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# **Safety & Security Council**

**Wednesday, January 9, 2008  
3:15.m. – 5:00 p.m.  
102 House Office Building, Reed Hall**

**Marco Rubio  
Speaker**

**Dick Kravitz  
Chair**



# **The Florida House of Representatives**

## **Safety & Security Council**

**Marco Rubio**  
Speaker

**Dick Kravitz**  
Chair

**January 9, 2008**

### **AGENDA**

**3:15.m. – 5:00 p.m.**

**102 House Office Building, Reed Hall**

- I. Call Meeting to Order**
- II. Roll Call**
- III. Opening Comments**
- IV. Consideration of the following bills**
  - HB 9 Persons Injured by Crime by Rep. Llorente**
  - HB 105 Secondary Metals Recyclers by Rep. Troutman**
  - HB 107 Human Smuggling by Rep. Snyder**
  - HB 117 Orders of No Contact by Rep. Adams**
- V. Presentation by the Office of Economic and Demographic Research on Criminal Justice Trends Impacting Prison Admissions/Population**
- VI. Closing Remarks**
- VII. Adjournment**





## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Safeguard Individual Liberty – The bill makes it a crime for a person who takes custody of or exercises control over a person he or she knows to be injured as a result of criminal activity to deprive that person of medical care with the intent to avoid, delay, hinder, or obstruct any investigation of the criminal activity contributing to the injury.

#### B. EFFECT OF PROPOSED CHANGES:

In 2003, Frank Pacheco was assaulted by a group of men and sustained serious injuries. After the assault, the attackers allegedly put Pacheco in the back of a car and forced Pacheco's companion to drive around. The prosecutor in the case stated that "the wounds Pacheco suffered from the beating were not life-threatening, but they became so after he was shoved into the car and not taken directly to the hospital."<sup>1</sup>

HB 9 creates s. 843.21, F.S., which provides that a person who takes custody of or exercises control over a person he or she knows to be injured as a result of criminal activity and deprives that person of medical care with the intent to avoid, delay, hinder, or obstruct any investigation of the criminal activity contributing to the injury commits:

- A third degree felony<sup>2</sup> where the victim's medical condition worsens as a result of the deprivation of medical care.
- A second degree felony<sup>3</sup> where the deprivation of medical care results in the victim's death.

The bill has an effective date of October 1, 2008.

#### C. SECTION DIRECTORY:

**Section 1.** Cites the bill as the "Frank Pacheco Aid to Victims Act."

**Section 2.** Creates s. 843.21, F.S., relating to depriving crime victim of medical care.

**Section 3.** This bill takes effect October 1, 2008.

### II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

##### 1. Revenues:

None.

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<sup>1</sup> <http://www.miaminewtimes.com/2005-03-24/news/how-to-get-away-with-murder/5>

<sup>2</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. ss. 775.082, 775.083, and 775.084, F.S.

<sup>3</sup> A second-degree felony is punishable by up to 15 years imprisonment and a \$10,000 fine. ss. 775.082, 775.083, and 775.084, F.S.

2. Expenditures:

Indeterminate. See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Criminal Justice Impact Conference has not yet met to determine the prison bed impact of this bill. However, to the extent that this bill creates a new crime, there may be an additional prison bed impact.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

1                                   A bill to be entitled  
 2           An act relating to persons injured by crime; providing a  
 3           short title; creating s. 843.21, F.S.; prohibiting the  
 4           depriving of a victim injured by a crime of medical  
 5           treatment with specified intent; providing penalties;  
 6           providing an effective date.

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

9  
 10           Section 1. This act may be cited as the "Frank Pacheco Aid  
 11 to Victims Act."

12           Section 2. Section 843.21, Florida Statutes, is created to  
 13 read:

14           843.21 Depriving crime victim of medical care.--A person  
 15 who takes custody of or exercises control over a person he or  
 16 she knows to be injured as a result of criminal activity and  
 17 deprives that person of medical care with the intent to avoid,  
 18 delay, hinder, or obstruct any investigation of the criminal  
 19 activity contributing to the injury commits:

20           (1) Where the victim's medical condition worsens as a  
 21 result of the deprivation of medical care, a felony of the third  
 22 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 23 775.084.

24           (2) Where deprivation of medical care contributes or  
 25 results in the death of the victim, a felony of the second  
 26 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 27 775.084.

28           Section 3. This act shall take effect October 1, 2008.





**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 105 Secondary Metals Recyclers

**SPONSOR(S):** Troutman and others

**TIED BILLS:** **IDEN./SIM. BILLS:**

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security &amp; Public Safety</u>	<u>9 Y, 0 N</u>	<u>Padgett</u>	<u>Kramer</u>
2) <u>Safety &amp; Security Council</u>	<u></u>	<u>Padgett</u> <i>RP</i>	<u>Havlicak</u> <i>RH</i>
3) <u>Policy &amp; Budget Council</u>	<u></u>	<u></u>	<u></u>
4) <u></u>	<u></u>	<u></u>	<u></u>
5) <u></u>	<u></u>	<u></u>	<u></u>

**SUMMARY ANALYSIS**

A secondary metals recycler is essentially a scrap metal dealer. Secondary metals recyclers purchase used metals typically salvaged from building demolition, remodeling, etc. and refine those metals into raw materials which can be used to make new products. Secondary metals recyclers are currently regulated under Ch. 538, Part II, F.S. All secondary metals recyclers in Florida must be registered with the Department of Revenue as provided in s. 538.25, F.S. HB 105 amends and expands several aspects of the laws relating to secondary metals recyclers.

- The bill eliminates the requirement that transactions must be greater than \$10 in value to be regulated under these statutes.
- The bill requires secondary metals recyclers to gather more in depth information about the sellers of regulated metals.
- The bill enhances the penalties secondary metals recyclers face for repeated noncompliance with statutory requirements; increasing the penalty from a first degree misdemeanor to a third degree felony.
- The bill enhances the penalties sellers of regulated metals face for giving false information to secondary metals recyclers; increasing the penalties to second and third degree felonies (based on the dollar amount received by the seller).
- The bill requires the Department of Revenue to release the names of any registered secondary metals recycler to a law enforcement official upon request.
- The bill requires that all regulated metals be transported to a secondary metals recycler in a motor vehicle; eliminating current exceptions.

This bill appears to have an indeterminate but likely insignificant prison bed impact on the Department of Corrections.

Note: The Committee on Homeland Security & Public Safety adopted a recommended council substitute. See Amendment section for details.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. HOUSE PRINCIPLES ANALYSIS:

Promote Personal Responsibility: The bill increases sanctions on secondary metals recyclers who repeatedly fail to keep required transaction records and hold metals, pursuant to a request from a law enforcement officer, for a certain period of time. The bill also enhances the punishment if a seller provides false information to a secondary metals recycler.

### B. EFFECT OF PROPOSED CHANGES:

A secondary metals recycler is essentially a scrap metal dealer. Secondary metals recyclers purchase used metals typically salvaged from building demolition, remodeling, etc. and refine those metals into raw materials which can be used to make new products. Secondary metals recyclers are currently regulated under Ch. 538, Part II, F.S. All secondary metals recyclers in Florida must be registered with the Department of Revenue as provided in s. 538.25, F.S.

Recently, there has been an increase of reports of metal theft (specifically copper) from construction sites, citrus groves, air conditioner units, cell phone towers, and even a report of copper theft from an Amtrak locomotive. The reports state that thieves take the stolen metal to a secondary metals recycler and sell the metal for cash. Currently, scrap copper wire sells for \$2.59-\$2.74 per pound<sup>1</sup>.

#### Definitions

Currently, to qualify as a "purchase transaction"<sup>2</sup> regulated under Chapter 538, the transaction must involve an exchange of consideration greater than \$10. Section 538.18(6), F.S. HB 105 deletes the requirement that the transaction be greater than \$10. This has the effect of making all transactions involving the sale of regulated metals subject to the regulations set forth in Florida Statutes, Chapter 538, Part II.

#### Record Keeping

Currently s. 538.19, F.S. requires secondary metals recyclers<sup>3</sup> to gather information about each seller of regulated metals<sup>4</sup> and information about the regulated metals being sold. The current statute requires the secondary metals recycler to maintain a record of:

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<sup>1</sup> [http://www.dallascontracting.com/scrap\\_copper\\_metal\\_prices.html](http://www.dallascontracting.com/scrap_copper_metal_prices.html) (As of December 4, 2007).

<sup>2</sup> A purchase transaction is formally defined as a transaction in which a secondary metals recycler gives consideration having a value in excess of \$10 in exchange for regulated metals property. Section 538.18(6), F.S.

<sup>3</sup> Section 538.18, F.S. defines a secondary metals recycler as "any person who: (a) is engaged, from a fixed location or otherwise, in the business of gathering or obtaining ferrous or nonferrous metals that have served their original economic purpose or is in the business of performing the manufacturing process by which ferrous or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value; or (b) has facilities for performing the

- The name of the secondary metals recycler
- The name of the seller
- The date and time of the transaction
- The weight, quantity, or volume, and a description of the regulated metals being sold
- A signed statement from the seller stating that the seller is entitled to sell the regulated metals
- The number of a seller's personal identification card
- A photograph of the seller

HB 105 expands this list to require that secondary metals recyclers also gather the following additional information:

- The seller's full name, residential address, workplace, and home and work telephone number
- The seller's height, weight, date of birth, race, gender, hair color, eye color, and other physical identifying marks
- The seller's right thumbprint
- A description of the seller's vehicle including the make, model, and tag number
- Any other information required by FDLE
- A photograph of the regulated metals being sold

The secondary metals recycler is required to keep this information for 5 years from the date of the transaction. There is no requirement the form on which the seller's information is recorded be approved by any governmental department.

A "personal identification card" is currently defined as driver's license, identification card, passport, military identification card, or a work authorization card. HB 105 deletes this specific language and amends the statute to include the broader definition of any government issued photo identification card.

HB 105 also amends s. 538.19, F.S. to require the form on which the above information is recorded be approved by FDLE.

#### Enhanced Penalties – Secondary Metals Recyclers

Currently, s. 538.23 provides that a secondary metals recycler is guilty of a first degree misdemeanor<sup>5</sup> if convicted for knowingly and intentionally:

- Failing to allow a law enforcement official access to inspect records of transactions

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manufacturing process by which ferrous or nonferrous metals are converted into raw material products consisting of prepared grades and having an existing or potential economic value, other than by the exclusive use of hand tools, by methods including, without limitation, processing, sorting, cutting, classifying, cleaning, baling, wrapping, shredding, shearing, or changing the physical form or chemical content thereof."

<sup>4</sup> Regulated metals are defined as "any item composed primarily of any nonferrous metals, but shall not include aluminum beverage containers, or similar beverage containers." Section 538.18(7), F.S.

<sup>5</sup> Punishable by up to a year in jail and a \$1,000 fine. See s. 775.082(4)(a), F.S. and s. 775.083(1)(d), F.S.

- Failing to allow a law enforcement official access to inspect regulated metals in the possession of the secondary metals recycler
- Failing to gather and maintain records of each transaction
- Failing, pursuant to a request from law enforcement, to hold regulated metals for a minimum period of time
- Purchasing regulated metals from a seller where the metals were not transported in a motor vehicle

HB 105 expands s. 538.23(1)(a), F.S. to allow for enhanced penalties for third or subsequent offenses of s. 538.23, F.S. The bill makes third or subsequent offenses a third degree felony<sup>6</sup>.

#### Enhanced Penalties – Sellers of Regulated Metals

Subsection (3) of s. 538.23, F.S. provides that a seller of regulated metals who receives money for a transaction and knowingly gives false verification of ownership of the regulated metals or who gives altered identification to a secondary metals recycler is guilty of:

- A first degree misdemeanor if the seller received less than \$300
- A third degree felony if the seller received \$300 or more

HB 105 amends s. 538.23, F.S. to enhance the penalties for violations of subsection (3). The bill provides that a seller convicted under s. 538.23(3), F.S. is guilty of:

- A third degree felony if the seller received less than \$300
- A second degree felony<sup>7</sup> if the seller received \$300 or more

#### Registration of Secondary Metals Recyclers

Currently, s. 538.25, F.S. provides that secondary metals recyclers must register with the Department of Revenue and lists minimum eligibility requirements to become a registered secondary metals recycler. The Department of Revenue is authorized by s. 213.053(11), F.S. to give law enforcement officials the name of a specified secondary metals dealer as well as information on whether a specified secondary metals dealer holds a valid certificate of registration.

HB 105 adds subsection (6) to s. 538.25, which requires the Department of Revenue, upon the request of a law enforcement official, to release the names and addresses of any secondary metals recyclers who are registered to do business in the law enforcement official's jurisdiction.

#### Prohibited Transactions

Section 538.26(4) currently prohibits secondary metals recyclers from purchasing regulated metals from sellers if the regulated metals were not transported in a motor vehicle. There is an exception, however, if the seller can prove ownership of the regulated metals<sup>8</sup>.

<sup>6</sup> Punishable by up to 5 years in prison and a \$5,000 fine. See s. 775.082(3)(d), F.S. and s. 775.083(1)(c), F.S.

<sup>7</sup> Punishable by up to 15 years in prison and a \$10,000 fine. See s. 775.082(3)(c), F.S. and s. 775.083(1)(b), F.S.

HB 105 amends s. 538.26(4) to eliminate the exception which allows the purchase if the seller can prove ownership of the regulated metals. The bill would require sellers to transport all regulated metals to a secondary metals recycler in a motor vehicle. Aluminum cans are specifically excluded from this provision<sup>9</sup>.

C. SECTION DIRECTORY:

Section 1 Amends s. 538.18, F.S.; revising the definitions of "personal identification card" and "purchase transaction."

Section 2 Amends s. 538.19, F.S.; relating to information the secondary metals recycler must obtain concerning each seller.

Section 3 Amends s. 538.23, F.S.; relating to violations and penalties.

Section 4 Amends s. 538.25, F.S.; relating to registration.

Section 5 Amends s. 538.26, F.S.; relating to certain prohibited practices involving secondary metals recyclers.

Section 6 Provides effective date of October 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate – see fiscal comments section.

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

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<sup>8</sup> A violation of this section would subject the secondary metals recycler to punishment of a first degree misdemeanor. Section 538.23(1), F.S.

<sup>9</sup> Aluminum cans are also excluded from the definition of regulated metals. Section 538.18(7), F.S.

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

HB 105 requires secondary metals recyclers to gather additional information about sellers of regulated metals. Secondary metals recyclers are already obligated to collect some information about the sellers of regulated metals so there is already an existing framework for the information gathering process. This bill would increase the amount of information secondary metals recyclers are required to collect, but since the structure for gathering such information is already in place, the economic impact on the private sector is likely to be minimal.

**D. FISCAL COMMENTS:**

The Criminal Justice Impact Conference has not met to consider the prison bed impact of this bill on the Department of Corrections. The bill creates third degree felony penalties for certain offenses and as a result, this bill may have a prison bed impact on the department. However, the third degree felony offenses created by this bill are not ranked in the Offense Severity Ranking Chart and as a result, will default to a level 1 ranking. Such offenses are usually presumed to have an insignificant prison bed impact on the Department of Corrections.

**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.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**D. STATEMENT OF THE SPONSOR**

No comment submitted.

#### IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES

On December 12, 2007, the Committee on Homeland Security & Public Safety adopted three amendments and reported the bill favorably as a recommended council substitute. The recommended council substitute makes the following changes to the original bill:

- changes the term "secondhand dealers" to "secondary metals recyclers." This change maintains consistent language throughout Ch. 538, Part II which regulates only secondary metals recyclers. The recommended council substitute also deletes an exception regarding the purchase of aluminum cans. Aluminum cans are already excluded from the definition of regulated metals in s. 538.18(7), F.S.
- creates s. 538.235, F.S., which requires secondary metals recyclers to make payment to the seller by check if the transaction amount exceeds \$1,000. The recommended council substitute also adds s. 538.23(1)(a)4, F.S., which makes failure to comply with s. 538.235, F.S. a first degree misdemeanor.
- adds "stainless steel beer kegs" to the definition of regulated metals. The recommended council substitute also specifies that, for any transaction involving a stainless steel beer keg, the seller must provide written documentation from the manufacturer of the keg that the seller is the owner of the keg or has the authority to sell the keg.

1 A bill to be entitled

2 An act relating to secondary metals recyclers; amending s.  
 3 538.18, F.S.; revising the definition of "personal  
 4 identification card"; deleting an exclusion of  
 5 transactions under a specified amount from the definition  
 6 of "purchase transaction" for specified purposes; amending  
 7 s. 538.19, F.S.; providing for additional seller  
 8 information to be obtained; requiring an image of the  
 9 regulated metals being sold; amending s. 538.23, F.S.;  
 10 providing for enhanced penalties for third or subsequent  
 11 violations of a specified provision; providing enhanced  
 12 penalties for violations of specified provisions relating  
 13 to false verification of ownership or false or altered  
 14 identification of a seller of regulated metals; amending  
 15 s. 538.25, F.S.; requiring the Department of Revenue to  
 16 provide a law enforcement official, upon request, with  
 17 specified information regarding certain secondhand  
 18 dealers; amending s. 538.26, F.S.; prohibiting the  
 19 purchase of any regulated metals property, other than  
 20 aluminum cans, when presented at the property of a  
 21 secondary metals recycler and not transported in a motor  
 22 vehicle; providing an effective date.

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

25  
 26 Section 1. Subsections (5) and (6) of section 538.18,  
 27 Florida Statutes, are amended to read:

28 538.18 Definitions.--As used in this part, the term:



29 (5) "Personal identification card" means any government-  
 30 issued photographic identification card ~~a driver's license or~~  
 31 ~~identification card issued by the Department of Highway Safety~~  
 32 ~~and Motor Vehicles under s. 322.03 or s. 322.051, or a similar~~  
 33 ~~card issued by another state, a military identification card, a~~  
 34 ~~passport, or an appropriate work authorization issued by the~~  
 35 ~~United States Bureau of Citizenship and Immigration Services.~~

36 (6) "Purchase transaction" means a transaction in which a  
 37 secondary metals recycler gives consideration ~~having a value in~~  
 38 ~~excess of \$10 in exchange~~ for regulated metals property.

39 Section 2. Subsection (2) of section 538.19, Florida  
 40 Statutes, is amended to read:

41 538.19 Records required.--

42 (2) The following information must be maintained on a form  
 43 approved by the Department of Law Enforcement for each purchase  
 44 transaction:

45 (a) The name and address of the secondary metals recycler.

46 (b) The name, initials, or other identification of the  
 47 individual entering the information on the ticket.

48 (c) The date and time of the transaction.

49 (d) The weight, quantity, or volume, and a description of  
 50 the type of regulated metals property purchased in a purchase  
 51 transaction.

52 (e) The amount of consideration given in a purchase  
 53 transaction for the regulated metals property.

54 (f) A signed statement from the person delivering the  
 55 regulated metals property stating that she or he is the rightful

56 owner of, or is entitled to sell, the regulated metals property  
57 being sold.

58 (g) The distinctive number from the personal  
59 identification card of the person delivering the regulated  
60 metals property to the secondary metals recycler.

61 (h) A description of the person from whom the goods were  
62 acquired, including:

63 1. Full name, current residential address, workplace, and  
64 home and work phone numbers.

65 2. Height, weight, date of birth, race, gender, hair  
66 color, eye color, and any other identifying marks.

67 3. The right thumbprint, free of smudges and smears.

68 4. Vehicle description to include the make, model, and tag  
69 number of the vehicle and trailer of the person selling the  
70 regulated metals property.

71 5. Any other information required by the form approved by  
72 the Department of Law Enforcement.

73 (i) A photograph, videotape, or digital image of the  
74 regulated metals being sold.

75 (j)-~~h~~ A photograph, videotape, or similar likeness of the  
76 person receiving consideration in which such person's facial  
77 features are clearly visible.

78 Section 3. Subsections (1) and (3) of section 538.23,  
79 Florida Statutes, are amended to read:

80 538.23 Violations and penalties.--

81 (1) (a) Except as provided in paragraph (b), a secondary  
82 metals recycler who shall, upon conviction of knowingly and  
83 intentionally:

84 1.(a) Violates ~~Violating~~ s. 538.20 or s. 538.21;  
 85 2.(b) Engages ~~Engaging~~ in a pattern of failing to keep  
 86 records ~~as~~ required by s. 538.19; or

87 3.(c) Violates ~~Violating~~ s. 538.26(4),  
 88  
 89 ~~commits be guilty of~~ a misdemeanor of the first degree,  
 90 punishable as provided in s. 775.082.

91 (b) A secondary metals recycler who commits a third or  
 92 subsequent violation of paragraph (a) commits a felony of the  
 93 third degree, punishable as provided in s. 775.082, s. 775.083,  
 94 or s. 775.084.

95 (3) Any person who knowingly gives false verification of  
 96 ownership or who gives a false or altered identification and who  
 97 receives money or other consideration from a secondary metals  
 98 recycler in return for regulated metals property ~~commits shall,~~  
 99 ~~upon conviction, be guilty of:~~

100 (a) A felony ~~misdemeanor~~ of the third ~~first~~ degree,  
 101 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.  
 102 775.084, if the value of the money or other consideration  
 103 received is less than \$300.

104 (b) A felony of the second ~~third~~ degree, punishable as  
 105 provided in s. 775.082, s. 775.083, or s. 775.084, if the value  
 106 of the money or other consideration received is \$300 or more.

107 Section 4. Subsection (6) is added to section 538.25,  
 108 Florida Statutes, to read:

109 538.25 Registration.--

110 (6) Upon the request of a law enforcement official, the  
 111 Department of Revenue shall release to the official the name and

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112 address of any secondhand dealer registered to do business  
 113 within the official's jurisdiction.

114 Section 5. Subsection (4) of section 538.26, Florida  
 115 Statutes, is amended to read:

116 538.26 Certain acts and practices prohibited.--It is  
 117 unlawful for a secondary metals recycler to do or allow any of  
 118 the following acts:

119 (4) Purchase regulated metals property, with the exception  
 120 of aluminum cans, from any seller who presents such property for  
 121 sale at the registered location of the secondary metals recycler  
 122 when such property was not transported in a motor vehicle ~~unless~~  
 123 ~~the seller can prove ownership of the regulated metals property.~~

124 Section 6. This act shall take effect October 1, 2008.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

Bill No. 105

COUNCIL/COMMITTEE ACTION

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

**ADOPTED**

1 Council/Committee hearing bill: Homeland Security & Public  
 2 Safety Committee

3 Representative(s) Rep. Troutman offered the following:

4

5 **Amendment (with title amendment)**

6 Remove everything after the enacting clause and  
 7 insert:

8 Section 1. Subsections (5), (6) and (7) of section 538.18,  
 9 Florida Statutes, are amended to read:

10 538.18 Definitions.--As used in this part, the term:

11 (5) "Personal identification card" means any government-  
 12 issued photographic identification card ~~a driver's license or~~  
 13 ~~identification card issued by the Department of Highway Safety~~  
 14 ~~and Motor Vehicles under s. 322.03 or s. 322.051, or a similar~~  
 15 ~~card issued by another state, a military identification card, a~~  
 16 ~~passport, or an appropriate work authorization issued by the~~  
 17 ~~United States Bureau of Citizenship and Immigration Services.~~

18 (6) "Purchase transaction" means a transaction in which a  
 19 secondary metals recycler gives consideration ~~having a value in~~  
 20 ~~excess of \$10 in exchange~~ for regulated metals property.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

21 (7) "Regulated metals property" means any item composed  
22 primarily of any nonferrous metals, but shall not include  
23 aluminum beverage containers, used beverage containers, or  
24 similar beverage containers. The term shall include stainless  
25 steel beer kegs.

26 Section 2. Subsection (2) of section 538.19, Florida  
27 Statutes is amended to read:

28 538.19 Records required.--

29 (2) The following information must be maintained on a form  
30 approved by the Department of Law Enforcement for each purchase  
31 transaction:

32 (a) The name and address of the secondary metals recycler.

33 (b) The name, initials, or other identification of the  
34 individual entering the information on the ticket.

35 (c) The date and time of the transaction.

36 (d) The weight, quantity, or volume, and a description of  
37 the type of regulated metals property purchased in a purchase  
38 transaction.

39 (e) The amount of consideration given in a purchase  
40 transaction for the regulated metals property.

41 (f) A signed statement from the person delivering the  
42 regulated metals property stating that she or he is the rightful  
43 owner of, or is entitled to sell, the regulated metals property  
44 being sold. If the purchase involves a stainless steel beer  
45 keg, the seller must provide written documentation from the  
46 manufacturer that the seller is the owner of the stainless steel  
47 beer keg or is an employee or agent of the manufacturer.

48 (g) The distinctive number from the personal  
49 identification card of the person delivering the regulated  
50 metals property to the secondary metals recycler.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

51 (h) A description of the person from whom the goods were  
52 acquired, including:

53 1. Full name, current residential address, workplace, and  
54 home and work phone numbers.

55 2. Height, weight, date of birth, race, gender, hair  
56 color, eye color, and any other identifying marks.

57 3. The right thumbprint, free of smudges and smears.

58 4. Vehicle description to include the make, model, and tag  
59 number of the vehicle and trailer of the person selling the  
60 regulated metals property.

61 5. Any other information required by the form approved by  
62 the Department of Law Enforcement.

63 (i) A photograph, videotape, or digital image of the  
64 regulated metals being sold.

65 ~~(j)-(h)~~ A photograph, videotape, or similar likeness of the  
66 person receiving consideration in which such person's facial  
67 features are clearly visible.

68 Section 3. Subsections (1) and (3) of section 538.23,  
69 Florida Statutes, are amended to read:

70 538.23 Violations and penalties.--

71 (1) ~~(a)~~ Except as provided in paragraph (b), a secondary  
72 metals recycler ~~who shall, upon conviction of knowingly and~~  
73 ~~intentionally:~~

74 ~~1.(a)~~ Violates Violating s. 538.20 or s. 538.21;

75 ~~2.(b)~~ Engages Engaging in a pattern of failing to keep  
76 records ~~as~~ required by s. 538.19; ~~or~~

77 ~~3.(c)~~ Violates Violating s. 538.26(4), or

78 4. Violates s. 538.235;

79

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

80 commits ~~be guilty of~~ a misdemeanor of the first degree,  
81 punishable as provided in s. 775.082.

82 (b) A secondary metals recycler who commits a third or  
83 subsequent violation of paragraph (a) commits a felony of the  
84 third degree, punishable as provided in s. 775.082, s. 775.083,  
85 or s. 775.084.

86 (3) Any person who knowingly gives false verification of  
87 ownership or who gives a false or altered identification and who  
88 receives money or other consideration from a secondary metals  
89 recycler in return for regulated metals property commits shall,  
90 ~~upon conviction, be guilty of:~~

91 (a) A ~~felony misdemeanor~~ of the third first degree,  
92 punishable as provided in s. 775.082, ~~or~~ s. 775.083, or s.  
93 775.084, if the value of the money or other consideration  
94 received is less than \$300.

95 (b) A felony of the second third degree, punishable as  
96 provided in s. 775.082, s. 775.083, or s. 775.084, if the value  
97 of the money or other consideration received is \$300 or more.

98 Section 4. Section 538.235, Florida Statutes, is created  
99 to read:

100 538.235 Method of Payment.--

101 A secondary metals recycler shall not enter into any cash  
102 transaction in excess of one thousand dollars in payment for the  
103 purchase of regulated metals property. Payment in excess of one  
104 thousand dollars for the purchase of regulated metals property  
105 shall be made by check issued to the seller of the metal. The  
106 check shall be payable to the seller.

107 Section 5. Subsection (6) is added to section 538.25,  
108 Florida Statutes, to read:

109 538.25 Registration.--



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

110       (6) Upon the request of a law enforcement official, the  
111 Department of Revenue shall release to the official the name and  
112 address of any secondary metals recycler registered to do  
113 business within the official's jurisdiction.

114       Section 6. Subsection (4) of section 538.26, Florida  
115 Statutes, is amended to read:

116       538.26 Certain acts and practices prohibited.--It is  
117 unlawful for a secondary metals recycler to do or allow any of  
118 the following acts:

119       (4) Purchase regulated metals property from any seller who  
120 presents such property for sale at the registered location of  
121 the secondary metals recycler when such property was not  
122 transported in a motor vehicle ~~unless the seller can prove~~  
123 ~~ownership of the regulated metals property.~~

124       Section 7. This act shall take effect October 1, 2008.

125

126 -----

127                   **T I T L E   A M E N D M E N T**

128       Remove the entire title and insert:

129

130                   A bill to be entitled

131 An act relating to secondary metals recyclers; amending s.  
132 538.18, F.S.; revising the definition of "personal  
133 identification card"; deleting an exclusion of transactions  
134 under a specified amount from the definition of "purchase  
135 transaction" for specified purposes; revising the definition of  
136 "regulated metals property"; amending s. 538.19, F.S.; providing  
137 for additional seller information to be obtained; requiring an  
138 image of the regulated metals being sold; amending s. 538.23,  
139 F.S.; providing for enhanced penalties for third or subsequent

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1 (for drafter's use only)

140 violations of a specified provision; providing enhanced  
141 penalties for violations of specified provisions relating to  
142 false verification of ownership or false or altered  
143 identification of a seller of regulated metals; creating s.  
144 538.235, F.S.; prohibiting secondary metals recyclers from  
145 entering into cash transactions in certain circumstances;  
146 amending s. 538.25, F.S.; requiring the Department of Revenue to  
147 provide a law enforcement official, upon request, with specified  
148 information regarding certain secondary metals recyclers;  
149 amending s. 538.26, F.S.; prohibiting the purchase of any  
150 regulated metals property, when presented at the property of a  
151 secondary metals recycler and not transported in a motor  
152 vehicle; providing an effective date.

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Safety & Security Council  
2 Representative(s) Needelman offered the following:

3  
4 **Amendment to Amendment (1) by Representative Troutman**

5 Between line 67 and 68 insert:

6 (3) Any secondary metals recycler who maintains an  
7 electronic database containing a photograph of the regulated  
8 metals being sold, a photograph of the seller's drivers license  
9 or state identification card along with a scan of the magnetic  
10 strip authenticating the license, and multiple photos of the  
11 individual selling the regulated metals shall be exempt from the  
12 requirements of paragraph (h) of subsection 2. The secondary  
13 metals recycler may maintain the records required to be  
14 maintained pursuant to subsection 2 in an electronic format in  
15 lieu of the a form approved by the Florida Department or Law  
16 Enforcement.

17 (4)-(3) A secondary metals recycler shall maintain or cause  
18 to be maintained the information required by this section for  
19 not less than 5 years from the date of the purchase transaction.  
20  
21

22 -----  
23 **D I R E C T O R Y A M E N D M E N T**

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES  
Amendment No. 1a (for drafter's use only)

24 Remove line(s) 26-27 and insert:

25  
26 Section 2. Subsection (2) of section 538.19, Florida  
27 Statutes, is amended, a new subsection (3) is created and  
28 current subsection (3) is renumbered as subsection (4) to read:

29  
30  
31  
32



**HOUSE OF REPRESENTATIVES STAFF ANALYSIS**

**BILL #:** HB 107 Human Smuggling

**SPONSOR(S):** Snyder and others

**TIED BILLS:** **IDEN./SIM. BILLS:** SB 424

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR
1) <u>Committee on Homeland Security &amp; Public Safety</u>	9 Y, 0 N	Kramer	Kramer
2) <u>Safety &amp; Security Council</u>		Kramer <i>OK</i>	Havlicak <i>RH</i>
3) <u>Policy &amp; Budget Council</u>			
4) _____			
5) _____			

**SUMMARY ANALYSIS**

HB 107 creates section 877.28, F.S. which makes it a third degree felony for a person to transport *into the state* an individual who the person knows is illegally entering the United States or has illegally entered or remained in the United States. The section also provides that:

- If the person transported in violation of this section is a minor, the offense will be a second degree felony.
- If a violation of the section results in great bodily harm to a person transported, a five year minimum mandatory sentence must be imposed.
- If a violation of the section results in the death of a person transported, a ten year minimum mandatory minimum sentence must be imposed.

The section also provides that a person commits a separate offense for each person he or she transports in violation of the section.

This bill appears to have an indeterminate fiscal impact on the Department of Corrections.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

Provide limited government: This bill provides criminal penalties for activities that may not currently be punishable under state law.

Promote personal responsibility: This bill creates criminal penalties for someone who transports *into the state* an individual who the person knows is illegally entering the United States or has illegally entered or remained in the United States

#### B. EFFECT OF PROPOSED CHANGES:

*Human Trafficking and sex trafficking offenses:* Section 787.06, F.S. makes it a second degree felony for any person to knowingly:

1. Engage, or attempt to engage, in human trafficking with the intent or knowledge that the trafficked person will be subjected to forced labor or services; or
2. Benefit financially by receiving anything of value from participation in a venture that has subjected a person to forced labor or services;

The term "human trafficking" is defined by that section to mean transporting, soliciting, recruiting, harboring, providing, or obtaining another person for transport.

Section 796.045, F.S. provides that any person who knowingly recruits, entices, harbors, transports, provides, or obtains by any means a person, knowing that force, fraud, or coercion will be used to cause that person to engage in prostitution, commits the offense of sex trafficking. The offense is a second degree felony and is a first degree felony if committed against a victim under the age of 14 or if it results in death.

Florida statutes do not specifically provide criminal penalties for transporting a person into the state who is illegally entering or remaining in the United States.

*Laws of other jurisdictions:* Federal law governs whether a person is legally authorized to enter or remain in this country. Federal law provides criminal penalties for illegally transporting a person into the country. Specifically, 8 U.S.C. s. 1324 provides criminal penalties for any person who:

1. knowing that a person is an alien, brings to or attempts to bring to the United States in any manner whatsoever such person at a place other than a designated port of entry or place other than as designated by the Commissioner, regardless of whether such alien has received prior official authorization to come to, enter, or reside in the United States and regardless of any future official action which may be taken with respect to such alien;

2. knowing or in reckless disregard of the<sup>1</sup> fact that an alien has come to, entered, or remains in the United States in violation of law, transports, or moves or attempts to transport or move such alien within the United States by means of transportation or otherwise, in furtherance of such violation of law;
3. knowing or in reckless disregard of the fact that an alien has come to, entered, or remains in the United States in violation of law, conceals, harbors, or shields from detection, or attempts to conceal, harbor, or shield from detection, such alien in any place, including any building or any means of transportation;

Several other states have passed legislation in recent years making it unlawful to transport a person who is illegally in the country or entering the country. For example, Colorado's law provides that a person commits "smuggling of humans" if, "for the purpose of assisting another person to enter, remain in, or travel through the United States or the state of Colorado in violation of immigration laws, he or she provides or agrees to provide transportation to that person in exchange for money or any other thing of value".

*Effect of bill:* HB 107 creates section 877.28, F.S. which makes it a third degree felony for a person to transport *into the state* an individual who the person knows is illegally entering the United States or has illegally entered or remained in the United States. The section also provides that:

- If the person transported in violation of this section is a minor, the offense will be a second degree felony.
- If a violation of the section results in great bodily harm to a person transported, a five year minimum mandatory sentence must be imposed.
- If a violation of the section results in the death of a person transported, a ten year minimum mandatory minimum sentence must be imposed.

The section also provides that a person commits a separate offense for each person he or she transports in violation of the section.

#### C. SECTION DIRECTORY:

Section 1. Creates s. 877.28, F.S., relating to human smuggling.

Section 2. Provides effective date of October 1, 2008.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

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

1. Revenues:  
None.

---

<sup>1</sup> See, Colorado - C.R.S.A. s. 18-13-128; See also, Arizona - A.R.S. s. 13-2319; Oklahoma – 21 Okl.St. Ann. s. 446; Tennessee – T.C.A. s. 39-17-114



2. Expenditures:  
Indeterminate – see fiscal comments.

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

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

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

This bill would criminalize the activity of transporting into the state an individual who the person knows is illegally entering the United States or has illegally entered or remained in the United States. This activity is already punishable under federal law.

**D. FISCAL COMMENTS:**

The Criminal Justice Impact Conference has not met to consider the prison bed impact of this bill on the Department of Corrections. The bill creates new third degree and second degree felony offenses for activities which currently may not be punishable under state law. Additionally, the bill will require the imposition of five or ten year minimum mandatory sentences for certain offenses. As a result, the bill may have a prison bed impact.

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:  
None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**D. STATEMENT OF THE SPONSOR**

The bill sponsor submitted the following statement:

This bill, if enacted, will provide local and state law enforcement entities a much needed resource in their efforts to protect Florida's borders. Currently, there is no state law against the smuggling of illegal immigrants into Florida. When smugglers are apprehended by state law enforcement personnel, they must

wait for Federal investigators to take over the case. This can result in the loss of evidence, the disappearance of witnesses, the destruction of the crime scene, and a weaker criminal case.

#### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

A bill to be entitled

An act relating to human smuggling; creating s. 877.28, F.S.; prohibiting transporting into the state an individual who the person knows is illegally entering the United States or has illegally entered or remained in the United States; providing penalties; providing enhanced penalties for specified violations; providing an effective date.

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

Section 1. Section 877.28, Florida Statutes, is created to read:

877.28 Human smuggling.--

(1) (a) Except as provided in paragraph (b), a person who transports into the state an individual who the person knows is illegally entering the United States or has illegally entered or remained in the United States commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) A person who transports a minor in violation of paragraph (a) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) (a) If a violation of this section results in great bodily harm to a person transported, a mandatory minimum sentence of 5 years' imprisonment must be imposed.

HB 107

2008

27        (b) If a violation of this section results in the death of  
28 a person transported, a mandatory minimum sentence of 10 years'  
29 imprisonment must be imposed.

30        (3) A person commits a separate offense for each person he  
31 or she transports in violation of this section.

32        Section 2. This act shall take effect October 1, 2008.





## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. HOUSE PRINCIPLES ANALYSIS:

**Promote Personal Responsibility** – This bill requires courts to issue no contact orders when sentencing persons convicted of certain violent offenses.

#### B. EFFECT OF PROPOSED CHANGES:

##### Current Situation

Currently, courts must issue an order prohibiting an offender from having contact with the victim for the duration of the sentence imposed when sentencing offenders who have been convicted of:

- Sexual battery – s. 794.011, F.S.; or
- Lewd and lascivious offenses committed upon or in the presence of persons less than 16 – s. 800.04, F.S.

The prohibition includes direct as well as indirect contact and remains in effect for the duration of the sentence imposed. Offenders who violate these orders, commonly referred to as “no contact orders,” commit a 3<sup>rd</sup> degree felony<sup>1</sup>, and any punishment imposed must run consecutive to any former sentence imposed.<sup>2</sup>

Courts may reconsider a no contact order upon the request of the victim if the request is made after the victim is 18 or older.<sup>3</sup> If such a request is made, the court must hold an evidentiary hearing to determine whether a change of circumstances has occurred which warrants a change in the order and whether it is in the best interests of the victim that the order be modified or rescinded.<sup>4</sup>

##### Effect of the Bill

HB 117 adds to the above list of qualifying crimes by requiring courts to issue a no contact order when sentencing persons convicted of any of the offenses contained in s. 775.084(1)(b)1.a.-o., F.S. These crimes include arson, 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, and aggravated stalking.

---

<sup>1</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. ss. 775.082, 775.083, and s. 775.084, F.S.

<sup>2</sup> s. 921.244, F.S.

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

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

C. SECTION DIRECTORY:

**Section 1.** Amends s. 921.244, F.S., relating to order of no contact; penalties.

**Section 2.** This bill takes effect October 1, 2008.

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

A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

Indeterminate. See "Fiscal Comments."

B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

None.

D. FISCAL COMMENTS:

The Criminal Justice Impact Conference has not yet met to consider the prison bed impact of this bill. However, the offense expanded by this bill is a 3<sup>rd</sup> degree felony, which is not ranked in the offense severity ranking chart. As a result, it defaults to a Level I offense in the ranking chart. Such offenses are usually presumed to have an insignificant prison bed impact on the Department of Corrections.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:



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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

D. STATEMENT OF THE SPONSOR

No statement submitted.

#### **IV. AMENDMENTS/COUNCIL SUBSTITUTE CHANGES**

1 A bill to be entitled

2 An act relating to orders of no contact; amending s.  
 3 921.244, F.S.; requiring that offenders convicted of  
 4 specified violent offenses be prohibited from having any  
 5 contact with the victim; providing penalties; providing  
 6 that the penalty for violation of such an order run  
 7 consecutive to the sentence for the original violation;  
 8 providing an effective date.

9  
 10 Be It Enacted by the Legislature of the State of Florida:

11  
 12 Section 1. Section 921.244, Florida Statutes, is amended  
 13 to read:

14 921.244 Order of no contact; penalties.--

15 (1) At the time of sentencing an offender convicted of a  
 16 violation of s. 794.011 or s. 800.04 or any offense in s.  
 17 775.084(1)(b)1.a.-o., the court shall order that the offender be  
 18 prohibited from having any contact with the victim, directly or  
 19 indirectly, including through a third person, for the duration  
 20 of the sentence imposed. The court may reconsider the order upon  
 21 the request of the victim if the request is made at any time  
 22 after the victim has attained 18 years of age. In considering  
 23 the request, the court shall conduct an evidentiary hearing to  
 24 determine whether a change of circumstances has occurred which  
 25 warrants a change in the court order prohibiting contact and  
 26 whether it is in the best interest of the victim that the court  
 27 order be modified or rescinded.

HB 117

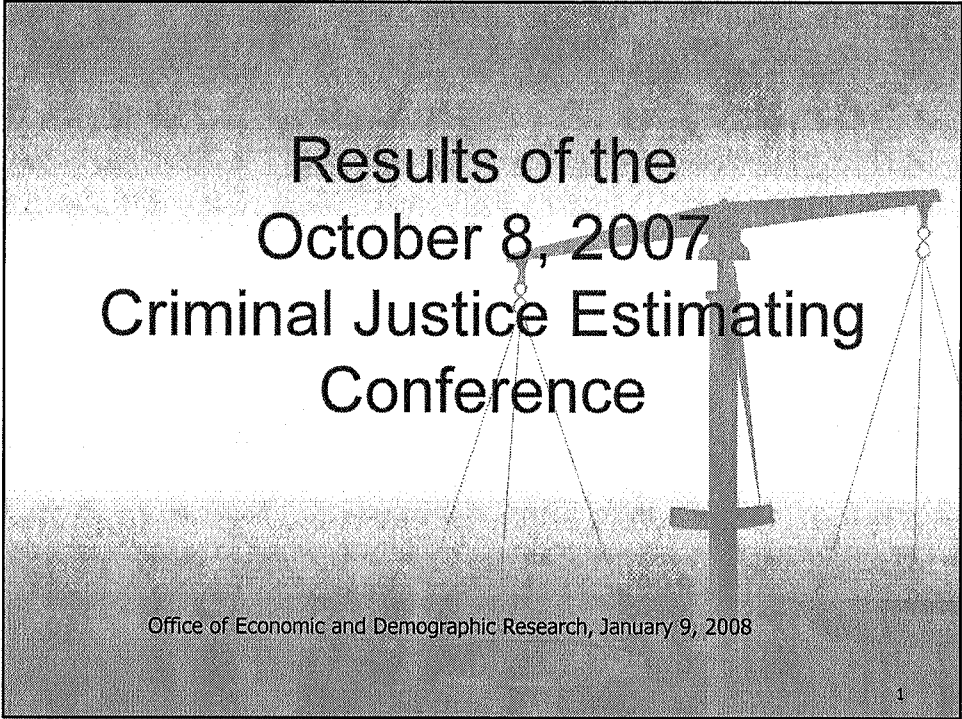
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28           (2) Any offender who violates a court order issued under  
29 this section commits a felony of the third degree, punishable as  
30 provided in s. 775.082, s. 775.083, or s. 775.084.

31           (3) The punishment imposed under this section shall run  
32 consecutive to any former sentence imposed for a conviction for  
33 any offense under s. 794.011 or s. 800.04 or any offense in s.  
34 775.084(1)(b)1.a.-o.

35           Section 2. This act shall take effect October 1, 2008.

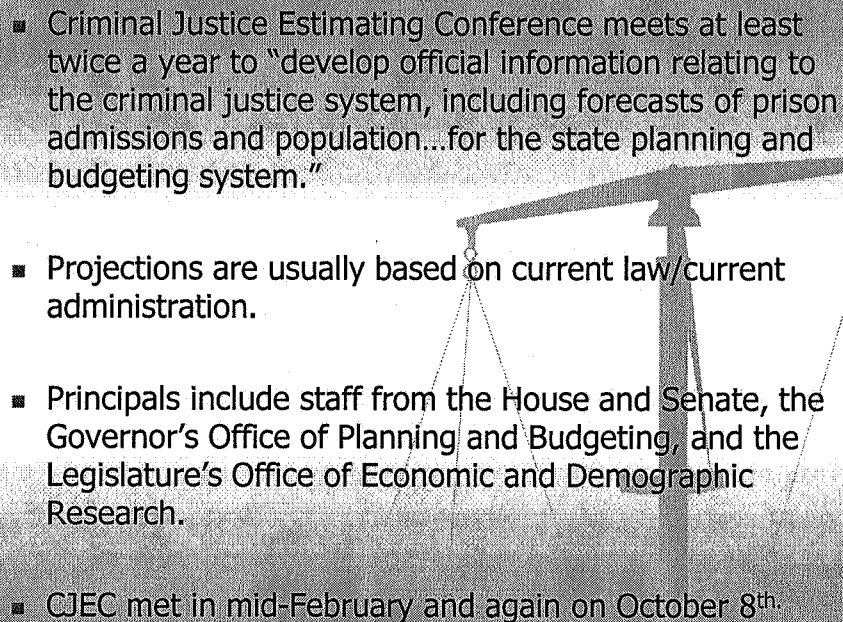


A background image of a pair of scales of justice, rendered in a dark, semi-transparent style against a light, textured background. The scales are positioned on the right side of the slide, with the pans hanging from a central beam.

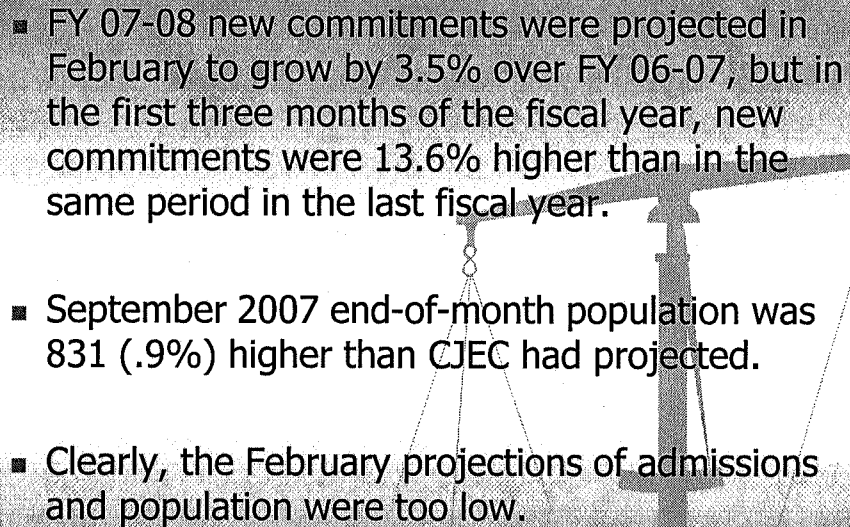
# Results of the October 8, 2007 Criminal Justice Estimating Conference

Office of Economic and Demographic Research, January 9, 2008

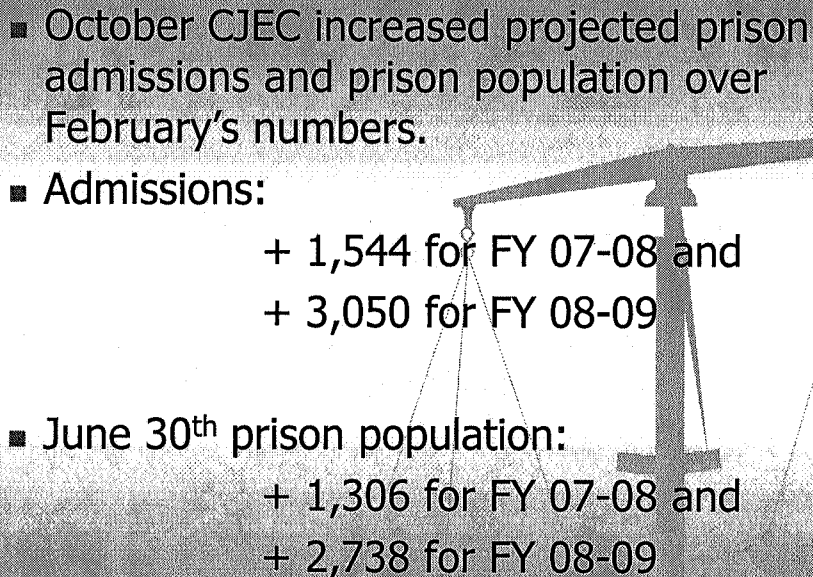
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- 
- A background image of a pair of scales of justice, rendered in a dark, semi-transparent style against a light, textured background. The scales are positioned on the right side of the slide, with the pans hanging from a central beam.
- Criminal Justice Estimating Conference meets at least twice a year to “develop official information relating to the criminal justice system, including forecasts of prison admissions and population...for the state planning and budgeting system.”
  - Projections are usually based on current law/current administration.
  - Principals include staff from the House and Senate, the Governor’s Office of Planning and Budgeting, and the Legislature’s Office of Economic and Demographic Research.
  - CJEC met in mid-February and again on October 8<sup>th</sup>.

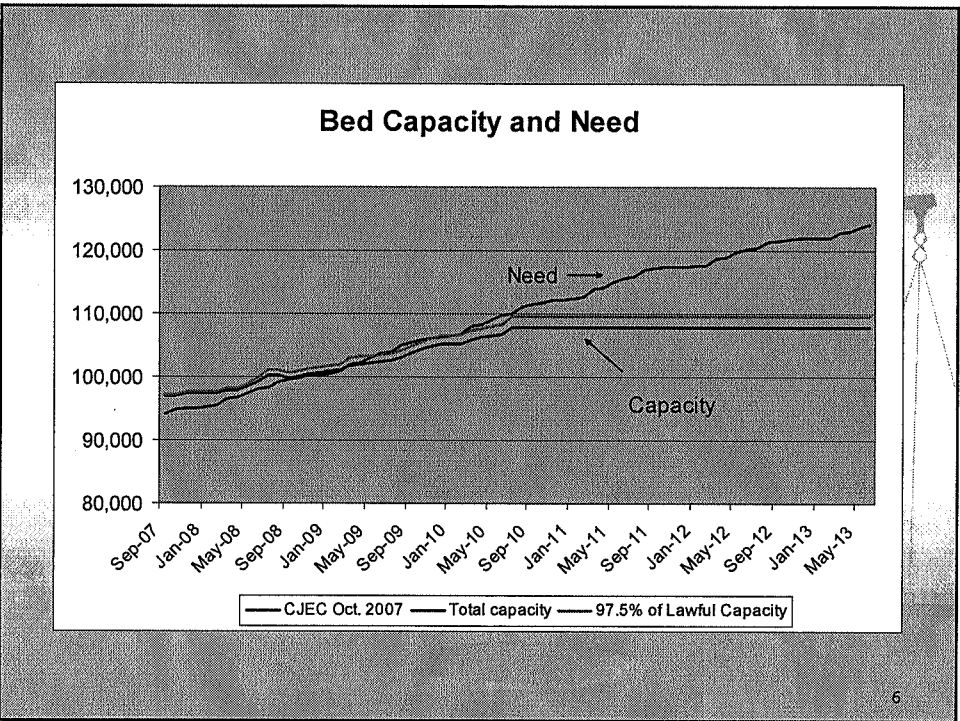
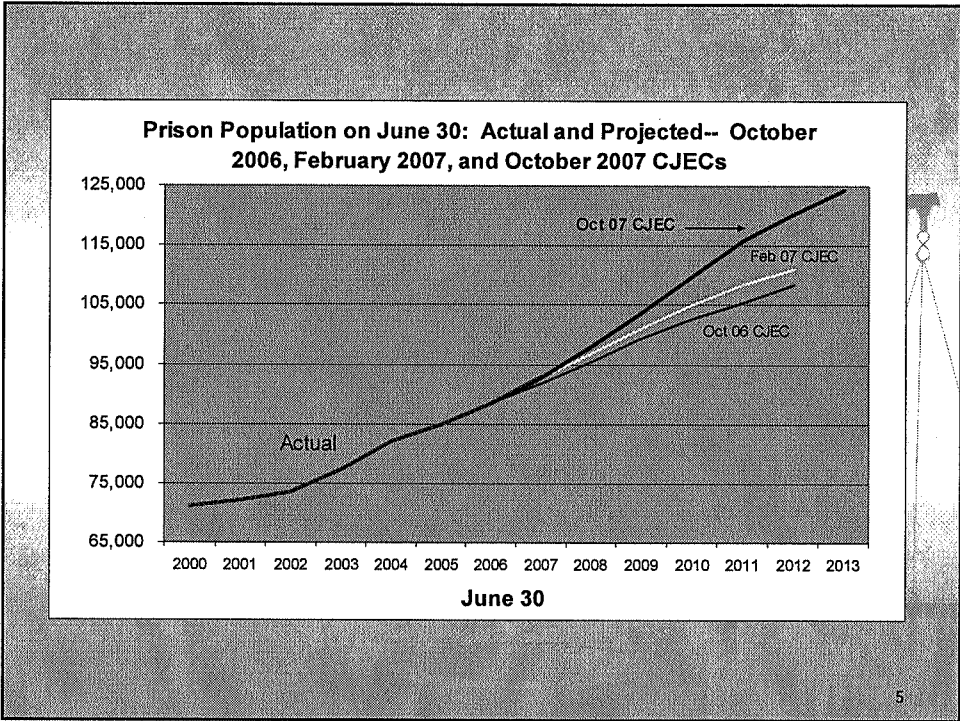
2

- 
- FY 07-08 new commitments were projected in February to grow by 3.5% over FY 06-07, but in the first three months of the fiscal year, new commitments were 13.6% higher than in the same period in the last fiscal year.
  - September 2007 end-of-month population was 831 (.9%) higher than CJEC had projected.
  - Clearly, the February projections of admissions and population were too low.

3

- 
- October CJEC increased projected prison admissions and prison population over February's numbers.
  - Admissions:
    - + 1,544 for FY 07-08 and
    - + 3,050 for FY 08-09
  - June 30<sup>th</sup> prison population:
    - + 1,306 for FY 07-08 and
    - + 2,738 for FY 08-09

4



## Why were projections increased?

Review of criminal justice trends indicated that several factors are resulting in larger numbers of new commitments coming to prison than had been anticipated.

New forecast included impact of Anti-Murder Bill passed in 2007.

7

## Factors Related to Increase in New Commitments

- Crime Trends
- Zero tolerance policy
- Jail overcrowding
- Judicial behavior

8



# Factor 1 -- Crime Trends

Six Month Uniform Crime Report: January-June

## TOTAL INDEX CRIMES

Year	Total Index Crimes	Change from prior year
2002	442,604	0.7%
2003	436,882	-1.3%
2004	426,702	-2.3%
2005	412,743	-3.3%
2006	411,608	-0.3%
2007	427,646	3.9%

9

# Crime Trends

Six Month Uniform Crime Report: January-June

## VIOLENT CRIME

## NON-VIOLENT CRIME

Year	Violent Crime	Change from prior year	Non-Violent Crime	Change from prior year
2002	62,770	-1.6%	379,834	1.1%
2003	61,699	-1.7%	375,183	-1.2%
2004	61,345	-0.6%	365,357	-2.6%
2005	61,737	0.6%	351,006	-3.9%
2006	63,712	3.2%	347,896	-0.9%
2007	65,011	2.0%	362,635	4.2%

10



## How is zero tolerance related to increase in admissions?

### Zero tolerance resulted in

- Additional technical violators being sentenced to prison, often for less serious offenses (technical violators were originally sentenced to probation/community control for their offense).

13

## New Commitment and Technical Violator Admissions to Prison

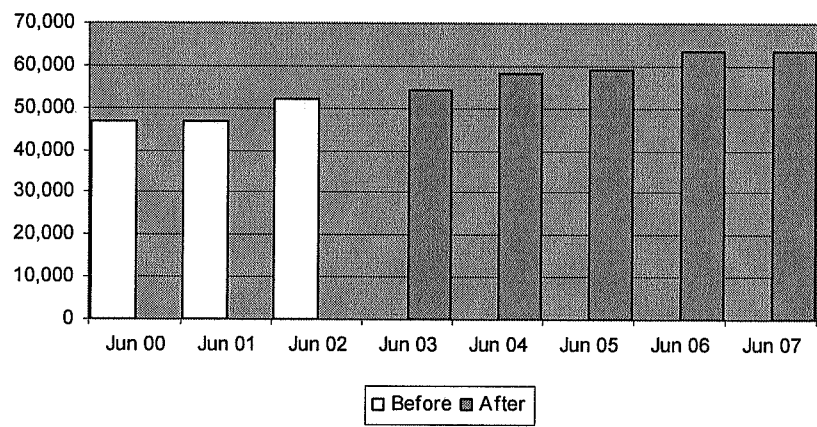
Fiscal Year	Total new commitments	Technical violator new commitments	Technical violators as % of total new commitments
FY 02-03*	28,658	7,898	27.6%
FY 03-04	31,638	9,478	30.0%
FY 04-05	31,964	10,148	31.7%
FY 05-06	34,546	10,380	30.0%
FY 06-07	37,288	11,089	29.7%
<b>Change FY 02-03 to FY 06-07</b>	<b>30.1%</b>	<b>40.4%</b>	
<b>Total new commitment growth FY 02-03 to FY 06-07:</b>			<b>8,630</b>
<b>Growth in technical violators during same period:</b>			<b>3,191</b>
<b>% of growth due to increase in technical violators:</b>			<b>37.0%</b>

\*Zero tolerance began in March 2003.

14

# Factor 3 -- Jail Overcrowding

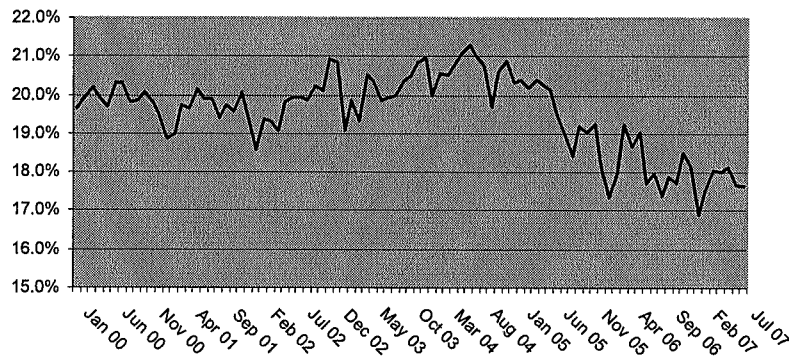
### June County Jail Average Daily Population Before and After Zero Tolerance



- On June 30, 2007, county jails in 27 of Florida's 67 counties were operating at more than 100% of capacity.
- Twelve of these counties were operating at more than 125% of capacity.

17

**Sentenced Felons in County Jails as % of Total Jail Population**

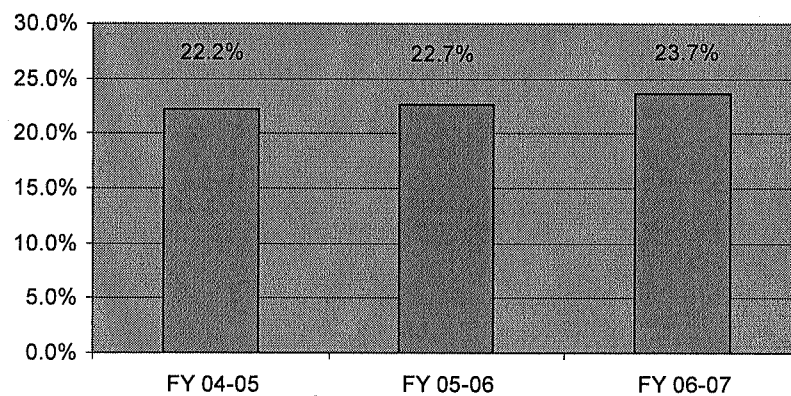


18

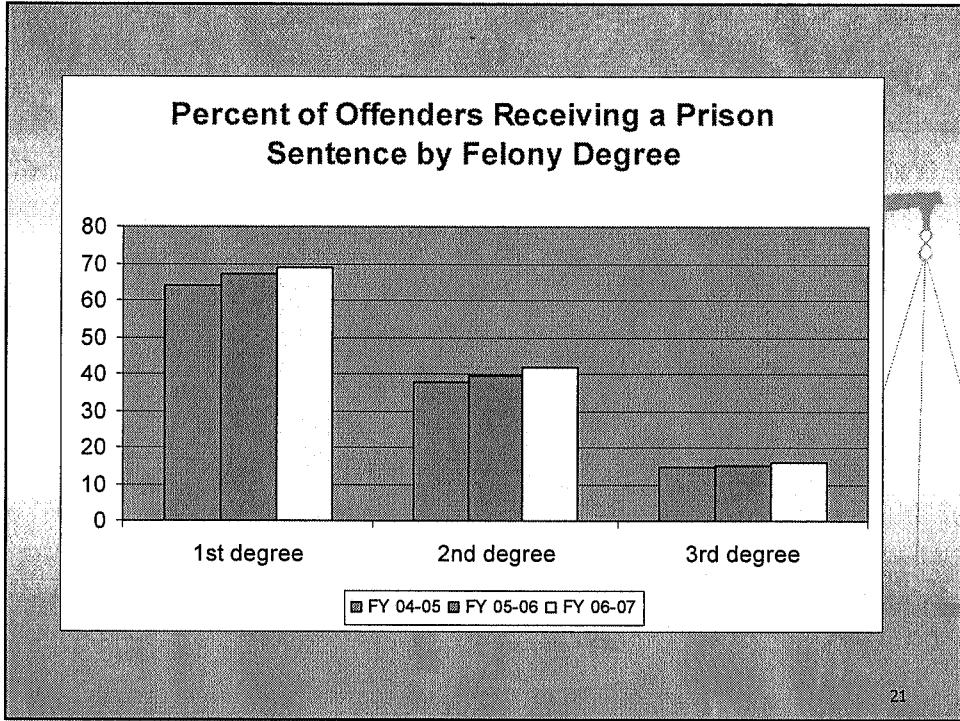
# Factor 4 -- Judicial behavior

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## Offenders sentenced to prison



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- In 2005-06, 74,072 of the offenders sentenced received 44 or fewer points (78.5%) and 7.3% were sentenced to prison.
  - In 2006-07, 78,929 of the offenders sentenced received 44 or fewer points (78.4%) and 8.2 % were sentenced to prison.
  - If 2006-07 rate had been the same as prior year, 5,762 of the individuals with 44 or fewer points would have been sentenced to prison instead of the 6,476 who were.
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While numbers of new commitments have been increasing, changes have also occurred in the characteristics of new commitments.

**Type of offense**  
**Sentence length**  
**Felony degree**

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### Primary Offense of New Commitments

	2002	2006
Murder	3.1%	2.6%
Sexual Offenses	6.0%	4.6%
Robbery	8.3%	5.7%
Violent Personal Crimes	13.7%	13.4%
Burglary	14.6%	12.8%
Theft, Forgery, Fraud	14.8%	15.1%
Drug Offenses	28.6%	30.5%
Weapon Offenses	3.2%	3.1%
Other	7.9%	12.1%
TOTAL	100.0%	100.0%
Total New Commitments	27,176	35,724

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## Offense Trends

- Violent offenses are now a smaller share of new commitments than prior to zero tolerance (31.1% in 2002; 26.3% in 2006).
- Largest increases have been in drug and "other" categories.

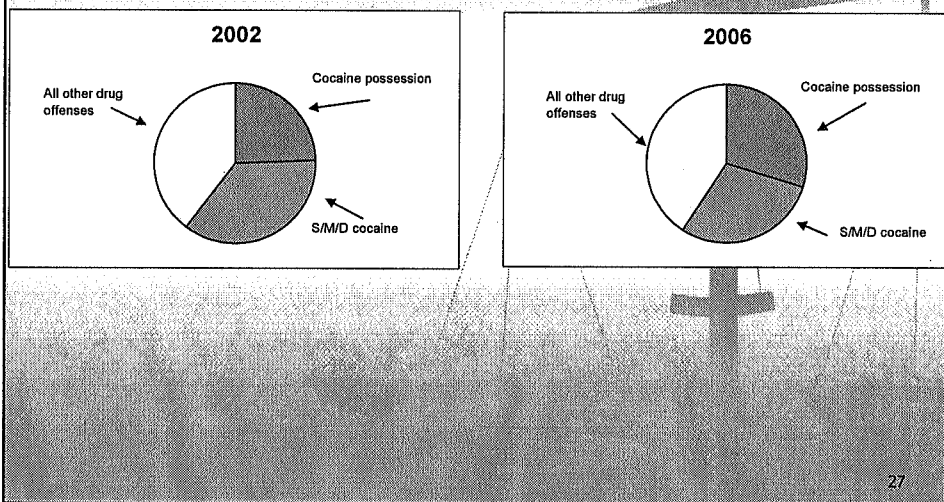
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## Drug Offenses

- New commitments for drug offenses increased by 41% between 2002 and 2006.
- In both years, 6 out of 10 offenders came to prison for cocaine possession or sale/manufacture of cocaine.

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**Between 2002 and 2006, cocaine possession increased by 71%.**

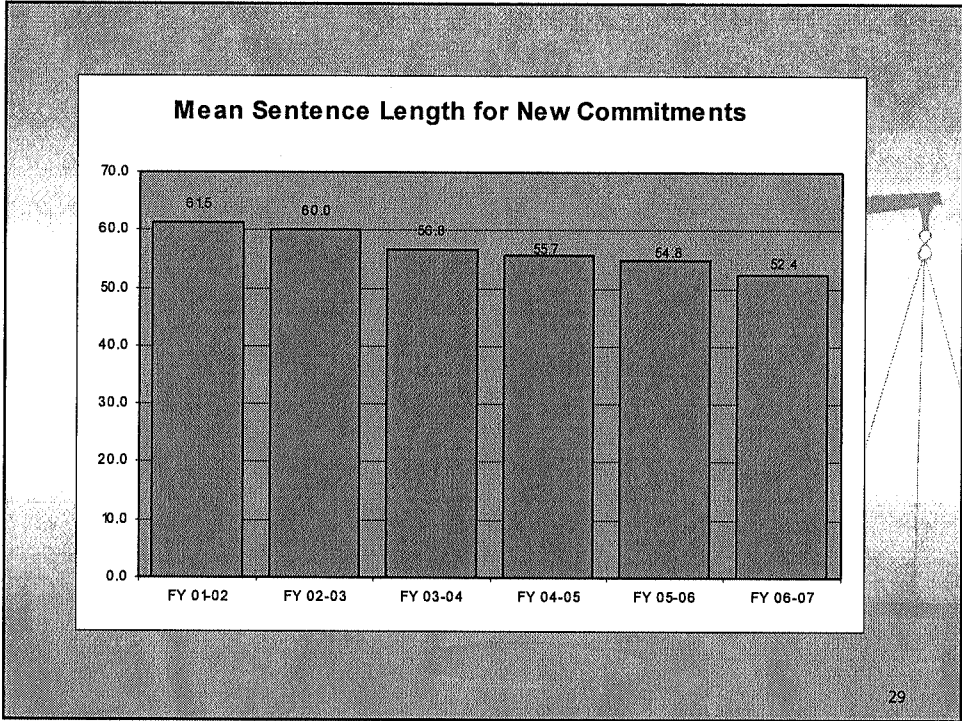


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## “Other” Offenses

- New commitments for “other” offenses more than doubled between 2002 and 2006.
- 37% of that increase due to one offense: driving with a suspended license. In 2006, over 1,400 offenders came to prison with this offense up from around 600 in 2002.
- New commitments coming to prison with a sex offender registration offense increased from under 100 to nearly 600 in 2006 (13.4% of “other” offenses).

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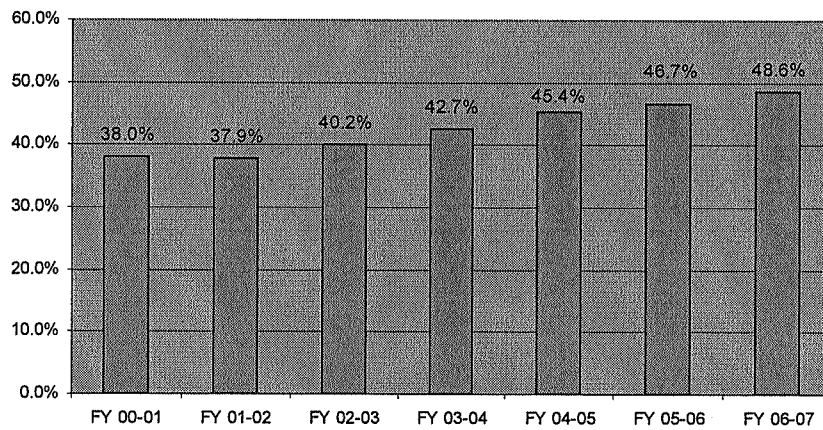


### SENTENCE LENGTH DISTRIBUTION OF NEW COMMITMENTS AND CHANGE: FY 05-06 TO FY 06-07

	FY 05-06	FY 06-07	Change	Percent Change	Percent Share of Total Change
366 days	5,217	6,601	1,384	26.5%	50.7%
367 days-15 m	3,560	3,761	201	5.6%	7.3%
16 - 33 m	11,601	12,076	474	4.1%	17.4%
34 - 51 m	5,877	6,272	395	6.7%	14.5%
52 - 78 m	3,327	3,501	173	5.2%	6.4%
GT 79 m	4,964	5,066	102	2.1%	3.7%
<b>Total</b>	<b>34,546</b>	<b>37,276</b>	<b>2,730</b>	<b>7.9%</b>	<b>100.0%</b>

- In FY 06-07, 550 new commitments came to prison each month with year-and-a-day sentences.
- These 6,600 new commitments were 17.7% of the total new commitments.

**Third Degree Felonies as Percent of New Commitments**



MONITORING PRISON ADMISSIONS TO THE DEPARTMENT OF CORRECTIONS  
SINCE THE CRIMINAL JUSTICE ESTIMATING CONFERENCE HELD 10/8/2007

MONTH	ADMISSIONS		MONTHLY	CUMULATIVE
	ESTIMATE	ACTUAL	OVER/ (UNDER)	OVER/ (UNDER)
October 2007	3,374	3,925	551	551
November 2007	3,347	3,220	-127	424
December 2007 *	3,185	3,164	-21	403
<b>Total</b>	<b>9,906</b>	<b>10,309</b>	<b>% Error:</b>	<b>4.1%</b>

\*Preliminary

MONITORING PRISON POPULATION IN THE DEPARTMENT OF CORRECTIONS  
SINCE THE CRIMINAL JUSTICE ESTIMATING CONFERENCE HELD 10/8/2007

MONTH	POPULATION		CUMULATIVE
	ESTIMATE	ACTUAL	OVER/ (UNDER)
October 2007	94,684	95,037	353
November 2007	94,930	95,142	212
December 2007	94,932	95,252	320
	0.3%	% Error	

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For additional information

Florida Legislature, Office of Economic and Demographic  
Research

[edr.state.fl.us](http://edr.state.fl.us)

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