



Criminal Justice Subcommittee

February 19, 2013

9:00 AM

404 HOB

Will W. Weatherford
Speaker

Matt Gaetz
Chair

Committee Meeting Notice

HOUSE OF REPRESENTATIVES

Criminal Justice Subcommittee

Start Date and Time: Tuesday, February 19, 2013 09:00 am
End Date and Time: Tuesday, February 19, 2013 11:00 am
Location: 404 HOB
Duration: 2.00 hrs

Consideration of the following bill(s):

HB 113 Distribution of Materials Harmful to Minors by Diaz, M.
HB 311 Costs of Prosecution, Investigation, and Representation by Ray
HB 619 Controlled Substances by Ingram

Consideration of the following proposed committee bill(s):

PCB CRJS 13-02 -- Sex Offenses
PCB CRJS 13-03 -- Pretrial Detention

NOTICE FINALIZED on 02/12/2013 16:16 by hudson.jessica

HB 113

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 113 Distribution of Materials Harmful to Minors
SPONSOR(S): Diaz, M. and others
TIED BILLS: IDEN./SIM. BILLS: SB 86

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Jones <i>LTD</i>	Cunningham <i>me</i>
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Section 847.011, F.S., defines "harmful to minors" as any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:

- Predominantly appeals to a prurient, shameful, or morbid interest;
- Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
- Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

Florida has multiple statutes that prohibit persons from transmitting, selling, or displaying to minors material that is harmful to minors. However, there are currently no statutes prohibiting an adult from displaying or giving minors (without monetary consideration) material that is harmful to minors.

The bill amends s. 847.012, F.S., to create a new offense making it a third degree felony for an adult to knowingly distribute to a minor on school property or post on school property any of the following material:

- Any picture, photograph, drawing, sculpture, motion picture film, videocassette, or similar visual representation or image of a person or portion of the human body which depicts nudity or sexual conduct, sexual excitement, sexual battery, bestiality, or sadomasochistic abuse and which is harmful to minors; or
- Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter defined in s. 847.001, F.S., explicit and detailed verbal descriptions or narrative accounts of sexual excitement, or sexual conduct and which is harmful to minors.

"School property" is defined as the grounds or facility of any kindergarten, elementary school, middle school, junior high school, secondary school, or career center, whether public or nonpublic.

The Criminal Justice Impact Conference has not yet met to determine the prison bed impact of the bill; however, the bill may have a negative prison bed impact on the Department of Corrections.

The bill is effective on October 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES

Regulation of Obscene Materials

The First Amendment to the United States Constitution and Article I, Section 4, of the Florida Constitution protect the rights of individuals to express themselves in a variety of ways. The constitutions protect not only speech and the written word, but also conduct intended to communicate. However, the Supreme Court of the United States has found that obscene materials are not protected by the First Amendment.¹

Section 847.001(10), F.S., defines “obscene” as the status of material that:

- The average person, applying contemporary community standards, would find, taken as a whole, appeals to the prurient interest;
- Depicts or describes, in a patently offensive way, sexual conduct;² and
- Taken as a whole, lacks serious literary, artistic, political, or scientific value.

Florida has multiple statutes prohibiting the possession, exhibition, and dissemination of obscene materials to adults and children.³ One specific to children is s. 847.0133, F.S., which makes it a third degree felony⁴ to knowingly sell, rent, loan, give away, distribute, transmit, or show any obscene material to a minor.

Regulation of Materials Harmful to Minors

The definition of materials that are “harmful to minors” is similar to but more inclusive than that of “obscene” materials. Section 847.001(6), F.S., defines “harmful to minors” as any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity,⁵ sexual conduct,⁶ or sexual excitement⁷ when it:

- Predominantly appeals to a prurient, shameful, or morbid interest;
- Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and
- Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.⁸

Florida has multiple statutes that prohibit persons from transmitting, selling, or displaying to minors material that is harmful to minors. A description of these statutes is below.

Transmission of Materials Harmful to Minors

Section 847.0138, F.S., makes it a third degree felony for a person to know or believe they are transmitting an image, information, or data that is “harmful to minors” to a specific individual known by the defendant to be a minor.⁹

¹ *Miller v. California*, 413 U.S. 15 (1973).

² Section 847.001, F.S., defines “sexual conduct” as actual or simulated sexual intercourse, deviate sexual intercourse, sexual bestiality, masturbation, or sadomasochistic abuse; actual lewd exhibition of the genitals; actual physical contact with a person’s clothed or unclothed genitals, pubic area, buttocks, or if such person is a female, breast with the intent to arouse, or gratify the sexual desire of either party; or any act or conduct which constituted sexual battery or simulates the sexual battery is being or will be committed. A mother’s breastfeeding of her baby does not under any circumstance constitute “sexual conduct.”

³ *See, e.g.*, s. 847.011, F.S.

⁴ 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.

⁵ Section 847.001(9), F.S., defines “nudity” as the showing of the human male or female genitals, pubic area, or buttocks with less than a fully opaque covering; or the showing of the female breast with less than a fully opaque covering of any portion thereof below the top of the nipple; or the depiction of covered male genitals in a discernibly turgid state.

⁶ *Supra* note 2.

⁷ Section 847.001(17), F.S., defines “sexual excitement” as the condition of the human male or female genitals when in a state of sexual stimulation or arousal.

⁸ Section 847.001, F.S.

Selling, Renting, or Lending Materials Harmful to Minors

Section 847.012(3)(a) and (b), F.S., makes it a third degree felony for a person to knowingly¹⁰ sell, rent, or loan for monetary consideration to a minor:

- Any picture, photograph, drawing, sculpture, motion picture film, videocassette, or similar visual representation or image of a person or portion of the human body which depicts nudity or sexual conduct, sexual excitement, sexual battery, bestiality, or sadomasochistic abuse and which is harmful to minors; or
- Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter defined in s. 847.001, F.S., explicit and detailed verbal descriptions or narrative accounts of sexual excitement, or sexual conduct and which is harmful to minors.¹¹

Exposing Minors to Harmful Motion Pictures, Shows, Etc.

Section 847.013(3), F.S., makes it a first degree misdemeanor for a person to knowingly¹² exhibit for monetary consideration to a minor; knowingly sell or rent a videotape of a motion picture to a minor; knowingly sell to a minor an admission ticket or pass; or knowingly admit a minor for a monetary consideration to premises whereon there is exhibited a motion picture, exhibition, show, representation, or other presentation which, in whole or in part, depicts nudity, sexual conduct, sexual excitement, sexual battery, bestiality, or sadomasochistic abuse and which is harmful to minors.

Retail Display of Materials Harmful to Minors

Section 847.0125(2)(a), F.S., makes it a first degree misdemeanor¹³ for a person who offers for sale in a retail establishment that is open to the general public any book, magazine, or other printed material, *the cover of which depicts material which is harmful to minors*, to knowingly exhibit such book, magazine, or material in such a way that it is on open display to, or within the convenient reach of, minors. The statute requires such items to be displayed, either individually or collectively, behind an opaque covering which conceals the book, magazine, or other printed material.¹⁴

The statute also makes it a first degree misdemeanor for a person who offers for sale in a retail establishment that is open to the general public any book, magazine, or other printed material, *the content of which exploits, is devoted to, or is principally made up of descriptions or depictions of material which is harmful to minors*, to knowingly exhibit such book, magazine, or material in such establishment in such a way that it is within the convenient reach of minors.¹⁵

There are currently no statutes prohibiting an adult from displaying or giving minors (without monetary consideration) material that is harmful to minors.¹⁶

⁹ "Known by the defendant to be a minor" means that the defendant had actual knowledge or believed that the recipient of the communication was a minor. Section 847.0138(1)(a), F.S.

¹⁰ "Knowingly" means having general knowledge of, reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both: (1) the character and content of any motion picture described herein which is reasonably susceptible of examination by the defendant, or the character of any exhibition, presentation, representation, or show described herein, other than a motion picture show, which is reasonably susceptible of being ascertained by the defendant; and (2) the age of the minor. Section 847.013(1), F.S.

¹¹ A person's ignorance of a minor's age, a minor's misrepresentation of his or her age, a bona fide belief of a minor's age, or a minor's consent may not be raised as a defense in a prosecution for a violation of s. 847.012, F.S.

¹² *Supra* note 10.

¹³ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

¹⁴ Section 847.0125(2)(a), F.S.

¹⁵ Section 847.0125(2)(b), F.S.

¹⁶ There may be circumstances under which such activity could be charged as a violation of s. 827.04(1), F.S., contributing to the delinquency of a child, which is a first degree misdemeanor.

Effect of the Bill

The bill amends s. 847.012, F.S., to add a new subsection (5), that makes it a third degree felony for an adult to knowingly distribute to a minor on school property or post on school property any of the following material:

- Any picture, photograph, drawing, sculpture, motion picture film, videocassette, or similar visual representation or image of a person or portion of the human body which depicts nudity or sexual conduct, sexual excitement, sexual battery, bestiality, or sadomasochistic abuse and which is harmful to minors; or
- Any book, pamphlet, magazine, printed matter however reproduced, or sound recording which contains any matter defined in s. 847.001, F.S., explicit and detailed verbal descriptions or narrative accounts of sexual excitement, or sexual conduct and which is harmful to minors.

“School property” is defined as the grounds or facility of any kindergarten, elementary school, middle school, junior high school, secondary school, or career center, whether public or nonpublic.

B. SECTION DIRECTORY:

Section 1. Amends s. 847.012, F.S., relating to harmful materials; sale or distribution to minors or using minors in production prohibited; penalty.

Section 2. Provides an effective date of October 1, 2013.

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 Criminal Justice Impact Conference has not yet met to determine the prison bed impact of the bill. However, because the bill creates a new third degree felony offense relating to distributing or posting harmful materials to a minor on school property, it may have a negative 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:

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

2. Other:

The First Amendment to the United States Constitution and Article I, Section 4, of the Florida Constitution protect the rights of individuals to express themselves in a variety of ways. The constitutions protect not only speech and the written word, but also conduct intended to communicate. When lawmakers attempt to restrict or burden fundamental and basic rights such as these, the laws must not only be directed toward a legitimate public purpose, but they must be drawn as narrowly as possible. As the United States Supreme Court has noted, "[b]ecause First Amendment freedoms need breathing space to survive, government may regulate in the area only with narrow specificity."¹⁷ Put another way, statutes cannot be so broad that they prohibit constitutionally protected conduct as well as unprotected conduct.¹⁸

The overbreadth doctrine permits an individual whose own speech or conduct may be prohibited to challenge an enactment facially "because it also threatens others not before the court – those who desire to engage in legally protected expression but who may refrain from doing so rather than risk prosecution or undertake to have the law declared partially invalid."¹⁹ The doctrine contemplates the pragmatic judicial assumption that an overbroad statute will have a chilling effect on protected speech.²⁰

In *Miller v. California*, the Supreme Court of the United States found that obscene materials are not protected by the First Amendment.²¹ However, because materials that are harmful to minors are not considered to be obscene, they receive First Amendment protections. The Supreme Court of Florida, when reviewing the constitutionality of s. 847.0138, F.S., (prohibiting the transmission of harmful materials to minors) noted the importance of the narrow construction of s. 847.0138, F.S., specifically prohibiting harmful materials given to a person *known or believed to be* minor.²² If statutes are not narrowly constructed they may be challenged as being overbroad.

The bill makes it a crime to post certain material that is harmful to minors on school property, regardless of whether a minor actually sees the material. Additionally, the bill includes "career centers" in the definition of "school property," which are educational institutions offering courses for both youth and adults.²³ To the extent that the bill regulates materials arguably suitable for adults that are protected by the First Amendment, it bill could be challenged as being overbroad.

B. RULE-MAKING AUTHORITY:

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

¹⁷ *NAACP v. Button*, 371 U.S. 415, 433 (1963).

¹⁸ *Sult v. State*, 906 So.2d 1013 (Fla. 2005) (citations omitted).

¹⁹ *Brockett v. Spokane Arcades, Inc.*, 472 U.S. 491 (1985).

²⁰ *Sult v. State*, 906 So.2d 1013 (Fla. 2005) (citations omitted).

²¹ *Miller v. California*, 413 U.S. 15 (1973).

²² *Simmons v. State*, 944 So.2d. 317 (Fla. 2005).

²³ Section 1001.44, F.S.

C. DRAFTING ISSUES OR OTHER COMMENTS:

The bill prohibits the distribution and posting of materials that are harmful to minors on school property. This could prohibit teachers from providing sexual education materials to students or from posting materials in teachers' lounges or other "teacher only" areas.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

1 A bill to be entitled
 2 An act relating to the distribution of materials
 3 harmful to minors; amending s. 847.012, F.S.;
 4 prohibiting an adult from knowingly distributing to a
 5 minor or posting on school property certain specified
 6 materials harmful to minors; providing that it is a
 7 third-degree felony for any person to knowingly
 8 distribute to a minor or post on school property
 9 certain materials harmful to minors; defining the term
 10 "school property"; providing an effective date.

11
 12 Be It Enacted by the Legislature of the State of Florida:

13
 14 Section 1. Present subsections (5) through (9) of section
 15 847.012, Florida Statutes, are renumbered as subsections (6)
 16 through (10), respectively, and a new subsection (5) is added to
 17 that section, to read:

18 847.012 Harmful materials; sale or distribution to minors
 19 or using minors in production prohibited; penalty.-

20 (5) An adult may not knowingly distribute to a minor on
 21 school property, or post on school property, any material
 22 described in subsection (3). As used in this subsection, the
 23 term "school property" means the grounds or facility of any
 24 kindergarten, elementary school, middle school, junior high
 25 school, secondary school, or career center, whether public or
 26 nonpublic.

27 Section 2. This act shall take effect October 1, 2013.

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: Criminal Justice

2 Subcommittee

3 Representative Diaz, M. offered the following:

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

6 Remove lines 25-26 and insert:

7 school, or secondary school, whether public or nonpublic. This
8 subsection does not apply to the distribution or posting of
9 instructional materials that by design serve as a major tool for
10 assisting in the instruction of a subject or course by school
11 officers, instructional personnel, administrative personnel,
12 school volunteers, educational support employees, or managers as
13 those terms are defined in s. 1012.01.

14
15 -----
16 **T I T L E A M E N D M E N T**

17 Remove line 10 and insert:

18 "school property"; providing an exception; providing an
19 effective date.

HB 311

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 311 Costs of Prosecution, Investigation, and Representation
SPONSOR(S): Ray
TIED BILLS: IDEN./SIM. BILLS: SB 288

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Jones <i>LTJ</i>	Cunningham <i>all</i>
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

Currently, convicted persons are liable for the costs of prosecution, as well as the costs of representation. These costs may be imposed at a rate of \$50 in misdemeanor or criminal traffic offense cases, and \$100 in felony criminal cases.

The bill amends s. 903.286, F.S., to add the costs of prosecution and representation to the list of costs a clerk of the court is required to withhold from the return of a cash bond posted on behalf of a criminal defendant.

The bill also requires:

- The clerk to collect and dispense cost payments in any case, regardless of whether the case takes place before a judge in open court or in any other manner; and
- The costs of prosecution to be assessed against juveniles who have been adjudicated delinquent or have adjudication of delinquency withheld.

The bill appears to have a positive fiscal impact on state attorneys and public defenders. However, the impact is indeterminate because the number of affected offenders and their ultimate level of payment is unknown.

The bill is effective on July 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Costs of Prosecution

Section 938.27, F.S., provides that convicted¹ persons are liable for the costs of prosecution at the rate of \$50 in misdemeanor or criminal traffic offense cases and \$100 in felony criminal cases.² The costs of prosecution are deposited into the State Attorneys Revenue Trust Fund.³

If requested, convicted persons are also liable for the investigative costs incurred by a law enforcement agency, fire department,⁴ the Department of Financial Services, and the Office of Financial Regulation of the Financial Services Commission.⁵ Section 938.27, F.S., requires a court to impose the cost of prosecution and investigation notwithstanding the convicted person's present ability to pay.

Costs of Representation

Section 938.29(1)(a), F.S., provides that convicted⁶ persons are liable for payment of a \$50 public defender application fee under s. 27.52(1)(b), F.S.,⁷ attorney's fees, and costs if he or she received assistance from the public defender's office, a special assistant public defender, the office of criminal conflict and civil regional counsel, or a private conflict attorney, or if he or she has received due process services after being found indigent for costs.

Costs of representation may be imposed at the rate of \$50 in misdemeanor or criminal traffic offense cases and \$100 in felony criminal cases.⁸ The costs of representation are deposited into the Indigent Criminal Defense Trust Fund.⁹

Section 938.29(1)(a), F.S., requires a court to impose the cost of representation notwithstanding the convicted person's present ability to pay. A court may order payment of the assessed application fee and attorney's fees and costs as a condition of probation, of suspension of sentence, or of withholding the imposition of sentence.¹⁰

The clerk within the county where the defendant was tried or received services from a public defender is responsible for enforcing, satisfying, compromising, settling, subordinating, releasing or otherwise disposing of any debt or lien imposed.¹¹

Cash Bonds

Section 903.286, F.S., requires the clerk to withhold the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent¹² to pay unpaid:

- Court fees;
- Court costs; and
- Criminal penalties.

¹ Section 938.27(1), F.S., defines "convicted" as the determination of guilt, or of violation of probation or community control, which is a result of a plea, trial, or violation proceeding, regardless of whether adjudication is withheld.

² A court may set a higher amount upon the showing of sufficient proof of higher costs incurred. Section 938.27(8), F.S.

³ *Id.*

⁴ For arson investigations. Section 938.27, F.S.

⁵ Section 938.27(1), F.S.

⁶ The definition of "convicted" is the same as that in s. 938.27(1), F.S. See, *supra* note 1 and section 938.29(1)(a), F.S.

⁷ Section 27.52(1), F.S., provides that a person seeking the appointment of a public defender under s. 27.51, F.S., based upon an inability to pay, must apply to the clerk of the court for a determination of indigent status.

⁸ A court may set a higher amount upon the showing of sufficient proof of higher fees or costs incurred. Section 938.29(1)(a), F.S.

⁹ Section 27.562, F.S.

¹⁰ Section 938.29(1)(c), F.S.

¹¹ Section 938.29(3), F.S.

¹² Licensed under ch. 648, F.S.

If sufficient funds are not available to pay the above costs, the clerk must immediately obtain payment from the defendant or enroll the defendant in a payment plan pursuant to s. 28.246, F.S.¹³

All cash bond forms must prominently display a notice explaining that all funds are subject to forfeiture and withholding by the clerk for the payment of the above-described costs on behalf of the criminal defendant, regardless of who posted the funds.¹⁴

Effect of the Bill

The bill amends s. 903.286, F.S., to add the costs of prosecution and costs of representation to the list of costs a clerk is required to withhold from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent. If sufficient funds are not available to pay such costs from the cash bond, the clerk must immediately obtain payment from the defendant or enroll the defendant in a payment plan. The bill also requires the cash bond form to include a notice that the costs of prosecution and representation are subject to forfeiture and withholding.

Costs of Prosecution – Disposition by the Clerk

Section 938.27, F.S., requires the clerk to collect and disburse cost of prosecution payments in every case. In certain instances, the clerk, rather than the judge, is authorized to dispose of a case. For example, s. 318.14, F.S., authorizes the clerk to dispose of certain misdemeanor criminal traffic violations¹⁵ in which the defendant shows the clerk that he or she is in compliance with the law under which the charge was made prior to the court date.

Effect of the Bill

The bill amends s. 938.27, F.S., to require the clerk to collect and disburse costs of prosecution in all cases, *regardless of whether the cases are disposed of before a judge in open court or in any other manner provided by law.*

Delinquency Cases

Currently, juveniles who are adjudicated delinquent or who have had the adjudication of delinquency withheld are not required to pay the costs of prosecution although they can be required to pay for the costs of representation.¹⁶

Effect of the Bill

The bill requires that costs of prosecution be assessed against juveniles who have been adjudicated delinquent or have adjudication of delinquency withheld.

B. SECTION DIRECTORY:

Section 1. Amends s. 903.286, F.S., relating to return of cash bond; requirement to withhold unpaid fines, fees, court costs; case bond forms.

Section 2. Amends s. 938.27, F.S., relating to judgment for costs on conviction.

Section 3. Amends s. 985.032, F.S., relating to legal representation for delinquency cases.

Section 4. Provides an effective date of July 1, 2013.

¹³ Section 903.286(1), F.S.

¹⁴ Section 903.286(2), F.S.

¹⁵ Examples of these traffic offenses include operating a motor vehicle without a valid registration under s. 320.131, F.S., and presenting invalid proof of insurance under s. 316.646, F.S.

¹⁶ Sections 27.52 (6) and 938.29(2)(a)2., F.S.

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill appears to have a positive impact on state attorneys and public defenders for the following reasons:

- The clerk is required to collect and dispense cost payments in any case, regardless of whether the disposition of the case takes place before a judge in open court or in any other manner provided by law. This may result in more costs of prosecution being collected and paid to state attorneys;
- The costs of prosecution will be assessed against juveniles who have been adjudicated delinquent or have adjudication of delinquency withheld. This will likely result in a positive fiscal impact on state attorneys as these costs were not assessed in these specific cases in the past; and
- The costs of prosecution and representation are allowed to be withheld by the clerk from the return of a cash bond posted on behalf of a criminal defendant by a person other than a bail bond agent. This will likely have a positive fiscal impact on state attorneys and public defenders as the cost of prosecution and representation will be deducted from any cash bonds posted on behalf of a criminal defendant.

However, the impact is indeterminate because the number of affected offenders and their ultimate level of payment is unknown.

2. Expenditures:

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

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:

Juveniles who have been adjudicated delinquent or have adjudication of delinquency withheld will now be assessed the costs of prosecution.

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:

The bill amends s. 903.286, F.S., to allow the clerk to withhold costs of representation "as provided by s. 27.52, F.S.," from the return of a cash bond. Section 27.52, F.S., only references the \$50 application fee for court-appointed counsel. If the intent was to include all costs of representation, such as attorney's fees, the reference should be changed to s. 938.29, F.S.

IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

HB 311

2013

1 A bill to be entitled
 2 An act relating to costs of prosecution,
 3 investigation, and representation; amending s.
 4 903.286, F.S.; providing for the withholding of unpaid
 5 costs of prosecution and representation from the
 6 return of a cash bond posted on behalf of a criminal
 7 defendant; requiring a notice on bond forms of such
 8 possible withholding; amending s. 938.27, F.S.;
 9 clarifying the types of cases that are subject to the
 10 collection and dispensing of cost payments by the
 11 clerk of the court; amending s. 985.032, F.S.;
 12 providing for assessment of costs of prosecution
 13 against a juvenile who has been adjudicated delinquent
 14 or has adjudication of delinquency withheld; providing
 15 an effective date.

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

18
 19 Section 1. Section 903.286, Florida Statutes, is amended
 20 to read:

21 903.286 Return of cash bond; requirement to withhold
 22 unpaid fines, fees, court costs; cash bond forms.—

23 (1) Notwithstanding s. 903.31(2), the clerk of the court
 24 shall withhold from the return of a cash bond posted on behalf
 25 of a criminal defendant by a person other than a bail bond agent
 26 licensed pursuant to chapter 648 sufficient funds to pay any
 27 unpaid costs of prosecution, costs of representation as provided
 28 by s. 27.52, court fees, court costs, and criminal penalties. If

29 sufficient funds are not available to pay all unpaid costs of
 30 prosecution, costs of representation as provided by s. 27.52,
 31 court fees, court costs, and criminal penalties, the clerk of
 32 the court shall immediately obtain payment from the defendant or
 33 enroll the defendant in a payment plan pursuant to s. 28.246.

34 (2) All cash bond forms used in conjunction with the
 35 requirements of s. 903.09 must prominently display a notice
 36 explaining that all funds are subject to forfeiture and
 37 withholding by the clerk of the court for the payment of costs
 38 of prosecution, costs of representation as provided by s. 27.52,
 39 court fees, court costs, and criminal penalties on behalf of the
 40 criminal defendant regardless of who posted the funds.

41 Section 2. Section 938.27, Florida Statutes, is amended to
 42 read:

43 938.27 Judgment for costs of prosecution and investigation
 44 ~~on conviction.~~

45 (1) In all criminal and violation-of-probation or
 46 community-control cases, convicted persons are liable for
 47 payment of the costs of prosecution, including investigative
 48 costs incurred by law enforcement agencies, by fire departments
 49 for arson investigations, and by investigations of the
 50 Department of Financial Services or the Office of Financial
 51 Regulation of the Financial Services Commission, if requested by
 52 such agencies. The court shall include these costs in every
 53 judgment rendered against the convicted person. For purposes of
 54 this section, "convicted" means a determination of guilt, or of
 55 violation of probation or community control, which is a result
 56 of a plea, trial, or violation proceeding, regardless of whether

57 adjudication is withheld.

58 (2)(a) The court shall impose the costs of prosecution and
 59 investigation notwithstanding the defendant's present ability to
 60 pay. The court shall require the defendant to pay the costs
 61 within a specified period or pursuant to a payment plan under s.
 62 28.246(4).

63 (b) The end of such period or the last such installment
 64 must not be later than:

- 65 1. The end of the period of probation or community
 66 control, if probation or community control is ordered;
- 67 2. Five years after the end of the term of imprisonment
 68 imposed, if the court does not order probation or community
 69 control; or
- 70 3. Five years after the date of sentencing in any other
 71 case.

72
 73 However, the obligation to pay any unpaid amounts does not
 74 expire if not paid in full within the period specified in this
 75 paragraph.

76 (c) If not otherwise provided by the court under this
 77 section, costs must ~~shall~~ be paid immediately.

78 (3) If a defendant is placed on probation or community
 79 control, payment of any costs under this section shall be a
 80 condition of such probation or community control. The court may
 81 revoke probation or community control if the defendant fails to
 82 pay these costs.

83 (4) Any dispute as to the proper amount or type of costs
 84 shall be resolved by the court by the preponderance of the

85 evidence. The burden of demonstrating the amount of costs
 86 incurred is on the state attorney. The burden of demonstrating
 87 the financial resources of the defendant and the financial needs
 88 of the defendant is on the defendant. The burden of
 89 demonstrating such other matters as the court deems appropriate
 90 is upon the party designated by the court as justice requires.

91 (5) Any default in payment of costs may be collected by
 92 any means authorized by law for enforcement of a judgment.

93 (6) The clerk of the court shall collect and dispense cost
 94 payments in any case, regardless of whether the disposition of
 95 the case takes place before the judge in open court or in any
 96 other manner provided by law.

97 (7) Investigative costs that are recovered must ~~shall~~ be
 98 returned to the appropriate investigative agency that incurred
 99 the expense. Such costs include actual expenses incurred in
 100 conducting the investigation and prosecution of the criminal
 101 case; however, costs may also include the salaries of permanent
 102 employees. Any investigative costs recovered on behalf of a
 103 state agency must be remitted to the Department of Revenue for
 104 deposit in the agency operating trust fund, and a report of the
 105 payment must be sent to the agency, except that any
 106 investigative costs recovered on behalf of the Department of Law
 107 Enforcement must ~~shall~~ be deposited in the department's
 108 Forfeiture and Investigative Support Trust Fund under s.
 109 943.362.

110 (8) Costs for the state attorney must ~~shall~~ be set in all
 111 cases at no less than \$50 per case when a misdemeanor or
 112 criminal traffic offense is charged and no less than \$100 per

HB 311

2013

113 case when a felony offense is charged, including a proceeding in
 114 which the underlying offense is a violation of probation or
 115 community control. The court may set a higher amount upon a
 116 showing of sufficient proof of higher costs incurred. Costs
 117 recovered on behalf of the state attorney under this section
 118 must ~~shall~~ be deposited into the State Attorneys Revenue Trust
 119 Fund to be used during the fiscal year in which the funds are
 120 collected, or in any subsequent fiscal year, for actual expenses
 121 incurred in investigating and prosecuting criminal cases, which
 122 may include the salaries of permanent employees, or for any
 123 other purpose authorized by the Legislature.

124 Section 3. Section 985.032, Florida Statutes, is amended
 125 to read:

126 985.032 Legal representation for delinquency cases.—

127 (1) For cases arising under this chapter, the state
 128 attorney shall represent the state.

129 (2) A juvenile who has been adjudicated delinquent or has
 130 adjudication of delinquency withheld shall be assessed costs of
 131 prosecution as provided in s. 938.27.

132 Section 4. This act shall take effect July 1, 2013.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: HB 619 Controlled Substances
SPONSOR(S): Ingram and others
TIED BILLS: IDEN./SIM. **BILLS:** SB 294

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee		Jones <i>LTJ</i>	Cunningham <i>SC</i>
2) Justice Appropriations Subcommittee			
3) Judiciary Committee			

SUMMARY ANALYSIS

In recent years, synthetic drugs have become a problem in Florida. Synthetic drugs, such as cannabinoids, cathinones, and phenethylamines, are industrial grade chemicals mixed to produce a "high" similar to what would be experienced when using illegal drugs such as marijuana, cocaine or methamphetamine.

In 2011 and 2012, several synthetic cannabinoids and cathinones were added to Schedule I of Florida's controlled substances schedules. Since the 2012 Legislative Session, new formulas of synthetic cannabinoids, cathinones, and phenethylamines have been developed that are made up of chemicals not covered by current law.

On December 11, 2012, Attorney General Pam Bondi filed an emergency rule that temporarily scheduled several synthetic cannabinoids, cathinones, and phenethylamines in s. 893.03(1)(c), F.S. The emergency rule expires on June 30 unless the Legislature adopts the provisions of the rule as an amendment to chapter 893, F.S.

The bill amends s. 893.03(1)(c), F.S., to add numerous synthetic cannabinoids, cathinones and phenethylamines to Schedule I of Florida controlled substance schedules. As a result, the criminal penalties relating to the possession, sale, manufacture, delivery, etc. of controlled substances now apply to these synthetic substances.

The bill may have a negative fiscal impact on both state and local governments. See fiscal section.

The bill is effective upon becoming law.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Background

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"¹ 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.² Cannabis and heroin are examples of Schedule I drugs.³

Chapter 893, F.S., contains a variety of provisions criminalizing behavior related to controlled substances. Most of these provisions are found in ss. 893.13, F.S., which criminalizes the possession, sale, purchase, manufacture, and delivery of controlled substances. The penalty for violating these provisions depends largely on what schedule the substance is listed in. Other factors, such as the quantity of controlled substance involved, can also affect the penalties for violating the criminal provisions of ch. 893, F.S.

In recent years synthetic drugs have emerged in Florida. Synthetic drugs, such as cannabinoids, cathinones, and phenethylamines, are industrial grade chemicals mixed to produce a "high" similar to what would be experienced when using illegal drugs such as marijuana, cocaine or methamphetamine.⁴ According to the Florida Department of Law Enforcement (FDLE), synthetic drugs "have no legitimate medical use and have a high potential for abuse."⁵

Synthetic Cannabinoids

Synthetic cannabinoids (also known as "K2" or "Spice") are chemically engineered substances that, when smoked or ingested, can produce a high similar to marijuana, without the delta-tetrahydrocannabinol (THC).⁶ The chemicals are a white powder that is often applied to a plant material to mimic marijuana.⁷ Synthetic cannabinoids have been developed over the last 30 years for research purposes to investigate the cannabinoid system.⁸ 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.⁹

¹ Section 893.035(3)(a), F.S., defines "potential for abuse" as a substance that has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being: used in amounts that create a hazard to the user's health or the safety of the community; diverted from legal channels and distributed through illegal channels; or taken on the user's own initiative rather than on the basis of professional medical advice.

² See, s. 893.03, F.S.

³ *Id.*

⁴ *Synthetic Narcotics*, FDLE Powerpoint Presentation before the House Criminal Justice Subcommittee, David Gross, January, 16, 2013 (on file with the Criminal Justice Subcommittee).

⁵ FDLE Memo Relating Controlled Substances, February 13, 2013 (on file with the Criminal Justice Subcommittee).

⁶ *Supra* note 4.

⁷ *Id.*

⁸ *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 February 13, 2013).

⁹ *Id.*

Synthetic Cathinones

Synthetic cathinones (also known as "bath salts") are substances that are chemically similar to amphetamines and other substances.¹⁰ Synthetic cathinones gained popularity in late 2010 and early 2011 due to being widely available online and in smoke shops.¹¹

Synthetic Phenethylamines

Phenethylamines are synthetic substances invented by Dr. Alexander Shulgin.¹² Phenethylamines are known for their intense hallucinogenic effects.¹³ The use of synthetic phenethylamines is highly dose sensitive and directly affects the human body's nervous system.¹⁴ There has been a recent increase of synthetic phenethylamines production and use because of the recent regulation of cannabinoids and cathinones.¹⁵

Synthetic Drug Abuse

Despite being labeled "not for human consumption," synthetic cannabinoids, cathinones and phenethylamines are used as recreational drugs and have been marketed as legal and safer alternatives to illegal methods of getting "high."¹⁶ They can be found on the Internet, specialty smoke shops, and convenience stores.¹⁷ These substances are predominately being used by individuals between the ages of 16 and 30. There have been cases in Florida where these substances have caused individuals to behave inappropriately, and in some instances die.¹⁸

Recent Legislation

In 2011 and 2012, several synthetic cannabinoids and cathinones were added to Schedule I of Florida's controlled substances schedules.¹⁹ As a result, the criminal penalties relating to the possession, sale, manufacture, delivery, etc. of controlled substances now apply to these synthetic substances. For example:

- Possessing three grams or less of listed synthetic cannabinoids and cathinones (not in powdered form) is a first degree misdemeanor^{20, 21}
- It is a third degree felony²² for a person knowingly sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, listed synthetic cannabinoids and cathinones;²³ and
- It is a third degree felony for a person to purchase, or possess with intent to purchase listed synthetic cannabinoids and cathinones.²⁴

Recent Issues

Since the 2012 Legislative Session, new formulas of synthetic cannabinoids, cathinones, and phenethylamines have been developed that are made up of chemicals not covered by current law.²⁵

¹⁰ *Consideration of the Cathinones*, Advisory Council on the Misuse of Drugs, United Kingdom, March 2010, <http://www.homeoffice.gov.uk/publications/drugs/acmd1/acmd-cathinodes-report-2010?view=Binary> (last visited on February 12, 2013).

¹¹ *Supra* note 4.

¹² *Id.*

¹³ *Id.*

¹⁴ *Id.*

¹⁵ *Id.*

¹⁶ *Bath Salts" Receive Emergency Drug Scheduling*, Brief # 10-194, Public Florida Fusion Center, Unit Reporting: Office of Statewide Intelligence, January 26, 2011, http://www.fdle.state.fl.us/Content/BathSalts/FDLEBrief10_194BathSaltsPublic.pdf (last visited on February 13, 2013). *See also*, *Supra* note 10.

¹⁷ *Bath Salts" Receive Emergency Drug Scheduling*, Brief # 10-194, Public Florida Fusion Center, Unit Reporting: Office of Statewide Intelligence, January 26, 2011, http://www.fdle.state.fl.us/Content/BathSalts/FDLEBrief10_194BathSaltsPublic.pdf (last visited on February 13, 2013).

¹⁸ *Supra* note 4.

¹⁹ Chapters 2012-23, 2011-73, and 2011-90, L.O.F.

²⁰ A first degree misdemeanor is punishable by up to a year in jail, a fine of up to \$1,000, or both. Sections 775.082 and 775.083, F.S.

²¹ Section 893.13(6)(b), F.S.

²² 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.

²³ Section 893.13(1)(a)2., F.S.

²⁴ Section 893.13(2)(a)2., F.S.

According to 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 are able to possess, distribute, and/or use these harmful substances without fear of prosecution by state and local law enforcement.²⁶

On December 11, 2012, Attorney General Pam Bondi filed an emergency rule²⁷ that temporarily scheduled several synthetic cannabinoids, cathinones, and phenethylamines in s. 893.03(1)(c), F.S.²⁸ The emergency rule expires on June 30 unless the Legislature adopts the provisions of the rule as an amendment to chapter 893, F.S.

Effect of the Bill

The bill amends s. 893.03(1)(c), F.S., to add numerous synthetic cannabinoids, cathinones and phenethylamines to Schedule I of Florida controlled substance schedules. As a result, the criminal penalties relating to the possession, sale, manufacture, delivery, etc. of controlled substances now apply to these synthetic substances.

The bill removes the current listing of 3, 4-Methylenedioxyamphetamine (MDMA) from s. 893.03(1)(a), F.S., to s. 893.03(1)(c), F.S. FDLE states that "[t]his re-designation is in keeping with the nature of MDMA's effects on the abuser and consistent with the Drug Enforcement Administration's scheduling of MDMA as a hallucinogenic substance in 21 C.F.R. §1308.11."²⁹ The bill also specifies that isomers of substances listed in s. 893.03(1)(c), F.S., include optical, positional, or geometric isomers.³⁰

The bill reenacts ss. 893.13(1)-(6) and 921.0022(3)(b)-(e), F.S., to incorporate the amendments of s. 893.03, F.S.

B. SECTION DIRECTORY:

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

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

Section 3. Amends s. 893.135, F.S., relating to trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.

Section 4. Reenacts s.893.13, F.S., relating to prohibited acts; penalties.

Section 5. Reenacts s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 6. The bill is effective upon becoming law.

²⁵ *Supra* note 5.

²⁶ *Id.*

²⁷ 2ER 12-1, Office of the Attorney General,

[http://myfloridalegal.com/webfiles.nsf/WF/MMFD-92VKZ8/\\$file/ER+RuleOAGRuleCertification12-11-2012.pdf](http://myfloridalegal.com/webfiles.nsf/WF/MMFD-92VKZ8/$file/ER+RuleOAGRuleCertification12-11-2012.pdf) (last visited on February 12, 2013).

²⁸ Pursuant to s. 893.035, F.S., if the Attorney General finds that the scheduling of a substance in Schedule I of s. 893.03, F.S., on a temporary basis is necessary to avoid an imminent hazard to the public safety, she or he may by rule, and without regard to requirements in s. 893.035(5), F.S., regarding medical and scientific evaluation, schedule the substance in Schedule I if it is not listed in any other schedule in s. 893.03, F.S.

²⁹ *Supra* note 5.

³⁰ The FDLE states that "the current language in F.S. 893.03(1)(c) does not specifically include optical, positional, or geometric isomers of the listed chemical substances." *Id.*

II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

The bill does not appear to have an 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.³¹ The lab system will need to acquire all of the required standards necessary to test the proposed chemical substances.³² However, FDLE's fiscal analysis states that the bill will have a minimal fiscal impact on FDLE.³³

The Criminal Justice Impact Conference has not met to determine the prison bed impact of this bill. However, during the 2012 legislative session, the Conference determined that HB 1175, which is similar to this bill, would have an insignificant prison bed impact. As a result, it is expected that the bill will 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:

Because the bill adds certain synthetic substances to s. 893.03, F.S., 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.³⁴ This may also have a negative jail bed impact because possession of three grams or less of the newly added substances is a first degree misdemeanor.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

According to the FDLE, the bill "should have little impact on the private sector and would only affect those retailers who are currently profiting on the sale of chemical substances known to be abused by those seeking an altered mental state or 'high.'"³⁵

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

³¹ *Id.*

³² *Id.*

³³ *Id.*

³⁴ *Id.*

³⁵ *Id.*

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

1 A bill to be entitled
 2 An act relating to controlled substances; amending s.
 3 893.03, F.S.; adding to the list of Schedule I
 4 controlled substances certain specified materials,
 5 compounds, mixtures, or preparations that contain
 6 hallucinogenic substances, or any of their salts,
 7 isomers, and salts of isomers, if the existence of
 8 such salts, isomers, and salts of isomers is possible
 9 within the specific chemical designation; amending s.
 10 893.13, F.S.; providing reduced penalties for
 11 possession of 3 grams or less of specified controlled
 12 substances; amending s. 893.135, F.S.; providing
 13 criminal penalties for a person who knowingly sells,
 14 purchases, manufactures, delivers, or brings into this
 15 state, or who is knowingly in actual or constructive
 16 possession of, a specified quantity of specified
 17 controlled substances; reenacting ss. 893.13(1)-(6)
 18 and 921.0022(3)(b)-(e), F.S., relating to prohibited
 19 acts involving controlled substances and the Criminal
 20 Punishment Code, respectively, to incorporate the
 21 amendments made to s. 893.03, F.S., in references
 22 thereto; providing an effective date.

23
 24 Be It Enacted by the Legislature of the State of Florida:

25
 26 Section 1. Paragraphs (a) and (c) of subsection (1) of
 27 section 893.03, Florida Statutes, are amended to read:

28 893.03 Standards and schedules.—The substances enumerated

29 | in this section are controlled by this chapter. The controlled
 30 | substances listed or to be listed in Schedules I, II, III, IV,
 31 | and V are included by whatever official, common, usual,
 32 | chemical, or trade name designated. The provisions of this
 33 | section shall not be construed to include within any of the
 34 | schedules contained in this section any excluded drugs listed
 35 | within the purview of 21 C.F.R. s. 1308.22, styled "Excluded
 36 | Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical
 37 | Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted
 38 | Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt
 39 | Anabolic Steroid Products."

40 | (1) SCHEDULE I.—A substance in Schedule I has a high
 41 | potential for abuse and has no currently accepted medical use in
 42 | treatment in the United States and in its use under medical
 43 | supervision does not meet accepted safety standards. The
 44 | following substances are controlled in Schedule I:

45 | (a) Unless specifically excepted or unless listed in
 46 | another schedule, any of the following substances, including
 47 | their isomers, esters, ethers, salts, and salts of isomers,
 48 | esters, and ethers, whenever the existence of such isomers,
 49 | esters, ethers, and salts is possible within the specific
 50 | chemical designation:

- 51 | 1. Acetyl-alpha-methylfentanyl.
- 52 | 2. Acetylmethadol.
- 53 | 3. Allylprodine.
- 54 | 4. Alphacetylmethadol (except levo-alphacetylmethadol,
 55 | also known as levo-alpha-acetylmethadol, levomethadyl acetate,
 56 | or LAAM).

- 57 | 5. Alphamethadol.
- 58 | 6. Alpha-methylfentanyl (N-[1-(alpha-methyl-betaphenyl)
- 59 | ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-
- 60 | (N-propanilido) piperidine).
- 61 | 7. Alpha-methylthiofentanyl.
- 62 | 8. Alphameprodine.
- 63 | 9. Benzethidine.
- 64 | 10. Benzylfentanyl.
- 65 | 11. Betacetylmethadol.
- 66 | 12. Beta-hydroxyfentanyl.
- 67 | 13. Beta-hydroxy-3-methylfentanyl.
- 68 | 14. Betameprodine.
- 69 | 15. Betamethadol.
- 70 | 16. Betaprodine.
- 71 | 17. Clonitazene.
- 72 | 18. Dextromoramide.
- 73 | 19. Diampromide.
- 74 | 20. Diethylthiambutene.
- 75 | 21. Difenoxin.
- 76 | 22. Dimenoxadol.
- 77 | 23. Dimepheptanol.
- 78 | 24. Dimethylthiambutene.
- 79 | 25. Dioxaphetyl butyrate.
- 80 | 26. Dipipanone.
- 81 | 27. Ethylmethylthiambutene.
- 82 | 28. Etonitazene.
- 83 | 29. Etoxeridine.
- 84 | 30. Flunitrazepam.

- 85 | 31. Furethidine.
- 86 | 32. Hydroxypethidine.
- 87 | 33. Ketobemidone.
- 88 | 34. Levomoramide.
- 89 | 35. Levophenacylmorphan.
- 90 | 36. 1-Methyl-4-Phenyl-4-Propionoxypiperidine (MPPP).
- 91 | 37. 3-Methylfentanyl (N-
- 92 | [3-methyl-1-(2-phenylethyl)-4-piperidyl]-N-phenylpropanamide).
- 93 | 38. 3-Methylthiofentanyl.
- 94 | ~~39. 3, 4-Methylenedioxymethamphetamine~~
- 95 | ~~(MDMA).~~
- 96 | 39.40. Morpheridine.
- 97 | 40.41. Noracymethadol.
- 98 | 41.42. Norlevorphanol.
- 99 | 42.43. Normethadone.
- 100 | 43.44. Norpipanone.
- 101 | 44.45. Para-Fluorofentanyl.
- 102 | 45.46. Phenadoxone.
- 103 | 46.47. Phenampromide.
- 104 | 47.48. Phenomorphan.
- 105 | 48.49. Phenoperidine.
- 106 | 49.50. 1-(2-Phenylethyl)-4-Phenyl-4-Acetyloxypiperidine
- 107 | (PEPAP).
- 108 | 50.51. Piritramide.
- 109 | 51.52. Proheptazine.
- 110 | 52.53. Properidine.
- 111 | 53.54. Propiram.
- 112 | 54.55. Racemoramide.

113 ~~55.56.~~ Thenylfentanyl.

114 ~~56.57.~~ Thiofentanyl.

115 ~~57.58.~~ Tilidine.

116 ~~58.59.~~ Trimeperidine.

117 (c) Unless specifically excepted or unless listed in
 118 another schedule, any material, compound, mixture, or
 119 preparation that contains any quantity of the following
 120 hallucinogenic substances or that contains any of their salts,
 121 isomers, including optical, positional, or geometric isomers,
 122 and salts of isomers, if the existence of such salts, isomers,
 123 and salts of isomers is possible within the specific chemical
 124 designation:

- 125 1. Alpha-ethyltryptamine.
- 126 2. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-
 127 methylaminorex).
- 128 3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).
- 129 4. 4-Bromo-2,5-dimethoxyamphetamine.
- 130 5. 4-Bromo-2,5-dimethoxyphenethylamine.
- 131 6. Bufotenine.
- 132 7. Cannabis.
- 133 8. Cathinone.
- 134 9. Diethyltryptamine.
- 135 10. 2,5-Dimethoxyamphetamine.
- 136 11. 2,5-Dimethoxy-4-ethylamphetamine (DOET).
- 137 12. Dimethyltryptamine.
- 138 13. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine
 139 analog of phencyclidine).
- 140 14. N-Ethyl-3-piperidyl benzilate.

- 141 | 15. N-ethylamphetamine.
- 142 | 16. Fenethylamine.
- 143 | 17. N-Hydroxy-3,4-methylenedioxyamphetamine.
- 144 | 18. Ibogaine.
- 145 | 19. Lysergic acid diethylamide (LSD).
- 146 | 20. Mescaline.
- 147 | 21. Methcathinone.
- 148 | 22. 5-Methoxy-3,4-methylenedioxyamphetamine.
- 149 | 23. 4-methoxyamphetamine.
- 150 | 24. 4-methoxymethamphetamine.
- 151 | 25. 4-Methyl-2,5-dimethoxyamphetamine.
- 152 | 26. 3,4-Methylenedioxy-N-ethylamphetamine.
- 153 | 27. 3,4-Methylenedioxyamphetamine.
- 154 | 28. N-Methyl-3-piperidyl benzilate.
- 155 | 29. N,N-dimethylamphetamine.
- 156 | 30. Parahexyl.
- 157 | 31. Peyote.
- 158 | 32. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine
- 159 | analog of phencyclidine).
- 160 | 33. Psilocybin.
- 161 | 34. Psilocyn.
- 162 | 35. *Salvia divinorum*, except for any drug product approved
- 163 | by the United States Food and Drug Administration which contains
- 164 | *Salvia divinorum* or its isomers, esters, ethers, salts, and
- 165 | salts of isomers, esters, and ethers, if the existence of such
- 166 | isomers, esters, ethers, and salts is possible within the
- 167 | specific chemical designation.
- 168 | 36. Salvinorin A, except for any drug product approved by

169 the United States Food and Drug Administration which contains
 170 Salvinorin A or its isomers, esters, ethers, salts, and salts of
 171 isomers, esters, and ethers, if the existence of such isomers,
 172 esters, ethers, and salts is possible within the specific
 173 chemical designation.

174 37. Tetrahydrocannabinols.

175 38. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP)
 176 (Thiophene analog of phencyclidine).

177 39. 3,4,5-Trimethoxyamphetamine.

178 40. 3,4-Methylenedioxyethcathinone.

179 41. 3,4-Methylenedioxypropylone (MDPV).

180 42. Methylethcathinone.

181 43. Methoxymethcathinone.

182 44. Fluoromethcathinone.

183 45. Methylethcathinone.

184 46. 2-[(1R,3S)-3-hydroxycyclohexyl]-5-(2-methyloctan-2-
 185 yl)phenol, also known as CP 47,497 and its dimethyloctyl (C8)
 186 homologue.

187 47. (6aR,10aR)-9-(hydroxymethyl)-6,6-dimethyl-3-(2-
 188 methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo [c]chromen-1-ol,
 189 also known as HU-210.

190 48. 1-Pentyl-3-(1-naphthoyl)indole, also known as JWH-018.

191 49. 1-Butyl-3-(1-naphthoyl)indole, also known as JWH-073.

192 50. 1-[2-(4-morpholinyl)ethyl]-3-(1-naphthoyl) indole,
 193 also known as JWH-200.

194 51. BZP (Benzylpiperazine).

195 52. Fluorophenylpiperazine.

196 53. Methylphenylpiperazine.

- 197 | 54. Chlorophenylpiperazine.
- 198 | 55. Methoxyphenylpiperazine.
- 199 | 56. DBZP (1,4-dibenzylpiperazine).
- 200 | 57. TFMPP (3-Trifluoromethylphenylpiperazine).
- 201 | 58. MBDB (Methylbenzodioxolylbutanamine).
- 202 | 59. 5-Hydroxy-alpha-methyltryptamine.
- 203 | 60. 5-Hydroxy-N-methyltryptamine.
- 204 | 61. 5-Methoxy-N-methyl-N-isopropyltryptamine.
- 205 | 62. 5-Methoxy-alpha-methyltryptamine.
- 206 | 63. Methyltryptamine.
- 207 | 64. 5-Methoxy-N,N-dimethyltryptamine.
- 208 | 65. 5-Methyl-N,N-dimethyltryptamine.
- 209 | 66. Tyramine (4-Hydroxyphenethylamine).
- 210 | 67. 5-Methoxy-N,N-Diisopropyltryptamine.
- 211 | 68. DiPT (N,N-Diisopropyltryptamine).
- 212 | 69. DPT (N,N-Dipropyltryptamine).
- 213 | 70. 4-Hydroxy-N,N-diisopropyltryptamine.
- 214 | 71. N,N-Diallyl-5-Methoxytryptamine.
- 215 | 72. DOI (4-Iodo-2,5-dimethoxyamphetamine).
- 216 | 73. DOC (4-Chloro-2,5-dimethoxyamphetamine).
- 217 | 74. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).
- 218 | 75. 2C-T-4 (2,5-Dimethoxy-4-isopropylthiophenethylamine).
- 219 | 76. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).
- 220 | 77. 2C-T (2,5-Dimethoxy-4-methylthiophenethylamine).
- 221 | 78. 2C-T-2 (2,5-Dimethoxy-4-ethylthiophenethylamine).
- 222 | 79. 2C-T-7 (2,5-Dimethoxy-4-(n)-propylthiophenethylamine).
- 223 | 80. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).
- 224 | 81. Butylone (beta-keto-N-methylbenzodioxolylpropylamine).

- 225 | 82. Ethcathinone.
- 226 | 83. Ethylone (3,4-methylenedioxy-N-ethylcathinone).
- 227 | 84. Naphyrone (naphthylpyrovalerone).
- 228 | 85. N-N-Dimethyl-3,4-methylenedioxycathinone.
- 229 | 86. N-N-Diethyl-3,4-methylenedioxycathinone.
- 230 | 87. 3,4-methylenedioxy-propiofenone.
- 231 | 88. 2-Bromo-3,4-Methylenedioxypropiofenone.
- 232 | 89. 3,4-methylenedioxy-propiofenone-2-oxime.
- 233 | 90. N-Acetyl-3,4-methylenedioxycathinone.
- 234 | 91. N-Acetyl-N-Methyl-3,4-Methylenedioxycathinone.
- 235 | 92. N-Acetyl-N-Ethyl-3,4-Methylenedioxycathinone.
- 236 | 93. Bromomethcathinone.
- 237 | 94. Buphedrone (alpha-methylamino-butyrophenone).
- 238 | 95. Eutylone (beta-Keto-Ethylbenzodioxolylbutanamine).
- 239 | 96. Dimethylcathinone.
- 240 | 97. Dimethylmethcathinone.
- 241 | 98. Pentylone (beta-Keto-Methylbenzodioxolylpentanamine).
- 242 | 99. (MDPPP) 3,4-Methylenedioxy-alpha-
- 243 | pyrrolidinopropiofenone.
- 244 | 100. (MDPBP) 3,4-Methylenedioxy-alpha-
- 245 | pyrrolidinobutiophenone.
- 246 | 101. Methoxy-alpha-pyrrolidinopropiofenone (MOPPP).
- 247 | 102. Methyl-alpha-pyrrolidinohexiophenone (MPHP).
- 248 | 103. Benocyclidine (BCP) or
- 249 | benzothiophenylcyclohexylpiperidine (BTCP).
- 250 | 104. Fluoromethylaminobutyrophenone (F-MABP).
- 251 | 105. Methoxypyrrolidinobutyrophenone (MeO-PBP).
- 252 | 106. Ethyl-pyrrolidinobutyrophenone (Et-PBP).

- 253 107. 3-Methyl-4-Methoxymethcathinone (3-Me-4-MeO-MCAT).
 254 108. Methyl-ethylaminobutyrophenone (Me-EABP).
 255 109. Methylamino-butyrophenone (MABP).
 256 110. Pyrrolidinopropiophenone (PPP).
 257 111. Pyrrolidinobutiophenone (PBP).
 258 112. Pyrrolidinovalerophenone (PVP).
 259 113. Methyl-alpha-pyrrolidinopropiophenone (MPPP).
 260 114. JWH-007 (1-pentyl-2-methyl-3-(1-naphthoyl)indole).
 261 115. JWH-015 (2-Methyl-1-propyl-1H-indol-3-yl)-1-
 262 naphthalenylmethanone).
 263 116. JWH-019 (Naphthalen-1-yl-(1-hexylindol-3-
 264 yl)methanone).
 265 117. JWH-020 (1-heptyl-3-(1-naphthoyl)indole).
 266 118. JWH-072 (Naphthalen-1-yl-(1-propyl-1H-indol-3-
 267 yl)methanone).
 268 119. JWH-081 (4-methoxynaphthalen-1-yl-(1-pentylindol-3-
 269 yl)methanone).
 270 120. JWH-122 (1-pentyl-3-(4-methyl-1-naphthoyl)indole).
 271 121. JWH-133 ((6aR,10aR)-3-(1,1-Dimethylbutyl)-
 272 6a,7,10,10a-tetrahydro-6,6,9-trimethyl-6H-dibenzo[b,d]pyran)).
 273 122. JWH-175 (3-(naphthalen-1-ylmethyl)-1-pentyl-1H-
 274 indole).
 275 123. JWH-201 (1-pentyl-3-(4-methoxyphenylacetyl)indole).
 276 124. JWH-203 (2-(2-chlorophenyl)-1-(1-pentylindol-3-
 277 yl)ethanone).
 278 125. JWH-210 (4-ethyl-naphthalen-1-yl-(1-pentylindol-3-
 279 yl)methanone).
 280 126. JWH-250 (2-(2-methoxyphenyl)-1-(1-pentylindol-3-

- 281 yl)ethanone).
- 282 127. JWH-251 (2-(2-methylphenyl)-1-(1-pentyl-1H-indol-3-
- 283 yl)ethanone).
- 284 128. JWH-302 (1-pentyl-3-(3-methoxyphenylacetyl)indole).
- 285 129. JWH-398 (1-pentyl-3-(4-chloro-1-naphthoyl)indole).
- 286 130. HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-
- 287 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-
- 288 ol).
- 289 131. HU-308 ([(1R,2R,5R)-2-[2,6-dimethoxy-4-(2-
- 290 methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-
- 291 enyl] methanol).
- 292 132. HU-331 (3-hydroxy-2-[(1R,6R)-3-methyl-6-(1-
- 293 methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-
- 294 1,4-dione).
- 295 133. CB-13 (Naphthalen-1-yl-(4-pentyloxynaphthalen-1-
- 296 yl)methanone).
- 297 134. CB-25 (N-cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-
- 298 undecanamide).
- 299 135. CB-52 (N-cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-
- 300 undecanamide).
- 301 136. CP 55,940 (2-[(1R,2R,5R)-5-hydroxy-2-(3-
- 302 hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol).
- 303 137. AM-694 (1-[(5-fluoropentyl)-1H-indol-3-yl]-2-
- 304 iodophenyl)methanone).
- 305 138. AM-2201 (1-[(5-fluoropentyl)-1H-indol-3-yl]-
- 306 (naphthalen-1-yl)methanone).
- 307 139. RCS-4 ((4-methoxyphenyl) (1-pentyl-1H-indol-3-
- 308 yl)methanone).

HB 619

2013

- 309 | 140. RCS-8 (1-(1-(2-cyclohexylethyl)-1H-indol-3-yl)-2-(2-
 310 | methoxyphenylethanone).
- 311 | 141. WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-
 312 | morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
 313 | naphthalenylmethanone).
- 314 | 142. WIN55,212-3 ([3S)-2,3-Dihydro-5-methyl-3-(4-
 315 | morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-
 316 | naphthalenylmethanone).
- 317 | 143. Pentedrone (2-(methylamino)-1-phenyl-1-pentanone).
- 318 | 144. Fluoroamphetamine.
- 319 | 145. Fluoromethamphetamine.
- 320 | 146. Methoxetamine.
- 321 | 147. Methiopropamine.
- 322 | 148. 4-Methylbuphedrone (2-Methylamino-1-(4-
 323 | methylphenyl)butan-1-one).
- 324 | 149. APB ((2-aminopropyl)benzofuran).
- 325 | 150. APDB ((2-aminopropyl)-2,3-dihydrobenzofuran).
- 326 | 151. UR-144 ((1-pentyl-1H-indol-3-yl)(2,2,3,3-
 327 | tetramethylcyclopropyl)methanone).
- 328 | 152. XLR11 ((1-(5-fluoropentyl)-1H-indol-3-yl)(2,2,3,3-
 329 | tetramethylcyclopropyl)methanone).
- 330 | 153. (1-(5-chloropentyl)-1H-indol-3-yl)(2,2,3,3-
 331 | tetramethylcyclopropyl)methanone.
- 332 | 154. AKB48 (1-pentyl-N-tricyclo[3.3.1.1^{3,7}]dec-1-yl-1H-
 333 | indazole-3-carboxamide).
- 334 | 155. AM-2233((2-iodophenyl)[1-[(1-methyl-2-
 335 | piperidinyl)methyl]-1H-indol-3-yl]-methanone).
- 336 | 156. STS-135 (1-(5-fluoropentyl)-N-

HB 619

2013

337 | tricyclo[3.3.1.1³,7]dec-1-yl-1H-indole-3-carboxamide).

338 | 157. URB-597 ((3'-(aminocarbonyl)[1,1'-biphenyl]-3-yl)-
 339 | cyclohexylcarbamate).

340 | 158. URB-602 ([1,1'-biphenyl]-3-yl-carbamic acid,
 341 | cyclohexyl ester).

342 | 159. URB-754 (6-methyl-2-[(4-methylphenyl)amino]-1-
 343 | benzoxazin-4-one).

344 | 160. 2C-D (2-(2,5-Dimethoxy-4-methylphenyl)ethanamine).

345 | 161. 2C-H (2-(2,5-Dimethoxyphenyl)ethanamine).

346 | 162. 2C-N (2-(2,5-Dimethoxy-4-nitrophenyl)ethanamine).

347 | 163. 2C-P (2-(2,5-Dimethoxy-4-(n)-
 348 | propylphenyl)ethanamine).

349 | 164. 25I-NBOMe (4-iodo-2,5-dimethoxy-N-[(2-
 350 | methoxyphenyl)methyl]-benzeneethanamine).

351 | 165. 3,4-Methylenedioxymethamphetamine (MDMA).

352 | Section 2. Paragraph (b) of subsection (6) of section
 353 | 893.13, Florida Statutes, is amended to read:

354 | 893.13 Prohibited acts; penalties.—

355 | (6)

356 | (b) If the offense is the possession of not more than 20
 357 | grams of cannabis, as defined in this chapter, or 3 grams or
 358 | less of a controlled substance described in s. 893.03(1)(c)46.-
 359 | 50., ~~and~~ 114.-142., or 151.-159., the person commits a
 360 | misdemeanor of the first degree, punishable as provided in s.
 361 | 775.082 or s. 775.083. For the purposes of this subsection,
 362 | "cannabis" does not include the resin extracted from the plants
 363 | of the genus *Cannabis*, or any compound manufacture, salt,
 364 | derivative, mixture, or preparation of such resin, and a

365 controlled substance described in s. 893.03(1)(c)46.-50., and
 366 114.-142., or 151.-159., does not include the substance in a
 367 powdered form.

368 Section 3. Paragraph (k) of subsection (1) of section
 369 893.135, Florida Statutes, is amended to read:

370 893.135 Trafficking; mandatory sentences; suspension or
 371 reduction of sentences; conspiracy to engage in trafficking.-

372 (1) Except as authorized in this chapter or in chapter 499
 373 and notwithstanding the provisions of s. 893.13:

374 (k)1. Any person who knowingly sells, purchases,
 375 manufactures, delivers, or brings into this state, or who is
 376 knowingly in actual or constructive possession of, 10 grams or
 377 more of any of the following substances described in s.

378 893.03(1)(c) ~~s. 893.03(1)(a) or (e)~~:

- 379 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 380 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 381 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 382 d. 2,5-Dimethoxyamphetamine;
- 383 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 384 f. N-ethylamphetamine;
- 385 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 386 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 387 i. 4-methoxyamphetamine;
- 388 j. 4-methoxymethamphetamine;
- 389 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 390 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 391 m. 3,4-Methylenedioxyamphetamine;
- 392 n. N,N-dimethylamphetamine; or

393 o. 3,4,5-Trimethoxyamphetamine,
 394
 395 individually or in any combination of or any mixture containing
 396 any substance listed in sub-subparagraphs a.-o., commits a
 397 felony of the first degree, which felony shall be known as
 398 "trafficking in Phenethylamines," punishable as provided in s.
 399 775.082, s. 775.083, or s. 775.084.

400 2. If the quantity involved:

401 a. Is 10 grams or more but less than 200 grams, such
 402 person shall be sentenced to a mandatory minimum term of
 403 imprisonment of 3 years, and the defendant shall be ordered to
 404 pay a fine of \$50,000.

405 b. Is 200 grams or more, but less than 400 grams, such
 406 person shall be sentenced to a mandatory minimum term of
 407 imprisonment of 7 years, and the defendant shall be ordered to
 408 pay a fine of \$100,000.

409 c. Is 400 grams or more, such person shall be sentenced to
 410 a mandatory minimum term of imprisonment of 15 calendar years
 411 and pay a fine of \$250,000.

412 3. Any person who knowingly manufactures or brings into
 413 this state 30 kilograms or more of any of the following
 414 substances described in s. 893.03(1)(c) ~~s. 893.03(1)(a) or (e)~~:

- 415 a. 3,4-Methylenedioxymethamphetamine (MDMA);
- 416 b. 4-Bromo-2,5-dimethoxyamphetamine;
- 417 c. 4-Bromo-2,5-dimethoxyphenethylamine;
- 418 d. 2,5-Dimethoxyamphetamine;
- 419 e. 2,5-Dimethoxy-4-ethylamphetamine (DOET);
- 420 f. N-ethylamphetamine;

- 421 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 422 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 423 i. 4-methoxyamphetamine;
- 424 j. 4-methoxymethamphetamine;
- 425 k. 4-Methyl-2,5-dimethoxyamphetamine;
- 426 l. 3,4-Methylenedioxy-N-ethylamphetamine;
- 427 m. 3,4-Methylenedioxyamphetamine;
- 428 n. N,N-dimethylamphetamine; or
- 429 o. 3,4,5-Trimethoxyamphetamine,

430

431 individually or in any combination of or any mixture containing
 432 any substance listed in sub-subparagraphs a.-o., and who knows
 433 that the probable result of such manufacture or importation
 434 would be the death of any person commits capital manufacture or
 435 importation of Phenethylamines, a capital felony punishable as
 436 provided in ss. 775.082 and 921.142. Any person sentenced for a
 437 capital felony under this paragraph shall also be sentenced to
 438 pay the maximum fine provided under subparagraph 1.

439 Section 4. For the purpose of incorporating the amendment
 440 made by this act to section 893.03, Florida Statutes, in a
 441 reference thereto, subsections (1) through (6) of section
 442 893.13, Florida Statutes, are reenacted to read:

443 893.13 Prohibited acts; penalties.—

444 (1)(a) Except as authorized by this chapter and chapter
 445 499, it is unlawful for any person to sell, manufacture, or
 446 deliver, or possess with intent to sell, manufacture, or
 447 deliver, a controlled substance. Any person who violates this
 448 provision with respect to:

449 1. A controlled substance named or described in s.
 450 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
 451 commits a felony of the second degree, punishable as provided in
 452 s. 775.082, s. 775.083, or s. 775.084.

453 2. A controlled substance named or described in s.
 454 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 455 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 456 the third degree, punishable as provided in s. 775.082, s.
 457 775.083, or s. 775.084.

458 3. A controlled substance named or described in s.
 459 893.03(5) commits a misdemeanor of the first degree, punishable
 460 as provided in s. 775.082 or s. 775.083.

461 (b) Except as provided in this chapter, it is unlawful to
 462 sell or deliver in excess of 10 grams of any substance named or
 463 described in s. 893.03(1)(a) or (1)(b), or any combination
 464 thereof, or any mixture containing any such substance. Any
 465 person who violates this paragraph commits a felony of the first
 466 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 467 775.084.

468 (c) Except as authorized by this chapter, it is unlawful
 469 for any person to sell, manufacture, or deliver, or possess with
 470 intent to sell, manufacture, or deliver, a controlled substance
 471 in, on, or within 1,000 feet of the real property comprising a
 472 child care facility as defined in s. 402.302 or a public or
 473 private elementary, middle, or secondary school between the
 474 hours of 6 a.m. and 12 midnight, or at any time in, on, or
 475 within 1,000 feet of real property comprising a state, county,
 476 or municipal park, a community center, or a publicly owned

477 recreational facility. For the purposes of this paragraph, the
 478 term "community center" means a facility operated by a nonprofit
 479 community-based organization for the provision of recreational,
 480 social, or educational services to the public. Any person who
 481 violates this paragraph with respect to:

482 1. A controlled substance named or described in s.
 483 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
 484 commits a felony of the first degree, punishable as provided in
 485 s. 775.082, s. 775.083, or s. 775.084. The defendant must be
 486 sentenced to a minimum term of imprisonment of 3 calendar years
 487 unless the offense was committed within 1,000 feet of the real
 488 property comprising a child care facility as defined in s.
 489 402.302.

490 2. A controlled substance named or described in s.
 491 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 492 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 493 the second degree, punishable as provided in s. 775.082, s.
 494 775.083, or s. 775.084.

495 3. Any other controlled substance, except as lawfully
 496 sold, manufactured, or delivered, must be sentenced to pay a
 497 \$500 fine and to serve 100 hours of public service in addition
 498 to any other penalty prescribed by law.

499
 500 This paragraph does not apply to a child care facility unless
 501 the owner or operator of the facility posts a sign that is not
 502 less than 2 square feet in size with a word legend identifying
 503 the facility as a licensed child care facility and that is
 504 posted on the property of the child care facility in a

505 conspicuous place where the sign is reasonably visible to the
 506 public.

507 (d) Except as authorized by this chapter, it is unlawful
 508 for any person to sell, manufacture, or deliver, or possess with
 509 intent to sell, manufacture, or deliver, a controlled substance
 510 in, on, or within 1,000 feet of the real property comprising a
 511 public or private college, university, or other postsecondary
 512 educational institution. Any person who violates this paragraph
 513 with respect to:

514 1. A controlled substance named or described in s.
 515 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
 516 commits a felony of the first degree, punishable as provided in
 517 s. 775.082, s. 775.083, or s. 775.084.

518 2. A controlled substance named or described in s.
 519 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 520 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 521 the second degree, punishable as provided in s. 775.082, s.
 522 775.083, or s. 775.084.

523 3. Any other controlled substance, except as lawfully
 524 sold, manufactured, or delivered, must be sentenced to pay a
 525 \$500 fine and to serve 100 hours of public service in addition
 526 to any other penalty prescribed by law.

527 (e) Except as authorized by this chapter, it is unlawful
 528 for any person to sell, manufacture, or deliver, or possess with
 529 intent to sell, manufacture, or deliver, a controlled substance
 530 not authorized by law in, on, or within 1,000 feet of a physical
 531 place for worship at which a church or religious organization
 532 regularly conducts religious services or within 1,000 feet of a

533 convenience business as defined in s. 812.171. Any person who
 534 violates this paragraph with respect to:

535 1. A controlled substance named or described in s.
 536 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
 537 commits a felony of the first degree, punishable as provided in
 538 s. 775.082, s. 775.083, or s. 775.084.

539 2. A controlled substance named or described in s.
 540 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 541 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 542 the second degree, punishable as provided in s. 775.082, s.
 543 775.083, or s. 775.084.

544 3. Any other controlled substance, except as lawfully
 545 sold, manufactured, or delivered, must be sentenced to pay a
 546 \$500 fine and to serve 100 hours of public service in addition
 547 to any other penalty prescribed by law.

548 (f) Except as authorized by this chapter, it is unlawful
 549 for any person to sell, manufacture, or deliver, or possess with
 550 intent to sell, manufacture, or deliver, a controlled substance
 551 in, on, or within 1,000 feet of the real property comprising a
 552 public housing facility at any time. For purposes of this
 553 section, the term "real property comprising a public housing
 554 facility" means real property, as defined in s. 421.03(12), of a
 555 public corporation created as a housing authority pursuant to
 556 part I of chapter 421. Any person who violates this paragraph
 557 with respect to:

558 1. A controlled substance named or described in s.
 559 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
 560 commits a felony of the first degree, punishable as provided in

561 s. 775.082, s. 775.083, or s. 775.084.

562 2. A controlled substance named or described in s.
 563 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 564 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 565 the second degree, punishable as provided in s. 775.082, s.
 566 775.083, or s. 775.084.

567 3. Any other controlled substance, except as lawfully
 568 sold, manufactured, or delivered, must be sentenced to pay a
 569 \$500 fine and to serve 100 hours of public service in addition
 570 to any other penalty prescribed by law.

571 (g) Except as authorized by this chapter, it is unlawful
 572 for any person to manufacture methamphetamine or phencyclidine,
 573 or possess any listed chemical as defined in s. 893.033 in
 574 violation of s. 893.149 and with intent to manufacture
 575 methamphetamine or phencyclidine. If any person violates this
 576 paragraph and:

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

583 2. The commission of the crime causes any child under 16
 584 years of age to suffer great bodily harm, the person commits a
 585 felony of the first degree, punishable as provided in s.
 586 775.082, s. 775.083, or s. 775.084. In addition, the defendant
 587 must be sentenced to a minimum term of imprisonment of 10
 588 calendar years.

589 (h) Except as authorized by this chapter, it is unlawful
 590 for any person to sell, manufacture, or deliver, or possess with
 591 intent to sell, manufacture, or deliver, a controlled substance
 592 in, on, or within 1,000 feet of the real property comprising an
 593 assisted living facility, as that term is used in chapter 429.

594 Any person who violates this paragraph with respect to:

595 1. A controlled substance named or described in s.
 596 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.
 597 commits a felony of the first degree, punishable as provided in
 598 s. 775.082, s. 775.083, or s. 775.084.

599 2. A controlled substance named or described in s.
 600 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 601 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 602 the second degree, punishable as provided in s. 775.082, s.
 603 775.083, or s. 775.084.

604 (2)(a) Except as authorized by this chapter and chapter
 605 499, it is unlawful for any person to purchase, or possess with
 606 intent to purchase, a controlled substance. Any person who
 607 violates this provision with respect to:

608 1. A controlled substance named or described in s.
 609 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
 610 commits a felony of the second degree, punishable as provided in
 611 s. 775.082, s. 775.083, or s. 775.084.

612 2. A controlled substance named or described in s.
 613 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 614 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 615 the third degree, punishable as provided in s. 775.082, s.
 616 775.083, or s. 775.084.

617 3. A controlled substance named or described in s.
 618 893.03(5) commits a misdemeanor of the first degree, punishable
 619 as provided in s. 775.082 or s. 775.083.

620 (b) Except as provided in this chapter, it is unlawful to
 621 purchase in excess of 10 grams of any substance named or
 622 described in s. 893.03(1)(a) or (1)(b), or any combination
 623 thereof, or any mixture containing any such substance. Any
 624 person who violates this paragraph commits a felony of the first
 625 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 626 775.084.

627 (3) Any person who delivers, without consideration, not
 628 more than 20 grams of cannabis, as defined in this chapter,
 629 commits a misdemeanor of the first degree, punishable as
 630 provided in s. 775.082 or s. 775.083. For the purposes of this
 631 paragraph, "cannabis" does not include the resin extracted from
 632 the plants of the genus *Cannabis* or any compound manufacture,
 633 salt, derivative, mixture, or preparation of such resin.

634 (4) Except as authorized by this chapter, it is unlawful
 635 for any person 18 years of age or older to deliver any
 636 controlled substance to a person under the age of 18 years, or
 637 to use or hire a person under the age of 18 years as an agent or
 638 employee in the sale or delivery of such a substance, or to use
 639 such person to assist in avoiding detection or apprehension for
 640 a violation of this chapter. Any person who violates this
 641 provision with respect to:

642 (a) A controlled substance named or described in s.
 643 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
 644 commits a felony of the first degree, punishable as provided in

645 s. 775.082, s. 775.083, or s. 775.084.

646 (b) A controlled substance named or described in s.
 647 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 648 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 649 the second degree, punishable as provided in s. 775.082, s.
 650 775.083, or s. 775.084.

651
 652 Imposition of sentence may not be suspended or deferred, nor
 653 shall the person so convicted be placed on probation.

654 (5) It is unlawful for any person to bring into this state
 655 any controlled substance unless the possession of such
 656 controlled substance is authorized by this chapter or unless
 657 such person is licensed to do so by the appropriate federal
 658 agency. Any person who violates this provision with respect to:

659 (a) A controlled substance named or described in s.
 660 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
 661 commits a felony of the second degree, punishable as provided in
 662 s. 775.082, s. 775.083, or s. 775.084.

663 (b) A controlled substance named or described in s.
 664 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,
 665 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of
 666 the third degree, punishable as provided in s. 775.082, s.
 667 775.083, or s. 775.084.

668 (c) A controlled substance named or described in s.
 669 893.03(5) commits a misdemeanor of the first degree, punishable
 670 as provided in s. 775.082 or s. 775.083.

671 (6)(a) It is unlawful for any person to be in actual or
 672 constructive possession of a controlled substance unless such

673 controlled substance was lawfully obtained from a practitioner
 674 or pursuant to a valid prescription or order of a practitioner
 675 while acting in the course of his or her professional practice
 676 or to be in actual or constructive possession of a controlled
 677 substance except as otherwise authorized by this chapter. Any
 678 person who violates this provision commits a felony of the third
 679 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 680 775.084.

681 (b) If the offense is the possession of not more than 20
 682 grams of cannabis, as defined in this chapter, or 3 grams or
 683 less of a controlled substance described in s. 893.03(1)(c)46.-
 684 50. and 114.-142., the person commits a misdemeanor of the first
 685 degree, punishable as provided in s. 775.082 or s. 775.083. For
 686 the purposes of this subsection, "cannabis" does not include the
 687 resin extracted from the plants of the genus *Cannabis*, or any
 688 compound manufacture, salt, derivative, mixture, or preparation
 689 of such resin, and a controlled substance described in s.
 690 893.03(1)(c)46.-50. and 114.-142. does not include the substance
 691 in a powdered form.

692 (c) Except as provided in this chapter, it is unlawful to
 693 possess in excess of 10 grams of any substance named or
 694 described in s. 893.03(1)(a) or (1)(b), or any combination
 695 thereof, or any mixture containing any such substance. Any
 696 person who violates this paragraph commits a felony of the first
 697 degree, punishable as provided in s. 775.082, s. 775.083, or s.
 698 775.084.

699 (d) Notwithstanding any provision to the contrary of the
 700 laws of this state relating to arrest, a law enforcement officer

701 | may arrest without warrant any person who the officer has
 702 | probable cause to believe is violating the provisions of this
 703 | chapter relating to possession of cannabis.

704 | Section 5. For the purpose of incorporating the amendment
 705 | made by this act to section 893.03, Florida Statutes, in a
 706 | reference thereto, paragraphs (b), (c), (d), and (e) of
 707 | subsection (3) of section 921.0022, Florida Statutes, are
 708 | reenacted to read:

709 | 921.0022 Criminal Punishment Code; offense severity
 710 | ranking chart.—

711 | (3) OFFENSE SEVERITY RANKING CHART

712 | (b) LEVEL 2

713 |

Florida Statute	Felony 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.

714 |

715 |

716 |

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

HB 619

2013

717	517.07(2)	3rd	Failure to furnish a prospectus meeting requirements.
718	590.28(1)	3rd	Intentional burning of lands.
719	784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
720	787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
721	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
722	810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
723	810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
724	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
725	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more

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

HB 619

2013

			but less than \$300, taken from unenclosed curtilage of dwelling.
726	812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
727	817.234(1)(a)2.	3rd	False statement in support of insurance claim.
728	817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
729	817.52(3)	3rd	Failure to redeliver hired vehicle.
730	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
731	817.60(5)	3rd	Dealing in credit cards of another.
732	817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
733	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
734	826.04	3rd	Knowingly marries or has sexual

HB 619

2013

			intercourse with person to whom related.
735			
	831.01	3rd	Forgery.
736			
	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
737			
	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
738			
	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
739			
	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
740			
	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
741			
	832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
742			
	843.08	3rd	Falsely impersonating an officer.
743			
	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.,

HB 619

2013

744			(3), or (4) drugs other than cannabis.
	893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
745			
746	(c)	LEVEL 3	
747			
	Florida	Felony	
	Statute	Degree	Description
748			
	119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
749			
	316.066	3rd	Unlawfully obtaining or using confidential crash reports.
	(3)(b)-(d)		
750			
	316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
751			
	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
752			
	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
753			
	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.

HB 619

2013

754	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
755	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
756	327.35(2)(b)	3rd	Felony BUI.
757	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
758	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
759	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
760	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.
761			

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

HB 619

2013

762	379.2431 (1)(e)6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
763	400.9935(4)	3rd	Operating a clinic without a license or filing false license application or other required information.
764	440.1051(3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
765	501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
766	624.401(4)(a)	3rd	Transacting insurance without a certificate of authority.
767	624.401(4)(b)1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
768	626.902(1)(a) & (b)	3rd	Representing an unauthorized insurer.
769	697.08	3rd	Equity skimming.

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

HB 619

2013

770	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
771	796.05(1)	3rd	Live on earnings of a prostitute.
772	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
773	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
774	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
775	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
776	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
777	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida Communications Fraud Act), property

			valued at less than \$20,000.
778			
	817.233	3rd	Burning to defraud insurer.
779			
	817.234	3rd	Unlawful solicitation of persons
	(8) (b) - (c)		involved in motor vehicle accidents.
780			
	817.234(11) (a)	3rd	Insurance fraud; property value less
			than \$20,000.
781			
	817.236	3rd	Filing a false motor vehicle insurance
			application.
782			
	817.2361	3rd	Creating, marketing, or presenting a
			false or fraudulent motor vehicle
			insurance card.
783			
	817.413(2)	3rd	Sale of used goods as new.
784			
	817.505(4)	3rd	Patient brokering.
785			
	828.12(2)	3rd	Tortures any animal with intent to
			inflict intense pain, serious physical
			injury, or death.
786			
	831.28(2) (a)	3rd	Counterfeiting a payment instrument with
			intent to defraud or possessing a
			counterfeit payment instrument.

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

HB 619

2013

787	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
788	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
789	843.19	3rd	Injure, disable, or kill police dog or horse.
790	860.15(3)	3rd	Overcharging for repairs and parts.
791	870.01(2)	3rd	Riot; inciting or encouraging.
792	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).
793	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.
794	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.
795	893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
796	893.13(7)(a)8.	3rd	Withhold information from practitioner regarding previous receipt of or prescription for a controlled substance.
797	893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
798	893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
799	893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
800	893.13(8)(a)1.	3rd	Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through

801	893.13(8)(a)2.	3rd.	deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
802	893.13(8)(a)3.	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.
803	893.13(8)(a)3.	3rd	Knowingly write a prescription for a controlled substance for a fictitious person.
804	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.
805	918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
806	944.47 (1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
	944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.

HB 619

2013

807	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
808			
809	(d)	LEVEL 4	
810			
	Florida	Felony	
	Statute	Degree	Description
811			
	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.
812			
	499.0051(1)	3rd	Failure to maintain or deliver pedigree papers.
813			
	499.0051(2)	3rd	Failure to authenticate pedigree papers.
814			
	499.0051(6)	2nd	Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs.
815			
	517.07(1)	3rd	Failure to register securities.
816			
	517.12(1)	3rd	Failure of dealer, associated person, or

			issuer of securities to register.
817			
	784.07 (2) (b)	3rd	Battery of law enforcement officer, firefighter, etc.
818			
	784.074 (1) (c)	3rd	Battery of sexually violent predators facility staff.
819			
	784.075	3rd	Battery on detention or commitment facility staff.
820			
	784.078	3rd	Battery of facility employee by throwing, tossing, or expelling certain fluids or materials.
821			
	784.08 (2) (c)	3rd	Battery on a person 65 years of age or older.
822			
	784.081 (3)	3rd	Battery on specified official or employee.
823			
	784.082 (3)	3rd	Battery by detained person on visitor or other detainee.
824			
	784.083 (3)	3rd	Battery on code inspector.
825			
	784.085	3rd	Battery of child by throwing, tossing, projecting, or expelling certain fluids

HB 619

2013

			or materials.
826	787.03(1)	3rd	Interference with custody; wrongly takes minor from appointed guardian.
827	787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
828	787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
829	787.07	3rd	Human smuggling.
830	790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
831	790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
832	790.115(2)(c)	3rd	Possessing firearm on school property.
833	800.04(7)(c)	3rd	Lewd or lascivious exhibition; offender less than 18 years.
834			

HB 619

2013

835	810.02 (4) (a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
836	810.02 (4) (b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
837	810.06	3rd	Burglary; possession of tools.
838	810.08 (2) (c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
839	812.014 (2) (c) 3.	3rd	Grand theft, 3rd degree \$10,000 or more but less than \$20,000.
840	812.014 (2) (c) 4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
841	812.0195 (2)	3rd	Dealing in stolen property by use of the Internet; property stolen \$300 or more.
842	817.563 (1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03 (5) drugs.
	817.568 (2) (a)	3rd	Fraudulent use of personal identification information.

HB 619

2013

843	817.625(2)(a)	3rd	Fraudulent use of scanning device or reencoder.
844	828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
845	837.02(1)	3rd	Perjury in official proceedings.
846	837.021(1)	3rd	Make contradictory statements in official proceedings.
847	838.022	3rd	Official misconduct.
848	839.13(2)(a)	3rd	Falsifying records of an individual in the care and custody of a state agency.
849	839.13(2)(c)	3rd	Falsifying records of the Department of Children and Family Services.
850	843.021	3rd	Possession of a concealed handcuff key by a person in custody.
851	843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.
852			

HB 619

2013

853	843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
854	847.0135(5)(c)	3rd	Lewd or lascivious exhibition using computer; offender less than 18 years.
855	874.05(1)	3rd	Encouraging or recruiting another to join a criminal gang.
856	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).
857	914.14(2)	3rd	Witnesses accepting bribes.
858	914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
859	914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
860	918.12	3rd	Tampering with jurors.
861	934.215	3rd	Use of two-way communications device to facilitate commission of a crime.
862	(e) LEVEL 5		

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

HB 619

2013

863	Florida Statute	Felony Degree	Description
864	316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
865	316.1935(4)(a)	2nd	Aggravated fleeing or eluding.
866	322.34(6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
867	327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
868	379.367(4)	3rd	Willful molestation of a commercial harvester's spiny lobster trap, line, or buoy.
869	379.3671(2)(c)3.	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
870	381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
871			

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

HB 619

2013

872	440.10(1)(g)	2nd	Failure to obtain workers' compensation coverage.
873	440.105(5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
874	440.381(2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
875	624.401(4)(b)2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
876	626.902(1)(c)	2nd	Representing an unauthorized insurer; repeat offender.
877	790.01(2)	3rd	Carrying a concealed firearm.
878	790.162	2nd	Threat to throw or discharge destructive device.
879	790.163(1)	2nd	False report of deadly explosive or weapon of mass destruction.
	790.221(1)	2nd	Possession of short-barreled shotgun or

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

HB 619

2013

			machine gun.
880	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
881	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
882	800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
883	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
884	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
885	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
886	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
887	812.131(2)(b)	3rd	Robbery by sudden snatching.

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

HB 619

2013

888	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
889	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
890	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
891	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
892	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.
893	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
894	825.1025(4)	3rd	Lewd or lascivious exhibition in the

HB 619

2013

			presence of an elderly person or disabled adult.
895	827.071 (4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
896	827.071 (5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.
897	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.
898	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
899	847.0135 (5) (b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
900	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.
901	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device

HB 619

2013

			or equipment.
902	874.05 (2)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
903	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. drugs).
904	893.13 (1) (c) 2.	2nd	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.
905	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.
906	893.13 (1) (e) 2.	2nd	Sell, manufacture, or deliver cannabis or other drug prohibited under s.

HB 619

2013

907 893.03(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.

908 893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine
 (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.

909 893.13(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).

910 893.1351(1) 3rd Ownership, lease, or rental for
 trafficking in or manufacturing of
 controlled substance.

911 Section 6. This act shall take effect upon becoming a law.

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CRJS 13-02 Sex Offenses
SPONSOR(S): Criminal Justice Subcommittee
TIED BILLS: IDEN./SIM. **BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee		Cunningham <i>SK</i>	Cunningham <i>SK</i>

SUMMARY ANALYSIS

The bill amends a variety of statutes related to sexual offenders to bring them further in line with the federal Adam Walsh Act. Specifically, the bill amends ss. 775.21, 943.0435, 944.606, and 944.607, F.S., to add the following offenses to the list of offenses that qualify a person as a sexual predator and sexual offender:

- Section 393.135(2), F.S. (sexual misconduct with an individual with a developmental disability);
- Section 394.4593(2), F.S. (sexual misconduct with a patient); and
- Section 916.1075(2), F.S. (sexual misconduct with a forensic client).

The bill also:

- Broadens a hearsay exception for child abuse victims;
- Requires sexual predators and offenders to provide the sheriff and the Florida Department of Law Enforcement (FDLE) any Internet identifier the offender uses and defines the term "Internet identifier;"
- Requires sexual offenders and predators to provide information about their passport, immigration status, vehicles, professional licenses, and other specified information to the sheriff as part of the registration process;
- Permits specified sexual offenders to petition the court for removal from the requirement to register as a sexual offender if 15 years have elapsed since the offender's registration period began and if other criteria are met;
- Expands the victim age criteria that must be met before a person can be removed from the sexual offender registry pursuant to s. 943.04354, F.S.;
- Requires states agencies and governmental subdivisions, prior to making any decision to appoint or employ a person to work at specified locations, to conduct a search of that person's name or other identifying information through the Dru Sjodin National Sex Offender Public Website maintained by the United States Department of Justice;
- Increases the penalty for third or subsequent violations of s. 800.03, F.S. (exposure of sexual organs), from a 1st degree misdemeanor to a 3rd degree felony;
- Requires sexual offenders who are arrested for another offense (other than a misdemeanor offender under ch. 316, F.S.), to be held until first appearance in order to ensure the full participation of the prosecutor and the protection of the public; and
- Makes technical corrections to the Criminal Punishment Code; offense severity ranking chart.

The Criminal Justice Impact Conference has not yet met to determine the prison bed impact of the bill. However, the bill may have a prison bed impact in that it increases the number of people subject to sex offender registration requirements and adds additional information that sexual predators and offenders must provide when registering. Failure to register is generally punishable as an unranked third degree felony. The bill may also have a jail bed impact and a fiscal impact on FDLE. See "fiscal section."

The bill is effective October 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Hearsay Evidence (Section 1)

Section 90.803, F.S., contains a variety of hearsay exceptions. Subsection (23) of the statute specifies that unless the source of information or the method or circumstances by which the statement is reported indicates a lack of trustworthiness, an out-of-court statement made by a child victim with a physical, mental, emotional, or developmental age of 11 or less describing certain sex crimes¹ is admissible in evidence in any civil or criminal proceeding if:

- The court finds in a hearing conducted outside the presence of the jury that the time, content, and circumstances of the statement provide sufficient safeguards of reliability;² and
- The child either:
 - Testifies; or
 - Is unavailable as a witness, provided that there is other corroborative evidence of the abuse or offense. Unavailability includes a finding by the court that the child's participation in the trial or proceeding would result in a substantial likelihood of severe emotional or mental harm, in addition to findings pursuant to s. 90.804(1), F.S.³

Effect of the Bill

The bill amends s. 90.803(23), F.S., by increasing the age of a child to which the hearsay exception applies from 11 to 16.

Sexual Predator Qualifying Offenses (Section 2)

Section 775.21, F.S., which contains various registration requirements for sexual predators, provides in part, that a person must be designated a sexual predator if the person is convicted, on or after October 1, 1993, of:

1. A capital, life, or first-degree felony violation, or any attempt thereof, of any of the criminal offenses prescribed in the following statutes in this state or a similar offense in another jurisdiction:
 - Sections 787.01 (kidnapping) or 787.02, F.S. (false imprisonment), where the victim is a minor and the defendant is not the victim's parent or guardian
 - Section 794.011, F.S. (sexual battery)

¹ These crimes include child abuse or neglect, any act of sexual abuse against a child, the offense of child abuse, the offense of aggravated child abuse, or any offense involving an unlawful sexual act, contact, intrusion, or penetration performed in the presence of, with, by, or on the declarant child. Section 90.803(23)(a), F.S.

² In making its determination, the court may consider the mental and physical age and maturity of the child, the nature and duration of the abuse or offense, the relationship of the child to the offender, the reliability of the assertion, the reliability of the child victim, and any other factor deemed appropriate. Section 90.803(23)(a)1., F.S.

³ Section 90.804(1), F.S., specifies that "unavailability as a witness" means that the declarant:

- Is exempted by a ruling of a court on the ground of privilege from testifying concerning the subject matter of the declarant's statement;
- Persists in refusing to testify concerning the subject matter of the declarant's statement despite an order of the court to do so;
- Has suffered a lack of memory of the subject matter of his or her statement so as to destroy the declarant's effectiveness as a witness during the trial;
- Is unable to be present or to testify at the hearing because of death or because of then-existing physical or mental illness or infirmity; or
- Is absent from the hearing, and the proponent of a statement has been unable to procure the declarant's attendance or testimony by process or other reasonable means.

However, a declarant is not unavailable as a witness if such exemption, refusal, claim of lack of memory, inability to be present, or absence is due to the procurement or wrongdoing of the party who is the proponent of his or her statement in preventing the witness from attending or testifying.

- Section 800.04, F.S. (lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age)
 - Section 847.0145, F.S. (selling or buying of minors); or
2. Any felony violation, or attempt thereof, of:
- Sections 787.01 (kidnapping), 787.02 (false imprisonment), and 787.025(2)(c), F.S. (luring or enticing a child), where the victim is a minor and the defendant is not the victim's parent or guardian
 - Section 787.06(3)(b),(d),(f),(g), or (h), F.S. (relating to human trafficking)
 - Section 794.011, F.S. (sexual battery) excluding s. 794.011(10), F.S.⁴
 - Section 794.05, F.S. (unlawful activity with certain minors)
 - Section 796.03, F.S. (procuring a person under the age of 18 for prostitution)
 - Section 796.035, F.S. (selling or buying of minors into sex trafficking or prostitution)
 - Section 800.04, F.S. (lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age)
 - Section 810.145(8)(b), F.S. (relating to video voyeurism)
 - Section 825.1025, F.S. (lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person)
 - Section 827.071, F.S. (sexual performance by a child)
 - Section 847.0135(5), F.S. (computer pornography)
 - Section 847.0145, F.S. (selling or buying of minors)
 - Section 985.701(1), F.S. (sexual misconduct with a juvenile offender); and
 - The offender has previously been convicted of any of the statutes enumerated above, including s. 847.0133, F.S. (protection of minors / obscenity).

Effect of the Bill

The bill amends s. 775.21, F.S., to add the following qualifying offenses to the list of offenses contained in 2. (enumerated above):

- Section 393.135(2), F.S. (sexual misconduct with an individual with a developmental disability);
- Section 394.4593(2), F.S. (sexual misconduct with a patient); and
- Section 916.1075(2), F.S. (sexual misconduct with a forensic client).

Sexual Offender Qualifying Offenses (Sections 5, 9 and 10)

Section 943.0435, F.S., which contains various registration requirements for sexual offenders, defines the term "sexual offender," in part, as a person who:

1. Has been convicted of committing, or attempting, soliciting, or conspiring to commit, any of the criminal offenses proscribed in the following statutes in this state or similar offenses in another jurisdiction:
 - Sections 787.01, (kidnapping), 787.02, (false imprisonment), and 787.025(2)(c), F.S. (luring or enticing a child), where the victim is a minor and the defendant is not the victim's parent or guardian
 - Section 787.06(3)(b),(d),(f),(g), or (h), F.S. (relating to human trafficking)
 - Section 794.011, F.S. (sexual battery) excluding s. 794.011(10), F.S.
 - Section 794.05, F.S. (unlawful activity with certain minors)
 - Section 796.03, F.S. (procuring a person under the age of 18 for prostitution)
 - Section 796.035, F.S. (selling or buying of minors into sex trafficking or prostitution)
 - Section 800.04, F.S. (lewd or lascivious offenses committed upon or in the presence of persons less than 16 years of age)
 - Section 810.145(8), F.S. (relating to video voyeurism)
 - Section 825.1025, F.S. (lewd or lascivious offenses committed upon or in the presence of an elderly person or disabled person)
 - Section 827.071, F.S. (sexual performance by a child)

⁴ Section 794.011(10), F.S., relates to falsely accusing specified persons of sexual battery.

- Section 847.0133, F.S. (prohibition of certain acts in connection with obscenity)
 - Section 847.0135, F.S. (computer pornography and traveling to meet a minor) excluding s. 847.0135(6), F.S.
 - Section 847.0137, F.S. (transmission of pornography by electronic device or equipment)
 - Section 847.0138, F.S. (transmission of material harmful to minors to a minor by electronic device or equipment)
 - Section 847.0145, F.S. (selling or buying of minors)
 - Section 985.701(1), F.S. (sexual misconduct with a juvenile offender); and
2. Has been released on or after October 1, 1997, from the sanction⁵ imposed for any conviction of an offense described above.

Sections 944.606 and 944.607, F.S., which contain provisions relating to sexual offenders in the custody of or under the supervision of the Department of Corrections (DOC), also contain definitions of the term “sexual offender” that include the list of qualifying offenses enumerated above.

Effect of the Bill

The bill amends the definition of the term “sexual offender” in ss. 943.0435, 944.606, and 944.607, F.S., to add the following qualifying offenses:

- Section 393.135(2), F.S. (sexual misconduct with an individual with a developmental disability);
- Section 394.4593(2), F.S. (sexual misconduct with a patient); and
- Section 916.1075(2), F.S. (sexual misconduct with a forensic client).

Sexual Predator and Sexual Offender Registration (Sections 2, 5, 9, 10, 13 and 14)

In very general terms, the distinction between a sexual predator and a sexual offender depends on what offense the person has been convicted of, whether the person has previously been convicted of a sexual offense, and the date the offense occurred.⁶ A sexual predator or sexual offender must comply with a number of statutory registration requirements.⁷ Failure to comply with these requirements is generally a third degree felony.⁸

Sexual predators and offenders must register at the sheriff’s office within 48 hours of establishing or maintaining a residence.⁹ During initial registration, a sexual predator or sexual offender is required to provide certain information, including their name, address, e-mail address, home and cellular telephone number, and instant message name, to the sheriff’s department, who then provides the information to the Florida Department of Law Enforcement (FDLE) for inclusion in the statewide database.¹⁰

A sexual predator or sexual offender is also required to re-register at specified intervals and to immediately report any changes to his or her registration information.¹¹ For example, a predator or offender who changes his or her residence or name must, within 48 hours after such change, report in person to a Department of Highway Safety and Motor Vehicles (DHSMV) driver license office.¹² In addition, predators or offenders who intend to establish a residence in another state or jurisdiction other than Florida are required to report in person to the sheriff of the county of current residence within 48 hours before the date he or she intends to leave the state.¹³

⁵ A sanction imposed in this state or in any other jurisdiction includes, but is not limited to, a fine, probation, community control, parole, conditional release, control release, or incarceration in a state prison, federal prison, private correctional facility, or local detention facility. Section 943.0435(1)(a), F.S.

⁶ See generally, ss. 775.21, 943.0435, and 944.607, F.S.

⁷ *Id.*

⁸ Sections 775.21(10) and 943.0435(14), F.S.

⁹ See ss. 775.21 and 943.0435, F.S. Sexual predators or sexual offenders who are in the custody of or under the supervision of DOC or a local jail are required to register with DOC and the jail, respectively.

¹⁰ See generally, ss. 775.21, 943.0435, 944.607, and 985.4815, F.S.

¹¹ *Id.*

¹² *Id.*

¹³ *Id.*

Effect of the Bill

The bill amends ss. 775.21, 943.0435, 944.606, 944.607, 985.481, and 985.4815 F.S., to require sexual predators and offenders to provide the following registration information:

- Information about any tattoos or other identifying marks the offender may have.
- All e-mail addresses, home telephone numbers, and cellular telephone numbers (current law only requires offenders to provide *one* of each).
- The make, model, color, registration numbers, and license tag number of all vehicles the offender owns.
- Palm prints.
- Information about the offender's passport, if the offender has one.
- Documents establishing the offender's immigration status, if the offender is an alien.
- Information about any professional licenses the offender may have.
- Whether the offender is volunteering at an institution of higher education.

The bill amends ss. 775.21 and 943.0435, F.S., to:

- Require sexual predators and offenders who are unable to obtain or update a driver license or state identification card with DHSMV to report any change in the offender's residence or name within 48 hours after the change to the sheriff's office in the county where the offender resides or is located and provide confirmation that he or she reported such information to DHSMV.
- Require sexual predators and offenders to report to the sheriff of the county of current residence within 21 days before his or her planned departure if the intended residence of five days or more is outside of the United States.
- Require sexual predators and offenders who intend to establish a residence in another country to provide the sheriff the address, municipality, county, state, and *country* of the offender's intended residence.
- Require FDLE to notify the applicable law enforcement agency in the country where the offender intends to reside.
- Provides that an offender who knowingly provides false registration information by act or omission commits a 3rd degree felony (this provision is also added to ss. 944.607 and 985.4815, F.S.).

Sexual Predator / Offender Registration - Instant Message Name (Sections 2, 5, 8, 9, and 10)

In addition to providing the above-described information during initial registration, sexual predators and offenders are required to provide the sheriff any instant message name the offender wants to use.¹⁴ Sexual predators and offenders must also register any instant message name with FDLE prior to using such name.¹⁵

Sections 775.21, 943.0435, 944.606, and 944.607, F.S., define the term "instant message name" as "an identifier that allows a person to communicate in real time with another person using the Internet."

Effect of the Bill

The bill amends ss. 775.21, 943.0435, 944.606, and 944.607, F.S., to replace the term "instant message name" with "Internet identifier." The bill defines the term "Internet identifier" as "all electronic mail, chat, instant messenger, social networking, or similar name used for Internet communication, but does not include a date of birth, social security number, or personal identification number (PIN)." The bill specifies that an offender's voluntary disclosure of his or her date of birth, social security number, or PIN as an Internet identifier waives the disclosure exemption for such personal information. As a result, sexual predators and offenders will be required to register their Internet identifiers with the sheriff and with FDLE.

¹⁴ See generally, ss. 775.21, 943.0435, 944.606, and 944.607, F.S.

¹⁵ FDLE maintains an online system through which sexual predators and offenders can update their instant message name information.

The bill also replaces the term "instant message name" with the term "Internet identifier" in s. 943.0437, F.S., which authorizes FDLE to provide information relating to electronic mail addresses and Internet identifiers maintained as part of the sex offender registry to commercial social networking websites.¹⁶

Search of Registration Information (Section 6)

Section 943.04351, F.S., requires states agencies and governmental subdivisions, prior to making any decision to appoint or employ a person to work, whether for compensation or as a volunteer, at specified locations,¹⁷ to conduct a search of that person's name or other identifying information against the registration information regarding sexual predators and sexual offenders maintained by FDLE.

Effect of the Bill

The bill amends s. 943.04351, F.S., to require states agencies and governmental subdivisions to also search the person's name through the Dru Sjodin National Sex Offender Public Website maintained by the United States Department of Justice.

Removal of the Requirement to Register as a Sexual Offender (Sections 5 and 7)

Generally, sexual predators and offenders must maintain registration with FDLE for the duration of the offender's life unless the sexual offender has received a full pardon or has had a conviction set aside in a postconviction proceeding for any offense that met the criteria for the sexual predator designation or that met the criteria for classifying the person as a sexual offender for purposes of registration.¹⁸ However, there are ways in which the registration requirement can be removed.

Section 943.0435(11), F.S.

Section 943.0435(11)(a), F.S., currently permits sexual offenders who have been lawfully released from confinement, supervision, or sanction, whichever is later, for at least 25 years and have not been arrested for any felony or misdemeanor offense since release to petition the criminal division of the circuit court of the circuit in which the sexual offender resides for the purpose of removing the requirement for registration as a sexual offender, provided that the offender's requirement to register was not based on an adult conviction:

- For a violation of ss. 787.01 or 787.02, F.S.;
- For a violation of s. 794.011, F.S., excluding s. 794.011(10), F.S.;
- For a violation of s. 800.04(4)(b), F.S., where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
- For a violation of s. 800.04(5)(b), F.S.;
- For a violation of s. 800.04(5)(c)2., F.S., where the court finds the offense involved unclothed genitals or genital area;
- For any attempt or conspiracy to commit any such offense; or
- For a violation of similar law of another jurisdiction.¹⁹

Effect of the Bill

The bill amends s. 943.0435(11)(a), F.S., to modify and expand the instances in which specified sexual offenders can petition the court to have the registration requirement removed. These changes bring the statute in line with the federal Adam Walsh Act.

¹⁶ Such websites can use this information for the purpose of comparing users and potential users of the website against the list provided by FDLE. Section 943.0437(2), F.S.

¹⁷ These locations include parks, playgrounds, day care centers, or other places where children regularly congregate.

¹⁸ Sections 775.21(6) and 943.0435(11), F.S.

¹⁹ The court may grant or deny relief if the offender demonstrates to the court that he or she has not been arrested for any crime since release; the requested relief complies with the provisions of the federal Adam Walsh Child Protection and Safety Act of 2006 and any other federal standards applicable to the removal of registration requirements for a sexual offender or required to be met as a condition for the receipt of federal funds by the state; and the court is otherwise satisfied that the offender is not a current or potential threat to public safety. The state attorney in the circuit in which the petition is filed must be given notice of the petition at least 3 weeks before the hearing on the matter. The state attorney may present evidence in opposition to the requested relief or may otherwise demonstrate the reasons why the petition should be denied. If the court denies the petition, the court may set a future date at which the sexual offender may again petition the court for relief. Section 943.0435(11)(a), F.S.

1. Sexual offenders may petition the criminal division of the circuit court in the circuit in which the offender resides for removal from the requirement to register if:
 - 25 years have elapsed since the offender's registration period for the most recent conviction requiring registration began;
 - The offender has not been convicted or adjudicated delinquent of any felony offense or of an offense punishable by more than one year imprisonment for 25 years prior to petitioning the court;
 - The offender has successfully completed all sanctions imposed for all offenses that required the offender to register;
 - The offender's requirement to register was not based upon an adult conviction:
 - For a violation of ss. 787.01, F.S.;
 - For a violation of s. 794.011, F.S., excluding s. 794.011(10), F.S.;
 - For a violation of s. 800.04(4)(b), F.S., where the court finds the offense involved a victim under 12 years of age or sexual activity by the use of force or coercion;
 - For a violation of s. 800.04(5)(b), F.S.;
 - For a violation of s. 800.04(5)(c)2., F.S., where the court finds the offense involved unclothed genitals or genital area;
 - For any attempt or conspiracy to commit any of the above-described offenses; or
 - For a violation of similar law of another jurisdiction.
 - For offenders whose requirement to register is based upon a conviction in another state, the offender is not required to register as a sexual offender pursuant to the laws of the state where the conviction occurred.

2. Sexual offenders whose requirement to register was based upon an adult conviction for a violation of ss. 787.02 or 827.071(5), F.S., for any attempt or conspiracy to commit such offenses, or for a violation of a similar law in another jurisdiction, may petition the criminal division of the circuit court in the circuit in which the offender resides for removal from the requirement to register if:
 - 15 years have elapsed since the offender's registration period for the most recent conviction requiring registration began;
 - The offender has not been convicted or adjudicated delinquent of any felony offense or of an offense punishable by more than one year imprisonment for 10 years prior to petitioning the court;
 - The offender has successfully completed all sanctions imposed for all offenses that required the offender to register;
 - For offenders whose requirement to register is based upon a conviction in another state, the offender is not required to register as a sexual offender pursuant to the laws of the state where the conviction occurred.

3. Sexual offenders required to register pursuant to s. 943.0435(1)(a)1.d., F.S. (specified juvenile sexual offenders), may petition the criminal division of the circuit court in the circuit in which the offender resides for removal from the requirement to register if:
 - 25 years have elapsed since the offender's registration period for the most recent adjudication requiring registration began;
 - The offender has not been convicted or adjudicated delinquent of any felony offense or of an offense punishable by more than one year imprisonment for 25 years prior to petitioning the court;
 - The offender has successfully completed all sanctions imposed for all offenses that required the offender to register.

The bill specifies that the registration period of a sexual offender sentenced to a term of incarceration or committed to a residential program begins upon release for the most recent conviction that required the offender to register. Additionally, an offender's registration period is tolled during any period in which the offender is incarcerated, civilly committed, detained pursuant to ch. 985, F.S. or committed to a residential program.

The bill also requires FDLE to be given notice of the petition at least 3 weeks prior to the hearing on the matter (currently only the state attorney is required to be given notice), and requires the court to instruct the petitioner to provide FDLE with a certified copy of the order granting relief.

These changes will likely have the effect of increasing the number of persons eligible to have the requirement to register as a sexual predator or offender removed pursuant to s. 943.04354, F.S.

Section 943.04354, F.S.

Currently, s. 943.04354(1), F.S., provides that a person can be considered for removal of the requirement to register as a sexual offender or predator if the person:

1. Was or will be convicted or adjudicated delinquent of a violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S., or the person committed a violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S., for which adjudication of guilt was or will be withheld, and the person does not have any other conviction, adjudication of delinquency, or withhold of adjudication of guilt for a violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S.;
2. Is required to register as a sexual offender or predator solely on the basis of this violation; and
3. Is not more than 4 years older than the victim of this violation who was 14 years of age or older but not more than 17 years of age at the time the person committed this violation.

Subsection (2) of the statute provides that if a person meets the above criteria, and the violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S., was committed on or after July 1, 2007, the person may move the court that will sentence or dispose of this violation to remove the requirement that the person register as a sexual offender or predator.²⁰ At sentencing or disposition of this violation, the court must rule on this motion and, if the court determines the person meets the above criteria and the removal of the registration requirement will not conflict with federal law, it may grant the motion and order the removal of the registration requirement.²¹

Subsection (3) of the statute specifies that a person who meets the above criteria and who is subject to registration as a sexual offender or sexual predator for a violation of ss. 794.011, 800.04, or 827.071, F.S., that occurred before July 1, 2007, may petition the court in which the sentence or disposition for the violation of ss. 794.011, 800.04, or 827.071, F.S., occurred for removal of the requirement to register as a sexual offender or predator.²² The court shall rule on the petition and, if the court determines the person meets the above criteria and removal of the registration requirement will not conflict with federal law, it may grant the petition and order the removal of the registration requirement.²³

Effect of the Bill

The bill makes a variety of changes to s. 943.04354(1), F.S., to bring the statute in line with the federal Adam Walsh Act. Specifically, the bill provides that a person can be considered for removal of the requirement to register as a sexual offender or predator if the person:

1. Was convicted, regardless of adjudication, or adjudicated delinquent of a violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S., or a similar offense in another jurisdiction, and the person does not have any other conviction, regardless of adjudication, or adjudication of

²⁰ The person must allege in the motion that he or she meets the above criteria and that removal of the registration requirement will not conflict with federal law. The state attorney must be given notice of the motion at least 21 days before the date of sentencing or disposition of this violation and may present evidence in opposition to the requested relief or may otherwise demonstrate why the motion should be denied. Section 943.04354(2), F.S.

²¹ If the court denies the motion, the person is not authorized under this section to petition for removal of the registration requirement. Section 943.04354(2), F.S.

²² The person must allege in the petition that he or she meets the above criteria and that removal of the registration requirement will not conflict with federal law. The state attorney must be given notice of the petition at least 21 days before the hearing on the petition and may present evidence in opposition to the requested relief or may otherwise demonstrate why the petition should be denied. Section 943.04354(3)(a) and (b), F.S.

²³ If the court denies the petition, the person is not authorized under this section to file any further petition for removal of the registration requirement. Section 943.04354(3)(b), F.S.

- delinquency for a violation of ss. 794.011, 800.04, 827.071, or 847.0135(5), F.S., or a similar offense in another jurisdiction;
2. (a) Was required to register as a sexual offender or predator solely on the basis of the conviction or adjudication described in 1.; or
(b) Was convicted, regardless of adjudication, or adjudicated delinquent of an offense in another jurisdiction that is similar to an offense listed in 1. and no longer meets the criteria for registration as a sexual offender under the laws of the jurisdiction where the similar offense occurred; and
 3. Is not more than 4 years older than the victim of this violation who was 13 years of age or older but less than 18 years of age at the time the person committed this violation.

The bill amends s. 943.04354(2), F.S., to:

- Specify that the motion must be filed in the *sentencing* court, or for persons convicted or adjudicated delinquent in another jurisdiction, the criminal circuit court of the circuit in which the petitioner resides.
- Require persons convicted or adjudicated delinquent of an offense in another jurisdiction to provide the court written confirmation that he or she is not required to register in the state where the conviction or adjudication occurred.
- Require that FDLE be given notice of the motion at least 3 weeks prior to the date of sentencing, disposition of the violation, or hearing on the motion (currently only the state attorney is required to be given notice).
- Require the court to instruct the moving party to provide FDLE with a certified copy of the order granting relief.

The bill also amends s. 943.04354(2), F.S., to remove the language requiring that the offense be committed on or after July 1, 2007, and repeals s. 943.04354(3), F.S. As a result, the registration removal provisions of s. 943.04354, F.S., will apply to all eligible sexual offenders, regardless of their offense date.

These changes will likely have the effect of increasing the number of persons eligible to have the requirement to register as a sexual predator or offender removed pursuant to s. 943.04354, F.S.

Definition of Risk Assessment (Section 11)

Section 947.1405(7), F.S., requires the Parole Commission (Commission) to impose specified special conditions of supervision on certain conditional releasees. One of these conditions prohibits contact with children under the age of 18, if the victim was under the age of 18, without review and approval by the Commission. The Commission may approve supervised contact with a child under the age of 18 if the approval is based upon a recommendation for contact issued by a qualified practitioner who is basing the recommendation on a risk assessment.

Section 947.005, F.S., currently defines the term "risk assessment" as "an assessment completed by an independent qualified practitioner to evaluate the level of risk associated when a sex offender has contact with a child."

In 2010, the definition of the term "risk assessment" in s. 948.001, F.S. (relating to probation), was amended to remove the requirement that the assessment be completed by *an independent* qualified practitioner.²⁴ However, this change was not made to the definition contained in s. 947.005, F.S.

Effect of the Bill

The bill amends the definition of the term "risk assessment" in s. 947.005, F.S., to remove the requirement that the assessment be completed by *an independent* qualified practitioner.

Conditions of Supervision – Sex Offender Treatment (Section 12)

Since 1995, there has been a condition of probation requiring sexual offenders convicted of specified offenses to successfully complete sexual offender treatment.²⁵ Currently, this condition of probation, found in s. 948.30(1)(c), F.S., is a standard condition of probation and only applies to probationers whose crime was committed on or after October 1, 1995, and who are placed under supervision for violation of ch. 794, F.S., s. 800.04, s. 827.071, s. 847.0135(5), or s. 847.0145, F.S.

Section 948.31, F.S., mandates that courts require an evaluation by a qualified practitioner to determine the need of a probationer for treatment. If the court determines that such a need is established by the evaluation process, the court must require sex offender treatment as a term or condition of probation for any person who is required to register as a sexual predator or sexual offender. The court is required to impose a restriction against contact with minors if sexual offender treatment is recommended.²⁶ This section of statute applies to all sexual offenders on probation – not just those convicted of specified offenses.

Effect of the Bill

The bill amends s. 948.31, F.S., to authorize (rather than mandate) a court to require probationers who are required to register as a sexual offender to undergo an evaluation by a qualified practitioner to determine whether the offender needs sex offender treatment. If the practitioner recommends treatment, the offender must successfully complete and pay for such treatment, which must be provided by a qualified practitioner.

The bill also amends s. 948.31, F.S., to remove the requirement that the court impose a restriction against contact with minors if sexual offender treatment is recommended. This prohibition is not needed in s. 948.31, F.S., as there is already a standard condition of supervision in s. 948.30(1)(e), F.S., prohibiting specified sexual offenders from having contact with minors.

Exposure of Sexual Organs (Section 3)

Section 800.03, F.S., makes it a first degree misdemeanor²⁷ for a person to expose or exhibit one's sexual organs in public or on the private premises of another, or so near thereto as to be seen from such private premises, in a vulgar or indecent manner, or to be naked in public except in any place provided or set apart for that purpose.

Effect of the Bill

The bill makes third or subsequent violations of s. 800.03, F.S., third degree felonies.²⁸

Bail Determinations (Section 4)

Pretrial release is an alternative to incarceration that allows arrested defendants to be released from jail while they await disposition of their criminal charges.²⁹ Generally, pretrial release is granted by releasing a defendant on their own recognizance, by requiring the defendant to post bail, and/or by requiring the defendant to participate in a pretrial release program.³⁰

Bail requires an accused to pay a set sum of money to the sheriff to secure his or her release. If a defendant released on bail fails to appear before the court at the appointed place and time, the bail is forfeited. Section 903.046, F.S., currently states that the purpose of a bail determination in criminal proceedings is to ensure the appearance of the criminal defendant at subsequent proceedings and to

²⁵ Chapter 1995-283, L.O.F.

²⁶ Section 948.30, F.S., currently contains standard conditions of probation that require sex offender treatment for certain offenders and that prohibit certain sex offenders from having contact with minors if the victim of the offender's offense was under 18. The bill requires courts to impose a restriction against contact with minors regardless of whether the offender's victim was a minor.

²⁷ A first degree misdemeanor is punishable by up to one year in county jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

²⁸ 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.

²⁹ Report No. 10-08, "Pretrial Release Programs' Compliance with New Reporting Requirements is Mixed," Office of Program Policy Analysis & Government Accountability, January 2010.

³⁰ *Id.*

protect the community against unreasonable danger from the criminal defendant. The statute further specifies that when determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, courts must consider the following:

- The nature and circumstances of the offense charged.
- The weight of the evidence against the defendant.
- The defendant's family ties, length of residence in the community, employment history, financial resources, and mental condition.
- The defendant's past and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings.³¹
- The nature and probability of danger which the defendant's release poses to the community.
- The source of funds used to post bail.
- Whether the defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence.
- The street value of any drug or controlled substance connected to or involved in the criminal charge.³²
- The nature and probability of intimidation and danger to victims.
- Whether there is probable cause to believe that the defendant committed a new crime while on pretrial release.
- Any other facts that the court considers relevant.
- Whether the crime charged is a violation of ch. 874, F.S.,³³ or alleged to be subject to enhanced punishment under ch. 874, F.S. If any such violation is charged against a defendant or if the defendant is charged with a crime that is alleged to be subject to such enhancement, he or she shall not be eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.³⁴

Effect of the Bill

The bill amends s. 903.046, F.S., to add the following to the list of factors a court must consider when determining whether to release a defendant on bail or other conditions:

- Whether the defendant, other than a defendant whose only criminal charge is a misdemeanor offense under ch. 316, F.S.,³⁵ is required to register as a sexual offender under s. 943.0435, F.S., or a sexual predator under s. 775.21, F.S.; and, if so, he or she is not eligible for release on bail or surety bond until the first appearance³⁶ on the case in order to ensure the full participation of the prosecutor and the protection of the public.

The Criminal Punishment Code - Offense Severity Ranking Chart (Section 15)

The Criminal Punishment Code applies to sentencing for felony offenses (except capital felonies) committed on or after October 1, 1998.³⁷ Criminal offenses are ranked in the Offense Severity Ranking

³¹ Section 903.046(2)(d), F.S., specifies that any defendant who failed to appear on the day of any required court proceeding in the case at issue, but who later voluntarily appeared or surrendered, is not eligible for a recognizance bond; and any defendant who failed to appear on the day of any required court proceeding in the case at issue and who was later arrested is not eligible for a recognizance bond or for any form of bond which does not require a monetary undertaking or commitment equal to or greater than \$2,000 or twice the value of the monetary commitment or undertaking of the original bond, whichever is greater. Section 903.046(2)(d), F.S., also specifies that notwithstanding anything in s. 903.046, F.S., the court has discretion in determining conditions of release if the defendant proves circumstances beyond his or her control for the failure to appear; and that s. 903.046, F.S., may not be construed as imposing additional duties or obligations on a governmental entity related to monetary bonds.

³² Section 903.046(2)(d), F.S., specifies that it is the finding and intent of the Legislature that crimes involving drugs and other controlled substances are of serious social concern, that the flight of defendants to avoid prosecution is of similar serious social concern, and that frequently such defendants are able to post monetary bail using the proceeds of their unlawful enterprises to defeat the social utility of pretrial bail. Therefore, the courts should carefully consider the utility and necessity of substantial bail in relation to the street value of the drugs or controlled substances involved.

³³ Chapter 874, F.S., relates to criminal gang enforcement and prevention.

³⁴ Section 903.046, F.S.

³⁵ Chapter 316, F.S., is the State Uniform Traffic Control chapter.

³⁶ See Rule 3.130, Fla. R. Crim. Proc.

³⁷ Section 921.002, F.S.

Chart from Level 1 (least severe) to Level 10 (most severe) and are assigned points based on the severity of the offense as determined by the legislature.³⁸ A defendant's sentence is calculated based on points and are added in order to determine the "lowest permissible sentence" for the offense.

A violation of s. 796.03, F.S. (procuring person under age of 18 for prostitution), is currently ranked in Level 7 of the ranking chart but is incorrectly described in the chart as "procuring any person under 16 years for prostitution."³⁹ Similarly, a violation of s. 787.02(3)(a), F.S. (false imprisonment of a child under 13 while committing other specified offenses) is currently ranked in Level 9 of the ranking chart, but is incorrectly listed as a 1st degree felony (the offense is a 1st degree felony punishable for life imprisonment).

Effect of the Bill

The bill amends the ranking chart to correct the above-described inaccuracies.

B. SECTION DIRECTORY:

Section 1. Amends s. 90.803, F.S., relating to hearsay exceptions; availability of declarant immaterial.

Section 2. Amends s. 775.21, F.S., relating to The Florida Sexual Predators Act.

Section 3. Amends s. 800.03, F.S., relating to exposure of sexual organs.

Section 4. Amends s. 903.046, F.S., relating to purpose of and criteria for bail determination.

Section 5. Amends s. 943.0435, F.S., relating to sexual offenders required to register with the department; penalty.

Section 6. Amends s. 943.04351, F.S., relating to search of registration information regarding sexual predators and sexual offenders required prior to appointment or employment.

Section 7. Amends s. 943.04354, F.S., relating to removal of the requirement to register as a sexual offender or sexual predator in special circumstances.

Section 8. Amends s. 943.0437, F.S., relating to commercial social networking websites.

Section 9. Amends s. 944.606, F.S., relating to sexual offenders; notification upon release.

Section 10. Amends s. 944.607, F.S., relating to notification to Department of Law Enforcement of information on sexual offenders.

Section 11. Amends s. 947.005, F.S., relating to definitions.

Section 12. Amends s. 948.31, F.S., relating to evaluation and treatment of sexual predators and sexual offenders on probation or community control.

Section 13. Amends s. 985.481, F.S., relating to sexual offender adjudicated delinquent; notification upon release.

Section 14. Amends s. 985.4815, F.S., relating to notification to the Department of Law Enforcement of information on juvenile sexual offenders.

Section 15. Amends s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

³⁸ Section 921.0022, F.S.

³⁹ Section 921.0022(3)(g), F.S.

Section 16. The bill is effective October 1, 2013.

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 Criminal Justice Impact Conference has not yet met to determine the prison bed impact of the bill. The bill may have a prison bed impact on the Department of Corrections in that it increases the number of people subject to sex offender registration requirements and adds additional information that sexual predators and offenders must provide when registering. However, failure to register is generally punishable as an unranked third degree felony, so the impact to state prison beds may be insignificant. The bill may also have a prison bed impact because it makes third or subsequent violations of s. 800.03, F.S. (exposure of sexual organs) a third degree felony (rather than a misdemeanor).

The bill will likely require FDLE to spend funds to hire contract programming staff to complete programming and testing necessary to implement the qualifying offense and registration provisions of the bill.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

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

2. Expenditures:

In February, 2013, there were 50,636 registered sexual offenders and 9,903 registered sexual predators in Florida. It is unknown how many of these persons are arrested each year. The bill prohibits such persons from being released on bail or surety bond until first appearance. However, since first appearance must occur within 24 hours of arrest, the impact on local jails will likely be insignificant.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

None.

III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

Not applicable because the BILL:

- Does not appear to: require the counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have

to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties and municipalities; and

- 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

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

BILL

ORIGINAL

YEAR

1 A bill to be entitled
2 An act relating to sex offenses; amending s. 90.803,
3 F.S.; providing that an out-of-court statement by a
4 child victim with a physical, mental, emotional, or
5 developmental age of 16 or less describing specified
6 criminal acts is admissible in evidence in certain
7 instances; amending s. 775.21, F.S.; replacing the
8 definition of the term "instant message name" with the
9 definition of the term "Internet identifier";
10 providing that voluntary disclosure of specified
11 information waives a disclosure exemption for such
12 information; conforming provisions; adding additional
13 offenses to the list of sexual predator qualifying
14 offenses; requiring disclosure of additional
15 information during the sexual predator registration
16 process; requiring that a sexual predator who is
17 unable to secure or update a driver license or
18 identification card within a specified period must
19 report specified information to the local sheriff's
20 office within a specified period after such change
21 with confirmation that he or she also reported such
22 information to the Department of Highway Safety and
23 Motor Vehicles; revising reporting requirements if a
24 sexual predator plans to leave the United States for
25 more than a specified period; providing criminal
26 penalties for knowingly providing false registration
27 information by act or omission; amending s. 800.03,
28 F.S.; providing enhanced penalties for third or

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

BILL

ORIGINAL

YEAR

29 subsequent indecent exposure violations; amending s.
30 903.046, F.S.; requiring a court considering whether
31 to release a defendant on bail to determine whether
32 the defendant is subject to registration as a sexual
33 offender or sexual predator and, if so, to hold the
34 defendant without bail until the first appearance on
35 the case; providing an exception; amending s.
36 943.0435, F.S.; adding additional offenses to the list
37 of sexual offender qualifying offenses; replacing the
38 definition of the term "instant message name" with the
39 definition of the term "Internet identifier";
40 conforming provisions; requiring disclosure of
41 additional sexual offender registration information;
42 requiring that a sexual offender who is unable to
43 secure or update a driver license or identification
44 card within a specified period must report specified
45 information to the local sheriff's office within a
46 specified period of such change with confirmation that
47 he or she also reported such information to the
48 Department of Highway Safety and Motor Vehicles;
49 providing additional requirements for sexual offenders
50 intending to reside outside of the United States;
51 revising criteria applicable to provisions allowing
52 removal from the requirement to register as a sexual
53 offender; providing criminal penalties for knowingly
54 providing false registration information by act or
55 omission; amending s. 943.04351, F.S.; requiring a
56 specified national search of registration information

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

BILL ORIGINAL YEAR

57 | regarding sexual predators and sexual offenders prior
 58 | to appointment or employment of persons by state
 59 | agencies and governmental subdivisions; amending s.
 60 | 943.04354, F.S.; revising the criteria applicable to
 61 | provisions allowing removal of the requirement to
 62 | register as a sexual offender or sexual predator;
 63 | amending s. 943.0437, F.S.; replacing the term
 64 | "instant message name" with the term "Internet
 65 | identifier"; amending ss. 944.606 and 944.607, F.S.;
 66 | adding additional offenses to the list of sexual
 67 | offender qualifying offenses; replacing the definition
 68 | of the term "instant message name" with the definition
 69 | of the term "Internet identifier"; conforming
 70 | provisions; requiring disclosure of additional
 71 | registration information; providing criminal penalties
 72 | for knowingly providing false registration information
 73 | by act or omission; amending s. 947.005, F.S.;
 74 | revising the definition of the term "risk assessment";
 75 | amending s. 948.31, F.S.; authorizing the court to
 76 | require sexual offenders and sexual predators who are
 77 | on probation or community control to undergo an
 78 | evaluation to determine whether the offender or
 79 | predator needs sexual offender treatment; requiring
 80 | the probationer or community controllee to pay for the
 81 | treatment; removing a provision prohibiting contact
 82 | with minors if sexual offender treatment is
 83 | recommended; amending ss. 985.481 and 985.4815, F.S.;
 84 | requiring disclosure of additional registration

BILL

ORIGINAL

YEAR

85 information by certain sexual offenders adjudicated
 86 delinquent and certain juvenile sexual offenders;
 87 providing criminal penalties for knowingly providing
 88 false registration information by act or omission;
 89 amending s. 921.0022, F.S.; correcting references;
 90 providing an effective date.

91

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

93

94 Section 1. Paragraph (a) of subsection (23) of section
 95 90.803, Florida Statutes, is amended to read:

96 90.803 Hearsay exceptions; availability of declarant
 97 immaterial.—The provision of s. 90.802 to the contrary
 98 notwithstanding, the following are not inadmissible as evidence,
 99 even though the declarant is available as a witness:

100 (23) HEARSAY EXCEPTION; STATEMENT OF CHILD VICTIM.—

101 (a) Unless the source of information or the method or
 102 circumstances by which the statement is reported indicates a
 103 lack of trustworthiness, an out-of-court statement made by a
 104 child victim with a physical, mental, emotional, or
 105 developmental age of 16 ~~14~~ or less describing any act of child
 106 abuse or neglect, any act of sexual abuse against a child, the
 107 offense of child abuse, the offense of aggravated child abuse,
 108 or any offense involving an unlawful sexual act, contact,
 109 intrusion, or penetration performed in the presence of, with,
 110 by, or on the declarant child, not otherwise admissible, is
 111 admissible in evidence in any civil or criminal proceeding if:

112 1. The court finds in a hearing conducted outside the

BILL

ORIGINAL

YEAR

113 presence of the jury that the time, content, and circumstances
 114 of the statement provide sufficient safeguards of reliability.
 115 In making its determination, the court may consider the mental
 116 and physical age and maturity of the child, the nature and
 117 duration of the abuse or offense, the relationship of the child
 118 to the offender, the reliability of the assertion, the
 119 reliability of the child victim, and any other factor deemed
 120 appropriate; and

- 121 2. The child either:
- 122 a. Testifies; or
- 123 b. Is unavailable as a witness, provided that there is
 124 other corroborative evidence of the abuse or offense.

125 Unavailability shall include a finding by the court that the
 126 child's participation in the trial or proceeding would result in
 127 a substantial likelihood of severe emotional or mental harm, in
 128 addition to findings pursuant to s. 90.804(1).

129 Section 2. Paragraph (i) of subsection (2), paragraph (a)
 130 of subsection (4), subsections (6) and (8), and paragraph (a) of
 131 subsection (10) of section 775.21, Florida Statutes, are amended
 132 to read:

133 775.21 The Florida Sexual Predators Act.—

134 (2) DEFINITIONS.—As used in this section, the term:

- 135 (i) "Internet identifier ~~instant message name~~" means all
 136 electronic mail, chat, instant messenger, social networking, or
 137 similar name used for Internet communication, but does not
 138 include a date of birth, social security number, or personal
 139 identification number (PIN). Voluntary disclosure by the sexual
 140 predator of his or her date of birth, social security number, or

BILL ORIGINAL YEAR

141 personal identification number (PIN) as an Internet identifier
 142 waives the disclosure exemption in this paragraph for such
 143 personal information an identifier that allows a person to
 144 ~~communicate in real time with another person using the Internet.~~

145 (4) SEXUAL PREDATOR CRITERIA.—

146 (a) For a current offense committed on or after October 1,
 147 1993, upon conviction, an offender shall be designated as a
 148 "sexual predator" under subsection (5), and subject to
 149 registration under subsection (6) and community and public
 150 notification under subsection (7) if:

151 1. The felony is:

152 a. A capital, life, or first-degree felony violation, or
 153 any attempt thereof, of s. 787.01 or s. 787.02, where the victim
 154 is a minor and the defendant is not the victim's parent or
 155 guardian, or s. 794.011, s. 800.04, or s. 847.0145, or a
 156 violation of a similar law of another jurisdiction; or

157 b. Any felony violation, or any attempt thereof, of s.
 158 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 159 787.025(2)(c), where the victim is a minor and the defendant is
 160 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
 161 (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s.
 162 796.03; s. 796.035; s. 800.04; s. 810.145(8)(b); s. 825.1025; ~~s.~~
 163 ~~825.1025(2)(b);~~ s. 827.071; s. 847.0135(5); s. 847.0145; s.
 164 916.1075(2); or s. 985.701(1); or a violation of a similar law
 165 of another jurisdiction, and the offender has previously been
 166 convicted of or found to have committed, or has pled nolo
 167 contendere or guilty to, regardless of adjudication, any
 168 violation of s. 393.135(2); s. 394.4593(2); s. 787.01, s.

BILL ORIGINAL YEAR

169 787.02, or s. 787.025(2)(c), where the victim is a minor and the
 170 defendant is not the victim's parent or guardian; s.
 171 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
 172 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
 173 825.1025; s. 827.071; s. 847.0133; s. 847.0135, excluding s.
 174 847.0135(6); s. 847.0145; s. 916.1075(2); or s. 985.701(1); or a
 175 violation of a similar law of another jurisdiction;

176 2. The offender has not received a pardon for any felony
 177 or similar law of another jurisdiction that is necessary for the
 178 operation of this paragraph; and

179 3. A conviction of a felony or similar law of another
 180 jurisdiction necessary to the operation of this paragraph has
 181 not been set aside in any postconviction proceeding.

182 (6) REGISTRATION.—

183 (a) A sexual predator must register with the department
 184 through the sheriff's office by providing the following
 185 information to the department:

186 1. Name; social security number; age; race; sex; date of
 187 birth; height; weight; tattoos or other identifying marks; hair
 188 and eye color; photograph; address of legal residence and
 189 address of any current temporary residence, within the state or
 190 out of state, including a rural route address and a post office
 191 box; if no permanent or temporary address, any transient
 192 residence within the state; address, location or description,
 193 and dates of any current or known future temporary residence
 194 within the state or out of state; all any electronic mail
 195 addresses ~~address~~ and all Internet identifiers ~~any instant~~
 196 ~~message name~~ required to be provided pursuant to subparagraph

BILL

ORIGINAL

YEAR

197 | (g)4.; all home telephone numbers ~~number~~ and any cellular
 198 | telephone numbers ~~number~~; date and place of any employment; the
 199 | make, model, color, registration number, and license tag number
 200 | of all vehicles owned; date and place of each conviction;
 201 | fingerprints; palm prints; and a brief description of the crime
 202 | or crimes committed by the offender. A post office box shall not
 203 | be provided in lieu of a physical residential address. The
 204 | sexual predator must also produce his or her passport, if he or
 205 | she has a passport, and, if he or she is an alien, must produce
 206 | or provide information about documents establishing his or her
 207 | immigration status. The sexual predator must also provide
 208 | information about any professional licenses he or she may have.

209 | a. If the sexual predator's place of residence is a motor
 210 | vehicle, trailer, mobile home, or manufactured home, as defined
 211 | in chapter 320, the sexual predator shall also provide to the
 212 | department written notice of the vehicle identification number;
 213 | the license tag number; the registration number; and a
 214 | description, including color scheme, of the motor vehicle,
 215 | trailer, mobile home, or manufactured home. If a sexual
 216 | predator's place of residence is a vessel, live-aboard vessel,
 217 | or houseboat, as defined in chapter 327, the sexual predator
 218 | shall also provide to the department written notice of the hull
 219 | identification number; the manufacturer's serial number; the
 220 | name of the vessel, live-aboard vessel, or houseboat; the
 221 | registration number; and a description, including color scheme,
 222 | of the vessel, live-aboard vessel, or houseboat.

223 | b. If the sexual predator is enrolled, employed,
 224 | volunteering, or carrying on a vocation at an institution of

BILL ORIGINAL YEAR

225 | higher education in this state, the sexual predator shall also
 226 | provide to the department the name, address, and county of each
 227 | institution, including each campus attended, and the sexual
 228 | predator's enrollment, volunteer, or employment status. Each
 229 | change in enrollment, volunteer, or employment status shall be
 230 | reported in person at the sheriff's office, or the Department of
 231 | Corrections if the sexual predator is in the custody or control
 232 | of or under the supervision of the Department of Corrections,
 233 | within 48 hours after any change in status. The sheriff or the
 234 | Department of Corrections shall promptly notify each institution
 235 | of the sexual predator's presence and any change in the sexual
 236 | predator's enrollment, volunteer, or employment status.

237 | 2. Any other information determined necessary by the
 238 | department, including criminal and corrections records;
 239 | nonprivileged personnel and treatment records; and evidentiary
 240 | genetic markers when available.

241 | (b) If the sexual predator is in the custody or control
 242 | of, or under the supervision of, the Department of Corrections,
 243 | or is in the custody of a private correctional facility, the
 244 | sexual predator must register with the Department of
 245 | Corrections. A sexual predator who is under the supervision of
 246 | the Department of Corrections but who is not incarcerated must
 247 | register with the Department of Corrections within 3 business
 248 | days after the court finds the offender to be a sexual predator.
 249 | The Department of Corrections shall provide to the department
 250 | registration information and the location of, and local
 251 | telephone number for, any Department of Corrections office that
 252 | is responsible for supervising the sexual predator. In addition,

BILL ORIGINAL YEAR

253 the Department of Corrections shall notify the department if the
 254 sexual predator escapes or absconds from custody or supervision
 255 or if the sexual predator dies.

256 (c) If the sexual predator is in the custody of a local
 257 jail, the custodian of the local jail shall register the sexual
 258 predator within 3 business days after intake of the sexual
 259 predator for any reason and upon release, and shall forward the
 260 registration information to the department. The custodian of the
 261 local jail shall also take a digitized photograph of the sexual
 262 predator while the sexual predator remains in custody and shall
 263 provide the digitized photograph to the department. The
 264 custodian shall notify the department if the sexual predator
 265 escapes from custody or dies.

266 (d) If the sexual predator is under federal supervision,
 267 the federal agency responsible for supervising the sexual
 268 predator may forward to the department any information regarding
 269 the sexual predator which is consistent with the information
 270 provided by the Department of Corrections under this section,
 271 and may indicate whether use of the information is restricted to
 272 law enforcement purposes only or may be used by the department
 273 for purposes of public notification.

274 (e)1. If the sexual predator is not in the custody or
 275 control of, or under the supervision of, the Department of
 276 Corrections or is not in the custody of a private correctional
 277 facility, the sexual predator shall register in person:

278 a. At the sheriff's office in the county where he or she
 279 establishes or maintains a residence within 48 hours after
 280 establishing or maintaining a residence in this state; and

BILL

ORIGINAL

YEAR

281 b. At the sheriff's office in the county where he or she
 282 was designated a sexual predator by the court within 48 hours
 283 after such finding is made.

284 2. Any change in the sexual predator's permanent or
 285 temporary residence, name, ~~or any~~ electronic mail addresses, or
 286 Internet identifiers ~~address and any instant message name~~
 287 required to be provided pursuant to subparagraph (g)4., after
 288 the sexual predator registers in person at the sheriff's office
 289 as provided in subparagraph 1., shall be accomplished in the
 290 manner provided in paragraphs (g), (i), and (j). When a sexual
 291 predator registers with the sheriff's office, the sheriff shall
 292 take a photograph, ~~and~~ a set of fingerprints, and palm prints of
 293 the predator and forward the photographs, palm prints, and
 294 fingerprints to the department, along with the information that
 295 the predator is required to provide pursuant to this section.

296 (f) Within 48 hours after the registration required under
 297 paragraph (a) or paragraph (e), a sexual predator who is not
 298 incarcerated and who resides in the community, including a
 299 sexual predator under the supervision of the Department of
 300 Corrections, shall register in person at a driver ~~driver's~~
 301 license office of the Department of Highway Safety and Motor
 302 Vehicles and shall present proof of registration. At the driver
 303 ~~driver's~~ license office the sexual predator shall:

304 1. If otherwise qualified, secure a Florida driver
 305 ~~driver's~~ license, renew a Florida driver ~~driver's~~ license, or
 306 secure an identification card. The sexual predator shall
 307 identify himself or herself as a sexual predator who is required
 308 to comply with this section, provide his or her place of

BILL ORIGINAL YEAR

309 permanent, temporary, or transient residence, including a rural
 310 route address and a post office box, and submit to the taking of
 311 a photograph for use in issuing a driver ~~driver's~~ license,
 312 renewed license, or identification card, and for use by the
 313 department in maintaining current records of sexual predators. A
 314 post office box shall not be provided in lieu of a physical
 315 residential address. If the sexual predator's place of residence
 316 is a motor vehicle, trailer, mobile home, or manufactured home,
 317 as defined in chapter 320, the sexual predator shall also
 318 provide to the Department of Highway Safety and Motor Vehicles
 319 the vehicle identification number; the license tag number; the
 320 registration number; and a description, including color scheme,
 321 of the motor vehicle, trailer, mobile home, or manufactured
 322 home. If a sexual predator's place of residence is a vessel,
 323 live-aboard vessel, or houseboat, as defined in chapter 327, the
 324 sexual predator shall also provide to the Department of Highway
 325 Safety and Motor Vehicles the hull identification number; the
 326 manufacturer's serial number; the name of the vessel, live-
 327 aboard vessel, or houseboat; the registration number; and a
 328 description, including color scheme, of the vessel, live-aboard
 329 vessel, or houseboat.

330 2. Pay the costs assessed by the Department of Highway
 331 Safety and Motor Vehicles for issuing or renewing a driver
 332 ~~driver's~~ license or identification card as required by this
 333 section. The driver ~~driver's~~ license or identification card
 334 issued to the sexual predator must be in compliance with s.
 335 322.141(3).

336 3. Provide, upon request, any additional information

BILL

ORIGINAL

YEAR

337 necessary to confirm the identity of the sexual predator,
 338 including a set of fingerprints.

339 (g)1. Each time a sexual predator's driver ~~driver's~~
 340 license or identification card is subject to renewal, and,
 341 without regard to the status of the predator's driver ~~driver's~~
 342 license or identification card, within 48 hours after any change
 343 of the predator's residence or change in the predator's name by
 344 reason of marriage or other legal process, the predator shall
 345 report in person to a driver ~~driver's~~ license office and shall
 346 be subject to the requirements specified in paragraph (f). The
 347 Department of Highway Safety and Motor Vehicles shall forward to
 348 the department and to the Department of Corrections all
 349 photographs and information provided by sexual predators.

350 Notwithstanding the restrictions set forth in s. 322.142, the
 351 Department of Highway Safety and Motor Vehicles is authorized to
 352 release a reproduction of a color-photograph or digital-image
 353 license to the Department of Law Enforcement for purposes of
 354 public notification of sexual predators as provided in this
 355 section. A sexual predator who is unable to secure or update a
 356 driver license or identification card with the Department of
 357 Highway Safety and Motor Vehicles as provided in paragraph (f)
 358 and this paragraph must also report any change of the predator's
 359 residence or change in the predator's name by reason of marriage
 360 or other legal process within 48 hours after the change to the
 361 sheriff's office in the county where the predator resides or is
 362 located and provide confirmation that he or she reported such
 363 information to the Department of Highway Safety and Motor
 364 Vehicles.

BILL

ORIGINAL

YEAR

365 | 2. A sexual predator who vacates a permanent, temporary,
 366 | or transient residence and fails to establish or maintain
 367 | another permanent, temporary, or transient residence shall,
 368 | within 48 hours after vacating the permanent, temporary, or
 369 | transient residence, report in person to the sheriff's office of
 370 | the county in which he or she is located. The sexual predator
 371 | shall specify the date upon which he or she intends to or did
 372 | vacate such residence. The sexual predator must provide or
 373 | update all of the registration information required under
 374 | paragraph (a). The sexual predator must provide an address for
 375 | the residence or other place that he or she is or will be
 376 | located during the time in which he or she fails to establish or
 377 | maintain a permanent or temporary residence.

378 | 3. A sexual predator who remains at a permanent,
 379 | temporary, or transient residence after reporting his or her
 380 | intent to vacate such residence shall, within 48 hours after the
 381 | date upon which the predator indicated he or she would or did
 382 | vacate such residence, report in person to the sheriff's office
 383 | to which he or she reported pursuant to subparagraph 2. for the
 384 | purpose of reporting his or her address at such residence. When
 385 | the sheriff receives the report, the sheriff shall promptly
 386 | convey the information to the department. An offender who makes
 387 | a report as required under subparagraph 2. but fails to make a
 388 | report as required under this subparagraph commits a felony of
 389 | the second degree, punishable as provided in s. 775.082, s.
 390 | 775.083, or s. 775.084.

391 | 4. A sexual predator must register all ~~any~~ electronic mail
 392 | addresses and Internet identifiers ~~address or instant message~~

BILL

ORIGINAL

YEAR

393 ~~name~~ with the department prior to using such electronic mail
 394 addresses and Internet identifiers ~~address or instant message~~
 395 ~~name on or after October 1, 2007~~. The department shall establish
 396 an online system through which sexual predators may securely
 397 access and update all electronic mail address and Internet
 398 identifier ~~instant message name~~ information.

399 (h) The department must notify the sheriff and the state
 400 attorney of the county and, if applicable, the police chief of
 401 the municipality, where the sexual predator maintains a
 402 residence.

403 (i) A sexual predator who intends to establish a
 404 permanent, temporary, or transient residence in another state or
 405 jurisdiction other than the State of Florida shall report in
 406 person to the sheriff of the county of current residence within
 407 48 hours before the date he or she intends to leave this state
 408 to establish residence in another state or jurisdiction or
 409 within 21 days before his or her planned departure date if the
 410 intended residence of 5 days or more is outside of the United
 411 States. The sexual predator must provide to the sheriff the
 412 address, municipality, county, ~~and~~ state, and country of
 413 intended residence. The sheriff shall promptly provide to the
 414 department the information received from the sexual predator.
 415 The department shall notify the statewide law enforcement
 416 agency, or a comparable agency, in the intended state, ~~or~~
 417 jurisdiction, or country of residence of the sexual predator's
 418 intended residence. The failure of a sexual predator to provide
 419 his or her intended place of residence is punishable as provided
 420 in subsection (10).

BILL

ORIGINAL

YEAR

421 (j) A sexual predator who indicates his or her intent to
 422 establish a permanent, temporary, or transient residence in
 423 another state, a ~~of~~ jurisdiction other than the State of
 424 Florida, or another country and later decides to remain in this
 425 state shall, within 48 hours after the date upon which the
 426 sexual predator indicated he or she would leave this state,
 427 report in person to the sheriff to which the sexual predator
 428 reported the intended change of residence, and report his or her
 429 intent to remain in this state. If the sheriff is notified by
 430 the sexual predator that he or she intends to remain in this
 431 state, the sheriff shall promptly report this information to the
 432 department. A sexual predator who reports his or her intent to
 433 establish a permanent, temporary, or transient residence in
 434 another state, a ~~of~~ jurisdiction other than the state of
 435 Florida, or another country, but who remains in this state
 436 without reporting to the sheriff in the manner required by this
 437 paragraph, commits a felony of the second degree, punishable as
 438 provided in s. 775.082, s. 775.083, or s. 775.084.

439 (k)1. The department is responsible for the online
 440 maintenance of current information regarding each registered
 441 sexual predator. The department must maintain hotline access for
 442 state, local, and federal law enforcement agencies to obtain
 443 instantaneous locator file and offender characteristics
 444 information on all released registered sexual predators for
 445 purposes of monitoring, tracking, and prosecution. The
 446 photograph and fingerprints do not have to be stored in a
 447 computerized format.

448 2. The department's sexual predator registration list,

BILL

ORIGINAL

YEAR

449 containing the information described in subparagraph (a)1., is a
 450 public record. The department is authorized to disseminate this
 451 public information by any means deemed appropriate, including
 452 operating a toll-free telephone number for this purpose. When
 453 the department provides information regarding a registered
 454 sexual predator to the public, department personnel must advise
 455 the person making the inquiry that positive identification of a
 456 person believed to be a sexual predator cannot be established
 457 unless a fingerprint comparison is made, and that it is illegal
 458 to use public information regarding a registered sexual predator
 459 to facilitate the commission of a crime.

460 3. The department shall adopt guidelines as necessary
 461 regarding the registration of sexual predators and the
 462 dissemination of information regarding sexual predators as
 463 required by this section.

464 (1) A sexual predator must maintain registration with the
 465 department for the duration of his or her life, unless the
 466 sexual predator has received a full pardon or has had a
 467 conviction set aside in a postconviction proceeding for any
 468 offense that met the criteria for the sexual predator
 469 designation.

470 (8) VERIFICATION.—The department and the Department of
 471 Corrections shall implement a system for verifying the addresses
 472 of sexual predators. The system must be consistent with the
 473 provisions of the federal Adam Walsh Child Protection and Safety
 474 Act of 2006 and any other federal standards applicable to such
 475 verification or required to be met as a condition for the
 476 receipt of federal funds by the state. The Department of

BILL

ORIGINAL

YEAR

477 Corrections shall verify the addresses of sexual predators who
 478 are not incarcerated but who reside in the community under the
 479 supervision of the Department of Corrections and shall report to
 480 the department any failure by a sexual predator to comply with
 481 registration requirements. County and local law enforcement
 482 agencies, in conjunction with the department, shall verify the
 483 addresses of sexual predators who are not under the care,
 484 custody, control, or supervision of the Department of
 485 Corrections. Local law enforcement agencies shall report to the
 486 department any failure by a sexual predator to comply with
 487 registration requirements.

488 (a) A sexual predator must report in person each year
 489 during the month of the sexual predator's birthday and during
 490 every third month thereafter to the sheriff's office in the
 491 county in which he or she resides or is otherwise located to
 492 reregister. The sheriff's office may determine the appropriate
 493 times and days for reporting by the sexual predator, which shall
 494 be consistent with the reporting requirements of this paragraph.
 495 Reregistration shall include any changes to the following
 496 information:

497 1. Name; social security number; age; race; sex; date of
 498 birth; height; weight; tattoos or other identifying marks; hair
 499 and eye color; address of any permanent residence and address of
 500 any current temporary residence, within the state or out of
 501 state, including a rural route address and a post office box; if
 502 no permanent or temporary address, any transient residence
 503 within the state; address, location or description, and dates of
 504 any current or known future temporary residence within the state

BILL

ORIGINAL

YEAR

505 | or out of state; ~~any~~ electronic mail addresses or Internet
 506 | identifiers ~~address and any instant message name~~ required to be
 507 | provided pursuant to subparagraph (6)(g)4.; home telephone
 508 | numbers or ~~number and any~~ cellular telephone numbers ~~number~~;
 509 | date and place of any employment; the ~~vehicle~~ make, model,
 510 | color, registration number, and license tag number of any
 511 | vehicles owned; fingerprints; palm prints; and photograph. A
 512 | post office box shall not be provided in lieu of a physical
 513 | residential address. The sexual predator must also produce his
 514 | or her passport, if he or she has a passport, and, if he or she
 515 | is an alien, must produce or provide information about documents
 516 | establishing his or her immigration status. The sexual predator
 517 | must also provide information about any professional licenses he
 518 | or she may have.

519 | 2. If the sexual predator is enrolled, employed,
 520 | volunteering, or carrying on a vocation at an institution of
 521 | higher education in this state, the sexual predator shall also
 522 | provide to the department the name, address, and county of each
 523 | institution, including each campus attended, and the sexual
 524 | predator's enrollment, volunteer, or employment status.

525 | 3. If the sexual predator's place of residence is a motor
 526 | vehicle, trailer, mobile home, or manufactured home, as defined
 527 | in chapter 320, the sexual predator shall also provide the
 528 | vehicle identification number; the license tag number; the
 529 | registration number; and a description, including color scheme,
 530 | of the motor vehicle, trailer, mobile home, or manufactured
 531 | home. If the sexual predator's place of residence is a vessel,
 532 | live-aboard vessel, or houseboat, as defined in chapter 327, the

BILL ORIGINAL YEAR

533 sexual predator shall also provide the hull identification
 534 number; the manufacturer's serial number; the name of the
 535 vessel, live-aboard vessel, or houseboat; the registration
 536 number; and a description, including color scheme, of the
 537 vessel, live-aboard vessel, or houseboat.

538 (b) The sheriff's office shall, within 2 working days,
 539 electronically submit and update all information provided by the
 540 sexual predator to the department in a manner prescribed by the
 541 department.

542 (10) PENALTIES.—

543 (a) Except as otherwise specifically provided, a sexual
 544 predator who fails to register; who fails, after registration,
 545 to maintain, acquire, or renew a driver ~~driver's~~ license or
 546 identification card; who fails to provide required location
 547 information, electronic mail address information prior to use,
 548 Internet identifier ~~instant message name~~ information prior to
 549 use, all home telephone numbers ~~number~~ and ~~any~~ cellular
 550 telephone numbers ~~number~~, or change-of-name information; who
 551 fails to make a required report in connection with vacating a
 552 permanent residence; who fails to reregister as required; who
 553 fails to respond to any address verification correspondence from
 554 the department within 3 weeks of the date of the correspondence;
 555 who knowingly provides false registration information by act or
 556 omission; or who otherwise fails, by act or omission, to comply
 557 with the requirements of this section, commits a felony of the
 558 third degree, punishable as provided in s. 775.082, s. 775.083,
 559 or s. 775.084.

560 Section 3. Section 800.03, Florida Statutes, is amended to

BILL

ORIGINAL

YEAR

561 read:

562 800.03 Exposure of sexual organs.—

563 (1) It is unlawful to expose or exhibit one's sexual
 564 organs in public or on the private premises of another, or so
 565 near thereto as to be seen from such private premises, in a
 566 vulgar or indecent manner, or to be naked in public except in
 567 any place provided or set apart for that purpose.

568 (2) (a) Except as provided in paragraph (b), a violation of
 569 this section is a misdemeanor of the first degree, punishable as
 570 provided in s. 775.082 or s. 775.083.

571 (b) A third or subsequent violation of this section is a
 572 felony of the third degree, punishable as provided in s.
 573 775.082, s. 775.083, or s. 775.084.

574 (3) A mother's breastfeeding of her baby does not under
 575 any circumstance violate this section.

576 Section 4. Paragraph (m) is added to subsection (2) of
 577 section 903.046, Florida Statutes, to read:

578 903.046 Purpose of and criteria for bail determination.—

579 (2) When determining whether to release a defendant on
 580 bail or other conditions, and what that bail or those conditions
 581 may be, the court shall consider:

582 (m) Whether the defendant, other than a defendant whose
 583 only criminal charge is a misdemeanor offense under chapter 316,
 584 is required to register as a sexual offender under s. 943.0435
 585 or a sexual predator under s. 775.21; and, if so, he or she is
 586 not eligible for release on bail or surety bond until the first
 587 appearance on the case in order to ensure the full participation
 588 of the prosecutor and the protection of the public.

BILL

ORIGINAL

YEAR

589 Section 5. Paragraphs (a) and (g) of subsection (1),
 590 subsection (2), paragraphs (a) and (d) of subsection (4),
 591 subsections (7), (8), and (11), and paragraph (c) of subsection
 592 (14) of section 943.0435, Florida Statutes, are amended to read:

593 943.0435 Sexual offenders required to register with the
 594 department; penalty.-

595 (1) As used in this section, the term:

596 (a)1. "Sexual offender" means a person who meets the
 597 criteria in sub-subparagraph a., sub-subparagraph b., sub-
 598 subparagraph c., or sub-subparagraph d., as follows:

599 a.(I) Has been convicted of committing, or attempting,
 600 soliciting, or conspiring to commit, any of the criminal
 601 offenses proscribed in the following statutes in this state or
 602 similar offenses in another jurisdiction: s. 393.135(2); s.
 603 394.4593(2); s. 787.01, s. 787.02, or s. 787.025(2)(c), where
 604 the victim is a minor and the defendant is not the victim's
 605 parent or guardian; s. 787.06(3)(b), (d), (f), (g), or (h); s.
 606 794.011, excluding s. 794.011(10); s. 794.05; s. 796.03; s.
 607 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s. 827.071; s.
 608 847.0133; s. 847.0135, excluding s. 847.0135(6); s. 847.0137; s.
 609 847.0138; s. 847.0145; s. 916.1075(2); or s. 985.701(1); or any
 610 similar offense committed in this state which has been
 611 redesignated from a former statute number to one of those listed
 612 in this sub-sub-subparagraph; and

613 (II) Has been released on or after October 1, 1997, from
 614 the sanction imposed for any conviction of an offense described
 615 in sub-sub-subparagraph (I). For purposes of sub-sub-
 616 subparagraph (I), a sanction imposed in this state or in any

BILL ORIGINAL YEAR

617 other jurisdiction includes, but is not limited to, a fine,
 618 probation, community control, parole, conditional release,
 619 control release, or incarceration in a state prison, federal
 620 prison, private correctional facility, or local detention
 621 facility;

622 b. Establishes or maintains a residence in this state and
 623 who has not been designated as a sexual predator by a court of
 624 this state but who has been designated as a sexual predator, as
 625 a sexually violent predator, or by another sexual offender
 626 designation in another state or jurisdiction and was, as a
 627 result of such designation, subjected to registration or
 628 community or public notification, or both, or would be if the
 629 person were a resident of that state or jurisdiction, without
 630 regard to whether the person otherwise meets the criteria for
 631 registration as a sexual offender;

632 c. Establishes or maintains a residence in this state who
 633 is in the custody or control of, or under the supervision of,
 634 any other state or jurisdiction as a result of a conviction for
 635 committing, or attempting, soliciting, or conspiring to commit,
 636 any of the criminal offenses proscribed in the following
 637 statutes or similar offense in another jurisdiction: s.
 638 393.135(2); s. 394.4593(2); s. 787.01, s. 787.02, or s.
 639 787.025(2)(c), where the victim is a minor and the defendant is
 640 not the victim's parent or guardian; s. 787.06(3)(b), (d), (f),
 641 (g), or (h); s. 794.011, excluding s. 794.011(10); s. 794.05; s.
 642 796.03; s. 796.035; s. 800.04; s. 810.145(8); s. 825.1025; s.
 643 827.071; s. 847.0133; s. 847.0135, excluding s. 847.0135(6); s.
 644 847.0137; s. 847.0138; s. 847.0145; s. 916.1075(2); or s.

BILL ORIGINAL YEAR

645 985.701(1); or any similar offense committed in this state which
 646 has been redesignated from a former statute number to one of
 647 those listed in this sub-subparagraph; or

648 d. On or after July 1, 2007, has been adjudicated
 649 delinquent for committing, or attempting, soliciting, or
 650 conspiring to commit, any of the criminal offenses proscribed in
 651 the following statutes in this state or similar offenses in
 652 another jurisdiction when the juvenile was 14 years of age or
 653 older at the time of the offense:

- 654 (I) Section 794.011, excluding s. 794.011(10);
- 655 (II) Section 800.04(4)(b) where the victim is under 12
 656 years of age or where the court finds sexual activity by the use
 657 of force or coercion;
- 658 (III) Section 800.04(5)(c)1. where the court finds
 659 molestation involving unclothed genitals; or
- 660 (IV) Section 800.04(5)(d) where the court finds the use of
 661 force or coercion and unclothed genitals.

662 2. For all qualifying offenses listed in sub-subparagraph
 663 (1)(a)1.d., the court shall make a written finding of the age of
 664 the offender at the time of the offense.

665
 666 For each violation of a qualifying offense listed in this
 667 subsection, except for a violation of s. 794.011, the court
 668 shall make a written finding of the age of the victim at the
 669 time of the offense. For a violation of s. 800.04(4), the court
 670 shall additionally make a written finding indicating that the
 671 offense did or did not involve sexual activity and indicating
 672 that the offense did or did not involve force or coercion. For a

BILL

ORIGINAL

YEAR

673 violation of s. 800.04(5), the court shall additionally make a
 674 written finding that the offense did or did not involve
 675 unclothed genitals or genital area and that the offense did or
 676 did not involve the use of force or coercion.

677 (g) "Internet identifier ~~Instant message name~~" has the
 678 same meaning as provided in s. 775.21 ~~means an identifier that~~
 679 ~~allows a person to communicate in real time with another person~~
 680 ~~using the Internet.~~

681 (2) A sexual offender shall:

682 (a) Report in person at the sheriff's office:

683 1. In the county in which the offender establishes or
 684 maintains a permanent, temporary, or transient residence within
 685 48 hours after:

686 a. Establishing permanent, temporary, or transient
 687 residence in this state; or

688 b. Being released from the custody, control, or
 689 supervision of the Department of Corrections or from the custody
 690 of a private correctional facility; or

691 2. In the county where he or she was convicted within 48
 692 hours after being convicted for a qualifying offense for
 693 registration under this section if the offender is not in the
 694 custody or control of, or under the supervision of, the
 695 Department of Corrections, or is not in the custody of a private
 696 correctional facility.

697 Any change in the information required to be provided pursuant
 698 to paragraph (b), including, but not limited to, any change in
 699 the sexual offender's permanent, temporary, or transient
 700 residence, name, ~~any~~ electronic mail addresses, or Internet

BILL

ORIGINAL

YEAR

701 | identifiers ~~address and any instant message name~~ required to be
 702 | provided pursuant to paragraph (4)(d), after the sexual offender
 703 | reports in person at the sheriff's office, shall be accomplished
 704 | in the manner provided in subsections (4), (7), and (8).

705 | (b) Provide his or her name; date of birth; social
 706 | security number; race; sex; height; weight; hair and eye color;
 707 | tattoos or other identifying marks; occupation and place of
 708 | employment; address of permanent or legal residence or address
 709 | of any current temporary residence, within the state or out of
 710 | state, including a rural route address and a post office box; if
 711 | no permanent or temporary address, any transient residence
 712 | within the state, address, location or description, and dates of
 713 | any current or known future temporary residence within the state
 714 | or out of state; the make, model, color, registration number,
 715 | and license tag number of all vehicles owned; all home telephone
 716 | numbers ~~number~~ and ~~any~~ cellular telephone numbers ~~number~~; all
 717 | ~~any~~ electronic mail addresses ~~address~~ and all Internet
 718 | identifiers ~~any instant message name~~ required to be provided
 719 | pursuant to paragraph (4)(d); fingerprints; palm prints;
 720 | photograph; date and place of each conviction; and a brief
 721 | description of the crime or crimes committed by the offender. A
 722 | post office box shall not be provided in lieu of a physical
 723 | residential address. The sexual offender must also produce his
 724 | or her passport, if he or she has a passport, and, if he or she
 725 | is an alien, must produce or provide information about documents
 726 | establishing his or her immigration status. The sexual offender
 727 | must also provide information about any professional licenses he
 728 | or she may have.

BILL

ORIGINAL

YEAR

729 1. If the sexual offender's place of residence is a motor
 730 vehicle, trailer, mobile home, or manufactured home, as defined
 731 in chapter 320, the sexual offender shall also provide to the
 732 department through the sheriff's office written notice of the
 733 vehicle identification number; the license tag number; the
 734 registration number; and a description, including color scheme,
 735 of the motor vehicle, trailer, mobile home, or manufactured
 736 home. If the sexual offender's place of residence is a vessel,
 737 live-aboard vessel, or houseboat, as defined in chapter 327, the
 738 sexual offender shall also provide to the department written
 739 notice of the hull identification number; the manufacturer's
 740 serial number; the name of the vessel, live-aboard vessel, or
 741 houseboat; the registration number; and a description, including
 742 color scheme, of the vessel, live-aboard vessel, or houseboat.

743 2. If the sexual offender is enrolled, employed,
 744 volunteering, or carrying on a vocation at an institution of
 745 higher education in this state, the sexual offender shall also
 746 provide to the department through the sheriff's office the name,
 747 address, and county of each institution, including each campus
 748 attended, and the sexual offender's enrollment, volunteer, or
 749 employment status. Each change in enrollment, volunteer, or
 750 employment status shall be reported in person at the sheriff's
 751 office, within 48 hours after any change in status. The sheriff
 752 shall promptly notify each institution of the sexual offender's
 753 presence and any change in the sexual offender's enrollment,
 754 volunteer, or employment status.

755 (c) Provide any other information determined necessary by
 756 the department, including criminal and corrections records;

BILL

ORIGINAL

YEAR

757 nonprivileged personnel and treatment records; and evidentiary
 758 genetic markers, when available.

759 When a sexual offender reports at the sheriff's office, the
 760 sheriff shall take a photograph, ~~and~~ a set of fingerprints, and
 761 palm prints of the offender and forward the photographs, palm
 762 prints, and fingerprints to the department, along with the
 763 information provided by the sexual offender. The sheriff shall
 764 promptly provide to the department the information received from
 765 the sexual offender.

766 (4) (a) Each time a sexual offender's driver ~~driver's~~
 767 license or identification card is subject to renewal, and,
 768 without regard to the status of the offender's driver ~~driver's~~
 769 license or identification card, within 48 hours after any change
 770 in the offender's permanent, temporary, or transient residence
 771 or change in the offender's name by reason of marriage or other
 772 legal process, the offender shall report in person to a driver
 773 ~~driver's~~ license office, and shall be subject to the
 774 requirements specified in subsection (3). The Department of
 775 Highway Safety and Motor Vehicles shall forward to the
 776 department all photographs and information provided by sexual
 777 offenders. Notwithstanding the restrictions set forth in s.
 778 322.142, the Department of Highway Safety and Motor Vehicles is
 779 authorized to release a reproduction of a color-photograph or
 780 digital-image license to the Department of Law Enforcement for
 781 purposes of public notification of sexual offenders as provided
 782 in this section and ss. 943.043 and 944.606. A sexual offender
 783 who is unable to secure or update a driver license or
 784 identification card with the Department of Highway Safety and

BILL

ORIGINAL

YEAR

785 Motor Vehicles as provided in subsection (3) and this subsection
 786 must also report any change in the sexual offender's permanent,
 787 temporary, or transient residence or change in the offender's
 788 name by reason of marriage or other legal process within 48
 789 hours after the change to the sheriff's office in the county
 790 where the offender resides or is located and provide
 791 confirmation that he or she reported such information to the
 792 Department of Highway Safety and Motor Vehicles.

793 (d) A sexual offender must register all ~~any~~ electronic
 794 mail addresses and Internet identifiers ~~address or instant~~
 795 ~~message name~~ with the department prior to using such electronic
 796 mail addresses and Internet identifiers ~~address or instant~~
 797 ~~message name on or after October 1, 2007~~. The department shall
 798 establish an online system through which sexual offenders may
 799 securely access and update all electronic mail address and
 800 Internet identifier ~~instant message name~~ information.

801 (7) A sexual offender who intends to establish a
 802 permanent, temporary, or transient residence in another state or
 803 jurisdiction other than the State of Florida shall report in
 804 person to the sheriff of the county of current residence within
 805 48 hours before the date he or she intends to leave this state
 806 to establish residence in another state or jurisdiction or
 807 within 21 days before his or her planned departure date if the
 808 intended residence of 5 days or more is outside of the United
 809 States. The notification must include the address, municipality,
 810 county, ~~and state,~~ and country of intended residence. The
 811 sheriff shall promptly provide to the department the information
 812 received from the sexual offender. The department shall notify

BILL ORIGINAL YEAR

813 the statewide law enforcement agency, or a comparable agency, in
 814 the intended state, ~~or~~ jurisdiction, or country of residence of
 815 the sexual offender's intended residence. The failure of a
 816 sexual offender to provide his or her intended place of
 817 residence is punishable as provided in subsection (9).

818 (8) A sexual offender who indicates his or her intent to
 819 establish a permanent, temporary, or transient residence in
 820 another state, a ~~or~~ jurisdiction other than the State of
 821 Florida, or another country and later decides to remain in this
 822 state shall, within 48 hours after the date upon which the
 823 sexual offender indicated he or she would leave this state,
 824 report in person to the sheriff to which the sexual offender
 825 reported the intended change of permanent, temporary, or
 826 transient residence, and report his or her intent to remain in
 827 this state. The sheriff shall promptly report this information
 828 to the department. A sexual offender who reports his or her
 829 intent to establish a permanent, temporary, or transient
 830 residence in another state, a ~~or~~ jurisdiction other than the
 831 State of Florida, or another country but who remains in this
 832 state without reporting to the sheriff in the manner required by
 833 this subsection commits a felony of the second degree,
 834 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

835 (11) Except as provided in this subsection and s.
 836 943.04354, a sexual offender must maintain registration with the
 837 department for the duration of his or her life, unless the
 838 sexual offender has received a full pardon or has had a
 839 conviction set aside in a postconviction proceeding for any
 840 offense that meets the criteria for classifying the person as a

BILL

ORIGINAL

YEAR

841 sexual offender for purposes of registration. ~~However, a sexual~~
 842 ~~offender:~~

843 (a)1. A sexual offender may petition the criminal division
 844 of the circuit court of the circuit in which the sexual offender
 845 resides for the purpose of removing the requirement for
 846 registration as a sexual offender if ~~Who has been lawfully~~
 847 ~~released from confinement, supervision, or sanction, whichever~~
 848 ~~is later, for at least 25 years and has not been arrested for~~
 849 ~~any felony or misdemeanor offense since release, provided that~~
 850 ~~the sexual offender's requirement to register was not based upon~~
 851 ~~an adult conviction:~~

852 a. Twenty-five years have elapsed since the sexual
 853 offender's registration period for the most recent conviction
 854 that required the offender to register began;

855 b. The sexual offender has not been convicted or
 856 adjudicated delinquent of any felony offense or of an offense
 857 punishable by more than 1 year of imprisonment during the 25
 858 years preceding the petition to the court;

859 c. The sexual offender has successfully completed all
 860 sanctions imposed for all offenses that required the offender to
 861 register;

862 d. The sexual offender's requirement to register was not
 863 based upon an adult conviction for a violation of s. 787.01, s.
 864 794.011, excluding s. 794.011(10), s. 800.04(4)(b) where the
 865 court finds the offense involved a victim under 12 years of age
 866 or sexual activity by the use of force or coercion, s.
 867 800.04(5)(b), or s. 800.04(5)(c)2. where the court finds the
 868 offense involved unclothed genitals or genital area; for any

BILL

ORIGINAL

YEAR

869 attempt or conspiracy to commit any offense listed in this sub-
 870 subparagraph; or for a violation of similar law of another
 871 jurisdiction; and

872 e. For sexual offenders whose requirement to register is
 873 based upon a conviction in another state, the sexual offender is
 874 not required to register as a sexual offender pursuant to the
 875 laws of the state where the conviction occurred. Such an
 876 offender must provide the court written confirmation that he or
 877 she is not required to register in the state where the
 878 conviction occurred.

879 ~~a. For a violation of s. 787.01 or s. 787.02;~~

880 ~~b. For a violation of s. 794.011, excluding s.~~
 881 ~~794.011(10);~~

882 ~~c. For a violation of s. 800.04(4)(b) where the court~~
 883 ~~finds the offense involved a victim under 12 years of age or~~
 884 ~~sexual activity by the use of force or coercion;~~

885 ~~d. For a violation of s. 800.04(5)(b);~~

886 ~~e. For a violation of s. 800.04(5)c.2. where the court~~
 887 ~~finds the offense involved unclothed genitals or genital area;~~

888 ~~f. For any attempt or conspiracy to commit any such~~
 889 ~~offense; or~~

890 ~~g. For a violation of similar law of another jurisdiction,~~
 891 ~~may petition the criminal division of the circuit court of the~~
 892 ~~circuit in which the sexual offender resides for the purpose of~~
 893 ~~removing the requirement for registration as a sexual offender.~~

894 2. A sexual offender whose requirement to register was
 895 based upon an adult conviction for a violation of s. 787.02 or
 896 s. 827.071(5), for any attempt or conspiracy to commit any

BILL

ORIGINAL

YEAR

897 offense listed in this subparagraph, or for a violation of
 898 similar law of another jurisdiction may petition the criminal
 899 division of the circuit court of the circuit in which the sexual
 900 offender resides for the purpose of removing the requirement for
 901 registration as a sexual offender if:

902 a. Fifteen years have elapsed since the sexual offender's
 903 registration period for the most recent conviction that required
 904 the offender to register began;

905 b. The sexual offender has not been convicted or
 906 adjudicated delinquent of any felony offense or of an offense
 907 punishable by more than 1 year of imprisonment during the 10
 908 years preceding the petition to the court;

909 c. The sexual offender has successfully completed all
 910 sanctions imposed for all offenses that required the offender to
 911 register; and

912 d. For sexual offenders whose requirement to register is
 913 based upon a conviction in another state, the sexual offender is
 914 not required to register as a sexual offender pursuant to the
 915 laws of the state where the conviction occurred. Such an
 916 offender must provide the court written confirmation that he or
 917 she is not required to register in the state where the
 918 conviction occurred.

919 3. A sexual offender required to register under sub-
 920 subparagraph (1)(a)1.d. may petition the criminal division of
 921 the circuit court of the circuit in which the sexual offender
 922 resides for the purpose of removing the requirement for
 923 registration as a sexual offender if:

924 a. Twenty-five years have elapsed since the sexual

BILL

ORIGINAL

YEAR

925 offender's registration period for the most recent adjudication
 926 that required the offender to register began;

927 b. The sexual offender has not been convicted or
 928 adjudicated delinquent of any felony offense or of an offense
 929 punishable by more than 1 year of imprisonment during the 25
 930 years preceding the petition to the court; and

931 c. The sexual offender has successfully completed all
 932 sanctions imposed for any offense that required the offender to
 933 register.

934 4.2- The court may grant or deny relief if the offender
 935 demonstrates to the court that ~~he or she has not been arrested~~
 936 ~~for any crime since release;~~ the requested relief complies with
 937 this paragraph, the provisions of the federal Adam Walsh Child
 938 Protection and Safety Act of 2006, and any other federal
 939 standards applicable to the removal of registration requirements
 940 for a sexual offender, or required to be met as a condition for
 941 the receipt of federal funds by the state; and the court is
 942 otherwise satisfied that the offender is not a current or
 943 potential threat to public safety. The state attorney in the
 944 circuit in which the petition is filed and the department must
 945 be given notice of the petition at least 3 weeks before the
 946 hearing on the matter. The state attorney may present evidence
 947 in opposition to the requested relief or may otherwise
 948 demonstrate the reasons why the petition should be denied. If
 949 the court grants the petition, the court shall instruct the
 950 petitioner to provide the department with a certified copy of
 951 the order granting relief. If the court denies the petition, the
 952 court may set a future date at which the sexual offender may

BILL

ORIGINAL

YEAR

953 again petition the court for relief, subject to the standards
 954 for relief provided in this subsection.

955 ~~5.3.~~ The department shall remove an offender from
 956 classification as a sexual offender for purposes of registration
 957 if the offender provides to the department a certified copy of
 958 the court's written findings or order that indicates that the
 959 offender is no longer required to comply with the requirements
 960 for registration as a sexual offender.

961 6. For purposes of this paragraph:

962 a. The registration period of a sexual offender sentenced
 963 to a term of incarceration or committed to a residential program
 964 begins upon the offender's release from incarceration or
 965 commitment for the most recent conviction that required the
 966 offender to register.

967 b. A sexual offender's registration period is tolled
 968 during any period in which the offender is incarcerated, civilly
 969 committed, detained pursuant to chapter 985, or committed to a
 970 residential program.

971 (b) A sexual offender as defined in sub-subparagraph
 972 (1)(a)1.b. must maintain registration with the department for
 973 the duration of his or her life until the person provides the
 974 department with an order issued by the court that designated the
 975 person as a sexual predator, as a sexually violent predator, or
 976 by another sexual offender designation in the state or
 977 jurisdiction in which the order was issued which states that
 978 such designation has been removed or demonstrates to the
 979 department that such designation, if not imposed by a court, has
 980 been removed by operation of law or court order in the state or

BILL

ORIGINAL

YEAR

981 jurisdiction in which the designation was made, and provided
 982 such person no longer meets the criteria for registration as a
 983 sexual offender under the laws of this state.

984 (14)

985 (c) The sheriff's office may determine the appropriate
 986 times and days for reporting by the sexual offender, which shall
 987 be consistent with the reporting requirements of this
 988 subsection. Reregistration shall include any changes to the
 989 following information:

990 1. Name; social security number; age; race; sex; date of
 991 birth; height; weight; hair and eye color; address of any
 992 permanent residence and address of any current temporary
 993 residence, within the state or out of state, including a rural
 994 route address and a post office box; if no permanent or
 995 temporary address, any transient residence within the state;
 996 address, location or description, and dates of any current or
 997 known future temporary residence within the state or out of
 998 state; ~~any~~ electronic mail addresses or Internet identifiers
 999 ~~address and any instant message name~~ required to be provided
 1000 pursuant to paragraph (4)(d); home telephone numbers or number
 1001 ~~and any~~ cellular telephone numbers number; date and place of any
 1002 employment; the vehicle make, model, color, registration number,
 1003 and license tag number of any vehicles owned; fingerprints; palm
 1004 prints; and photograph. A post office box may shall not be
 1005 provided in lieu of a physical residential address. The sexual
 1006 offender must also produce his or her passport, if he or she has
 1007 a passport, and, if he or she is an alien, must produce or
 1008 provide information about documents establishing his or her

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

BILL

ORIGINAL

YEAR

1009 immigration status. The sexual offender must also provide
 1010 information about any professional licenses he or she may have.

1011 2. If the sexual offender is enrolled, volunteering,
 1012 employed, or carrying on a vocation at an institution of higher
 1013 education in this state, the sexual offender shall also provide
 1014 to the department the name, address, and county of each
 1015 institution, including each campus attended, and the sexual
 1016 offender's enrollment, volunteer, or employment status.

1017 3. If the sexual offender's place of residence is a motor
 1018 vehicle, trailer, mobile home, or manufactured home, as defined
 1019 in chapter 320, the sexual offender shall also provide the
 1020 vehicle identification number; the license tag number; the
 1021 registration number; and a description, including color scheme,
 1022 of the motor vehicle, trailer, mobile home, or manufactured
 1023 home. If the sexual offender's place of residence is a vessel,
 1024 live-aboard vessel, or houseboat, as defined in chapter 327, the
 1025 sexual offender shall also provide the hull identification
 1026 number; the manufacturer's serial number; the name of the
 1027 vessel, live-aboard vessel, or houseboat; the registration
 1028 number; and a description, including color scheme, of the
 1029 vessel, live-aboard vessel or houseboat.

1030 4. Any sexual offender who fails to report in person as
 1031 required at the sheriff's office, ~~or~~ who fails to respond to any
 1032 address verification correspondence from the department within 3
 1033 weeks of the date of the correspondence, ~~or~~ who fails to report
 1034 all electronic mail addresses and all Internet identifiers prior
 1035 to use or instant message names, or who knowingly provides false
 1036 registration information by act or omission commits a felony of

BILL ORIGINAL YEAR

1037 the third degree, punishable as provided in s. 775.082, s.
 1038 775.083, or s. 775.084.

1039 Section 6. Section 943.04351, Florida Statutes, is amended
 1040 to read:

1041 943.04351 Search of registration information regarding
 1042 sexual predators and sexual offenders required prior to
 1043 appointment or employment.—A state agency or governmental
 1044 subdivision, prior to making any decision to appoint or employ a
 1045 person to work, whether for compensation or as a volunteer, at
 1046 any park, playground, day care center, or other place where
 1047 children regularly congregate, must conduct a search of that
 1048 person's name or other identifying information against the
 1049 registration information regarding sexual predators and sexual
 1050 offenders maintained by the Department of Law Enforcement under
 1051 s. 943.043. The agency or governmental subdivision may conduct
 1052 the search using the Internet site maintained by the Department
 1053 of Law Enforcement. Also, a national search must be conducted
 1054 through the Dru Sjodin National Sex Offender Public Website
 1055 maintained by the United States Department of Justice. This
 1056 section does not apply to those positions or appointments within
 1057 a state agency or governmental subdivision for which a state and
 1058 national criminal history background check is conducted.

1059 Section 7. Section 943.04354, Florida Statutes, is amended
 1060 to read:

1061 943.04354 Removal of the requirement to register as a
 1062 sexual offender or sexual predator in special circumstances.—

1063 (1) For purposes of this section, a person shall be
 1064 considered for removal of the requirement to register as a

BILL ORIGINAL YEAR

1065 sexual offender or sexual predator only if the person:
 1066 (a) Was ~~or will be~~ convicted, regardless of adjudication,
 1067 or adjudicated delinquent of a violation of s. 794.011, s.
 1068 800.04, s. 827.071, or s. 847.0135(5), or a similar offense in
 1069 another jurisdiction, ~~or the person committed a violation of s.~~
 1070 ~~794.011, s. 800.04, s. 827.071, or s. 847.0135(5) for which~~
 1071 ~~adjudication of guilt was or will be withheld,~~ and the person
 1072 does not have any other conviction, regardless of adjudication,
 1073 or adjudication of delinquency, ~~or withheld of adjudication of~~
 1074 ~~guilt~~ for a violation of s. 794.011, s. 800.04, s. 827.071, or
 1075 s. 847.0135(5), or a similar offense in another jurisdiction;
 1076 (b)1. Was convicted, regardless of adjudication, or
 1077 adjudicated delinquent of an offense listed in paragraph (a) and
 1078 is required to register as a sexual offender or sexual predator
 1079 solely on the basis of this conviction or adjudication
 1080 violation; or and
 1081 2. Was convicted, regardless of adjudication, or
 1082 adjudicated delinquent of an offense in another jurisdiction
 1083 that is similar to an offense listed in paragraph (a) and no
 1084 longer meets the criteria for registration as a sexual offender
 1085 or sexual predator under the laws of the jurisdiction where the
 1086 similar offense occurred; and
 1087 (c) Is not more than 4 years older than the victim of this
 1088 violation who was 13 ~~14~~ years of age or older but less ~~not more~~
 1089 than 18 ~~17~~ years of age at the time the person committed this
 1090 violation.
 1091 (2) If a person meets the criteria in subsection (1) ~~and~~
 1092 ~~the violation of s. 794.011, s. 800.04, s. 827.071, or s.~~

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

BILL

ORIGINAL

YEAR

1093 ~~847.0135(5) was committed on or after July 1, 2007,~~ the person
 1094 may move the criminal court of the circuit in which the offense
 1095 occurred or the sentencing court or, for persons convicted or
 1096 adjudicated delinquent of a qualifying offense in another
 1097 jurisdiction, the criminal circuit court of the circuit in which
 1098 the person resides ~~that will sentence or dispose of this~~
 1099 ~~violation~~ to remove the requirement that the person register as
 1100 a sexual offender or sexual predator. The person must allege in
 1101 the motion that he or she meets the criteria in subsection (1)
 1102 and that removal of the registration requirement will not
 1103 conflict with federal law. Persons convicted or adjudicated
 1104 delinquent of an offense in another jurisdiction that is similar
 1105 to an offense listed in paragraph (1)(a) must provide the court
 1106 written confirmation that he or she is not required to register
 1107 in the state where the conviction or adjudication occurred. The
 1108 state attorney and the department must be given notice of the
 1109 motion at least 21 days before the date of sentencing, ~~or~~
 1110 disposition of the this violation, or hearing on the motion and
 1111 may present evidence in opposition to the requested relief or
 1112 may otherwise demonstrate why the motion should be denied. At
 1113 sentencing, ~~or~~ disposition of the this violation, or hearing on
 1114 the motion, the court shall rule on this motion and, if the
 1115 court determines the person meets the criteria in subsection (1)
 1116 and the removal of the registration requirement will not
 1117 conflict with federal law, it may grant the motion and order the
 1118 removal of the registration requirement. The court shall
 1119 instruct the person to provide the department a certified copy
 1120 of the order granting relief. If the court denies the motion,

BILL

ORIGINAL

YEAR

1121 | the person is not authorized under this section to file another
 1122 | motion petition for removal of the registration requirement.

1123 | ~~(3) (a) This subsection applies to a person who:~~

1124 | ~~1. Is not a person described in subsection (2) because the~~
 1125 | ~~violation of s. 794.011, s. 800.04, or s. 827.071 was not~~
 1126 | ~~committed on or after July 1, 2007;~~

1127 | ~~2. Is subject to registration as a sexual offender or~~
 1128 | ~~sexual predator for a violation of s. 794.011, s. 800.04, or s.~~
 1129 | ~~827.071; and~~

1130 | ~~3. Meets the criteria in subsection (1).~~

1131 | ~~(b) A person may petition the court in which the sentence~~
 1132 | ~~or disposition for the violation of s. 794.011, s. 800.04, or s.~~
 1133 | ~~827.071 occurred for removal of the requirement to register as a~~
 1134 | ~~sexual offender or sexual predator. The person must allege in~~
 1135 | ~~the petition that he or she meets the criteria in subsection (1)~~
 1136 | ~~and removal of the registration requirement will not conflict~~
 1137 | ~~with federal law. The state attorney must be given notice of the~~
 1138 | ~~petition at least 21 days before the hearing on the petition and~~
 1139 | ~~may present evidence in opposition to the requested relief or~~
 1140 | ~~may otherwise demonstrate why the petition should be denied. The~~
 1141 | ~~court shall rule on the petition and, if the court determines~~
 1142 | ~~the person meets the criteria in subsection (1) and removal of~~
 1143 | ~~the registration requirement will not conflict with federal law,~~
 1144 | ~~it may grant the petition and order the removal of the~~
 1145 | ~~registration requirement. If the court denies the petition, the~~
 1146 | ~~person is not authorized under this section to file any further~~
 1147 | ~~petition for removal of the registration requirement.~~

1148 | (3)(4) If a person provides to the Department of Law

BILL ORIGINAL YEAR

1149 Enforcement a certified copy of the court's order removing the
 1150 requirement that the person register as a sexual offender or
 1151 sexual predator for the violation of s. 794.011, s. 800.04, s.
 1152 827.071, or s. 847.0135(5), or a similar offense in another
 1153 jurisdiction, the registration requirement will not apply to the
 1154 person and the department shall remove all information about the
 1155 person from the public registry of sexual offenders and sexual
 1156 predators maintained by the department. However, the removal of
 1157 this information from the public registry does not mean that the
 1158 public is denied access to information about the person's
 1159 criminal history or record that is otherwise available as a
 1160 public record.

1161 Section 8. Subsection (2) and paragraph (a) of subsection
 1162 (3) of section 943.0437, Florida Statutes, are amended to read:

1163 943.0437 Commercial social networking websites.—

1164 (2) The department may provide information relating to
 1165 electronic mail addresses and Internet identifiers ~~instant~~
 1166 ~~message names~~ maintained as part of the sexual offender registry
 1167 to commercial social networking websites or third parties
 1168 designated by commercial social networking websites. The
 1169 commercial social networking website may use this information
 1170 for the purpose of comparing registered users and screening
 1171 potential users of the commercial social networking website
 1172 against the list of electronic mail addresses and Internet
 1173 identifiers ~~instant message names~~ provided by the department.

1174 (3) This section shall not be construed to impose any
 1175 civil liability on a commercial social networking website for:

1176 (a) Any action voluntarily taken in good faith to remove

BILL ORIGINAL YEAR

1177 or disable any profile of a registered user associated with an
 1178 electronic mail address or Internet identifier ~~instant message~~
 1179 ~~name~~ contained in the sexual offender registry.

1180 Section 9. Paragraphs (b) and (d) of subsection (1) and
 1181 paragraph (a) of subsection (3) of section 944.606, Florida
 1182 Statutes, are amended to read:

1183 944.606 Sexual offenders; notification upon release.--

1184 (1) As used in this section:

1185 (b) "Sexual offender" means a person who has been
 1186 convicted of committing, or attempting, soliciting, or
 1187 conspiring to commit, any of the criminal offenses proscribed in
 1188 the following statutes in this state or similar offenses in
 1189 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,
 1190 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
 1191 the defendant is not the victim's parent or guardian; s.
 1192 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
 1193 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
 1194 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
 1195 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
 1196 916.1075(2); or s. 985.701(1); or any similar offense committed
 1197 in this state which has been redesignated from a former statute
 1198 number to one of those listed in this subsection, when the
 1199 department has received verified information regarding such
 1200 conviction; an offender's computerized criminal history record
 1201 is not, in and of itself, verified information.

1202 (d) "Internet identifier ~~Instant message name~~" has the
 1203 same meaning as provided in s. 775.21 ~~means an identifier that~~
 1204 ~~allows a person to communicate in real time with another person~~

BILL

ORIGINAL

YEAR

1205 ~~using the Internet.~~
 1206 (3) (a) The department must provide information regarding
 1207 any sexual offender who is being released after serving a period
 1208 of incarceration for any offense, as follows:
 1209 1. The department must provide: the sexual offender's
 1210 name, any change in the offender's name by reason of marriage or
 1211 other legal process, and any alias, if known; the correctional
 1212 facility from which the sexual offender is released; the sexual
 1213 offender's social security number, race, sex, date of birth,
 1214 height, weight, and hair and eye color; address of any planned
 1215 permanent residence or temporary residence, within the state or
 1216 out of state, including a rural route address and a post office
 1217 box; if no permanent or temporary address, any transient
 1218 residence within the state; address, location or description,
 1219 and dates of any known future temporary residence within the
 1220 state or out of state; date and county of sentence and each
 1221 crime for which the offender was sentenced; a copy of the
 1222 offender's fingerprints, palm prints, and a digitized photograph
 1223 taken within 60 days before release; the date of release of the
 1224 sexual offender; all any electronic mail addresses ~~address~~ and
 1225 all Internet identifiers ~~any instant message name~~ required to be
 1226 provided pursuant to s. 943.0435(4)(d); all ~~and~~ home telephone
 1227 numbers ~~number~~ and ~~any~~ cellular telephone numbers; information
 1228 about any professional licenses the offender may have, if known;
 1229 and passport information, if he or she has a passport, and, if
 1230 he or she is an alien, information about documents establishing
 1231 his or her immigration status ~~number~~. The department shall
 1232 notify the Department of Law Enforcement if the sexual offender

BILL ORIGINAL YEAR

1233 escapes, absconds, or dies. If the sexual offender is in the
 1234 custody of a private correctional facility, the facility shall
 1235 take the digitized photograph of the sexual offender within 60
 1236 days before the sexual offender's release and provide this
 1237 photograph to the Department of Corrections and also place it in
 1238 the sexual offender's file. If the sexual offender is in the
 1239 custody of a local jail, the custodian of the local jail shall
 1240 register the offender within 3 business days after intake of the
 1241 offender for any reason and upon release, and shall notify the
 1242 Department of Law Enforcement of the sexual offender's release
 1243 and provide to the Department of Law Enforcement the information
 1244 specified in this paragraph and any information specified in
 1245 subparagraph 2. that the Department of Law Enforcement requests.

1246 2. The department may provide any other information deemed
 1247 necessary, including criminal and corrections records,
 1248 nonprivileged personnel and treatment records, when available.

1249 Section 10. Paragraphs (a) and (f) of subsection (1),
 1250 subsection (4), and paragraph (c) of subsection (13) of section
 1251 944.607, Florida Statutes, are amended to read:

1252 944.607 Notification to Department of Law Enforcement of
 1253 information on sexual offenders.—

1254 (1) As used in this section, the term:

1255 (a) "Sexual offender" means a person who is in the custody
 1256 or control of, or under the supervision of, the department or is
 1257 in the custody of a private correctional facility:

1258 1. On or after October 1, 1997, as a result of a
 1259 conviction for committing, or attempting, soliciting, or
 1260 conspiring to commit, any of the criminal offenses proscribed in

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

BILL ORIGINAL YEAR

1261 the following statutes in this state or similar offenses in
 1262 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,
 1263 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
 1264 the defendant is not the victim's parent or guardian; s.
 1265 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
 1266 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
 1267 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
 1268 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
 1269 s. 916.1075(2); or s. 985.701(1); or any similar offense
 1270 committed in this state which has been redesignated from a
 1271 former statute number to one of those listed in this paragraph;
 1272 or

1273 2. Who establishes or maintains a residence in this state
 1274 and who has not been designated as a sexual predator by a court
 1275 of this state but who has been designated as a sexual predator,
 1276 as a sexually violent predator, or by another sexual offender
 1277 designation in another state or jurisdiction and was, as a
 1278 result of such designation, subjected to registration or
 1279 community or public notification, or both, or would be if the
 1280 person were a resident of that state or jurisdiction, without
 1281 regard as to whether the person otherwise meets the criteria for
 1282 registration as a sexual offender.

1283 (f) "Internet identifier ~~Instant message name~~" has the
 1284 same meaning as provided in s. 775.21 ~~means an identifier that~~
 1285 ~~allows a person to communicate in real time with another person~~
 1286 ~~using the Internet.~~

1287 (4) A sexual offender, as described in this section, who
 1288 is under the supervision of the Department of Corrections but is

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

BILL

ORIGINAL

YEAR

1289 not incarcerated must register with the Department of
 1290 Corrections within 3 business days after sentencing for a
 1291 registrable offense and otherwise provide information as
 1292 required by this subsection.
 1293 (a) The sexual offender shall provide his or her name;
 1294 date of birth; social security number; race; sex; height;
 1295 weight; hair and eye color; tattoos or other identifying marks;
 1296 all ~~any~~ electronic mail ~~addresses~~ ~~address~~ and all Internet
 1297 identifiers ~~any instant message name~~ required to be provided
 1298 pursuant to s. 943.0435(4)(d); all home telephone numbers and
 1299 cellular telephone numbers; the make, model, color, registration
 1300 number, and license tag number of all vehicles owned; permanent
 1301 or legal residence and address of temporary residence within the
 1302 state or out of state while the sexual offender is under
 1303 supervision in this state, including any rural route address or
 1304 post office box; if no permanent or temporary address, any
 1305 transient residence within the state; and address, location or
 1306 description, and dates of any current or known future temporary
 1307 residence within the state or out of state. The sexual offender
 1308 must also produce his or her passport, if he or she has a
 1309 passport, and, if he or she is an alien, must produce or provide
 1310 information about documents establishing his or her immigration
 1311 status. The sexual offender must also provide information about
 1312 any professional licenses he or she may have. The Department of
 1313 Corrections shall verify the address of each sexual offender in
 1314 the manner described in ss. 775.21 and 943.0435. The department
 1315 shall report to the Department of Law Enforcement any failure by
 1316 a sexual predator or sexual offender to comply with registration

BILL

ORIGINAL

YEAR

1317 requirements.

1318 (b) If the sexual offender is enrolled, employed,
 1319 volunteering, or carrying on a vocation at an institution of
 1320 higher education in this state, the sexual offender shall
 1321 provide the name, address, and county of each institution,
 1322 including each campus attended, and the sexual offender's
 1323 enrollment, volunteer, or employment status. Each change in
 1324 enrollment, volunteer, or employment status shall be reported to
 1325 the department within 48 hours after the change in status. The
 1326 Department of Corrections shall promptly notify each institution
 1327 of the sexual offender's presence and any change in the sexual
 1328 offender's enrollment, volunteer, or employment status.

1329 (13)

1330 (c) The sheriff's office may determine the appropriate
 1331 times and days for reporting by the sexual offender, which shall
 1332 be consistent with the reporting requirements of this
 1333 subsection. Reregistration shall include any changes to the
 1334 following information:

1335 1. Name; social security number; age; race; sex; date of
 1336 birth; height; weight; hair and eye color; address of any
 1337 permanent residence and address of any current temporary
 1338 residence, within the state or out of state, including a rural
 1339 route address and a post office box; if no permanent or
 1340 temporary address, any transient residence; address, location or
 1341 description, and dates of any current or known future temporary
 1342 residence within the state or out of state; ~~any~~ electronic mail
 1343 addresses or Internet identifiers ~~address and any instant~~
 1344 ~~message name~~ required to be provided pursuant to s.

BILL

ORIGINAL

YEAR

1345 | 943.0435(4)(d); home telephone numbers or cellular telephone
 1346 | numbers; date and place of any employment; the ~~vehicle~~ make,
 1347 | model, color, registration number, and license tag number of any
 1348 | vehicles owned; fingerprints; palm prints; and photograph. A
 1349 | post office box shall not be provided in lieu of a physical
 1350 | residential address. The sexual offender must also produce his
 1351 | or her passport, if he or she has a passport, and, if he or she
 1352 | is an alien, must produce or provide information about documents
 1353 | establishing his or her immigration status. The sexual offender
 1354 | must also provide information about any professional licenses he
 1355 | or she may have.

1356 | 2. If the sexual offender is enrolled, employed,
 1357 | volunteering, or carrying on a vocation at an institution of
 1358 | higher education in this state, the sexual offender shall also
 1359 | provide to the department the name, address, and county of each
 1360 | institution, including each campus attended, and the sexual
 1361 | offender's enrollment, volunteer, or employment status.

1362 | 3. If the sexual offender's place of residence is a motor
 1363 | vehicle, trailer, mobile home, or manufactured home, as defined
 1364 | in chapter 320, the sexual offender shall also provide the
 1365 | vehicle identification number; the license tag number; the
 1366 | registration number; and a description, including color scheme,
 1367 | of the motor vehicle, trailer, mobile home, or manufactured
 1368 | home. If the sexual offender's place of residence is a vessel,
 1369 | live-aboard vessel, or houseboat, as defined in chapter 327, the
 1370 | sexual offender shall also provide the hull identification
 1371 | number; the manufacturer's serial number; the name of the
 1372 | vessel, live-aboard vessel, or houseboat; the registration

BILL ORIGINAL YEAR

1373 number; and a description, including color scheme, of the
 1374 vessel, live-aboard vessel or houseboat.

1375 4. Any sexual offender who fails to report in person as
 1376 required at the sheriff's office, ~~or~~ who fails to respond to any
 1377 address verification correspondence from the department within 3
 1378 weeks of the date of the correspondence, ~~or~~ who fails to report
 1379 all electronic mail addresses or Internet identifiers prior to
 1380 use ~~or instant message names,~~ or who knowingly provides false
 1381 registration information by act or omission commits a felony of
 1382 the third degree, punishable as provided in s. 775.082, s.
 1383 775.083, or s. 775.084.

1384 Section 11. Subsection (11) of section 947.005, Florida
 1385 Statutes, is amended to read:

1386 947.005 Definitions.—As used in this chapter, unless the
 1387 context clearly indicates otherwise:

1388 (11) "Risk assessment" means an assessment completed by a
 1389 ~~an independent~~ qualified practitioner to evaluate the level of
 1390 risk associated when a sex offender has contact with a child.

1391 Section 12. Section 948.31, Florida Statutes, is amended
 1392 to read:

1393 948.31 Evaluation and treatment of sexual predators and
 1394 offenders on probation or community control.—The court may ~~shall~~
 1395 ~~require an evaluation by a qualified practitioner to determine~~
 1396 ~~the need of a probationer or community controllee for treatment.~~
 1397 ~~If the court determines that a need therefor is established by~~
 1398 ~~the evaluation process, the court shall require sexual offender~~
 1399 ~~treatment as a term or condition of probation or community~~
 1400 ~~control for any probationer or community controllee person who~~

BILL ORIGINAL YEAR

1401 is required to register as a sexual predator under s. 775.21 or
 1402 sexual offender under s. 943.0435, s. 944.606, or s. 944.607 to
 1403 undergo an evaluation, at the probationer or community
 1404 controllee's expense, by a qualified practitioner to determine
 1405 whether such person needs sexual offender treatment. If the
 1406 qualified practitioner determines that sexual offender treatment
 1407 is needed and recommends treatment, the probationer or community
 1408 controllee must successfully complete and pay for the treatment.

1409 Such treatment ~~must shall be required to~~ be obtained from a
 1410 qualified practitioner as defined in s. 948.001. Treatment may
 1411 not be administered by a qualified practitioner who has been
 1412 convicted or adjudicated delinquent of committing, or
 1413 attempting, soliciting, or conspiring to commit, any offense
 1414 that is listed in s. 943.0435(1)(a)1.a.(I). ~~The court shall~~
 1415 ~~impose a restriction against contact with minors if sexual~~
 1416 ~~offender treatment is recommended. The evaluation and~~
 1417 ~~recommendations for treatment of the probationer or community~~
 1418 ~~controllee shall be provided to the court for review.~~

1419 Section 13. Paragraph (a) of subsection (3) of section
 1420 985.481, Florida Statutes, is amended to read:

1421 985.481 Sexual offenders adjudicated delinquent;
 1422 notification upon release.-

1423 (3)(a) The department must provide information regarding
 1424 any sexual offender who is being released after serving a period
 1425 of residential commitment under the department for any offense,
 1426 as follows:

1427 1. The department must provide the sexual offender's name,
 1428 any change in the offender's name by reason of marriage or other

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

BILL ORIGINAL YEAR

1429 legal process, and any alias, if known; the correctional
 1430 facility from which the sexual offender is released; the sexual
 1431 offender's social security number, race, sex, date of birth,
 1432 height, weight, and hair and eye color; the make, model, color,
 1433 registration number, and license tag number of all vehicles
 1434 owned, if known; address of any planned permanent residence or
 1435 temporary residence, within the state or out of state, including
 1436 a rural route address and a post office box; if no permanent or
 1437 temporary address, any transient residence within the state;
 1438 address, location or description, and dates of any known future
 1439 temporary residence within the state or out of state; date and
 1440 county of disposition and each crime for which there was a
 1441 disposition; a copy of the offender's fingerprints and a
 1442 digitized photograph taken within 60 days before release; the
 1443 date of release of the sexual offender; all ~~and~~ home telephone
 1444 numbers ~~number~~ and ~~any~~ cellular telephone numbers; information
 1445 about any professional licenses the offender may have, if known;
 1446 and passport information, if he or she has a passport, and, if
 1447 he or she is an alien, information about documents establishing
 1448 his or her immigration status ~~number~~. The department shall
 1449 notify the Department of Law Enforcement if the sexual offender
 1450 escapes, absconds, or dies. If the sexual offender is in the
 1451 custody of a private correctional facility, the facility shall
 1452 take the digitized photograph of the sexual offender within 60
 1453 days before the sexual offender's release and also place it in
 1454 the sexual offender's file. If the sexual offender is in the
 1455 custody of a local jail, the custodian of the local jail shall
 1456 register the offender within 3 business days after intake of the

BILL

ORIGINAL

YEAR

1457 offender for any reason and upon release, and shall notify the
 1458 Department of Law Enforcement of the sexual offender's release
 1459 and provide to the Department of Law Enforcement the information
 1460 specified in this subparagraph and any information specified in
 1461 subparagraph 2. which the Department of Law Enforcement
 1462 requests.

1463 2. The department may provide any other information
 1464 considered necessary, including criminal and delinquency
 1465 records, when available.

1466 Section 14. Subsection (4) and paragraph (b) of subsection
 1467 (13) of section 985.4815, Florida Statutes, are amended to read:

1468 985.4815 Notification to Department of Law Enforcement of
 1469 information on juvenile sexual offenders.-

1470 (4) A sexual offender, as described in this section, who
 1471 is under the supervision of the department but who is not
 1472 committed must register with the department within 3 business
 1473 days after adjudication and disposition for a registrable
 1474 offense and otherwise provide information as required by this
 1475 subsection.

1476 (a) The sexual offender shall provide his or her name;
 1477 date of birth; social security number; race; sex; height;
 1478 weight; hair and eye color; tattoos or other identifying marks;
 1479 the make, model, color, registration number, and license tag
 1480 number of all vehicles owned; permanent or legal residence and
 1481 address of temporary residence within the state or out of state
 1482 while the sexual offender is in the care or custody or under the
 1483 jurisdiction or supervision of the department in this state,
 1484 including any rural route address or post office box; if no

BILL ORIGINAL YEAR

1485 permanent or temporary address, any transient residence;
 1486 address, location or description, and dates of any current or
 1487 known future temporary residence within the state or out of
 1488 state; and the name and address of each school attended. The
 1489 sexual offender must also produce his or her passport, if he or
 1490 she has a passport, and, if he or she is an alien, must produce
 1491 or provide information about documents establishing his or her
 1492 immigration status. The offender must also provide information
 1493 about any professional licenses he or she may have. The
 1494 department shall verify the address of each sexual offender and
 1495 shall report to the Department of Law Enforcement any failure by
 1496 a sexual offender to comply with registration requirements.
 1497 (b) If the sexual offender is enrolled, employed,
 1498 volunteering, or carrying on a vocation at an institution of
 1499 higher education in this state, the sexual offender shall
 1500 provide the name, address, and county of each institution,
 1501 including each campus attended, and the sexual offender's
 1502 enrollment, volunteer, or employment status. Each change in
 1503 enrollment, volunteer, or employment status shall be reported to
 1504 the department within 48 hours after the change in status. The
 1505 department shall promptly notify each institution of the sexual
 1506 offender's presence and any change in the sexual offender's
 1507 enrollment, volunteer, or employment status.
 1508 (13)
 1509 (b) The sheriff's office may determine the appropriate
 1510 times and days for reporting by the sexual offender, which shall
 1511 be consistent with the reporting requirements of this
 1512 subsection. Reregistration shall include any changes to the

BILL ORIGINAL YEAR

1513 following information:

1514 1. Name; social security number; age; race; sex; date of

1515 birth; height; weight; hair and eye color; fingerprints; palm

1516 prints; address of any permanent residence and address of any

1517 current temporary residence, within the state or out of state,

1518 including a rural route address and a post office box; if no

1519 permanent or temporary address, any transient residence;

1520 address, location or description, and dates of any current or

1521 known future temporary residence within the state or out of

1522 state; passport information, if he or she has a passport, and,

1523 if he or she is an alien, information about documents

1524 establishing his or her immigration status; name and address of

1525 each school attended; date and place of any employment; the

1526 ~~vehicle~~ make, model, color, registration number, and license tag

1527 number of all vehicles owned; ~~fingerprints,~~ and photograph. A

1528 post office box shall not be provided in lieu of a physical

1529 residential address. The offender must also provide information

1530 about any professional licenses he or she may have.

1531 2. If the sexual offender is enrolled, employed,

1532 volunteering, or carrying on a vocation at an institution of

1533 higher education in this state, the sexual offender shall also

1534 provide to the department the name, address, and county of each

1535 institution, including each campus attended, and the sexual

1536 offender's enrollment, volunteer, or employment status.

1537 3. If the sexual offender's place of residence is a motor

1538 vehicle, trailer, mobile home, or manufactured home, as defined

1539 in chapter 320, the sexual offender shall also provide the

1540 vehicle identification number; the license tag number; the

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

BILL ORIGINAL YEAR

1541 registration number; and a description, including color scheme,
 1542 of the motor vehicle, trailer, mobile home, or manufactured
 1543 home. If the sexual offender's place of residence is a vessel,
 1544 live-aboard vessel, or houseboat, as defined in chapter 327, the
 1545 sexual offender shall also provide the hull identification
 1546 number; the manufacturer's serial number; the name of the
 1547 vessel, live-aboard vessel, or houseboat; the registration
 1548 number; and a description, including color scheme, of the
 1549 vessel, live-aboard vessel, or houseboat.

1550 4. Any sexual offender who fails to report in person as
 1551 required at the sheriff's office, ~~or~~ who fails to respond to any
 1552 address verification correspondence from the department within 3
 1553 weeks after the date of the correspondence, or who knowingly
 1554 provides false registration information by act or omission
 1555 commits a felony of the third degree, punishable as provided in
 1556 ss. 775.082, 775.083, and 775.084.

1557 Section 15. Paragraphs (g) and (i) of subsection (3) of
 1558 section 921.0022, Florida Statutes, are amended to read:

1559 921.0022 Criminal Punishment Code; offense severity
 1560 ranking chart.—

1561 (3) OFFENSE SEVERITY RANKING CHART

1562 (g) LEVEL 7

Florida Statute	Felony Degree	Description
316.027(1)(b)	1st	Accident involving death, failure to stop; leaving scene.
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.

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

BILL		ORIGINAL	YEAR
316.1935(3)(b)	1st	Causing serious bodily injury or death to another person; 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.	
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.	
402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death.	
409.920 (2)(b)1.a.	3rd	Medicaid provider fraud; \$10,000 or less.	
409.920 (2)(b)1.b.	2nd	Medicaid provider fraud; more than \$10,000, but less than \$50,000.	
456.065(2)	3rd	Practicing a health care profession without a license.	
456.065(2)	2nd	Practicing a health care profession without a license which results in serious bodily injury.	
458.327(1)	3rd	Practicing medicine without a license.	

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

BILL		ORIGINAL	YEAR
459.013(1)	3rd	Practicing osteopathic medicine without a license.	
460.411(1)	3rd	Practicing chiropractic medicine without a license.	
461.012(1)	3rd	Practicing podiatric medicine without a license.	
462.17	3rd	Practicing naturopathy without a license.	
463.015(1)	3rd	Practicing optometry without a license.	
464.016(1)	3rd	Practicing nursing without a license.	
465.015(2)	3rd	Practicing pharmacy without a license.	
466.026(1)	3rd	Practicing dentistry or dental hygiene without a license.	
467.201	3rd	Practicing midwifery without a license.	
468.366	3rd	Delivering respiratory care services without a license.	
483.828(1)	3rd	Practicing as clinical laboratory personnel without a license.	
483.901(9)	3rd	Practicing medical physics without a license.	
484.013(1)(c)	3rd	Preparing or dispensing optical devices without a prescription.	
484.053	3rd	Dispensing hearing aids without	

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

BILL		ORIGINAL	YEAR
		a license.	
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded \$50,000 and there were five or more victims.	
560.123(8)(b)1.	3rd	Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business.	
560.125(5)(a)	3rd	Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.	
655.50(10)(b)1.	3rd	Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.	
775.21(10)(a)	3rd	Sexual predator; failure to register; failure to renew <u>driver</u> driver's license or identification card; other registration violations.	
775.21(10)(b)	3rd	Sexual predator working where children regularly congregate.	
775.21(10)(g)	3rd	Failure to report or providing	

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

BILL	ORIGINAL	YEAR
782.051(3)	2nd	false information about a sexual predator; harbor or conceal a sexual predator. Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	2nd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.

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

BILL		ORIGINAL	YEAR
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.	
784.048(7)	3rd	Aggravated stalking; violation of court order.	
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.	
784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.	
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.	
784.081(1)	1st	Aggravated battery on specified official or employee.	
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.	
784.083(1)	1st	Aggravated battery on code inspector.	
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).	
790.16(1)	1st	Discharge of a machine gun under specified circumstances.	
790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.	
790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax	

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

BILL		ORIGINAL	YEAR
790.166(3)	2nd	bomb while committing or attempting to commit a felony. Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.	
790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.	
790.23	1st, PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.	
794.08(4)	3rd	Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.	
796.03	2nd	Procuring any person under <u>18</u> 16 years for prostitution.	
800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years.	
800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years;	

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

BILL		ORIGINAL	YEAR
		offender 18 years or older.	
806.01(2)	2nd	Maliciously damage structure by fire or explosive.	
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.	
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.	
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.	
810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.	
812.014(2)(a)1.	1st	Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft.	
812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.	
812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.	
812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from	

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

BILL		ORIGINAL	YEAR
		authorized emergency vehicle.	
812.0145(2) (a)	1st	Theft from person 65 years of age or older; \$50,000 or more.	
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.	
812.131(2) (a)	2nd	Robbery by sudden snatching.	
812.133(2) (b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.	
817.234(8) (a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.	
817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.	
817.234(11) (c)	1st	Insurance fraud; property value \$100,000 or more.	
817.2341 (2) (b) & (3) (b)	1st	Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity.	
825.102(3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or	

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

BILL		ORIGINAL	YEAR
		disfigurement.	
825.103(2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or more, but less than \$100,000.	
827.03(3) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.	
827.04(3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.	
837.05(2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.	
838.015	2nd	Bribery.	
838.016	2nd	Unlawful compensation or reward for official behavior.	
838.021(3) (a)	2nd	Unlawful harm to a public servant.	
838.22	2nd	Bid tampering.	
847.0135(3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.	
847.0135(4)	2nd	Traveling to meet a minor to commit an unlawful sex act.	
872.06	2nd	Abuse of a dead human body.	
874.10	1st, PBL	Knowingly initiates, organizes, plans, finances, directs,	

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

BILL		ORIGINAL	YEAR
893.13(1)(c)1.	1st	<p>manages, or supervises criminal gang-related activity.</p> <p>Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.</p>	
893.13(1)(e)1.	1st	<p>Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site.</p>	
893.13(4)(a)	1st	<p>Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs).</p>	
893.135(1)(a)1.	1st	<p>Trafficking in cannabis, more than 25 lbs., less than 2,000 lbs.</p>	

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

BILL		ORIGINAL	YEAR
893.135	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.	
(1) (b) 1.a.			
893.135	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.	
(1) (c) 1.a.			
893.135(1) (d) 1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.	
893.135(1) (e) 1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.	
893.135(1) (f) 1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.	
893.135	1st	Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.	
(1) (g) 1.a.			
893.135	1st	Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms.	
(1) (h) 1.a.			
893.135	1st	Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.	
(1) (j) 1.a.			
893.135	1st	Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.	
(1) (k) 2.a.			

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

BILL		ORIGINAL	YEAR
893.1351(2)	2nd	Possession of place for trafficking in or manufacturing of controlled substance.	
896.101(5)(a)	3rd	Money laundering, financial transactions exceeding \$300 but less than \$20,000.	
896.104(4)(a)1.	3rd	Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000.	
943.0435(4)(c)	2nd	Sexual offender vacating permanent residence; failure to comply with reporting requirements.	
943.0435(8)	2nd	Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.	
943.0435(9)(a)	3rd	Sexual offender; failure to comply with reporting requirements.	
943.0435(13)	3rd	Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.	
943.0435(14)	3rd	Sexual offender; failure to report and reregister; failure	

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

BILL	ORIGINAL	YEAR
	to respond to address verification.	
944.607(9)	3rd Sexual offender; failure to comply with reporting requirements.	
944.607(10)(a)	3rd Sexual offender; failure to submit to the taking of a digitized photograph.	
944.607(12)	3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.	
944.607(13)	3rd Sexual offender; failure to report and reregister; failure to respond to address verification.	
985.4815(10)	3rd Sexual offender; failure to submit to the taking of a digitized photograph.	
985.4815(12)	3rd Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.	
985.4815(13)	3rd Sexual offender; failure to report and reregister; failure to respond to address verification.	
1563 (i)	LEVEL 9	

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

BILL	ORIGINAL	YEAR
Florida Statute	Felony Degree	Description
316.193 (3) (c) 3.b.	1st	DUI manslaughter; failing to render aid or give information.
327.35 (3) (c) 3.b.	1st	BUI manslaughter; failing to render aid or give information.
409.920 (2) (b) 1.c.	1st	Medicaid provider fraud; \$50,000 or more.
499.0051 (9)	1st	Knowing sale or purchase of contraband prescription drugs resulting in great bodily harm.
560.123 (8) (b) 3.	1st	Failure to report currency or payment instruments totaling or exceeding \$100,000 by money transmitter.
560.125 (5) (c)	1st	Money transmitter business by unauthorized person, currency, or payment instruments totaling or exceeding \$100,000.
655.50 (10) (b) 3.	1st	Failure to report financial transactions totaling or exceeding \$100,000 by financial institution.
775.0844	1st	Aggravated white collar crime.
782.04 (1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04 (3)	1st, PBL	Accomplice to murder in connection with arson, sexual

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

BILL		ORIGINAL	YEAR
782.051(1)	1st	battery, robbery, burglary, and other specified felonies. Attempted felony murder while perpetrating or attempting to perpetrate a felony enumerated in s. 782.04(3).	
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.	
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.	
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.	
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.	
787.02(3)(a)	1st, <u>PBL</u>	False imprisonment; child under age 13; perpetrator also commits aggravated child abuse, sexual battery, or lewd or lascivious battery, molestation, conduct, or exhibition.	
790.161	1st	Attempted capital destructive device offense.	

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

BILL		ORIGINAL	YEAR
790.166(2)	1st, PBL	Possessing, selling, using, or attempting to use a weapon of mass destruction.	
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.	
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.	
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.	
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.	
794.08(2)	1st	Female genital mutilation; victim younger than 18 years of age.	
800.04(5)(b)	Life	Lewd or lascivious molestation; victim less than 12 years; offender 18 years or older.	
812.13(2)(a)	1st, PBL	Robbery with firearm or other deadly weapon.	
812.133(2)(a)	1st, PBL	Carjacking; firearm or other deadly weapon.	
812.135(2)(b)	1st	Home-invasion robbery with	

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

BILL		ORIGINAL	YEAR
		weapon.	
817.568(7)	2nd, PBL	Fraudulent use of personal identification information of an individual under the age of 18 by his or her parent, legal guardian, or person exercising custodial authority.	
827.03(2)	1st	Aggravated child abuse.	
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.	
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.	
859.01	1st	Poisoning or introducing bacteria, radioactive materials, viruses, or chemical compounds into food, drink, medicine, or water with intent to kill or injure another person.	
893.135	1st	Attempted capital trafficking offense.	
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.	
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.	

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

BILL ORIGINAL YEAR

893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135 (1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135 (1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135 (1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
893.135 (1)(h)1.c.	1st	Trafficking in gamma- hydroxybutyric acid (GHB), 10 kilograms or more.
893.135 (1)(j)1.c.	1st	Trafficking in 1,4-Butanediol, 10 kilograms or more.
893.135 (1)(k)2.c.	1st	Trafficking in Phenethylamines, 400 grams or more.
896.101(5)(c)	1st	Money laundering, financial instruments totaling or exceeding \$100,000.
896.104(4)(a)3.	1st	Structuring transactions to evade reporting or registration requirements, financial transactions totaling or exceeding \$100,000.

1564
1565
1566

Section 16. This act shall take effect October 1, 2013.

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB CRJS 13-02 (2013)

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 PCB: Criminal Justice
2 Subcommittee
3 Representative Harrell offered the following:

4
5 **Amendment**

6 Remove line 163 and insert:
7 ~~825.1025(2)(b);~~ s. 827.071; s. 847.0135(5), excluding s.
8 847.0135(6); s. 847.0145; s.

Amendment No. 2

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 PCB: Criminal Justice

2 Subcommittee

3 Representative Harrell offered the following:

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

6 Remove lines 854-1329 and insert:

7 that required the offender to register began, excluding any
8 period in which the offender was supervised by the Department of
9 Corrections;

10 b. The sexual offender has not been convicted or
11 adjudicated delinquent of any felony offense or of an offense
12 punishable by more than 1 year of imprisonment during the 25
13 years preceding the petition to the court;

14 c. The sexual offender has successfully completed all
15 sanctions imposed for all offenses that required the offender to
16 register;

17 d. The sexual offender's requirement to register was not
18 based upon an adult conviction for a violation of s. 787.01, s.
19 794.011, excluding s. 794.011(10), s. 800.04(4)(b) where the
20 court finds the offense involved a victim under 12 years of age

Amendment No. 2

21 or sexual activity by the use of force or coercion, s.
22 800.04(5)(b), or s. 800.04(5)(c)2. where the court finds the
23 offense involved the use of force or coercion and unclothed
24 genitals or genital area; for any attempt or conspiracy to
25 commit any offense listed in this sub-subparagraph; for a
26 violation of similar law of another jurisdiction; or for a
27 violation of a similar offense committed in this state which has
28 been redesignated from a former statute number to one of those
29 listed in this sub-subparagraph; and

30 e. For sexual offenders whose requirement to register is
31 based upon a conviction in another state, the sexual offender is
32 not required to register as a sexual offender pursuant to the
33 laws of the state where the conviction occurred. Such an
34 offender must provide the court written confirmation that he or
35 she is not required to register in the state where the
36 conviction occurred.

37 ~~a. For a violation of s. 787.01 or s. 787.02;~~

38 ~~b. For a violation of s. 794.011, excluding s.~~
39 ~~794.011(10);~~

40 ~~c. For a violation of s. 800.04(4)(b) where the court~~
41 ~~finds the offense involved a victim under 12 years of age or~~
42 ~~sexual activity by the use of force or coercion;~~

43 ~~d. For a violation of s. 800.04(5)(b);~~

44 ~~e. For a violation of s. 800.04(5)c.2. where the court~~
45 ~~finds the offense involved unclothed genitals or genital area;~~

46 ~~f. For any attempt or conspiracy to commit any such~~
47 ~~offense; or~~

48 ~~g. For a violation of similar law of another jurisdiction;~~

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB CRJS 13-02 (2013)

Amendment No. 2

49 ~~may petition the criminal division of the circuit court of the~~
50 ~~circuit in which the sexual offender resides for the purpose of~~
51 ~~removing the requirement for registration as a sexual offender.~~

52 2. A sexual offender whose requirement to register was
53 based upon an adult conviction for a violation of s. 787.02 or
54 s. 827.071(5), for any attempt or conspiracy to commit any
55 offense listed in this subparagraph, or for a violation of
56 similar law of another jurisdiction may petition the criminal
57 division of the circuit court of the circuit in which the sexual
58 offender resides for the purpose of removing the requirement for
59 registration as a sexual offender if:

60 a. Fifteen years have elapsed since the sexual offender's
61 registration period for the most recent conviction that required
62 the offender to register began, excluding any period in which
63 the offender was supervised by the Department of Corrections;

64 b. The sexual offender has not been convicted or
65 adjudicated delinquent of any felony offense or of an offense
66 punishable by more than 1 year of imprisonment during the 10
67 years preceding the petition to the court;

68 c. The sexual offender has successfully completed all
69 sanctions imposed for all offenses that required the offender to
70 register; and

71 d. For sexual offenders whose requirement to register is
72 based upon a conviction in another state, the sexual offender is
73 not required to register as a sexual offender pursuant to the
74 laws of the state where the conviction occurred. Such an
75 offender must provide the court written confirmation that he or
76 she is not required to register in the state where the

Amendment No. 2

77 conviction occurred.

78 3. A sexual offender required to register under sub-
79 subparagraph (1)(a)1.d. may petition the criminal division of
80 the circuit court of the circuit in which the sexual offender
81 resides for the purpose of removing the requirement for
82 registration as a sexual offender if:

83 a. Twenty-five years have elapsed since the sexual
84 offender's registration period for the most recent adjudication
85 that required the offender to register began, excluding any
86 period in which the offender was supervised by the Department of
87 Juvenile Justice;

88 b. The sexual offender has not been convicted or
89 adjudicated delinquent of any felony offense or of an offense
90 punishable by more than 1 year of imprisonment during the 25
91 years preceding the petition to the court; and

92 c. The sexual offender has successfully completed all
93 sanctions imposed for all offenses that required the offender to
94 register.

95 4.2. The court may grant or deny relief if the offender
96 demonstrates to the court that ~~he or she has not been arrested~~
97 ~~for any crime since release;~~ the requested relief complies with
98 this paragraph, ~~the provisions of~~ the federal Adam Walsh Child
99 Protection and Safety Act of 2006, and any other federal
100 standards applicable to the removal of registration requirements
101 for a sexual offender or required to be met as a condition for
102 the receipt of federal funds by the state; and the court is
103 otherwise satisfied that the offender is not a current or
104 potential threat to public safety. The state attorney in the

Amendment No. 2

105 circuit in which the petition is filed and the department must
106 be given notice of the petition at least 3 weeks before the
107 hearing on the matter. The state attorney may present evidence
108 in opposition to the requested relief or may otherwise
109 demonstrate the reasons why the petition should be denied. If
110 the court grants the petition, the court shall instruct the
111 petitioner to provide the department with a certified copy of
112 the order granting relief. If the court denies the petition, the
113 court may set a future date at which the sexual offender may
114 again petition the court for relief, subject to the standards
115 for relief provided in this subsection.

116 5.3. The department shall remove an offender from
117 classification as a sexual offender for purposes of registration
118 if the offender provides to the department a certified copy of
119 the court's written findings or order that indicates that the
120 offender is no longer required to comply with the requirements
121 for registration as a sexual offender.

122 6. For purposes of this paragraph:

123 a. The registration period of a sexual offender sentenced
124 to a term of incarceration or committed to a residential program
125 begins upon the offender's release from incarceration or
126 commitment for the most recent conviction that required the
127 offender to register.

128 b. A sexual offender's registration period is tolled
129 during any period in which the offender is incarcerated, civilly
130 committed, detained pursuant to chapter 985, or committed to a
131 residential program.

132 (b) A sexual offender as defined in sub-subparagraph

Amendment No. 2

133 (1)(a)1.b. must maintain registration with the department for
134 the duration of his or her life until the person provides the
135 department with an order issued by the court that designated the
136 person as a sexual predator, as a sexually violent predator, or
137 by another sexual offender designation in the state or
138 jurisdiction in which the order was issued which states that
139 such designation has been removed or demonstrates to the
140 department that such designation, if not imposed by a court, has
141 been removed by operation of law or court order in the state or
142 jurisdiction in which the designation was made, and provided
143 such person no longer meets the criteria for registration as a
144 sexual offender under the laws of this state.

145 (14)

146 (b) However, a sexual offender who is required to register
147 as a result of a conviction for:

148 1. Section 787.01 or s. 787.02 where the victim is a minor
149 and the offender is not the victim's parent or guardian;

150 2. Section 794.011, excluding s. 794.011(10);

151 3. Section 800.04(4)(b) where the court finds the offense
152 involved a victim under 12 years of age or sexual activity by
153 the use of force or coercion;

154 4. Section 800.04(5)(b);

155 5. Section 800.04(5)(c)1. where the court finds molestation
156 involving unclothed genitals or genital area;

157 6. Section 800.04(5)c.2. where the court finds molestation
158 involving the use of force or coercion and unclothed genitals or
159 genital area;

160 7. Section 800.04(5)(d) where the court finds the use of

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB CRJS 13-02 (2013)

Amendment No. 2

161 force or coercion and unclothed genitals or genital area;

162 8. Any attempt or conspiracy to commit such offense; ~~or~~

163 9. A violation of a similar law of another jurisdiction,
164 must reregister each year during the month of the sexual
165 offender's birthday and every third month thereafter; or

166 10. A violation of a similar offense committed in this
167 state which has been redesignated from a former statute number
168 to one of those listed in this paragraph.

169 (c) The sheriff's office may determine the appropriate
170 times and days for reporting by the sexual offender, which shall
171 be consistent with the reporting requirements of this
172 subsection. Reregistration shall include any changes to the
173 following information:

174 1. Name; social security number; age; race; sex; date of
175 birth; height; weight; hair and eye color; address of any
176 permanent residence and address of any current temporary
177 residence, within the state or out of state, including a rural
178 route address and a post office box; if no permanent or
179 temporary address, any transient residence within the state;
180 address, location or description, and dates of any current or
181 known future temporary residence within the state or out of
182 state; ~~any~~ electronic mail addresses or Internet identifiers
183 ~~address and any instant message name~~ required to be provided
184 pursuant to paragraph (4)(d); home telephone numbers or number
185 ~~and any~~ cellular telephone numbers number; date and place of any
186 employment; the vehicle make, model, color, registration number,
187 and license tag number of any vehicles owned; fingerprints; palm
188 prints; and photograph. A post office box may ~~shall~~ not be

Amendment No. 2

189 provided in lieu of a physical residential address. The sexual
190 offender must also produce his or her passport, if he or she has
191 a passport, and, if he or she is an alien, must produce or
192 provide information about documents establishing his or her
193 immigration status. The sexual offender must also provide
194 information about any professional licenses he or she may have.

195 2. If the sexual offender is enrolled, volunteering,
196 employed, or carrying on a vocation at an institution of higher
197 education in this state, the sexual offender shall also provide
198 to the department the name, address, and county of each
199 institution, including each campus attended, and the sexual
200 offender's enrollment, volunteer, or employment status.

201 3. If the sexual offender's place of residence is a motor
202 vehicle, trailer, mobile home, or manufactured home, as defined
203 in chapter 320, the sexual offender shall also provide the
204 vehicle identification number; the license tag number; the
205 registration number; and a description, including color scheme,
206 of the motor vehicle, trailer, mobile home, or manufactured
207 home. If the sexual offender's place of residence is a vessel,
208 live-aboard vessel, or houseboat, as defined in chapter 327, the
209 sexual offender shall also provide the hull identification
210 number; the manufacturer's serial number; the name of the
211 vessel, live-aboard vessel, or houseboat; the registration
212 number; and a description, including color scheme, of the
213 vessel, live-aboard vessel or houseboat.

214 4. Any sexual offender who fails to report in person as
215 required at the sheriff's office, ~~or~~ who fails to respond to any
216 address verification correspondence from the department within 3

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB CRJS 13-02 (2013)

Amendment No. 2

217 weeks of the date of the correspondence, ~~or~~ who fails to report
218 all electronic mail addresses and all Internet identifiers prior
219 to use ~~or instant message names~~, or who knowingly provides false
220 registration information by act or omission commits a felony of
221 the third degree, punishable as provided in s. 775.082, s.
222 775.083, or s. 775.084.

223 Section 6. Section 943.04351, Florida Statutes, is amended
224 to read:

225 943.04351 Search of registration information regarding
226 sexual predators and sexual offenders required prior to
227 appointment or employment.—A state agency or governmental
228 subdivision, prior to making any decision to appoint or employ a
229 person to work, whether for compensation or as a volunteer, at
230 any park, playground, day care center, or other place where
231 children regularly congregate, must conduct a search of that
232 person's name or other identifying information against the
233 registration information regarding sexual predators and sexual
234 offenders maintained by the Department of Law Enforcement under
235 s. 943.043. The agency or governmental subdivision may conduct
236 the search using the Internet site maintained by the Department
237 of Law Enforcement. Also, a national search must be conducted
238 through the Dru Sjodin National Sex Offender Public Website
239 maintained by the United States Department of Justice. This
240 section does not apply to those positions or appointments within
241 a state agency or governmental subdivision for which a state and
242 national criminal history background check is conducted.

243 Section 7. Section 943.04354, Florida Statutes, is amended
244 to read:

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB CRJS 13-02 (2013)

Amendment No. 2

245 943.04354 Removal of the requirement to register as a
246 sexual offender or sexual predator in special circumstances.-

247 (1) For purposes of this section, a person shall be
248 considered for removal of the requirement to register as a
249 sexual offender or sexual predator only if the person:

250 (a) Was ~~or will be~~ convicted, regardless of adjudication,
251 or adjudicated delinquent of a violation of s. 794.011, s.
252 800.04, s. 827.071, or s. 847.0135(5), or a similar offense in
253 another jurisdiction, or the person committed a violation of s.
254 794.011, s. 800.04, s. 827.071, or s. 847.0135(5) for which
255 adjudication of guilt was or will be withheld, and the person
256 does not have any other conviction, regardless of adjudication,
257 or adjudication of delinquency, or withhold of adjudication of
258 guilt for a violation of s. 794.011, s. 800.04, s. 827.071, or
259 s. 847.0135(5), or a similar offense in another jurisdiction;

260 (b)1. Was convicted, regardless of adjudication, or
261 adjudicated delinquent of an offense listed in paragraph (a) and
262 is required to register as a sexual offender or sexual predator
263 solely on the basis of this conviction or adjudication
264 violation; or and

265 2. Was convicted, regardless of adjudication, or
266 adjudicated delinquent of an offense in another jurisdiction
267 that is similar to an offense listed in paragraph (a) and no
268 longer meets the criteria for registration as a sexual offender
269 or sexual predator under the laws of the jurisdiction where the
270 similar offense occurred; and

271 (c) Is not more than 4 years older than the victim of this
272 violation who was 13 14 years of age or older but less not more

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB CRJS 13-02 (2013)

Amendment No. 2

273 than 18 ~~17~~ years of age at the time the person committed this
274 violation.

275 (2) If a person meets the criteria in subsection (1) ~~and~~
276 ~~the violation of s. 794.011, s. 800.04, s. 827.071, or s.~~
277 ~~847.0135(5) was committed on or after July 1, 2007, the person~~
278 may move the criminal court of the circuit in which the offense
279 occurred or the sentencing court or, for persons convicted or
280 adjudicated delinquent of a qualifying offense in another
281 jurisdiction, the criminal circuit court of the circuit in which
282 the person resides that will sentence or dispose of this
283 ~~violation~~ to remove the requirement that the person register as
284 a sexual offender or sexual predator. The person must allege in
285 the motion that he or she meets the criteria in subsection (1)
286 and that removal of the registration requirement will not
287 conflict with federal law. Persons convicted or adjudicated
288 delinquent of an offense in another jurisdiction that is similar
289 to an offense listed in paragraph (1)(a) must provide the court
290 written confirmation that he or she is not required to register
291 in the state where the conviction or adjudication occurred. The
292 state attorney and the department must be given notice of the
293 motion at least 21 days before the date of sentencing, ~~or~~
294 disposition of the this violation, or hearing on the motion and
295 may present evidence in opposition to the requested relief or
296 may otherwise demonstrate why the motion should be denied. At
297 sentencing, ~~or~~ disposition of the this violation, or hearing on
298 the motion, the court shall rule on this motion and, if the
299 court determines the person meets the criteria in subsection (1)
300 and the removal of the registration requirement will not

PCB CRJS 13-02 a2

Published On: 2/18/2013 7:01:10 PM

Page 11 of 20

Amendment No. 2

301 | conflict with federal law, it may grant the motion and order the
302 | removal of the registration requirement. The court shall
303 | instruct the person to provide the department a certified copy
304 | of the order granting relief. If the court denies the motion,
305 | the person is not authorized under this section to file another
306 | motion ~~petition~~ for removal of the registration requirement.

307 | ~~(3) (a) This subsection applies to a person who:~~

308 | ~~1. Is not a person described in subsection (2) because the~~
309 | ~~violation of s. 794.011, s. 800.04, or s. 827.071 was not~~
310 | ~~committed on or after July 1, 2007;~~

311 | ~~2. Is subject to registration as a sexual offender or~~
312 | ~~sexual predator for a violation of s. 794.011, s. 800.04, or s.~~
313 | ~~827.071; and~~

314 | ~~3. Meets the criteria in subsection (1).~~

315 | ~~(b) A person may petition the court in which the sentence~~
316 | ~~or disposition for the violation of s. 794.011, s. 800.04, or s.~~
317 | ~~827.071 occurred for removal of the requirement to register as a~~
318 | ~~sexual offender or sexual predator. The person must allege in~~
319 | ~~the petition that he or she meets the criteria in subsection (1)~~
320 | ~~and removal of the registration requirement will not conflict~~
321 | ~~with federal law. The state attorney must be given notice of the~~
322 | ~~petition at least 21 days before the hearing on the petition and~~
323 | ~~may present evidence in opposition to the requested relief or~~
324 | ~~may otherwise demonstrate why the petition should be denied. The~~
325 | ~~court shall rule on the petition and, if the court determines~~
326 | ~~the person meets the criteria in subsection (1) and removal of~~
327 | ~~the registration requirement will not conflict with federal law,~~
328 | ~~it may grant the petition and order the removal of the~~

Amendment No. 2

329 ~~registration requirement. If the court denies the petition, the~~
330 ~~person is not authorized under this section to file any further~~
331 ~~petition for removal of the registration requirement.~~

332 (3)(4) If a person provides to the Department of Law
333 Enforcement a certified copy of the court's order removing the
334 requirement that the person register as a sexual offender or
335 sexual predator for the violation of s. 794.011, s. 800.04, s.
336 827.071, or s. 847.0135(5), or a similar offense in another
337 jurisdiction, the registration requirement will not apply to the
338 person and the department shall remove all information about the
339 person from the public registry of sexual offenders and sexual
340 predators maintained by the department. However, the removal of
341 this information from the public registry does not mean that the
342 public is denied access to information about the person's
343 criminal history or record that is otherwise available as a
344 public record.

345 Section 8. Subsection (2) and paragraph (a) of subsection
346 (3) of section 943.0437, Florida Statutes, are amended to read:

347 943.0437 Commercial social networking websites.—

348 (2) The department may provide information relating to
349 electronic mail addresses and Internet identifiers ~~instant~~
350 ~~message names~~ maintained as part of the sexual offender registry
351 to commercial social networking websites or third parties
352 designated by commercial social networking websites. The
353 commercial social networking website may use this information
354 for the purpose of comparing registered users and screening
355 potential users of the commercial social networking website
356 against the list of electronic mail addresses and Internet

Amendment No. 2

357 identifiers ~~instant message names~~ provided by the department.

358 (3) This section shall not be construed to impose any
359 civil liability on a commercial social networking website for:

360 (a) Any action voluntarily taken in good faith to remove
361 or disable any profile of a registered user associated with an
362 electronic mail address or Internet identifier ~~instant message~~
363 ~~name~~ contained in the sexual offender registry.

364 Section 9. Paragraphs (b) and (d) of subsection (1) and
365 paragraph (a) of subsection (3) of section 944.606, Florida
366 Statutes, are amended to read:

367 944.606 Sexual offenders; notification upon release.--

368 (1) As used in this section:

369 (b) "Sexual offender" means a person who has been
370 convicted of committing, or attempting, soliciting, or
371 conspiring to commit, any of the criminal offenses proscribed in
372 the following statutes in this state or similar offenses in
373 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,
374 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
375 the defendant is not the victim's parent or guardian; s.
376 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
377 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
378 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
379 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
380 916.1075(2); or s. 985.701(1); or any similar offense committed
381 in this state which has been redesignated from a former statute
382 number to one of those listed in this subsection, when the
383 department has received verified information regarding such
384 conviction; an offender's computerized criminal history record

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB CRJS 13-02 (2013)

Amendment No. 2

385 is not, in and of itself, verified information.

386 (d) "Internet identifier ~~Instant message name~~" has the
387 same meaning as provided in s. 775.21 ~~means an identifier that~~
388 ~~allows a person to communicate in real time with another person~~
389 ~~using the Internet.~~

390 (3)(a) The department must provide information regarding
391 any sexual offender who is being released after serving a period
392 of incarceration for any offense, as follows:

393 1. The department must provide: the sexual offender's
394 name, any change in the offender's name by reason of marriage or
395 other legal process, and any alias, if known; the correctional
396 facility from which the sexual offender is released; the sexual
397 offender's social security number, race, sex, date of birth,
398 height, weight, and hair and eye color; address of any planned
399 permanent residence or temporary residence, within the state or
400 out of state, including a rural route address and a post office
401 box; if no permanent or temporary address, any transient
402 residence within the state; address, location or description,
403 and dates of any known future temporary residence within the
404 state or out of state; date and county of sentence and each
405 crime for which the offender was sentenced; a copy of the
406 offender's fingerprints, palm prints, and a digitized photograph
407 taken within 60 days before release; the date of release of the
408 sexual offender; all ~~any~~ electronic mail addresses ~~address~~ and
409 all Internet identifiers ~~any instant message name~~ required to be
410 provided pursuant to s. 943.0435(4)(d); all ~~and~~ home telephone
411 numbers ~~number~~ and ~~any~~ cellular telephone numbers; information
412 about any professional licenses the offender may have, if known;

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB CRJS 13-02 (2013)

Amendment No. 2

413 and passport information, if he or she has a passport, and, if
414 he or she is an alien, information about documents establishing
415 his or her immigration status number. The department shall
416 notify the Department of Law Enforcement if the sexual offender
417 escapes, absconds, or dies. If the sexual offender is in the
418 custody of a private correctional facility, the facility shall
419 take the digitized photograph of the sexual offender within 60
420 days before the sexual offender's release and provide this
421 photograph to the Department of Corrections and also place it in
422 the sexual offender's file. If the sexual offender is in the
423 custody of a local jail, the custodian of the local jail shall
424 register the offender within 3 business days after intake of the
425 offender for any reason and upon release, and shall notify the
426 Department of Law Enforcement of the sexual offender's release
427 and provide to the Department of Law Enforcement the information
428 specified in this paragraph and any information specified in
429 subparagraph 2. that the Department of Law Enforcement requests.

430 2. The department may provide any other information deemed
431 necessary, including criminal and corrections records,
432 nonprivileged personnel and treatment records, when available.

433 Section 10. Paragraphs (a) and (f) of subsection (1),
434 subsection (4), and paragraphs (b) and (c) of subsection (13) of
435 section 944.607, Florida Statutes, are amended to read:

436 944.607 Notification to Department of Law Enforcement of
437 information on sexual offenders.-

438 (1) As used in this section, the term:

439 (a) "Sexual offender" means a person who is in the custody
440 or control of, or under the supervision of, the department or is

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB CRJS 13-02 (2013)

Amendment No. 2

441 in the custody of a private correctional facility:

442 1. On or after October 1, 1997, as a result of a
443 conviction for committing, or attempting, soliciting, or
444 conspiring to commit, any of the criminal offenses proscribed in
445 the following statutes in this state or similar offenses in
446 another jurisdiction: s. 393.135(2); s. 394.4593(2); s. 787.01,
447 s. 787.02, or s. 787.025(2)(c), where the victim is a minor and
448 the defendant is not the victim's parent or guardian; s.
449 787.06(3)(b), (d), (f), (g), or (h); s. 794.011, excluding s.
450 794.011(10); s. 794.05; s. 796.03; s. 796.035; s. 800.04; s.
451 810.145(8); s. 825.1025; s. 827.071; s. 847.0133; s. 847.0135,
452 excluding s. 847.0135(6); s. 847.0137; s. 847.0138; s. 847.0145;
453 s. 916.1075(2); or s. 985.701(1); or any similar offense
454 committed in this state which has been redesignated from a
455 former statute number to one of those listed in this paragraph;
456 or

457 2. Who establishes or maintains a residence in this state
458 and who has not been designated as a sexual predator by a court
459 of this state but who has been designated as a sexual predator,
460 as a sexually violent predator, or by another sexual offender
461 designation in another state or jurisdiction and was, as a
462 result of such designation, subjected to registration or
463 community or public notification, or both, or would be if the
464 person were a resident of that state or jurisdiction, without
465 regard as to whether the person otherwise meets the criteria for
466 registration as a sexual offender.

467 (f) "Internet identifier ~~Instant message name~~" has the
468 same meaning as provided in s. 775.21 ~~means an identifier that~~

Amendment No. 2

469 ~~allows a person to communicate in real time with another person~~
470 ~~using the Internet.~~

471 (4) A sexual offender, as described in this section, who
472 is under the supervision of the Department of Corrections but is
473 not incarcerated must register with the Department of
474 Corrections within 3 business days after sentencing for a
475 registrable offense and otherwise provide information as
476 required by this subsection.

477 (a) The sexual offender shall provide his or her name;
478 date of birth; social security number; race; sex; height;
479 weight; hair and eye color; tattoos or other identifying marks;
480 all any electronic mail addresses ~~address~~ and all Internet
481 identifiers ~~any instant message name~~ required to be provided
482 pursuant to s. 943.0435(4)(d); all home telephone numbers and
483 cellular telephone numbers; the make, model, color, registration
484 number, and license tag number of all vehicles owned; permanent
485 or legal residence and address of temporary residence within the
486 state or out of state while the sexual offender is under
487 supervision in this state, including any rural route address or
488 post office box; if no permanent or temporary address, any
489 transient residence within the state; and address, location or
490 description, and dates of any current or known future temporary
491 residence within the state or out of state. The sexual offender
492 must also produce his or her passport, if he or she has a
493 passport, and, if he or she is an alien, must produce or provide
494 information about documents establishing his or her immigration
495 status. The sexual offender must also provide information about
496 any professional licenses he or she may have. The Department of

Amendment No. 2

497 Corrections shall verify the address of each sexual offender in
498 the manner described in ss. 775.21 and 943.0435. The department
499 shall report to the Department of Law Enforcement any failure by
500 a sexual predator or sexual offender to comply with registration
501 requirements.

502 (b) If the sexual offender is enrolled, employed,
503 volunteering, or carrying on a vocation at an institution of
504 higher education in this state, the sexual offender shall
505 provide the name, address, and county of each institution,
506 including each campus attended, and the sexual offender's
507 enrollment, volunteer, or employment status. Each change in
508 enrollment, volunteer, or employment status shall be reported to
509 the department within 48 hours after the change in status. The
510 Department of Corrections shall promptly notify each institution
511 of the sexual offender's presence and any change in the sexual
512 offender's enrollment, volunteer, or employment status.

513 (13)

514 (b) However, a sexual offender who is required to register
515 as a result of a conviction for:

516 1. Section 787.01 or s. 787.02 where the victim is a minor
517 and the offender is not the victim's parent or guardian;

518 2. Section 794.011, excluding s. 794.011(10);

519 3. Section 800.04(4)(b) where the victim is under 12 years
520 of age or where the court finds sexual activity by the use of
521 force or coercion;

522 4. Section 800.04(5)(b);

523 5. Section 800.04(5)(c)1. where the court finds molestation
524 involving unclothed genitals or genital area;

COMMITTEE/SUBCOMMITTEE AMENDMENT

PCB Name: PCB CRJS 13-02 (2013)

Amendment No. 2

525 6. Section 800.04(5)c.2. where the court finds molestation
526 involving the use of force or coercion and unclothed genitals or
527 genital area;

528 7. Section 800.04(5)(d) where the court finds the use of
529 force or coercion and unclothed genitals or genital area;

530 8. Any attempt or conspiracy to commit such offense; ~~or~~

531 9. A violation of a similar law of another jurisdiction; or

532 10. A violation of a similar offense committed in this
533 state which has been redesignated from a former statute number
534 to one of those listed in this paragraph,

535

536 must reregister each year during the month of the sexual
537 offender's birthday and every third month thereafter.

538

539

540

541

542

543

D I R E C T O R Y A M E N D M E N T

544

Remove line 591 and insert:

545

subsections (7), (8), and (11), and paragraphs (b) and (c) of
546 subsection

547

HOUSE OF REPRESENTATIVES STAFF ANALYSIS

BILL #: PCB CRJS 13-03 Pretrial Detention
SPONSOR(S): Criminal Justice Subcommittee
TIED BILLS: **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
Orig. Comm.: Criminal Justice Subcommittee		Jones <i>LJ</i>	Cunningham <i>mc</i>

SUMMARY ANALYSIS

Article I, Section 14, of the Florida Constitution provides, with some exceptions, that every person charged with a crime or violation of a municipal or county ordinance is entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.

Section 907.041(4)(c), F.S., lists numerous instances in which a court is authorized detain a defendant prior to trial. For example, a court may detain a defendant if the court finds that the defendant:

- Is charged with specified offenses;
- Has threatened a potential witness with the intent to obstruct justice; or
- The defendant poses the threat of harm to the community.

The bill amends s. 907.041(4)(c), F.S., to add the following additional instances in which a court may detain a defendant prior to trial:

- When the court finds that the defendant has been sentenced, pursuant to ss. 775.084 or 775.082(9), F.S., as a habitual violent felony offender, a three-time violent felony offender, a violent career criminal, or a prison releasee reoffender; or
- When the state attorney files a notice seeking that the defendant be sentenced pursuant to s. 775.084 or s. 775.082(9), F.S., as a habitual violent felony offender, a three-time violent felony offender, a violent career criminal, or a prison releasee reoffender.

In addition to the above, there must be a substantial probability that the defendant committed the offense charged and that no conditions of release can reasonably protect the community from risk of physical harm to persons or assures the presence of the accused at trial to detain a defendant.

The bill could have a negative jail bed impact because it provides another instance in which a judge can order pretrial detention.

The bill is effective on October 1, 2013.

FULL ANALYSIS

I. SUBSTANTIVE ANALYSIS

A. EFFECT OF PROPOSED CHANGES:

Pretrial Detention

Article I, Section 14, of the Florida Constitution, provides:

Unless charged with a capital offense or an offense punishable by life imprisonment and the proof of guilt is evident or the presumption is great, every person charged with a crime or violation of municipal or county ordinance shall be entitled to pretrial release on reasonable conditions. If no conditions of release can reasonably protect the community from risk of physical harm to persons, assure the presence of the accused at trial, or assure the integrity of the judicial process, the accused may be detained.

Section 907.041(4)(c), F.S., authorizes a trial court to detain a defendant prior to trial if it finds there is a substantial probability based on the defendant's past and present patterns of behavior, the criteria in s. 903.046, F.S.,¹ and any other relevant facts, that any of the following circumstances exists:

- The defendant has previously violated conditions of release and that no further conditions of release are reasonably likely to assure the defendant's appearance at subsequent proceedings;
- The defendant, with the intent to obstruct the judicial process, has threatened, intimidated, or injured any victim, potential witness, juror, or judicial officer, or has attempted or conspired to do so, and that no condition of release will reasonably prevent the obstruction of the judicial process;
- The defendant is charged with trafficking in controlled substances as defined by s. 893.135, F.S., that there is a substantial probability that the defendant has committed the offense, and that no conditions of release will reasonably assure the defendant's appearance at subsequent criminal proceedings;
- The defendant is charged with DUI manslaughter, as defined by s. 316.193, F.S., and that there is a substantial probability that the defendant committed the crime and that the defendant poses a threat of harm to the community;²
- The defendant poses the threat of harm to the community;³
- The defendant was on probation, parole, or other release pending completion of sentence or on pretrial release for a dangerous crime at the time the current offense was committed; or
- The defendant has violated one or more conditions of pretrial release or bond for the offense currently before the court and the violation, in the discretion of the court, supports a finding that no conditions of release can reasonably protect the community from risk of physical harm to persons or assure the presence of the accused at trial.

¹ Section 903.046, F.S., contains criteria that court must consider when determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be.

² Conditions that would support a finding by the court that the defendant poses a threat of harm to the community include, but are not limited to, any of the following:

- The defendant has previously been convicted of any crime under s. 316.193, F.S., or of any crime in any other state or territory of the United States that is substantially similar to any crime under s. 316.193, F.S.;
- The defendant was driving with a suspended driver's license when the charged crime was committed; or
- The defendant has previously been found guilty of, or has had adjudication of guilt withheld for, driving while the defendant's driver's license was suspended or revoked in violation of s. 322.34, F.S. Section 907.041(4)(c)4., F.S.

³ The court may so conclude if it finds that the defendant is presently charged with a dangerous crime, that there is a substantial probability that the defendant committed such crime, that the factual circumstances of the crime indicate a disregard for the safety of the community, and that there are no conditions of release reasonably sufficient to protect the community from the risk of physical harm to persons. Section 907.041(4)(c)5., F.S.

Sentencing Enhancements for Certain Offenders

Section 775.084, F.S., allows a court to impose an extended sentence for a defendant who is classified as a "habitual violent felony offender", a "three-time violent felony offender", or a "violent career criminal" and s. 775.082, F.S., requires a court to impose a mandatory minimum prison sentence if a defendant is classified as a "prison releasee reoffender."

Habitual Violent Felony Offender

To be classified as a "habitual violent felony offender," the court must find that the defendant has previously been convicted of a felony or an attempt or conspiracy to commit a felony and one or more of such convictions was for:

- Arson; sexual battery; robbery; kidnapping; aggravated child abuse; aggravated abuse of an elderly person or disabled adult; aggravated assault with a deadly weapon; murder; manslaughter; aggravated manslaughter of an elderly person or disabled adult; aggravated manslaughter of a child; unlawful throwing, placing, or discharging of a destructive device or bomb; armed burglary; aggravated battery; or aggravated stalking.⁴

The court must also find that the felony for which the defendant is to be sentenced was committed:

- While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for an enumerated felony; or
- Within 5 years of the date of the conviction of the last prior enumerated felony, or within 5 years of the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole, or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for an enumerated felony, whichever is later.⁵

Three-time Violent Felony Offender

To be classified as a "three-time violent felony offender" the court must find the defendant has been previously convicted of one of the felonies listed above (including home invasion/robbery, carjacking, or a similar offense in another jurisdiction) or an attempt to commit any such felony offense.⁶ The court must also find that the felony which the defendant is being sentenced for was committed:

- While the defendant was serving a prison sentence or other sentence imposed as a result of a prior conviction for any enumerated offense; or
- Within 5 years after the date of the conviction of the last prior enumerated offense, or within 5 years after the defendant's release from a prison sentence, probation, community control, or other sentence imposed as a result of a prior conviction for any enumerated offense, whichever is later.⁷

Violent Career Criminal

To be classified as a "violent career criminal" the court must find that the defendant has been convicted three or more times of:

- Any forcible felony, as described in s. 776.08, F.S.; aggravated stalking, as described in s. 784.048(3) and (4), F.S.; aggravated child abuse, as described in s. 827.03(2), F.S.; aggravated abuse of an elderly person or disabled adult, as described in s. 825.102(2), F.S.; lewd or lascivious battery, lewd or lascivious molestation, lewd or lascivious conduct, or lewd or lascivious exhibition, as described in ss. 800.04 or 847.0135(5), F.S.; escape, as described in s. 944.40, F.S.; or a felony violation of ch. 790, F.S., involving the use or possession of a firearm.

⁴ Section 775.084(1)(b), F.S.

⁵ *Id.*

⁶ Section 775.084(1)(c), F.S.

⁷ *Id.*

In addition, the court must find that the defendant has been incarcerated in a state or federal prison, and that the felony which the defendant is being sentenced for was committed on or after October 1, 1995, and:

- While the defendant was serving a prison sentence or other sentence, or court-ordered or lawfully imposed supervision that is imposed as a result of a prior conviction for an enumerated felony; or
- Within 5 years after the conviction of the last prior enumerated felony, or within 5 years after the defendant's release from a prison sentence, probation, community control, control release, conditional release, parole, or court-ordered or lawfully imposed supervision or other sentence that is imposed as a result of a prior conviction for an enumerated felony, whichever is later.⁸

Prison Releasee Reoffender

Section 775.082(9), F.S., requires a defendant to be sentenced to specified mandatory minimum terms of imprisonment if classified as a "prison releasee reoffender." To be classified as a "prison releasee reoffender" the defendant must have committed or attempted to commit one of the following crimes within three years of being released from prison:

- Treason; murder; manslaughter; sexual battery; carjacking; home-invasion robbery; robbery; arson; kidnapping; aggravated assault with a deadly weapon; aggravated battery; aggravated stalking; aircraft piracy; unlawful throwing, placing, or discharging of a destructive device or bomb; any felony that involves the use or threat of physical force or violence against an individual; armed burglary; burglary of a dwelling or burglary of an occupied structure; or any felony violation of s. 790.07, s. 800.04, s. 827.03, s. 827.071, or s. 847.0135(5).⁹

The term also includes any defendant who committed or attempted to commit any offense listed above while the defendant was serving a prison sentence or on escape status from a correctional facility.¹⁰

Effect of the Bill

The bill amends s. 907.041(4)(c), F.S., to add the following additional instances in which a court may detain a defendant prior to trial:

- When the court finds that the defendant has been sentenced, pursuant to ss. 775.084 or 775.082(9), F.S., as a habitual violent felony offender, a three-time violent felony offender, a violent career criminal, or a prison releasee reoffender; or
- When the state attorney files a notice seeking that the defendant be sentenced pursuant to s. 775.084 or s. 775.082(9), F.S., as a habitual violent felony offender, a three-time violent felony offender, a violent career criminal, or a prison releasee reoffender.

In addition to the above, there must be a substantial probability that the defendant committed the offense charged and that no conditions of release can reasonably protect the community from risk of physical harm to persons or assures the presence of the accused at trial to detain a defendant.

B. SECTION DIRECTORY:

Section 1. Amends s. 907.041, F.S., relating to pretrial detention and release.

Section 2. Provides an effective date of October 1, 2013.

⁸ Section 775.084(1)(d), F.S.

⁹ Section 775.082(9), F.S.

¹⁰ *Id.*

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 does not appear to have impact on state expenditures.

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 could have a negative jail bed impact because it provides another circumstance in which a judge can order pretrial detention.

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.

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

1 A bill to be entitled
 2 An act relating to pretrial detention; amending s.
 3 907.041, F.S.; providing additional factors a court
 4 may consider when ordering pretrial detention;
 5 providing an effective date.

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

8
 9 Section 1. Paragraph (c) of subsection (4) of section
 10 907.041, Florida Statutes, is amended to read:

11 907.041 Pretrial detention and release.—

12 (4) PRETRIAL DETENTION.—

13 (c) The court may order pretrial detention if it finds a
 14 substantial probability, based on a defendant's past and present
 15 patterns of behavior, the criteria in s. 903.046, and any other
 16 relevant facts, that any of the following circumstances exists:

17 1. The defendant has previously violated conditions of
 18 release and that no further conditions of release are reasonably
 19 likely to assure the defendant's appearance at subsequent
 20 proceedings;

21 2. The defendant, with the intent to obstruct the judicial
 22 process, has threatened, intimidated, or injured any victim,
 23 potential witness, juror, or judicial officer, or has attempted
 24 or conspired to do so, and that no condition of release will
 25 reasonably prevent the obstruction of the judicial process;

26 3. The defendant is charged with trafficking in controlled
 27 substances as defined by s. 893.135, that there is a substantial
 28 probability that the defendant has committed the offense, and

29 | that no conditions of release will reasonably assure the
 30 | defendant's appearance at subsequent criminal proceedings; or

31 | 4. The defendant is charged with DUI manslaughter, as
 32 | defined by s. 316.193, and that there is a substantial
 33 | probability that the defendant committed the crime and that the
 34 | defendant poses a threat of harm to the community; conditions
 35 | that would support a finding by the court pursuant to this
 36 | subparagraph that the defendant poses a threat of harm to the
 37 | community include, but are not limited to, any of the following:

38 | a. The defendant has previously been convicted of any
 39 | crime under s. 316.193, or of any crime in any other state or
 40 | territory of the United States that is substantially similar to
 41 | any crime under s. 316.193;

42 | b. The defendant was driving with a suspended driver's
 43 | license when the charged crime was committed; or

44 | c. The defendant has previously been found guilty of, or
 45 | has had adjudication of guilt withheld for, driving while the
 46 | defendant's driver's license was suspended or revoked in
 47 | violation of s. 322.34;

48 | 5. The defendant poses the threat of harm to the
 49 | community. The court may so conclude, if it finds that the
 50 | defendant is presently charged with a dangerous crime, that
 51 | there is a substantial probability that the defendant committed
 52 | such crime, that the factual circumstances of the crime indicate
 53 | a disregard for the safety of the community, and that there are
 54 | no conditions of release reasonably sufficient to protect the
 55 | community from the risk of physical harm to persons.

56 | 6. The defendant was on probation, parole, or other

57 | release pending completion of sentence or on pretrial release
 58 | for a dangerous crime at the time the current offense was
 59 | committed; ~~or~~

60 | 7. The defendant has violated one or more conditions of
 61 | pretrial release or bond for the offense currently before the
 62 | court and the violation, in the discretion of the court,
 63 | supports a finding that no conditions of release can reasonably
 64 | protect the community from risk of physical harm to persons or
 65 | assure the presence of the accused at trial; or-

66 | 8. The defendant has ever been sentenced, pursuant to s.
 67 | 775.084 or s. 775.082(9), as a habitual violent felony offender,
 68 | a three-time violent felony offender, a violent career criminal,
 69 | or a prison releasee reoffender, or the state attorney files a
 70 | notice seeking that the defendant be sentenced, pursuant to s.
 71 | 775.084 or s. 775.082(9), as a habitual violent felony offender,
 72 | a three-time violent felony offender, a violent career criminal,
 73 | or a prison releasee reoffender; and there is a substantial
 74 | probability that the defendant committed the offense; and that
 75 | no conditions of release can reasonably protect the community
 76 | from risk of physical harm to persons or assure the presence of
 77 | the accused at trial.

78 | Section 2. This act shall take effect July 1, 2013.