake-cocaine-bath](http://articles.sun-sentinel.com/2011-01-27/news/fl-bath-salts-florida-20110126_1_salts-fake-cocaine-bath)) (last visited on January 12, 2012).

<sup>13</sup> *See* s. 893.02(19), F.S.

<sup>14</sup> *See* s. 893.03, F.S.

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

<sup>16</sup> Chapter 2011-73, L.O.F.

<sup>17</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. Sections 775.082 and 775.083, F.S.

<sup>18</sup> Possession of 3 grams or less of synthetic cannabinoids will be a first degree misdemeanor, unless the synthetic cannabinoid is in powdered form. *See*, ch. 2011-73, L.O.F.

<sup>19</sup> Chapter 2011-90, L.O.F.

As a result, possession of these substances is a third-degree felony ranked in Level 3 of the ranking chart. The offense of sale, manufacture or delivery or possession with intent to sell, manufacture or deliver these substances is a third degree felony ranked in Level 3 of the ranking chart. The purchase of these substances is a third degree felony ranked in Level 2 of the ranking chart.

#### Recent Issues

Since the 2011 Legislative Session, new formulas of synthetic cannabinoids and bath salts have been developed that are made up of chemicals not covered by current law.<sup>20</sup> According to the Florida Department of Law Enforcement (FDLE), state and local law enforcement agencies are currently limited in their ability to intercede in cases involving any of these chemical substances, thus creating an environment where individuals feel free to possess, distribute, and/or use these harmful substances without fear of intervention by state and local law enforcement.<sup>21</sup>

#### **Effect of the Bill**

The bill amends s. 893.03, F.S., to add additional synthetic cannabinoid and bath salt substances to Schedule I of Florida's controlled substance schedules. As a result, possession of these substances is a third degree felony ranked in Level 3 of the ranking chart. The offense of sale, manufacture or delivery or possession with intent to sell, manufacture or deliver these substances is a third degree felony ranked in Level 3 of the ranking chart. The purchase of these substances is a third degree felony ranked in Level 2 of the ranking chart.

The bill also reenacts ss. 893.13(1) – (6) and 921.0022(3)(b) – (e), F.S., to incorporate changes made to s. 893.03, F.S.

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

Section 1. Amends s. 893.03, F.S., relating to standards and schedules.

Section 2. Reenacts s. 893.13, F.S., relating to prohibited acts; penalties.

Section 3. Reenacts s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 4. Provides an effective date of October 1, 2012.

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

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

##### **1. Revenues:**

The bill does not appear to have any impact on state revenues.

##### **2. Expenditures:**

The bill adds additional chemical substances to Schedule I of Florida's controlled substance schedules. According to FDLE, this could potentially increase the number of evidence submissions into FDLE's Crime Laboratory System.<sup>22</sup> The lab system will need to acquire all of the required

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<sup>20</sup>According to the FDLE, over 90 chemicals related to synthetic cannabinoids and bath salts have been discovered that have no accepted medical use or a legitimate industrial or commercial purpose. Although similar in structural make up, these chemical compounds differ by rearrangement of the molecules, creating a different drug. *See*, Florida Department of Law Enforcement. Analysis to HB 1175 relating to Controlled Substances. January 12, 2012. (On file with House Criminal Justice Subcommittee).

<sup>21</sup> Florida Department of Law Enforcement. Analysis to HB 1175 relating to Controlled Substances. January 12, 2012. (On file with House Criminal Justice Subcommittee).

<sup>22</sup> *Id.*

standards necessary to test the proposed chemical substances.<sup>23</sup> However, FDLE's fiscal analysis stated that no expenditures would be required to implement the bill.<sup>24</sup>

The Criminal Justice Impact Conference met on January 17, 2012, and determined the bill will have an insignificant impact on state prison beds.

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

1. Revenues:

The bill does not appear to have any impact on local government revenues.

2. Expenditures:

Because the bill adds certain chemical substances to Schedule I, local agencies which fund and maintain their own crime lab with a chemistry section would potentially be facing a rise in evidence submissions associated with the additions of the proposed chemical substances.<sup>25</sup>

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

The bill prohibits the possession, sale, manufacture, delivery and purchase of related synthetic cannabinoids and bath salts chemical substances. As a result, the bill could have a negative fiscal impact on retailers currently profiting on the sale of such chemical substances.

**D. FISCAL COMMENTS:**

None.

**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:**

The bill does not appear to create a need for rulemaking or rulemaking authority.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 17, 2012, the Criminal Justice Subcommittee adopted one amendment and reported the bill favorably as a committee substitute. The amendment corrects the spelling of chemical substances listed in the bill.

This analysis is drafted to the committee substitute as passed by the Criminal Justice Subcommittee.

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<sup>23</sup> *Id.*

<sup>24</sup> *Id.*

<sup>25</sup> *Id.*



29 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical  
 30 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted  
 31 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt  
 32 Anabolic Steroid Products."

33 (1) SCHEDULE I.—A substance in Schedule I has a high  
 34 potential for abuse and has no currently accepted medical use in  
 35 treatment in the United States and in its use under medical  
 36 supervision does not meet accepted safety standards. The  
 37 following substances are controlled in Schedule I:

38 (c) Unless specifically excepted or unless listed in  
 39 another schedule, any material, compound, mixture, or  
 40 preparation that ~~which~~ contains any quantity of the following  
 41 hallucinogenic substances or that ~~which~~ contains any of their  
 42 salts, isomers, and salts of isomers, if ~~whenever~~ the existence  
 43 of such salts, isomers, and salts of isomers is possible within  
 44 the specific chemical designation:

- 45 1. Alpha-ethyltryptamine.
- 46 2. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-  
 47 methylaminorex).
- 48 3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).
- 49 4. 4-Bromo-2,5-dimethoxyamphetamine.
- 50 5. 4-Bromo-2, 5-dimethoxyphenethylamine.
- 51 6. Bufotenine.
- 52 7. Cannabis.
- 53 8. Cathinone.
- 54 9. Diethyltryptamine.
- 55 10. 2,5-Dimethoxyamphetamine.
- 56 11. 2,5-Dimethoxy-4-ethylamphetamine (DOET).

- 57 |       12. Dimethyltryptamine.
- 58 |       13. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine
- 59 | analog of phencyclidine).
- 60 |       14. N-Ethyl-3-piperidyl benzilate.
- 61 |       15. N-ethylamphetamine.
- 62 |       16. Fenethylamine.
- 63 |       17. N-Hydroxy-3,4-methylenedioxyamphetamine.
- 64 |       18. Ibogaine.
- 65 |       19. Lysergic acid diethylamide (LSD).
- 66 |       20. Mescaline.
- 67 |       21. Methcathinone.
- 68 |       22. 5-Methoxy-3,4-methylenedioxyamphetamine.
- 69 |       23. 4-methoxyamphetamine.
- 70 |       24. 4-methoxymethamphetamine.
- 71 |       25. 4-Methyl-2,5-dimethoxyamphetamine.
- 72 |       26. 3,4-Methylenedioxy-N-ethylamphetamine.
- 73 |       27. 3,4-Methylenedioxyamphetamine.
- 74 |       28. N-Methyl-3-piperidyl benzilate.
- 75 |       29. N,N-dimethylamphetamine.
- 76 |       30. Parahexyl.
- 77 |       31. Peyote.
- 78 |       32. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine
- 79 | analog of phencyclidine).
- 80 |       33. Psilocybin.
- 81 |       34. Psilocyn.
- 82 |       35. Salvia divinorum, except for any drug product approved
- 83 | by the United States Food and Drug Administration which contains
- 84 | Salvia divinorum or its isomers, esters, ethers, salts, and

85 salts of isomers, esters, and ethers, if ~~whenever~~ the existence  
 86 of such isomers, esters, ethers, and salts is possible within  
 87 the specific chemical designation.

88 36. Salvinorin A, except for any drug product approved by  
 89 the United States Food and Drug Administration which contains  
 90 Salvinorin A or its isomers, esters, ethers, salts, and salts of  
 91 isomers, esters, and ethers, if ~~whenever~~ the existence of such  
 92 isomers, esters, ethers, and salts is possible within the  
 93 specific chemical designation.

94 37. Tetrahydrocannabinols.

95 38. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP)  
 96 (Thiophene analog of phencyclidine).

97 39. 3,4,5-Trimethoxyamphetamine.

98 40. 3,4-Methylenedioxymethcathinone.

99 41. 3,4-Methylenedioxypyrovalerone (MDPV).

100 42. Methylmethcathinone.

101 43. Methoxymethcathinone.

102 44. Fluoromethcathinone.

103 45. Methylethcathinone.

104 46. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-  
 105 yl)phenol, also known as CP 47,497 and its dimethyloctyl (C8)  
 106 homologue.

107 47. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-  
 108 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol,  
 109 also known as HU-210.

110 48. 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018.

111 49. 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073.

112 50. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole,



113 also known as JWH-200.

- 114 51. BZP (Benzylpiperazine).
- 115 52. Fluorophenylpiperazine.
- 116 53. Methylphenylpiperazine.
- 117 54. Chlorophenylpiperazine.
- 118 55. Methoxyphenylpiperazine.
- 119 56. DBZP (1,4-dibenzylpiperazine).
- 120 57. TFMPP (3-Trifluoromethylphenylpiperazine).
- 121 58. MBDB (Methylbenzodioxolylbutanamine).
- 122 59. 5-Hydroxy-alpha-methyltryptamine.
- 123 60. 5-Hydroxy-N-methyltryptamine.
- 124 61. 5-Methoxy-N-methyl-N-isopropyltryptamine.
- 125 62. 5-Methoxy-alpha-methyltryptamine.
- 126 63. Methyltryptamine.
- 127 64. 5-Methoxy-N,N-dimethyltryptamine.
- 128 65. 5-Methyl-N,N-dimethyltryptamine.
- 129 66. Tyramine (4-Hydroxyphenethylamine).
- 130 67. 5-Methoxy-N,N-Diisopropyltryptamine.
- 131 68. DiPT (N,N-Diisopropyltryptamine).
- 132 69. DPT (N,N-Dipropyltryptamine).
- 133 70. 4-Hydroxy-N,N-diisopropyltryptamine.
- 134 71. Methoxytryptamine.
- 135 72. DOI (4-Iodo-2,5-dimethoxyamphetamine).
- 136 73. DOC (4-Chloro-2,5-dimethoxyamphetamine).
- 137 74. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).
- 138 75. 2C-T-4 (2,5-Dimethoxy-4-isopropylthiophenethylamine).
- 139 76. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).
- 140 77. 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine).

- 141 |       78. 2C-T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine).
- 142 |       79. 2C-T-7 (2,5-Dimethoxy-4-propylthiophenethylamine).
- 143 |       80. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).
- 144 |       81. Butylone (beta-keto-N-methylbenzodioxolylpropylamine).
- 145 |       82. Ethcathinone.
- 146 |       83. Ethylone (3,4-methylenedioxy-N-ethylcathinone).
- 147 |       84. Naphyrone (naphthylpyrovalerone).
- 148 |       85. N-N-Dimethyl-3,4-methylenedioxcathinone.
- 149 |       86. N-N-Diethyl-3,4-methylenedioxcathinone.
- 150 |       87. 3,4-methylenedioxy-propiofenone.
- 151 |       88. 2-Bromo-3,4-Methylenedioxypropiofenone.
- 152 |       89. 3,4-methylenedioxy-propiofenone-2-oxime.
- 153 |       90. N-Acetyl-3,4-methylenedioxcathinone.
- 154 |       91. N-Acetyl-N-Methyl-3,4-Methylenedioxcathinone.
- 155 |       92. N-Acetyl-N-Ethyl-3,4-Methylenedioxcathinone.
- 156 |       93. Bromomethcathinone.
- 157 |       94. Buphedrone (alpha-methylamino-butyrophenone).
- 158 |       95. Etylone (beta-Keto-Ethylbenzodioxolylbutanamine).
- 159 |       96. Dimethylcathinone.
- 160 |       97. Dimethylmethcathinone.
- 161 |       98. Pentylone (beta-Keto-Methylbenzodioxolylpentanamine).
- 162 |       99. (MDPPP) 3,4-Methylenedioxy-alpha-
- 163 | pyrrolidinopropiofenone.
- 164 |       100. (MDPBP) 3,4-Methylenedioxy-alpha-
- 165 | pyrrolidinobutiophenone.
- 166 |       101. Methoxypyrrolidinopropiofenone (MOPPP).
- 167 |       102. Methylpyrrolidinohexiophenone (MPHP).
- 168 |       103. Benzocyclidine (BCP) or

- 169 | benzothiophenylcyclohexylpiperidine (BTCP).
- 170 |     104. Fluoromethylaminobutyrophenone (F-MABP).
- 171 |     105. Methoxypyrrolidinobutyrophenone (MeO-PBP).
- 172 |     106. Ethylpyrrolidinobutyrophenone (Et-PBP).
- 173 |     107. 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO-MCAT).
- 174 |     108. Methylethylaminobutyrophenone (Me-EABP)
- 175 |     109. Methylaminobutyrophenone (MABP).
- 176 |     110. Pyrrolidinopropiophenone.
- 177 |     111. Pyrrolidinobutiophenone (PBP).
- 178 |     112. Pyrrolidinovalerophenone (PVP).
- 179 |     113. Methylpyrrolidinopropiophenone (MPPP).
- 180 |     114. JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole).
- 181 |     115. JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1-
- 182 | naphthalenylmethanone).
- 183 |     116. JWH-019 (Naphthalen-1-yl-(1-pentylindol-3-
- 184 | yl)methanone).
- 185 |     117. JWH-020 (1-heptyl-3-(1-naphthoyl)indole).
- 186 |     118. JWH-072 (Naphthalen-1-yl-(1-propyl-1H-indol-3-
- 187 | yl)methanone).
- 188 |     119. JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-
- 189 | yl)methanone).
- 190 |     120. JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).
- 191 |     121. JWH-133 ((6aR,10aR)-3-(1,1-Dimethylbutyl)-
- 192 | 6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran)).
- 193 |     122. JWH-175 (3-(naphthalen-1-ylmethyl)-1-pentyl-1H-
- 194 | indole).
- 195 |     123. JWH-201 (1-pentyl-3-(4-methoxyphenylacetyl)indole).
- 196 |     124. JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-

- 197 | yl)ethanone).
- 198 |       125. JWH-210 (4-ethylnaphthalen-1-yl-(1-pentylindol-3-
- 199 | yl)methanone).
- 200 |       126. JWH-250 (2-(2-methoxyphenyl)-1-(1-pentylindol-3-
- 201 | yl)ethanone).
- 202 |       127. JWH-251 (2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-
- 203 | yl)ethanone).
- 204 |       128. JWH-302 (1-pentyl-3-(3-methoxyphenylacetyl)indole).
- 205 |       129. JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).
- 206 |       130. HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-
- 207 | (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-
- 208 | ol)).
- 209 |       131. HU-308 ([91R,2R,5R)-2-[2,6-dimethoxy-4-(2-
- 210 | methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-
- 211 | enyl]methanol).
- 212 |       132. HU-331 (3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-
- 213 | methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-
- 214 | 1,4-dione).
- 215 |       133. CB-13 (Naphthalen-1-yl-(4-pentyloxynaphthalen-1-
- 216 | yl)methanone).
- 217 |       134. CB-25 (N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-
- 218 | undecanamide).
- 219 |       135. CB-52 (N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-
- 220 | undecanamide).
- 221 |       136. CP55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-
- 222 | hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol).
- 223 |       137. AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-2-
- 224 | iodophenyl)methanone).

225 138. AM-2201 (1-[(5-fluoropentyl)-1H-indol-3-yl]-  
 226 (naphthalen-1-yl)methanone).

227 139. RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-  
 228 yl)methanone)).

229 140. RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-  
 230 methoxyphenylethanone).

231 141. WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-  
 232 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-  
 233 naphthalenylmethanone).

234 142. WIN55,212-3 ([3S)-2,3-Dihydro-5-methyl-3-(4-  
 235 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-  
 236 naphthalenylmethanone).

237 Section 2. For the purpose of incorporating the amendment  
 238 made by this act to section 893.03, Florida Statutes, in  
 239 references thereto, subsections (1), (2), (3), (4), (5), and (6)  
 240 of section 893.13, Florida Statutes, are reenacted to read:

241 893.13 Prohibited acts; penalties.—

242 (1)(a) Except as authorized by this chapter and chapter  
 243 499, it is unlawful for any person to sell, manufacture, or  
 244 deliver, or possess with intent to sell, manufacture, or  
 245 deliver, a controlled substance. Any person who violates this  
 246 provision with respect to:

247 1. A controlled substance named or described in s.  
 248 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 249 commits a felony of the second degree, punishable as provided in  
 250 s. 775.082, s. 775.083, or s. 775.084.

251 2. A controlled substance named or described in s.  
 252 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,

253 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 254 the third degree, punishable as provided in s. 775.082, s.  
 255 775.083, or s. 775.084.

256 3. A controlled substance named or described in s.  
 257 893.03(5) commits a misdemeanor of the first degree, punishable  
 258 as provided in s. 775.082 or s. 775.083.

259 (b) Except as provided in this chapter, it is unlawful to  
 260 sell or deliver in excess of 10 grams of any substance named or  
 261 described in s. 893.03(1)(a) or (1)(b), or any combination  
 262 thereof, or any mixture containing any such substance. Any  
 263 person who violates this paragraph commits a felony of the first  
 264 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 265 775.084.

266 (c) Except as authorized by this chapter, it is unlawful  
 267 for any person to sell, manufacture, or deliver, or possess with  
 268 intent to sell, manufacture, or deliver, a controlled substance  
 269 in, on, or within 1,000 feet of the real property comprising a  
 270 child care facility as defined in s. 402.302 or a public or  
 271 private elementary, middle, or secondary school between the  
 272 hours of 6 a.m. and 12 midnight, or at any time in, on, or  
 273 within 1,000 feet of real property comprising a state, county,  
 274 or municipal park, a community center, or a publicly owned  
 275 recreational facility. For the purposes of this paragraph, the  
 276 term "community center" means a facility operated by a nonprofit  
 277 community-based organization for the provision of recreational,  
 278 social, or educational services to the public. Any person who  
 279 violates this paragraph with respect to:

280 1. A controlled substance named or described in s.

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281 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 282 commits a felony of the first degree, punishable as provided in  
 283 s. 775.082, s. 775.083, or s. 775.084. The defendant must be  
 284 sentenced to a minimum term of imprisonment of 3 calendar years  
 285 unless the offense was committed within 1,000 feet of the real  
 286 property comprising a child care facility as defined in s.  
 287 402.302.

288 2. A controlled substance named or described in s.  
 289 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 290 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 291 the second degree, punishable as provided in s. 775.082, s.  
 292 775.083, or s. 775.084.

293 3. Any other controlled substance, except as lawfully  
 294 sold, manufactured, or delivered, must be sentenced to pay a  
 295 \$500 fine and to serve 100 hours of public service in addition  
 296 to any other penalty prescribed by law.

297  
 298 This paragraph does not apply to a child care facility unless  
 299 the owner or operator of the facility posts a sign that is not  
 300 less than 2 square feet in size with a word legend identifying  
 301 the facility as a licensed child care facility and that is  
 302 posted on the property of the child care facility in a  
 303 conspicuous place where the sign is reasonably visible to the  
 304 public.

305 (d) Except as authorized by this chapter, it is unlawful  
 306 for any person to sell, manufacture, or deliver, or possess with  
 307 intent to sell, manufacture, or deliver, a controlled substance  
 308 in, on, or within 1,000 feet of the real property comprising a

309 public or private college, university, or other postsecondary  
 310 educational institution. Any person who violates this paragraph  
 311 with respect to:

312 1. A controlled substance named or described in s.  
 313 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 314 commits a felony of the first degree, punishable as provided in  
 315 s. 775.082, s. 775.083, or s. 775.084.

316 2. A controlled substance named or described in s.  
 317 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 318 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 319 the second degree, punishable as provided in s. 775.082, s.  
 320 775.083, or s. 775.084.

321 3. Any other controlled substance, except as lawfully  
 322 sold, manufactured, or delivered, must be sentenced to pay a  
 323 \$500 fine and to serve 100 hours of public service in addition  
 324 to any other penalty prescribed by law.

325 (e) Except as authorized by this chapter, it is unlawful  
 326 for any person to sell, manufacture, or deliver, or possess with  
 327 intent to sell, manufacture, or deliver, a controlled substance  
 328 not authorized by law in, on, or within 1,000 feet of a physical  
 329 place for worship at which a church or religious organization  
 330 regularly conducts religious services or within 1,000 feet of a  
 331 convenience business as defined in s. 812.171. Any person who  
 332 violates this paragraph with respect to:

333 1. A controlled substance named or described in s.  
 334 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 335 commits a felony of the first degree, punishable as provided in  
 336 s. 775.082, s. 775.083, or s. 775.084.



337 2. A controlled substance named or described in s.  
 338 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 339 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 340 the second degree, punishable as provided in s. 775.082, s.  
 341 775.083, or s. 775.084.

342 3. Any other controlled substance, except as lawfully  
 343 sold, manufactured, or delivered, must be sentenced to pay a  
 344 \$500 fine and to serve 100 hours of public service in addition  
 345 to any other penalty prescribed by law.

346 (f) Except as authorized by this chapter, it is unlawful  
 347 for any person to sell, manufacture, or deliver, or possess with  
 348 intent to sell, manufacture, or deliver, a controlled substance  
 349 in, on, or within 1,000 feet of the real property comprising a  
 350 public housing facility at any time. For purposes of this  
 351 section, the term "real property comprising a public housing  
 352 facility" means real property, as defined in s. 421.03(12), of a  
 353 public corporation created as a housing authority pursuant to  
 354 part I of chapter 421. Any person who violates this paragraph  
 355 with respect to:

356 1. A controlled substance named or described in s.  
 357 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 358 commits a felony of the first degree, punishable as provided in  
 359 s. 775.082, s. 775.083, or s. 775.084.

360 2. A controlled substance named or described in s.  
 361 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 362 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 363 the second degree, punishable as provided in s. 775.082, s.  
 364 775.083, or s. 775.084.

365 3. Any other controlled substance, except as lawfully  
 366 sold, manufactured, or delivered, must be sentenced to pay a  
 367 \$500 fine and to serve 100 hours of public service in addition  
 368 to any other penalty prescribed by law.

369 (g) Except as authorized by this chapter, it is unlawful  
 370 for any person to manufacture methamphetamine or phencyclidine,  
 371 or possess any listed chemical as defined in s. 893.033 in  
 372 violation of s. 893.149 and with intent to manufacture  
 373 methamphetamine or phencyclidine. If any person violates this  
 374 paragraph and:

375 1. The commission or attempted commission of the crime  
 376 occurs in a structure or conveyance where any child under 16  
 377 years of age is present, the person commits a felony of the  
 378 first degree, punishable as provided in s. 775.082, s. 775.083,  
 379 or s. 775.084. In addition, the defendant must be sentenced to a  
 380 minimum term of imprisonment of 5 calendar years.

381 2. The commission of the crime causes any child under 16  
 382 years of age to suffer great bodily harm, the person commits a  
 383 felony of the first degree, punishable as provided in s.  
 384 775.082, s. 775.083, or s. 775.084. In addition, the defendant  
 385 must be sentenced to a minimum term of imprisonment of 10  
 386 calendar years.

387 (h) Except as authorized by this chapter, it is unlawful  
 388 for any person to sell, manufacture, or deliver, or possess with  
 389 intent to sell, manufacture, or deliver, a controlled substance  
 390 in, on, or within 1,000 feet of the real property comprising an  
 391 assisted living facility, as that term is used in chapter 429.  
 392 Any person who violates this paragraph with respect to:

393 1. A controlled substance named or described in s.  
 394 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 395 commits a felony of the first degree, punishable as provided in  
 396 s. 775.082, s. 775.083, or s. 775.084.

397 2. A controlled substance named or described in s.  
 398 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 399 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 400 the second degree, punishable as provided in s. 775.082, s.  
 401 775.083, or s. 775.084.

402 (2)(a) Except as authorized by this chapter and chapter  
 403 499, it is unlawful for any person to purchase, or possess with  
 404 intent to purchase, a controlled substance. Any person who  
 405 violates this provision with respect to:

406 1. A controlled substance named or described in s.  
 407 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 408 commits a felony of the second degree, punishable as provided in  
 409 s. 775.082, s. 775.083, or s. 775.084.

410 2. A controlled substance named or described in s.  
 411 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 412 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 413 the third degree, punishable as provided in s. 775.082, s.  
 414 775.083, or s. 775.084.

415 3. A controlled substance named or described in s.  
 416 893.03(5) commits a misdemeanor of the first degree, punishable  
 417 as provided in s. 775.082 or s. 775.083.

418 (b) Except as provided in this chapter, it is unlawful to  
 419 purchase in excess of 10 grams of any substance named or  
 420 described in s. 893.03(1)(a) or (1)(b), or any combination

421 | thereof, or any mixture containing any such substance. Any  
 422 | person who violates this paragraph commits a felony of the first  
 423 | degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 424 | 775.084.

425 |         (3) Any person who delivers, without consideration, not  
 426 | more than 20 grams of cannabis, as defined in this chapter,  
 427 | commits a misdemeanor of the first degree, punishable as  
 428 | provided in s. 775.082 or s. 775.083. For the purposes of this  
 429 | paragraph, "cannabis" does not include the resin extracted from  
 430 | the plants of the genus Cannabis or any compound manufacture,  
 431 | salt, derivative, mixture, or preparation of such resin.

432 |         (4) Except as authorized by this chapter, it is unlawful  
 433 | for any person 18 years of age or older to deliver any  
 434 | controlled substance to a person under the age of 18 years, or  
 435 | to use or hire a person under the age of 18 years as an agent or  
 436 | employee in the sale or delivery of such a substance, or to use  
 437 | such person to assist in avoiding detection or apprehension for  
 438 | a violation of this chapter. Any person who violates this  
 439 | provision with respect to:

440 |         (a) A controlled substance named or described in s.  
 441 | 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 442 | commits a felony of the first degree, punishable as provided in  
 443 | s. 775.082, s. 775.083, or s. 775.084.

444 |         (b) A controlled substance named or described in s.  
 445 | 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 446 | (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 447 | the second degree, punishable as provided in s. 775.082, s.  
 448 | 775.083, or s. 775.084.

449  
 450 Imposition of sentence may not be suspended or deferred, nor  
 451 shall the person so convicted be placed on probation.  
 452 (5) It is unlawful for any person to bring into this state  
 453 any controlled substance unless the possession of such  
 454 controlled substance is authorized by this chapter or unless  
 455 such person is licensed to do so by the appropriate federal  
 456 agency. Any person who violates this provision with respect to:  
 457 (a) A controlled substance named or described in s.  
 458 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 459 commits a felony of the second degree, punishable as provided in  
 460 s. 775.082, s. 775.083, or s. 775.084.  
 461 (b) A controlled substance named or described in s.  
 462 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 463 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 464 the third degree, punishable as provided in s. 775.082, s.  
 465 775.083, or s. 775.084.  
 466 (c) A controlled substance named or described in s.  
 467 893.03(5) commits a misdemeanor of the first degree, punishable  
 468 as provided in s. 775.082 or s. 775.083.  
 469 (6)(a) It is unlawful for any person to be in actual or  
 470 constructive possession of a controlled substance unless such  
 471 controlled substance was lawfully obtained from a practitioner  
 472 or pursuant to a valid prescription or order of a practitioner  
 473 while acting in the course of his or her professional practice  
 474 or to be in actual or constructive possession of a controlled  
 475 substance except as otherwise authorized by this chapter. Any  
 476 person who violates this provision commits a felony of the third

477 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 478 775.084.

479 (b) If the offense is the possession of not more than 20  
 480 grams of cannabis, as defined in this chapter, or 3 grams or  
 481 less of a controlled substance described in s. 893.03(1)(c)46.-  
 482 50., the person commits a misdemeanor of the first degree,  
 483 punishable as provided in s. 775.082 or s. 775.083. For the  
 484 purposes of this subsection, "cannabis" does not include the  
 485 resin extracted from the plants of the genus Cannabis, or any  
 486 compound manufacture, salt, derivative, mixture, or preparation  
 487 of such resin, and a controlled substance described in s.  
 488 893.03(1)(c)46.-50. does not include the substance in a powdered  
 489 form.

490 (c) Except as provided in this chapter, it is unlawful to  
 491 possess in excess of 10 grams of any substance named or  
 492 described in s. 893.03(1)(a) or (1)(b), or any combination  
 493 thereof, or any mixture containing any such substance. Any  
 494 person who violates this paragraph commits a felony of the first  
 495 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 496 775.084.

497 (d) Notwithstanding any provision to the contrary of the  
 498 laws of this state relating to arrest, a law enforcement officer  
 499 may arrest without warrant any person who the officer has  
 500 probable cause to believe is violating the provisions of this  
 501 chapter relating to possession of cannabis.

502 Section 3. For the purpose of incorporating the amendment  
 503 made by this act to section 893.03, Florida Statutes, in  
 504 references thereto, paragraphs (b), (c), (d), and (e) of

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505 subsection (3) of section 921.0022, Florida Statutes, are  
 506 reenacted to read:

507 921.0022 Criminal Punishment Code; offense severity  
 508 ranking chart.—

509 (3) OFFENSE SEVERITY RANKING CHART

510 (b) LEVEL 2

511

Florida	Felony	Description
Statute	Degree	Description
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07	3rd	Registration of securities and furnishing of prospectus required.
590.28(1)	3rd	Intentional burning of lands.

512

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518	784.05 (3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
519	787.04 (1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
520	806.13 (1) (b) 3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
521	810.061 (2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
522	810.09 (2) (e)	3rd	Trespassing on posted commercial horticulture property.
523	812.014 (2) (c) 1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
524	812.014 (2) (d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.
	812.015 (7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control



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			device countermeasure.
525	817.234(1)(a)2.	3rd	False statement in support of insurance claim.
526	817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
527	817.52(3)	3rd	Failure to redeliver hired vehicle.
528	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
529	817.60(5)	3rd	Dealing in credit cards of another.
530	817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
531	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
532	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
533	831.01	3rd	Forgery.
534			

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535	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
536	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
537	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
538	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
539	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
540	832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
541	843.08	3rd	Falsely impersonating an officer.
542	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.
	893.147(2)	3rd	Manufacture or delivery of drug

paraphernalia.

543

544

(c) LEVEL 3

545

Florida

Felony

Statute

Degree

Description

546

119.10(2)(b)

3rd

Unlawful use of confidential information from police reports.

547

316.066

3rd

Unlawfully obtaining or using confidential crash reports.

(3)(b)-(d)

548

316.193(2)(b)

3rd

Felony DUI, 3rd conviction.

549

316.1935(2)

3rd

Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.

550

319.30(4)

3rd

Possession by junkyard of motor vehicle with identification number plate removed.

551

319.33(1)(a)

3rd

Alter or forge any certificate of title to a motor vehicle or mobile home.

552

319.33(1)(c)

3rd

Procure or pass title on stolen vehicle.

553

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554	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
555	327.35(2)(b)	3rd	Felony BUI.
556	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
557	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
558	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
559	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.
	379.2431 (1)(e)6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle

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560			Protection Act.
561	400.9935 (4)	3rd	Operating a clinic without a license or filing false license application or other required information.
562	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
563	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
564	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
565	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
566	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
567	697.08	3rd	Equity skimming.
	790.15 (3)	3rd	Person directs another to discharge

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			firearm from a vehicle.
568			
	796.05 (1)	3rd	Live on earnings of a prostitute.
569			
	806.10 (1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
570			
	806.10 (2)	3rd	Interferes with or assaults firefighter in performance of duty.
571			
	810.09 (2) (c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
572			
	812.014 (2) (c) 2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
573			
	812.0145 (2) (c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
574			
	815.04 (4) (b)	2nd	Computer offense devised to defraud or obtain property.
575			
	817.034 (4) (a) 3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property

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			valued at less than \$20,000.
576	817.233	3rd	Burning to defraud insurer.
577	817.234 (8) (b) - (c)	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
578	817.234 (11) (a)	3rd	Insurance fraud; property value less than \$20,000.
579	817.236	3rd	Filing a false motor vehicle insurance application.
580	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
581	817.413 (2)	3rd	Sale of used goods as new.
582	817.505 (4)	3rd	Patient brokering.
583	828.12 (2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
584	831.28 (2) (a)	3rd	Counterfeiting a payment instrument with intent to defraud or possessing a

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585			counterfeit payment instrument.
586	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
587	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
588	843.19	3rd	Injure, disable, or kill police dog or horse.
589	860.15(3)	3rd	Overcharging for repairs and parts.
590	870.01(2)	3rd	Riot; inciting or encouraging.
591	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other 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).
592	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver 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 within 1,000 feet of university.



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- 593
893.13(1)(f)2.
2nd
Sell, manufacture, or deliver 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  
within 1,000 feet of public housing  
facility.
- 594
893.13(6)(a)
3rd
Possession of any controlled substance  
other than felony possession of  
cannabis.
- 595
893.13(7)(a)8.
3rd
Withhold information from practitioner  
regarding previous receipt of or  
prescription for a controlled substance.
- 596
893.13(7)(a)9.
3rd
Obtain or attempt to obtain controlled  
substance by fraud, forgery,  
misrepresentation, etc.
- 597
893.13(7)(a)10.
3rd
Affix false or forged label to package  
of controlled substance.
- 598
893.13(7)(a)11.
3rd
Furnish false or fraudulent material  
information on any document or record  
required by chapter 893.
- 599
893.13(8)(a)1.
3rd
Knowingly assist a patient, other

599			person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
600	893.13(8)(a)2.	3rd	Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
601	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
602	893.13(8)(a)4.	3rd	Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
603	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
604	944.47 (1)(a)1.-2.	3rd	Introduce contraband to correctional facility.

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605	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
606	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
607	(d) LEVEL 4		
608			
609	Florida Statute	Felony Degree	Description
610	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.
611	499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
612	499.0051(2)	3rd	Failure to authenticate pedigree papers.
613	499.0051(6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.

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614	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
615	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
616	784.075	3rd	Battery on detention or commitment facility staff.
617	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
618	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
619	784.081 (3)	3rd	Battery on specified official or employee.
620	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
621	784.083 (3)	3rd	Battery on code inspector.
622	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials.

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- 623 787.03 (1) 3rd Interference with custody; wrongly takes  
minor from appointed guardian.
- 624 787.04 (2) 3rd Take, entice, or remove child beyond  
state limits with criminal intent  
pending custody proceedings.
- 625 787.04 (3) 3rd Carrying child beyond state lines with  
criminal intent to avoid producing child  
at custody hearing or delivering to  
designated person.
- 626 790.115 (1) 3rd Exhibiting firearm or weapon within  
1,000 feet of a school.
- 627 790.115 (2) (b) 3rd Possessing electric weapon or device,  
destructive device, or other weapon on  
school property.
- 628 790.115 (2) (c) 3rd Possessing firearm on school property.
- 629 800.04 (7) (c) 3rd Lewd or lascivious exhibition; offender  
less than 18 years.
- 630 810.02 (4) (a) 3rd Burglary, or attempted burglary, of an  
unoccupied structure; unarmed; no  
assault or battery.

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631	810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
632	810.06	3rd	Burglary; possession of tools.
633	810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
634	812.014(2)(c)3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
635	812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
636	812.0195(2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
637	817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
638	817.568(2)(a)	3rd	Fraudulent use of personal identification information.
639	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.

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640	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
641	837.02(1)	3rd	Perjury in official proceedings.
642	837.021(1)	3rd	Make contradictory statements in official proceedings.
643	838.022	3rd	Official misconduct.
644	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
645	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Family Services.
646	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
647	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
648	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).

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649	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
650	874.05(1)	3rd	Encouraging or recruiting another to join a criminal gang.
651	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).
652	914.14(2)	3rd	Witnesses accepting bribes.
653	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
654	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
655	918.12	3rd	Tampering with jurors.
656	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
657	(e)	LEVEL 5	
658	Florida	Felony	
659	Statute	Degree	Description



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660	316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
661	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
662	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
663	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
664	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
665	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
666	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
667	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
	624.401(4)(b)2.	2nd	Transacting insurance without a

			certificate or authority; premium collected \$20,000 or more but less than \$100,000.
668	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
669	790.01 (2)	3rd	Carrying a concealed firearm.
670	790.162	2nd	Threat to throw or discharge destructive device.
671	790.163 (1)	2nd	False report of deadly explosive or weapon of mass destruction.
672	790.221 (1)	2nd	Possession of short-barreled shotgun or machine gun.
673	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
674	800.04 (6) (c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
675	800.04 (7) (b)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
676			

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677	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
678	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
679	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
680	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
681	812.131(2)(b)	3rd	Robbery by sudden snatching.
682	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
683	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
684	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
	817.2341(1),	3rd	Filing false financial statements,

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	(2) (a) & (3) (a)		making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
685	817.568 (2) (b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.
686	817.625 (2) (b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
687	825.1025 (4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
688	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
689	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion

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			picture, etc., which includes sexual conduct by a child.
690	839.13 (2) (b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
691	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
692	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
693	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
694	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
695	874.05 (2)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
696	893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03 (1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4.

697	893.13(1)(c)2.	2nd	drugs). Sell, manufacture, or deliver cannabis (or other 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) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
698	893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university.
699	893.13(1)(e)2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under 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) within 1,000 feet of property used for religious services or a specified business site.
700	893.13(1)(f)1.	1st	Sell, manufacture, or deliver cocaine

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701 (or other s. 893.03(1)(a), (1)(b),  
(1)(d), or (2)(a), (2)(b), or (2)(c)4.  
drugs) within 1,000 feet of public  
housing facility.

702 893.13(4)(b) 2nd Deliver to minor cannabis (or other 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).

703 893.1351(1) 3rd Ownership, lease, or rental for  
trafficking in or manufacturing of  
controlled substance.

704 Section 4. This act shall take effect October 1, 2012.