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# **APPROPRIATIONS COMMITTEE**

Tuesday, February 16, 2016  
3:00 PM – 6:00 PM  
212 Knott Building

Meeting Packet

Volume 2

**Steve Crisafulli**  
Speaker

**Richard Corcoran**  
Chair



# The Florida House of Representatives

## Appropriations Committee

Steve Crisafulli  
Speaker

Richard Corcoran  
Chair

### AGENDA

Tuesday, February 16, 2016  
212 Knott Building  
3:00 PM – 6:00 PM

I. Call to Order/Roll Call/Opening Remarks

II. **Consideration of the following bills:**

**CS/CS/CS/HB 11** Missing Persons with Special Needs by Judiciary Committee,  
Education Appropriations Subcommittee, Criminal Justice Subcommittee, Porter

**HB 117** Education Funding by Beshears

**HB 331** Compensation of Victims of Wrongful Incarceration by DuBose

**CS/HB 371** Florida Council on Poverty by Government Operations Subcommittee,  
Williams, A., Albritton

**CS/HB 429** Military and Veterans Affairs by Veteran & Military Affairs Subcommittee,  
Steube

**CS/HB 499** Ad Valorem Taxation by Local & Federal Affairs Committee, Avila

**CS/HB 533** Arthur G. Dozier School for Boys by Government Operations  
Subcommittee, Narain

**CS/HB 593** Government Accountability by Government Operations Subcommittee, Metz

**CS/HB 701** Art in the Capitol Competition by K-12 Subcommittee, Lee

**CS/HB 1235** Housing Assistance by Children, Families & Seniors Subcommittee, Miller,  
Brodeur

**CS/HB 1299** Public Assistance by Children, Families & Seniors Subcommittee, Eagle

**CS/HB 1347** Illicit Drugs by Criminal Justice Subcommittee, Ingram

**HB 4027** Traffic Infraction Detectors by Artiles

**HB 4049** Scrutinized Companies by Combee

**HB 7107** Public Employees by State Affairs Committee, Caldwell

III. Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1235 Housing Assistance  
**SPONSOR(S):** Children, Families & Seniors Subcommittee, Miller, Brodeur and others  
**TIED BILLS:** IDEN./SIM. BILLS: SB 1534

| REFERENCE                                    | ACTION           | ANALYST           | STAFF DIRECTOR or BUDGET/POLICY CHIEF |
|--|------------------|-------------------|---------------------------------------|
| 1) Children, Families & Seniors Subcommittee | 11 Y, 0 N, As CS | Langston          | Brazzell                              |
| 2) Appropriations Committee                  |                  | Proctor <i>JP</i> | Leznoff <i>W</i>                      |
| 3) Economic Affairs Committee                |                  |                   |                                       |

### SUMMARY ANALYSIS

According to the 2015 Annual Homeless Assessment Report, Florida has the third highest number of persons who are homeless in the United States and a high percentage of unsheltered homelessness, meaning individuals who are homeless who stay in places not meant for human habitation.

There are a number of government programs and public-private partnerships that seek to provide affordable housing and reduce homelessness. The State Office on Homelessness (SOH) within the Department of Children and Families (DCF) serves as the central point of contact within state government for homelessness. SOH coordinates resources and programs across all levels of government and with private providers that serve individuals who are homeless. DCF is required to establish local coalitions to plan, network, coordinate, and monitor the delivery of services to the homeless.

The Florida Housing Finance Corporation (FHFC) is a public corporation that provides affordable housing through a number of programs, including the State Apartment Incentive Loan (SAIL) and State Housing Initiatives Partnership (SHIP) programs. The SAIL program provides low-interest loans on a competitive basis to affordable housing developers each year. The SHIP program provides funds to local governments to create partnerships that produce and preserve affordable homeownership and multifamily housing for very low, low and moderate-income families.

HB 1235 provides greater flexibility and increases accountability for programs receiving public funds to address homelessness by:

- Authorizing rapid re-housing as a strategy to address homelessness. Rapid re-housing is a model for providing housing for individuals and families who are homeless that places a priority on moving a family or individual experiencing homelessness into permanent housing as quickly as possible, ideally within 30 days.
- Creating a task force within SOH to make recommendations regarding the implementation of a Statewide Homeless Management Information System (HMIS).
- Changing the performance measures used by SOH to specific outcomes rather than outputs.
- Requiring SOH to establish performance measures and specific objectives by which to evaluate the performance and outcomes of lead agencies that receive grant funds.
- Requiring SOH to distribute grant funds based on lead agencies' performance and achievement of specified objectives.
- Modifying how SAIL program funds are distributed to certain tenant groups.
- Broadens the definition of "rent subsidy" under the SHIP program to include initial assistance to tenants, such as grants or loans for security and utility deposits, which had been previously disallowed.
- Clarifying the instances in which local governments participating in the SHIP program may provide ongoing rental assistance.
- Requiring the SOH and SHIP programs to engage the managing entities when addressing homelessness.
- Prohibiting a housing authority from applying to the federal government to seize a project, unit, or voucher of another established housing authority, regardless of each housing authority's areas of operation.
- Addressing the receipt of future funding from the federal National Housing Trust Fund. The federal National Housing Trust Fund was established in 2008. The goal of the trust fund is to provide ongoing, permanent, dedicated, and sufficient sources of revenue to build, rehabilitate, and preserve 1.5 million units of housing for the lowest-income families, including the homeless.

The bill does not appear to have a fiscal impact on state or local government.

The bill provides an effective date of July 1, 2016.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h1235b.APC.DOCX

DATE: 2/12/2016

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Present Situation

There are three main categories of persons who are homeless:

- *Sheltered homeless persons*: individuals who are staying in emergency shelters, transitional housing programs, or safe havens;
- *Unsheltered homeless persons*: individuals who stay in places not meant for human habitation, such as the streets, abandoned buildings, vehicles, or parks; and
- *Chronically homeless persons*: homeless individuals with disabilities who have been either continuously homeless for a year or more or have experienced at least four episodes of homelessness in the last three years.<sup>1</sup>

According to the 2015 Annual Homeless Assessment Report, Florida has the third highest number of persons who are homeless in the United States<sup>2</sup> and a high percentage of unsheltered homelessness, including a high number of unsheltered chronically homeless people.<sup>3</sup> However, while the number of homeless individuals is high, Florida had the largest decrease in homelessness from 2014 to 2015, reducing its homeless population by 5,642 individuals, or 13.6 percent.<sup>4</sup>

##### Housing First

In recent years, there has been a shift in the response to homelessness toward the Housing First philosophy.<sup>5</sup> Housing First provides a critical link between the emergency and transitional housing system and community-based social service, educational, and health care organizations.<sup>6</sup> This approach to homelessness differs from traditional approaches by providing housing assistance, case management, and support services responsive to individual or family needs after housing is obtained and emphasizes that social services provided to enhance individual and family well-being can be more effective when people are in their own home.<sup>7</sup> The Housing First approach addresses the societal causes of homelessness and advocates for the immediate return of individuals and families into housing and communities.<sup>8</sup>

##### Rapid Re-Housing

Rapid re-housing is a model for providing housing for individuals and families who are homeless that places a priority on moving a family or individual experiencing homelessness into permanent housing as quickly as possible, ideally within 30 days.<sup>9</sup> The rapid re-housing model developed from the

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<sup>1</sup> U.S. Department of Housing and Urban Development, *The 2015 Annual Homeless Assessment Report (AHAR) to Congress, PART 1: Point-in-Time Estimates of Homelessness*, (November 2015), available at <https://www.hudexchange.info/resources/documents/2015-AHAR-Part-1.pdf> (last visited January 22, 2016).

<sup>2</sup> Id. at 12. More than half of the homeless population in the United States was in five states: CA (21% or 115,738 people), NY (16% or 88,250 people), FL (6% or 35,900 people), TX (4% or 23,678 people), and MA (4% or 21,135 people).

<sup>3</sup> Id. at 23, 63. Over half of Florida's homeless population is estimated to be unsheltered; additionally, nearly 80 percent of Florida's chronically homeless are estimated to be unsheltered.

<sup>4</sup> Id. at 12-13. This is part of a larger trend for Florida, which has a decline in number of homeless individuals since 2007; Florida experienced a decline of 12,169 homeless individuals, or 25.3 percent, from 2007 to 2015.

<sup>5</sup> Mary Cunningham, Sarah Gillespie, and Jacqueline Anderson, *Rapid Re-housing: What the Research Says*, Urban Institute, (June 2015), pp. 8-9.

<sup>6</sup> S. 420.6275(2)(b), F.S.

<sup>7</sup> S. 420.6275(2)(a), F.S.

<sup>8</sup> Id.

<sup>9</sup> National Alliance to End Homelessness, *Rapid Re-Housing: A History and Core Components*, (2014), available at: <http://www.endhomelessness.org/page/-/files/RRH%20Core%20Elements%20Brief.pdf> (last visited January 22, 2016).

Housing First philosophy.<sup>10</sup> The model initially focused primarily on people experiencing homelessness due to short-term financial crises; however, programs across the country have begun to assist individuals and families who are traditionally perceived as more difficult to serve.<sup>11</sup>

There are three core components of rapid re-housing programs:

- *Housing identification services:* Households are matched to appropriate and affordable housing in the community.
- *Financial assistance for housing related expenses:* Time-limited financial assistance is provided to get individuals and families back on their feet.
- *Case management services:* Case management services are provided to help households address barriers that prevent access to or stability in stable housing.<sup>12</sup>

In 2008, the U.S. Department of Housing and Urban Development (HUD) expanded rapid re-housing through the Rapid Re-Housing for Homeless Families Demonstration program, which provided funds for pilot programs across the country.<sup>13</sup> In 2009, Congress established rapid re-housing as an eligible activity for federal Emergency Shelter Grants program funds.<sup>14</sup> Since federal funding for rapid re-housing first became available, a number of communities, including Palm Beach County, that prioritized rapid re-housing as a response to homelessness have seen decreases in the amount of time that households spend homeless, reduced recidivism to homelessness, and improved permanent housing outcomes relative to other available interventions.<sup>15</sup>

### Affordable Housing for Low Income Individuals

In 1986, the Legislature created the “Florida Affordable Care Act of 1986”<sup>16</sup> to help alleviate crucial problems related to housing shortages for individuals with very low,<sup>17</sup> low,<sup>18</sup> and moderate incomes,<sup>19</sup> based on its findings that:

- Decent, safe, and sanitary housing for individuals of very low income, low income, and moderate income is a critical need in the state;
- New and rehabilitated housing must be provided at a cost affordable to such persons in order to alleviate this critical need;
- Special programs are needed to stimulate private enterprise to build and rehabilitate housing in order to help eradicate slum conditions and provide housing for very-low-income persons, low-income persons, and moderate-income persons as a matter of public purpose; and

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<sup>10</sup> The Florida Legislature expressed the intent to encourage homeless continuums of care to adopt the Housing First approach to ending homelessness for individuals and families in 2009. S. 420.6275(1), F.S.

<sup>11</sup> *Supra*, note 9. Those perceived as more difficult to serve include people with limited or no income, survivors of domestic violence, and those with substance abuse issues.

<sup>12</sup> *Supra*, note 5.

<sup>13</sup> *Supra*, note 12 at 9.

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

<sup>15</sup> *Supra*, note 9.

<sup>16</sup> Ch. 86-192, Laws of Fla. created part VI of ch. 120, F.S.; Part VI was subsequently renamed the “Affordable Housing Planning and Community Assistance Act.” Ch. 92-317, Laws of Fla.

<sup>17</sup> “Very-low-income persons” means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 50 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater. S. 420.0004(17), F.S.

<sup>18</sup> “Low-income persons” means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 80 percent of the median annual adjusted gross income for households within the state, or 80 percent of the median annual adjusted gross income for households within the MSA or within the county in which the person or family resides, whichever is greater. S. 420.0004(11), F.S.

<sup>19</sup> “Moderate-income persons” means one or more persons or a family, the total annual adjusted gross household income of which is less than 120 percent of the median annual adjusted gross income for households within the state, or 120 percent of the median annual adjusted gross income for households within the MSA or within the county in which the household is located, whichever is greater. S. 420.0004(12), F.S.

- Public-private partnerships are an essential means of bringing together resources to provide affordable housing.<sup>20</sup>

### State Office on Homelessness

In 2001, the Florida Legislature created the State Office on Homelessness (SOH) within the Department of Children and Families (DCF) to serve as the central point of contact within state government for homelessness. SOH is responsible for coordinating resources and programs across all levels of government and with private providers that serve the homeless. It also manages targeted state grants to support the implementation of local homeless service continuum of care plans.<sup>21</sup>

#### *Council on Homelessness*

Also in 2001, the Legislature created the inter-agency Council on Homelessness. The 17-member council develops recommendations on how to reduce homelessness statewide and advises the SOH.<sup>22</sup>

#### *Local Coalitions for the Homeless*

DCF is required to establish local coalitions to plan, network, coordinate, and monitor the delivery of services to the homeless.<sup>23</sup> Groups and organizations provided the opportunity to participate in such coalitions include:

- Organizations and agencies providing mental health and substance abuse services;
- County health departments and community health centers;
- Organizations and agencies providing food, shelter, or other services targeted to the homeless;
- Local law enforcement agencies;
- Regional workforce boards;
- County and municipal governments;
- Local public housing authorities;
- Local school districts and local organizations and agencies serving specific subgroups of the homeless population such as veterans, victims of domestic violence, persons with HIV/AIDS, runaway youth; and
- Local community-based care alliances.<sup>24</sup>

#### *Continuum of Care*

The local coalition serves as the lead agency for the local homeless assistance continuum of care.<sup>25</sup> Section 420.621(1), F.S., defines “continuum of care” as the community components needed to organize and deliver housing and services to meet the specific needs of people who are homeless as they move to stable housing and maximum self-sufficiency; it includes action steps to end homelessness and prevent a return to homelessness.

A local homeless assistance continuum of care is a framework for a comprehensive and seamless array of emergency, transitional, and permanent housing, and services to address the various needs of the homeless and those at risk of homelessness.<sup>26</sup> The purpose of this framework is to help communities and regions envision, plan, and implement comprehensive and long-term solutions.<sup>27</sup>

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<sup>20</sup> S. 420.6015, F.S.

<sup>21</sup> S. 420.622(1), F.S.

<sup>22</sup> Id.

<sup>23</sup> S. 420.623, F.S.

<sup>24</sup> Id.

<sup>25</sup> S. 420.624, F.S.

<sup>26</sup> Id.

<sup>27</sup> Id.

The local homeless assistance continuum of care planning effort is an ongoing process that addresses all subpopulations of the homeless. The development of a local continuum of care plan is a prerequisite to applying for federal housing grants through HUD and makes the community eligible to compete for the state's Challenge Grant and Homeless Housing Assistance Grant.<sup>28</sup>

### *Challenge Grants*

In 2001, the Florida established the Challenge Grant and authorized SOH to accept and administer moneys appropriated to it to provide Challenge Grants annually to designated lead agencies of homeless assistance continuums of care. SOH may award grants in an amount of up to \$500,000 per lead agency.<sup>29</sup> In order to qualify for a grant, the lead agency must develop and implement a local homeless assistance continuum of care plan for its designated area.<sup>30</sup>

DCF must establish award levels for Challenge Grants specifying criteria to determine award levels and, after consultation with the Council on Homelessness, to specify the grant award levels in the notice of solicitation of grant applications.<sup>31</sup> Any lead agency that receives a Challenge Grant must submit reports to DCF detailing its use of the grant funds.<sup>32</sup>

The Challenge Grant was funded out of an appropriation to DCF through Fiscal Year 2012-13.<sup>33</sup> In 2014, the Challenge Grant was funded through the Florida Housing Finance Trust Fund,<sup>34</sup> and DCF awarded 15 of the 28 lead agencies Challenge Grant funding in 2014.<sup>35</sup>

### *Homeless Housing Assistance Grants*

SOH is authorized to accept and administer moneys appropriated to it to provide Homeless Housing Assistance Grants annually to lead agencies of local homeless assistance continuum of care.<sup>36</sup> The grants may not exceed \$750,000 per project and an applicant may spend a maximum of five percent of its funding on administrative costs; funds must be used to acquire, construct, or rehabilitate transitional or permanent housing units for homeless persons.<sup>37</sup>

### Florida Housing Finance Corporation

The Legislature created the Florida Housing Finance Agency in 1980.<sup>38</sup> The Legislature reconstituted it as a public corporation, the Florida Housing Finance Corporation (FHFC), in 1997.<sup>39</sup> The duties of the FHFC are to

- Encourage the investment of private capital in residential housing through the use of public financing to deal with the problem of disintermediation;<sup>40</sup>
- Stimulate the construction and rehabilitation of residential housing

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<sup>28</sup> Florida Department of Children and Families, *Lead Agencies*, <http://www.myflfamilies.com/service-programs/homelessness/lead-agencies> (last visited January 22, 2016).

<sup>29</sup> Section 420.622, F.S.

<sup>30</sup> *Id.*

<sup>31</sup> Department of Children and Families, Agency Analysis of 2015 Senate Bill 1500 (Mar. 9, 2015) p. 2 (on file with Children, Families, and Seniors Subcommittee staff).

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> *Id.* For fiscal year 2015-2015, the Legislature provided a specific appropriation of \$3,800,000 to DCF for the grants and DEO received \$200,000 for training and technical assistance. S. 6, ch. 15-232, Laws of Fla.

<sup>35</sup> *Supra*, note 31

<sup>36</sup> Department of Economic Opportunity, Agency Analysis of 2015 House Bill 379 (Jan. 22, 2015.) p. 2 (on file with Children, Families, and Seniors Subcommittee staff).

<sup>37</sup> *Id.*

<sup>38</sup> Ch. 80-161, Laws of Fla.

<sup>39</sup> Ch. 97-167, Laws of Fla.; as a public corporation, FHFC was no longer a department of the executive branch of state government.

<sup>40</sup> Disintermediation is the elimination of intermediaries in a supply chain, or "cutting out the middlemen," in connection with a transaction or a series of transactions



- Facilitate the purchase and sale of existing residential housing;
- Provide construction and mortgage loans for projects; and
- Make loans to and purchase mortgage loans from private lending institutions.<sup>41</sup>

FHFC provides affordable housing opportunities through a number of programs, including the State Apartment Incentive Loan (SAIL) and State Housing Initiatives Partnership (SHIP) programs.

#### *State Apartment Incentive Loan (SAIL) Program*

The Legislature created the SAIL program in 1988<sup>42</sup> for the purpose of providing mortgage loans or loan guarantees to sponsors, including for-profit, nonprofit, and public entities, to provide housing affordable to very-low-income persons.<sup>43</sup>

The SAIL program provides low-interest loans on a competitive basis to affordable housing developers each year.<sup>44</sup> This funding often serves to bridge the gap between the development's primary financing and the total cost of the development and is available to individuals, public entities, not-for-profit or for-profit organizations that propose the construction or substantial rehabilitation of multifamily units affordable to very low-income individuals and families.<sup>45</sup>

SAIL program funds must be distributed in a manner that meets the need and demand for very low-income housing throughout the state. The need and demand must be determined by using the most recent statewide low-income rental housing market studies available. SAIL program funding is reserved for use within statutorily defined counties (large, medium, and small)<sup>46</sup> and for properties providing units for specified tenant groups.

During the first 6 months of loan or loan guarantee availability, program funds must be reserved for use by sponsors who provide the required housing set-aside for specified tenant groups. Currently, the reservation of funds within each notice of fund availability to the tenant groups is as follows:

- For commercial fishing workers, farmworkers, families and elderly persons the reservation of funds may not be less than 10 percent of the funds available at that time;
- For persons who are homeless the reservation of funds may not be less than 5 percent of the funds available at that time; and
- For persons with special needs the reservation of funds may not be more than 10 percent of the funds available at that time.<sup>47</sup>

The University of Florida's Shimberg Center for Housing Studies<sup>48</sup> prepares the rental housing market study for the Florida Finance Housing Corporation (FHFC).<sup>49</sup> Below is a comparison of the actual need based on the most recent Rental Market Study compared to the current statutory reservation requirements for the specified tenant groups:

<sup>41</sup> S. 420.502(7), F.S.

<sup>42</sup> Ch. 88-376, Laws of Fla.

<sup>43</sup> S. 420.5087, F.S.

<sup>44</sup> For fiscal year 2015-2015, the Legislature provided a specific appropriation of \$48 million to fund the construction or rehabilitation of units through the sail program. S. 6, ch. 15-232, Laws of Fla.

<sup>45</sup> Florida Housing Finance Corporation, *State Apartment Incentive Loan Program*, available at:

[http://apps.floridahousing.org/StandAlone/FHFC\\_ECM/ContentPage.aspx?PAGE=0173](http://apps.floridahousing.org/StandAlone/FHFC_ECM/ContentPage.aspx?PAGE=0173) (last visited January 22, 2016).

<sup>46</sup> Section 420.5087(1), F.S., provides that funds must be allocated to the following categories of counties: counties that have a population of 845,000 or more ("large"); counties that have a population of more than 100,000 but less than 825,000 ("medium"); and counties that have a population of 100,000 or less ("small").

<sup>47</sup> Section 420.5087, F.S.

<sup>48</sup> Shimberg Center for Housing Studies is statutorily required to develop and maintain statewide data on housing needs and production, provide technical assistance relating to real estate development and finance, operate an information clearinghouse on housing programs, and coordinate state housing initiatives with local government and federal programs. S. 420.0003(4)(c), F.S.

<sup>49</sup> Shimberg Center for Housing Studies, University of Florida, *2013 Rental Market Study: Affordable Rental Housing Needs*, April 7, 2013, available at [http://www.shimberg.ufl.edu/publications/Full\\_RMS\\_Needs.pdf](http://www.shimberg.ufl.edu/publications/Full_RMS_Needs.pdf) (last visited January 22, 2016).

| Specified Tenant Group                               | Actual Percentage of Total Households in Need in 2013 | Current Statutory Reservation Requirements |
|--|---|--|
| Commercial fishing workers and farmworker households | 4 percent   | Not less than 10 percent                   |
| Persons who are homeless                             | 10 percent  | Not less than 5 percent                    |
| Persons with special needs                           | 13 percent  | Not more than 10 percent                   |
| Elder persons  | 20 percent  | Not less than 10 percent                   |
| Families   | 53 percent  | Not less than 10 percent                   |

Under current law, the statutory requirement to reserve funds for the commercial fishing worker and farmworker household tenant group significantly exceeds the actual housing need for this group. The current statutory “cap” on the reservation for the persons with special needs (no more than 10 percent) did not allow the program to address the actual housing need for this group (13 percent) during the first 6 months of loan or loan guarantee availability.

### State Housing Initiatives Partnership (SHIP) Program

The Legislature created the SHIP program in 1992<sup>50</sup> to provide funds to local governments as an incentive to create partnerships that produce and preserve affordable homeownership and multifamily housing. The program was designed to serve very low, low, and moderate-income families and is administered by the Florida Housing Finance Corporation (FHFC). Funds for the SHIP program are derived from the collection of documentary stamp tax revenues, which are deposited into the Local Government Housing Trust Fund and then allocated to local governments each month on a population-based formula.<sup>51</sup>

As a component of the program, under section 420.606(3), F.S., the Department of Economic Opportunity (DEO) provides training and technical assistance to staff of state and local government entities, community-based organizations, and persons forming such organizations for the purpose of developing new housing and rehabilitating existing housing that is affordable for persons of very low income, low income, and moderate income. Funding is dependent upon a specific appropriation of the Legislature.<sup>52</sup> For Fiscal Year 2015-2016, the Legislature provided a specific appropriation of \$105 million to the SHIP program, and required that \$4 million of which be used to provide services to homeless persons.<sup>53</sup>

### Public Housing Authorities

The state role in housing and urban development is outlined in part I of ch. 421, F.S., (Housing Authorities Law), ch. 422, F.S., (Housing Cooperation Law), and ch. 423, F.S., (Tax Exemption of Housing Authorities). Section 421.02, F.S., finds that there is a shortage of safe or sanitary dwelling accommodations available at rents that persons of low income can afford. To provide such accommodations, housing authorities may acquire property to be used for, or in connection with, housing projects. Public money may only be spent to acquire private property for exclusively public uses and purposes, and the purposes must be determined to be governmental functions of public concern.

<sup>50</sup> Ch. 92-317, Laws of Fla.

<sup>51</sup> S. 420.9073, F.S.

<sup>52</sup> Department of Economic Opportunity, Agency Analysis of 2015 Senate Bill 1500 (Mar. 9, 2015) p. 2 (on file with Children, Families, and Seniors Subcommittee staff).

<sup>53</sup> Ch. 15-232, Laws of Fla.

## *City, County, and Regional Housing Authorities*

Florida Statutes provide for the creation of special district, city, county and regional housing authorities. Of the 110 public housing authorities in Florida,<sup>54</sup> 90 are special districts.<sup>55</sup>

The determination of the need for a city housing authority may be made by the governing body of a city or upon the filing of a petition signed by 25 city residents. The mayor, with the approval of the governing body, appoints no fewer than five and no more than seven persons as commissioners of the authority.<sup>56</sup> The powers of each authority are vested in the commissioners and action may be taken upon a majority vote of the commissioners.<sup>57</sup> Housing authorities have the power to:

- Acquire, lease, and operate housing projects;
- Provide for the construction, reconstruction, improvement, alteration, or repair of any housing project;
- Lease or rent dwellings, houses, accommodations, lands, buildings, structures, or facilities embraced in any housing project; and
- Invest funds held in reserves or sinking funds.<sup>58</sup>

Section 421.27, F.S., governs the creation and powers of county housing authorities, which is similar to the creation of city housing authorities. A regional housing authority may be created by two or more contiguous counties if a regional entity would be a more economically or administratively efficient unit.<sup>59</sup>

### *Housing Authorities' Use of Federal Aid*

Section 421.21, F.S., empowers a housing authority to borrow money or accept grants or other financial assistance from the federal government for housing projects. This section also allows a housing authority to take over or lease or manage any housing project or undertaking constructed or owned by the federal government. In addition, an authority is authorized to do any and all things necessary or desirable to secure the aid or cooperation of the federal government for any housing project by the housing authority.

### Federal National Housing Trust Fund

In July 2008, the Housing and Economic Recovery Act was signed into law,<sup>60</sup> establishing a federal National Housing Trust Fund (NHTF), among other housing-related provisions. Although the NHTF has been established, a permanent funding stream has not been secured.<sup>61</sup> The goal of the NHTF is to provide ongoing, permanent, dedicated, and sufficient sources of revenue to build, rehabilitate, and preserve 1.5 million units of housing for the lowest-income families, including people experiencing homelessness, over the next 10 years. The NHTF particularly aims to increase and preserve the supply of rental housing that is affordable for extremely<sup>62</sup> and very low-income households, and increase homeownership opportunities for those households. To prevent funding for the NHTF from

<sup>54</sup> Florida Housing Data Clearing House, *Public Housing Agency Results*, [http://flhousingdata.shimberg.ufl.edu/a/public\\_housing\\_agency?next=results&submit\\_submit.x=15&submit\\_submit.y=13&nid=1](http://flhousingdata.shimberg.ufl.edu/a/public_housing_agency?next=results&submit_submit.x=15&submit_submit.y=13&nid=1) (last visited January 22, 2016).

<sup>55</sup> Florida Department of Economic Opportunity, *Official List of Special Districts Online*, <https://dca.deo.myflorida.com/fhcd/sdip/OfficialListdeo/websitelist.cfm> (last visited January 22, 2016).

<sup>56</sup> At least one commissioner must be a resident of a housing project or a person of low income who resides within the housing authority's jurisdiction and is receiving a rent subsidy. S. 4231.05(1), F.S.

<sup>57</sup> S. 421.06, F.S.

<sup>58</sup> S. 421.08, F.S.,

<sup>59</sup> S. 421.28, F.S.

<sup>60</sup> Public Law 110-289.

<sup>61</sup> The National Alliance to End Homelessness. *National Housing Trust Fund*, [http://www.endhomelessness.org/pages/national\\_housing\\_trust\\_fund](http://www.endhomelessness.org/pages/national_housing_trust_fund) (last visited January 22, 2016).

<sup>62</sup> "Extremely-low-income persons" means one or more persons or a family, the total annual adjusted gross household income of which does not exceed 30 percent of the median annual adjusted gross income for households within the state, or 50 percent of the median annual adjusted gross income for households within the metropolitan statistical area (MSA) or within the county in which the person or family resides, whichever is greater. S. 420.000(13), F.S.

competing with existing U.S. Department of Housing and Urban Development programs, this revenue is expected to be separate from the current appropriations process.<sup>63</sup>

### Managing Entities

In 2001, the Legislature authorized DCF to implement behavioral health managing entities as the management structure for the delivery of local mental health and substance abuse services.<sup>64</sup> The Legislature determined that a management structure, which places the responsibility for publicly financed behavioral health treatment and prevention services within a single private, nonprofit entity at the local level would promote improved access to care, promote service continuity, and provide efficient and effective delivery of substance abuse and mental health services.<sup>65</sup>

DCF currently contracts with 7 managing entities that in turn contract with local service providers for the delivery of mental health and substance abuse services.<sup>66</sup> Managing entities create and manage provider networks by contracting with service providers for the delivery of substance abuse and mental health services.

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

#### Rapid Re-Housing

HB 1235 creates s. 420.6265, F.S., which authorizes the use of rapid re-housing as a strategy to address homelessness. The bill provides a statement of legislative intent, finding that:

- While emergency shelter and transitional housing programs may provide critical access to services for individuals and families in crisis, such programs often fail to address the long-term needs of individuals and families in crisis.
- Most individuals and families become homeless as a result of a financial crisis that prevents individuals and families from paying rent or a domestic conflict that results in one family member being ejected or leaving without resources or a plan for housing.
- Rapid re-housing is an alternative approach to the current system of emergency shelter or transitional housing that tends to reduce the length of time of homelessness and has proven to be cost effective.
- Rapid re-housing is a strategy of using temporary financial assistance and case management to quickly move an individual or family out of homelessness and into permanent housing.
- The Legislature encourages homeless continuums of care to adopt the rapid re-housing approach to preventing homelessness for individuals and families who do not require the intense level of supports provided in the permanent supportive housing model.

The bill provides that by using the rapid re-housing approach, communities can significantly reduce the amount of time that individuals and families are homeless and prevent further episodes of homelessness. The objective of rapid re-housing is to provide assistance for as short a time as possible so that the individual or family receiving assistance does not develop a dependency on the assistance. The bill also adds rapid re-housing as a component for local homeless assistance continuum of care plans.

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<sup>63</sup> *Supra*, note 61.

<sup>64</sup> Ch. 2001-191, Laws.

<sup>65</sup> S. 394.9082, F.S.

<sup>66</sup> Department of Children and Families *Managing Entities*, <http://www.myflfamilies.com/service-programs/substance-abuse/managing-entities> (last visited January 26, 2016).

## State Office on Homelessness

### *Statewide Homeless Management Information System (HMIS) Task Force*

The bill creates a task force within SOH to make recommendations regarding the implementation of a Statewide Homeless Management Information System (HMIS). The task force must:

- Define the conceptual framework of such a system;
- Study existing statewide HMIS models;
- Establish an inventory of local HMIS systems, including providers and license capacity;
- Examine the aggregated reporting being provided by local continuums of care;
- Complete an analysis of current continuum of care resources;
- Provide recommendations on the costs and benefits of implementing a statewide HMIS; and
- Make recommendations regarding the development of a statewide, centralized coordinated assessment system in conjunction with the implementation of a statewide HMIS.

The task force must report its findings regarding the implementation of a statewide HMIS to the Council on Homelessness no later than December 31, 2016.

The bill also requires SOH to engage the managing entities when addressing homelessness. SOH must provide support to the managing entities' efforts to address the needs of the homeless populations within their geographic service areas, subject to available funding. Additionally, SOH must give the managing entities the opportunity to participate in local homeless coalitions.

### *Performance Measures*

The bill changes the performance measures set by SOH from outputs to outcomes. The bill requires SOH, in conjunction with the Council on Homelessness, to establish performance measures and specific objectives by which it may evaluate the performance and outcomes of lead agencies that receive grant funds. Additionally, the bill requires SOH must distribute funding to lead agencies based on their overall performance and their achievement of specified objectives.

The bill changes the performance measures used to evaluate lead agencies from the number of homeless individuals provided shelter, food, counseling, and job training, to the:

- Number of persons or households that are no longer homeless;
- Rate of recidivism to homelessness; and
- Number of persons who obtain gainful employment.

These performance measures will better inform SOH about the progress lead agencies are making in reducing homelessness.

Additionally, for communities or regions that implement local homeless assistance continuum of care plans, the bill requires SOH, in conjunction with the Council on Homelessness, to include in the plan a methodology for assessing performance and outcomes. SOH is required to provide a standardized format for the reporting of performance and outcome data.

### *Grant Awards*

The bill requires SOH to administer Challenge Grants. It removes the requirements that award levels be based upon the total population within the continuum of care catchment area and reflect the differing degrees of homelessness in the catchment planning areas. This will give SOH greater discretion in how it awards Challenge Grants.

The bill limits how the lead agencies may spend leveraged funds and resources that comprise the matching funds for grants received. Expenditures of these leveraged funds or resources must be certified through a written commitment. Additionally, the bill limits the use of funds to eligible activities on projects that have not been used as leverage or match for any other project or program.

#### State Apartment Incentive Loan (SAIL) Program

The bill amends s. 420.5087, F.S., to modify the reservation requirements under the SAIL program for three of the five specified tenant groups. The bill lowers the SAIL funding floor for commercial fishing workers and farmworkers from not less than 10 percent to not less than five percent. The bill increases the SAIL funding floor for persons who are homeless from five percent to 10 percent. The bill removes the cap on spending on persons with special needs, and replaces it with a SAIL funding floor of not less than 10 percent.

| <b>Specified Tenant Group</b>              | <b>Current Statutory Reservation Requirements</b> | <b>Statutory Reservation Requirements in HB 1235</b> |
|--|---|--|
| Commercial fishing workers and farmworkers | Not less than 10 percent                          | Not less than 5 percent                              |
| Persons who are homeless                   | Not less than 5 percent                           | Not less than 10 percent                             |
| Persons with special needs                 | Not more than 10 percent                          | Not less than 10 percent                             |
| Elder persons                              | Not less than 10 percent                          | Not less than 10 percent                             |
| Families                                   | Not less than 10 percent                          | Not less than 10 percent                             |

#### State Housing Initiatives Partnership (SHIP) Program

##### *Rent Subsidies*

The bill broadens the definition of "rent subsidy" under the SHIP program to include initial assistance to tenants, such as grants or loans for security and utility deposits, which had been previously disallowed. Additionally, the bill clarifies the instances in which local governments participating in the SHIP program may provide ongoing rental assistance; they may only expend local housing distribution to provide ongoing rent subsidies for:

- Security and utility deposit assistance;
- Eviction prevention not to exceed 6 months' rent; or
- A rent subsidy program for very-low-income families with at least one person with special needs or one individual experiencing homelessness, for a period not exceed 12 months.

Solely for Fiscal Year 2015-2016, pursuant to the legislation implementing the 2015-2016 General Appropriations Act, local governments participating in the SHIP program could use up to 25 percent of their funds to provide rent subsidies.<sup>67</sup> HB 1235 broadens the authority for local governments participating in the SHIP program to provide eviction prevention (which was previously limited to a one-time payment) and creates a new category of individuals to whom assistance may be provided for up to 12 months.

##### *Reporting*

The bill specifies that the annual reports submitted by local governments participating in the SHIP program must also include a description of the local governments' efforts to reduce homelessness.

<sup>67</sup> S. 420.9072(10) expires on July 1, 2016. S. 67, ch. 2015-222, added subsection (10) "[i]n order to implement Specific Appropriation 2241 of the 2015-2016 General Appropriations Act."

### *Local Housing Assistance Plan*

The bill adds lead agencies of local homeless assistance continuums of care and managing entities to the list of entities with which local governments are encouraged to partner when developing local housing assistance plans under the SHIP program. The bill encourages local governments to develop a strategy within their local housing assistance plans that provides program funds for reducing homelessness.

The bill permits up to 25 percent of SHIP funds from the local housing distribution to be reserved for rental housing for eligible persons or for the purposes of:

- Security and utility deposit assistance;
- Eviction prevention not to exceed 6 months' rent; or
- A rent subsidy program for very-low-income families with at least one person with special needs or one individual experiencing homelessness, for a period not exceed 12 months.

### Public Housing Authorities

The bill prohibits a housing authority from applying to the federal government to seize a project, unit, or voucher of another established housing authority, regardless of each housing authority's areas of operation.

The bill provides that housing authorities are exempt from the provisions of s. 215.425, F.S., which addresses extra compensation, bonuses, and severance pay. It also exempts housing authorities from reporting requirements of s. 218.32, F.S.; however, it requires them to submit a full financial accounting and audit in accordance with federal audit standards to the federal government biennially. This removes duplicative reporting requirements currently placed on public housing authorities.

### National Housing Trust Fund

The bill creates s. 420.9089, F.S., relating to the NHTF. It provides a Legislative finding that more funding for housing to assist individuals and families who are experiencing homelessness is needed and encourages the state entity designated to administer funds made available to the state from the NHTF to propose an allocation plan that includes strategies to reduce homelessness in this state.

The FHFC is the state entity designated by the Legislature to administer funds made available to the state from the NHTF.<sup>68</sup> HUD will officially release the grant amount from the NHTF for each state in April 2016.<sup>69</sup> Each state must adopt an Allocation Plan that has been developed through a public process involving citizen participation, and may include strategies to address homelessness.<sup>70</sup> The funding must be used primarily to assist households with specified incomes and 90 percent of the funds must be used to produce rental housing.<sup>71</sup>

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 420.5087, F.S., relating to State Apartment Incentive Loan Program.

**Section 2:** Amends s. 420.622, F.S., relating to State Office on Homelessness; Council on Homelessness.

**Section 3:** Amends s. 420.623, F.S., relating to local coalitions for the homeless.

**Section 4:** Amends s. 420.624, F.S., relating to local homeless assistance continuum of care.

**Section 5:** Creates s. 420.6265, F.S., relating to Rapid Re-Housing.

<sup>68</sup> Email from Jacqueline Peters, Legislative Director, Florida Housing Finance Corporation, RE: HB 1235 (Jan. 19, 2015) (on file with Children, Families, and Seniors Subcommittee staff).

<sup>69</sup> *Id.*

<sup>70</sup> *Id.*

<sup>71</sup> See 24 C.F.R. § 93, for the interim rule guiding the implementation of the National Housing Trust Fund.

- Section 6:** Amends s. 420.9071, F.S., relating to definitions.
- Section 7:** Amends s. 420.9072, F.S., relating to State Housing Initiatives Partnership Program.
- Section 8:** Amends s. 420.9075, F.S., relating to local housing assistance plans; partnerships.
- Section 9:** Creates s. 420.9089, F.S., relating to National Housing Trust Fund.
- Section 10:** Amends s. 421.04, F.S., relating to creation of housing authorities.
- Section 11:** Amends s. 421.05, F.S., relating to appointment, qualifications, and tenure of commissioners; hiring of employees.
- Section 12:** Amends s. 421.091, F.S., relating to financial accounting and investments; fiscal year.
- Section 13:** Provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

While the bill does not provide an appropriation it does modify the SAIL program to decrease the unit reservation requirements for commercial fishing workers and farmworkers from a minimum of ten percent to a minimum of five percent, and increase the unit reservation requirement for persons who are homeless from five percent to ten percent. To the extent the legislature appropriates future funds for the SAIL program, these modifications will not impact the development of affordable housing, only the number of required affordable housing units that must be set aside for a specific population to utilize.

In addition, the bill removes the SAIL program cap on spending for persons with special needs and the elderly, and replaces it with a SAIL funding floor of not less than ten percent for each. To the extent the legislature appropriates future funds for the SAIL program, any increase in affordable housing funding provided for these two populations above ten percent would see a corresponding decrease in funding provided for the other populations.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

See Fiscal Comments.

2. Expenditures:

While the bill does not contain an appropriation, it alters the criteria by which programs addressing affordable housing and homelessness are funded and how those programs may spend grants and other state funds. For example, the bill adds rapid re-housing as a component for local homeless assistance continuum of care plans to provide assistance for as short a time as possible so that an individual or family receiving assistance does not develop a dependency on the assistance. To the extent a local government provides funding for rapid re-housing programs other program areas may see a corresponding decrease in funding.

The bill broadens the definition of "rent subsidy" under the SHIP program to include initial assistance to tenants, such as grants or loans for security and utility deposits, which had been previously disallowed. Additionally, the bill clarifies the instances in which local governments participating in the SHIP program may provide ongoing rental assistance; they may only expend



local housing distribution to provide ongoing rent subsidies for security and utility deposit assistance; eviction prevention not to exceed 6 months of rent; or a rent subsidy program for very-low-income families with at least one person with special needs or one individual experiencing homelessness, for a period not exceed 12 months. To the extent a local government increases their funding for rent subsidy programs other program areas may see a corresponding decrease in funding.

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

See Fiscal Comments.

**D. FISCAL COMMENTS:**

While the bill does not contain an appropriation, it alters the criteria by which programs addressing homelessness are funded and how those programs may spend grants and other state funds. For example, the change in the performance measures set by SOH for lead agencies that receive grant funds could affect the funding that lead agencies receive depending on the lead agency's performance and whether or not it achieve specified objectives.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

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

Not applicable. This bill does not appear to affect county or municipal governments.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

On January 26, 2016, the Children, Families and Seniors Subcommittee adopted three amendments to involve the managing entities in plans and programs to address homelessness. The amendments:

- Direct SOH, subject to available funding, to provide support to the managing entities' efforts to address the needs of the homeless populations within their geographic service areas.
- Add managing entities as one of the organizations that should be given the opportunity to participate in local homeless coalitions that are established by SOH.
- Encourage local SHIP programs to involve the managing entities in their partnership process for local housing assistance plans.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute.



27 | to accept and administer moneys appropriated to it to  
 28 | provide annual challenge grants to certain lead  
 29 | agencies of homeless assistance continuums of care;  
 30 | removing the requirement that levels of grant awards  
 31 | be based upon the total population within the  
 32 | continuum of care catchment area and reflect the  
 33 | differing degrees of homelessness in the respective  
 34 | areas; allowing expenditures of leveraged funds or  
 35 | resources only for eligible activities subject to  
 36 | certain requirements; providing that preference for a  
 37 | grant award must be given to those lead agencies that  
 38 | have demonstrated the ability to leverage specified  
 39 | federal homeless-assistance funding with local  
 40 | government funding and private funding, for the  
 41 | provision of services to individuals experiencing  
 42 | homelessness; revising preference conditions relating  
 43 | to grant applicants; requiring the State Office on  
 44 | Homelessness, in conjunction with the Council on  
 45 | Homelessness, to establish specific objectives by  
 46 | which it may evaluate the outcomes of certain lead  
 47 | agencies; requiring that any funding through the State  
 48 | Office on Homelessness be distributed to lead agencies  
 49 | based on their performance and achievement of  
 50 | specified objectives; revising the factors that may be  
 51 | included as criteria for evaluating the performance of  
 52 | lead agencies; amending s. 420.623, F.S.; requiring

53 | that managing entities be given an opportunity to  
 54 | participate in local coalitions for the homeless;  
 55 | amending s. 420.624, F.S.; revising requirements for  
 56 | the local homeless assistance continuum of care plan;  
 57 | providing that the components of a continuum of care  
 58 | plan should include Rapid ReHousing; requiring that  
 59 | specified components of a continuum of care plan be  
 60 | coordinated and integrated with other specified  
 61 | services and programs; creating s. 420.6265, F.S.;  
 62 | providing legislative findings and intent relating to  
 63 | Rapid ReHousing; providing a Rapid ReHousing  
 64 | methodology; amending s. 420.9071, F.S.; revising the  
 65 | definition of the term "rent subsidies"; conforming a  
 66 | cross-reference; amending s. 420.9072, F.S.;  
 67 | prohibiting a county or an eligible municipality from  
 68 | expending its portion of the local housing  
 69 | distribution to provide ongoing rent subsidies;  
 70 | providing exceptions; amending s. 420.9075, F.S.;  
 71 | providing that a certain partnership process of the  
 72 | State Housing Initiatives Partnership Program should  
 73 | involve lead agencies of local homeless assistance  
 74 | continuums of care and managing entities; encouraging  
 75 | counties and eligible municipalities to develop a  
 76 | strategy within their local housing assistance plans  
 77 | which provides program funds for reducing  
 78 | homelessness; revising the criteria that apply to

79 awards made to sponsors or persons for the purpose of  
 80 providing housing; requiring that a specified report  
 81 submitted by counties and municipalities include a  
 82 description of efforts to reduce homelessness;  
 83 creating s. 420.9089, F.S.; providing legislative  
 84 findings and intent; amending s. 421.04, F.S.;

85 prohibiting a housing authority from applying to the  
 86 Federal Government to seize projects, units, or  
 87 vouchers of another established housing authority;  
 88 amending s. 421.05, F.S.; exempting housing  
 89 authorities from specified provisions with respect to  
 90 the payment of extra compensation claims, bonuses, and  
 91 severance pay; amending s. 421.091, F.S.; requiring a  
 92 full financial accounting and audit of public housing  
 93 agencies to be submitted to the Federal Government  
 94 pursuant to certain requirements; exempting housing  
 95 authorities from specified reporting requirements;  
 96 providing an effective date.

97  
 98 Be It Enacted by the Legislature of the State of Florida:

99  
 100 Section 1. Subsection (3) of section 420.5087, Florida  
 101 Statutes, is amended to read:

102 420.5087 State Apartment Incentive Loan Program.—There is  
 103 hereby created the State Apartment Incentive Loan Program for  
 104 the purpose of providing first, second, or other subordinated

105 mortgage loans or loan guarantees to sponsors, including for-  
 106 profit, nonprofit, and public entities, to provide housing  
 107 affordable to very-low-income persons.

108 (3) During the first 6 months of loan or loan guarantee  
 109 availability, program funds shall be reserved for use by  
 110 sponsors who provide the housing set-aside required in  
 111 subsection (2) for the tenant groups designated in this  
 112 subsection. The reservation of funds to each of these groups  
 113 shall be determined using the most recent statewide very-low-  
 114 income rental housing market study available at the time of  
 115 publication of each notice of fund availability required by  
 116 paragraph (6)(b). The reservation of funds within each notice of  
 117 fund availability to the tenant groups in paragraphs (b)-(e)  
 118 ~~(a), (b), and (e)~~ may not be less than 10 percent of the funds  
 119 available at that time. Any increase in funding required to  
 120 reach the 10-percent minimum must be taken from the tenant group  
 121 that has the largest reservation. The reservation of funds  
 122 within each notice of fund availability to the tenant group in  
 123 paragraph (a) ~~(e)~~ may not be less than 5 percent of the funds  
 124 available at that time. ~~The reservation of funds within each~~  
 125 ~~notice of fund availability to the tenant group in paragraph (d)~~  
 126 ~~may not be more than 10 percent of the funds available at that~~  
 127 ~~time.~~ The tenant groups are:

- 128 (a) Commercial fishing workers and farmworkers;
- 129 (b) Families;
- 130 (c) Persons who are homeless;

131 (d) Persons with special needs; and  
 132 (e) Elderly persons. Ten percent of the amount reserved  
 133 for the elderly shall be reserved to provide loans to sponsors  
 134 of housing for the elderly for the purpose of making building  
 135 preservation, health, or sanitation repairs or improvements  
 136 which are required by federal, state, or local regulation or  
 137 code, or lifesafety or security-related repairs or improvements  
 138 to such housing. Such a loan may not exceed \$750,000 per housing  
 139 community for the elderly. In order to receive the loan, the  
 140 sponsor of the housing community must make a commitment to match  
 141 at least 5 percent of the loan amount to pay the cost of such  
 142 repair or improvement. The corporation shall establish the rate  
 143 of interest on the loan, which may not exceed 3 percent, and the  
 144 term of the loan, which may not exceed 15 years; however, if the  
 145 lien of the corporation's encumbrance is subordinate to the lien  
 146 of another mortgagee, then the term may be made coterminous with  
 147 the longest term of the superior lien. The term of the loan  
 148 shall be based on a credit analysis of the applicant. The  
 149 corporation may forgive indebtedness for a share of the loan  
 150 attributable to the units in a project reserved for extremely-  
 151 low-income elderly by nonprofit organizations, as defined in s.  
 152 420.0004(5), where the project has provided affordable housing  
 153 to the elderly for 15 years or more. The corporation shall  
 154 establish, by rule, the procedure and criteria for receiving,  
 155 evaluating, and competitively ranking all applications for loans  
 156 under this paragraph. A loan application must include evidence

157 of the first mortgagee's having reviewed and approved the  
 158 sponsor's intent to apply for a loan. A nonprofit organization  
 159 or sponsor may not use the proceeds of the loan to pay for  
 160 administrative costs, routine maintenance, or new construction.

161 Section 2. Paragraphs (a) and (b) of subsection (3) and  
 162 subsections (4), (5), and (6) of section 420.622, Florida  
 163 Statutes, are amended, and paragraph (p) is added to subsection  
 164 (3) of that section, to read:

165 420.622 State Office on Homelessness; Council on  
 166 Homelessness.—

167 (3) The State Office on Homelessness, pursuant to the  
 168 policies set by the council and subject to the availability of  
 169 funding, shall:

170 (a) Coordinate among state, local, and private agencies  
 171 and providers to produce a statewide consolidated inventory  
 172 ~~program and financial plan~~ for the state's entire system of  
 173 homeless programs which incorporates regionally developed plans.  
 174 Such programs include, but are not limited to:

175 1. Programs authorized under the Stewart B. McKinney  
 176 Homeless Assistance Act of 1987, 42 U.S.C. ss. 11371 et seq.,  
 177 and carried out under funds awarded to this state; and

178 2. Programs, components thereof, or activities that assist  
 179 persons who are homeless or at risk for homelessness.

180 (b) Collect, maintain, and make available information  
 181 concerning persons who are homeless or at risk for homelessness,  
 182 including demographics information, current services and



183 resources available, the cost and availability of services and  
 184 programs, and the met and unmet needs of this population. All  
 185 entities that receive state funding must provide access to all  
 186 data they maintain in summary form, with no individual  
 187 identifying information, to assist the council in providing this  
 188 information. The State Office on Homelessness shall establish a  
 189 task force to make recommendations regarding the implementation  
 190 of a statewide Homeless Management Information System (HMIS).  
 191 The task force shall define the conceptual framework of such a  
 192 system; study existing statewide HMIS models; establish an  
 193 inventory of local HMIS systems, including providers and license  
 194 capacity; examine the aggregated reporting being provided by  
 195 local continuums of care; complete an analysis of current  
 196 continuum of care resources; and provide recommendations on the  
 197 costs and benefits of implementing a statewide HMIS. The task  
 198 force shall also make recommendations regarding the development  
 199 of a statewide, centralized coordinated assessment system in  
 200 conjunction with the implementation of a statewide HMIS. The  
 201 task force findings must be reported to the Council on  
 202 Homelessness no later than December 31, 2016. The council shall  
 203 ~~explore the potential of creating a statewide Management~~  
 204 ~~Information System (MIS), encouraging the future participation~~  
 205 ~~of any bodies that are receiving awards or grants from the~~  
 206 ~~state, if such a system were adopted, enacted, and accepted by~~  
 207 ~~the state.~~

208 (p) Provide support to managing entities, as defined in s.

209 394.9082(2), to address the needs of individuals experiencing  
 210 homelessness within the managing entities' geographic service  
 211 area.

212 (4) The State Office on Homelessness, with the concurrence  
 213 of the Council on Homelessness, shall ~~may~~ accept and administer  
 214 moneys appropriated to it to provide annual "challenge grants"  
 215 to lead agencies of homeless assistance continuums of care  
 216 designated by the State Office on Homelessness pursuant to s.  
 217 420.624. The department shall establish varying levels of grant  
 218 awards up to \$500,000 per lead agency. ~~Award levels shall be~~  
 219 ~~based upon the total population within the continuum of care~~  
 220 ~~catchment area and reflect the differing degrees of homelessness~~  
 221 ~~in the catchment planning areas.~~ The department, in consultation  
 222 with the Council on Homelessness, shall specify a grant award  
 223 level in the notice of the solicitation of grant applications.

224 (a) To qualify for the grant, a lead agency must develop  
 225 and implement a local homeless assistance continuum of care plan  
 226 for its designated catchment area. The continuum of care plan  
 227 must implement a coordinated assessment or central intake system  
 228 to screen, assess, and refer persons seeking assistance to the  
 229 appropriate service provider. The lead agency shall also  
 230 document the commitment of local government and private  
 231 organizations to provide matching funds or in-kind support in an  
 232 amount equal to the grant requested. Expenditures of leveraged  
 233 funds or resources, including third-party cash or in-kind  
 234 contributions, are permitted only for eligible activities

235 committed on one project which have not been used as leverage or  
 236 match for any other project or program and must be certified  
 237 through a written commitment.

238 (b) Preference must be given to those lead agencies that  
 239 have demonstrated the ability of their continuum of care to  
 240 provide quality services to persons who are homeless ~~persons~~ and  
 241 the ability to leverage federal homeless-assistance funding  
 242 under the Stewart B. McKinney Act with local government funding  
 243 and private funding for the provision of services to persons who  
 244 are homeless ~~persons~~.

245 (c) Preference must be given to lead agencies in catchment  
 246 areas with the greatest need for the provision of housing and  
 247 services to persons who are ~~the~~ homeless, relative to the  
 248 population of the catchment area.

249 (d) The grant may be used to fund any of the housing,  
 250 program, or service needs included in the local homeless  
 251 assistance continuum of care plan. The lead agency may allocate  
 252 the grant to programs, services, or housing providers that  
 253 implement the local homeless assistance continuum care plan. The  
 254 lead agency may provide subgrants to a local agency to implement  
 255 programs or services or provide housing identified for funding  
 256 in the lead agency's application to the department. A lead  
 257 agency may spend a maximum of 8 percent of its funding on  
 258 administrative costs.

259 (e) The lead agency shall submit a final report to the  
 260 department documenting the outcomes achieved by the grant in

261 enabling persons who are homeless to return to permanent housing  
 262 thereby ending such person's episode of homelessness.

263 (5) The State Office on Homelessness, with the concurrence  
 264 of the Council on Homelessness, may administer moneys  
 265 appropriated to it to provide homeless housing assistance grants  
 266 annually to lead agencies for local homeless assistance  
 267 continuum of care, as recognized by the State Office on  
 268 Homelessness, to acquire, construct, or rehabilitate  
 269 transitional or permanent housing units for persons who are  
 270 homeless ~~persons~~. These moneys shall consist of any sums that  
 271 the state may appropriate, as well as money received from  
 272 donations, gifts, bequests, or otherwise from any public or  
 273 private source, which are intended to acquire, construct, or  
 274 rehabilitate transitional or permanent housing units for persons  
 275 who are homeless ~~persons~~.

276 (a) Grant applicants shall be ranked competitively.  
 277 Preference must be given to applicants who leverage additional  
 278 private funds and public funds, particularly federal funds  
 279 designated for the acquisition, construction, or rehabilitation  
 280 of transitional or permanent housing for persons who are  
 281 homeless ~~persons~~; who acquire, build, or rehabilitate the  
 282 greatest number of units; or ~~and~~ who acquire, build, or  
 283 rehabilitate in catchment areas having the greatest need for  
 284 housing for persons who are ~~the~~ homeless relative to the  
 285 population of the catchment area.

286 (b) Funding for any particular project may not exceed

287 | \$750,000.

288 |       (c) Projects must reserve, for a minimum of 10 years, the  
 289 | number of units acquired, constructed, or rehabilitated through  
 290 | homeless housing assistance grant funding to serve persons who  
 291 | are homeless at the time they assume tenancy.

292 |       (d) No more than two grants may be awarded annually in any  
 293 | given local homeless assistance continuum of care catchment  
 294 | area.

295 |       (e) A project may not be funded which is not included in  
 296 | the local homeless assistance continuum of care plan, as  
 297 | recognized by the State Office on Homelessness, for the  
 298 | catchment area in which the project is located.

299 |       (f) The maximum percentage of funds that the State Office  
 300 | on Homelessness and each applicant may spend on administrative  
 301 | costs is 5 percent.

302 |       (6) The State Office on Homelessness, in conjunction with  
 303 | the Council on Homelessness, shall establish performance  
 304 | measures and specific objectives by which it may ~~to~~ evaluate the  
 305 | ~~effective~~ performance and outcomes of lead agencies that receive  
 306 | grant funds. Any funding through the State Office on  
 307 | Homelessness shall be distributed to lead agencies based on  
 308 | their overall performance and their achievement of specified  
 309 | objectives. Each lead agency for which grants are made under  
 310 | this section shall provide the State Office on Homelessness a  
 311 | thorough evaluation of the effectiveness of the program in  
 312 | achieving its stated purpose. In evaluating the performance of

313 the lead agencies, the State Office on Homelessness shall base  
 314 its criteria upon the program objectives, goals, and priorities  
 315 that were set forth by the lead agencies in their proposals for  
 316 funding. Such criteria may include, but not be limited to, the  
 317 number of persons or households that are no longer homeless, the  
 318 rate of recidivism to homelessness, and the number of persons  
 319 who obtain gainful employment ~~homeless individuals provided~~  
 320 ~~shelter, food, counseling, and job training.~~

321 Section 3. Paragraph (k) is added to subsection (1) of  
 322 section 420.623, Florida Statutes, to read:

323 420.623 Local coalitions for the homeless.—

324 (1) ESTABLISHMENT.—The department shall establish local  
 325 coalitions to plan, network, coordinate, and monitor the  
 326 delivery of services to the homeless. Appropriate local groups  
 327 and organizations involved in providing services for the  
 328 homeless and interested business groups and associations shall  
 329 be given an opportunity to participate in such coalitions,  
 330 including, but not limited to:

331 (k) Managing entities, as defined in s. 394.9082(2).

332 Section 4. Subsections (3), (7), and (8) of section  
 333 420.624, Florida Statutes, are amended to read:

334 420.624 Local homeless assistance continuum of care.—

335 (3) Communities or regions seeking to implement a local  
 336 homeless assistance continuum of care are encouraged to develop  
 337 and annually update a written plan that includes a vision for  
 338 the continuum of care, an assessment of the supply of and demand

339 for housing and services for the homeless population, and  
 340 specific strategies and processes for providing the components  
 341 of the continuum of care. The State Office on Homelessness, in  
 342 conjunction with the Council on Homelessness, shall include in  
 343 the plan a methodology for assessing performance and outcomes.

344 The State Office on Homelessness shall supply a standardized  
 345 format for written plans, including the reporting of data.

346 (7) The components of a continuum of care plan should  
 347 include:

348 (a) Outreach, intake, and assessment procedures in order  
 349 to identify the service and housing needs of an individual or  
 350 family and to link them with appropriate housing, services,  
 351 resources, and opportunities;

352 (b) Emergency shelter, in order to provide a safe, decent  
 353 alternative to living in the streets;

354 (c) Transitional housing;

355 (d) Supportive services, designed to assist with the  
 356 development of the skills necessary to secure and retain  
 357 permanent housing;

358 (e) Permanent supportive housing;

359 (f) Rapid ReHousing, as specified in s. 420.6265;

360 (g)~~(f)~~ Permanent housing;

361 (h)~~(g)~~ Linkages and referral mechanisms among all  
 362 components to facilitate the movement of individuals and  
 363 families toward permanent housing and self-sufficiency;

364 (i)~~(h)~~ Services and resources to prevent housed persons

365 from becoming or returning to homelessness; and  
 366        (j)~~(i)~~ An ongoing planning mechanism to address the needs  
 367 of all subgroups of the homeless population, including, but not  
 368 limited to:  
 369        1. Single adult males;  
 370        2. Single adult females;  
 371        3. Families with children;  
 372        4. Families with no children;  
 373        5. Unaccompanied children and youth;  
 374        6. Elderly persons;  
 375        7. Persons with drug or alcohol addictions;  
 376        8. Persons with mental illness;  
 377        9. Persons with dual or multiple physical or mental  
 378 disorders;  
 379        10. Victims of domestic violence; and  
 380        11. Persons living with HIV/AIDS.  
 381        (8) Continuum of care plans must promote participation by  
 382 all interested individuals and organizations and may not exclude  
 383 individuals and organizations on the basis of race, color,  
 384 national origin, sex, handicap, familial status, or religion.  
 385 Faith-based organizations must be encouraged to participate. To  
 386 the extent possible, these components shall ~~should~~ be  
 387 coordinated and integrated with other mainstream health, social  
 388 services, and employment programs for which homeless populations  
 389 may be eligible, including Medicaid, State Children's Health  
 390 Insurance Program, Temporary Assistance for Needy Families, Food



391 Assistance Program, and services funded through the Mental  
 392 Health and Substance Abuse Block Grant, the Workforce Investment  
 393 Act, and the welfare-to-work grant program.

394 Section 5. Section 420.6265, Florida Statutes, is created  
 395 to read:

396 420.6265 Rapid ReHousing.-

397 (1) LEGISLATIVE FINDINGS AND INTENT.-

398 (a) The Legislature finds that Rapid ReHousing is a  
 399 strategy of using temporary financial assistance and case  
 400 management to quickly move an individual or family out of  
 401 homelessness and into permanent housing.

402 (b) The Legislature also finds that, for most of the past  
 403 two decades, public and private solutions to homelessness have  
 404 focused on providing individuals and families who are  
 405 experiencing homelessness with emergency shelter and  
 406 transitional housing. While emergency shelter and transitional  
 407 housing programs may provide critical access to services for  
 408 individuals and families in crisis, such programs often fail to  
 409 address the long-term needs of individuals and families in  
 410 crisis.

411 (c) The Legislature further finds that most individuals  
 412 and families become homeless as a result of a financial crisis  
 413 that prevents individuals and families from paying rent or a  
 414 domestic conflict that results in one family member being  
 415 ejected or leaving without resources or a plan for housing.

416 (d) The Legislature further finds that Rapid ReHousing is

417 an alternative approach to the current system of emergency  
 418 shelter or transitional housing which tends to reduce the length  
 419 of time of homelessness and has proven to be cost effective.

420 (e) It is therefore the intent of the Legislature to  
 421 encourage homeless continuums of care to adopt the Rapid  
 422 ReHousing approach to preventing homelessness for individuals  
 423 and families who do not require the intense level of supports  
 424 provided in the permanent supportive housing model.

425 (2) RAPID REHOUSING METHODOLOGY.-

426 (a) The Rapid ReHousing approach to homelessness differs  
 427 from traditional approaches to addressing homelessness by  
 428 focusing on each individual's or family's barriers to returning  
 429 to housing. By using this approach, communities can  
 430 significantly reduce the amount of time that individuals and  
 431 families are homeless and prevent further episodes of  
 432 homelessness.

433 (b) In Rapid ReHousing, an individual or family is  
 434 identified as being homeless, temporary assistance is provided  
 435 to allow the individual or family to obtain permanent housing as  
 436 quickly as possible, and, if needed, assistance is provided to  
 437 allow the individual or family to retain housing.

438 (c) The objective of Rapid ReHousing is to provide  
 439 assistance for as short a time as possible so that the  
 440 individual or family receiving assistance does not develop a  
 441 dependency on the assistance.

442 Section 6. Subsections (25) and (26) of section 420.9071,

443 Florida Statutes, are amended to read:

444 420.9071 Definitions.—As used in ss. 420.907-420.9079, the  
445 term:

446 (25) "Recaptured funds" means funds that are recouped by a  
447 county or eligible municipality in accordance with the recapture  
448 provisions of its local housing assistance plan pursuant to s.  
449 420.9075(5)(i) ~~s. 420.9075(5)(h)~~ from eligible persons or  
450 eligible sponsors, which funds were not used for assistance to  
451 an eligible household for an eligible activity, when there is a  
452 default on the terms of a grant award or loan award.

453 (26) "Rent subsidies" means ongoing monthly rental  
454 assistance. ~~The term does not include initial assistance to~~  
455 ~~tenants, such as grants or loans for security and utility~~  
456 ~~deposits.~~

457 Section 7. Subsection (7) of section 420.9072, Florida  
458 Statutes, is amended, subsections (8) and (9) are renumbered as  
459 subsections (9) and (10), respectively, and a new subsection (8)  
460 is added to that section, to read:

461 420.9072 State Housing Initiatives Partnership Program.—  
462 The State Housing Initiatives Partnership Program is created for  
463 the purpose of providing funds to counties and eligible  
464 municipalities as an incentive for the creation of local housing  
465 partnerships, to expand production of and preserve affordable  
466 housing, to further the housing element of the local government  
467 comprehensive plan specific to affordable housing, and to  
468 increase housing-related employment.

469 (7) A county or an eligible municipality must expend its  
 470 portion of the local housing distribution only to implement a  
 471 local housing assistance plan or as provided in this subsection.  
 472 ~~A county or an eligible municipality may not expend its portion~~  
 473 ~~of the local housing distribution to provide rent subsidies;~~  
 474 ~~however, this does not prohibit the use of funds for security~~  
 475 ~~and utility deposit assistance.~~

476 (8) A county or an eligible municipality may not expend  
 477 its portion of the local housing distribution to provide ongoing  
 478 rent subsidies, except for:

- 479 (a) Security and utility deposit assistance.
- 480 (b) Eviction prevention not to exceed 6 months' rent.
- 481 (c) A rent subsidy program for very-low-income families  
 482 with at least one person with special needs as defined in s.  
 483 420.0004 or one individual experiencing homelessness as defined  
 484 in s. 420.621. The period of rental assistance may not exceed 12  
 485 months for an eligible household.

486 Section 8. Paragraph (a) of subsection (2) and subsection  
 487 (5) of section 420.9075, Florida Statutes, are amended,  
 488 paragraph (f) is added to subsection (3), and paragraph (i) is  
 489 added to subsection (10) of that section, to read:

490 420.9075 Local housing assistance plans; partnerships.—

491 (2)(a) Each county and each eligible municipality  
 492 participating in the State Housing Initiatives Partnership  
 493 Program shall encourage the involvement of appropriate public  
 494 sector and private sector entities as partners in order to

495 combine resources to reduce housing costs for the targeted  
 496 population. This partnership process should involve:  
 497 1. Lending institutions.  
 498 2. Housing builders and developers.  
 499 3. Nonprofit and other community-based housing and service  
 500 organizations.  
 501 4. Providers of professional services relating to  
 502 affordable housing.  
 503 5. Advocates for low-income persons, including, but not  
 504 limited to, persons who are homeless ~~people~~, the elderly, and  
 505 migrant farmworkers.  
 506 6. Real estate professionals.  
 507 7. Other persons or entities who can assist in providing  
 508 housing or related support services.  
 509 8. Lead agencies of local homeless assistance continuums  
 510 of care.  
 511 9. Managing entities, as defined in s. 394.9082(2).  
 512 (3)  
 513 (f) Each county and each eligible municipality is  
 514 encouraged to develop a strategy within its local housing  
 515 assistance plan which provides program funds for reducing  
 516 homelessness.  
 517 (5) The following criteria apply to awards made to  
 518 eligible sponsors or eligible persons for the purpose of  
 519 providing eligible housing:  
 520 (a) At least 65 percent of the funds made available in

521 each county and eligible municipality from the local housing  
 522 distribution must be reserved for home ownership for eligible  
 523 persons.

524 (b) Up to 25 percent of the funds made available in each  
 525 county and eligible municipality from the local housing  
 526 distribution may be reserved for rental housing for eligible  
 527 persons or for the purposes listed in s. 420.9072(8).

528 ~~(c)(b)~~ At least 75 percent of the funds made available in  
 529 each county and eligible municipality from the local housing  
 530 distribution must be reserved for construction, rehabilitation,  
 531 or emergency repair of affordable, eligible housing.

532 ~~(d)(e)~~ Not more than 20 percent of the funds made  
 533 available in each county and eligible municipality from the  
 534 local housing distribution may be used for manufactured housing.

535 ~~(e)(d)~~ The sales price or value of new or existing  
 536 eligible housing may not exceed 90 percent of the average area  
 537 purchase price in the statistical area in which the eligible  
 538 housing is located. Such average area purchase price may be that  
 539 calculated for any 12-month period beginning not earlier than  
 540 the fourth calendar year prior to the year in which the award  
 541 occurs or as otherwise established by the United States  
 542 Department of the Treasury.

543 ~~(f)(e)~~1. All units constructed, rehabilitated, or  
 544 otherwise assisted with the funds provided from the local  
 545 housing assistance trust fund must be occupied by very-low-  
 546 income persons, low-income persons, and moderate-income persons

547 | except as otherwise provided in this section.

548 |         2. At least 30 percent of the funds deposited into the  
 549 | local housing assistance trust fund must be reserved for awards  
 550 | to very-low-income persons or eligible sponsors who will serve  
 551 | very-low-income persons and at least an additional 30 percent of  
 552 | the funds deposited into the local housing assistance trust fund  
 553 | must be reserved for awards to low-income persons or eligible  
 554 | sponsors who will serve low-income persons. This subparagraph  
 555 | does not apply to a county or an eligible municipality that  
 556 | includes, or has included within the previous 5 years, an area  
 557 | of critical state concern designated or ratified by the  
 558 | Legislature for which the Legislature has declared its intent to  
 559 | provide affordable housing. The exemption created by this act  
 560 | expires on July 1, 2013, and shall apply retroactively.

561 |         (g)~~(f)~~ Loans shall be provided for periods not exceeding  
 562 | 30 years, except for deferred payment loans or loans that extend  
 563 | beyond 30 years which continue to serve eligible persons.

564 |         (h)~~(g)~~ Loans or grants for eligible rental housing  
 565 | constructed, rehabilitated, or otherwise assisted from the local  
 566 | housing assistance trust fund must be subject to recapture  
 567 | requirements as provided by the county or eligible municipality  
 568 | in its local housing assistance plan unless reserved for  
 569 | eligible persons for 15 years or the term of the assistance,  
 570 | whichever period is longer. Eligible sponsors that offer rental  
 571 | housing for sale before 15 years or that have remaining  
 572 | mortgages funded under this program must give a first right of

573 refusal to eligible nonprofit organizations for purchase at the  
 574 current market value for continued occupancy by eligible  
 575 persons.

576        (i)~~(h)~~ Loans or grants for eligible owner-occupied housing  
 577 constructed, rehabilitated, or otherwise assisted from proceeds  
 578 provided from the local housing assistance trust fund shall be  
 579 subject to recapture requirements as provided by the county or  
 580 eligible municipality in its local housing assistance plan.

581        (j)~~(i)~~ The total amount of monthly mortgage payments or  
 582 the amount of monthly rent charged by the eligible sponsor or  
 583 her or his designee must be made affordable.

584        (k)~~(j)~~ The maximum sales price or value per unit and the  
 585 maximum award per unit for eligible housing benefiting from  
 586 awards made pursuant to this section must be established in the  
 587 local housing assistance plan.

588        (l)~~(k)~~ The benefit of assistance provided through the  
 589 State Housing Initiatives Partnership Program must accrue to  
 590 eligible persons occupying eligible housing. This provision  
 591 shall not be construed to prohibit use of the local housing  
 592 distribution funds for a mixed income rental development.

593        (m)~~(l)~~ Funds from the local housing distribution not used  
 594 to meet the criteria established in paragraph (a) or paragraph  
 595 (c) ~~(b)~~ or not used for the administration of a local housing  
 596 assistance plan must be used for housing production and finance  
 597 activities, including, but not limited to, financing  
 598 preconstruction activities or the purchase of existing units,



599 providing rental housing, and providing home ownership training  
 600 to prospective home buyers and owners of homes assisted through  
 601 the local housing assistance plan.

602 1. Notwithstanding the provisions of paragraphs (a) and  
 603 (c) ~~(b)~~, program income as defined in s. 420.9071(24) may also  
 604 be used to fund activities described in this paragraph.

605 2. When preconstruction due-diligence activities conducted  
 606 as part of a preservation strategy show that preservation of the  
 607 units is not feasible and will not result in the production of  
 608 an eligible unit, such costs shall be deemed a program expense  
 609 rather than an administrative expense if such program expenses  
 610 do not exceed 3 percent of the annual local housing  
 611 distribution.

612 3. If both an award under the local housing assistance  
 613 plan and federal low-income housing tax credits are used to  
 614 assist a project and there is a conflict between the criteria  
 615 prescribed in this subsection and the requirements of s. 42 of  
 616 the Internal Revenue Code of 1986, as amended, the county or  
 617 eligible municipality may resolve the conflict by giving  
 618 precedence to the requirements of s. 42 of the Internal Revenue  
 619 Code of 1986, as amended, in lieu of following the criteria  
 620 prescribed in this subsection with the exception of paragraphs  
 621 (a) and (f) ~~(e)~~ of this subsection.

622 4. Each county and each eligible municipality may award  
 623 funds as a grant for construction, rehabilitation, or repair as  
 624 part of disaster recovery or emergency repairs or to remedy

625 accessibility or health and safety deficiencies. Any other  
 626 grants must be approved as part of the local housing assistance  
 627 plan.

628 (10) Each county or eligible municipality shall submit to  
 629 the corporation by September 15 of each year a report of its  
 630 affordable housing programs and accomplishments through June 30  
 631 immediately preceding submittal of the report. The report shall  
 632 be certified as accurate and complete by the local government's  
 633 chief elected official or his or her designee. Transmittal of  
 634 the annual report by a county's or eligible municipality's chief  
 635 elected official, or his or her designee, certifies that the  
 636 local housing incentive strategies, or, if applicable, the local  
 637 housing incentive plan, have been implemented or are in the  
 638 process of being implemented pursuant to the adopted schedule  
 639 for implementation. The report must include, but is not limited  
 640 to:

641 (i) A description of efforts to reduce homelessness.

642 Section 9. Section 420.9089, Florida Statutes, is created  
 643 to read:

644 420.9089 National Housing Trust Fund.—The Legislature  
 645 finds that more funding for housing to assist individuals and  
 646 families who are experiencing homelessness is needed and  
 647 encourages the state entity designated to administer funds made  
 648 available to the state from the National Housing Trust Fund to  
 649 propose an allocation plan that includes strategies to reduce  
 650 homelessness in this state. These strategies to address

651 homelessness shall be in addition to strategies under s.  
 652 420.5087.

653 Section 10. Subsection (4) is added to section 421.04,  
 654 Florida Statutes, to read:

655 421.04 Creation of housing authorities.-

656 (4) Regardless of the date of its creation, a housing  
 657 authority may not apply to the Federal Government to seize a  
 658 project, unit, or voucher of another established housing  
 659 authority, regardless of each housing authority's areas of  
 660 operation.

661 Section 11. Subsection (2) of section 421.05, Florida  
 662 Statutes, is amended to read:

663 421.05 Appointment, qualifications, and tenure of  
 664 commissioners; hiring of employees.-

665 (2) The powers of each authority shall be vested in the  
 666 commissioners thereof in office from time to time. A majority of  
 667 the commissioners constitutes ~~shall constitute~~ a quorum of the  
 668 authority for the purpose of conducting its business and  
 669 exercising its powers and for all other purposes. Action may be  
 670 taken by the authority upon a vote of a majority of the  
 671 commissioners present, unless in any case the bylaws of the  
 672 authority require a larger number. The mayor with the  
 673 concurrence of the governing body shall designate ~~which of the~~  
 674 ~~commissioners appointed shall be~~ the first chair from among the  
 675 appointed commissioners, but when the office of the chair of the  
 676 authority thereafter becomes vacant, the authority shall select

677 a chair from among the ~~its~~ commissioners. An authority shall  
 678 also select from among the ~~its~~ commissioners a vice chair,<sup>+</sup> and  
 679 it may employ a secretary, who shall be the executive director,  
 680 technical experts, and such other officers, agents, and  
 681 employees, permanent and temporary, as it may require and shall  
 682 determine their qualifications, duties, and compensation.  
 683 Accordingly, an authority is exempt from s. 215.425. For such  
 684 ~~legal services as it may require,~~ An authority may call upon the  
 685 chief law officer of the city or may employ its own counsel and  
 686 legal staff for legal services. An authority may delegate to one  
 687 or more of its agents or employees such powers or duties as it  
 688 may deem proper.

689 Section 12. Subsection (1) of section 421.091, Florida  
 690 Statutes, is amended to read:

691 421.091 Financial accounting and investments; fiscal  
 692 year.-

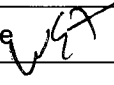

693 (1) A complete and full financial accounting and audit in  
 694 accordance with federal audit standards of public housing  
 695 agencies shall be made biennially by a certified public  
 696 accountant and submitted to the Federal Government in accordance  
 697 with its policies. Housing authorities are otherwise exempt from  
 698 the reporting requirements of s. 218.32. A copy of such audit  
 699 ~~shall be filed with the governing body and with the Auditor~~  
 700 ~~General.~~

701 Section 13. This act shall take effect July 1, 2016.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1299 Public Assistance  
**SPONSOR(S):** Children, Families & Seniors Subcommittee, Eagle  
**TIED BILLS:** IDEN./SIM. BILLS:

| REFERENCE                                    | ACTION              | ANALYST  | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF  |
|--|---------------------|--|---|
| 1) Children, Families & Seniors Subcommittee | 12 Y, 1 N, As<br>CS | Langston   | Brazzell  |
| 2) Appropriations Committee                  |                     | Fontaine  | Leznoff  |
| 3) Health & Human Services Committee         |                     |  |   |

### SUMMARY ANALYSIS

Florida's Temporary Cash Assistance (TCA) Program provides cash assistance to needy families with children that meet eligibility requirements. To be eligible for full-family TCA, applicants must participate in work activity requirements unless they are exempt. The Department of Children and Families (DCF) may sanction TCA recipients that fail to meet work requirements by withholding cash assistance payments.

CS/HB 1299 increases penalties for the first three instances of noncompliance with TCA work requirements to align the sanctions with those of the food assistance program and creates a fourth sanction. The bill:

- Increases the first sanction from 10 days to one month; this sanction remains full family.
- Increases the second sanction from one month or until compliance, whichever is later, to three months or until compliance, whichever is later; and provides that child-only TCA, for children in the family under 16 years old, is only available for the first three months of the sanction period even if the participant takes longer to comply.
- Increases the third sanction from three months or until compliance, whichever is later, to six months or until compliance, whichever is later; and provides that child-only TCA, for children in the family under 16 years old, is only available for the first six months of the sanction period even if the participant takes longer to comply.
- Creates a fourth sanction of twelve months or until compliance, whichever is later, and that the individual must reapply to the program; and provides that child-only TCA, for children in the family under 16 years old, is only available for the first twelve months of the sanction period even if the participant takes longer to comply.

The bill requires DCF to refer sanctioned participants to appropriate free and low-cost community services, including food banks. The Department of Economic Opportunity, DCF, and CareerSource must work with participants to develop strategies to overcome barriers to compliance with the TCA work requirements. They must inform participants, and have the participant agree, in writing, to the expectations they must follow in order to continue receiving benefits.

The bill amends the Relative Caregiver program to prohibit payment of TCA to a noncustodial parent living with the relative that is caring for the noncustodial parent's child and receiving Relative Caregiver funding.

Florida provides TCA and other social welfare benefits by using Electronic Benefits Transfer (EBT) cards and there is no fee charged for replacement EBT cards. The bill requires EBT cardholders to pay a fee for the fifth and additional EBT cards requested within a 12-month period. The bill allows DCF to deduct the fee from the cardholder's benefits unless there is a hardship.

The bill requires hospitals to implement procedures to biometrically confirm Medicaid patient identities and compare them with driver's license photos and Medicaid eligibility.

The bill has a nonrecurring, negative fiscal impact to DCF of \$879,680 to implement changes to the TCA program and EBT card system. The bill has a recurring, positive fiscal impact of \$2,516,452 in savings from the reduction in TCA benefits while participants experience penalties for noncompliance.

The bill provides an effective date of July 1, 2016.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Temporary Assistance for Needy Families (TANF)

Under the federal welfare reform legislation of 1996, the Temporary Assistance for Needy Families (TANF) program replaced the welfare programs known as Aid to Families with Dependent Children, the Job Opportunities and Basic Skills Training program, and the Emergency Assistance program. The law ended federal entitlement to assistance and instead created TANF as a block grant that provides states, territories, and tribes federal funds each year. These funds cover benefits, administrative expenses, and services targeted to needy families. TANF became effective July 1, 1997, and was reauthorized in 2006 by the Deficit Reduction Act of 2005. States receive block grants to operate their individual programs and to accomplish the goals of the TANF program.

##### Florida's Temporary Cash Assistance Program

The Temporary Cash Assistance (TCA) Program provides cash assistance to families with children under the age of 18 or under age 19<sup>1</sup> if full time secondary school students, that meet the technical, income, and asset requirements. The purpose of the TCA Program is to help families become self-supporting while allowing children to remain in their own homes. In November 2015, 14,102 adults and 70,476 children received TCA.<sup>2</sup>

##### *Full-Family vs. Child-Only TCA*

Florida law specifies two categories of families who are eligible for TCA; those families that are work-eligible and entitled to receive TCA for the full-family, and those families who are entitled to receive child-only TCA. Within the full-family cases, the parent or parents are required to comply with work requirements to receive TCA for the parent(s) and child(ren). Additionally, there are two types of child-only TCA; the first category is where the child is living with a relative or situations the custodial parent is not eligible,<sup>3</sup> the second type is the Relative Caregiver Program, where the child has been adjudicated dependent has been placed with relatives by the court; these relatives are eligible for a payment that is higher than the typical child-only TCA.

The majority of cash assistance benefits are provided to child-only cases, through the Relative Caregiver Program or to work-eligible cases where the adult is ineligible due to sanction for failure to meet TCA work requirements. In November 2015, 36,443 of the 49,652 families receiving TCA were child-only cases.<sup>4</sup> In November 2015, there were 13,209 families receiving TCA through full-family cases containing an adult, 607 of which were two-parent families; these are the families who are subject to work requirements.<sup>5</sup>

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<sup>1</sup> Parents, children and minor siblings who live together must apply together. Additionally, pregnant women may also receive TCA, either in the third trimester of pregnancy if unable to work, or in the 9th month of pregnancy.

<sup>2</sup> Department of Children and Families, Monthly Flash Report Caseload Data: November 2015, <http://eww.dcf.state.fl.us/ess/reports/docs/flash2005.xlsx> (last visited January 17, 2016).

<sup>3</sup> Child-only families also include situations where a parent is receiving federal Supplemental Security Income (SSI) payments and situations where the parent is not a U.S. citizen and is ineligible due to their immigration status. Grandparents or other relatives receiving child-only payments are not subject to the TANF work requirement or the TANF time limit.

<sup>4</sup> *Supra*, note 2.

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

## *Administration*

Various state agencies and entities work together through a series of contracts or memorandums of understanding to administer the TCA Program.

- The Department of Children and Families (DCF) is the recipient of the federal TANF block grant. DCF monitors eligibility and disperses benefits.
- CareerSource Florida, formerly Workforce Florida, Inc.,<sup>6</sup> is the state's workforce policy and investment board. CareerSource Florida has planning and oversight responsibilities for all workforce-related programs.
- The Department of Economic Opportunity (DEO) is the designated agency for workforce programs, funding and personnel, and implements the policy created by CareerSource.<sup>7</sup> DEO is responsible for financial and performance reports ensuring compliance with federal and state measures and provides training and technical assistance to Regional Workforce Boards.
- Regional Workforce Boards (RWBs) provide a coordinated and comprehensive delivery of local workforce services. The RWBs focus on strategic planning, policy development and oversight of the local workforce investment system within their respective areas and contract with one-stop career centers. The contracts with the RWBs are performance- and incentive- based.

## *Eligibility Determination*

An applicant must meet all eligibility requirements to receive TCA benefits. The initial application for TANF is processed by DCF. The application may be submitted in person, online or through the mail.

DCF determines an applicant's eligibility. Additionally, to be eligible for full-family TCA, applicants must participate in work activities unless they qualify for an exemption. Exemptions from the work requirement are available for:

- An individual who receives benefits under the Supplemental Security Income program or the Social Security Disability Insurance program.
- An adult who is not defined as a work-eligible individual under federal law.
- A single parent of a child under 3 months of age, except that the parent may be required to attend parenting classes or other activities to better prepare for raising a child.
- An individual who is exempt from the time period pursuant to s. 414.105, F.S.

If no exemptions from work requirements apply, DCF refers the applicant to DEO.<sup>8</sup> Upon referral, the participant must complete an in-take application and undergo assessment by RWB staff which includes:

- Identifying barriers to employment.
- Identifying the participant's skills that will translate into employment and training opportunities.
- Reviewing the participant's work history
- Identifying whether a participant needs alternative requirements due to domestic violence, substance abuse, medical problems, mental health issues, hidden disabilities, learning disabilities or other problems which prevent the participant from engaging in full-time employment or activities.

Once the assessment is complete, the staff member and participant create the Individual Responsibility Plan (IRP). The IRP includes:

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<sup>6</sup> On May 22, 2013, the WFI Board of Directors unanimously approved the brand charter, name, and logo establishing "CareerSource Florida" as the single, statewide unified brand for Florida's workforce system. This universal brand will apply directly to WFI, RWBs and One-Stop Career Centers, creating aligned brand names and logos system-wide (i.e. Workforce Florida Inc. is now CareerSource Florida and Gulf Coast Workforce Development Board is now CareerSource Gulf Coast).

<sup>7</sup> S. 445.007(13), F.S.

<sup>8</sup> This is an electronic referral through a system interface between DCF's computer system and DEO's computer system. Once the referral has been entered into the DEO system the information may be accessed by any of the RWBs or One-Stop Career Centers.



- The participant's employment goal;
- The participant's assigned activities;
- Services provided through program partners, community agencies and the workforce system;
- The weekly number of hours the participant is expected to complete; and
- Completion dates and deadlines for particular activities.

DCF does not disperse any benefits to the participant until DEO or the RWB confirms that the participant has registered and attended orientation.

### *Work Requirement*

Individuals receiving TCA who are not otherwise exempt from work activity requirements must participate in work activities for the maximum number of hours allowable under federal law.<sup>9</sup> The number of required work or activities hours is determined by calculating the value of the cash benefits and then dividing that number by the hourly minimum wage amount.

Federal law requires individuals to participate in work activities for at least:

- 20 hours per week, or attend at a secondary school or the equivalent or participate in education directly related to employment if under the age of 20 and married or single head-of-household.
- 20 hours per week for single parents with a child under the age of six.
- 30 hours per week for all other single parents.
- 35 hours per week, combined, for two-parent families not receiving subsidized child care.
- 55 hours per week, combined, for two-parent families receiving subsidized child care..

Pursuant to federal rule<sup>10</sup> and state law,<sup>11</sup> the following activities may be used individually or in combination to satisfy the work requirements for a participant in the TCA program:

- Unsubsidized employment.
- Subsidized private sector employment.
- Subsidized public sector employment.
- On-the-job training.
- Community service programs.
- Work experience.
- Job search and job readiness assistance.
- Vocational educational training.
- Job skills training directly related to employment.
- Education directly related to employment.
- Attendance at school or course of study for graduate equivalency diploma.
- Providing child care services.<sup>12</sup>

RWB's currently have discretion to assign an applicant to a work activity, including job search, before receiving TCA. Some RWBs already require applicants to complete an initial job search as part of the application process.<sup>13</sup> Currently, Florida's TANF Work Verification Plan<sup>14</sup> requires participants to record

<sup>9</sup> S. 445.024(2), F.S.

<sup>10</sup> 45 C.F.R. § 261.30

<sup>11</sup> S. 445.024, F.S.

<sup>12</sup> S. 445.024(1)(a)-(l), F.S.

<sup>13</sup> Department of Children and Families, Agency Analysis of 2016 House Bill 563 (Nov. 20, 2015)(on file with Children, Families, and Seniors Subcommittee staff)

<sup>14</sup> DEPARTMENT OF CHILDREN AND FAMILIES ECONOMIC SELF-SUFFICIENCY PROGRAM OFFICE, *Temporary Assistance for Needy Families State Plan Renewal October 1, 2014 – September 30, 2017*, Nov. 14, 2014, available at [www.dcf.state.fl.us/programs/access/docs/TANF-Plan.pdf](http://www.dcf.state.fl.us/programs/access/docs/TANF-Plan.pdf) (last visited December 17, 2015).

each on-site job contact and a representative of the employer or RWB provider staff to certify the validity of the log by signing each entry. If the applicant conducts a job search by phone or internet, the activity must be recorded on a job search report form and include detailed, specific information to allow follow-up and verification by the RWB provider staff.<sup>15</sup>

### *Sanctions for Noncompliance*

RWBs can sanction TANF recipients who fail to comply with the work requirements by withholding cash assistance for a specified time, which lengthens with repeated lack of compliance. The participant's noncompliance can result in sanctions, as follows:

- First noncompliance - cash assistance is terminated for the full-family for a minimum of 10 days or until the individual complies.
- Second noncompliance - cash assistance is terminated for the full-family for one month or until the individual complies, whichever is later.
- Third noncompliance - cash assistance is terminated for the full-family for three months or until the individual complies, whichever is later.

In Fiscal Year (FY) 2014-2015, the number of TCA families sanctioned for noncompliance with the work requirements breaks down as follows:

- 993 families were sanctioned for a first instance of noncompliance; of those families, only 193 families, or 19.4 percent, complied with work requirements to be reinstated in the program.<sup>16</sup>
- 466 families were sanctioned for a second instance of noncompliance; of those families, only 49 families, or 10.5 percent, complied with the work requirements to be reinstated in the program.<sup>17</sup>
- 489 families were sanctioned for a third instance of noncompliance; of those families, only 47 families, or 9.6 percent, complied with the work requirements to be reinstated in the program.<sup>18</sup>

For the second and subsequent instances of noncompliance, the TCA for the child or children in a family who are under age 16 may be continued (i.e. the case becomes a child-only case). Any such payments must be made through a protective payee and under no circumstances may temporary cash assistance or food assistance be paid to an individual who has not complied with program requirements. Data from 2014 indicates only six percent of those who regain eligibility after sanction do so via a child-only case.<sup>19</sup>

However, if a participant who was previously sanctioned fully complies with work activity requirements for at least six months, the participant must be reinstated as being in full compliance with program requirements for purpose of sanctions imposed under this section.<sup>20</sup> Once the participant has been reinstated, a subsequent instance of noncompliance would be treated as the first violation.

The Food Assistance Program, Supplemental Nutrition Assistance Program (SNAP), formerly called food stamps, also contains similar sanctions for failure to comply with its Employment and Training Program when receiving benefits. However, the SNAP sanctions are a longer duration. For the first instance of noncompliance, food assistance benefits are terminated for one month or until compliance, whichever is later; for the second instance, food assistance benefits are terminated for three months or until compliance, whichever is later; and for the third instance, food assistance benefits are terminated for six months or until compliance, whichever is longer.<sup>21</sup>

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<sup>15</sup> *Supra*, note 13 at 2.

<sup>16</sup> Email from Nicole Stookey, Deputy Director, Office of Legislative Affairs, Department of Children and Families, RE: TANF Follow-Up Questions (Nov. 30, 2015) (On file with Children, Families, and Seniors Subcommittee staff).

<sup>17</sup> *Id.*

<sup>18</sup> *Id.*

<sup>19</sup> *Id.*

<sup>20</sup> S. 414.065(1), F.S.

<sup>21</sup> Rule 65A-1.605(3), F.A.C.

## *Relative Caregiver Program*

The Relative Caregiver Program provides TCA to individuals who meet eligibility rules and have custody of a relative child under age 18 who has been court ordered dependent by a Florida court and placed in their home by a DCF Child Welfare/Community Based Care contracted provider.<sup>22</sup> The intent of the Relative Caregiver Program is to provide relative caregivers who could not otherwise afford to take the child into their homes, a means to avoid exposing the child to the trauma of shelter or foster care.

The Relative Caregiver Program provides one type of child-only TCA. Payments are based on the child's age and any countable income.<sup>23</sup> DCF ceases to provide child-only Relative Caregiver Program benefits when the parent or step-parent resides in the home with the relative caregiver and the child. DCF ceases the benefits in this situation based on the requirement in s. 414.095(2)(a)5., F.S., that parents who live with their minor children to be included in the eligibility determination and households containing a parent are considered work-eligible households. Through rule 65C-28.008(2)(d), F.A.C., DCF terminates payments through the Relative Caregiver Program if the parent is in the home for 30 consecutive days.<sup>24</sup> However, at least one court has ruled that caregivers may continue to receive the Relative Caregiver Program benefits while the parent resides in the home, because the prohibition against the parent residing in the home is not in statute and DCF rules cannot be used to establish an eligibility guideline not included in the statute. Court orders in such cases result in DCF being required to make disallowed TANF expenditures.

## Electronic Benefits Transfer (EBT) Card Program

Electronic Benefits Transfer (EBT) is an electronic system that allows a recipient to authorize transfer of their government benefits, including from the SNAP and TCA programs, to a retailer account to pay for products received.<sup>25</sup> The EBT card program is administered on the federal level by the Food and Nutrition Service (FNS) within the U.S. Department of Agriculture and at the state level by DCF. In Florida, benefits are deposited into a TCA or SNAP account each month; the benefits in the TCA or SNAP account are accessed using the Florida EBT Automated Community Connection to Economic Self Sufficiency (ACCESS) card.<sup>26</sup> Even though the EBT card is issued in the name of an applicant, any eligible member of the household is allowed to use the EBT card.<sup>27</sup> Additionally, recipients may designate an authorized representative as a secondary cardholder who can receive an EBT card and access the food assistance account. Authorized representatives are often someone responsible for caring for the recipient. The ACCESS Florida system allows recipients to designate one authorized representative per household.

## *Replacement of EBT Cards*

When a recipient loses his or her EBT card, he or she must call the EBT vendor's customer service telephone number to request a replacement EBT card.<sup>28</sup> The vendor then deactivates the card, and

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<sup>22</sup> S. 39.5085(2), F.S.

<sup>23</sup> Rule 65C-28.008(2)(g), F.A.C.

<sup>24</sup> However, a relative may receive the RCP payment for a minor parent who is in his or her care, as well as for that minor parent's child, if both children have been adjudicated dependent and meet all other eligibility requirements.

<sup>25</sup> U.S. DEPARTMENT OF AGRICULTURE, FOOD AND NUTRITION SERVICES, *EBT: General Electronic Benefit Transfer (EBT) Information*, <http://www.fns.usda.gov/ebt/general-electronic-benefit-transfer-ebt-information> (last visited December 21, 2015)

<sup>26</sup> DEPARTMENT OF CHILDREN AND FAMILIES, *Welcome to EBT*, <http://www.myflfamilies.com/service-programs/access-florida-food-medical-assistance-cash/welcome-ebt> (last visited December 22, 2015)

<sup>27</sup> 7 C.F.R. § 273.2(n)(3).

<sup>28</sup> The Florida Legislature's Office of Program Policy Analysis & Government Accountability, *Supplemental Nutrition Assistance Program: DCF Has Mechanisms in Place to Facilitate Eligibility, Verify Participant Identity, and Monitor Benefit Use*, Dec. 3, 2015, p. 8 (research memorandum on file with Children, Families, and Seniors Subcommittee staff)

sends the household a new card.<sup>29</sup> Federal regulations allow recipients to request an unlimited number of replacement EBT cards.<sup>30</sup> While states cannot limit the number of replacement cards, frequent requests for replacement cards can be an indicator of EBT card fraud, such as trafficking, which occurs when an EBT card containing benefits is exchanged for cash. FNS and DCF consider multiple replacement cards a preliminary indicator of trafficking.

FNS aims to preserve food assistance access for vulnerable populations (e.g., mentally ill and homeless people) who are at risk of losing their cards but who are not committing fraud,<sup>31</sup> while preventing others from trafficking and replacing their EBT cards. In the interest of preventing fraud, FNS regulations require states to monitor all client requests for EBT card replacements and send a notice, upon the fourth request in a 12-month period, alerting the household that their account is being monitored for potential suspicious activity.<sup>32</sup> In Fiscal Year 2014-15, DCF sent 13,967 letters to households that had requested four or more cards.<sup>33</sup> The letter informs the recipient that the card does not need to be replaced each month and that it is important to keep track of the card.<sup>34</sup> The letter also informs the recipient that this number of replacement requests is not normal and that the household's EBT behavior is being monitored.<sup>35</sup> Additionally, in Fiscal Year 2014-15, less than one-third of the households who requested four cards (4,653 households) requested yet another replacement card after receiving the letter, and the DCF Office of Public Benefits Integrity referred these cases to the Department of Financial Services Division of Public Assistance Fraud (DPAF) for potential fraud investigation.<sup>36</sup>

Federal regulations allow states to charge recipients for the cost to replace an excessive<sup>37</sup> number of cards. FNS allows states to charge for the cost of the EBT card after four replaced cards. Under DCF's EBT contract, the vendor reports that replacements costs \$3.50 per card.<sup>38</sup> A number of other states that charge for replacement cards. Those states charge between \$2.00 to \$5.00<sup>39</sup> per replacement card with some exceptions for good cause or financial hardship.

### Medicaid Fraud

Medicaid fraud means an intentional deception or misrepresentation made by a health care provider or a Medicaid recipient with the knowledge that the deception could result in some unauthorized benefit to him or herself or some other person.<sup>40</sup> It includes any act that constitutes fraud under federal or state law related to Medicaid.<sup>41</sup>

The Attorney General's Medicaid Fraud Control Unit investigates and prosecutes fraud involving providers that intentionally defraud the state's Medicaid program through fraudulent billing practices.<sup>42</sup> DPAF investigates Medicaid recipient fraud.<sup>43</sup>

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<sup>29</sup> *Id.*

<sup>30</sup> 7 C.F.R. § 276.4

<sup>31</sup> 7 C.F.R. § 274.6(b)(5)(iii).

<sup>32</sup> 7 C.F.R. § 274.6(b)(6); In Florida, after the EBT vendor provides a fourth replacement card to a household within a 12-month span, DCF sends a letter to the household.

<sup>33</sup> *Supra*, note 28.

<sup>34</sup> *Id.*

<sup>35</sup> *Id.*

<sup>36</sup> *Id.*

<sup>37</sup> Defined by federal regulation as in excess of four cards within a 12-month span.

<sup>38</sup> *Supra*, note 28.

<sup>39</sup> By way of example, Louisiana and Maryland charge \$2.00, New Mexico charges \$2.50, and Massachusetts charges \$5.00.

<sup>40</sup> AGENCY FOR HEALTH CARE ADMINISTRATION, *Medicaid Fraud: Protect Your Tax Dollars*,

[http://ahca.myflorida.com/Executive/Inspector\\_General/complaints.shtml](http://ahca.myflorida.com/Executive/Inspector_General/complaints.shtml) (last visited January 6, 2016).

<sup>41</sup> *Id.*

<sup>42</sup> FLORIDA OFFICE OF THE ATTORNEY GENERAL, *Medicaid Fraud Control Unit*,

<http://www.myfloridalegal.com/pages.nsf/Main/EBC480598BBF32D885256CC6005B54D1> (last visited January 6, 2016).

<sup>43</sup> DEPARTMENT OF FINANCIAL SERVICES, *Division of Public Assistance Fraud*: <http://www.myfloridacfo.com/Division/PAF/> (last visited January 6, 2016).

## **Effect of the Bill**

### Temporary Cash Assistance

#### *Sanctions for Noncompliance*

CS/HB 1299 increases the sanctions for TCA recipients who are subjected to the work requirements for the first three instances of noncompliance and creates a sanction for the fourth instance of noncompliance. The bill amends s. 414.065(1) and (2), F.S., to:

- Increase the first sanction from 10 days to one month; this sanction remains full-family.
- Increase the second sanction from one month or until compliance, whichever is later, to three months or until compliance, whichever is later; and provides that child-only TCA, for children in the family under 16 years old, is only available for the first three months of the sanction period even if participant takes longer to comply.
- Increase the third sanction from three months or until compliance, whichever is later, to six months or until compliance, whichever is later; and provides that child-only TCA, for children in the family under 16 years old, is only available for the first six months of the sanction period even if participant takes longer to comply.
- Create a fourth sanction of twelve months or until compliance, whichever is later, and that the individual must reapply to the program to resume receiving benefits; and provides that child-only TCA, for children in the family under 16 years old, is only available for the first twelve months of the sanction period even if participant takes longer to comply.

The bill aligns the sanctions for the first through third occurrences of noncompliance with TCA work requirements with the sanctions for noncompliance with the SNAP program's Employment and Training Program. When a participant is sanctioned, DCF must refer him or her to appropriate free and low-cost community services, including food banks. Additionally, the bill clarifies that participants may comply with the work activity requirements before the end of the minimum penalty period.

#### *Work Plan*

The bill requires that, prior to receipt of TCA, DEO, DCF, or CareerSource must inform the participant, in plain language, and have the participant indicate agree to, in writing:

- What is expected of the applicant to continue to receive benefits;
- Under what circumstances the applicant would be sanctioned; and
- Potential penalties for noncompliance with work requirements, including how long benefits would not be available to the applicant.

The bill also requires that, prior to receipt of TCA, DEO, DCF, or CareerSource must work with the participant to develop strategies on how to overcome barriers to compliance with the TCA work requirements that the recipient faces.

#### *Relative Caregiver Program*

The bill amends s. 39.5085, F.S., to clarify that a caregiver may not receive payment through the Relative Caregiver Program if the parent or step-parent resides in the home with his or her child. Section 414.095(2)(a)5., F.S., requires parents and step-parents who live with their minor children to be included for eligibility determination and TCA regulations that define households containing a parent as a "work eligible" household.

## EBT Cards

The bill requires EBT cardholders to pay a fee for the fifth and all subsequent EBT replacement cards requested within a 12-month span. DCF currently sends a letter with the fourth replacement card informing the cardholder that his or her case is being monitored for potential trafficking activity. By charging the fee beginning with the fifth card, DCF may inform the cardholder in the letter that it sends with the fourth replacement card about replacement fees for subsequent new cards.

The bill allows DCF to deduct the fee from the cardholder's benefits and provides for a waiver of the fee upon a showing of good cause, such as that the card malfunctioned or the fee would cause extreme financial hardship.

## Medicaid Fraud

In an effort to combat Medicaid fraud, the bill requires hospitals to implement procedures to biometrically confirm a Medicaid patient's identity and compare against his or her driver's license photo and Medicaid eligibility. The bill provides that that the Department of Legal Affairs, the Agency for Health Care Administration, and the Department of Highway Safety and Motor Vehicles may contract with hospitals or their software providers to provide access to the driver's license database for the purpose of verifying patients' identities and Medicaid eligibility

### B. SECTION DIRECTORY:

**Section 1:** Amends s. 414.069, F.S., relating to noncompliance with work requirements.

**Section 2:** Amends s. 445.024, F.S., relating to work requirements.

**Section 3:** Amends s. 402.82, F.S., relating to electronic benefits transfer program.

**Section 4:** Amends s. 39.5085, F.S., relating to the Relative Caregiver Program.

**Section 5:** Amends s. 16.59, F.S., relating to Medicaid fraud control.

**Section 6:** Provides an effective date of July 1, 2016.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

The bill increases the length of time during which TCA recipients are ineligible for benefits when not meeting the program's work requirements. The bill expands three existing penalty periods and creates a new fourth period. It is expected this legislation will decrease recurring state expenditures for temporary cash assistance in the amount of \$2,516,452.<sup>44</sup>

The bill imposes a fee for the fifth, and subsequent, replacement EBT card within a 12-month period and provides such fee may be deducted from the participant's TCA benefits. Programming modifications to DCF's public benefits disbursement system are expected to cost \$879,680 to implement the card replacement provisions and to create a new fourth penalty for work requirement noncompliance.<sup>45</sup>

<sup>44</sup> Department of Children and Families, Agency Bill Analysis for 2016 House Bill 1299 (February 8, 2016), On file with the Health Care Appropriations Subcommittee.

<sup>45</sup> Id.

The bill requires hospitals that accept Medicaid payments to implement new biometric measures to verify patients' identity using photographs contained within the Department of Highway Safety and Motor Vehicles' (DHSMV) driver license database. It is unknown to what extent the DHSMV's driver license database will require programmatic updates to interface with hospitals' biometric identification systems, but is likely significant.

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

1. Revenues:

None.

2. Expenditures:

None.

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

The bill imposes a fee for the fifth, and subsequent, replacement EBT card within a 12-month period and provides such fee may be deducted from the participant's TCA benefits. The fee must be equal to the cost to replace the card. DCF may charge the costs of replacement cards against the program participant's benefits.

The bill requires hospitals that accept Medicaid payments to implement new biometric measures to verify patients' identity using photographs contained within the Department of Highway Safety and Motor Vehicles' driver license database. It is unknown to what extent hospitals have such ability, but the cost to implement this provision is likely significant.

**D. FISCAL COMMENTS:**

None.

### **III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

1. Applicability of Municipality/County Mandates Provision:

Not applicable. This bill does not appear to affect county or municipal governments.

2. Other:

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

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

On January 26, 2016, the Children, Families and Seniors Subcommittee adopted two amendments addressing sanctions for noncompliance with TCA work requirements. The amendments:

- Limit sanctioned families to child-only assistance for children under 16 years old during the minimum penalty periods for noncompliance with the TCA work requirements.
- Clarify that participants may comply with the work activity requirements before the end of the minimum penalty periods for noncompliance with the TCA work requirements.
- Require DCF to refer participants who are sanctioned for noncompliance to appropriate free and low-cost community services, including food banks.

The bill was reported favorably as a committee substitute. The analysis is drafted to the committee substitute.



1                                   A bill to be entitled  
 2       An act relating to public assistance; amending s.  
 3       414.065, F.S.; revising penalties for noncompliance  
 4       with the work requirements for temporary cash  
 5       assistance; limiting the receipt of child-only  
 6       benefits during periods of noncompliance with work  
 7       requirements; providing applicability of work  
 8       requirements before expiration of the minimum penalty  
 9       period; requiring the Department of Children and  
 10      Families to refer sanctioned participants to  
 11      appropriate free and low-cost community services,  
 12      including food banks; amending s. 445.024, F.S.;  
 13      requiring the Department of Economic Opportunity, in  
 14      cooperation with CareerSource Florida, Inc., and the  
 15      Department of the Department of Children and Families,  
 16      to develop and implement a work plan agreement for  
 17      participants in the temporary cash assistance program;  
 18      requiring the plan to identify expectations,  
 19      sanctions, and penalties for noncompliance with work  
 20      requirements; amending s. 402.82, F.S.; requiring the  
 21      Department of Children and Families to impose a  
 22      replacement fee for electronic benefits transfer cards  
 23      under certain circumstances; amending s. 39.5085,  
 24      F.S.; revising eligibility guidelines for the Relative  
 25      Caregiver Program with respect to relative and  
 26      nonrelative caregivers; amending s. 16.59, F.S.;

27 requiring biometric confirmation of Medicaid patients  
 28 by hospitals by a specified date to reduce Medicaid  
 29 fraud; authorizing the Department of Legal Affairs,  
 30 the Agency for Health Care Administration, and the  
 31 Department of Highway Safety and Motor Vehicles to  
 32 enter into certain contracts to provide access to  
 33 their respective databases for verification of patient  
 34 identities; providing an effective date.

35

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

37

38 Section 1. Subsection (1) and paragraph (a) of subsection  
 39 (2) of section 414.065, Florida Statutes, are amended to read:

40 414.065 Noncompliance with work requirements.—

41 (1) PENALTIES FOR NONPARTICIPATION IN WORK REQUIREMENTS  
 42 AND FAILURE TO COMPLY WITH ALTERNATIVE REQUIREMENT PLANS.—The  
 43 department shall establish procedures for administering  
 44 penalties for nonparticipation in work requirements and failure  
 45 to comply with the alternative requirement plan. If an  
 46 individual in a family receiving temporary cash assistance fails  
 47 to engage in work activities required in accordance with s.  
 48 445.024, the following penalties shall apply. Prior to the  
 49 imposition of a sanction, the participant shall be notified  
 50 orally or in writing that the participant is subject to sanction  
 51 and that action will be taken to impose the sanction unless the  
 52 participant complies with the work activity requirements. The

53 participant shall be counseled as to the consequences of  
 54 noncompliance and, if appropriate, shall be referred for  
 55 services that could assist the participant to fully comply with  
 56 program requirements. If the participant has good cause for  
 57 noncompliance or demonstrates satisfactory compliance, the  
 58 sanction shall not be imposed. If the participant has  
 59 subsequently obtained employment, the participant shall be  
 60 counseled regarding the transitional benefits that may be  
 61 available and provided information about how to access such  
 62 benefits. The department shall administer sanctions related to  
 63 food assistance consistent with federal regulations.

64 (a)1. First noncompliance: temporary cash assistance shall  
 65 be terminated for the family for a minimum of 1 month ~~10 days~~ or  
 66 until the individual who failed to comply does so, whichever is  
 67 later. Upon meeting this requirement, temporary cash assistance  
 68 shall be reinstated to the date of compliance or the first day  
 69 of the month following the penalty period, whichever is later.

70 2. Second noncompliance:

71 a. Temporary cash assistance shall be terminated for the  
 72 family for 3 months ~~1 month~~ or until the individual who failed  
 73 to comply does so, whichever is later. The individual shall be  
 74 required to comply with the required work activity upon  
 75 completion of the 3-month penalty period before reinstatement of  
 76 temporary cash assistance. Upon meeting this requirement,  
 77 temporary cash assistance shall be reinstated to the date of  
 78 compliance or the first day of the month following the penalty

79 | period, whichever is later.

80 |       b. Upon the second occurrence of noncompliance, temporary  
 81 | cash assistance for the child or children in a family who are  
 82 | under age 16 may be continued for the first 3 months of the  
 83 | penalty period through a protective payee as specified in  
 84 | subsection (2).

85 |       3. Third noncompliance:

86 |       a. Temporary cash assistance shall be terminated for the  
 87 | family for ~~6~~ 3 months or until the individual who failed to  
 88 | comply does so, whichever is later. The individual shall be  
 89 | required to comply with the required work activity upon  
 90 | completion of the ~~6-month~~ 3-month penalty period, before  
 91 | reinstatement of temporary cash assistance. Upon meeting this  
 92 | requirement, temporary cash assistance shall be reinstated to  
 93 | the date of compliance or the first day of the month following  
 94 | the penalty period, whichever is later.

95 |       b. Upon the third occurrence of noncompliance, temporary  
 96 | cash assistance for the child or children in a family who are  
 97 | under age 16 may be continued for the first 6 months of the  
 98 | penalty period through a protective payee as specified in  
 99 | subsection (2).

100 |       4. Fourth noncompliance:

101 |       a. Temporary cash assistance shall be terminated for the  
 102 | family for 12 months, or until the individual who failed to  
 103 | comply does so, whichever is later. The individual shall be  
 104 | required to comply with the required work activity upon

105 completion of the 12-month penalty period and reapply before  
 106 reinstatement of temporary cash assistance. Upon meeting this  
 107 requirement, temporary cash assistance shall be reinstated to  
 108 the first day of the month following the penalty period.

109 b. Upon the fourth occurrence of noncompliance, temporary  
 110 cash assistance for the child or children in a family who are  
 111 under age 16 may be continued for the first 12 months of the  
 112 penalty period through a protective payee as specified in  
 113 subsection (2).

114 5. This paragraph does not prohibit a participant from  
 115 complying with the work activity requirements during the penalty  
 116 periods imposed in paragraph (a).

117 (b) If a participant receiving temporary cash assistance  
 118 who is otherwise exempted from noncompliance penalties fails to  
 119 comply with the alternative requirement plan required in  
 120 accordance with this section, the penalties provided in  
 121 paragraph (a) shall apply.

122 (c) When a participant is sanctioned for noncompliance  
 123 with this section, the department shall refer the participant to  
 124 appropriate free and low-cost community services, including food  
 125 banks.

126  
 127 If a participant fully complies with work activity requirements  
 128 for at least 6 months, the participant shall be reinstated as  
 129 being in full compliance with program requirements for purpose  
 130 of sanctions imposed under this section.

131 (2) CONTINUATION OF TEMPORARY CASH ASSISTANCE FOR  
 132 CHILDREN; PROTECTIVE PAYEES.—

133 (a) Upon the second or subsequent ~~third~~ occurrence of  
 134 noncompliance, subject to the limitations in paragraph (1)(a),  
 135 temporary cash assistance and food assistance for the child or  
 136 children in a family who are under age 16 may be continued. Any  
 137 such payments must be made through a protective payee or, in the  
 138 case of food assistance, through an authorized representative.  
 139 Under no circumstances shall temporary cash assistance or food  
 140 assistance be paid to an individual who has failed to comply  
 141 with program requirements.

142 Section 2. Subsections (3) through (7) of section 445.024,  
 143 Florida Statutes, are renumbered as subsections (4) through (8),  
 144 respectively, and a new subsection (3) is added to that section,  
 145 to read:

146 445.024 Work requirements.—

147 (3) WORK PLAN AGREEMENT.—For each individual who is not  
 148 otherwise exempt from work activity requirements, but before a  
 149 participant may receive temporary cash assistance, the  
 150 Department of Economic Opportunity, in cooperation with  
 151 CareerSource Florida, Inc., and the Department of the Department  
 152 of Children and Families, must:

153 (a) Inform the participant, in plain language, and require  
 154 the participant to assent to, in writing:

155 1. What is expected of the participant to continue to  
 156 receive temporary cash assistance benefits.

157        2. Under what circumstances the participant would be  
 158 sanctioned for noncompliance.

159        3. Potential penalties for noncompliance with work  
 160 requirements in s. 414.065, including how long benefits would  
 161 not be available to the participant.

162        (b) Work with the participant to develop strategies to  
 163 assist the participant in overcoming obstacles to compliance  
 164 with the work activity requirements.

165        Section 3. Subsection (4) of section 402.82, Florida  
 166 Statutes, is renumbered as subsection (5), and a new subsection  
 167 (4) is added to that section, to read:

168        402.82 Electronic benefits transfer program.—

169        (4) The department shall impose a fee for the fifth and  
 170 each subsequent request for a replacement electronic benefits  
 171 transfer card that a participant requests within a 12-month  
 172 period. The fee must be equal to the cost to replace the  
 173 electronic benefits transfer card. The fee may be deducted from  
 174 the participant's benefits. The department may waive the  
 175 replacement fee upon a showing of good cause, such as the  
 176 malfunction of the card or extreme financial hardship.

177        Section 4. Paragraph (a) of subsection (2) of section  
 178 39.5085, Florida Statutes, is amended to read:

179        39.5085 Relative Caregiver Program.—

180        (2)(a) The Department of Children and Families shall  
 181 establish, ~~and~~ operate, and implement the Relative Caregiver  
 182 Program ~~pursuant to eligibility guidelines established in this~~

183 ~~section as further implemented~~ by rule of the department. The  
 184 Relative Caregiver Program shall, within the limits of available  
 185 funding, provide financial assistance to:

186 1. Relatives who are within the fifth degree by blood or  
 187 marriage to the parent or stepparent of a child and who are  
 188 caring full-time for that dependent child in the role of  
 189 substitute parent as a result of a court's determination of  
 190 child abuse, neglect, or abandonment and subsequent placement  
 191 with the relative under this chapter.

192 2. Relatives who are within the fifth degree by blood or  
 193 marriage to the parent or stepparent of a child and who are  
 194 caring full-time for that dependent child, and a dependent half-  
 195 brother or half-sister of that dependent child, in the role of  
 196 substitute parent as a result of a court's determination of  
 197 child abuse, neglect, or abandonment and subsequent placement  
 198 with the relative under this chapter.

199 3. Nonrelatives who are willing to assume custody and care  
 200 of a dependent child in the role of substitute parent as a  
 201 result of a court's determination of child abuse, neglect, or  
 202 abandonment and subsequent placement with the nonrelative  
 203 caregiver under this chapter. The court must find that a  
 204 proposed placement under this subparagraph is in the best  
 205 interest of the child.

206 4. The relative or nonrelative caregiver may not receive a  
 207 Relative Caregiver Program payment if the parent or stepparent  
 208 of the child resides in the home. However, a relative or



209 nonrelative may receive the payment for a minor parent who is in  
 210 his or her care and for the minor parent's child, if both the  
 211 minor parent and the child have been adjudicated dependent and  
 212 meet all other eligibility requirements. If the caregiver is  
 213 currently receiving the payment, the payment must be terminated  
 214 no later than the first day of the following month after the  
 215 parent or stepparent moves into the home. Before the payment is  
 216 terminated, the caregiver must be given 10 days' notice of  
 217 adverse action.

218  
 219 The placement may be court-ordered temporary legal custody to  
 220 the relative or nonrelative under protective supervision of the  
 221 department pursuant to s. 39.521(1)(b)3., or court-ordered  
 222 placement in the home of a relative or nonrelative as a  
 223 permanency option under s. 39.6221 or s. 39.6231 or under former  
 224 s. 39.622 if the placement was made before July 1, 2006. The  
 225 Relative Caregiver Program shall offer financial assistance to  
 226 caregivers who would be unable to serve in that capacity without  
 227 the caregiver payment because of financial burden, thus exposing  
 228 the child to the trauma of placement in a shelter or in foster  
 229 care.

230 Section 5. Section 16.59, Florida Statutes, is amended to  
 231 read:

232 16.59 Medicaid fraud control.—

233 (1) The Medicaid Fraud Control Unit is created in the  
 234 Department of Legal Affairs to investigate all violations of s.

235 409.920 and any criminal violations discovered during the course  
 236 of those investigations. The Medicaid Fraud Control Unit may  
 237 refer any criminal violation so uncovered to the appropriate  
 238 prosecuting authority. The offices of the Medicaid Fraud Control  
 239 Unit, the Agency for Health Care Administration Medicaid program  
 240 integrity program, and the Divisions of Insurance Fraud and  
 241 Public Assistance Fraud within the Department of Financial  
 242 Services shall, to the extent possible, be collocated; however,  
 243 positions dedicated to Medicaid managed care fraud within the  
 244 Medicaid Fraud Control Unit shall be collocated with the  
 245 Division of Insurance Fraud. The Agency for Health Care  
 246 Administration, the Department of Legal Affairs, and the  
 247 Divisions of Insurance Fraud and Public Assistance Fraud within  
 248 the Department of Financial Services shall conduct joint  
 249 training and other joint activities designed to increase  
 250 communication and coordination in recovering overpayments.

251 (2) In order to combat Medicaid fraud, by January 1, 2017,  
 252 all hospitals that accept Medicaid payments must implement  
 253 measures to biometrically confirm a patient's identity.

254 (a) These measures must verify the patient's identity  
 255 against the patient's image contained within the Department of  
 256 Highway Safety and Motor Vehicles' driver license database, if  
 257 available, and verify the patient's eligibility to receive  
 258 Medicaid payments.

259 (b) The Department of Legal Affairs, the Agency for Health  
 260 Care Administration, and the Department of Highway Safety and

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261 | Motor Vehicles may contract with hospitals or their software  
262 | providers to provide access to the driver license database for  
263 | the purpose of verifying a patient's identity and eligibility to  
264 | receive Medicaid payments.

265 | Section 6. This act shall take effect July 1, 2016.

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: Appropriations Committee  
 2 Representative Eagle offered the following:

**Amendment (with title amendment)**

Between lines 264 and 265, insert:

6 Section 6. For Fiscal Year 2016-2017, the nonrecurring sum  
 7 of \$879,680 from the Federal Grants Trust Fund is provided to  
 8 the Department of Children and Families for the purpose of  
 9 performing the technology modifications necessary to implement  
 10 changes to the disbursement of temporary cash assistance  
 11 benefits and the replacement of electronic benefits transfer  
 12 cards pursuant to this act.

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

16 Remove line 34 and insert:

Amendment No. 1

17 identities; providing an appropriation; providing an effective  
18 date.

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                 | _____ |       |

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1 Committee/Subcommittee hearing bill: Appropriations Committee  
2 Representative Eagle offered the following:

3

4 **Amendment**

5 Remove lines 230-264

6



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 1347 Illicit Drugs  
**SPONSOR(S):** Criminal Justice Subcommittee; Ingram  
**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 1528

| REFERENCE                        | ACTION              | ANALYST   | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|----------------------------------|---------------------|-----------|--|
| 1) Criminal Justice Subcommittee | 12 Y, 0 N, As<br>CS | Keegan    | White                                    |
| 2) Appropriations Committee      |                     | McAuliffe | Leznoff                                  |
| 3) Judiciary Committee           |                     |           |  |

### SUMMARY ANALYSIS

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 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" of the substances listed therein and whether there is a currently accepted medical use for the substance.

The bill amends s. 893.03, F.S., to add 12 new substances and six general substance classes to the list of substances that are classified under Schedule I. The general classes are as follows:

- Synthetic Cannabinoids;
- Substituted Cathinones;
- Substituted Phenethylamines;
- N-benzyl Phenethylamines;
- Substituted Tryptamines; and
- Substituted Phencyclidines.

The bill makes technical corrections to the names of 113 substances, adds definitions, and makes conforming changes. The bill also revises various criminal penalties that apply to violations of ch. 893, F.S.

The Criminal Justice Impact Conference met on January 29, 2016, and determined that this bill would have a positive indeterminate impact on the Department of Corrections (i.e., an unquantifiable increase in prison beds). The number of future synthetic drug variations, and the resulting offenses connected to them, is unknown. The bill also creates new misdemeanor penalties, which may increase the need for jail beds.

The bill is effective July 1, 2016.



## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Regulating Controlled Substances**

##### The Florida Comprehensive Drug Abuse Prevention and Control Act

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 regulate the manufacture, distribution, preparation and dispensing of the substances listed therein. The distinguishing factors between the different drug schedules are the "potential for abuse"<sup>1</sup> of the substances listed therein and whether there is a currently accepted medical use for the substance.<sup>2</sup> The Controlled Substance Schedules are as follows:

- Schedule I substances have a high potential for abuse and have no currently accepted medical use in the United States. This schedule includes substances such as cannabis and heroin.<sup>3</sup>
- Schedule II substances have a high potential for abuse and have a currently accepted but severely restricted medical use in the United States. This schedule includes substances such as raw opium and codeine.<sup>4</sup>
- Schedule III substances have a potential for abuse less than the substances contained in Schedules I and II and have a currently accepted medical use in the United States. This schedule includes substances such as stimulants and anabolic steroids.<sup>5</sup>
- Schedule IV substances have a low potential for abuse relative to the substances in Schedule III and have a currently accepted medical use in the United States. This schedule includes substances such as benzodiazepines and barbiturates.<sup>6</sup>
- Schedule V substances have a low potential for abuse relative to the substances in Schedule IV and have a currently accepted medical use in the United States. This schedule includes substances such as mixtures that contain small quantities of opiates, narcotics, or stimulants.<sup>7</sup>

Chapter 893, F.S., contains a variety of provisions criminalizing behavior related to controlled substances. Most of these provisions are found in s. 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 the schedule in which the substance is listed.<sup>8</sup> Other factors, such as the quantity of controlled substances involved in a crime or the location where the violation occurs can also affect the penalties for violating the criminal provisions of ch. 893, F.S.

Each year since 2011, the Florida Legislature has added numerous synthetic cannabinoids, cathinones, and phenethylamines to Schedule I of Florida's controlled substances schedules.<sup>9</sup> As a result, the criminal penalties relating to the possession, sale, manufacture, and delivery of controlled substances now apply to these synthetic substances. For example:

- It is a first degree misdemeanor<sup>10</sup> to possess three grams or less of listed synthetic cannabinoids;<sup>11</sup> and

<sup>1</sup> Section 893.035(3)(a), F.S., defines "potential for abuse" to mean that a substance has properties as a central nervous system stimulant or depressant or a hallucinogen that create a substantial likelihood of its being: 1) used in amounts that create a hazard to the user's health or the safety of the community; 2) diverted from legal channels and distributed through illegal channels; or 3) taken on the user's own initiative rather than on the basis of professional medical advice.

<sup>2</sup> See s. 893.03, F.S.

<sup>3</sup> s. 893.03(1), F.S.

<sup>4</sup> s. 893.03(2), F.S.

<sup>5</sup> s. 893.03(3), F.S.

<sup>6</sup> s. 893.03(4), F.S.

<sup>7</sup> s. 893.03(5), F.S.

<sup>8</sup> See, e.g., s. 893.13(1)(a) and (c), F.S.

<sup>9</sup> chs. 15-34, 14-159, 13-29, 12-23, 11-73, 11-90, Laws of Fla.

<sup>10</sup> A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. ss. 775.082 and 775.083, F.S.

- It is a third degree felony<sup>12</sup> to knowingly sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver, listed synthetic cannabinoids.<sup>13</sup>

Since the 2015 Legislative Session, new formulas of synthetic substances have been developed that are made of chemicals not covered by current law.

#### The Florida Drug and Cosmetic Act

Chapter 499, F.S., the Florida Drug and Cosmetic Act (Act), protects consumers from fraud, misbranding, false advertising, and other violations in relation to drugs, devices and cosmetics.<sup>14</sup> There are a wide variety of civil, administrative, and criminal penalties applied to violations of the Act. Criminal penalties are applied to violations such as forgery of prescription drug labels, trafficking in contraband prescription drugs, refusing to allow a lawful inspection, and false advertisement, among others.<sup>15</sup> The criminal violations in the Act are primarily punishable as first,<sup>16</sup> second,<sup>17</sup> or third degree felonies.

#### The Florida Analogue Statute

In an effort to regulate new substances not included in the schedules, the Legislature created s. 893.0356, F.S., commonly referred to as the Analogue Statute, to prohibit drugs that are similar to drugs specifically prohibited in statute.<sup>18</sup> The Analogue Statute requires a controlled substance analogue to be treated as a controlled substance in Schedule I for purposes of the drug schedules.<sup>19</sup> This means that the criminal penalties for possessing, selling, manufacturing, etc., a controlled substance analogue are the same as those for possessing, selling, manufacturing, etc., a controlled substance listed in Schedule I. The Analogue Statute defines “controlled substance analog” to mean a substance which, due to its chemical structure and potential for abuse, meets the following criteria:

- Is substantially similar to that of a controlled substance listed in Schedule I or Schedule II of s. 893.03; and
- Has a stimulant, depressant, or hallucinogenic effect on the central nervous system or is represented or intended to have a stimulant, depressant, or hallucinogenic effect on the central nervous system substantially similar to or greater than that of a controlled substance listed in Schedule I or Schedule II of s. 893.03.<sup>20</sup>

The Analogue Statute clarifies that a “controlled substance analog” does not include:

- A controlled substance;
- Any substance for which there is an approved new drug application;
- Any compound, mixture, or preparation which contains any controlled substance which is not for administration to a human being or animal, and which is packaged in such form or concentration, or with adulterants or denaturants, so that as packaged it does not present any significant potential for abuse; or
- Any substance to which an investigational exemption applies under s. 505 of the Food, Drug, and Cosmetic Act, 21 U.S.C. 355, but only to the extent that conduct with respect to the substance is pursuant to such exemption.<sup>21</sup>

<sup>11</sup> s. 893.13(6)(b), F.S.

<sup>12</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. ss 775.082 and 775.083, F.S.

<sup>13</sup> s. 893.13(1)(a), F.S.

<sup>14</sup> s. 499.002, F.S.

<sup>15</sup> s. 499.0051, F.S.

<sup>16</sup> A first degree felony is punishable by up to 30 years imprisonment and a \$10,000 fine. ss. 775.082, 775.083, and 775.084, F.S.

<sup>17</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.

<sup>18</sup> The Analogue Statute, created in 1987, is largely mirrored after the federal Controlled Substance Analogue Enforcement Act (AEA) under 21 USC § 802(32)(A).

<sup>19</sup> s. 893.0356(5), F.S.

<sup>20</sup> s. 893.0356(2)(a), F.S.

<sup>21</sup> s. 893.0356(2)(b), F.S.

## The General Class Approach to Substance Regulation

Adding a specific chemical compound to a drug schedule is a common way to prohibit a substance. However, this approach usually requires the addition of new substances to the drug schedule every year to include substances containing new or slightly modified compounds. The general class approach bans synthetic substances based on the chemical grouping or class of the substances.<sup>22</sup> This allows a law to prohibit a number of substances within the same class without listing the individual substances in statute.<sup>23</sup>

Practical and constitutional concerns are raised by the general class approach. The complexity of the chemical compounds of designer drugs can make it difficult to impose a broad ban on such substances without unintentionally including compounds that have legitimate uses. Additionally, criminal laws may violate the constitutional requirement of due process if the laws do not clearly define the behavior that is prohibited or if they are so broad as to encompass lawful behavior.<sup>24</sup>

## **Designer Substances**

### Synthetic Cannabinoids

Synthetic cannabinoids (also known as “K2” or “Spice”) are chemically engineered substances that have a similar structure to tetrahydrocannabinol (THC) and produce a high similar to marijuana when ingested.<sup>25</sup> The chemicals are often applied to a plant material to mimic marijuana.<sup>26</sup> Synthetic cannabinoids have been developed over the last 30 years for research purposes to investigate the cannabinoid system.<sup>27</sup> No legitimate non-research uses have been identified for synthetic cannabinoids and they have not been approved by the FDA for human consumption.<sup>28</sup>

Despite being labeled “not for human consumption,” synthetic cannabinoids are used as recreational drugs and have been marketed as a legal alternative to illegal methods of getting “high.”<sup>29</sup> They can be purchased on the Internet, in smoke shops, and convenience stores.<sup>30</sup> The effects of ingesting synthetic cannabinoids can be very serious, and may include seizures, hallucinations, paranoia, anxiety, and tachycardia (racing heartbeat), among others.<sup>31</sup>

### Substituted Phenethylamines

Phenethylamines are compounds with a chemical structure of a benzene ring substituted with a 2-aminoethyl chain.<sup>32</sup> Phenethylamine itself is not a controlled substance, but many substituted variations<sup>33</sup> of phenethylamine are.<sup>34</sup> Substituted phenethylamines may have an effect on the user

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<sup>22</sup> NAT'L CONFERENCE OF STATE LEGISLATURES, *Synthetic Drug Threats*, <http://www.ncsl.org/research/civil-and-criminal-justice/synthetic-drug-threats.aspx> (last visited Jan. 29, 2016).

<sup>23</sup> *Synthetic Drug Threats*, *supra* note 22.

<sup>24</sup> See Constitutional Issues section, herein.

<sup>25</sup> OFFICE OF NAT'L DRUG CONTROL POLICY, *Synthetic Drugs (a.k.a. K2, Spice, Bath Salts, etc.)*,

<https://www.whitehouse.gov/ondcp/ondcp-fact-sheets/synthetic-drugs-k2-spice-bath-salts> (last visited Jan. 31, 2016).

<sup>26</sup> *Synthetic Drugs (a.k.a. K2, Spice, Bath Salts, etc.)*, *supra* note 25.

<sup>27</sup> Schedules of Controlled Substances: Temporary Placement of Five Synthetic Cannabinoids Into Schedule I, 75 Fed. Reg. 71,635-38 (Nov. 24, 2010) (supplementary information) (*also available at* <https://www.federalregister.gov/articles/2010/11/24/2010-29600/schedules-of-controlled-substances-temporary-placement-of-five-synthetic-cannabinoids-into-schedule#h-6>).

<sup>28</sup> Schedules of Controlled Substances, *supra* note 27.

<sup>29</sup> U.S. DRUG ENFORCEMENT ADMINISTRATION, *Chemicals Used in “Spice” and K2” Type Products Now under Federal Control and Regulation*, <http://www.dea.gov/pubs/pressrel/pr030111.html> (last visited Jan. 29, 2016).

<sup>30</sup> Fla. Fusion Ctr., *Synthetic Substances Ban, Brief # 12-150*, FLA. DEPT. OF LAW ENFORCEMENT (March 23, 2012), [www.tspd.us/Substances\\_Ban.pdf](http://www.tspd.us/Substances_Ban.pdf) (last visited Jan. 27, 2016).

<sup>31</sup> Schedules of Controlled Substances: Temporary Placement of Five Synthetic Cannabinoids Into Schedule I, 76 Fed. Reg. 11,075-78 (March 1, 2011) (supplementary information) (*also available at* [http://www.dea.gov/fed\\_regs/rules/2011/fr0301.htm](http://www.dea.gov/fed_regs/rules/2011/fr0301.htm)).

<sup>32</sup> Solicitation of Information on the Use of Phenethylamine-Related Compounds, 71 Fed. Reg. 62,017-18 (Oct. 20, 2006) (supplementary information) (*also available at* [http://www.dea.gov/fed\\_regs/notices/2006/fr10206.htm](http://www.dea.gov/fed_regs/notices/2006/fr10206.htm)).

<sup>33</sup> Phenethylamine may be substituted on the benzene ring and/or the 2-aminoethyl chain to create various substitutes, some of which are currently controlled substances. Solicitation of Information (Oct. 20, 2006), *supra* note 32.

<sup>34</sup> Solicitation of Information (Oct. 20, 2006), *supra* note 32.

similar to hallucinogens, stimulants, or both.<sup>35</sup> A common type of substituted phenethylamine, often referred to as 2C,<sup>36</sup> is created by a substitution that increases hallucinogenic effects of the compound.<sup>37</sup> 2C has a similar structure to 3,4-methylenedioxy-*N*-methylamphetamine (MDMA, “ecstasy”), and it is very popular as a designer drug.<sup>38</sup>

### Substituted Cathinones

Synthetic cathinones are related to the parent compound cathinone, one of the psychoactive properties in khat (*Catha edulis* Forsk).<sup>39</sup> Khat is a shrub grown in East Africa and southern Arabia, and people sometimes chew its leaves for their mild stimulant effects.<sup>40</sup> Substituted cathinones are synthetic analogs of cathinone within the phenethylamine compound class.<sup>41</sup> Substituted cathinones are different from other phenethylamines described above by the addition of a beta-keto substitute to the core ring along with a substitution of either the alpha carbon atom or the nitrogen atom.<sup>42</sup> Substituted cathinones are often called “bath salts,” Flakka, Cloud Nine, and White Lightning<sup>43</sup> and are claimed to have effects similar to those of cocaine, amphetamine, or MDMA (ecstasy).<sup>44</sup>

### *N*-benzyl Phenethylamines

*N*-benzyl phenethylamines are derivatives of the 2C phenethylamine compounds<sup>45</sup> that activate serotonin neuroreceptors in a similar way to other phenethylamines.<sup>46</sup> These compounds are referred to as “NBOMe compounds,” and while sufficient studies have not been conducted on the potency of these compounds, studies have indicated that they have a strong effect on serotonin neuroreceptors that are associated with hallucinogenic brain activity.<sup>47</sup>

### Substituted Tryptamines

Tryptamines occur naturally in plants and can be created synthetically.<sup>48</sup> Some tryptamine compounds have documented hallucinogenic effects and can be taken orally, or by injection, smoking, or snorting.<sup>49</sup>

<sup>35</sup> Drug Enforcement Admin., *National Forensic Laboratory Information System: 2014 Annual Report*, U.S. DEPARTMENT OF JUSTICE (2015), at 17 (also available at <http://www.deadiversion.usdoj.gov/nflis/>).

<sup>36</sup> “2C” is a term coined by Alexander Shulgin to identify the structure of the 2-aminoethyl chain in the phenethylamine compound. Be Vang Dean, et al., *2C or Not 2c: Phenethylamine Designer Drug Review* 9(2) J. MED. TOXICOLOGY 172, 172 (Jun. 2013).

<sup>37</sup> Be Vang Dean, et al., *supra* note 36 at 172.

<sup>38</sup> Be Vang Dean, et al., *supra* note 36 at 172.

<sup>39</sup> EUROPEAN MONITORING CTR. FOR DRUGS & DRUG ADDICTION, *Synthetic Cathinones Drug Profile*, <http://www.emcdda.europa.eu/publications/drug-profiles/synthetic-cathinones> (last visited Jan. 30, 2016).

<sup>40</sup> NAT’L INST. ON DRUG ABUSE, *Drug Facts: Synthetic Cathinones (“Bath Salts”)*, <http://www.drugabuse.gov/publications/drugfacts/synthetic-cathinones-bath-salts> (last visited on Jan. 30, 2016).

<sup>41</sup> U.S. NATIONAL LIBRARY OF MEDICINE, *Emerging Drugs of Abuse: Current Perspectives on Substituted Cathinones*, <http://www.ncbi.nlm.nih.gov/pmc/articles/PMC4043811/> (last viewed Jan. 30, 2016).

<sup>42</sup> *Hearing on Dangerous Synthetic Drugs Before the Senate Caucus on International Narcotics Control*, 118th Cong. (Sept. 25, 2013) (statement of Joseph T. Rannazzisi, Drug Enforcement Administration) (also available at <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&cad=rja&uact=8&ved=0ahUKEwi2pbuP2NLKAhXHqx4KHYZfAaUQFggcMAA&url=http%3A%2F%2Fwww.dea.gov%2Fpr%2Fspeeches-testimony%2F2013t%2F092513t.pdf&usq=AFQjCNFWzTb1fSNcqt0b7GcCzG5Oje3eGQ>).

<sup>43</sup> *Synthetic Cathinones (“Bath Salts”)*, *supra* note 40.

<sup>44</sup> *Synthetic Cathinones Drug Profile*, *supra* note 39.

<sup>45</sup> John F. Casale & Patrick A. Hays, *Characterization of Eleven 2,5-Dimethoxy-N-(2-methoxybenzyl) phenethylamine (NBOMe) Derivatives and Differentiation from their 3- and 4-Methoxybenzyl Analogues – Part I*, 9(2) MICROGRAM J. 84 (2012) (also available at [http://www.dea.gov/pr/microgram\\_journals.shtml](http://www.dea.gov/pr/microgram_journals.shtml)).

<sup>46</sup> Phenethylamines are generally 5-HT<sub>2A</sub> antagonists. Like other phenethylamines, *N*-substituted phenethylamines act on the 5-HT<sub>2A</sub> neuroreceptors, but in a potentially more effective way. Martin Hansen, et al., *Synthesis and Structure—Activity Relationships of N-Benzyl Phenethylamines as 5-HT<sub>2A/2C</sub> Antagonists*, 5 ACS CHEM. NEUROSCIENCE 243, 243-44 (2014).

<sup>47</sup> John F. Casale & Patrick A. Hays, *supra* note 45.

<sup>48</sup> Drug Enforcement Admin., *Nat’l Forensic Laboratory Info. System: Special Report: Emerging 2C-Phenethylamines, Piperazines, and Tryptamines in NFLIS, 2006-2011*, U.S. DEPARTMENT OF JUSTICE (2015), at 2 (also available at <http://search.deadiversion.usdoj.gov/texis/search/?dropXSL=&pr=Prod-static-walk&prox=page&order=500&rprox=500&rdfreq=500&rwfreq=500&rlead=500&sufs=2&order=r&rdepth=0&query=tryptamines&submit=Search/>).

<sup>49</sup> *Nat’l Forensic Laboratory Info. System: Special Report*, *supra* note 48.

Substituted tryptamines are created by substituting the indole ring or the 2-aminoethyl chain or both with various substituents.<sup>50</sup> N,N-dimethyltryptamine (DMT) and 5-methoxyN,N-diisopropyltryptamine (5-MeO-DIPT) are substituted tryptamines that are commonly abused when 3,4-methylenedioxyamphetamine (MDMA) is unavailable.<sup>51</sup>

### Substituted Phencyclidines

Phencyclidine (PCP) was developed in the 1950s for medical use as an anesthetic, but such use was discontinued due to serious side effects that caused delirium and confusion, among others.<sup>52</sup> At some point after its discontinued medical use, PCP-type substances surfaced in the recreational drug market.<sup>53</sup> Recreational PCP derivatives include 4-methoxyphencyclidine, commonly referred to as methoxydine,<sup>54</sup> eticyclidine (PCE), rolicyclidine (PHP, PCPY), and tenocyclidine (TCP), among others.<sup>55</sup> The side effects of these substances can range from stupor to a deep coma.<sup>56</sup>

### **Effect of the Bill**

The bill amends s. 893.03, F.S., to add 12 new substances and six general substance classes to the list of substances that are classified under Schedule I. The additions are as follows:

- Acetylfentanyl (opioid analgesic).
- Butyrylfentanyl (synthetic fentanyl opioid).
- Beta-Hydroxythiofentanyl (opioid analgesic).
- AM-855 ((4aR,12bR)-8-Hexyl-2,5,5-trimethyl-1,4,4a,8,9,10,11,12b-octahydronaphtho[3,2-c]isochromen-12-ol) (synthetic cannabinoid).
- AM-905 ((6aR,9R,10aR)-3-[(E)-Hept-1-enyl]-9-(hydroxymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol) (synthetic cannabinoid).
- AM-906 ((6aR,9R,10aR)-3-[(Z)-Hept-1-enyl]-9-(hydroxymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-hexahydrobenzo[c]chromen-1-ol) (synthetic cannabinoid).
- AM-2389 ((6aR,9R,10aR)-3-(1-Hexyl-cyclobut-1-yl)-6a,7,8,9,10,10a-hexahydro-6,6-dimethyl-6H-dibenzo[b,d]pyran-1,9 diol) (synthetic cannabinoid).
- HU-243 ((6aR,8S,9S,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-(2-methyloctan-2-yl)-8,9-ditritio-7,8,10,10a-tetrahydro-6aH-benzo[c]chromen-1-ol) (synthetic cannabinoid).
- HU-336 ((6aR,10aR)-6,6,9-Trimethyl-3-pentyl-6a,7,10,10a-tetrahydro-1H-benzo[c]chromene-1,4(6H)-dione) (synthetic cannabinoid).
- MAPB ((2-Methylaminopropyl)benzofuran) (synthetic stimulant).
- 5-IT (2-(1H-Indol-5-yl)-1-methyl-ethylamine) (synthetic stimulant).
- 6-IT (2-(1H-Indol-6-yl)-1-methyl-ethylamine) (synthetic stimulant).
- The *Synthetic Cannabinoids* class includes any<sup>57</sup> material, compound, mixture, or preparation that contains any quantity of a synthetic cannabinoid found to be in any of the 15 enumerated chemical class descriptions, or specified variants, whenever the existence of such specified variants is possible within the specific chemical class or designation. These structures or the compounds of these structures shall be included, regardless of their specific numerical designation of atomic positions covered, if it can be determined through a recognized method of scientific testing or analysis that the substance contains properties that fit within one or more of the following categories:

<sup>50</sup> Solicitation of Information on the Use of Tryptamine-Related Compounds, 71 Fed. Reg. 44,314-15 (Aug. 4, 2006) (supplementary information) (also available at [http://www.deadiversion.usdoj.gov/fed\\_regs/notices/2006/fr0804.htm](http://www.deadiversion.usdoj.gov/fed_regs/notices/2006/fr0804.htm)).

<sup>51</sup> Nat'l Forensic Laboratory Info. System: Special Report, *supra* note 48.

<sup>52</sup> DRUGS.COM, *What is Phencyclidine?*, <http://www.drugs.com/phencyclidine.html> (last visited Jan. 31, 2016).

<sup>53</sup> EMEDICINEHEALTH, *Phencyclidine (PCP)*, [http://www.emedicinehealth.com/club\\_drugs/page5\\_em.htm](http://www.emedicinehealth.com/club_drugs/page5_em.htm) (last visited Jan. 31, 2016).

<sup>54</sup> John F. Casale, *4-Methoxyphencyclidine: An Analytical Profile*, 8(2) MICROGRAM J. 39 (2011) (also available at [http://www.dea.gov/pr/microgram\\_journals.shtml](http://www.dea.gov/pr/microgram_journals.shtml)).

<sup>55</sup> Lab. & Sci. Section of the U.N. Office on Drugs & Crime, *The Challenge of New Psychoactive Substances*, UNITED NATIONS (2013), at 16-17.

<sup>56</sup> Lab. & Sci. Section of the U.N. Office on Drugs & Crime, *supra* note 55.

<sup>57</sup> Each of the six general classes specifies that the classes do not include compounds that are specifically excepted, are listed in another schedule, or are contained within a pharmaceutical product approved by the U.S. Food and Drug Administration.

- Tetrahydrocannabinols;
- Naphthoylindoles, Naphthoylindazoles, Naphthoylcarbazoles, Naphthylmethylindoles, Naphthylmethylindazoles, and Naphthylmethylcarbazoles. Any compound containing a naphthoylindole, naphthoylindazole, naphthoylcarbazole, naphthylmethylindole, naphthylmethylindazole, or naphthylmethylcarbazole structure, with or without substitution on the indole, indazole, or carbazole ring to any extent, whether or not substituted on the naphthyl ring to any extent;
- Naphthoylpyrroles;
- Naphthylmethylenindenes;
- Phenylacetylindoles and Phenylacetylindazoles;
- Cyclohexylphenols;
- Benzoylindoles and Benzoylindazoles;
- Tetramethylcyclopropanoylindoles and Tetramethylcyclopropanoylindazoles;
- Adamantoylindoles, Adamantoylindazoles, Adamantylindole carboxamides, and Adamantylindazole carboxamides;
- Quinolinyndolecarboxylates, Quinolinyndazolecarboxylates, Quinolinyndolecarboxamides, and Quinolinyndazolecarboxamides;
- Naphthylindolecarboxylates and Naphthylindazolecarboxylates;
- Naphthylindole carboxamides and Naphthylindazole carboxamides;
- Alkylcarbonyl indole carboxamides, Alkylcarbonyl indazole carboxamides, Alkylcarbonyl indole carboxylates, and Alkylcarbonyl indazole carboxylates.—Any compound containing an alkylcarbonyl group, including 1-amino-3-methyl-1-oxobutan-2-yl, 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-amino-1-oxo-3-phenylpropan-2-yl, 1-methoxy-1-oxo-3-phenylpropan-2-yl, with an indole carboxamide, indazole carboxamide, indole carboxylate, or indazole carboxylate, with or without substitution on the indole or indazole ring to any extent, whether or not substituted on the alkylcarbonyl group to any extent;
- Cumylindolecarboxamides and Cumylindazolecarboxamides.—Any compound containing a N-(2-phenylpropan-2-yl) indole carboxamide or N-(2-phenylpropan-2-yl) indazole carboxamide structure, with or without substitution on the indole or indazole ring to any extent, whether or not substituted on the phenyl ring of the cumyl group to any extent;
- Other Synthetic Cannabinoids.
- The *Substituted Cathinones* class includes any material, compound, mixture, or preparation, including specified variants, whenever the existence of such variants is possible within any of the following three enumerated chemical designations:
  - Any compound containing a 2-amino-1-phenyl-1-propanone structure;
  - Any compound containing a 2-amino-1-naphthyl-1-propanone structure; or
  - Any compound containing a 2-amino-1-thiophene-1-propanone structure, whether or not the compound is further modified.
- The *Substituted Phenethylamines* class includes any material, compound, mixture, or preparation, including specified variants, whenever the existence of such variants is possible within any of the 45 enumerated chemical designations, any compound containing a phenethylamine structure, without a beta-keto group, and without a benzyl group attached to the amine group, whether or not the compound is further modified with or without substitution on the phenyl ring to any extent with alkyl, alkylthio, nitro, alkoxy, thio, halide, fused alkylendioxy, fused furan, fused benzofuran, fused dihydrofuran, or fused tetrahydropyran substituents, whether or not further substituted on a ring to any extent, with or without substitution at the alpha or beta position by any alkyl substituent, with or without substitution at the nitrogen atom, and with or without inclusion of the 2-amino nitrogen atom in a cyclic structure.
- The *N-benzyl Phenethylamine Compounds* class includes any material, compound, mixture, or preparation, including specified variants, whenever the existence of such variants is possible within any of the 19 specified chemical designations, any compound containing a phenethylamine structure without a beta-keto group, with substitution on the nitrogen atom of the amino group with a benzyl substituent, with or without substitution on the phenyl or benzyl

ring to any extent with alkyl, alkoxy, thio, alkylthio, halide, fused alkylendioxy, fused furan, fused benzofuran, or fused tetrahydropyran substituents, whether or not further substituted on a ring to any extent, with or without substitution at the alpha position by any alkyl substituent, including but not limited to:

- 25B-NBOMe (4-Bromo-2,5-dimethoxy-[N-(2-methoxybenzyl)]phenethylamine);
  - 25B-NBOH (4-Bromo-2,5-dimethoxy-[N-(2-hydroxybenzyl)]phenethylamine);
  - 25B-NBF (4-Bromo-2,5-dimethoxy-[N-(2-fluorobenzyl)]phenethylamine);
  - 25B-NBMD (4-Bromo-2,5-dimethoxy-[N-(2,3-methylenedioxybenzyl)]phenethylamine);
  - 25I-NBOMe (4-Iodo-2,5-dimethoxy-[N-(2-methoxybenzyl)]phenethylamine);
  - 25I-NBOH (4-Iodo-2,5-dimethoxy-[N-(2-hydroxybenzyl)]phenethylamine);
  - 25I-NBF (4-Iodo-2,5-dimethoxy-[N-(2-fluorobenzyl)]phenethylamine);
  - 25I-NBMD (4-Iodo-2,5-dimethoxy-[N-(2,3-methylenedioxybenzyl)]phenethylamine);
  - 25T2-NBOMe (4-Methylthio-2,5-dimethoxy-[N-(2-methoxybenzyl)]phenethylamine);
  - 25T4-NBOMe (4-Isopropylthio-2,5-dimethoxy-[N-(2-methoxybenzyl)]phenethylamine);
  - 25T7-NBOMe (4-(n)-Propylthio-2,5-dimethoxy-[N-(2-methoxybenzyl)]phenethylamine);
  - 25C-NBOMe (4-Chloro-2,5-dimethoxy-[N-(2-methoxybenzyl)]phenethylamine);
  - 25C-NBOH (4-Chloro-2,5-dimethoxy-[N-(2-hydroxybenzyl)]phenethylamine);
  - 25C-NBF (4-Chloro-2,5-dimethoxy-[N-(2-fluorobenzyl)]phenethylamine);
  - 25C-NBMD (4-Chloro-2,5-dimethoxy-[N-(2,3-methylenedioxybenzyl)]phenethylamine);
  - 25H-NBOMe (2,5-Dimethoxy-[N-(2-methoxybenzyl)]phenethylamine);
  - 25H-NBOH (2,5-Dimethoxy-[N-(2-hydroxybenzyl)]phenethylamine);
  - 25H-NBF (2,5-Dimethoxy-[N-(2-fluorobenzyl)]phenethylamine); or
  - 25D-NBOMe (4-Methyl-2,5-dimethoxy-[N-(2-methoxybenzyl)]phenethylamine), which does not include substituted cathinones as described in subparagraph (1)(c)191.
- The *Substituted Tryptamines* class includes any material, compound, mixture, or preparation containing a 2-(1H-indol-3-yl)ethanamine, for example tryptamine, structure with or without mono- or di-substitution of the amine nitrogen with alkyl or alkenyl groups, or by inclusion of the amino nitrogen atom in a cyclic structure, whether or not substituted at the alpha position with an alkyl group, whether or not substituted on the indole ring to any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy groups, including, but not limited to the 27 following chemical designations:
    - Alpha-Ethyltryptamine;
    - Bufotenine;
    - DET (Diethyltryptamine);
    - DMT (Dimethyltryptamine);
    - MET (N-Methyl-N-ethyltryptamine);
    - DALT (N,N-Diallyltryptamine);
    - EiPT (N-Ethyl-N-isopropyltryptamine);
    - MiPT (N-Methyl-N-isopropyltryptamine);
    - 5-Hydroxy-AMT (5-Hydroxy-alpha-methyltryptamine);
    - 5-Hydroxy-N-methyltryptamine;
    - 5-MeO-MiPT (5-Methoxy-N-methyl-N-isopropyltryptamine);
    - 5-MeO-AMT (5-Methoxy-alpha-methyltryptamine);
    - Methyltryptamine;
    - 5-MeO-DMT (5-Methoxy-N,N-dimethyltryptamine);
    - 5-Me-DMT (5-Methyl-N,N-dimethyltryptamine);
    - 5-MeO-DiPT (5-Methoxy-N,N-Diisopropyltryptamine);
    - DiPT (N,N-Diisopropyltryptamine);
    - DPT (N,N-Dipropyltryptamine);
    - 4-Hydroxy-DiPT (4-Hydroxy-N,N-diisopropyltryptamine);
    - 5-MeO-DALT (5-Methoxy-N,N-Diallyltryptamine);
    - 4-AcO-DMT (4-Acetoxy-N,N-dimethyltryptamine);
    - 4-AcO-DiPT (4-Acetoxy-N,N-diisopropyltryptamine);
    - 4-Hydroxy-DET (4-Hydroxy-N,N-diethyltryptamine);

- 4-Hydroxy-MET (4-Hydroxy-N-methyl-N-ethyltryptamine);
- 4-Hydroxy-MiPT (4-Hydroxy-N-methyl-N-isopropyltryptamine);
- Methyl-alpha-ethyltryptamine; or
- Bromo-DALT (Bromo-N,N-diallyltryptamine),  
which does not include tryptamine, psilocyn as described in subparagraph (1)(c)34., or psilocybin as described in subparagraph (1)(c)33.
- The *Substituted Phenylcyclohexylamines* includes any material, compound, mixture, or preparation containing a phenylcyclohexylamine structure, with or without any substitution on the phenyl ring, any substitution on the cyclohexyl ring, any replacement of the phenyl ring with a thiophenyl or benzothiophenyl ring, with or without substitution on the amine with alkyl, dialkyl, or alkoxy substituents, inclusion of the nitrogen in a cyclic structure, or any combination of the above, including, but not limited to the 18 following chemical designations:
  - BTCP (Benzothiophenylcyclohexylpiperidine) or BCP (Benocyclidine);
  - PCE (N-Ethyl-1-phenylcyclohexylamine)(Ethylamine analog of phencyclidine);
  - PCPY (N-(1-Phenylcyclohexyl)-pyrrolidine)(Pyrrolidine analog of phencyclidine);
  - PCPr (Phenylcyclohexylpropylamine);
  - TCP (1-[1-(2-Thienyl)-cyclohexyl]-piperidine)(Thiophene analog of phencyclidine);
  - PCEEA (Phenylcyclohexyl(ethoxyethylamine));
  - PCMPA (Phenylcyclohexyl(methoxypropylamine));
  - Methoxetamine;
  - 3-Methoxy-PCE ((3-Methoxyphenyl)cyclohexylethylamine);
  - Bromo-PCP ((Bromophenyl)cyclohexylpiperidine);
  - Chloro-PCP ((Chlorophenyl)cyclohexylpiperidine);
  - Fluoro-PCP ((Fluorophenyl)cyclohexylpiperidine);
  - Hydroxy-PCP ((Hydroxyphenyl)cyclohexylpiperidine);
  - Methoxy-PCP ((Methoxyphenyl)cyclohexylpiperidine);
  - Methyl-PCP ((Methylphenyl)cyclohexylpiperidine);
  - Nitro-PCP ((Nitrophenyl)cyclohexylpiperidine);
  - Oxo-PCP ((Oxophenyl)cyclohexylpiperidine); or
  - Amino-PCP ((Aminophenyl)cyclohexylpiperidine).

The criminal penalties applied to violations of ch. 893, F.S., involving substances listed in Schedule I will apply to the specific substances listed above, as well as substances that fall within the six general classifications.

The bill makes technical corrections and additions to the names of 113 substances currently included in Schedule I, five substances currently included in Schedule III, and 17 "precursor" chemicals that may be used in the manufacture of a controlled substance, to conform to modern scientific conventions.

The bill adds the following definitions to ch. 893, F.S.:

- "Cannabinoid receptor agonist" means a chemical compound or substance that, according to scientific or medical research, study, testing, or analysis demonstrates the presence of binding activity at one or more of the CB1 or CB2 cell membrane receptors located within the human body.
- "Homologue" means a chemical compound in a series in which each compound differs by one or more repeating hydrocarbon functional group units at any single point within the compound.
- "Mixture" means any physical combination of two or more substances, including, but not limited to, a blend, an aggregation, a suspension, an emulsion, a solution, or a dosage unit, whether or not such combination can be separated into its components by physical means, whether mechanical or thermal.
- "Nitrogen-heterocyclic analog" means an analog of a controlled substance which has a single carbon atom in a cyclic structure of a compound replaced by a nitrogen atom.
- "Positional isomer" means any substance that possesses the same molecular formula and core structure and that has the same functional group or substituent as those found in the respective controlled substance, attached at any positions on the core structure, but in such manner that



no new chemical functionalities are created and no existing chemical functionalities are destroyed relative to the respective controlled substance. Rearrangements of alkyl moieties within or between functional groups or substituents, or divisions or combinations of alkyl moieties, which do not create new chemical functionalities or destroy existing chemical functionalities, are allowed and include resulting compounds that are positional isomers. As used in this definition, the term "core structure" means the parent molecule that is the common basis for the class that includes, but is not limited to, tryptamine, phenethylamine, or ergoline. Examples of rearrangements resulting in creation or destruction of chemical functionalities, and therefore resulting in compounds that are not positional isomers, include, but are not limited to, ethoxy to alpha-hydroxyethyl, hydroxy and methyl to methoxy, or the repositioning of a phenolic or alcoholic hydroxy group to create a hydroxyamine. Examples of rearrangements resulting in compounds that would be positional isomers, include, but are not limited to, tert-butyl to sec-butyl, methoxy and ethyl to isopropoxy, N,N-diethyl to N-methyl-N-propyl, or alpha-methylamino to N-methylamino.

- "Substantially similar," as the term applies to the chemical structure of a substance, means that the chemical structure of the substance compared to the structure of a controlled substance has a single difference in the structural formula that substitutes one atom or functional group for another, including, but not limited to, one halogen for another halogen, one hydrogen for a halogen or vice versa, an alkyl group added or deleted as a side chain to or from a molecule, or an alkyl group added or deleted from a side chain of a molecule.
- The definition of "drug paraphernalia" is revised to include:
  - Diluents and adulterants, such as quinine hydrochloride, caffeine, dimethyl sulfone, mannitol, mannite, dextrose, and lactose, used, intended for use, or designed for use in diluting controlled substances; or substances such as damiana leaf, marshmallow leaf, and mullein leaf, used, intended for use, or designed for use as carrier mediums of controlled substances.
  - Objects used, intended for use, or designed for use in ingesting, inhaling, or otherwise introducing controlled substances, as described in s. 893.03, or substances described in s. 877.111(1).

The bill specifies that a controlled substance analog shall be treated as the highest scheduled controlled substance to which it is a controlled substance analog in s. 893.03, F.S., and adds the following factors to the list of relevant factors in determining that a substance is a controlled substance analog:

- Comparisons to the accepted methods of marketing, distribution, and sales of the substance and that which the substance is purported to be, including, but not limited to:
  - The difference in price at which the substance is sold and the price at which the substance it is purported to be or advertised as is normally sold;
  - The difference in how the substance is imported, manufactured, or distributed compared to how the substance it is purported to be or advertised as is normally imported, manufactured, or distributed;
  - The difference in the appearance of the substance in overall finished dosage form compared to the substance it is purported to be or advertised as normally appears in overall finished dosage form; and
  - The difference in how the substance is labeled for sale, packaged for sale, or the method of sale, including, but not limited to, the placement of the substance in an area commonly viewable to the public for purchase consideration compared to how the substance it is purported to be or advertised as is normally labeled for sale, packaged for sale, or sold to the public.

The bill creates the following criminal offenses:

- Possession of a substance in Schedule V<sup>58</sup> is a second degree misdemeanor.<sup>59</sup>

<sup>58</sup> s. 893.03(5), F.S.

<sup>59</sup> A second degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine. ss. 775.082, 775.083, and 775.084, F.S.

- Delivering any controlled substance to a person younger than 18 years of age, using or hiring a person younger than 18 years of age as an agent or employee in the sale or delivery of such a substance, or using such person to assist in avoiding detection or apprehension for a violation of ch. 893, F.S., when the controlled substance is not otherwise specified, is a third degree felony.<sup>60</sup>

The bill revises criminal and civil penalties related to controlled substances, as follows:

- Removes the provision in s. 893.13(6)(b), F.S., criminalizing the possession of three grams or less of a variety of cannabinoids as a first degree misdemeanor.<sup>61</sup> This change increases the penalty for possession of any cannabinoid other than cannabis, as defined in s. 893.02(3), F.S., regardless of the amount, from a first degree misdemeanor to a third degree felony.
- Makes possession of a substance in Schedule V<sup>62</sup> a second degree misdemeanor.
- Permits property that is the site of two or more violations of ch. 499, F.S., within a six-month period, to be designated a public nuisance under s. 893.138, F.S.
- Requires that a violation involving a controlled substance not otherwise specified, be punished by sentencing the offender to pay a \$500 fine and to serve 100 hours of public service in addition to any other penalty prescribed by law, if:
  - A person sells, manufactures, or delivers, a controlled substance in, on, or within 1,000 feet of the real property comprising an assisted living facility, as that term is used in ch. 429, F.S.; or
  - A person 18 years of age or older delivers any controlled substance to a person younger than 18 years of age, uses or hires a person younger than 18 years of age as an agent or employee in the sale or delivery of such a substance, or uses such person to assist in avoiding detection or apprehension for a violation of this chapter.
- Amends the Offense Severity Ranking Chart to include the offense of use or hire of a minor or delivering to a minor other controlled substances, under s. 893.13(4)(c), F.S., as a Level 2 offense.

The bill adds crimes involving misbranded drugs under s. 499.0051, F.S., to the crimes included in the definition of "racketeering activity" in the Florida RICO (Racketeer Influenced and Corrupt Organization) Act.<sup>63</sup>

## B. SECTION DIRECTORY:

Section 1. Amends s. 893.02, F.S., relating to definitions.

Section 2. Amends s. 893.03, F.S., relating to standards and schedules.

Section 3. Amends s. 893.033, F.S., relating to listed chemicals.

Section 4. Amends s. 893.0356, F.S., relating to control of new substances; findings of fact; "controlled substance analog" defined.

Section 5. Amends s. 893.13, F.S., relating to prohibited acts; penalties.

Section 6. Amends s. 893.135, F.S., relating to trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.

Section 7. Amends s. 893.138, F.S., relating to local administrative action to abate drug-related, prostitution-related, or stolen-property-related public nuisances and criminal gang activity.

<sup>60</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>61</sup> A first degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. ss. 775.082 and 775.083, F.S.

<sup>62</sup> s. 893.03(5), F.S.

<sup>63</sup> Sections 895.01-895.06, F.S., establish the Florida RICO Act.

Section 8. Amends s. 893.145, F.S., relating to "drug paraphernalia" defined.

Sections 9. Amends s. 895.02, F.S., relating to definitions.

Section 10. Amends s. 921.0022, F.S., relating to criminal punishment code; offense severity ranking chart.

Sections 11-53. Reenacts multiple sections of law to incorporate amendments by the bill to statutes that are cross-referenced in the reenacted sections.

Section 54. Provides an effective date of July 1, 2016.

## **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 Criminal Justice Impact Conference met on January 29, 2016, and determined that this bill would have a positive indeterminate impact on the Department of Corrections (i.e., an unquantifiable increase in prison beds). The number of future synthetic drug variations, and the resulting offenses connected to them, is unknown. It is also unknown how many will be incarcerated for the use or hire of a minor or delivering to a minor controlled substances.

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

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

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

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

The bill creates new misdemeanor penalties for violations of ch. 893, F.S.; thus, the bill may have an impact on local government expenditures.

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

None.

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

None.

## **III. COMMENTS**

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

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

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

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

On February 3, 2016, the Criminal Justice Subcommittee adopted three amendments and reported the bill favorable as a committee substitute. Together, the amendments:

- Make technical corrections to chemical substance descriptions; and
- Remove economic sanctions through the Department of Business and Professional Regulation against tobacco or beverage license holders for certain knowing violations of ch. 893, F.S.

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

1                                    A bill to be entitled  
2            An act relating to illicit drugs; amending s. 893.02,  
3            F.S.; defining terms; deleting a definition; revising  
4            definitions; amending s. 893.03, F.S.; providing that  
5            class designation is a way to reference scheduled  
6            controlled substances; adding, deleting, and revising  
7            the list of Schedule I controlled substances; revising  
8            the list of Schedule III anabolic steroids; amending  
9            s. 893.033, F.S.; adding, deleting, and revising the  
10           list of precursor and essential chemicals; amending s.  
11           893.0356, F.S.; defining the term "substantially  
12           similar"; deleting the term "potential for abuse";  
13           requiring that a controlled substance analog be  
14           treated as the highest scheduled controlled substance  
15           of which it is an analog; amending s. 893.13, F.S.;  
16           creating a noncriminal penalty for selling,  
17           manufacturing, or delivering, or possessing with  
18           intent to sell, manufacture, or deliver any unlawful  
19           controlled substance in, on, or near an assisted  
20           living facility; creating a criminal penalty for a  
21           person 18 years of age or older who delivers to a  
22           person younger than 18 years of age any illegal  
23           controlled substance, who uses or hires a person  
24           younger than 18 years of age in the sale or delivery  
25           of such substance, or who uses a person younger than  
26           18 years of age to assist in avoiding detection for

27 specified violations; deleting a criminal penalty for  
 28 possession of a certain amount of specified controlled  
 29 substances; deleting certain exclusions to the  
 30 definition of the term "cannabis"; creating a criminal  
 31 penalty for possession of specified controlled  
 32 substances; correcting a cross-reference; amending s.  
 33 893.135, F.S.; revising a dosage unit to include a  
 34 gelatin capsule for the purpose of clarifying  
 35 legislative intent regarding the weighing of a mixture  
 36 containing a controlled substance; amending s.  
 37 893.138, F.S.; authorizing a place or premises that  
 38 has been used on two or more occasions for specified  
 39 violations within a certain time period to be declared  
 40 a public nuisance; amending s. 893.145, F.S.; revising  
 41 the definition of the term "drug paraphernalia";  
 42 amending s. 895.02, F.S.; revising the definition of  
 43 the term "racketeering activity"; amending s.  
 44 921.0022, F.S.; adding an adult delivering controlled  
 45 substances to a minor, using or hiring a minor to sell  
 46 controlled substances, or using a minor to avoid  
 47 detection or apprehension to level 3 of the offense  
 48 severity ranking chart of the Criminal Punishment  
 49 Code; making technical changes; reenacting ss.  
 50 39.01(30)(a) and (g), 316.193(5), 322.2616(2)(c),  
 51 327.35(5), 440.102(11)(b), 456.44(2), 458.326(3),  
 52 458.3265(1)(e), 459.0137(1)(e), 463.0055(4)(a),

53 465.0276(1)(b), 499.0121(14) and (15)(a),  
 54 499.029(3)(a), 782.04(1) and (4), 787.06(2)(a),  
 55 817.563(1), 831.31, 893.0301, 893.035(7)(a),  
 56 893.05(1), 893.055(1)(b), 893.07(5)(b), 893.12(2)(b),  
 57 (c), and (d), and 944.474(2), F.S., to incorporate the  
 58 amendment made to s. 893.03, F.S., in references  
 59 thereto; reenacting s. 893.149(4), F.S., to  
 60 incorporate the amendment made to s. 893.033, F.S., in  
 61 a reference thereto; reenacting ss. 397.451(4)(b),  
 62 435.07(2), 772.12(2), 775.084(1)(a), 810.02(3),  
 63 812.014(2), 831.311(1), 893.1351(1), 893.138(3),  
 64 893.15, 903.133, and 921.187(1)(1), F.S., to  
 65 incorporate the amendment made to s. 893.13, F.S., in  
 66 references thereto; reenacting ss. 893.12(2)(a) and  
 67 893.147(6)(a), F.S., to incorporate the amendment made  
 68 to s. 893.145, F.S., in references thereto; reenacting  
 69 ss. 16.56(1)(a), 655.50(3)(g), 896.101(2)(g), and  
 70 905.34, F.S., to incorporate the amendment made to s.  
 71 895.02, F.S., in references thereto; providing an  
 72 effective date.

73  
 74 Be It Enacted by the Legislature of the State of Florida:

75  
 76 Section 1. Subsections (2), (11), and (16) of section  
 77 893.02, Florida Statutes, are amended, new subsections (17) and  
 78 (20) are added to that section, present subsections (17), (18),

79 (19), (20), (21), (22), and (23) of that section are  
 80 redesignated as subsections (18), (19), (21), (22), (23), (24),  
 81 and (25), respectively, and subsections (4) and (14) are  
 82 republished, to read:

83 893.02 Definitions.—The following words and phrases as  
 84 used in this chapter shall have the following meanings, unless  
 85 the context otherwise requires:

86 (2) "Cannabinoid receptor agonist" means a chemical  
 87 compound or substance that, according to scientific or medical  
 88 research, study, testing, or analysis demonstrates the presence  
 89 of binding activity at one or more of the CB1 or CB2 cell  
 90 membrane receptors located within the human body ~~"Analog" or~~  
 91 ~~"chemical analog" means a structural derivative of a parent~~  
 92 ~~compound that is a controlled substance.~~

93 (4) "Controlled substance" means any substance named or  
 94 described in Schedules I-V of s. 893.03. Laws controlling the  
 95 manufacture, distribution, preparation, dispensing, or  
 96 administration of such substances are drug abuse laws.

97 (11) "Homologue" means a chemical compound in a series in  
 98 which each compound differs by one or more repeating hydrocarbon  
 99 functional group units at any single point within the compound  
 100 ~~alkyl functional groups on an alkyl side chain.~~

101 (14) "Listed chemical" means any precursor chemical or  
 102 essential chemical named or described in s. 893.033.

103 (16) "Mixture" means any physical combination of two or  
 104 more substances, including, but not limited to, a blend, an



105 aggregation, a suspension, an emulsion, a solution, or a dosage  
106 unit, whether or not such combination can be separated into its  
107 components by physical means, whether mechanical or thermal.

108 (17) "Nitrogen-heterocyclic analog" means an analog of a  
109 controlled substance which has a single carbon atom in a cyclic  
110 structure of a compound replaced by a nitrogen atom.

111 (20) "Positional isomer" means any substance that  
112 possesses the same molecular formula and core structure and that  
113 has the same functional group or substituent as those found in  
114 the respective controlled substance, attached at any positions  
115 on the core structure, but in such manner that no new chemical  
116 functionalities are created and no existing chemical  
117 functionalities are destroyed relative to the respective  
118 controlled substance. Rearrangements of alkyl moieties within or  
119 between functional groups or substituents, or divisions or  
120 combinations of alkyl moieties, which do not create new chemical  
121 functionalities or destroy existing chemical functionalities,  
122 are allowed and include resulting compounds that are positional  
123 isomers. As used in this definition, the term "core structure"  
124 means the parent molecule that is the common basis for the class  
125 that includes, but is not limited to, tryptamine,  
126 phenethylamine, or ergoline. Examples of rearrangements  
127 resulting in creation or destruction of chemical  
128 functionalities, and therefore resulting in compounds that are  
129 not positional isomers, include, but are not limited to, ethoxy  
130 to alpha-hydroxyethyl, hydroxy and methyl to methoxy, or the

131 repositioning of a phenolic or alcoholic hydroxy group to create  
 132 a hydroxylamine. Examples of rearrangements resulting in  
 133 compounds that would be positional isomers, include, but are not  
 134 limited to, tert-butyl to sec-butyl, methoxy and ethyl to  
 135 isopropoxy, N,N-diethyl to N-methyl-N-propyl, or alpha-  
 136 methylamino to N-methylamino.

137 Section 2. Section 893.03, Florida Statutes, is amended to  
 138 read:

139 893.03 Standards and schedules.—The substances enumerated  
 140 in this section are controlled by this chapter. The controlled  
 141 substances listed or to be listed in Schedules I, II, III, IV,  
 142 and V are included by whatever official, common, usual,  
 143 chemical, ~~or~~ trade name, or class designated. The provisions of  
 144 this section shall not be construed to include within any of the  
 145 schedules contained in this section any excluded drugs listed  
 146 within the purview of 21 C.F.R. s. 1308.22, styled "Excluded  
 147 Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical  
 148 Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted  
 149 Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt  
 150 Anabolic Steroid Products."

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

156 (a) Unless specifically excepted or unless listed in

157 | another schedule, any of the following substances, including  
 158 | their isomers, esters, ethers, salts, and salts of isomers,  
 159 | esters, and ethers, whenever the existence of such isomers,  
 160 | esters, ethers, and salts is possible within the specific  
 161 | chemical designation:

- 162 | 1. Acetyl-alpha-methylfentanyl.
- 163 | 2. Acetylmethadol.
- 164 | 3. Allylprodine.
- 165 | 4. Alphacetylmethadol (except levo-alphacetylmethadol,  
 166 | also known as levo-alpha-acetylmethadol, levomethadyl acetate,  
 167 | or LAAM).
- 168 | 5. Alphamethadol.
- 169 | 6. Alpha-methylfentanyl (N-[1-(alpha-methyl-betaphenyl)  
 170 | ethyl-4-piperidyl] propionanilide; 1-(1-methyl-2-phenylethyl)-4-  
 171 | (N-propanilido) piperidine).
- 172 | 7. Alpha-methylthiofentanyl.
- 173 | 8. Alphameprodine.
- 174 | 9. Benzethidine.
- 175 | 10. Benzylfentanyl.
- 176 | 11. Betacetylmethadol.
- 177 | 12. Beta-hydroxyfentanyl.
- 178 | 13. Beta-hydroxy-3-methylfentanyl.
- 179 | 14. Betameprodine.
- 180 | 15. Betamethadol.
- 181 | 16. Betaprodine.
- 182 | 17. Clonitazene.

- 183 | 18. Dextromoramide.
- 184 | 19. Diampromide.
- 185 | 20. Diethylthiambutene.
- 186 | 21. DifenoXin.
- 187 | 22. Dimenoxadol.
- 188 | 23. Dimepheptanol.
- 189 | 24. Dimethylthiambutene.
- 190 | 25. Dioxaphetyl butyrate.
- 191 | 26. Dipipanone.
- 192 | 27. Ethylmethylthiambutene.
- 193 | 28. Etonitazene.
- 194 | 29. EtoXeridine.
- 195 | 30. Flunitrazepam.
- 196 | 31. Furethidine.
- 197 | 32. HydroXypethidine.
- 198 | 33. Ketobemidone.
- 199 | 34. Levomoramide.
- 200 | 35. Levophenacylmorphan.
- 201 | 36. Desmethylprodine (1-Methyl-4-Phenyl-4-
- 202 | Propionoxypiperidine) ~~(MPPP)~~.
- 203 | 37. 3-Methylfentanyl (N-[3-methyl-1-(2-phenylethyl)-4-
- 204 | piperidyl]-N-phenylpropanamide).
- 205 | 38. 3-Methylthiofentanyl.
- 206 | 39. Morpheridine.
- 207 | 40. Noracymethadol.
- 208 | 41. Norlevorphanol.

- 209 | 42. Normethadone.
- 210 | 43. Norpipanone.
- 211 | 44. Para-Fluorofentanyl.
- 212 | 45. Phenadoxone.
- 213 | 46. Phenampromide.
- 214 | 47. Phenomorphan.
- 215 | 48. Phenoperidine.
- 216 | 49. PEPAP (1-(2-Phenylethyl)-4-Phenyl-4-
- 217 | Acetyloxypiperidine) ~~(PEPAP)~~.
- 218 | 50. Piritramide.
- 219 | 51. Proheptazine.
- 220 | 52. Properidine.
- 221 | 53. Propiram.
- 222 | 54. Racemoramide.
- 223 | 55. Thenylfentanyl.
- 224 | 56. Thiofentanyl.
- 225 | 57. Tilidine.
- 226 | 58. Trimeperidine.
- 227 | 59. Acetylfentanyl.
- 228 | 60. Butyrylfentanyl.
- 229 | 61. Beta-Hydroxythiofentanyl.

230 | (b) Unless specifically excepted or unless listed in  
 231 | another schedule, any of the following substances, their salts,  
 232 | isomers, and salts of isomers, whenever the existence of such  
 233 | salts, isomers, and salts of isomers is possible within the  
 234 | specific chemical designation:

- 235 | 1. Acetorphine.
- 236 | 2. Acetyldihydrocodeine.
- 237 | 3. Benzylmorphine.
- 238 | 4. Codeine methylbromide.
- 239 | 5. Codeine-N-Oxide.
- 240 | 6. Cyprenorphine.
- 241 | 7. Desomorphine.
- 242 | 8. Dihydromorphine.
- 243 | 9. Drotebanol.
- 244 | 10. Etorphine (except hydrochloride salt).
- 245 | 11. Heroin.
- 246 | 12. Hydromorphanol.
- 247 | 13. Methyldesorphine.
- 248 | 14. Methyldihydromorphine.
- 249 | 15. Monoacetylmorphine.
- 250 | 16. Morphine methylbromide.
- 251 | 17. Morphine methylsulfonate.
- 252 | 18. Morphine-N-Oxide.
- 253 | 19. Myrophine.
- 254 | 20. Nicocodine.
- 255 | 21. Nicomorphine.
- 256 | 22. Normorphine.
- 257 | 23. Pholcodine.
- 258 | 24. Thebacon.
- 259 | (c) Unless specifically excepted or unless listed in
- 260 | another schedule, any material, compound, mixture, or

261 preparation that contains any quantity of the following  
 262 hallucinogenic substances or that contains any of their salts,  
 263 isomers, including optical, positional, or geometric isomers,  
 264 homologues, nitrogen-heterocyclic analogs, esters, ethers, and  
 265 salts of isomers, homologues, nitrogen-heterocyclic analogs,  
 266 esters, or ethers, if the existence of such salts, isomers, and  
 267 salts of isomers is possible within the specific chemical  
 268 designation or class description:

- 269 1. Alpha-Ethyltryptamine.
- 270 2. 4-Methylaminorex (2-Amino-4-methyl-5-phenyl-2-  
 271 oxazoline) ~~(4-methylaminorex)~~.
- 272 3. Aminorex (2-Amino-5-phenyl-2-oxazoline) ~~(Aminorex)~~.
- 273 4. DOB (4-Bromo-2,5-dimethoxyamphetamine).
- 274 5. 2C-B (4-Bromo-2,5-dimethoxyphenethylamine).
- 275 6. Bufotenine.
- 276 7. Cannabis.
- 277 8. Cathinone.
- 278 9. DET (Diethyltryptamine).
- 279 10. 2,5-Dimethoxyamphetamine.
- 280 11. DOET (4-Ethyl-2,5-Dimethoxyamphetamine) ~~2,5-Dimethoxy-~~  
 281 ~~4-ethylamphetamine (DOET)~~.
- 282 12. DMT (Dimethyltryptamine).
- 283 13. PCE (N-Ethyl-1-phenylcyclohexylamine) ~~(PCE)~~ (Ethylamine  
 284 analog of phencyclidine).
- 285 14. JB-318 (N-Ethyl-3-piperidyl benzilate).
- 286 15. N-Ethylamphetamine.

- 287 16. Fenethylamine.
- 288 17. 3,4-Methylenedioxy-N-hydroxyamphetamine ~~N-Hydroxy 3,4-~~
- 289 ~~methylenedioxyamphetamine.~~
- 290 18. Ibogaine.
- 291 19. LSD (Lysergic acid diethylamide) ~~(LSD)~~.
- 292 20. Mescaline.
- 293 21. Methcathinone.
- 294 22. 5-Methoxy-3,4-methylenedioxyamphetamine.
- 295 23. PMA (4-Methoxyamphetamine).
- 296 24. PMMA (4-Methoxymethamphetamine).
- 297 25. DOM (4-Methyl-2,5-dimethoxyamphetamine).
- 298 26. MDEA (3,4-Methylenedioxy-N-ethylamphetamine).
- 299 27. MDA (3,4-Methylenedioxyamphetamine).
- 300 28. JB-336 (N-Methyl-3-piperidyl benzilate).
- 301 29. N,N-Dimethylamphetamine.
- 302 30. Parahexyl.
- 303 31. Peyote.
- 304 32. PCPY (N-(1-Phenylcyclohexyl)-pyrrolidine) ~~(PCPY)~~
- 305 (Pyrrolidine analog of phencyclidine).
- 306 33. Psilocybin.
- 307 34. Psilocyn.
- 308 35. *Salvia divinorum*, except for any drug product approved
- 309 by the United States Food and Drug Administration which contains
- 310 *Salvia divinorum* or its isomers, esters, ethers, salts, and
- 311 salts of isomers, esters, and ethers, if the existence of such
- 312 isomers, esters, ethers, and salts is possible within the



313 specific chemical designation.

314 36. Salvinorin A, except for any drug product approved by  
 315 the United States Food and Drug Administration which contains  
 316 Salvinorin A or its isomers, esters, ethers, salts, and salts of  
 317 isomers, esters, and ethers, if the existence of such isomers,  
 318 esters, ethers, and salts is possible within the specific  
 319 chemical designation.

320 ~~37. Tetrahydrocannabinols.~~

321 37. Xylazine.

322 38. TCP (1-[1-(2-Thienyl)-cyclohexyl]-piperidine) ~~(TCP)~~  
 323 (Thiophene analog of phencyclidine).

324 39. 3,4,5-Trimethoxyamphetamine.

325 40. Methylone (3,4-Methylenedioxyethcathinone).

326 41. MDPV (3,4-Methylenedioxypropylone) ~~(MDPV).~~

327 42. Methylethcathinone.

328 43. Methoxymethcathinone.

329 44. Fluoromethcathinone.

330 45. Methylethcathinone.

331 46. CP 47,497 (2-((1R,3S)-3-Hydroxycyclohexyl)-5-(2-  
 332 methyloctan-2-yl)phenol), ~~also known as CP 47,497 and its~~  
 333 dimethyloctyl (C8) homologue.

334 47. HU-210 [(6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-  
 335 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-  
 336 ol], ~~also known as HU-210.~~

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

- 339 49. JWH-073 (1-Butyl-3-(1-naphthoyl)indole), ~~also known as~~  
 340 ~~JWH-073~~.
- 341 50. JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-  
 342 naphthoyl)indole), ~~also known as JWH-200~~.
- 343 51. BZP (Benzylpiperazine).
- 344 52. Fluorophenylpiperazine.
- 345 53. Methylphenylpiperazine.
- 346 54. Chlorophenylpiperazine.
- 347 55. Methoxyphenylpiperazine.
- 348 56. DBZP (1,4-Dibenzylpiperazine).
- 349 57. TFMPP (~~3~~-Trifluoromethylphenylpiperazine).
- 350 58. MBDB (Methylbenzodioxolylbutanamine) or (3,4-  
 351 Methylenedioxy-N-methylbutanamine).
- 352 59. 5-Hydroxy-AMT (5-Hydroxy-alpha-methyltryptamine).
- 353 60. 5-Hydroxy-N-methyltryptamine.
- 354 61. 5-MeO-MiPT (5-Methoxy-N-methyl-N-isopropyltryptamine).
- 355 62. 5-MeO-AMT (5-Methoxy-alpha-methyltryptamine).
- 356 63. Methyltryptamine.
- 357 64. 5-MeO-DMT (5-Methoxy-N,N-dimethyltryptamine).
- 358 65. 5-Me-DMT (5-Methyl-N,N-dimethyltryptamine).
- 359 66. Tyramine (4-Hydroxyphenethylamine).
- 360 67. 5-MeO-DiPT (5-Methoxy-N,N-Diisopropyltryptamine).
- 361 68. DiPT (N,N-Diisopropyltryptamine).
- 362 69. DPT (N,N-Dipropyltryptamine).
- 363 70. 4-Hydroxy-DiPT (4-Hydroxy-N,N-diisopropyltryptamine).
- 364 71. 5-MeO-DALT (5-Methoxy-N,N-Diallyltryptamine) ~~N,N-~~

- 365 ~~Diallyl-5-Methoxytryptamine.~~
- 366 72. DOI (4-Iodo-2,5-dimethoxyamphetamine).
- 367 73. DOC (4-Chloro-2,5-dimethoxyamphetamine).
- 368 74. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).
- 369 75. 2C-T-4 (4-Isopropylthio-2,5-dimethoxyphenethylamine)
- 370 ~~2,5-Dimethoxy-4-isopropylthiophenethylamine).~~
- 371 76. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).
- 372 77. 2C-T (4-Methylthio-2,5-dimethoxyphenethylamine) ~~2,5-~~
- 373 ~~Dimethoxy-4-methylthiophenethylamine).~~
- 374 78. 2C-T-2 (4-Ethylthio-2,5-dimethoxyphenethylamine) ~~2,5-~~
- 375 ~~Dimethoxy-4-ethylthiophenethylamine).~~
- 376 79. 2C-T-7 (4-(n)-Propylthio-2,5-dimethoxyphenethylamine)
- 377 ~~2,5-Dimethoxy-4-(n)-propylthiophenethylamine).~~
- 378 80. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).
- 379 81. Butylone (3,4-Methylenedioxy-alpha-
- 380 methylaminobutyrophenone) ~~beta-keto-N-~~
- 381 ~~methylbenzodioxolylpropylamine).~~
- 382 82. Ethcathinone.
- 383 83. Ethylone (3,4-Methylenedioxy-N-ethylcathinone).
- 384 84. Naphyrone (Naphthylpyrovalerone).
- 385 85. Dimethylone (3,4-Methylenedioxy-N,N-dimethylcathinone)
- 386 ~~N-N-Dimethyl-3,4-methylenedioxycathinone.~~
- 387 86. 3,4-Methylenedioxy-N,N-diethylcathinone ~~N-N-Diethyl-~~
- 388 ~~3,4-methylenedioxycathinone.~~
- 389 87. 3,4-Methylenedioxy-propiofenone.
- 390 88. 3,4-Methylenedioxy-alpha-bromopropiofenone ~~2-Bromo-~~

- 391 ~~3,4-Methylenedioxypropio~~phenone.
- 392 89. 3,4-Methylenedioxy-propio-phenone-2-oxime.
- 393 90. 3,4-Methylenedioxy-N-acetylcathinone ~~N-Acetyl-3,4-~~
- 394 ~~methylenedioxy~~cathinone.
- 395 91. 3,4-Methylenedioxy-N-acetylmethcathinone ~~N-Acetyl-N-~~
- 396 ~~Methyl-3,4-Methylenedioxy~~cathinone.
- 397 92. 3,4-Methylenedioxy-N-acetylethcathinone ~~N-Acetyl-N-~~
- 398 ~~Ethyl-3,4-Methylenedioxy~~cathinone.
- 399 93. Bromomethcathinone.
- 400 94. Buphedrone (alpha-Methylamino-butyrophenone).
- 401 95. Eutylone (3,4-Methylenedioxy-alpha-
- 402 ethylaminobutyrophenone) ~~beta-Keto-~~
- 403 ~~Ethylbenzodioxolyl~~butanamine).
- 404 96. Dimethylcathinone.
- 405 97. Dimethylmethcathinone.
- 406 98. Pentylone (3,4-Methylenedioxy-alpha-
- 407 methylaminovalerophenone) ~~(beta-Keto-~~
- 408 ~~Methylbenzodioxolyl~~pentanamine).
- 409 99. MDPPP (3,4-Methylenedioxy-alpha-
- 410 pyrrolidinopropiophenone) ~~(MDPPP) 3,4-Methylenedioxy-alpha-~~
- 411 ~~pyrrolidinopropiophenone~~.
- 412 100. MDPBP (3,4-Methylenedioxy-alpha-
- 413 pyrrolidinobutyrophenone) ~~(MDPBP) 3,4-Methylenedioxy-alpha-~~
- 414 ~~pyrrolidinobutiophenone~~.
- 415 101. MOPPP (Methoxy-alpha-pyrrolidinopropiophenone)
- 416 ~~(MOPPP)~~.

- 417           102. MPHP (Methyl-alpha-pyrrolidinohexanophenone) ~~Methyl-~~  
 418 ~~alpha-pyrrolidinohexiophenone (MPHP).~~
- 419           103. BTCP (Benzothiophenylcyclohexylpiperidine) or BCP  
 420 ~~(Benocyclidine) Benocyclidine (BCP) or~~  
 421 ~~benzothiophenylcyclohexylpiperidine (BTCP).~~
- 422           104. F-MABP (Fluoromethylaminobutyrophenone) ~~(F-MABP).~~
- 423           105. MeO-PBP (Methoxypyrrolidinobutyrophenone) ~~(MeO-PBP).~~
- 424           106. Et-PBP (Ethyl-pyrrolidinobutyrophenone) ~~(Et-PBP).~~
- 425           107. 3-Me-4-MeO-MCAT (3-Methyl-4-Methoxymethcathinone) ~~(3-~~  
 426 ~~Me-4-MeO-MCAT).~~
- 427           108. Me-EABP (Methylethylaminobutyrophenone) ~~(Me-EABP).~~
- 428           109. Etizolam ~~Methylamino butyrophenone (MABP).~~
- 429           110. PPP (Pyrrolidinopropiophenone) ~~(PPP).~~
- 430           111. PBP (Pyrrolidinobutyrophenone)  
 431 ~~Pyrrolidinobutiophenone (PBP).~~
- 432           112. PVP (Pyrrolidinovalerophenone) or  
 433 ~~(Pyrrolidinopentiophenone) (PVP).~~
- 434           113. MPPP (Methyl-alpha-pyrrolidinopropiophenone) ~~(MPPP).~~
- 435           114. JWH-007 (1-Pentyl-2-methyl-3-(1-naphthoyl)indole).
- 436           115. JWH-015 (1-Propyl-2-methyl-3-(1-naphthoyl)indole) ~~2-~~  
 437 ~~Methyl-1-propyl-1H-indol-3-yl)-1-naphthalenylmethanone).~~
- 438           116. JWH-019 (1-Hexyl-3-(1-naphthoyl)indole) ~~Naphthalen-1-~~  
 439 ~~yl-(1-hexylindol-3-yl)methanone).~~
- 440           117. JWH-020 (1-Heptyl-3-(1-naphthoyl)indole).
- 441           118. JWH-072 (1-Propyl-3-(1-naphthoyl)indole) ~~Naphthalen-~~  
 442 ~~1-yl-(1-propyl-1H-indol-3-yl)methanone).~~

- 443 119. JWH-081 (1-Pentyl-3-(4-methoxy-1-naphthoyl)indole) ~~4-~~  
 444 ~~methoxynaphthalen-1-yl-(1-pentylindol-3-yl)methanone~~).
- 445 120. JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).
- 446 121. JWH-133 (((6aR,10aR)-6,6,9-Trimethyl-3-(2-  
 447 methylpentan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene)  
 448 ~~((6aR,10aR)-3-(1,1-Dimethylbutyl)-6a,7,10,10a-tetrahydro-6,6,9-~~  
 449 ~~trimethyl-6H-dibenzo[b,d]pyran))~~).
- 450 122. JWH-175 (1-Pentyl-3-(1-naphthylmethyl)indole) ~~3-~~  
 451 ~~(naphthalen-1-ylmethyl)-1-pentyl-1H-indole~~).
- 452 123. JWH-201 (1-Pentyl-3-(4-methoxyphenylacetyl)indole).
- 453 124. JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl)indole) ~~2-~~  
 454 ~~(2-chlorophenyl)-1-(1-pentylindol-3-yl)ethanone~~).
- 455 125. JWH-210 (1-Pentyl-3-(4-ethyl-1-naphthoyl)indole) ~~4-~~  
 456 ~~ethylnaphthalen-1-yl-(1-pentylindol-3-yl)methanone~~).
- 457 126. JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl)indole) ~~2-~~  
 458 ~~(2-methoxyphenyl)-1-(1-pentylindol-3-yl)ethanone~~).
- 459 127. JWH-251 (1-Pentyl-3-(2-methylphenylacetyl)indole) ~~2-~~  
 460 ~~(2-methylphenyl)-1-(1-pentyl-1H-indol-3-yl)ethanone~~).
- 461 128. JWH-302 (1-Pentyl-3-(3-methoxyphenylacetyl)indole).
- 462 129. JWH-398 (1-Pentyl-3-(4-chloro-1-naphthoyl)indole).
- 463 130. HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-  
 464 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-  
 465 ol).
- 466 131. HU-308 ([ (1R,2R,5R)-2-[2,6-Dimethoxy-4-(2-  
 467 methyloctan-2-yl)phenyl]-7,7-dimethyl-4-bicyclo[3.1.1]hept-3-  
 468 enyl] methanol).

- 469 132. HU-331 (3-Hydroxy-2-[(1R,6R)-3-methyl-6-(1-  
 470 methylethenyl)-2-cyclohexen-1-yl]-5-pentyl-2,5-cyclohexadiene-  
 471 1,4-dione).
- 472 133. CB-13 (4-Pentyloxy-1-(1-naphthoyl)naphthalene)  
 473 ~~Naphthalen-1-yl-(4-pentyloxynaphthalen-1-yl)methanone~~).
- 474 134. CB-25 (N-Cyclopropyl-11-(3-hydroxy-5-pentylphenoxy)-  
 475 undecanamide).
- 476 135. CB-52 (N-Cyclopropyl-11-(2-hexyl-5-hydroxyphenoxy)-  
 477 undecanamide).
- 478 136. CP 55,940 (2-[3-Hydroxy-5-propanol-cyclohexyl]-5-(2-  
 479 methyloctan-2-yl)phenol) ~~2-[(1R,2R,5R)-5-hydroxy-2-(3-~~  
 480 ~~hydroxypropyl)cyclohexyl]-5-(2-methyloctan-2-yl)phenol~~).
- 481 137. AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole)  
 482 ~~1-[(5-fluoropentyl)-1H-indol-3-yl]-2-iodophenyl)methanone~~).
- 483 138. AM-2201 (1-(5-Fluoropentyl)-3-(1-naphthoyl)indole) ~~1-~~  
 484 ~~[(5-fluoropentyl)-1H-indol-3-yl]-naphthalen-1-yl)methanone~~).
- 485 139. RCS-4 (1-Pentyl-3-(4-methoxybenzoyl)indole) ~~(4-~~  
 486 ~~methoxyphenyl)-1-pentyl-1H-indol-3-yl)methanone~~).
- 487 140. RCS-8 (1-(2-Cyclohexylethyl)-3-(2-  
 488 methoxyphenylacetyl)indole) ~~1-(1-(2-cyclohexylethyl)-1H-indol-3-~~  
 489 ~~yl)-2-(2-methoxyphenylethanone)~~).
- 490 141. WIN55,212-2 ((R)-(+)-[2,3-Dihydro-5-methyl-3-(4-  
 491 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-  
 492 naphthalenylmethanone).
- 493 142. WIN55,212-3 ([3S)-2,3-Dihydro-5-methyl-3-(4-  
 494 morpholinylmethyl)pyrrolo[1,2,3-de]-1,4-benzoxazin-6-yl]-1-

- 495 naphthalenylmethanone).
- 496 143. Pentedrone (alpha-Methylaminovalerophenone) 2-  
 497 ~~(methylamino) 1-phenyl-1-pentanone).~~
- 498 144. Fluoroamphetamine.
- 499 145. Fluoromethamphetamine.
- 500 146. Methoxetamine.
- 501 147. Methiopropamine.
- 502 148. 4-Methylbuphedrone (Methyl-alpha-  
 503 methylaminobutyrophenone) 2-Methylamino 1-(4-methylphenyl)butan-  
 504 ~~1-one).~~
- 505 149. APB ((2-Aminopropyl)benzofuran).
- 506 150. APDB ((2-Aminopropyl)-2,3-dihydrobenzofuran).
- 507 151. UR-144 (1-Pentyl-3-(2,2,3,3-  
 508 tetramethylcyclopropanoyl)indole) ~~(1-pentyl-1H-indol-3-~~  
 509 ~~yl)(2,2,3,3-tetramethylecyclopropyl)methanone).~~
- 510 152. XLR11 (1-(5-Fluoropentyl)-3-(2,2,3,3-  
 511 tetramethylcyclopropanoyl)indole) ~~(1-(5-fluoropentyl)-1H-indol-~~  
 512 ~~3-yl)(2,2,3,3-tetramethylecyclopropyl)methanone).~~
- 513 153. Chloro UR-144 (1-(Chloropentyl)-3-(2,2,3,3-  
 514 tetramethylcyclopropanoyl)indole) ~~(1-(5-chloropentyl)-1H-indol-~~  
 515 ~~3-yl)(2,2,3,3-tetramethylecyclopropyl)methanone.~~
- 516 154. AKB48 (N-Adamant-1-yl 1-pentylindazole-3-carboxamide)  
 517 ~~1-pentyl-N-tricyclo[3.3.1.1<sup>3,7</sup>]dec-1-yl-1H-indazole-3-~~  
 518 ~~carboxamide).~~
- 519 155. AM-2233(1-[(N-Methyl-2-piperidinyl)methyl]-3-(2-  
 520 iodobenzoyl)indole) ~~(2-iodophenyl)[1-[(1-methyl-2-~~



- 521 | ~~piperidinyl)methyl]-1H-indol-3-yl]-methanone).~~
- 522 |       156. STS-135 (N-Adamant-1-yl 1-(5-fluoropentyl)indole-3-
- 523 | carboxamide) 1-(5-fluoropentyl)-N-tricyclo[3.3.1.1<sup>3,7</sup>]dec-1-yl-
- 524 | ~~1H-indole-3-carboxamide).~~
- 525 |       157. URB-597 ((3'-(Aminocarbonyl)[1,1'-biphenyl]-3-yl)-
- 526 | cyclohexylcarbamate).
- 527 |       158. URB-602 ([1,1'-Biphenyl]-3-yl-carbamic acid,
- 528 | cyclohexyl ester).
- 529 |       159. URB-754 (6-Methyl-2-[(4-methylphenyl)amino]-1-
- 530 | benzoxazin-4-one).
- 531 |       160. 2C-D (4-Methyl-2,5-dimethoxyphenethylamine) 2-(2,5-
- 532 | ~~Dimethoxy-4-methylphenyl)ethanamine).~~
- 533 |       161. 2C-H (2,5-Dimethoxyphenethylamine) 2-(2,5-
- 534 | ~~Dimethoxyphenyl)ethanamine).~~
- 535 |       162. 2C-N (4-Nitro-2,5-dimethoxyphenethylamine) 2-(2,5-
- 536 | ~~Dimethoxy-4-nitrophenyl)ethanamine).~~
- 537 |       163. 2C-P (4-(n)-Propyl-2,5-dimethoxyphenethylamine) 2-
- 538 | ~~(2,5-Dimethoxy-4-(n)-propylphenyl)ethanamine).~~
- 539 |       164. 25I-NBOMe (4-Iodo-2,5-dimethoxy-[N-(2-
- 540 | methoxybenzyl)]phenethylamine) 4-iodo-2,5-dimethoxy-N-[(2-
- 541 | methoxyphenyl)methyl]-benzeneethanamine).
- 542 |       165. MDMA (3,4-Methylenedioxymethamphetamine) (MDMA).
- 543 |       166. PB-22 (8-Quinoliny 1-pentylindole-3-carboxylate) 1-
- 544 | ~~pentyl-8-quinoliny ester-1H-indole-3-carboxylic acid).~~
- 545 |       167. ~~5-Fluoro~~ PB-22 (8-Quinoliny 1-(fluoropentyl)indole-
- 546 | 3-carboxylate) 8-quinoliny ester-1-(5-fluoropentyl)-1H-indole-

547 ~~3-carboxylic acid).~~

548 168. BB-22 (8-Quinoliny 1-(cyclohexylmethyl)indole-3-  
 549 carboxylate) 1-(cyclohexylmethyl)-8-quinoliny ester 1H-indole-  
 550 ~~3-carboxylic acid).~~

551 169. ~~5-Fluoro~~ AKB48 (N-Adamant-1-yl 1-  
 552 (fluoropentyl)indazole-3-carboxamide) N-((3s,5s,7s)-adamantan-1-  
 553 yl)-1-(5-fluoropentyl)-1H-indazole-3-carboxamide).

554 170. AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-  
 555 pentylindazole-3-carboxamide) N-(1-Amino-3-methyl-1-oxobutan-2-  
 556 yl)-1-pentyl-1H-indazole-3-carboxamide).

557 171. AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-  
 558 (4-fluorobenzyl)indazole-3-carboxamide) N-(1-Amino-3-methyl-1-  
 559 oxobutan-2-yl)-1-(4-fluorobenzyl)-1H-indazole-3-carboxamide).

560 172. ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-  
 561 1-pentylindazole-3-carboxamide) N-(1-Amino-3,3-dimethyl-1-  
 562 oxobutan-2-yl)-1-pentyl-1H-indazole-3-carboxamide).

563 173. Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-  
 564 yl)-1-(fluoropentyl)indole-3-carboxamide) N-(1-Amino-3,3-  
 565 dimethyl-1-oxobutan-2-yl)-1-(fluoropentyl)-1H-indole-3-  
 566 carboxamide).

567 174. 25B-NBOMe (4-Bromo-2,5-dimethoxy-[N-(2-  
 568 methoxybenzyl)]phenethylamine) 4-bromo-2,5-dimethoxy N-[(2-  
 569 methoxyphenyl)methyl]-benzeneethanamine).

570 175. 25C-C-NBOMe (4-Chloro-2,5-dimethoxy-[N-(2-  
 571 methoxybenzyl)]phenethylamine) 4-chloro-2,5-dimethoxy N-[(2-  
 572 methoxyphenyl)methyl]-benzeneethanamine).

- 573           176. AB-CHMINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-  
574 (cyclohexylmethyl)indazole-3-carboxamide): ~~N-[1-(aminocarbonyl)-~~  
575 ~~2-methylpropyl]-1-(cyclohexylmethyl)-1H-indazole-3-carboxamide.~~
- 576           177. FUB-PB-22 (8-Quinoliny1 1-(4-fluorobenzyl)indole-3-  
577 carboxylate): ~~Quinolin-8-yl-1-(4-fluorobenzyl)-1H-indole-3-~~  
578 ~~carboxylate.~~
- 579           178. Fluoro-NNEI (N-Naphthalen-1-yl 1-  
580 (fluoropentyl)indole-3-carboxamide): ~~1-(Fluoropentyl)-N-~~  
581 ~~(naphthalen-1-yl)-1H-indole-3-carboxamide.~~
- 582           179. Fluoro-AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-  
583 (fluoropentyl)indazole-3-carboxamide): ~~Methyl 2-(1-~~  
584 ~~(fluoropentyl)-1H-indazole-3-carboxamido)-3-methylbutanoate.~~
- 585           180. THJ-2201 (1-(5-Fluoropentyl)-3-(1-  
586 naphthoyl)indazole): ~~[1-(5-Fluoropentyl)-1H-indazol-3-~~  
587 ~~yl](naphthalen-1-yl)methanone.~~
- 588           181. AM-855 ((4aR,12bR)-8-Hexyl-2,5,5-trimethyl-  
589 1,4,4a,8,9,10,11,12b-octahydronaphtho[3,2-c]isochromen-12-ol).
- 590           182. AM-905 ((6aR,9R,10aR)-3-[(E)-Hept-1-enyl]-9-  
591 (hydroxymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-  
592 hexahydrobenzo[c]chromen-1-ol).
- 593           183. AM-906 ((6aR,9R,10aR)-3-[(Z)-Hept-1-enyl]-9-  
594 (hydroxymethyl)-6,6-dimethyl-6a,7,8,9,10,10a-  
595 hexahydrobenzo[c]chromen-1-ol).
- 596           184. AM-2389 ((6aR,9R,10aR)-3-(1-Hexyl-cyclobut-1-yl)-  
597 6a,7,8,9,10,10a-hexahydro-6,6-dimethyl-6H-dibenzo[b,d]pyran-1,9  
598 diol).

- 599        185. HU-243 ((6aR,8S,9S,10aR)-9-(Hydroxymethyl)-6,6-  
 600 dimethyl-3-(2-methyloctan-2-yl)-8,9-ditritio-7,8,10,10a-  
 601 tetrahydro-6aH-benzo[c]chromen-1-ol).
- 602        186. HU-336 ((6aR,10aR)-6,6,9-Trimethyl-3-pentyl-  
 603 6a,7,10,10a-tetrahydro-1H-benzo[c]chromene-1,4(6H)-dione).
- 604        187. MAPB ((2-Methylaminopropyl)benzofuran).
- 605        188. 5-IT (2-(1H-Indol-5-yl)-1-methyl-ethylamine).
- 606        189. 6-IT (2-(1H-Indol-6-yl)-1-methyl-ethylamine).
- 607        190. Synthetic Cannabinoids.-Unless specifically excepted  
 608 or unless listed in another schedule or contained within a  
 609 pharmaceutical product approved by the United States Food and  
 610 Drug Administration, any material, compound, mixture, or  
 611 preparation that contains any quantity of a synthetic  
 612 cannabinoid found to be in any of the following chemical class  
 613 descriptions, or homologues, nitrogen-heterocyclic analogs,  
 614 isomers (including optical, positional, or geometric), esters,  
 615 ethers, salts, and salts of homologues, nitrogen-heterocyclic  
 616 analog, isomers, esters, or ethers, whenever the existence of  
 617 such homologues, nitrogen-heterocyclic analogs, isomers, esters,  
 618 ethers, salts, and salts of isomers, esters, or ethers is  
 619 possible within the specific chemical class or designation.  
 620 Since nomenclature of these synthetically produced cannabinoids  
 621 is not internationally standardized and may continually evolve,  
 622 these structures or the compounds of these structures shall be  
 623 included under this subparagraph, regardless of their specific  
 624 numerical designation of atomic positions covered, if it can be

625 determined through a recognized method of scientific testing or  
 626 analysis that the substance contains properties that fit within  
 627 one or more of the following categories:

628 a. Tetrahydrocannabinols.—Any tetrahydrocannabinols  
 629 naturally contained in a plant of the genus *Cannabis*, the  
 630 synthetic equivalents of the substances contained in the plant  
 631 or in the resinous extracts of the genus *Cannabis*, or synthetic  
 632 substances, derivatives, and their isomers with similar chemical  
 633 structure and pharmacological activity, including, but not  
 634 limited to, Delta 9 tetrahydrocannabinols and their optical  
 635 isomers, Delta 8 tetrahydrocannabinols and their optical  
 636 isomers, Delta 6a,10a tetrahydrocannabinols and their optical  
 637 isomers, or any compound containing a tetrahydrobenzo[c]chromene  
 638 structure with substitution at either or both the 3-position or  
 639 9-position, with or without substitution at the 1-position with  
 640 hydroxyl or alkoxy groups, including, but not limited to:

- 641 (I) Tetrahydrocannabinol.
- 642 (II) HU-210 ((6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-  
 643 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-  
 644 ol).
- 645 (III) HU-211 ((6aS,10aS)-9-(Hydroxymethyl)-6,6-dimethyl-3-  
 646 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-  
 647 ol).
- 648 (IV) JWH-051 ((6aR,10aR)-9-(Hydroxymethyl)-6,6-dimethyl-3-  
 649 (2-methyloctan-2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).
- 650 (V) JWH-133 ((6aR,10aR)-6,6,9-Trimethyl-3-(2-methylpentan-

CODING: Words ~~stricken~~ are deletions; words underlined are additions.

- 651 | 2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).
- 652 |       (VI) JWH-057 ((6aR,10aR)-6,6,9-Trimethyl-3-(2-methyloctan-
- 653 | 2-yl)-6a,7,10,10a-tetrahydrobenzo[c]chromene).
- 654 |       (VII) JWH-359 ((6aR,10aR)-1-Methoxy-6,6,9-trimethyl-3-
- 655 | (2,3-dimethylpentan-2-yl)-6a,7,10,10a-
- 656 | tetrahydrobenzo[c]chromene).
- 657 |       (VIII) AM-087 ((6aR,10aR)-3-(2-Methyl-6-bromohex-2-yl)-
- 658 | 6,6,9-trimethyl-6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol).
- 659 |       (IX) AM-411 ((6aR,10aR)-3-(1-Adamantyl)-6,6,9-trimethyl-
- 660 | 6a,7,10,10a-tetrahydrobenzo[c]chromen-1-ol).
- 661 |       (X) Parahexyl.
- 662 |       b. Naphthoylindoles, Naphthoylindazoles,
- 663 | Naphthoylcarbazoles, Naphthylmethylindoles,
- 664 | Naphthylmethylindazoles, and Naphthylmethylcarbazoles. Any
- 665 | compound containing a naphthoylindole, naphthoylindazole,
- 666 | naphthoylcarbazole, naphthylmethylindole,
- 667 | naphthylmethylindazole, or naphthylmethylcarbazole structure,
- 668 | with or without substitution on the indole, indazole, or
- 669 | carbazole ring to any extent, whether or not substituted on the
- 670 | naphthyl ring to any extent, including, but not limited to:
- 671 |       (I) JWH-007 (1-Pentyl-2-methyl-3-(1-naphthoyl)indole).
- 672 |       (II) JWH-011 (1-(1-Methylhexyl)-2-methyl-3-(1-
- 673 | naphthoyl)indole).
- 674 |       (III) JWH-015 (1-Propyl-2-methyl-3-(1-naphthoyl)indole).
- 675 |       (IV) JWH-016 (1-Butyl-2-methyl-3-(1-naphthoyl)indole).
- 676 |       (V) JWH-018 (1-Pentyl-3-(1-naphthoyl)indole).

- 677 |       (VI) JWH-019 (1-Hexyl-3-(1-naphthoyl)indole).
- 678 |       (VII) JWH-020 (1-Heptyl-3-(1-naphthoyl)indole).
- 679 |       (VIII) JWH-022 (1-(4-Pentenyl)-3-(1-naphthoyl)indole).
- 680 |       (IX) JWH-071 (1-Ethyl-3-(1-naphthoyl)indole).
- 681 |       (X) JWH-072 (1-Propyl-3-(1-naphthoyl)indole).
- 682 |       (XI) JWH-073 (1-Butyl-3-(1-naphthoyl)indole).
- 683 |       (XII) JWH-080 (1-Butyl-3-(4-methoxy-1-naphthoyl)indole).
- 684 |       (XIII) JWH-081 (1-Pentyl-3-(4-methoxy-1-naphthoyl)indole).
- 685 |       (XIV) JWH-098 (1-Pentyl-2-methyl-3-(4-methoxy-1-
- 686 | naphthoyl)indole).
- 687 |       (XV) JWH-116 (1-Pentyl-2-ethyl-3-(1-naphthoyl)indole).
- 688 |       (XVI) JWH-122 (1-Pentyl-3-(4-methyl-1-naphthoyl)indole).
- 689 |       (XVII) JWH-149 (1-Pentyl-2-methyl-3-(4-methyl-1-
- 690 | naphthoyl)indole).
- 691 |       (XVIII) JWH-164 (1-Pentyl-3-(7-methoxy-1-
- 692 | naphthoyl)indole).
- 693 |       (XIX) JWH-175 (1-Pentyl-3-(1-naphthylmethyl)indole).
- 694 |       (XX) JWH-180 (1-Propyl-3-(4-propyl-1-naphthoyl)indole).
- 695 |       (XXI) JWH-182 (1-Pentyl-3-(4-propyl-1-naphthoyl)indole).
- 696 |       (XXII) JWH-184 (1-Pentyl-3-[(4-methyl)-1-
- 697 | naphthylmethyl]indole).
- 698 |       (XXIII) JWH-193 (1-[2-(4-Morpholinyl)ethyl]-3-(4-methyl-1-
- 699 | naphthoyl)indole).
- 700 |       (XXIV) JWH-198 (1-[2-(4-Morpholinyl)ethyl]-3-(4-methoxy-1-
- 701 | naphthoyl)indole).
- 702 |       (XXV) JWH-200 (1-[2-(4-Morpholinyl)ethyl]-3-(1-naphthoyl)

703 | indole).

704 |        (XXVI) JWH-210 (1-Pentyl-3-(4-ethyl-1-naphthoyl)indole).

705 |        (XXVII) JWH-387 (1-Pentyl-3-(4-bromo-1-naphthoyl)indole).

706 |        (XXVIII) JWH-398 (1-Pentyl-3-(4-chloro-1-

707 | naphthoyl)indole).

708 |        (XXVIX) JWH-412 (1-Pentyl-3-(4-fluoro-1-naphthoyl)indole).

709 |        (XXX) JWH-424 (1-Pentyl-3-(8-bromo-1-naphthoyl)indole).

710 |        (XXXI) AM-1220 (1-[(1-Methyl-2-piperidinyl)methyl]-3-(1-

711 | naphthoyl)indole).

712 |        (XXXII) AM-1235 (1-(5-Fluoropentyl)-6-nitro-3-(1-

713 | naphthoyl)indole).

714 |        (XXXIII) AM-2201 (1-(5-Fluoropentyl)-3-(1-

715 | naphthoyl)indole).

716 |        (XXXIV) Chloro JWH-018 (1-(Chloropentyl)-3-(1-

717 | naphthoyl)indole).

718 |        (XXXV) Bromo JWH-018 (1-(Bromopentyl)-3-(1-

719 | naphthoyl)indole).

720 |        (XXXVI) AM-2232 (1-(4-Cyanobutyl)-3-(1-naphthoyl)indole).

721 |        (XXXVII) THJ-2201 (1-(5-Fluoropentyl)-3-(1-

722 | naphthoyl)indazole).

723 |        (XXXVIII) MAM-2201 (1-(5-Fluoropentyl)-3-(4-methyl-1-

724 | naphthoyl)indole).

725 |        (XXXIX) EAM-2201 (1-(5-Fluoropentyl)-3-(4-ethyl-1-

726 | naphthoyl)indole).

727 |        (XL) EG-018 (9-Pentyl-3-(1-naphthoyl)carbazole).

728 |        (XLI) EG-2201 (9-(5-Fluoropentyl)-3-(1-



729 naphthoyl)carbazole).

730 c. Naphthoylpyrroles. Any compound containing a  
 731 naphthoylpyrrole structure, with or without substitution on the  
 732 pyrrole ring to any extent, whether or not substituted on the  
 733 naphthyl ring to any extent, including, but not limited to:

- 734 (I) JWH-030 (1-Pentyl-3-(1-naphthoyl)pyrrole).
- 735 (II) JWH-031 (1-Hexyl-3-(1-naphthoyl)pyrrole).
- 736 (III) JWH-145 (1-Pentyl-5-phenyl-3-(1-naphthoyl)pyrrole).
- 737 (IV) JWH-146 (1-Heptyl-5-phenyl-3-(1-naphthoyl)pyrrole).
- 738 (V) JWH-147 (1-Hexyl-5-phenyl-3-(1-naphthoyl)pyrrole).
- 739 (VI) JWH-307 (1-Pentyl-5-(2-fluorophenyl)-3-(1-  
 740 naphthoyl)pyrrole).

741 (VII) JWH-309 (1-Pentyl-5-(1-naphthalenyl)-3-(1-  
 742 naphthoyl)pyrrole).

743 (VIII) JWH-368 (1-Pentyl-5-(3-fluorophenyl)-3-(1-  
 744 naphthoyl)pyrrole).

745 (IX) JWH-369 (1-Pentyl-5-(2-chlorophenyl)-3-(1-  
 746 naphthoyl)pyrrole).

747 (X) JWH-370 (1-Pentyl-5-(2-methylphenyl)-3-(1-  
 748 naphthoyl)pyrrole).

749 d. Naphthylmethylenindenes.—Any compound containing a  
 750 naphthylmethylenindene structure, with or without substitution  
 751 at the 3-position of the indene ring to any extent, whether or  
 752 not substituted on the naphthyl ring to any extent, including,  
 753 but not limited to, JWH-176 (3-Pentyl-1-  
 754 (naphthylmethylene)indene).

755 e. Phenylacetylindoles and Phenylacetylindazoles.-Any  
 756 compound containing a phenylacetylindole or phenylacetylindazole  
 757 structure, with or without substitution on the indole or  
 758 indazole ring to any extent, whether or not substituted on the  
 759 phenyl ring to any extent, including, but not limited to:

- 760 (I) JWH-167 (1-Pentyl-3-(phenylacetyl)indole).
- 761 (II) JWH-201 (1-Pentyl-3-(4-methoxyphenylacetyl)indole).
- 762 (III) JWH-203 (1-Pentyl-3-(2-chlorophenylacetyl)indole).
- 763 (IV) JWH-250 (1-Pentyl-3-(2-methoxyphenylacetyl)indole).
- 764 (V) JWH-251 (1-Pentyl-3-(2-methylphenylacetyl)indole).
- 765 (VI) JWH-302 (1-Pentyl-3-(3-methoxyphenylacetyl)indole).
- 766 (VII) Cannabipiperidiethanone.
- 767 (VIII) RCS-8 (1-(2-Cyclohexylethyl)-3-(2-  
 768 methoxyphenylacetyl)indole).

769 f. Cyclohexylphenols.-Any compound containing a  
 770 cyclohexylphenol structure, with or without substitution at the  
 771 5-position of the phenolic ring to any extent, whether or not  
 772 substituted on the cyclohexyl ring to any extent, including, but  
 773 not limited to:

- 774 (I) CP 47,497 (2-(3-Hydroxycyclohexyl)-5-(2-methyloctan-2-  
 775 yl)phenol).
- 776 (II) Cannabicyclohexanol (CP 47,497 dimethyloctyl (C8)  
 777 homologue).
- 778 (III) CP-55,940 (2-(3-Hydroxy-5-propanol-cyclohexyl)-5-(2-  
 779 methyloctan-2-yl)phenol).

780 g. Benzoylindoles and Benzoylindazoles.-Any compound

781 containing a benzoylindole or benzoylindazole structure, with or  
 782 without substitution on the indole or indazole ring to any  
 783 extent, whether or not substituted on the phenyl ring to any  
 784 extent, including, but not limited to:

785 (I) AM-679 (1-Pentyl-3-(2-iodobenzoyl)indole).

786 (II) AM-694 (1-(5-Fluoropentyl)-3-(2-iodobenzoyl)indole).

787 (III) AM-1241 (1-[(N-Methyl-2-piperidinyl)methyl]-3-(2-  
 788 iodo-5-nitrobenzoyl)indole).

789 (IV) Pravadoline (1-[2-(4-Morpholinyl)ethyl]-2-methyl-3-  
 790 (4-methoxybenzoyl)indole).

791 (V) AM-2233 (1-[(N-Methyl-2-piperidinyl)methyl]-3-(2-  
 792 iodobenzoyl)indole).

793 (VI) RCS-4 (1-Pentyl-3-(4-methoxybenzoyl)indole).

794 (VII) RCS-4 C4 homologue (1-Butyl-3-(4-  
 795 methoxybenzoyl)indole).

796 (VIII) AM-630 (1-[2-(4-Morpholinyl)ethyl]-2-methyl-6-iodo-  
 797 3-(4-methoxybenzoyl)indole).

798 h. Tetramethylcyclopropanoylindoles and  
 799 Tetramethylcyclopropanoylindazoles.-Any compound containing a  
 800 tetramethylcyclopropanoylindole or  
 801 tetramethylcyclopropanoylindazole structure, with or without  
 802 substitution on the indole or indazole ring to any extent,  
 803 whether or not substituted on the tetramethylcyclopropyl group  
 804 to any extent, including, but not limited to:

805 (I) UR-144 (1-Pentyl-3-(2,2,3,3-  
 806 tetramethylcyclopropanoyl)indole).

- 807 (II) XLR11 (1-(5-Fluoropentyl)-3-(2,2,3,3-  
 808 tetramethylcyclopropanoyl)indole).
- 809 (III) Chloro UR-144 (1-(Chloropentyl)-3-(2,2,3,3-  
 810 tetramethylcyclopropanoyl)indole).
- 811 (IV) A-796,260 (1-[2-(4-Morpholinyl)ethyl]-3-(2,2,3,3-  
 812 tetramethylcyclopropanoyl)indole).
- 813 (V) A-834,735 (1-[4-(Tetrahydropyranyl)methyl]-3-(2,2,3,3-  
 814 tetramethylcyclopropanoyl)indole).
- 815 (VI) M-144 (1-(5-Fluoropentyl)-2-methyl-3-(2,2,3,3-  
 816 tetramethylcyclopropanoyl)indole).
- 817 (VII) FUB-144 (1-(4-Fluorobenzyl)-3-(2,2,3,3-  
 818 tetramethylcyclopropanoyl)indole).
- 819 (VIII) FAB-144 (1-(5-Fluoropentyl)-3-(2,2,3,3-  
 820 tetramethylcyclopropanoyl)indazole).
- 821 (IX) XLR12 (1-(4,4,4-Trifluorobutyl)-3-(2,2,3,3-  
 822 tetramethylcyclopropanoyl)indole).
- 823 (X) AB-005 (1-[(1-Methyl-2-piperidinyl)methyl]-3-(2,2,3,3-  
 824 tetramethylcyclopropanoyl)indole).
- 825 i. Adamantoylindoles, Adamantoylindazoles, Adamantylindole  
 826 carboxamides, and Adamantylindazole carboxamides.—Any compound  
 827 containing an adamantoyl indole, adamantoyl indazole, adamantyl  
 828 indole carboxamide, or adamantyl indazole carboxamide structure,  
 829 with or without substitution on the indole or indazole ring to  
 830 any extent, whether or not substituted on the adamantyl ring to  
 831 any extent, including, but not limited to:
- 832 (I) AKB48 (N-Adamant-1-yl 1-pentylindazole-3-carboxamide).

833        (II) Fluoro AKB48 (N-Adamant-1-yl 1-  
 834 (fluoropentyl)indazole-3-carboxamide).

835        (III) STS-135 (N-Adamant-1-yl 1-(5-fluoropentyl)indole-3-  
 836 carboxamide).

837        (IV) AM-1248 (1-(1-Methylpiperidine)methyl-3-(1-  
 838 adamantoyl)indole).

839        (V) AB-001 (1-Pentyl-3-(1-adamantoyl)indole).

840        (VI) APICA (N-Adamant-1-yl 1-pentylindole-3-carboxamide).

841        (VII) Fluoro AB-001 (1-(Fluoropentyl)-3-(1-  
 842 adamantoyl)indole).

843        j. Quinolinyndolecarboxylates,  
 844 Quinolinyndazolecarboxylates, Quinolinyndolecarboxamides,  
 845 and Quinolinyndazolecarboxamides.—Any compound containing a  
 846 quinolinyndole carboxylate, quinolinyndazole carboxylate,  
 847 isoquinolinyndole carboxylate, isoquinolinyndazole  
 848 carboxylate, quinolinyndole carboxamide, quinolinyndazole  
 849 carboxamide, isoquinolinyndole carboxamide, or  
 850 isoquinolinyndazole carboxamide structure, with or without  
 851 substitution on the indole or indazole ring to any extent,  
 852 whether or not substituted on the quinoline or isoquinoline ring  
 853 to any extent, including, but not limited to:

854        (I) PB-22 (8-Quinolinyndyl 1-pentylindole-3-carboxylate).

855        (II) Fluoro PB-22 (8-Quinolinyndyl 1-(fluoropentyl)indole-3-  
 856 carboxylate).

857        (III) BB-22 (8-Quinolinyndyl 1-(cyclohexylmethyl)indole-3-  
 858 carboxylate).

859 (IV) FUB-PB-22 (8-Quinoliny 1-(4-fluorobenzyl)indole-3-  
 860 carboxylate).

861 (V) NPB-22 (8-Quinoliny 1-pentylindazole-3-carboxylate).

862 (VI) Fluoro NPB-22 (8-Quinoliny 1-(fluoropentyl)indazole-  
 863 3-carboxylate).

864 (VII) FUB-NPB-22 (8-Quinoliny 1-(4-fluorobenzyl)indazole-  
 865 3-carboxylate).

866 (VIII) THJ (8-Quinoliny 1-pentylindazole-3-carboxamide).

867 (IX) Fluoro THJ (8-Quinoliny 1-(fluoropentyl)indazole-3-  
 868 carboxamide).

869 k. Naphthylindolecarboxylates and

870 Naphthylindazolecarboxylates.—Any compound containing a

871 naphthylindole carboxylate or naphthylindazole carboxylate

872 structure, with or without substitution on the indole or

873 indazole ring to any extent, whether or not substituted on the

874 naphthyl ring to any extent, including, but not limited to:

875 (I) NM-2201 (1-Naphthalenyl 1-(5-fluoropentyl)indole-3-  
 876 carboxylate).

877 (II) SDB-005 (1-Naphthalenyl 1-pentylindazole-3-  
 878 carboxylate).

879 (III) Fluoro SDB-005 (1-Naphthalenyl 1-  
 880 (fluoropentyl)indazole-3-carboxylate).

881 (IV) FDU-PB-22 (1-Naphthalenyl 1-(4-fluorobenzyl)indole-3-  
 882 carboxylate).

883 (V) 3-CAF (2-Naphthalenyl 1-(2-fluorophenyl)indazole-3-  
 884 carboxylate).

885        1. Naphthylindole carboxamides and Naphthylindazole  
 886 carboxamides.—Any compound containing a naphthylindole  
 887 carboxamide or naphthylindazole carboxamide structure, with or  
 888 without substitution on the indole or indazole ring to any  
 889 extent, whether or not substituted on the naphthyl ring to any  
 890 extent, including, but not limited to:

891            (I) NNEI (N-Naphthalen-1-yl 1-pentylindole-3-carboxamide).  
 892            (II) Fluoro-NNEI (N-Naphthalen-1-yl 1-  
 893 (fluoropentyl)indole-3-carboxamide).

894            (III) Chloro-NNEI (N-Naphthalen-1-yl 1-(chloropentyl)  
 895 indole-3-carboxamide).

896            (IV) MN-18 (N-Naphthalen-1-yl 1-pentylindazole-3-  
 897 carboxamide).

898            (V) Fluoro MN-18 (N-Naphthalen-1-yl 1-  
 899 (fluoropentyl)indazole-3-carboxamide).

900        m. Alkylcarbonyl indole carboxamides, Alkylcarbonyl  
 901 indazole carboxamides, Alkylcarbonyl indole carboxylates, and  
 902 Alkylcarbonyl indazole carboxylates.—Any compound containing an  
 903 alkylcarbonyl group, including 1-amino-3-methyl-1-oxobutan-2-yl,  
 904 1-methoxy-3-methyl-1-oxobutan-2-yl, 1-amino-1-oxo-3-  
 905 phenylpropan-2-yl, 1-methoxy-1-oxo-3-phenylpropan-2-yl, with an  
 906 indole carboxamide, indazole carboxamide, indole carboxylate, or  
 907 indazole carboxylate, with or without substitution on the indole  
 908 or indazole ring to any extent, whether or not substituted on  
 909 the alkylcarbonyl group to any extent, including, but not  
 910 limited to:

- 911        (I) ADBICA, (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-1-  
 912 pentylindole-3-carboxamide).
- 913        (II) Fluoro ADBICA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-  
 914 yl)-1-(fluoropentyl)indole-3-carboxamide).
- 915        (III) Fluoro ABICA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-  
 916 1-(fluoropentyl)indole-3-carboxamide).
- 917        (IV) AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-  
 918 pentylindazole-3-carboxamide).
- 919        (V) Fluoro AB-PINACA (N-(1-Amino-3-methyl-1-oxobutan-2-  
 920 yl)-1-(fluoropentyl)indazole-3-carboxamide).
- 921        (VI) ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-yl)-  
 922 1-pentylindazole-3-carboxamide).
- 923        (VII) Fluoro ADB-PINACA (N-(1-Amino-3,3-dimethyl-1-  
 924 oxobutan-2-yl)-1-(fluoropentyl)indazole-3-carboxamide).
- 925        (VIII) AB-FUBINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-  
 926 1-(4-fluorobenzyl)indazole-3-carboxamide).
- 927        (IX) ADB-FUBINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-  
 928 yl)-1-(4-fluorobenzyl)indazole-3-carboxamide).
- 929        (X) AB-CHMINACA (N-(1-Amino-3-methyl-1-oxobutan-2-yl)-1-  
 930 (cyclohexylmethyl)indazole-3-carboxamide).
- 931        (XI) MA-CHMINACA (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-  
 932 1-(cyclohexylmethyl)indazole-3-carboxamide).
- 933        (XII) MAB-CHMINACA (N-(1-Amino-3,3-dimethyl-1-oxobutan-2-  
 934 yl)-1-(cyclohexylmethyl)indazole-3-carboxamide).
- 935        (XIII) AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-  
 936 pentylindazole-3-carboxamide).



- 937        (XIV) Fluoro AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-  
 938 1-(fluoropentyl)indazole-3-carboxamide).
- 939        (XV) FUB-AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-1-(4-  
 940 fluorobenzyl)indazole-3-carboxamide).
- 941        (XVI) MDMB-CHMINACA (N-(1-Methoxy-3,3-dimethyl-1-oxobutan-  
 942 2-yl)-1-(cyclohexylmethyl)indazole-3-carboxamide).
- 943        (XVII) MDMB-FUBINACA (N-(1-Methoxy-3,3-dimethyl-1-  
 944 oxobutan-2-yl)-1-(4-fluorobenzyl)indazole-3-carboxamide).
- 945        (XVIII) MDMB-CHMICA (N-(1-Methoxy-3,3-dimethyl-1-oxobutan-  
 946 2-yl)-1-(cyclohexylmethyl)indole-3-carboxamide).
- 947        (XIX) PX-1 (N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-(5-  
 948 fluoropentyl)indole-3-carboxamide).
- 949        (XX) PX-2 (N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-(5-  
 950 fluoropentyl)indazole-3-carboxamide).
- 951        (XXI) PX-3 (N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-  
 952 (cyclohexylmethyl)indazole-3-carboxamide).
- 953        (XXII) PX-4 (N-(1-Amino-1-oxo-3-phenylpropan-2-yl)-1-(4-  
 954 fluorobenzyl)indazole-3-carboxamide).
- 955        (XXIII) MO-CHMINACA (N-(1-Methoxy-3,3-dimethyl-1-oxobutan-  
 956 2-yl)-1-(cyclohexylmethyl)indazole-3-carboxylate).
- 957        n. Cumylindolecarboxamides and Cumylindazolecarboxamides.-  
 958 Any compound containing a N-(2-phenylpropan-2-yl) indole  
 959 carboxamide or N-(2-phenylpropan-2-yl) indazole carboxamide  
 960 structure, with or without substitution on the indole or  
 961 indazole ring to any extent, whether or not substituted on the  
 962 phenyl ring of the cumyl group to any extent, including, but not

963 limited to:

964 (I) CUMYL-PICA (N-(2-Phenylpropan-2-yl)-1-pentylindole-3-  
 965 carboxamide).

966 (II) Fluoro CUMYL-PICA (N-(2-Phenylpropan-2-yl)-1-  
 967 (fluoropentyl)indole-3-carboxamide).

968 o. Other Synthetic Cannabinoids. Any material, compound,  
 969 mixture, or preparation that contains any quantity of a  
 970 Synthetic Cannabinoid, as described in sub-subparagraphs a.-n.:

971 (I) With or without modification or replacement of a  
 972 carbonyl, carboxamide, alkylene, alkyl, or carboxylate linkage  
 973 between either two core rings, or linkage between a core ring  
 974 and group structure, with or without the addition of a carbon or  
 975 replacement of a carbon;

976 (II) With or without replacement of a core ring or group  
 977 structure, whether or not substituted on the ring or group  
 978 structures to any extent; and

979 (III) Is a cannabinoid receptor agonist, unless  
 980 specifically excepted or unless listed in another schedule or  
 981 contained within a pharmaceutical product approved by the United  
 982 States Food and Drug Administration.

983 191. Substituted Cathinones.-Unless specifically excepted,  
 984 listed in another schedule, or contained within a pharmaceutical  
 985 product approved by the United States Food and Drug  
 986 Administration, any material, compound, mixture, or preparation,  
 987 including its salts, isomers, esters, or ethers, and salts of  
 988 isomers, esters, or ethers, whenever the existence of such salts

989 is possible within any of the following specific chemical  
 990 designations:

991 a. Any compound containing a 2-amino-1-phenyl-1 propanone  
 992 structure;

993 b. Any compound containing a 2-amino-1-naphthyl-1-  
 994 propanone structure; or

995 c. Any compound containing a 2-amino-1-thiophene-1-  
 996 propanone structure,

997  
 998 whether or not the compound is further modified:

999 (I) With or without substitution on the ring system to any  
 1000 extent with alkyl, alkylthio, thio, fused alkylendioxy, alkoxy,  
 1001 haloalkyl, hydroxyl, nitro, fused furan, fused benzofuran, fused  
 1002 dihydrofuran, fused tetrahydropyran, fused alkyl ring, or halide  
 1003 substituents;

1004 (II) With or without substitution at the 3-propanone  
 1005 position with an alkyl substituent or removal of the methyl  
 1006 group at the 3-propanone position;

1007 (III) With or without substitution at the 2-amino nitrogen  
 1008 atom with alkyl, dialkyl, acetyl, or benzyl groups, whether or  
 1009 not further substituted in the ring system; or

1010 (IV) With or without inclusion of the 2-amino nitrogen  
 1011 atom in a cyclic structure, including, but not limited to:

1012 (A) Methcathinone.

1013 (B) Ethcathinone.

1014 (C) Methylone (3,4-Methylenedioxy-methcathinone).

- 1015 |     (D) 2,3-Methylenedioxy-methcathinone.
- 1016 |     (E) MDPV (3,4-Methylenedioxy-pyrovalerone).
- 1017 |     (F) Methylenedioxy-methcathinone.
- 1018 |     (G) Methoxy-methcathinone.
- 1019 |     (H) Fluoro-methcathinone.
- 1020 |     (I) Methylethcathinone.
- 1021 |     (J) Butylone (3,4-Methylenedioxy-alpha-
- 1022 | methylenedioxy-phenethylamine).
- 1023 |     (K) Ethylone (3,4-Methylenedioxy-N-ethylcathinone).
- 1024 |     (L) BMDP (3,4-Methylenedioxy-N-benzylcathinone).
- 1025 |     (M) Naphyrone (Naphthylpyrovalerone).
- 1026 |     (N) Bromo-methcathinone.
- 1027 |     (O) Buphedrone (alpha-Methylenedioxy-phenethylamine).
- 1028 |     (P) Etylone (3,4-Methylenedioxy-alpha-
- 1029 | ethylmethcathinone).
- 1030 |     (Q) Dimethylcathinone.
- 1031 |     (R) Dimethylmethcathinone.
- 1032 |     (S) Pentylone (3,4-Methylenedioxy-alpha-
- 1033 | methylenedioxy-phenethylamine).
- 1034 |     (T) Pentedrone (alpha-Methylenedioxy-phenethylamine).
- 1035 |     (U) MDPPP (3,4-Methylenedioxy-alpha-
- 1036 | pyrrolidinopropiophenone).
- 1037 |     (V) MDPBP (3,4-Methylenedioxy-alpha-
- 1038 | pyrrolidinopropiophenone).
- 1039 |     (W) MPPP (Methyl-alpha-pyrrolidinopropiophenone).
- 1040 |     (X) PPP (Pyrrolidinopropiophenone).

- 1041 (Y) PVP (Pyrrolidinovalerophenone) or
- 1042 (Pyrrolidinopentiophenone).
- 1043 (Z) MOPPP (Methoxy-alpha-pyrrolidinopropiophenone).
- 1044 (AA) MPHP (Methyl-alpha-pyrrolidinohexanophenone).
- 1045 (BB) F-MABP (Fluoromethylaminobutyrophenone).
- 1046 (CC) Me-EABP (Methylethylaminobutyrophenone).
- 1047 (DD) PBP (Pyrrolidinobutyrophenone).
- 1048 (EE) MeO-PBP (Methoxypyrrolidinobutyrophenone).
- 1049 (FF) Et-PBP (Ethylpyrrolidinobutyrophenone).
- 1050 (GG) 3-Me-4-MeO-MCAT (3-Methyl-4-Methoxymethcathinone).
- 1051 (HH) Dimethylone (3,4-Methylenedioxy-N,N-
- 1052 dimethylcathinone).
- 1053 (II) 3,4-Methylenedioxy-N,N-diethylcathinone.
- 1054 (JJ) 3,4-Methylenedioxy-N-acetylcathinone.
- 1055 (KK) 3,4-Methylenedioxy-N-acetylmethcathinone.
- 1056 (LL) 3,4-Methylenedioxy-N-acetylethcathinone.
- 1057 (MM) Methylbuphedrone (Methyl-alpha-
- 1058 methylaminobutyrophenone).
- 1059 (NN) Methyl-alpha-methylaminohexanophenone.
- 1060 (OO) N-Ethyl-N-methylcathinone.
- 1061 (PP) PHP (Pyrrolidinohexanophenone).
- 1062 (QQ) PV8 (Pyrrolidinoheptanophenone).
- 1063 (RR) Chloromethcathinone.
- 1064 (SS) 4-Bromo-2,5-dimethoxy-alpha-aminoacetophenone.
- 1065 192. Substituted Phenethylamines.—Unless specifically
- 1066 excepted or unless listed in another schedule, or contained

1067 within a pharmaceutical product approved by the United States  
 1068 Food and Drug Administration, any material, compound, mixture,  
 1069 or preparation, including its salts, isomers, esters, or ethers,  
 1070 and salts of isomers, esters, or ethers, whenever the existence  
 1071 of such salts is possible within any of the following specific  
 1072 chemical designations, any compound containing a phenethylamine  
 1073 structure, without a beta-keto group, and without a benzyl group  
 1074 attached to the amine group, whether or not the compound is  
 1075 further modified with or without substitution on the phenyl ring  
 1076 to any extent with alkyl, alkylthio, nitro, alkoxy, thio,  
 1077 halide, fused alkylenedioxy, fused furan, fused benzofuran,  
 1078 fused dihydrofuran, or fused tetrahydropyran substituents,  
 1079 whether or not further substituted on a ring to any extent, with  
 1080 or without substitution at the alpha or beta position by any  
 1081 alkyl substituent, with or without substitution at the nitrogen  
 1082 atom, and with or without inclusion of the 2-amino nitrogen atom  
 1083 in a cyclic structure, including, but not limited to:  
 1084 a. 2C-B (4-Bromo-2,5-dimethoxyphenethylamine).  
 1085 b. 2C-E (4-Ethyl-2,5-dimethoxyphenethylamine).  
 1086 c. 2C-T-4 (4-Isopropylthio-2,5-dimethoxyphenethylamine).  
 1087 d. 2C-C (4-Chloro-2,5-dimethoxyphenethylamine).  
 1088 e. 2C-T (4-Methylthio-2,5-dimethoxyphenethylamine).  
 1089 f. 2C-T-2 (4-Ethylthio-2,5-dimethoxyphenethylamine).  
 1090 g. 2C-T-7 (4-(n)-Propylthio-2,5-dimethoxyphenethylamine).  
 1091 h. 2C-I (4-Iodo-2,5-dimethoxyphenethylamine).  
 1092 i. 2C-D (4-Methyl-2,5-dimethoxyphenethylamine).

- 1093     j. 2C-H (2,5-Dimethoxyphenethylamine).
- 1094     k. 2C-N (4-Nitro-2,5-dimethoxyphenethylamine).
- 1095     l. 2C-P (4-(n)-Propyl-2,5-dimethoxyphenethylamine).
- 1096     m. MDMA (3,4-Methylenedioxyamphetamine).
- 1097     n. MBDB (Methylbenzodioxolylbutanamine) or (3,4-
- 1098 Methylenedioxy-N-methylbutanamine).
- 1099     o. MDA (3,4-Methylenedioxyamphetamine).
- 1100     p. 2,5-Dimethoxyamphetamine.
- 1101     q. Fluoroamphetamine.
- 1102     r. Fluoromethamphetamine.
- 1103     s. MDEA (3,4-Methylenedioxy-N-ethylamphetamine).
- 1104     t. DOB (4-Bromo-2,5-dimethoxyamphetamine).
- 1105     u. DOC (4-Chloro-2,5-dimethoxyamphetamine).
- 1106     v. DOET (4-Ethyl-2,5-dimethoxyamphetamine).
- 1107     w. DOI (4-Iodo-2,5-dimethoxyamphetamine).
- 1108     x. DOM (4-Methyl-2,5-dimethoxyamphetamine).
- 1109     y. PMA (4-Methoxyamphetamine).
- 1110     z. N-Ethylamphetamine.
- 1111     aa. N-Hydroxy-3,4-methylenedioxyamphetamine.
- 1112     bb. 5-Methoxy-3,4-methylenedioxyamphetamine.
- 1113     cc. PMMA (4-Methoxymethamphetamine).
- 1114     dd. N,N-Dimethylamphetamine.
- 1115     ee. 3,4,5-Trimethoxyamphetamine.
- 1116     ff. 4-APB (4-(2-Aminopropyl)benzofuran).
- 1117     gg. 5-APB (5-(2-Aminopropyl)benzofuran).
- 1118     hh. 6-APB (6-(2-Aminopropyl)benzofuran).

- 1119 ii. 7-APB (7-(2-Aminopropyl)benzofuran).
- 1120 jj. 4-APDB (4-(2-Aminopropyl)-2,3-dihydrobenzofuran).
- 1121 kk. 5-APDB (5-(2-Aminopropyl)-2,3-dihydrobenzofuran).
- 1122 ll. 6-APDB (6-(2-Aminopropyl)-2,3-dihydrobenzofuran).
- 1123 mm. 7-APDB (7-(2-Aminopropyl)-2,3-dihydrobenzofuran).
- 1124 nn. 4-MAPB (4-(2-Methylaminopropyl)benzofuran).
- 1125 oo. 5-MAPB (5-(2-Methylaminopropyl)benzofuran).
- 1126 pp. 6-MAPB (6-(2-Methylaminopropyl)benzofuran).
- 1127 qq. 7-MAPB (7-(2-Methylaminopropyl)benzofuran).
- 1128 rr. 5-EAPB (5-(2-Ethylaminopropyl)benzofuran).
- 1129 ss. 5-MAPDB (5-(2-Methylaminopropyl)-2,3-
- 1130 dihydrobenzofuran),

1131

1132 which does not include phenethylamine, mescaline as described in

1133 subparagraph (1)(c)20., substituted cathinones as described in

1134 subparagraph (1)(c)191., N-Benzyl phenethylamine compounds as

1135 described in subparagraph (1)(c)193., or methamphetamine as

1136 described in subparagraph (2)(c)4.

1137 193. N-Benzyl Phenethylamine Compounds.—Unless

1138 specifically excepted or unless listed in another schedule, or

1139 contained within a pharmaceutical product approved by the United

1140 States Food and Drug Administration, any material, compound,

1141 mixture, or preparation, including its salts, isomers, esters,

1142 or ethers, and salts of isomers, esters, or ethers, whenever the

1143 existence of such salts is possible within any of the following

1144 specific chemical designations, any compound containing a



1145 phenethylamine structure without a beta-keto group, with  
 1146 substitution on the nitrogen atom of the amino group with a  
 1147 benzyl substituent, with or without substitution on the phenyl  
 1148 or benzyl ring to any extent with alkyl, alkoxy, thio,  
 1149 alkylthio, halide, fused alkylenedioxy, fused furan, fused  
 1150 benzofuran, or fused tetrahydropyran substituents, whether or  
 1151 not further substituted on a ring to any extent, with or without  
 1152 substitution at the alpha position by any alkyl substituent,  
 1153 including, but not limited to:

1154 a. 25B-NBOMe (4-Bromo-2,5-dimethoxy-[N-(2-  
 1155 methoxybenzyl)]phenethylamine).

1156 b. 25B-NBOH (4-Bromo-2,5-dimethoxy-[N-(2-  
 1157 hydroxybenzyl)]phenethylamine).

1158 c. 25B-NBF (4-Bromo-2,5-dimethoxy-[N-(2-  
 1159 fluorobenzyl)]phenethylamine).

1160 d. 25B-NBMD (4-Bromo-2,5-dimethoxy-[N-(2,3-  
 1161 methylenedioxybenzyl)]phenethylamine).

1162 e. 25I-NBOMe (4-Iodo-2,5-dimethoxy-[N-(2-  
 1163 methoxybenzyl)]phenethylamine).

1164 f. 25I-NBOH (4-Iodo-2,5-dimethoxy-[N-(2-  
 1165 hydroxybenzyl)]phenethylamine).

1166 g. 25I-NBF (4-Iodo-2,5-dimethoxy-[N-(2-  
 1167 fluorobenzyl)]phenethylamine).

1168 h. 25I-NBMD (4-Iodo-2,5-dimethoxy-[N-(2,3-  
 1169 methylenedioxybenzyl)]phenethylamine).

1170 i. 25T2-NBOMe (4-Methylthio-2,5-dimethoxy-[N-(2-

1171 methoxybenzyl)]phenethylanamine).  
 1172 j. 25T4-NBOMe (4-Isopropylthio-2,5-dimethoxy-[N-(2-  
 1173 methoxybenzyl)]phenethylanamine).  
 1174 k. 25T7-NBOMe (4-(n)-Propylthio-2,5-dimethoxy-[N-(2-  
 1175 methoxybenzyl)]phenethylanamine).  
 1176 l. 25C-NBOMe (4-Chloro-2,5-dimethoxy-[N-(2-  
 1177 methoxybenzyl)]phenethylamine).  
 1178 m. 25C-NBOH (4-Chloro-2,5-dimethoxy-[N-(2-  
 1179 hydroxybenzyl)]phenethylamine).  
 1180 n. 25C-NBF (4-Chloro-2,5-dimethoxy-[N-(2-  
 1181 fluorobenzyl)]phenethylamine).  
 1182 o. 25C-NBMD (4-Chloro-2,5-dimethoxy-[N-(2,3-  
 1183 methylenedioxybenzyl)]phenethylamine).  
 1184 p. 25H-NBOMe (2,5-Dimethoxy-[N-(2-  
 1185 methoxybenzyl)]phenethylamine).  
 1186 q. 25H-NBOH (2,5-Dimethoxy-[N-(2-  
 1187 hydroxybenzyl)]phenethylamine).  
 1188 r. 25H-NBF (2,5-Dimethoxy-[N-(2-  
 1189 fluorobenzyl)]phenethylamine).  
 1190 s. 25D-NBOMe (4-Methyl-2,5-dimethoxy-[N-(2-  
 1191 methoxybenzyl)]phenethylamine),  
 1192  
 1193 which does not include substituted cathinones as described in  
 1194 subparagraph (1)(c)191.  
 1195 194. Substituted Tryptamines.—Unless specifically excepted  
 1196 or unless listed in another schedule, or contained within a

1197 pharmaceutical product approved by the United States Food and  
 1198 Drug Administration, any material, compound, mixture, or  
 1199 preparation containing a 2-(1H-indol-3-yl)ethanamine, for  
 1200 example tryptamine, structure with or without mono- or di-  
 1201 substitution of the amine nitrogen with alkyl or alkenyl groups,  
 1202 or by inclusion of the amino nitrogen atom in a cyclic  
 1203 structure, whether or not substituted at the alpha position with  
 1204 an alkyl group, whether or not substituted on the indole ring to  
 1205 any extent with any alkyl, alkoxy, halo, hydroxyl, or acetoxy  
 1206 groups, including, but not limited to:

- 1207 a. Alpha-Ethyltryptamine.
- 1208 b. Bufotenine.
- 1209 c. DET (Diethyltryptamine).
- 1210 d. DMT (Dimethyltryptamine).
- 1211 e. MET (N-Methyl-N-ethyltryptamine).
- 1212 f. DALT (N,N-Diallyltryptamine).
- 1213 g. EiPT (N-Ethyl-N-isopropyltryptamine).
- 1214 h. MiPT (N-Methyl-N-isopropyltryptamine).
- 1215 i. 5-Hydroxy-AMT (5-Hydroxy-alpha-methyltryptamine).
- 1216 j. 5-Hydroxy-N-methyltryptamine.
- 1217 k. 5-MeO-MiPT (5-Methoxy-N-methyl-N-isopropyltryptamine).
- 1218 l. 5-MeO-AMT (5-Methoxy-alpha-methyltryptamine).
- 1219 m. Methyltryptamine.
- 1220 n. 5-MeO-DMT (5-Methoxy-N,N-dimethyltryptamine).
- 1221 o. 5-Me-DMT (5-Methyl-N,N-dimethyltryptamine).
- 1222 p. 5-MeO-DiPT (5-Methoxy-N,N-Diisopropyltryptamine).

- 1223 q. DiPT (N,N-Diisopropyltryptamine).
- 1224 r. DPT (N,N-Dipropyltryptamine).
- 1225 s. 4-Hydroxy-DiPT (4-Hydroxy-N,N-diisopropyltryptamine).
- 1226 t. 5-MeO-DALT (5-Methoxy-N,N-Diallyltryptamine).
- 1227 u. 4-AcO-DMT (4-Acetoxy-N,N-dimethyltryptamine).
- 1228 v. 4-AcO-DiPT (4-Acetoxy-N,N-diisopropyltryptamine).
- 1229 w. 4-Hydroxy-DET (4-Hydroxy-N,N-diethyltryptamine).
- 1230 x. 4-Hydroxy-MET (4-Hydroxy-N-methyl-N-ethyltryptamine).
- 1231 y. 4-Hydroxy-MiPT (4-Hydroxy-N-methyl-N-
- 1232 isopropyltryptamine).
- 1233 z. Methyl-alpha-ethyltryptamine.
- 1234 aa. Bromo-DALT (Bromo-N,N-diallyltryptamine),

1235

1236 which does not include tryptamine, psilocyn as described in

1237 subparagraph (1)(c)34., or psilocybin as described in

1238 subparagraph (1)(c)33.

1239 195. Substituted Phenylcyclohexylamines.—Unless

1240 specifically excepted or unless listed in another schedule, or

1241 contained within a pharmaceutical product approved by the United

1242 States Food and Drug Administration, any material, compound,

1243 mixture, or preparation containing a phenylcyclohexylamine

1244 structure, with or without any substitution on the phenyl ring,

1245 any substitution on the cyclohexyl ring, any replacement of the

1246 phenyl ring with a thiophenyl or benzothiophenyl ring, with or

1247 without substitution on the amine with alkyl, dialkyl, or alkoxy

1248 substitutents, inclusion of the nitrogen in a cyclic structure,

1249 or any combination of the above, including, but not limited to:  
 1250 a. BTCP (Benzothiophenylcyclohexylpiperidine) or BCP  
 1251 (Benocyclidine).  
 1252 b. PCE (N-Ethyl-1-phenylcyclohexylamine) (Ethylamine analog  
 1253 of phencyclidine).  
 1254 c. PCPY (N-(1-Phenylcyclohexyl)-pyrrolidine) (Pyrrolidine  
 1255 analog of phencyclidine).  
 1256 d. PCPr (Phenylcyclohexylpropylamine).  
 1257 e. TCP (1-[1-(2-Thienyl)-cyclohexyl]-piperidine) (Thiophene  
 1258 analog of phencyclidine).  
 1259 f. PCEEA (Phenylcyclohexyl(ethoxyethylamine)).  
 1260 g. PCMPA (Phenylcyclohexyl(methoxypropylamine)).  
 1261 h. Methoxetamine.  
 1262 i. 3-Methoxy-PCE ((3-Methoxyphenyl)cyclohexylethylamine).  
 1263 j. Bromo-PCP ((Bromophenyl)cyclohexylpiperidine).  
 1264 k. Chloro-PCP ((Chlorophenyl)cyclohexylpiperidine).  
 1265 l. Fluoro-PCP ((Fluorophenyl)cyclohexylpiperidine).  
 1266 m. Hydroxy-PCP ((Hydroxyphenyl)cyclohexylpiperidine).  
 1267 n. Methoxy-PCP ((Methoxyphenyl)cyclohexylpiperidine).  
 1268 o. Methyl-PCP ((Methylphenyl)cyclohexylpiperidine).  
 1269 p. Nitro-PCP ((Nitrophenyl)cyclohexylpiperidine).  
 1270 q. Oxo-PCP ((Oxophenyl)cyclohexylpiperidine).  
 1271 r. Amino-PCP ((Aminophenyl)cyclohexylpiperidine).  
 1272 (d) Unless specifically excepted or unless listed in  
 1273 another schedule, any material, compound, mixture, or  
 1274 preparation that ~~which~~ contains any quantity of the following

1275 substances, including any of its salts, isomers, optical  
 1276 isomers, salts of their isomers, and salts of these optical  
 1277 isomers whenever the existence of such isomers and salts is  
 1278 possible within the specific chemical designation:

- 1279 1. 1,4-Butanediol.
- 1280 2. Gamma-butyrolactone (GBL).
- 1281 3. Gamma-hydroxybutyric acid (GHB).
- 1282 4. Methaqualone.
- 1283 5. Mecloqualone.

1284 (2) SCHEDULE II.—A substance in Schedule II has a high  
 1285 potential for abuse and has a currently accepted but severely  
 1286 restricted medical use in treatment in the United States, and  
 1287 abuse of the substance may lead to severe psychological or  
 1288 physical dependence. The following substances are controlled in  
 1289 Schedule II:

1290 (a) Unless specifically excepted or unless listed in  
 1291 another schedule, any of the following substances, whether  
 1292 produced directly or indirectly by extraction from substances of  
 1293 vegetable origin or independently by means of chemical  
 1294 synthesis:

- 1295 1. Opium and any salt, compound, derivative, or  
 1296 preparation of opium, except nalmefene or isoquinoline alkaloids  
 1297 of opium, including, but not limited to the following:
  - 1298 a. Raw opium.
  - 1299 b. Opium extracts.
  - 1300 c. Opium fluid extracts.

- 1301 d. Powdered opium.
- 1302 e. Granulated opium.
- 1303 f. Tincture of opium.
- 1304 g. Codeine.
- 1305 h. Ethylmorphine.
- 1306 i. Etorphine hydrochloride.
- 1307 j. Hydrocodone.
- 1308 k. Hydromorphone.
- 1309 1. Levo-alpha-acetylmethadol (also known as levo-alpha-
- 1310 acetylmethadol, levomethadyl acetate, or LAAM).
- 1311 m. Metopon (methyldihydromorphinone).
- 1312 n. Morphine.
- 1313 o. Oxycodone.
- 1314 p. Oxymorphone.
- 1315 q. Thebaine.
- 1316 2. Any salt, compound, derivative, or preparation of a
- 1317 substance which is chemically equivalent to or identical with
- 1318 any of the substances referred to in subparagraph 1., except
- 1319 that these substances shall not include the isoquinoline
- 1320 alkaloids of opium.
- 1321 3. Any part of the plant of the species *Papaver*
- 1322 *somniferum*, L.
- 1323 4. Cocaine or ecgonine, including any of their
- 1324 stereoisomers, and any salt, compound, derivative, or
- 1325 preparation of cocaine or ecgonine.
- 1326 (b) Unless specifically excepted or unless listed in

1327 another schedule, any of the following substances, including  
 1328 their isomers, esters, ethers, salts, and salts of isomers,  
 1329 esters, and ethers, whenever the existence of such isomers,  
 1330 esters, ethers, and salts is possible within the specific  
 1331 chemical designation:

- 1332 1. Alfentanil.
- 1333 2. Alphaprodine.
- 1334 3. Anileridine.
- 1335 4. Bezitramide.
- 1336 5. Bulk propoxyphene (nondosage forms).
- 1337 6. Carfentanil.
- 1338 7. Dihydrocodeine.
- 1339 8. Diphenoxylate.
- 1340 9. Fentanyl.
- 1341 10. Isomethadone.
- 1342 11. Levomethorphan.
- 1343 12. Levorphanol.
- 1344 13. Metazocine.
- 1345 14. Methadone.
- 1346 15. Methadone-Intermediate, 4-cyano-2-
- 1347 dimethylamino-4,4-diphenylbutane.
- 1348 16. Moramide-Intermediate, 2-methyl-
- 1349 3-morpholino-1,1-diphenylpropane-carboxylic acid.
- 1350 17. Nabilone.
- 1351 18. Pethidine (meperidine).
- 1352 19. Pethidine-Intermediate-A, 4-cyano-1-



- 1353 methyl-4-phenylpiperidine.
- 1354 20. Pethidine-Intermediate-B, ethyl-4-
- 1355 phenylpiperidine-4-carboxylate.
- 1356 21. Pethidine-Intermediate-C, 1-methyl-4- phenylpiperidine-
- 1357 4-carboxylic acid.
- 1358 22. Phenazocine.
- 1359 23. Phencyclidine.
- 1360 24. 1-Phenylcyclohexylamine.
- 1361 25. Piminodine.
- 1362 26. 1-Piperidinocyclohexanecarbonitrile.
- 1363 27. Racemethorphan.
- 1364 28. Racemorphan.
- 1365 29. Sufentanil.
- 1366 (c) Unless specifically excepted or unless listed in
- 1367 another schedule, any material, compound, mixture, or
- 1368 preparation which contains any quantity of the following
- 1369 substances, including their salts, isomers, optical isomers,
- 1370 salts of their isomers, and salts of their optical isomers:
- 1371 1. Amobarbital.
- 1372 2. Amphetamine.
- 1373 3. Glutethimide.
- 1374 4. Methamphetamine.
- 1375 5. Methylphenidate.
- 1376 6. Pentobarbital.
- 1377 7. Phenmetrazine.
- 1378 8. Phenylacetone.

1379 9. Secobarbital.

1380 (3) SCHEDULE III.—A substance in Schedule III has a  
 1381 potential for abuse less than the substances contained in  
 1382 Schedules I and II and has a currently accepted medical use in  
 1383 treatment in the United States, and abuse of the substance may  
 1384 lead to moderate or low physical dependence or high  
 1385 psychological dependence or, in the case of anabolic steroids,  
 1386 may lead to physical damage. The following substances are  
 1387 controlled in Schedule III:

1388 (a) Unless specifically excepted or unless listed in  
 1389 another schedule, any material, compound, mixture, or  
 1390 preparation which contains any quantity of the following  
 1391 substances having a depressant or stimulant effect on the  
 1392 nervous system:

1393 1. Any substance which contains any quantity of a  
 1394 derivative of barbituric acid, including thiobarbituric acid, or  
 1395 any salt of a derivative of barbituric acid or thiobarbituric  
 1396 acid, including, but not limited to, butabarbital and  
 1397 butalbital.

1398 2. Benzphetamine.

1399 3. Chlorhexadol.

1400 4. Chlorphentermine.

1401 5. Clortermine.

1402 6. Lysergic acid.

1403 7. Lysergic acid amide.

1404 8. Methyprylon.

- 1405 9. Phendimetrazine.
- 1406 10. Sulfondiethylmethane.
- 1407 11. Sulfonethylmethane.
- 1408 12. Sulfonmethane.
- 1409 13. Tiletamine and zolazepam or any salt thereof.
- 1410 (b) Nalorphine.
- 1411 (c) Unless specifically excepted or unless listed in
- 1412 another schedule, any material, compound, mixture, or
- 1413 preparation containing limited quantities of any of the
- 1414 following controlled substances or any salts thereof:
- 1415 1. Not more than 1.8 grams of codeine per 100 milliliters
- 1416 or not more than 90 milligrams per dosage unit, with an equal or
- 1417 greater quantity of an isoquinoline alkaloid of opium.
- 1418 2. Not more than 1.8 grams of codeine per 100 milliliters
- 1419 or not more than 90 milligrams per dosage unit, with recognized
- 1420 therapeutic amounts of one or more active ingredients which are
- 1421 not controlled substances.
- 1422 3. Not more than 300 milligrams of hydrocodone per 100
- 1423 milliliters or not more than 15 milligrams per dosage unit, with
- 1424 a fourfold or greater quantity of an isoquinoline alkaloid of
- 1425 opium.
- 1426 4. Not more than 300 milligrams of hydrocodone per 100
- 1427 milliliters or not more than 15 milligrams per dosage unit, with
- 1428 recognized therapeutic amounts of one or more active ingredients
- 1429 that are not controlled substances.
- 1430 5. Not more than 1.8 grams of dihydrocodeine per 100

1431 milliliters or not more than 90 milligrams per dosage unit, with  
 1432 recognized therapeutic amounts of one or more active ingredients  
 1433 which are not controlled substances.

1434 6. Not more than 300 milligrams of ethylmorphine per 100  
 1435 milliliters or not more than 15 milligrams per dosage unit, with  
 1436 one or more active, nonnarcotic ingredients in recognized  
 1437 therapeutic amounts.

1438 7. Not more than 50 milligrams of morphine per 100  
 1439 milliliters or per 100 grams, with recognized therapeutic  
 1440 amounts of one or more active ingredients which are not  
 1441 controlled substances.

1442  
 1443 For purposes of charging a person with a violation of s. 893.135  
 1444 involving any controlled substance described in subparagraph 3.  
 1445 or subparagraph 4., the controlled substance is a Schedule III  
 1446 controlled substance pursuant to this paragraph but the weight  
 1447 of the controlled substance per milliliters or per dosage unit  
 1448 is not relevant to the charging of a violation of s. 893.135.  
 1449 The weight of the controlled substance shall be determined  
 1450 pursuant to s. 893.135(6).

1451 (d) Anabolic steroids.

1452 1. The term "anabolic steroid" means any drug or hormonal  
 1453 substance, chemically and pharmacologically related to  
 1454 testosterone, other than estrogens, progestins, and  
 1455 corticosteroids, that promotes muscle growth and includes:

1456 a. Androsterone.

- 1457 b. Androsterone acetate.
- 1458 c. Boldenone.
- 1459 d. Boldenone acetate.
- 1460 e. Boldenone benzoate.
- 1461 f. Boldenone undecylenate.
- 1462 g. Chlorotestosterone (Clostebol) (~~4-chlorotestosterone~~).
- 1463 ~~h. Clostebol.~~
- 1464 h.i. Dehydrochlormethyltestosterone.
- 1465 i.j. Dihydrotestosterone (Stanolone) (~~4-~~
- 1466 ~~dihydrotestosterone~~).
- 1467 j.k. Drostanolone.
- 1468 k.l. Ethylestrenol.
- 1469 l.m. Fluoxymesterone.
- 1470 m.n. Formebolone (Formebolone).
- 1471 n.o. Mesterolone.
- 1472 o.p. Methandrostenolone (Methandienone).
- 1473 p.q. Methandranone.
- 1474 q.r. Methandriol.
- 1475 ~~s. Methandrostenolone.~~
- 1476 r.t. Methenolone.
- 1477 s.u. Methyltestosterone.
- 1478 t.v. Mibolerone.
- 1479 u.w. Nortestosterone (Nandrolone).
- 1480 v.x. Norethandrolone.
- 1481 ~~y. Nortestosterone.~~
- 1482 w.z. Nortestosterone decanoate.

- 1483     x.aa.   Nortestosterone phenylpropionate.
- 1484     y.bb.   Nortestosterone propionate.
- 1485     z.aa.   Oxandrolone.
- 1486     aa.dd.   Oxymesterone.
- 1487     bb.aa.   Oxymetholone.
- 1488     ~~ff.~~   ~~Stanolone.~~
- 1489     cc.aa.   Stanozolol.
- 1490     dd.bb.   Testolactone.
- 1491     ee.ii.   Testosterone.
- 1492     ff.jj.   Testosterone acetate.
- 1493     gg.kk.   Testosterone benzoate.
- 1494     hh.ll.   Testosterone cypionate.
- 1495     ii.mm.   Testosterone decanoate.
- 1496     jj.nn.   Testosterone enanthate.
- 1497     kk.oo.   Testosterone isocaproate.
- 1498     ll.pp.   Testosterone oleate.
- 1499     mm.aa.   Testosterone phenylpropionate.
- 1500     nn.rr.   Testosterone propionate.
- 1501     oo.ss.   Testosterone undecanoate.
- 1502     pp.tt.   Trenbolone.
- 1503     qq.aa.   Trenbolone acetate.
- 1504     rr.vv.   Any salt, ester, or isomer of a drug or substance
- 1505     described or listed in this subparagraph if that salt, ester, or
- 1506     isomer promotes muscle growth.
- 1507             2. The term does not include an anabolic steroid that is
- 1508     expressly intended for administration through implants to cattle

1509 or other nonhuman species and that has been approved by the  
 1510 United States Secretary of Health and Human Services for such  
 1511 administration. However, any person who prescribes, dispenses,  
 1512 or distributes such a steroid for human use is considered to  
 1513 have prescribed, dispensed, or distributed an anabolic steroid  
 1514 within the meaning of this paragraph.

1515 (e) Ketamine, including any isomers, esters, ethers,  
 1516 salts, and salts of isomers, esters, and ethers, whenever the  
 1517 existence of such isomers, esters, ethers, and salts is possible  
 1518 within the specific chemical designation.

1519 (f) Dronabinol (synthetic THC) in sesame oil and  
 1520 encapsulated in a soft gelatin capsule in a drug product  
 1521 approved by the United States Food and Drug Administration.

1522 (g) Any drug product containing gamma-hydroxybutyric acid,  
 1523 including its salts, isomers, and salts of isomers, for which an  
 1524 application is approved under s. 505 of the Federal Food, Drug,  
 1525 and Cosmetic Act.

1526 (4) SCHEDULE IV.—A substance in Schedule IV has a low  
 1527 potential for abuse relative to the substances in Schedule III  
 1528 and has a currently accepted medical use in treatment in the  
 1529 United States, and abuse of the substance may lead to limited  
 1530 physical or psychological dependence relative to the substances  
 1531 in Schedule III. Unless specifically excepted or unless listed  
 1532 in another schedule, any material, compound, mixture, or  
 1533 preparation which contains any quantity of the following  
 1534 substances, including its salts, isomers, and salts of isomers

1535 whenever the existence of such salts, isomers, and salts of  
 1536 isomers is possible within the specific chemical designation,  
 1537 are controlled in Schedule IV:

- 1538 (a) Alprazolam.
- 1539 (b) Barbital.
- 1540 (c) Bromazepam.
- 1541 (d) Camazepam.
- 1542 (e) Cathine.
- 1543 (f) Chloral betaine.
- 1544 (g) Chloral hydrate.
- 1545 (h) Chlordiazepoxide.
- 1546 (i) Clobazam.
- 1547 (j) Clonazepam.
- 1548 (k) Clorazepate.
- 1549 (l) Clotiazepam.
- 1550 (m) Cloxazolam.
- 1551 (n) Delorazepam.
- 1552 (o) Propoxyphene (dosage forms).
- 1553 (p) Diazepam.
- 1554 (q) Diethylpropion.
- 1555 (r) Estazolam.
- 1556 (s) Ethchlorvynol.
- 1557 (t) Ethinamate.
- 1558 (u) Ethyl loflazepate.
- 1559 (v) Fencamfamin.
- 1560 (w) Fenfluramine.



- 1561 (x) Fenproporex.
- 1562 (y) Fludiazepam.
- 1563 (z) Flurazepam.
- 1564 (aa) Halazepam.
- 1565 (bb) Haloxazolam.
- 1566 (cc) Ketazolam.
- 1567 (dd) Loprazolam.
- 1568 (ee) Lorazepam.
- 1569 (ff) Lormetazepam.
- 1570 (gg) Mazindol.
- 1571 (hh) Mebutamate.
- 1572 (ii) Medazepam.
- 1573 (jj) Mefenorex.
- 1574 (kk) Meproamate.
- 1575 (ll) Methohexital.
- 1576 (mm) Methylphenobarbital.
- 1577 (nn) Midazolam.
- 1578 (oo) Nimetazepam.
- 1579 (pp) Nitrazepam.
- 1580 (qq) Nordiazepam.
- 1581 (rr) Oxazepam.
- 1582 (ss) Oxazolam.
- 1583 (tt) Paraldehyde.
- 1584 (uu) Pemoline.
- 1585 (vv) Pentazocine.
- 1586 (ww) Phenobarbital.

1587 (xx) Phentermine.  
 1588 (yy) Pinazepam.  
 1589 (zz) Pipradrol.  
 1590 (aaa) Prazepam.  
 1591 (bbb) Propylhexedrine, excluding any patent or proprietary  
 1592 preparation containing propylhexedrine, unless otherwise  
 1593 provided by federal law.  
 1594 (ccc) Quazepam.  
 1595 (ddd) Tetrazepam.  
 1596 (eee) SPA[(-)-1 dimethylamino-1, 2  
 1597 diphenylethane].  
 1598 (fff) Temazepam.  
 1599 (ggg) Triazolam.  
 1600 (hhh) Not more than 1 milligram of difenoxin and not less  
 1601 than 25 micrograms of atropine sulfate per dosage unit.  
 1602 (iii) Butorphanol tartrate.  
 1603 (jjj) Carisoprodol.  
 1604 (5) SCHEDULE V.—A substance, compound, mixture, or  
 1605 preparation of a substance in Schedule V has a low potential for  
 1606 abuse relative to the substances in Schedule IV and has a  
 1607 currently accepted medical use in treatment in the United  
 1608 States, and abuse of such compound, mixture, or preparation may  
 1609 lead to limited physical or psychological dependence relative to  
 1610 the substances in Schedule IV.  
 1611 (a) Substances controlled in Schedule V include any  
 1612 compound, mixture, or preparation containing any of the

1613 following limited quantities of controlled substances, which  
 1614 shall include one or more active medicinal ingredients which are  
 1615 not controlled substances in sufficient proportion to confer  
 1616 upon the compound, mixture, or preparation valuable medicinal  
 1617 qualities other than those possessed by the controlled substance  
 1618 alone:

1619       1. Not more than 200 milligrams of codeine per 100  
 1620 milliliters or per 100 grams.

1621       2. Not more than 100 milligrams of dihydrocodeine per 100  
 1622 milliliters or per 100 grams.

1623       3. Not more than 100 milligrams of ethylmorphine per 100  
 1624 milliliters or per 100 grams.

1625       4. Not more than 2.5 milligrams of diphenoxylate and not  
 1626 less than 25 micrograms of atropine sulfate per dosage unit.

1627       5. Not more than 100 milligrams of opium per 100  
 1628 milliliters or per 100 grams.

1629       (b) Narcotic drugs. Unless specifically excepted or unless  
 1630 listed in another schedule, any material, compound, mixture, or  
 1631 preparation containing any of the following narcotic drugs and  
 1632 their salts: Buprenorphine.

1633       (c) Stimulants. Unless specifically excepted or unless  
 1634 listed in another schedule, any material, compound, mixture, or  
 1635 preparation which contains any quantity of the following  
 1636 substances having a stimulant effect on the central nervous  
 1637 system, including its salts, isomers, and salts of isomers:  
 1638 Pyrovalerone.

1639 Section 3. Section 893.033, Florida Statutes, is amended  
 1640 to read:

1641 893.033 Listed chemicals.—The chemicals listed in this  
 1642 section are included by whatever official, common, usual,  
 1643 chemical, or trade name designated.

1644 (1) PRECURSOR CHEMICALS.—The term "listed precursor  
 1645 chemical" means a chemical that may be used in manufacturing a  
 1646 controlled substance in violation of this chapter and is  
 1647 critical to the creation of the controlled substance, and such  
 1648 term includes any salt, optical isomer, or salt of an optical  
 1649 isomer, whenever the existence of such salt, optical isomer, or  
 1650 salt of optical isomer is possible within the specific chemical  
 1651 designation. The following are "listed precursor chemicals":

- 1652 (a) Anthranilic acid.
- 1653 (b) Benzaldehyde.
- 1654 (c) Benzyl cyanide.
- 1655 (d) Chloroephedrine.
- 1656 (e) Chloropseudoephedrine.
- 1657 (f) Ephedrine.
- 1658 (g) Ergonovine.
- 1659 (h) Ergotamine.
- 1660 (i) Ergocristine.
- 1661 ~~(i) Hydriodic acid.~~
- 1662 (j) Ethylamine.
- 1663 (k) Iodine tincture above 2.2 percent.
- 1664 (l) ~~(k)~~ Isosafrole.

- 1665        (m)~~(l)~~ Methylamine.
- 1666        (n)~~(m)~~ 3, 4-Methylenedioxyphenyl-2-propanone.
- 1667        (o)~~(n)~~ N-Acetylanthranilic acid.
- 1668        (p)~~(o)~~ N-Ethylephedrine.
- 1669        (q)~~(p)~~ N-Ethylpseudoephedrine.
- 1670        (r)~~(q)~~ N-Methylephedrine.
- 1671        (s)~~(r)~~ N-Methylpseudoephedrine.
- 1672        (t) ANPP (4-Anilino-N-phenethyl-4-piperidine).
- 1673        (u) NPP (N-Phenethyl-4-piperidone).
- 1674        (v)~~(s)~~ Nitroethane.
- 1675        (w)~~(t)~~ Norpseudoephedrine.
- 1676        (x)~~(u)~~ Phenylacetic acid.
- 1677        (y)~~(v)~~ Phenylpropanolamine.
- 1678        (z)~~(w)~~ Piperidine.
- 1679        (aa)~~(x)~~ Piperonal.
- 1680        (bb)~~(y)~~ Propionic anhydride.
- 1681        (cc)~~(z)~~ Pseudoephedrine.
- 1682        (dd)~~(aa)~~ Safrole.
- 1683        (2) ESSENTIAL CHEMICALS.—The term "listed essential
- 1684 chemical" means a chemical that may be used as a solvent,
- 1685 reagent, or catalyst in manufacturing a controlled substance in
- 1686 violation of this chapter. The following are "listed essential
- 1687 chemicals":
- 1688            (a) Acetic anhydride.
- 1689            (b) Acetone.
- 1690            (c) Ammonium salts, including, but not limited to,

- 1691 nitrate, sulfate, phosphate, or chloride.
- 1692 (d)~~(e)~~ Anhydrous ammonia.
- 1693 (e) Benzoquinone.
- 1694 (f)~~(d)~~ Benzyl chloride.
- 1695 (g)~~(e)~~ 2-Butanone.
- 1696 (h)~~(f)~~ Ethyl ether.
- 1697 (i) Formic acid.
- 1698 (j)~~(g)~~ Hydrochloric acid ~~gas~~.
- 1699 (k)~~(h)~~ Hydriodic acid.
- 1700 (l)~~(i)~~ Iodine.
- 1701 (m) Lithium.
- 1702 (n) Organic solvents, including, but not limited to,
- 1703 Coleman Fuel, camping fuel, ether, toluene, or lighter fluid.
- 1704 (o) Organic cosolvents, including, but not limited to,
- 1705 glycerol, propylene glycol, or polyethylene glycol.
- 1706 (p) Potassium dichromate.
- 1707 (q)~~(j)~~ Potassium permanganate.
- 1708 (r) Sodium.
- 1709 (s) Sodium dichromate.
- 1710 (t) Sodium borohydride.
- 1711 (u) Sodium cyanoborohydride.
- 1712 (v) Sodium hydroxide.
- 1713 (w) Sulfuric acid.
- 1714 ~~(k) Toluene.~~
- 1715 Section 4. Subsections (3) and (5) of section 893.0356,
- 1716 Florida Statutes, are amended, paragraph (j) is added to

1717 subsection (4) of that section, and paragraph (a) of subsection  
 1718 (2) of that section is republished, to read:

1719 893.0356 Control of new substances; findings of fact;  
 1720 "controlled substance analog" defined.—

1721 (2)(a) As used in this section, "controlled substance  
 1722 analog" means a substance which, due to its chemical structure  
 1723 and potential for abuse, meets the following criteria:

1724 1. Is substantially similar to that of a controlled  
 1725 substance listed in Schedule I or Schedule II of s. 893.03; and

1726 2. Has a stimulant, depressant, or hallucinogenic effect  
 1727 on the central nervous system or is represented or intended to  
 1728 have a stimulant, depressant, or hallucinogenic effect on the  
 1729 central nervous system substantially similar to or greater than  
 1730 that of a controlled substance listed in Schedule I or Schedule  
 1731 II of s. 893.03.

1732 (3) As used in this section, the term "substantially  
 1733 similar," as the term applies to the chemical structure of a  
 1734 substance, means that the chemical structure of the substance  
 1735 compared to the structure of a controlled substance has a single  
 1736 difference in the structural formula that substitutes one atom  
 1737 or functional group for another, including, but not limited to,  
 1738 one halogen for another halogen, one hydrogen for a halogen or  
 1739 vice versa, an alkyl group added or deleted as a side chain to  
 1740 or from a molecule, or an alkyl group added or deleted from a  
 1741 side chain of a molecule. ~~"potential for abuse" in this section~~  
 1742 ~~means that a substance has properties as a central nervous~~

1743 ~~system stimulant or depressant or a hallucinogen that create a~~  
 1744 ~~substantial likelihood of its being:~~

1745 ~~(a) Used in amounts that create a hazard to the user's~~  
 1746 ~~health or the safety of the community;~~

1747 ~~(b) Diverted from legal channels and distributed through~~  
 1748 ~~illegal channels; or~~

1749 ~~(c) Taken on the user's own initiative rather than on the~~  
 1750 ~~basis of professional medical advice.~~

1751

1752 ~~Proof of potential for abuse can be based upon a showing that~~  
 1753 ~~these activities are already taking place, or upon a showing~~  
 1754 ~~that the nature and properties of the substance make it~~  
 1755 ~~reasonable to assume that there is a substantial likelihood that~~  
 1756 ~~such activities will take place, in other than isolated or~~  
 1757 ~~occasional instances.~~

1758 (4) The following factors shall be relevant to a finding  
 1759 that a substance is a controlled substance analog within the  
 1760 purview of this section:

1761 (j) Comparisons to the accepted methods of marketing,  
 1762 distribution, and sales of the substance and that which the  
 1763 substance is purported to be, including, but not limited to:

1764 1. The difference in price at which the substance is sold  
 1765 and the price at which the substance it is purported to be or  
 1766 advertised as is normally sold;

1767 2. The difference in how the substance is imported,  
 1768 manufactured, or distributed compared to how the substance it is



1769 purported to be or advertised as is normally imported,  
 1770 manufactured, or distributed;

1771 3. The difference in the appearance of the substance in  
 1772 overall finished dosage form compared to the substance it is  
 1773 purported to be or advertised as normally appears in overall  
 1774 finished dosage form; and

1775 4. The difference in how the substance is labeled for  
 1776 sale, packaged for sale, or the method of sale, including, but  
 1777 not limited to, the placement of the substance in an area  
 1778 commonly viewable to the public for purchase consideration  
 1779 compared to how the substance it is purported to be or  
 1780 advertised as is normally labeled for sale, packaged for sale,  
 1781 or sold to the public.

1782 (5) A controlled substance analog shall, for purposes of  
 1783 drug abuse prevention and control, be treated as the highest  
 1784 scheduled ~~a~~ controlled substance of which it is a controlled  
 1785 substance analog to in ~~Schedule I~~ of s. 893.03.

1786 Section 5. Subsections (1), (4), and (6), and paragraph  
 1787 (d) of subsection (8) of section 893.13, Florida Statutes, are  
 1788 amended, and subsection (2), paragraphs (a) and (b) of  
 1789 subsection (5), and paragraph (a) of subsection (7) of that  
 1790 section are republished, to read:

1791 893.13 Prohibited acts; penalties.—

1792 (1)(a) Except as authorized by this chapter and chapter  
 1793 499, a person may not sell, manufacture, or deliver, or possess  
 1794 with intent to sell, manufacture, or deliver, a controlled

1795 substance. A person who violates this provision with respect to:

1796 1. A controlled substance named or described in s.  
 1797 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 1798 commits a felony of the second degree, punishable as provided in  
 1799 s. 775.082, s. 775.083, or s. 775.084.

1800 2. A controlled substance named or described in s.  
 1801 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 1802 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 1803 the third degree, punishable as provided in s. 775.082, s.  
 1804 775.083, or s. 775.084.

1805 3. A controlled substance named or described in s.  
 1806 893.03(5) commits a misdemeanor of the first degree, punishable  
 1807 as provided in s. 775.082 or s. 775.083.

1808 (b) Except as provided in this chapter, a person may not  
 1809 sell or deliver in excess of 10 grams of any substance named or  
 1810 described in s. 893.03(1)(a) or (1)(b), or any combination  
 1811 thereof, or any mixture containing any such substance. A person  
 1812 who violates this paragraph commits a felony of the first  
 1813 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1814 775.084.

1815 (c) Except as authorized by this chapter, a person may not  
 1816 sell, manufacture, or deliver, or possess with intent to sell,  
 1817 manufacture, or deliver, a controlled substance in, on, or  
 1818 within 1,000 feet of the real property comprising a child care  
 1819 facility as defined in s. 402.302 or a public or private  
 1820 elementary, middle, or secondary school between the hours of 6

1821 a.m. and 12 midnight, or at any time in, on, or within 1,000  
 1822 feet of real property comprising a state, county, or municipal  
 1823 park, a community center, or a publicly owned recreational  
 1824 facility. As used in this paragraph, the term "community center"  
 1825 means a facility operated by a nonprofit community-based  
 1826 organization for the provision of recreational, social, or  
 1827 educational services to the public. A person who violates this  
 1828 paragraph with respect to:

1829 1. A controlled substance named or described in s.  
 1830 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 1831 commits a felony of the first degree, punishable as provided in  
 1832 s. 775.082, s. 775.083, or s. 775.084. The defendant must be  
 1833 sentenced to a minimum term of imprisonment of 3 calendar years  
 1834 unless the offense was committed within 1,000 feet of the real  
 1835 property comprising a child care facility as defined in s.  
 1836 402.302.

1837 2. A controlled substance named or described in s.  
 1838 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 1839 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 1840 the second degree, punishable as provided in s. 775.082, s.  
 1841 775.083, or s. 775.084.

1842 3. Any other controlled substance, except as lawfully  
 1843 sold, manufactured, or delivered, must be sentenced to pay a  
 1844 \$500 fine and to serve 100 hours of public service in addition  
 1845 to any other penalty prescribed by law.  
 1846

1847 This paragraph does not apply to a child care facility unless  
 1848 the owner or operator of the facility posts a sign that is not  
 1849 less than 2 square feet in size with a word legend identifying  
 1850 the facility as a licensed child care facility and that is  
 1851 posted on the property of the child care facility in a  
 1852 conspicuous place where the sign is reasonably visible to the  
 1853 public.

1854 (d) Except as authorized by this chapter, a person may not  
 1855 sell, manufacture, or deliver, or possess with intent to sell,  
 1856 manufacture, or deliver, a controlled substance in, on, or  
 1857 within 1,000 feet of the real property comprising a public or  
 1858 private college, university, or other postsecondary educational  
 1859 institution. A person who violates this paragraph with respect  
 1860 to:

1861 1. A controlled substance named or described in s.  
 1862 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 1863 commits a felony of the first degree, punishable as provided in  
 1864 s. 775.082, s. 775.083, or s. 775.084.

1865 2. A controlled substance named or described in s.  
 1866 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 1867 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 1868 the second degree, punishable as provided in s. 775.082, s.  
 1869 775.083, or s. 775.084.

1870 3. Any other controlled substance, except as lawfully  
 1871 sold, manufactured, or delivered, must be sentenced to pay a  
 1872 \$500 fine and to serve 100 hours of public service in addition

1873 to any other penalty prescribed by law.

1874 (e) Except as authorized by this chapter, a person may not  
 1875 sell, manufacture, or deliver, or possess with intent to sell,  
 1876 manufacture, or deliver, a controlled substance not authorized  
 1877 by law in, on, or within 1,000 feet of a physical place for  
 1878 worship at which a church or religious organization regularly  
 1879 conducts religious services or within 1,000 feet of a  
 1880 convenience business as defined in s. 812.171. A person who  
 1881 violates this paragraph with respect to:

1882 1. A controlled substance named or described in s.  
 1883 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 1884 commits a felony of the first degree, punishable as provided in  
 1885 s. 775.082, s. 775.083, or s. 775.084.

1886 2. A controlled substance named or described in s.  
 1887 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 1888 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 1889 the second degree, punishable as provided in s. 775.082, s.  
 1890 775.083, or s. 775.084.

1891 3. Any other controlled substance, except as lawfully  
 1892 sold, manufactured, or delivered, must be sentenced to pay a  
 1893 \$500 fine and to serve 100 hours of public service in addition  
 1894 to any other penalty prescribed by law.

1895 (f) Except as authorized by this chapter, a person may not  
 1896 sell, manufacture, or deliver, or possess with intent to sell,  
 1897 manufacture, or deliver, a controlled substance in, on, or  
 1898 within 1,000 feet of the real property comprising a public

1899 housing facility at any time. As used in this section, the term  
 1900 "real property comprising a public housing facility" means real  
 1901 property, as defined in s. 421.03(12), of a public corporation  
 1902 created as a housing authority pursuant to part I of chapter  
 1903 421. A person who violates this paragraph with respect to:

1904 1. A controlled substance named or described in s.  
 1905 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 1906 commits a felony of the first degree, punishable as provided in  
 1907 s. 775.082, s. 775.083, or s. 775.084.

1908 2. A controlled substance named or described in s.  
 1909 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 1910 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 1911 the second degree, punishable as provided in s. 775.082, s.  
 1912 775.083, or s. 775.084.

1913 3. Any other controlled substance, except as lawfully  
 1914 sold, manufactured, or delivered, must be sentenced to pay a  
 1915 \$500 fine and to serve 100 hours of public service in addition  
 1916 to any other penalty prescribed by law.

1917 (g) Except as authorized by this chapter, a person may not  
 1918 manufacture methamphetamine or phencyclidine, or possess any  
 1919 listed chemical as defined in s. 893.033 in violation of s.  
 1920 893.149 and with intent to manufacture methamphetamine or  
 1921 phencyclidine. If a person violates this paragraph and:

1922 1. The commission or attempted commission of the crime  
 1923 occurs in a structure or conveyance where any child younger than  
 1924 16 years of age is present, the person commits a felony of the

1925 first degree, punishable as provided in s. 775.082, s. 775.083,  
 1926 or s. 775.084. In addition, the defendant must be sentenced to a  
 1927 minimum term of imprisonment of 5 calendar years.

1928 2. The commission of the crime causes any child younger  
 1929 than 16 years of age to suffer great bodily harm, the person  
 1930 commits a felony of the first degree, punishable as provided in  
 1931 s. 775.082, s. 775.083, or s. 775.084. In addition, the  
 1932 defendant must be sentenced to a minimum term of imprisonment of  
 1933 10 calendar years.

1934 (h) Except as authorized by this chapter, a person may not  
 1935 sell, manufacture, or deliver, or possess with intent to sell,  
 1936 manufacture, or deliver, a controlled substance in, on, or  
 1937 within 1,000 feet of the real property comprising an assisted  
 1938 living facility, as that term is used in chapter 429. A person  
 1939 who violates this paragraph with respect to:

1940 1. A controlled substance named or described in s.  
 1941 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 1942 commits a felony of the first degree, punishable as provided in  
 1943 s. 775.082, s. 775.083, or s. 775.084.

1944 2. A controlled substance named or described in s.  
 1945 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 1946 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 1947 the second degree, punishable as provided in s. 775.082, s.  
 1948 775.083, or s. 775.084.

1949 3. Any other controlled substance, except as lawfully  
 1950 sold, manufactured, or delivered, must be sentenced to pay a

1951 \$500 fine and to serve 100 hours of public service in addition  
 1952 to any other penalty prescribed by law.

1953 (2) (a) Except as authorized by this chapter and chapter  
 1954 499, a person may not purchase, or possess with intent to  
 1955 purchase, a controlled substance. A person who violates this  
 1956 provision with respect to:

1957 1. A controlled substance named or described in s.  
 1958 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c)4.  
 1959 commits a felony of the second degree, punishable as provided in  
 1960 s. 775.082, s. 775.083, or s. 775.084.

1961 2. A controlled substance named or described in s.  
 1962 893.03(1) (c), (2) (c)1., (2) (c)2., (2) (c)3., (2) (c)5., (2) (c)6.,  
 1963 (2) (c)7., (2) (c)8., (2) (c)9., (3), or (4) commits a felony of  
 1964 the third degree, punishable as provided in s. 775.082, s.  
 1965 775.083, or s. 775.084.

1966 3. A controlled substance named or described in s.  
 1967 893.03(5) commits a misdemeanor of the first degree, punishable  
 1968 as provided in s. 775.082 or s. 775.083.

1969 (b) Except as provided in this chapter, a person may not  
 1970 purchase more than 10 grams of any substance named or described  
 1971 in s. 893.03(1) (a) or (1) (b), or any combination thereof, or any  
 1972 mixture containing any such substance. A person who violates  
 1973 this paragraph commits a felony of the first degree, punishable  
 1974 as provided in s. 775.082, s. 775.083, or s. 775.084.

1975 (4) Except as authorized by this chapter, a person 18  
 1976 years of age or older may not deliver any controlled substance



1977 to a person younger than 18 years of age, use or hire a person  
 1978 younger than 18 years of age as an agent or employee in the sale  
 1979 or delivery of such a substance, or use such person to assist in  
 1980 avoiding detection or apprehension for a violation of this  
 1981 chapter. A person who violates this paragraph ~~provision~~ with  
 1982 respect to:

1983 (a) A controlled substance named or described in s.  
 1984 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 1985 commits a felony of the first degree, punishable as provided in  
 1986 s. 775.082, s. 775.083, or s. 775.084.

1987 (b) A controlled substance named or described in s.  
 1988 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 1989 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 1990 the second degree, punishable as provided in s. 775.082, s.  
 1991 775.083, or s. 775.084.

1992 (c) Any other controlled substance, except as lawfully  
 1993 sold, manufactured, or delivered, commits a felony of the third  
 1994 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 1995 775.084.

1996  
 1997 Imposition of sentence may not be suspended or deferred, and the  
 1998 person so convicted may not be placed on probation.

1999 (5) A person may not bring into this state any controlled  
 2000 substance unless the possession of such controlled substance is  
 2001 authorized by this chapter or unless such person is licensed to  
 2002 do so by the appropriate federal agency. A person who violates

2003 | this provision with respect to:

2004 |       (a) A controlled substance named or described in s.  
 2005 | 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 2006 | commits a felony of the second degree, punishable as provided in  
 2007 | s. 775.082, s. 775.083, or s. 775.084.

2008 |       (b) A controlled substance named or described in s.  
 2009 | 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 2010 | (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 2011 | the third degree, punishable as provided in s. 775.082, s.  
 2012 | 775.083, or s. 775.084.

2013 |       (6)(a) A person may not be in actual or constructive  
 2014 | possession of a controlled substance unless such controlled  
 2015 | substance was lawfully obtained from a practitioner or pursuant  
 2016 | to a valid prescription or order of a practitioner while acting  
 2017 | in the course of his or her professional practice or to be in  
 2018 | actual or constructive possession of a controlled substance  
 2019 | except as otherwise authorized by this chapter. A person who  
 2020 | violates this provision commits a felony of the third degree,  
 2021 | punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

2022 |       (b) If the offense is the possession of 20 grams or less  
 2023 | of cannabis, as defined in this chapter, ~~or 3 grams or less of a~~  
 2024 | ~~controlled substance described in s. 893.03(1)(c)46., 50., 114.,~~  
 2025 | ~~142., 151., 159., or 166., 173.,~~ the person commits a misdemeanor  
 2026 | of the first degree, punishable as provided in s. 775.082 or s.  
 2027 | 775.083. As used in this subsection, the term "cannabis" does  
 2028 | not include the resin extracted from the plants of the genus

2029 *Cannabis*, or any compound manufacture, salt, derivative,  
 2030 mixture, or preparation of such resin, ~~and a controlled~~  
 2031 ~~substance described in s. 893.03(1)(c) 46., 50., 114., 142., 151.,~~  
 2032 ~~159., or 166. 173. does not include the substance in a powdered~~  
 2033 ~~form.~~

2034 (c) Except as provided in this chapter, a person may not  
 2035 possess more than 10 grams of any substance named or described  
 2036 in s. 893.03(1)(a) or (1)(b), or any combination thereof, or any  
 2037 mixture containing any such substance. A person who violates  
 2038 this paragraph commits a felony of the first degree, punishable  
 2039 as provided in s. 775.082, s. 775.083, or s. 775.084.

2040 (d) If the offense is possession of a controlled substance  
 2041 named or described in s. 893.03(5), the person commits a  
 2042 misdemeanor of the second degree, punishable as provided in s.  
 2043 775.082 or s. 775.083.

2044 ~~(e)~~-(d) Notwithstanding any provision to the contrary of  
 2045 the laws of this state relating to arrest, a law enforcement  
 2046 officer may arrest without warrant any person who the officer  
 2047 has probable cause to believe is violating the provisions of  
 2048 this chapter relating to possession of cannabis.

2049 (7)(a) A person may not:

2050 1. Distribute or dispense a controlled substance in  
 2051 violation of this chapter.

2052 2. Refuse or fail to make, keep, or furnish any record,  
 2053 notification, order form, statement, invoice, or information  
 2054 required under this chapter.

2055 3. Refuse entry into any premises for any inspection or  
 2056 refuse to allow any inspection authorized by this chapter.

2057 4. Distribute a controlled substance named or described in  
 2058 s. 893.03(1) or (2) except pursuant to an order form as required  
 2059 by s. 893.06.

2060 5. Keep or maintain any store, shop, warehouse, dwelling,  
 2061 building, vehicle, boat, aircraft, or other structure or place  
 2062 which is resorted to by persons using controlled substances in  
 2063 violation of this chapter for the purpose of using these  
 2064 substances, or which is used for keeping or selling them in  
 2065 violation of this chapter.

2066 6. Use to his or her own personal advantage, or reveal,  
 2067 any information obtained in enforcement of this chapter except  
 2068 in a prosecution or administrative hearing for a violation of  
 2069 this chapter.

2070 7. Possess a prescription form unless it has been signed  
 2071 by the practitioner whose name appears printed thereon and  
 2072 completed. This subparagraph does not apply if the person in  
 2073 possession of the form is the practitioner whose name appears  
 2074 printed thereon, an agent or employee of that practitioner, a  
 2075 pharmacist, or a supplier of prescription forms who is  
 2076 authorized by that practitioner to possess those forms.

2077 8. Withhold information from a practitioner from whom the  
 2078 person seeks to obtain a controlled substance or a prescription  
 2079 for a controlled substance that the person making the request  
 2080 has received a controlled substance or a prescription for a

2081 controlled substance of like therapeutic use from another  
 2082 practitioner within the previous 30 days.

2083 9. Acquire or obtain, or attempt to acquire or obtain,  
 2084 possession of a controlled substance by misrepresentation,  
 2085 fraud, forgery, deception, or subterfuge.

2086 10. Affix any false or forged label to a package or  
 2087 receptacle containing a controlled substance.

2088 11. Furnish false or fraudulent material information in,  
 2089 or omit any material information from, any report or other  
 2090 document required to be kept or filed under this chapter or any  
 2091 record required to be kept by this chapter.

2092 12. Store anhydrous ammonia in a container that is not  
 2093 approved by the United States Department of Transportation to  
 2094 hold anhydrous ammonia or is not constructed in accordance with  
 2095 sound engineering, agricultural, or commercial practices.

2096 13. With the intent to obtain a controlled substance or  
 2097 combination of controlled substances that are not medically  
 2098 necessary for the person or an amount of a controlled substance  
 2099 or substances that is not medically necessary for the person,  
 2100 obtain or attempt to obtain from a practitioner a controlled  
 2101 substance or a prescription for a controlled substance by  
 2102 misrepresentation, fraud, forgery, deception, subterfuge, or  
 2103 concealment of a material fact. For purposes of this  
 2104 subparagraph, a material fact includes whether the person has an  
 2105 existing prescription for a controlled substance issued for the  
 2106 same period of time by another practitioner or as described in

2107 subparagraph 8.

2108 (8)

2109 (d) Notwithstanding paragraph (c), if a prescribing  
 2110 practitioner has violated paragraph (a) and received \$1,000 or  
 2111 more in payment for writing one or more prescriptions or, in the  
 2112 case of a prescription written for a controlled substance  
 2113 described in s. 893.135, has written one or more prescriptions  
 2114 for a quantity of a controlled substance which, individually or  
 2115 in the aggregate, meets the threshold for the offense of  
 2116 trafficking in a controlled substance under s. 893.135 ~~s.~~  
 2117 ~~893.15~~, the violation is reclassified as a felony of the second  
 2118 degree and ranked in level 4 of the Criminal Punishment Code.

2119 Section 6. Paragraphs (g) and (l) of subsection (1) of  
 2120 section 893.135, Florida Statutes, are republished, paragraph  
 2121 (k) of that subsection is amended, and subsection (6) of that  
 2122 section is amended, to read:

2123 893.135 Trafficking; mandatory sentences; suspension or  
 2124 reduction of sentences; conspiracy to engage in trafficking.—

2125 (1) Except as authorized in this chapter or in chapter 499  
 2126 and notwithstanding the provisions of s. 893.13:

2127 (g)1. Any person who knowingly sells, purchases,  
 2128 manufactures, delivers, or brings into this state, or who is  
 2129 knowingly in actual or constructive possession of, 4 grams or  
 2130 more of flunitrazepam or any mixture containing flunitrazepam as  
 2131 described in s. 893.03(1)(a) commits a felony of the first  
 2132 degree, which felony shall be known as "trafficking in

2133 flunitrazepam," punishable as provided in s. 775.082, s.  
 2134 775.083, or s. 775.084. If the quantity involved:  
 2135       a. Is 4 grams or more but less than 14 grams, such person  
 2136 shall be sentenced to a mandatory minimum term of imprisonment  
 2137 of 3 years, and the defendant shall be ordered to pay a fine of  
 2138 \$50,000.  
 2139       b. Is 14 grams or more but less than 28 grams, such person  
 2140 shall be sentenced to a mandatory minimum term of imprisonment  
 2141 of 7 years, and the defendant shall be ordered to pay a fine of  
 2142 \$100,000.  
 2143       c. Is 28 grams or more but less than 30 kilograms, such  
 2144 person shall be sentenced to a mandatory minimum term of  
 2145 imprisonment of 25 calendar years and pay a fine of \$500,000.  
 2146       2. Any person who knowingly sells, purchases,  
 2147 manufactures, delivers, or brings into this state or who is  
 2148 knowingly in actual or constructive possession of 30 kilograms  
 2149 or more of flunitrazepam or any mixture containing flunitrazepam  
 2150 as described in s. 893.03(1)(a) commits the first degree felony  
 2151 of trafficking in flunitrazepam. A person who has been convicted  
 2152 of the first degree felony of trafficking in flunitrazepam under  
 2153 this subparagraph shall be punished by life imprisonment and is  
 2154 ineligible for any form of discretionary early release except  
 2155 pardon or executive clemency or conditional medical release  
 2156 under s. 947.149. However, if the court determines that, in  
 2157 addition to committing any act specified in this paragraph:  
 2158       a. The person intentionally killed an individual or

2159 counseled, commanded, induced, procured, or caused the  
 2160 intentional killing of an individual and such killing was the  
 2161 result; or

2162 b. The person's conduct in committing that act led to a  
 2163 natural, though not inevitable, lethal result,

2164  
 2165 such person commits the capital felony of trafficking in  
 2166 flunitrazepam, punishable as provided in ss. 775.082 and  
 2167 921.142. Any person sentenced for a capital felony under this  
 2168 paragraph shall also be sentenced to pay the maximum fine  
 2169 provided under subparagraph 1.

2170 (k)1. A person who knowingly sells, purchases,  
 2171 manufactures, delivers, or brings into this state, or who is  
 2172 knowingly in actual or constructive possession of, 10 grams or  
 2173 more of any of the following substances described in s.

2174 893.03(1)(c):

- 2175 a. (MDMA) 3,4-Methylenedioxymethamphetamine ~~(MDMA)~~;
- 2176 b. DOB (4-Bromo-2,5-dimethoxyamphetamine);
- 2177 c. 2C-B (4-Bromo-2,5-dimethoxyphenethylamine);
- 2178 d. 2,5-Dimethoxyamphetamine;
- 2179 e. DOET (4-Ethyl-2,5-dimethoxyamphetamine) ~~2,5-Dimethoxy-~~  
 2180 ~~4-ethylamphetamine (DOET)~~;
- 2181 f. N-ethylamphetamine;
- 2182 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 2183 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 2184 i. PMA (4-methoxyamphetamine);



- 2185 j. PMMA (4-methoxymethamphetamine);
- 2186 k. DOM (4-Methyl-2,5-dimethoxyamphetamine);
- 2187 l. MDEA (3,4-Methylenedioxy-N-ethylamphetamine);
- 2188 m. MDA (3,4-Methylenedioxyamphetamine);
- 2189 n. N,N-dimethylamphetamine;
- 2190 o. 3,4,5-Trimethoxyamphetamine;
- 2191 p. Methylone (3,4-Methylenedioxymethcathinone);
- 2192 q. MDPV (3,4-Methylenedioxypropylvalerone) ~~(MDPV)~~; or
- 2193 r. Methylmethcathinone,

2194  
 2195 individually or analogs thereto or isomers thereto or in any  
 2196 combination of or any mixture containing any substance listed in  
 2197 sub-subparagraphs a.-r., commits a felony of the first degree,  
 2198 which felony shall be known as "trafficking in Phenethylamines,"  
 2199 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

- 2200 2. If the quantity involved:
- 2201 a. Is 10 grams or more, but less than 200 grams, such
- 2202 person shall be sentenced to a mandatory minimum term of
- 2203 imprisonment of 3 years and shall be ordered to pay a fine of
- 2204 \$50,000.
- 2205 b. Is 200 grams or more, but less than 400 grams, such
- 2206 person shall be sentenced to a mandatory minimum term of
- 2207 imprisonment of 7 years and shall be ordered to pay a fine of
- 2208 \$100,000.
- 2209 c. Is 400 grams or more, such person shall be sentenced to
- 2210 a mandatory minimum term of imprisonment of 15 years and shall

2211 be ordered to pay a fine of \$250,000.

2212 3. A person who knowingly manufactures or brings into this  
 2213 state 30 kilograms or more of any of the following substances  
 2214 described in s. 893.03(1)(c):

- 2215 a. MDMA (3,4-Methylenedioxyamphetamine) ~~(MDMA)~~;
- 2216 b. 2C-B (4-Bromo-2,5-dimethoxyamphetamine);
- 2217 c. 2C-B (4-Bromo-2,5-dimethoxyphenethylamine);
- 2218 d. 2,5-Dimethoxyamphetamine;
- 2219 e. DOET (4-Ethyl-2,5-dimethoxyamphetamine) ~~2,5-Dimethoxy-~~  
 2220 ~~4-ethylamphetamine (DOET)~~;
- 2221 f. N-ethylamphetamine;
- 2222 g. N-Hydroxy-3,4-methylenedioxyamphetamine;
- 2223 h. 5-Methoxy-3,4-methylenedioxyamphetamine;
- 2224 i. PMA (4-methoxyamphetamine);
- 2225 j. PMMA (4-methoxymethamphetamine);
- 2226 k. DOM (4-Methyl-2,5-dimethoxyamphetamine);
- 2227 l. MDEA (3,4-Methylenedioxy-N-ethylamphetamine);
- 2228 m. MDA (3,4-Methylenedioxyamphetamine);
- 2229 n. N,N-dimethylamphetamine;
- 2230 o. 3,4,5-Trimethoxyamphetamine;
- 2231 p. Methylone (3,4-Methylenedioxy-methcathinone);
- 2232 q. MDPV (3,4-Methylenedioxy-pyrovalerone) ~~(MDPV)~~; or
- 2233 r. Methylmethcathinone,

2234  
 2235 individually or analogs thereto or isomers thereto or in any  
 2236 combination of or any mixture containing any substance listed in

2237 sub-subparagraphs a.-r., and who knows that the probable result  
 2238 of such manufacture or importation would be the death of any  
 2239 person commits capital manufacture or importation of  
 2240 Phenethylamines, a capital felony punishable as provided in ss.  
 2241 775.082 and 921.142. A person sentenced for a capital felony  
 2242 under this paragraph shall also be sentenced to pay the maximum  
 2243 fine provided under subparagraph 1.

2244 (1)1. Any person who knowingly sells, purchases,  
 2245 manufactures, delivers, or brings into this state, or who is  
 2246 knowingly in actual or constructive possession of, 1 gram or  
 2247 more of lysergic acid diethylamide (LSD) as described in s.  
 2248 893.03(1)(c), or of any mixture containing lysergic acid  
 2249 diethylamide (LSD), commits a felony of the first degree, which  
 2250 felony shall be known as "trafficking in lysergic acid  
 2251 diethylamide (LSD)," punishable as provided in s. 775.082, s.  
 2252 775.083, or s. 775.084. If the quantity involved:

2253 a. Is 1 gram or more, but less than 5 grams, such person  
 2254 shall be sentenced to a mandatory minimum term of imprisonment  
 2255 of 3 years, and the defendant shall be ordered to pay a fine of  
 2256 \$50,000.

2257 b. Is 5 grams or more, but less than 7 grams, such person  
 2258 shall be sentenced to a mandatory minimum term of imprisonment  
 2259 of 7 years, and the defendant shall be ordered to pay a fine of  
 2260 \$100,000.

2261 c. Is 7 grams or more, such person shall be sentenced to a  
 2262 mandatory minimum term of imprisonment of 15 calendar years and

2263 pay a fine of \$500,000.

2264       2. Any person who knowingly manufactures or brings into  
 2265 this state 7 grams or more of lysergic acid diethylamide (LSD)  
 2266 as described in s. 893.03(1)(c), or any mixture containing  
 2267 lysergic acid diethylamide (LSD), and who knows that the  
 2268 probable result of such manufacture or importation would be the  
 2269 death of any person commits capital manufacture or importation  
 2270 of lysergic acid diethylamide (LSD), a capital felony punishable  
 2271 as provided in ss. 775.082 and 921.142. Any person sentenced for  
 2272 a capital felony under this paragraph shall also be sentenced to  
 2273 pay the maximum fine provided under subparagraph 1.

2274       (6) A mixture, as defined in s. 893.02, containing any  
 2275 controlled substance described in this section includes, but is  
 2276 not limited to, a solution or a dosage unit, including but not  
 2277 limited to, a gelatin capsule, pill, or tablet, containing a  
 2278 controlled substance. For the purpose of clarifying legislative  
 2279 intent regarding the weighing of a mixture containing a  
 2280 controlled substance described in this section, the weight of  
 2281 the controlled substance is the total weight of the mixture,  
 2282 including the controlled substance and any other substance in  
 2283 the mixture. If there is more than one mixture containing the  
 2284 same controlled substance, the weight of the controlled  
 2285 substance is calculated by aggregating the total weight of each  
 2286 mixture.

2287       Section 7. Subsection (2) of section 893.138, Florida  
 2288 Statutes, is amended to read:

2289 893.138 Local administrative action to abate drug-related,  
 2290 prostitution-related, or stolen-property-related public  
 2291 nuisances and criminal gang activity.-

2292 (2) Any place or premises that has been used:

2293 (a) On more than two occasions within a 6-month period, as  
 2294 the site of a violation of s. 796.07;

2295 (b) On more than two occasions within a 6-month period, as  
 2296 the site of the unlawful sale, delivery, manufacture, or  
 2297 cultivation of any controlled substance;

2298 (c) On one occasion as the site of the unlawful possession  
 2299 of a controlled substance, where such possession constitutes a  
 2300 felony and that has been previously used on more than one  
 2301 occasion as the site of the unlawful sale, delivery,  
 2302 manufacture, or cultivation of any controlled substance;

2303 (d) By a criminal gang for the purpose of conducting  
 2304 criminal gang activity as defined by s. 874.03; ~~or~~

2305 (e) On more than two occasions within a 6-month period, as  
 2306 the site of a violation of s. 812.019 relating to dealing in  
 2307 stolen property; or

2308 (f) On two or more occasions within a 6-month period, as  
 2309 the site of a violation of chapter 499,

2310  
 2311 may be declared to be a public nuisance, and such nuisance may  
 2312 be abated pursuant to the procedures provided in this section.

2313 Section 8. Subsections (6) and (12) of section 893.145,  
 2314 Florida Statutes, are amended to read:

2315 893.145 "Drug paraphernalia" defined.—The term "drug  
 2316 paraphernalia" means all equipment, products, and materials of  
 2317 any kind which are used, intended for use, or designed for use  
 2318 in planting, propagating, cultivating, growing, harvesting,  
 2319 manufacturing, compounding, converting, producing, processing,  
 2320 preparing, testing, analyzing, packaging, repackaging, storing,  
 2321 containing, concealing, transporting, injecting, ingesting,  
 2322 inhaling, or otherwise introducing into the human body a  
 2323 controlled substance in violation of this chapter or s. 877.111.  
 2324 Drug paraphernalia is deemed to be contraband which shall be  
 2325 subject to civil forfeiture. The term includes, but is not  
 2326 limited to:

2327 (6) Diluents and adulterants, such as quinine  
 2328 hydrochloride, caffeine, dimethyl sulfone, mannitol, mannite,  
 2329 dextrose, and lactose, used, intended for use, or designed for  
 2330 use in diluting ~~cutting~~ controlled substances; or substances  
 2331 such as damiana leaf, marshmallow leaf, and mullein leaf, used,  
 2332 intended for use, or designed for use as carrier mediums of  
 2333 controlled substances.

2334 (12) Objects used, intended for use, or designed for use  
 2335 in ingesting, inhaling, or otherwise introducing controlled  
 2336 substances, as described in s. 893.03, or substances described  
 2337 in s. 877.111(1) ~~cannabis, cocaine, hashish, hashish oil, or~~  
 2338 ~~nitrous oxide~~ into the human body, such as:

2339 (a) Metal, wooden, acrylic, glass, stone, plastic, or  
 2340 ceramic pipes, with or without screens, permanent screens,

- 2341 hashish heads, or punctured metal bowls.
- 2342 (b) Water pipes.
- 2343 (c) Carburetion tubes and devices.
- 2344 (d) Smoking and carburetion masks.
- 2345 (e) Roach clips: meaning objects used to hold burning
- 2346 material, such as a cannabis cigarette, that has become too
- 2347 small or too short to be held in the hand.
- 2348 (f) Miniature cocaine spoons, and cocaine vials.
- 2349 (g) Chamber pipes.
- 2350 (h) Carburetor pipes.
- 2351 (i) Electric pipes.
- 2352 (j) Air-driven pipes.
- 2353 (k) Chillums.
- 2354 (l) Bongs.
- 2355 (m) Ice pipes or chillers.
- 2356 (n) A cartridge or canister, which means a small metal
- 2357 device used to contain nitrous oxide.
- 2358 (o) A charger, sometimes referred to as a "cracker," which
- 2359 means a small metal or plastic device that contains an interior
- 2360 pin that may be used to expel nitrous oxide from a cartridge or
- 2361 container.
- 2362 (p) A charging bottle, which means a device that may be
- 2363 used to expel nitrous oxide from a cartridge or canister.
- 2364 (q) A whip-it, which means a device that may be used to
- 2365 expel nitrous oxide.
- 2366 (r) A tank.

2367 (s) A balloon.

2368 (t) A hose or tube.

2369 (u) A 2-liter-type soda bottle.

2370 (v) Duct tape.

2371 Section 9. Paragraph (a) of subsection (1) of section  
2372 895.02, Florida Statutes, is amended to read:

2373 895.02 Definitions.—As used in ss. 895.01-895.08, the  
2374 term:

2375 (1) "Racketeering activity" means to commit, to attempt to  
2376 commit, to conspire to commit, or to solicit, coerce, or  
2377 intimidate another person to commit:

2378 (a) Any crime that is chargeable by petition, indictment,  
2379 or information under the following provisions of the Florida  
2380 Statutes:

2381 1. Section 210.18, relating to evasion of payment of  
2382 cigarette taxes.

2383 2. Section 316.1935, relating to fleeing or attempting to  
2384 elude a law enforcement officer and aggravated fleeing or  
2385 eluding.

2386 3. Section 403.727(3)(b), relating to environmental  
2387 control.

2388 4. Section 409.920 or s. 409.9201, relating to Medicaid  
2389 fraud.

2390 5. Section 414.39, relating to public assistance fraud.

2391 6. Section 440.105 or s. 440.106, relating to workers'  
2392 compensation.



- 2393           7. Section 443.071(4), relating to creation of a  
 2394 fictitious employer scheme to commit reemployment assistance  
 2395 fraud.
- 2396           8. Section 465.0161, relating to distribution of medicinal  
 2397 drugs without a permit as an Internet pharmacy.
- 2398           9. Section 499.0051, relating to crimes involving  
 2399 contraband, ~~and~~ adulterated, or misbranded drugs.
- 2400           10. Part IV of chapter 501, relating to telemarketing.
- 2401           11. Chapter 517, relating to sale of securities and  
 2402 investor protection.
- 2403           12. Section 550.235 or s. 550.3551, relating to dogracing  
 2404 and horseracing.
- 2405           13. Chapter 550, relating to jai alai frontons.
- 2406           14. Section 551.109, relating to slot machine gaming.
- 2407           15. Chapter 552, relating to the manufacture,  
 2408 distribution, and use of explosives.
- 2409           16. Chapter 560, relating to money transmitters, if the  
 2410 violation is punishable as a felony.
- 2411           17. Chapter 562, relating to beverage law enforcement.
- 2412           18. Section 624.401, relating to transacting insurance  
 2413 without a certificate of authority, s. 624.437(4)(c)1., relating  
 2414 to operating an unauthorized multiple-employer welfare  
 2415 arrangement, or s. 626.902(1)(b), relating to representing or  
 2416 aiding an unauthorized insurer.
- 2417           19. Section 655.50, relating to reports of currency  
 2418 transactions, when such violation is punishable as a felony.

- 2419           20. Chapter 687, relating to interest and usurious  
 2420 practices.
- 2421           21. Section 721.08, s. 721.09, or s. 721.13, relating to  
 2422 real estate timeshare plans.
- 2423           22. Section 775.13(5)(b), relating to registration of  
 2424 persons found to have committed any offense for the purpose of  
 2425 benefiting, promoting, or furthering the interests of a criminal  
 2426 gang.
- 2427           23. Section 777.03, relating to commission of crimes by  
 2428 accessories after the fact.
- 2429           24. Chapter 782, relating to homicide.
- 2430           25. Chapter 784, relating to assault and battery.
- 2431           26. Chapter 787, relating to kidnapping or human  
 2432 trafficking.
- 2433           27. Chapter 790, relating to weapons and firearms.
- 2434           28. Chapter 794, relating to sexual battery, but only if  
 2435 such crime was committed with the intent to benefit, promote, or  
 2436 further the interests of a criminal gang, or for the purpose of  
 2437 increasing a criminal gang member's own standing or position  
 2438 within a criminal gang.
- 2439           29. Former s. 796.03, former s. 796.035, s. 796.04, s.  
 2440 796.05, or s. 796.07, relating to prostitution.
- 2441           30. Chapter 806, relating to arson and criminal mischief.
- 2442           31. Chapter 810, relating to burglary and trespass.
- 2443           32. Chapter 812, relating to theft, robbery, and related  
 2444 crimes.

- 2445 33. Chapter 815, relating to computer-related crimes.
- 2446 34. Chapter 817, relating to fraudulent practices, false  
2447 pretenses, fraud generally, and credit card crimes.
- 2448 35. Chapter 825, relating to abuse, neglect, or  
2449 exploitation of an elderly person or disabled adult.
- 2450 36. Section 827.071, relating to commercial sexual  
2451 exploitation of children.
- 2452 37. Section 828.122, relating to fighting or baiting  
2453 animals.
- 2454 38. Chapter 831, relating to forgery and counterfeiting.
- 2455 39. Chapter 832, relating to issuance of worthless checks  
2456 and drafts.
- 2457 40. Section 836.05, relating to extortion.
- 2458 41. Chapter 837, relating to perjury.
- 2459 42. Chapter 838, relating to bribery and misuse of public  
2460 office.
- 2461 43. Chapter 843, relating to obstruction of justice.
- 2462 44. Section 847.011, s. 847.012, s. 847.013, s. 847.06, or  
2463 s. 847.07, relating to obscene literature and profanity.
- 2464 45. Chapter 849, relating to gambling, lottery, gambling  
2465 or gaming devices, slot machines, or any of the provisions  
2466 within that chapter.
- 2467 46. Chapter 874, relating to criminal gangs.
- 2468 47. Chapter 893, relating to drug abuse prevention and  
2469 control.
- 2470 48. Chapter 896, relating to offenses related to financial

2471 transactions.

2472 49. Sections 914.22 and 914.23, relating to tampering with  
 2473 or harassing a witness, victim, or informant, and retaliation  
 2474 against a witness, victim, or informant.

2475 50. Sections 918.12 and 918.13, relating to tampering with  
 2476 jurors and evidence.

2477 Section 10. Paragraphs (c), (e), and (g) of subsection (3)  
 2478 of section 921.0022, Florida Statutes, are amended, and  
 2479 paragraphs (b), (d), and (h) of that subsection are republished,  
 2480 to read:

2481 921.0022 Criminal Punishment Code; offense severity  
 2482 ranking chart.—

2483 (3) OFFENSE SEVERITY RANKING CHART

2484 (b) LEVEL 2

2485

| Florida Statute        | Felony Degree | Description  |
|------------------------|---------------|--|
| 379.2431<br>(1) (e) 3. | 3rd           | Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act. |
| 379.2431<br>(1) (e) 4. | 3rd           | Possession of more than 11 marine turtle eggs in violation of the Marine                       |

2486

2487

Turtle Protection Act.

2488

403.413(6)(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.

2489

517.07(2)

3rd Failure to furnish a prospectus meeting requirements.

2490

590.28(1)

3rd Intentional burning of lands.

2491

784.05(3)

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

2492

787.04(1)

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

|      |                 |     |  |
|------|-----------------|-----|--|
| 2493 | 806.13(1)(b)3.  | 3rd | Criminal mischief; damage \$1,000 or more to public communication or any other public service.           |
| 2494 | 810.061(2)      | 3rd | Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.             |
| 2495 | 810.09(2)(e)    | 3rd | Trespassing on posted commercial horticulture property.  |
| 2496 | 812.014(2)(c)1. | 3rd | Grand theft, 3rd degree; \$300 or more but less than \$5,000.  |
| 2497 | 812.014(2)(d)   | 3rd | Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling. |
| 2498 |                 |     |  |

|      |                 |     |   |
|------|-----------------|-----|---|
| 2499 | 812.015(7)      | 3rd | Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure. |
| 2500 | 817.234(1)(a)2. | 3rd | False statement in support of insurance claim.  |
| 2501 | 817.481(3)(a)   | 3rd | Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.    |
| 2502 | 817.52(3)       | 3rd | Failure to redeliver hired vehicle.   |
| 2503 | 817.54          | 3rd | With intent to defraud, obtain mortgage note, etc., by false representation.                        |
| 2504 | 817.60(5)       | 3rd | Dealing in credit cards of another.   |
|      | 817.60(6)(a)    | 3rd | Forgery; purchase goods, services with  |

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|      |        |     |  |
|------|--------|-----|--|
|      |        |     | false card.  |
| 2505 | 817.61 | 3rd | Fraudulent use of credit cards over \$100 or more within 6 months.                 |
| 2506 | 826.04 | 3rd | Knowingly marries or has sexual intercourse with person to whom related.           |
| 2507 | 831.01 | 3rd | Forgery.   |
| 2508 | 831.02 | 3rd | Uttering forged instrument; utters or publishes alteration with intent to defraud. |
| 2509 | 831.07 | 3rd | Forging bank bills, checks, drafts, or promissory notes.                           |
| 2510 | 831.08 | 3rd | Possessing 10 or more forged notes, bills, checks, or drafts.                      |
| 2511 | 831.09 | 3rd | Uttering forged notes, bills, checks, drafts, or promissory notes.                 |



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2512

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

2513

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

2514

843.08 3rd False personation.

2515

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

2516

893.147(2) 3rd Manufacture or delivery of drug  
paraphernalia.

2517

2518

2519 (c) LEVEL 3

2520

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|      | Florida Statute       | Felony Degree | Description   |
|------|-----------------------|---------------|---|
| 2521 | 119.10(2)(b)          | 3rd           | Unlawful use of confidential information from police reports.   |
| 2522 | 316.066<br>(3)(b)-(d) | 3rd           | Unlawfully obtaining or using confidential crash reports.   |
| 2523 | 316.193(2)(b)         | 3rd           | Felony DUI, 3rd conviction.   |
| 2524 | 316.1935(2)           | 3rd           | Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated. |
| 2525 | 319.30(4)             | 3rd           | Possession by junkyard of motor vehicle with identification number plate removed.                         |
| 2526 | 319.33(1)(a)          | 3rd           | Alter or forge any certificate of title to a motor vehicle or mobile                                      |

home.

2527

319.33(1)(c)

3rd Procure or pass title  
on stolen vehicle.

2528

319.33(4)

3rd With intent to defraud,  
possess, sell, etc., a blank,  
forged, or unlawfully obtained  
title or registration.

2529

327.35(2)(b)

3rd Felony BUI.

2530

328.05(2)

3rd Possess, sell, or  
counterfeit fictitious,  
stolen, or fraudulent titles  
or bills of sale of vessels.

2531

328.07(4)

3rd Manufacture, exchange, or  
possess vessel with  
counterfeit or wrong ID  
number.

2532

376.302(5)

3rd Fraud related to reimbursement  
for cleanup expenses under the  
Inland Protection Trust Fund.

2533

|      |                            |     |  |
|------|----------------------------|-----|--|
|      | 379.2431<br>(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. |
| 2534 | 379.2431<br>(1) (e) 6.     | 3rd | Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.  |
| 2535 | 400.9935 (4) (a)<br>or (b) | 3rd | Operating a clinic, or offering services requiring licensure, without a license.   |
| 2536 | 400.9935 (4) (e)           | 3rd | Filing a false license application or other required information or failing to report information.   |
| 2537 |                            |     |  |

|      |                        |     |   |
|------|------------------------|-----|---|
| 2538 | 440.1051(3)            | 3rd | False report of workers' compensation fraud or retaliation for making such a report.            |
| 2539 | 501.001(2)(b)          | 2nd | Tampers with a consumer product or the container using materially false/misleading information. |
| 2540 | 624.401(4)(a)          | 3rd | Transacting insurance without a certificate of authority.                                       |
| 2541 | 624.401(4)(b)1.        | 3rd | Transacting insurance without a certificate of authority; premium collected less than \$20,000. |
| 2542 | 626.902(1)(a) &<br>(b) | 3rd | Representing an unauthorized insurer.   |
| 2543 | 697.08                 | 3rd | Equity skimming.  |
|      | 790.15(3)              | 3rd | Person directs another to   |

|      |                 |     |   |
|------|-----------------|-----|---|
|      |                 |     | discharge firearm from a vehicle.   |
| 2544 | 806.10(1)       | 3rd | Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.      |
| 2545 | 806.10(2)       | 3rd | Interferes with or assaults firefighter in performance of duty.                                 |
| 2546 | 810.09(2)(c)    | 3rd | Trespass on property other than structure or conveyance armed with firearm or dangerous weapon. |
| 2547 | 812.014(2)(c)2. | 3rd | Grand theft; \$5,000 or more but less than \$10,000.  |
| 2548 | 812.0145(2)(c)  | 3rd | Theft from person 65 years of age or older; \$300 or more but less than \$10,000.               |

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|      |                          |     |   |
|------|--------------------------|-----|---|
| 2549 | 815.04 (5) (b)           | 2nd | Computer offense<br>devised to defraud or<br>obtain property.   |
| 2550 | 817.034 (4) (a) 3.       | 3rd | Engages in scheme to<br>defraud (Florida<br>Communications Fraud Act),<br>property valued at less<br>than \$20,000. |
| 2551 | 817.233                  | 3rd | Burning to defraud<br>insurer.  |
| 2552 | 817.234<br>(8) (b) & (c) | 3rd | Unlawful solicitation of persons<br>involved in motor vehicle<br>accidents.   |
| 2553 | 817.234 (11) (a)         | 3rd | Insurance fraud;<br>property value less<br>than \$20,000.   |
| 2554 | 817.236                  | 3rd | Filing a false motor vehicle<br>insurance application.  |
| 2555 | 817.2361                 | 3rd | Creating, marketing, or   |

|      |               |     |  |
|------|---------------|-----|--|
| 2556 | 817.413(2)    | 3rd | presenting a false or fraudulent motor vehicle insurance card.<br>Sale of used goods as new.               |
| 2557 | 817.505(4)    | 3rd | Patient brokering.   |
| 2558 | 828.12(2)     | 3rd | Tortures any animal with intent to inflict intense pain, serious physical injury, or death.                |
| 2559 | 831.28(2)(a)  | 3rd | Counterfeiting a payment instrument with intent to defraud or possessing a counterfeit payment instrument. |
| 2560 | 831.29        | 2nd | Possession of instruments for counterfeiting driver licenses or identification cards.                      |
| 2561 | 838.021(3)(b) | 3rd | Threatens unlawful   |





(2)(c)8., (2)(c)9., (3),  
or (4) drugs within 1,000  
feet of university.

2567

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.

2568

893.13(4)(c)

3rd

Use or hire of minor;  
deliver to minor other  
controlled substances.

2569

893.13(6)(a)

3rd

Possession of any  
controlled substance  
other than felony  
possession of cannabis.

2570

893.13(7)(a)8.

3rd

Withhold information from  
practitioner regarding  
previous receipt of or

prescription for a  
controlled substance.

2571

893.13(7)(a)9.

3rd Obtain or attempt to obtain  
controlled substance by fraud,  
forgery, misrepresentation,  
etc.

2572

893.13(7)(a)10.

3rd Affix false or forged  
label to package of  
controlled substance.

2573

893.13(7)(a)11.

3rd Furnish false or  
fraudulent material  
information on any  
document or record  
required by chapter  
893.

2574

893.13(8)(a)1.

3rd Knowingly assist a patient,  
other person, or owner of an  
animal in obtaining a  
controlled substance through  
deceptive, untrue, or  
fraudulent representations  
in or related to the

|      |                |     |  |
|------|----------------|-----|--|
| 2575 | 893.13(8)(a)2. | 3rd | <p>practitioner's practice.</p> <p>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.</p> |
| 2576 | 893.13(8)(a)3. | 3rd | <p>Knowingly write a prescription for a controlled substance for a fictitious person.</p>  |
| 2577 | 893.13(8)(a)4. | 3rd | <p>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.</p> |
| 2578 | 918.13(1)(a)   | 3rd | <p>Alter, destroy, or conceal investigation evidence.</p>  |
| 2579 |                |     |  |

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|      |                         |                  |   |
|------|-------------------------|------------------|---|
| 2580 | 944.47<br>(1)(a)1. & 2. | 3rd              | Introduce contraband to<br>correctional facility.   |
| 2581 | 944.47(1)(c)            | 2nd              | Possess contraband while<br>upon the grounds of a<br>correctional institution.  |
| 2582 | 985.721                 | 3rd              | Escapes from a juvenile<br>facility (secure detention or<br>residential commitment<br>facility).  |
| 2583 | (d) LEVEL 4             |                  |   |
| 2584 | Florida<br>Statute      | Felony<br>Degree | Description   |
| 2585 | 316.1935(3)(a)          | 2nd              | Driving at high speed or<br>with wanton disregard<br>for safety while fleeing<br>or attempting to elude<br>law enforcement officer<br>who is in a patrol<br>vehicle with siren and<br>lights activated. |
| 2586 |                         |                  |   |

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|      |                 |     |   |
|------|-----------------|-----|---|
| 2587 | 499.0051 (1)    | 3rd | Failure to maintain or deliver pedigree papers.   |
| 2588 | 499.0051 (2)    | 3rd | Failure to authenticate pedigree papers.  |
| 2589 | 499.0051 (6)    | 2nd | Knowing sale or delivery, or possession with intent to sell, contraband prescription drugs. |
| 2590 | 517.07 (1)      | 3rd | Failure to register securities.   |
| 2591 | 517.12 (1)      | 3rd | Failure of dealer, associated person, or issuer of securities to register.                  |
| 2592 | 784.07 (2) (b)  | 3rd | Battery of law enforcement officer, firefighter, etc.                                       |
|      | 784.074 (1) (c) | 3rd | Battery of sexually violent predators facility staff.                                       |

|      |                |     |   |
|------|----------------|-----|---|
| 2593 | 784.075        | 3rd | Battery on detention or<br>commitment facility staff.   |
| 2594 | 784.078        | 3rd | Battery of facility employee<br>by throwing, tossing, or<br>expelling certain fluids or<br>materials. |
| 2595 | 784.08 (2) (c) | 3rd | Battery on a person<br>65 years of age or<br>older.   |
| 2596 | 784.081 (3)    | 3rd | Battery on specified<br>official or employee.   |
| 2597 | 784.082 (3)    | 3rd | Battery by detained<br>person on visitor or<br>other detainee.  |
| 2598 | 784.083 (3)    | 3rd | Battery on code inspector.  |
| 2599 | 784.085        | 3rd | Battery of child by throwing,<br>tossing, projecting, or<br>expelling certain fluids or<br>materials. |

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|      |                 |     |   |
|------|-----------------|-----|---|
| 2600 | 787.03 (1)      | 3rd | Interference with custody;<br>wrongly takes minor from<br>appointed guardian.   |
| 2601 | 787.04 (2)      | 3rd | Take, entice, or remove child<br>beyond state limits with<br>criminal intent pending<br>custody proceedings.  |
| 2602 | 787.04 (3)      | 3rd | Carrying child beyond state<br>lines with criminal intent<br>to avoid producing child at<br>custody hearing or<br>delivering to designated<br>person. |
| 2603 | 787.07          | 3rd | Human smuggling.  |
| 2604 | 790.115 (1)     | 3rd | Exhibiting firearm or<br>weapon within 1,000 feet<br>of a school.   |
| 2605 | 790.115 (2) (b) | 3rd | Possessing electric<br>weapon or device,<br>destructive device, or  |



|      |               |     |   |
|------|---------------|-----|---|
|      |               |     | other weapon on school property.  |
| 2606 | 790.115(2)(c) | 3rd | Possessing firearm on school property.  |
| 2607 | 800.04(7)(c)  | 3rd | Lewd or lascivious exhibition; offender less than 18 years.                                   |
| 2608 | 810.02(4)(a)  | 3rd | Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.  |
| 2609 | 810.02(4)(b)  | 3rd | Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery. |
| 2610 | 810.06        | 3rd | Burglary; possession of tools.  |
| 2611 | 810.08(2)(c)  | 3rd | Trespass on property, armed with firearm or   |

dangerous weapon.

2612

812.014 (2) (c) 3.

3rd Grand theft, 3rd degree \$10,000 or more but less than \$20,000.

2613

812.014  
(2) (c) 4.-10.

3rd Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.

2614

812.0195 (2)

3rd Dealing in stolen property by use of the Internet; property stolen \$300 or more.

2615

817.563 (1)

3rd Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.

2616

817.568 (2) (a)

3rd Fraudulent use of personal identification information.

2617

817.625 (2) (a)

3rd Fraudulent use of

scanning device or  
reencoder.

2618

828.125(1)

2nd

Kill, maim, or cause great  
bodily harm or permanent  
breeding disability to any  
registered horse or  
cattle.

2619

837.02(1)

3rd

Perjury in official  
proceedings.

2620

837.021(1)

3rd

Make contradictory statements  
in official proceedings.

2621

838.022

3rd

Official misconduct.

2622

839.13(2)(a)

3rd

Falsifying records of an  
individual in the care  
and custody of a state  
agency.

2623

839.13(2)(c)

3rd

Falsifying records of  
the Department of  
Children and Families.

2624

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|      |                |     |   |
|------|----------------|-----|---|
| 2625 | 843.021        | 3rd | Possession of a concealed handcuff key by a person in custody.  |
| 2626 | 843.025        | 3rd | Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication. |
| 2627 | 843.15(1)(a)   | 3rd | Failure to appear while on bail for felony (bond estreature or bond jumping).                                     |
| 2628 | 847.0135(5)(c) | 3rd | Lewd or lascivious exhibition using computer; offender less than 18 years.  |
| 2629 | 874.05(1)(a)   | 3rd | Encouraging or recruiting another to join a criminal gang.  |
|      | 893.13(2)(a)1. | 2nd | Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), (2)(a),   |

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(2) (b), or (2) (c) 4.  
drugs).

2630

914.14 (2)

3rd

Witnesses accepting  
bribes.

2631

914.22 (1)

3rd

Force, threaten, etc.,  
witness, victim, or  
informant.

2632

914.23 (2)

3rd

Retaliation against a  
witness, victim, or  
informant, no bodily injury.

2633

918.12

3rd

Tampering with jurors.

2634

934.215

3rd

Use of two-way communications  
device to facilitate commission of  
a crime.

2635

2636

(e) LEVEL 5

2637

Florida

Felony

Statute

Degree

Description

2638

316.027 (2) (a)

3rd

Accidents involving

|      |   |     |   |
|------|---|-----|---|
| 2639 | 316.1935(4)(a)                                | 2nd | <p>personal injuries<br/>                 other than serious<br/>                 bodily injury, failure<br/>                 to stop; leaving<br/>                 scene.</p>                      |
| 2640 | 322.34(6)                                     | 3rd | <p>Aggravated fleeing or<br/>                 eluding.</p>  |
| 2641 | 327.30(5)                                     | 3rd | <p>Careless operation of<br/>                 motor vehicle with<br/>                 suspended license,<br/>                 resulting in death or<br/>                 serious bodily injury.</p> |
| 2642 | 379.367(4)                                    | 3rd | <p>Vessel accidents<br/>                 involving personal<br/>                 injury; leaving scene.</p>   |
| 2643 | <p>379.3671<br/>                 (2)(c)3.</p> | 3rd | <p>Willful molestation of a<br/>                 commercial harvester's<br/>                 spiny lobster trap, line,<br/>                 or buoy.</p>  |
|      |   |     | <p>Willful molestation,<br/>                 possession, or removal of a</p>  |

commercial harvester's trap  
contents or trap gear by  
another harvester.

2644

381.0041 (11) (b)

3rd Donate blood,  
plasma, or organs  
knowing HIV  
positive.

2645

440.10 (1) (g)

2nd Failure to obtain workers'  
compensation coverage.

2646

440.105 (5)

2nd Unlawful solicitation for  
the purpose of making  
workers' compensation  
claims.

2647

440.381 (2)

2nd Submission of false,  
misleading, or incomplete  
information with the purpose  
of avoiding or reducing  
workers' compensation  
premiums.

2648

624.401 (4) (b) 2.

2nd Transacting insurance  
without a certificate

or authority; premium collected \$20,000 or more but less than \$100,000.

2649

626.902 (1) (c)

2nd

Representing an unauthorized insurer; repeat offender.

2650

790.01 (2)

3rd

Carrying a concealed firearm.

2651

790.162

2nd

Threat to throw or discharge destructive device.

2652

790.163 (1)

2nd

False report of deadly explosive or weapon of mass destruction.

2653

790.221 (1)

2nd

Possession of short-barreled shotgun or machine gun.

2654

790.23

2nd

Felons in possession of firearms, ammunition, or electronic weapons or devices.



|      |                  |     |  |
|------|------------------|-----|--|
| 2655 | 796.05 (1)       | 2nd | Live on earnings of a prostitute; 1st offense.   |
| 2656 | 800.04 (6) (c)   | 3rd | Lewd or lascivious conduct; offender less than 18 years of age.                              |
| 2657 | 800.04 (7) (b)   | 2nd | Lewd or lascivious exhibition; offender 18 years of age or older.                            |
| 2658 | 806.111 (1)      | 3rd | Possess, manufacture, or dispense fire bomb with intent to damage any structure or property. |
| 2659 | 812.0145 (2) (b) | 2nd | Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.         |
| 2660 | 812.015 (8)      | 3rd | Retail theft; property stolen is valued at \$300 or more and one or more                     |

|      |                                 |     |  |
|------|---------------------------------|-----|--|
|      |                                 |     | specified acts.  |
| 2661 | 812.019(1)                      | 2nd | Stolen property; dealing in or trafficking in.   |
| 2662 | 812.131(2)(b)                   | 3rd | Robbery by sudden snatching.   |
| 2663 | 812.16(2)                       | 3rd | Owning, operating, or conducting a chop shop.  |
| 2664 | 817.034(4)(a)2.                 | 2nd | Communications fraud, value \$20,000 to \$50,000.  |
| 2665 | 817.234(11)(b)                  | 2nd | Insurance fraud; property value \$20,000 or more but less than \$100,000.  |
| 2666 | 817.2341(1),<br>(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. |

2667

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 persons.

2668

817.625(2)(b)

2nd

Second or subsequent fraudulent use of scanning device or reencoder.

2669

825.1025(4)

3rd

Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.

2670

827.071(4)

2nd

Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.

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|      |                       |     |  |
|------|-----------------------|-----|--|
| 2671 | 827.071 (5)           | 3rd | Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child. |
| 2672 | 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.                |
| 2673 | 843.01                | 3rd | Resist officer with violence to person; resist arrest with violence.   |
| 2674 | 847.0135 (5) (b)      | 2nd | Lewd or lascivious exhibition using computer; offender 18 years or older.  |
| 2675 | 847.0137<br>(2) & (3) | 3rd | Transmission of pornography by electronic device or equipment.   |
| 2676 | 847.0138              | 3rd | Transmission of material   |

|      |                |     |   |
|------|----------------|-----|---|
|      | (2) & (3)      |     | harmful to minors to a minor by<br>electronic device or equipment.  |
| 2677 | 874.05(1)(b)   | 2nd | Encouraging or recruiting<br>another to join a<br>criminal gang; second or<br>subsequent offense.   |
| 2678 | 874.05(2)(a)   | 2nd | Encouraging or recruiting<br>person under 13 years of<br>age to join a criminal<br>gang.  |
| 2679 | 893.13(1)(a)1. | 2nd | Sell, manufacture, or<br>deliver cocaine (or other<br>s. 893.03(1)(a), (1)(b),<br>(1)(d), (2)(a), (2)(b), or<br>(2)(c)4. drugs).  |
| 2680 | 893.13(1)(c)2. | 2nd | Sell, manufacture, or<br>deliver cannabis (or other<br>s. 893.03(1)(c), (2)(c)1.,<br>(2)(c)2., (2)(c)3.,<br>(2)(c)5., (2)(c)6.,<br>(2)(c)7., (2)(c)8.,<br>(2)(c)9., (3), or (4) |

|      |                |     |  |
|------|----------------|-----|--|
| 2681 | 893.13(1)(d)1. | 1st | <p>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.</p>   |
| 2682 | 893.13(1)(e)2. | 2nd | <p>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.</p> <p>Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a</p> |

|      |                |     |   |
|------|----------------|-----|---|
| 2683 | 893.13(1)(f)1. | 1st | specified business site.  |
| 2684 | 893.13(4)(b)   | 2nd | <p>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.</p> <p><u>Use or hire of minor; deliver to minor other controlled substance</u><br/> <del>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).</del></p> |
| 2685 | 893.1351(1)    | 3rd | <p>Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.</p>   |
| 2686 |                |     |   |

| 2687 | (g) LEVEL 7     |        |  |
|------|-----------------|--------|--|
| 2688 | Florida         | Felony |  |
| 2689 | Statute         | Degree | Description  |
| 2689 | 316.027(2)(c)   | 1st    | Accident involving death, failure to stop; leaving scene.  |
| 2690 | 316.193(3)(c)2. | 3rd    | DUI resulting in serious bodily injury.  |
| 2691 | 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. |
| 2692 | 327.35(3)(c)2.  | 3rd    | Vessel BUI resulting   |



|      |                         |     |  |                           |
|------|-------------------------|-----|--|---------------------------|
|      |                         |     |  | in serious bodily injury. |
| 2693 | 402.319(2)              | 2nd | Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death. |                           |
| 2694 | 409.920<br>(2) (b) 1.a. | 3rd | Medicaid provider fraud; \$10,000 or less.   |                           |
| 2695 | 409.920<br>(2) (b) 1.b. | 2nd | Medicaid provider fraud; more than \$10,000, but less than \$50,000.   |                           |
| 2696 | 456.065(2)              | 3rd | Practicing a health care profession without a license.   |                           |
| 2697 | 456.065(2)              | 2nd | Practicing a health care profession without a license which results in serious bodily injury.  |                           |
| 2698 |                         |     |  |                           |

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|------|------------|-----|--|
| 2699 | 458.327(1) | 3rd | Practicing medicine<br>without a license.              |
| 2700 | 459.013(1) | 3rd | Practicing osteopathic<br>medicine without a license.  |
| 2701 | 460.411(1) | 3rd | Practicing chiropractic<br>medicine without a license. |
| 2702 | 461.012(1) | 3rd | Practicing podiatric<br>medicine without a<br>license. |
| 2703 | 462.17     | 3rd | Practicing naturopathy without a<br>license.           |
| 2704 | 463.015(1) | 3rd | Practicing optometry<br>without a license.             |
| 2705 | 464.016(1) | 3rd | Practicing nursing without<br>a license.               |
| 2706 | 465.015(2) | 3rd | Practicing pharmacy<br>without a license.              |
|      | 466.026(1) | 3rd | Practicing dentistry or                                |

|      |                 |     |   |
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|      |                 |     | dental hygiene without a license.                                   |
| 2707 | 467.201         | 3rd | Practicing midwifery without a license.                             |
| 2708 | 468.366         | 3rd | Delivering respiratory care services without a license.             |
| 2709 | 483.828 (1)     | 3rd | Practicing as clinical laboratory personnel without a license.      |
| 2710 | 483.901 (9)     | 3rd | Practicing medical physics without a license.                       |
| 2711 | 484.013 (1) (c) | 3rd | Preparing or dispensing optical devices without a prescription.     |
| 2712 | 484.053         | 3rd | Dispensing hearing aids without a license.                          |
| 2713 | 494.0018 (2)    | 1st | Conviction of any violation of chapter 494 in which the total money |

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|------|-----------------|-----|---|
| 2714 | 560.123(8)(b)1. | 3rd | and property unlawfully obtained exceeded \$50,000 and there were five or more victims.<br>Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by a money services business. |
| 2715 | 560.125(5)(a)   | 3rd | Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.   |
| 2716 | 655.50(10)(b)1. | 3rd | Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.   |
| 2717 | 775.21(10)(a)   | 3rd | Sexual predator; failure to register; failure to renew  |

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|------|-----------------|-----|--|
| 2718 | 775.21 (10) (b) | 3rd | <p>driver license or<br/>                     identification card; other<br/>                     registration violations.</p> <p>Sexual predator working<br/>                     where children regularly<br/>                     congregate.</p> |
| 2719 | 775.21 (10) (g) | 3rd | <p>Failure to report or<br/>                     providing false<br/>                     information about a<br/>                     sexual predator; harbor<br/>                     or conceal a sexual<br/>                     predator.</p>   |
| 2720 | 782.051 (3)     | 2nd | <p>Attempted felony murder of<br/>                     a person by a person other<br/>                     than the perpetrator or the<br/>                     perpetrator of an attempted<br/>                     felony.</p>                     |
| 2721 | 782.07 (1)      | 2nd | <p>Killing of a human being by the<br/>                     act, procurement, or culpable<br/>                     negligence of another<br/>                     (manslaughter).</p>  |
| 2722 |                 |     |  |

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| 2723 | 782.071         | 2nd | Killing of a human being or unborn child by the operation of a motor vehicle in a reckless manner (vehicular homicide). |
| 2724 | 782.072         | 2nd | Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).                           |
| 2725 | 784.045(1)(a)1. | 2nd | Aggravated battery; intentionally causing great bodily harm or disfigurement.   |
| 2726 | 784.045(1)(a)2. | 2nd | Aggravated battery; using deadly weapon.  |
| 2727 | 784.045(1)(b)   | 2nd | Aggravated battery; perpetrator aware victim pregnant.  |
| 2727 | 784.048(4)      | 3rd | Aggravated stalking; violation of injunction or court order.  |

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| 2728 | 784.048 (7)     | 3rd | Aggravated stalking;<br>violation of court order.                         |
| 2729 | 784.07 (2) (d)  | 1st | Aggravated battery on law<br>enforcement officer.                         |
| 2730 | 784.074 (1) (a) | 1st | Aggravated battery on<br>sexually violent<br>predators facility<br>staff. |
| 2731 | 784.08 (2) (a)  | 1st | Aggravated battery on a<br>person 65 years of age<br>or older.            |
| 2732 | 784.081 (1)     | 1st | Aggravated battery on<br>specified official or<br>employee.               |
| 2733 | 784.082 (1)     | 1st | Aggravated battery by<br>detained person on visitor<br>or other detainee. |
| 2734 | 784.083 (1)     | 1st | Aggravated battery on code<br>inspector.                                  |

|      |                |     |  |
|------|----------------|-----|--|
| 2735 | 787.06(3)(a)2. | 1st | Human trafficking using coercion for labor and services of an adult.   |
| 2736 | 787.06(3)(e)2. | 1st | Human trafficking using coercion for labor and services by the transfer or transport of an adult from outside Florida to within the state. |
| 2737 | 790.07(4)      | 1st | Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).  |
| 2738 | 790.16(1)      | 1st | Discharge of a machine gun under specified circumstances.  |
| 2739 | 790.165(2)     | 2nd | Manufacture, sell, possess, or deliver hoax bomb.  |
| 2740 | 790.165(3)     | 2nd | Possessing, displaying, or threatening to use any hoax bomb while committing or  |



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| 2741 | 790.166(3) | 2nd      | <p>attempting to commit a felony.</p> <p>Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.</p>              |
| 2742 | 790.166(4) | 2nd      | <p>Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.</p>     |
| 2743 | 790.23     | 1st, PBL | <p>Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.</p>                              |
| 2744 | 794.08(4)  | 3rd      | <p>Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age.</p> |
| 2745 |            |          |   |

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| 2746 | 796.05 (1)        | 1st | Live on earnings of a prostitute; 2nd offense.  |
| 2747 | 796.05 (1)        | 1st | Live on earnings of a prostitute; 3rd and subsequent offense.   |
| 2748 | 800.04 (5) (c) 1. | 2nd | Lewd or lascivious molestation; victim younger than 12 years of age; offender younger than 18 years of age.                             |
| 2749 | 800.04 (5) (c) 2. | 2nd | Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years of age; offender 18 years of age or older.    |
| 2749 | 800.04 (5) (e)    | 1st | Lewd or lascivious molestation; victim 12 years of age or older but younger than 16 years; offender 18 years or older; prior conviction |

|      |                    |     |  |
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|      |                    |     | for specified sex offense.   |
| 2750 | 806.01 (2)         | 2nd | Maliciously damage structure by fire or explosive.   |
| 2751 | 810.02 (3) (a)     | 2nd | Burglary of occupied dwelling; unarmed; no assault or battery.   |
| 2752 | 810.02 (3) (b)     | 2nd | Burglary of unoccupied dwelling; unarmed; no assault or battery.   |
| 2753 | 810.02 (3) (d)     | 2nd | Burglary of occupied conveyance; unarmed; no assault or battery.   |
| 2754 | 810.02 (3) (e)     | 2nd | Burglary of authorized emergency vehicle.  |
| 2755 | 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 |

|      |                    |     |  |
|------|--------------------|-----|--|
| 2756 | 812.014 (2) (b) 2. | 2nd | <p>other property damage;<br/>1st degree grand theft.</p> <p>Property stolen,<br/>cargo valued at<br/>less than \$50,000,<br/>grand theft in 2nd<br/>degree.</p> |
| 2757 | 812.014 (2) (b) 3. | 2nd | <p>Property stolen,<br/>emergency medical<br/>equipment; 2nd degree<br/>grand theft.</p>   |
| 2758 | 812.014 (2) (b) 4. | 2nd | <p>Property stolen, law<br/>enforcement equipment<br/>from authorized<br/>emergency vehicle.</p>   |
| 2759 | 812.0145 (2) (a)   | 1st | <p>Theft from person<br/>65 years of age or<br/>older; \$50,000 or<br/>more.</p>   |
| 2760 | 812.019 (2)        | 1st | <p>Stolen property;<br/>initiates, organizes,</p>  |

plans, etc., the theft of property and traffics in stolen property.

2761

812.131(2)(a)

2nd

Robbery by sudden snatching.

2762

812.133(2)(b)

1st

Carjacking; no firearm, deadly weapon, or other weapon.

2763

817.034(4)(a)1.

1st

Communications fraud, value greater than \$50,000.

2764

817.234(8)(a)

2nd

Solicitation of motor vehicle accident victims with intent to defraud.

2765

817.234(9)

2nd

Organizing, planning, or participating in an intentional motor vehicle collision.

2766

817.234(11)(c)

1st

Insurance fraud; property value

\$100,000 or more.

2767

817.2341

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.

(2) (b) & (3) (b)

2768

817.535(2) (a)

3rd

Filing false lien or other unauthorized document.

2769

825.102(3) (b)

2nd

Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.

2770

825.103(3) (b)

2nd

Exploiting an elderly person or disabled adult and property is valued at \$10,000 or more, but less than \$50,000.

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| 2771 | 827.03 (2) (b)  | 2nd | Neglect of a child causing great bodily harm, disability, or disfigurement.         |
| 2772 | 827.04 (3)      | 3rd | Impregnation of a child under 16 years of age by person 21 years of age or older.   |
| 2773 | 837.05 (2)      | 3rd | Giving false information about alleged capital felony to a law enforcement officer. |
| 2774 | 838.015         | 2nd | Bribery.  |
| 2775 | 838.016         | 2nd | Unlawful compensation or reward for official behavior.                              |
| 2776 | 838.021 (3) (a) | 2nd | Unlawful harm to a public servant.  |
| 2777 | 838.22          | 2nd | Bid tampering.  |
| 2778 | 843.0855 (2)    | 3rd | Impersonation of a public officer or employee.                                      |

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| 2779 | 843.0855 (3)   | 3rd      | Unlawful simulation of legal process.  |
| 2780 | 843.0855 (4)   | 3rd      | Intimidation of a public officer or employee.  |
| 2781 | 847.0135 (3)   | 3rd      | Solicitation of a child, via a computer service, to commit an unlawful sex act.                  |
| 2782 | 847.0135 (4)   | 2nd      | Traveling to meet a minor to commit an unlawful sex act.   |
| 2783 | 872.06         | 2nd      | Abuse of a dead human body.  |
| 2784 | 874.05 (2) (b) | 1st      | Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense. |
| 2785 | 874.10         | 1st, PBL | Knowingly initiates, organizes, plans, finances, directs,  |



|      |                |     |  |
|------|----------------|-----|--|
| 2786 | 893.13(1)(c)1. | 1st | manages, or supervises criminal gang-related activity.   |
| 2787 | 893.13(1)(e)1. | 1st | 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. |
|      |                |     | 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.

2788

893.13(4)(a)

1st

Use or hire of minor;  
 deliver to minor other  
controlled substance cocaine  
~~(or other s. 893.03(1)(a),~~  
~~(1)(b), (1)(d), (2)(a),~~  
~~(2)(b), or (2)(c)4. drugs).~~

2789

893.135(1)(a)1.

1st

Trafficking in  
 cannabis, more than 25  
 lbs., less than 2,000  
 lbs.

2790

893.135  
 (1)(b)1.a.

1st

Trafficking in cocaine,  
 more than 28 grams, less  
 than 200 grams.

2791

893.135  
 (1)(c)1.a.

1st

Trafficking in illegal  
 drugs, more than 4 grams,  
 less than 14 grams.

2792

893.135  
 (1)(c)2.a.

1st

Trafficking in hydrocodone,  
 14 grams or more, less than  
 28 grams.

2793

|      |                         |     |   |
|------|-------------------------|-----|---|
| 2794 | 893.135<br>(1) (c) 2.b. | 1st | Trafficking in hydrocodone,<br>28 grams or more, less than<br>50 grams.           |
| 2795 | 893.135<br>(1) (c) 3.a. | 1st | Trafficking in oxycodone, 7<br>grams or more, less than 14<br>grams.              |
| 2796 | 893.135<br>(1) (c) 3.b. | 1st | Trafficking in oxycodone,<br>14 grams or more, less than<br>25 grams.             |
| 2797 | 893.135 (1) (d) 1.      | 1st | Trafficking in<br>phencyclidine, more than<br>28 grams, less than 200<br>grams.   |
| 2798 | 893.135 (1) (e) 1.      | 1st | Trafficking in<br>methaqualone, more than<br>200 grams, less than 5<br>kilograms. |
|      | 893.135 (1) (f) 1.      | 1st | Trafficking in<br>amphetamine, more than<br>14 grams, less than 28<br>grams.      |

|      |                         |     |  |
|------|-------------------------|-----|--|
| 2799 | 893.135<br>(1) (g) 1.a. | 1st | Trafficking in flunitrazepam, 4 grams or more, less than 14 grams.                         |
| 2800 | 893.135<br>(1) (h) 1.a. | 1st | Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms. |
| 2801 | 893.135<br>(1) (j) 1.a. | 1st | Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms.                  |
| 2802 | 893.135<br>(1) (k) 2.a. | 1st | Trafficking in Phenethylamines, 10 grams or more, less than 200 grams.                     |
| 2803 | 893.1351 (2)            | 2nd | Possession of place for trafficking in or manufacturing of controlled substance.           |
| 2804 | 896.101 (5) (a)         | 3rd | Money laundering, financial transactions   |

|      |                 |     |  |
|------|-----------------|-----|--|
| 2805 | 896.104(4)(a)1. | 3rd | exceeding \$300 but less than \$20,000.  |
| 2806 | 943.0435(4)(c)  | 2nd | Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000. |
| 2807 | 943.0435(8)     | 2nd | Sexual offender vacating permanent residence; failure to comply with reporting requirements.   |
| 2808 | 943.0435(9)(a)  | 3rd | Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements.                       |
| 2809 | 943.0435(13)    | 3rd | Sexual offender; failure to comply with reporting requirements.  |
|      |                 |     | Failure to report or   |

|      |                |     |  |
|------|----------------|-----|--|
| 2810 | 943.0435(14)   | 3rd | <p>providing false information about a sexual offender; harbor or conceal a sexual offender.</p> <p>Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.</p> |
| 2811 | 944.607(9)     | 3rd | <p>Sexual offender; failure to comply with reporting requirements.</p>   |
| 2812 | 944.607(10)(a) | 3rd | <p>Sexual offender; failure to submit to the taking of a digitized photograph.</p>   |
| 2813 | 944.607(12)    | 3rd | <p>Failure to report or providing false information about a sexual offender; harbor or</p>   |

|      |              |     |  |
|------|--------------|-----|--|
| 2814 | 944.607(13)  | 3rd | conceal a sexual offender.<br>Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information. |
| 2815 | 985.4815(10) | 3rd | Sexual offender; failure to submit to the taking of a digitized photograph.  |
| 2816 | 985.4815(12) | 3rd | Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender.   |
| 2817 | 985.4815(13) | 3rd | Sexual offender; failure to report and reregister; failure to respond to address verification; providing false registration information.                               |

|      |                    |         |        |  |
|------|--------------------|---------|--------|--|
| 2818 |                    |         |        |  |
| 2819 | (h)                | LEVEL 8 |        |  |
| 2820 |                    |         |        |  |
|      | Florida            |         | Felony |  |
|      | Statute            |         | Degree | Description  |
| 2821 |                    |         |        |  |
|      | 316.193            |         | 2nd    | DUI manslaughter.  |
|      | (3) (c) 3.a.       |         |        |  |
| 2822 |                    |         |        |  |
|      | 316.1935 (4) (b)   |         | 1st    | Aggravated fleeing or attempted eluding with serious bodily injury or death. |
| 2823 |                    |         |        |  |
|      | 327.35 (3) (c) 3.  |         | 2nd    | Vessel BUI manslaughter.   |
| 2824 |                    |         |        |  |
|      | 499.0051 (7)       |         | 1st    | Knowing trafficking in contraband prescription drugs.                        |
| 2825 |                    |         |        |  |
|      | 499.0051 (8)       |         | 1st    | Knowing forgery of prescription labels or prescription drug labels.          |
| 2826 |                    |         |        |  |
|      | 560.123 (8) (b) 2. |         | 2nd    | Failure to report currency or payment  |



instruments totaling or exceeding \$20,000, but less than \$100,000 by money transmitter.

2827

560.125 (5) (b)

2nd Money transmitter business by unauthorized person, currency or payment instruments totaling or exceeding \$20,000, but less than \$100,000.

2828

655.50 (10) (b) 2.

2nd Failure to report financial transactions totaling or exceeding \$20,000, but less than \$100,000 by financial institutions.

2829

777.03 (2) (a)

1st Accessory after the fact, capital felony.

2830

782.04 (4)

2nd Killing of human without design when engaged in act or attempt of any felony other than arson, sexual

|      |                |     |   |
|------|----------------|-----|---|
| 2831 | 782.051(2)     | 1st | <p>battery, robbery, burglary, kidnapping, aggravated fleeing or eluding with serious bodily injury or death, aircraft piracy, or unlawfully discharging bomb.</p> <p>Attempted felony murder while perpetrating or attempting to perpetrate a felony not enumerated in s. 782.04(3).</p> |
| 2832 | 782.071(1)(b)  | 1st | <p>Committing vehicular homicide and failing to render aid or give information.</p>   |
| 2833 | 782.072(2)     | 1st | <p>Committing vessel homicide and failing to render aid or give information.</p>  |
| 2834 | 787.06(3)(a)1. | 1st | <p>Human trafficking for labor and services of a child.</p>   |
| 2835 |                |     |   |

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| 2836 | 787.06(3)(b)   | 1st | Human trafficking using coercion for commercial sexual activity of an adult.  |
| 2837 | 787.06(3)(c)2. | 1st | Human trafficking using coercion for labor and services of an unauthorized alien adult.   |
| 2838 | 787.06(3)(e)1. | 1st | Human trafficking for labor and services by the transfer or transport of a child from outside Florida to within the state.                          |
| 2839 | 787.06(3)(f)2. | 1st | Human trafficking using coercion for commercial sexual activity by the transfer or transport of any adult from outside Florida to within the state. |
| 2839 | 790.161(3)     | 1st | Discharging a destructive   |

|      |                 |     |  |
|------|-----------------|-----|--|
| 2840 | 794.011 (5) (a) | 1st | device which results in bodily harm or property damage.<br>Sexual battery; victim 12 years of age or older but younger than 18 years; offender 18 years or older; offender does not use physical force likely to cause serious injury. |
| 2841 | 794.011 (5) (b) | 2nd | Sexual battery; victim and offender 18 years of age or older; offender does not use physical force likely to cause serious injury.   |
| 2842 | 794.011 (5) (c) | 2nd | Sexual battery; victim 12 years of   |

|      |                 |     |  |
|------|-----------------|-----|--|
|      |                 |     | age or older;<br>offender younger<br>than 18 years;<br>offender does not<br>use physical force<br>likely to cause<br>injury.   |
| 2843 | 794.011 (5) (d) | 1st | Sexual battery; victim<br>12 years of age or<br>older; offender does<br>not use physical force<br>likely to cause serious<br>injury; prior<br>conviction for<br>specified sex offense. |
| 2844 | 794.08 (3)      | 2nd | Female genital mutilation,<br>removal of a victim younger<br>than 18 years of age from<br>this state.  |
| 2845 | 800.04 (4) (b)  | 2nd | Lewd or lascivious<br>battery.   |
| 2846 | 800.04 (4) (c)  | 1st | Lewd or lascivious   |

|      |                 |          |   |
|------|-----------------|----------|---|
|      |                 |          | battery; offender 18 years of age or older; prior conviction for specified sex offense.           |
| 2847 | 806.01(1)       | 1st      | Maliciously damage dwelling or structure by fire or explosive, believing person in structure.     |
| 2848 | 810.02(2)(a)    | 1st, PBL | Burglary with assault or battery.   |
| 2849 | 810.02(2)(b)    | 1st, PBL | Burglary; armed with explosives or dangerous weapon.  |
| 2850 | 810.02(2)(c)    | 1st      | Burglary of a dwelling or structure causing structural damage or \$1,000 or more property damage. |
| 2851 | 812.014(2)(a)2. | 1st      | Property stolen; cargo valued at  |

|      |                 |     |  |
|------|-----------------|-----|--|
|      |                 |     | \$50,000 or more,<br>grand theft in 1st<br>degree.   |
| 2852 | 812.13(2)(b)    | 1st | Robbery with a<br>weapon.  |
| 2853 | 812.135(2)(c)   | 1st | Home-invasion<br>robbery, no firearm,<br>deadly weapon, or<br>other weapon.                                |
| 2854 | 817.535(2)(b)   | 2nd | Filing false lien or other<br>unauthorized document;<br>second or subsequent<br>offense.                   |
| 2855 | 817.535(3)(a)   | 2nd | Filing false lien or other<br>unauthorized document;<br>property owner is a public<br>officer or employee. |
| 2856 | 817.535(4)(a)1. | 2nd | Filing false lien or<br>other unauthorized<br>document; defendant is<br>incarcerated or under              |

|      |               |     |  |
|------|---------------|-----|--|
| 2857 |               |     | supervision.   |
|      | 817.535(5)(a) | 2nd | Filing false lien or other unauthorized document; owner of the property incurs financial loss as a result of the false instrument. |
| 2858 |               |     |  |
|      | 817.568(6)    | 2nd | Fraudulent use of personal identification information of an individual under the age of 18.  |
| 2859 |               |     |  |
|      | 825.102(2)    | 1st | Aggravated abuse of an elderly person or disabled adult.   |
| 2860 |               |     |  |
|      | 825.1025(2)   | 2nd | Lewd or lascivious battery upon an elderly person or disabled adult.   |
| 2861 |               |     |  |
|      | 825.103(3)(a) | 1st | Exploiting an elderly person or disabled adult and property is valued at \$50,000 or   |



|      |                 |     |  |
|------|-----------------|-----|--|
| 2862 |                 |     | more.  |
|      | 837.02 (2)      | 2nd | Perjury in official proceedings relating to prosecution of a capital felony.                         |
| 2863 |                 |     |  |
|      | 837.021 (2)     | 2nd | Making contradictory statements in official proceedings relating to prosecution of a capital felony. |
| 2864 |                 |     |  |
|      | 860.121 (2) (c) | 1st | Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.       |
| 2865 |                 |     |  |
|      | 860.16          | 1st | Aircraft piracy.   |
| 2866 |                 |     |  |
|      | 893.13 (1) (b)  | 1st | Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1) (a) or (b).         |
| 2867 |                 |     |  |

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|      |                       |     |  |
|------|-----------------------|-----|--|
| 2868 | 893.13(2)(b)          | 1st | Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b). |
| 2869 | 893.13(6)(c)          | 1st | Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).  |
| 2870 | 893.135(1)(a)2.       | 1st | Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.                 |
| 2871 | 893.135<br>(1)(b)1.b. | 1st | Trafficking in cocaine, more than 200 grams, less than 400 grams.                    |
| 2872 | 893.135<br>(1)(c)1.b. | 1st | Trafficking in illegal drugs, more than 14 grams, less than 28 grams.                |
| 2872 | 893.135<br>(1)(c)2.c. | 1st | Trafficking in hydrocodone, 50 grams or more, less than 200 grams.                   |



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|      |                         |     |   |
|------|-------------------------|-----|---|
| 2880 | 893.135<br>(1) (j) 1.b. | 1st | Trafficking in 1,4-<br>Butanediol, 5 kilograms or<br>more, less than 10<br>kilograms.                                     |
| 2881 | 893.135<br>(1) (k) 2.b. | 1st | Trafficking in Phenethylamines,<br>200 grams or more, less than 400<br>grams.   |
| 2882 | 893.1351 (3)            | 1st | Possession of a place used<br>to manufacture controlled<br>substance when minor is<br>present or resides there.           |
| 2883 | 895.03 (1)              | 1st | Use or invest proceeds<br>derived from pattern of<br>racketeering activity.   |
| 2884 | 895.03 (2)              | 1st | Acquire or maintain through<br>racketeering activity any<br>interest in or control of any<br>enterprise or real property. |
|      | 895.03 (3)              | 1st | Conduct or participate in any<br>enterprise through pattern of<br>racketeering activity.                                  |



2899 | harm has occurred, the following factors must be considered in  
 2900 | evaluating any physical, mental, or emotional injury to a child:  
 2901 | the age of the child; any prior history of injuries to the  
 2902 | child; the location of the injury on the body of the child; the  
 2903 | multiplicity of the injury; and the type of trauma inflicted.

2904 | Such injury includes, but is not limited to:

- 2905 |       1. Willful acts that produce the following specific  
 2906 | injuries:
- 2907 |           a. Sprains, dislocations, or cartilage damage.
  - 2908 |           b. Bone or skull fractures.
  - 2909 |           c. Brain or spinal cord damage.
  - 2910 |           d. Intracranial hemorrhage or injury to other internal  
 2911 | organs.
  - 2912 |           e. Asphyxiation, suffocation, or drowning.
  - 2913 |           f. Injury resulting from the use of a deadly weapon.
  - 2914 |           g. Burns or scalding.
  - 2915 |           h. Cuts, lacerations, punctures, or bites.
  - 2916 |           i. Permanent or temporary disfigurement.
  - 2917 |           j. Permanent or temporary loss or impairment of a body  
 2918 | part or function.

2919 |  
 2920 | As used in this subparagraph, the term "willful" refers to the  
 2921 | intent to perform an action, not to the intent to achieve a  
 2922 | result or to cause an injury.

- 2923 |       2. Purposely giving a child poison, alcohol, drugs, or  
 2924 | other substances that substantially affect the child's behavior,

2925 motor coordination, or judgment or that result in sickness or  
 2926 internal injury. For the purposes of this subparagraph, the term  
 2927 "drugs" means prescription drugs not prescribed for the child or  
 2928 not administered as prescribed, and controlled substances as  
 2929 outlined in Schedule I or Schedule II of s. 893.03.

2930 3. Leaving a child without adult supervision or  
 2931 arrangement appropriate for the child's age or mental or  
 2932 physical condition, so that the child is unable to care for the  
 2933 child's own needs or another's basic needs or is unable to  
 2934 exercise good judgment in responding to any kind of physical or  
 2935 emotional crisis.

2936 4. Inappropriate or excessively harsh disciplinary action  
 2937 that is likely to result in physical injury, mental injury as  
 2938 defined in this section, or emotional injury. The significance  
 2939 of any injury must be evaluated in light of the following  
 2940 factors: the age of the child; any prior history of injuries to  
 2941 the child; the location of the injury on the body of the child;  
 2942 the multiplicity of the injury; and the type of trauma  
 2943 inflicted. Corporal discipline may be considered excessive or  
 2944 abusive when it results in any of the following or other similar  
 2945 injuries:

- 2946 a. Sprains, dislocations, or cartilage damage.
- 2947 b. Bone or skull fractures.
- 2948 c. Brain or spinal cord damage.
- 2949 d. Intracranial hemorrhage or injury to other internal  
 2950 organs.

2951 e. Asphyxiation, suffocation, or drowning.  
 2952 f. Injury resulting from the use of a deadly weapon.  
 2953 g. Burns or scalding.  
 2954 h. Cuts, lacerations, punctures, or bites.  
 2955 i. Permanent or temporary disfigurement.  
 2956 j. Permanent or temporary loss or impairment of a body  
 2957 part or function.  
 2958 k. Significant bruises or welts.  
 2959 (g) Exposes a child to a controlled substance or alcohol.  
 2960 Exposure to a controlled substance or alcohol is established by:  
 2961 1. A test, administered at birth, which indicated that the  
 2962 child's blood, urine, or meconium contained any amount of  
 2963 alcohol or a controlled substance or metabolites of such  
 2964 substances, the presence of which was not the result of medical  
 2965 treatment administered to the mother or the newborn infant; or  
 2966 2. Evidence of extensive, abusive, and chronic use of a  
 2967 controlled substance or alcohol by a parent when the child is  
 2968 demonstrably adversely affected by such usage.  
 2969  
 2970 As used in this paragraph, the term "controlled substance" means  
 2971 prescription drugs not prescribed for the parent or not  
 2972 administered as prescribed and controlled substances as outlined  
 2973 in Schedule I or Schedule II of s. 893.03.  
 2974 Section 12. For the purpose of incorporating the amendment  
 2975 made by this act to section 893.03, Florida Statutes, in a  
 2976 reference thereto, subsection (5) of section 316.193, Florida



2977 Statutes, is reenacted to read:  
 2978       316.193 Driving under the influence; penalties.—  
 2979       (5) The court shall place all offenders convicted of  
 2980 violating this section on monthly reporting probation and shall  
 2981 require completion of a substance abuse course conducted by a  
 2982 DUI program licensed by the department under s. 322.292, which  
 2983 must include a psychosocial evaluation of the offender. If the  
 2984 DUI program refers the offender to an authorized substance abuse  
 2985 treatment provider for substance abuse treatment, in addition to  
 2986 any sentence or fine imposed under this section, completion of  
 2987 all such education, evaluation, and treatment is a condition of  
 2988 reporting probation. The offender shall assume reasonable costs  
 2989 for such education, evaluation, and treatment. The referral to  
 2990 treatment resulting from a psychosocial evaluation shall not be  
 2991 waived without a supporting independent psychosocial evaluation  
 2992 conducted by an authorized substance abuse treatment provider  
 2993 appointed by the court, which shall have access to the DUI  
 2994 program's psychosocial evaluation before the independent  
 2995 psychosocial evaluation is conducted. The court shall review the  
 2996 results and recommendations of both evaluations before  
 2997 determining the request for waiver. The offender shall bear the  
 2998 full cost of this procedure. The term "substance abuse" means  
 2999 the abuse of alcohol or any substance named or described in  
 3000 Schedules I through V of s. 893.03. If an offender referred to  
 3001 treatment under this subsection fails to report for or complete  
 3002 such treatment or fails to complete the DUI program substance

3003 | abuse education course and evaluation, the DUI program shall  
 3004 | notify the court and the department of the failure. Upon receipt  
 3005 | of the notice, the department shall cancel the offender's  
 3006 | driving privilege, notwithstanding the terms of the court order  
 3007 | or any suspension or revocation of the driving privilege. The  
 3008 | department may temporarily reinstate the driving privilege on a  
 3009 | restricted basis upon verification from the DUI program that the  
 3010 | offender is currently participating in treatment and the DUI  
 3011 | education course and evaluation requirement has been completed.  
 3012 | If the DUI program notifies the department of the second failure  
 3013 | to complete treatment, the department shall reinstate the  
 3014 | driving privilege only after notice of completion of treatment  
 3015 | from the DUI program. The organization that conducts the  
 3016 | substance abuse education and evaluation may not provide  
 3017 | required substance abuse treatment unless a waiver has been  
 3018 | granted to that organization by the department. A waiver may be  
 3019 | granted only if the department determines, in accordance with  
 3020 | its rules, that the service provider that conducts the substance  
 3021 | abuse education and evaluation is the most appropriate service  
 3022 | provider and is licensed under chapter 397 or is exempt from  
 3023 | such licensure. A statistical referral report shall be submitted  
 3024 | quarterly to the department by each organization authorized to  
 3025 | provide services under this section.

3026 |         Section 13. For the purpose of incorporating the amendment  
 3027 | made by this act to section 893.03, Florida Statutes, in a  
 3028 | reference thereto, paragraph (c) of subsection (2) of section

3029 | 322.2616, Florida Statutes, is reenacted to read:

3030 |       322.2616 Suspension of license; persons under 21 years of  
3031 | age; right to review.—

3032 |       (2)

3033 |       (c) When a driver subject to this section has a blood-  
3034 | alcohol or breath-alcohol level of 0.05 or higher, the  
3035 | suspension shall remain in effect until such time as the driver  
3036 | has completed a substance abuse course offered by a DUI program  
3037 | licensed by the department. The driver shall assume the  
3038 | reasonable costs for the substance abuse course. As part of the  
3039 | substance abuse course, the program shall conduct a substance  
3040 | abuse evaluation of the driver, and notify the parents or legal  
3041 | guardians of drivers under the age of 19 years of the results of  
3042 | the evaluation. The term "substance abuse" means the abuse of  
3043 | alcohol or any substance named or described in Schedules I  
3044 | through V of s. 893.03. If a driver fails to complete the  
3045 | substance abuse education course and evaluation, the driver  
3046 | license shall not be reinstated by the department.

3047 |       Section 14. For the purpose of incorporating the amendment  
3048 | made by this act to section 893.03, Florida Statutes, in a  
3049 | reference thereto, subsection (5) of section 327.35, Florida  
3050 | Statutes, is reenacted to read:

3051 |       327.35 Boating under the influence; penalties; "designated  
3052 | drivers."—

3053 |       (5) In addition to any sentence or fine, the court shall  
3054 | place any offender convicted of violating this section on

3055 monthly reporting probation and shall require attendance at a  
 3056 substance abuse course specified by the court; and the agency  
 3057 conducting the course may refer the offender to an authorized  
 3058 service provider for substance abuse evaluation and treatment,  
 3059 in addition to any sentence or fine imposed under this section.  
 3060 The offender shall assume reasonable costs for such education,  
 3061 evaluation, and treatment, with completion of all such  
 3062 education, evaluation, and treatment being a condition of  
 3063 reporting probation. Treatment resulting from a psychosocial  
 3064 evaluation may not be waived without a supporting psychosocial  
 3065 evaluation conducted by an agency appointed by the court and  
 3066 with access to the original evaluation. The offender shall bear  
 3067 the cost of this procedure. The term "substance abuse" means the  
 3068 abuse of alcohol or any substance named or described in  
 3069 Schedules I-V of s. 893.03.

3070 Section 15. For the purpose of incorporating the amendment  
 3071 made by this act to section 893.03, Florida Statutes, in a  
 3072 reference thereto, paragraph (b) of subsection (11) of section  
 3073 440.102, Florida Statutes, is reenacted to read:

3074 440.102 Drug-free workplace program requirements.—The  
 3075 following provisions apply to a drug-free workplace program  
 3076 implemented pursuant to law or to rules adopted by the Agency  
 3077 for Health Care Administration:

3078 (11) PUBLIC EMPLOYEES IN MANDATORY-TESTING OR SPECIAL-RISK  
 3079 POSITIONS.—

3080 (b) An employee who is employed by a public employer in a

3081 special-risk position may be discharged or disciplined by a  
 3082 public employer for the first positive confirmed test result if  
 3083 the drug confirmed is an illicit drug under s. 893.03. A  
 3084 special-risk employee who is participating in an employee  
 3085 assistance program or drug rehabilitation program may not be  
 3086 allowed to continue to work in any special-risk or mandatory-  
 3087 testing position of the public employer, but may be assigned to  
 3088 a position other than a mandatory-testing position or placed on  
 3089 leave while the employee is participating in the program.  
 3090 However, the employee shall be permitted to use any accumulated  
 3091 annual leave credits before leave may be ordered without pay.

3092 Section 16. For the purpose of incorporating the amendment  
 3093 made by this act to section 893.03, Florida Statutes, in a  
 3094 reference thereto, subsection (2) of section 456.44, Florida  
 3095 Statutes, is reenacted to read:

3096 456.44 Controlled substance prescribing.—

3097 (2) REGISTRATION.—Effective January 1, 2012, a physician  
 3098 licensed under chapter 458, chapter 459, chapter 461, or chapter  
 3099 466 who prescribes any controlled substance, listed in Schedule  
 3100 II, Schedule III, or Schedule IV as defined in s. 893.03, for  
 3101 the treatment of chronic nonmalignant pain, must:

3102 (a) Designate himself or herself as a controlled substance  
 3103 prescribing practitioner on the physician's practitioner  
 3104 profile.

3105 (b) Comply with the requirements of this section and  
 3106 applicable board rules.

3107 Section 17. For the purpose of incorporating the amendment  
 3108 made by this act to section 893.03, Florida Statutes, in a  
 3109 reference thereto, subsection (3) of section 458.326, Florida  
 3110 Statutes, is reenacted to read:

3111 458.326 Intractable pain; authorized treatment.—

3112 (3) Notwithstanding any other provision of law, a  
 3113 physician may prescribe or administer any controlled substance  
 3114 under Schedules II-V, as provided for in s. 893.03, to a person  
 3115 for the treatment of intractable pain, provided the physician  
 3116 does so in accordance with that level of care, skill, and  
 3117 treatment recognized by a reasonably prudent physician under  
 3118 similar conditions and circumstances.

3119 Section 18. For the purpose of incorporating the amendment  
 3120 made by this act to section 893.03, Florida Statutes, in a  
 3121 reference thereto, paragraph (e) of subsection (1) of section  
 3122 458.3265, Florida Statutes, is reenacted to read:

3123 458.3265 Pain-management clinics.—

3124 (1) REGISTRATION.—

3125 (e) The department shall deny registration to any pain-  
 3126 management clinic owned by or with any contractual or employment  
 3127 relationship with a physician:

3128 1. Whose Drug Enforcement Administration number has ever  
 3129 been revoked.

3130 2. Whose application for a license to prescribe, dispense,  
 3131 or administer a controlled substance has been denied by any  
 3132 jurisdiction.

3133           3. Who has been convicted of or pleaded guilty or nolo  
 3134   contendere to, regardless of adjudication, an offense that  
 3135   constitutes a felony for receipt of illicit and diverted drugs,  
 3136   including a controlled substance listed in Schedule I, Schedule  
 3137   II, Schedule III, Schedule IV, or Schedule V of s. 893.03, in  
 3138   this state, any other state, or the United States.

3139           Section 19. For the purpose of incorporating the amendment  
 3140   made by this act to section 893.03, Florida Statutes, in a  
 3141   reference thereto, paragraph (e) of subsection (1) of section  
 3142   459.0137, Florida Statutes, is reenacted to read:

3143           459.0137 Pain-management clinics.—

3144           (1) REGISTRATION.—

3145           (e) The department shall deny registration to any pain-  
 3146   management clinic owned by or with any contractual or employment  
 3147   relationship with a physician:

3148           1. Whose Drug Enforcement Administration number has ever  
 3149   been revoked.

3150           2. Whose application for a license to prescribe, dispense,  
 3151   or administer a controlled substance has been denied by any  
 3152   jurisdiction.

3153           3. Who has been convicted of or pleaded guilty or nolo  
 3154   contendere to, regardless of adjudication, an offense that  
 3155   constitutes a felony for receipt of illicit and diverted drugs,  
 3156   including a controlled substance listed in Schedule I, Schedule  
 3157   II, Schedule III, Schedule IV, or Schedule V of s. 893.03, in  
 3158   this state, any other state, or the United States.

3159 Section 20. For the purpose of incorporating the amendment  
 3160 made by this act to section 893.03, Florida Statutes, in a  
 3161 reference thereto, paragraph (a) of subsection (4) of section  
 3162 463.0055, Florida Statutes, is reenacted to read:

3163 463.0055 Administration and prescription of ocular  
 3164 pharmaceutical agents.—

3165 (4) A certified optometrist shall be issued a prescriber  
 3166 number by the board. Any prescription written by a certified  
 3167 optometrist for an ocular pharmaceutical agent pursuant to this  
 3168 section shall have the prescriber number printed thereon. A  
 3169 certified optometrist may not administer or prescribe:

3170 (a) A controlled substance listed in Schedule III,  
 3171 Schedule IV, or Schedule V of s. 893.03, except for an oral  
 3172 analgesic placed on the formulary pursuant to this section for  
 3173 the relief of pain due to ocular conditions of the eye and its  
 3174 appendages.

3175 Section 21. For the purpose of incorporating the amendment  
 3176 made by this act to section 893.03, Florida Statutes, in a  
 3177 reference thereto, paragraph (b) of subsection (1) of section  
 3178 465.0276, Florida Statutes, is reenacted to read:

3179 465.0276 Dispensing practitioner.—

3180 (1)

3181 (b) A practitioner registered under this section may not  
 3182 dispense a controlled substance listed in Schedule II or  
 3183 Schedule III as provided in s. 893.03. This paragraph does not  
 3184 apply to:



3185 1. The dispensing of complimentary packages of medicinal  
 3186 drugs which are labeled as a drug sample or complimentary drug  
 3187 as defined in s. 499.028 to the practitioner's own patients in  
 3188 the regular course of her or his practice without the payment of  
 3189 a fee or remuneration of any kind, whether direct or indirect,  
 3190 as provided in subsection (5).

3191 2. The dispensing of controlled substances in the health  
 3192 care system of the Department of Corrections.

3193 3. The dispensing of a controlled substance listed in  
 3194 Schedule II or Schedule III in connection with the performance  
 3195 of a surgical procedure. The amount dispensed pursuant to the  
 3196 subparagraph may not exceed a 14-day supply. This exception does  
 3197 not allow for the dispensing of a controlled substance listed in  
 3198 Schedule II or Schedule III more than 14 days after the  
 3199 performance of the surgical procedure. For purposes of this  
 3200 subparagraph, the term "surgical procedure" means any procedure  
 3201 in any setting which involves, or reasonably should involve:

3202 a. Perioperative medication and sedation that allows the  
 3203 patient to tolerate unpleasant procedures while maintaining  
 3204 adequate cardiorespiratory function and the ability to respond  
 3205 purposefully to verbal or tactile stimulation and makes intra-  
 3206 and postoperative monitoring necessary; or

3207 b. The use of general anesthesia or major conduction  
 3208 anesthesia and preoperative sedation.

3209 4. The dispensing of a controlled substance listed in  
 3210 Schedule II or Schedule III pursuant to an approved clinical

3211 trial. For purposes of this subparagraph, the term "approved  
 3212 clinical trial" means a clinical research study or clinical  
 3213 investigation that, in whole or in part, is state or federally  
 3214 funded or is conducted under an investigational new drug  
 3215 application that is reviewed by the United States Food and Drug  
 3216 Administration.

3217 5. The dispensing of methadone in a facility licensed  
 3218 under s. 397.427 where medication-assisted treatment for opiate  
 3219 addiction is provided.

3220 6. The dispensing of a controlled substance listed in  
 3221 Schedule II or Schedule III to a patient of a facility licensed  
 3222 under part IV of chapter 400.

3223 Section 22. For the purpose of incorporating the amendment  
 3224 made by this act to section 893.03, Florida Statutes, in  
 3225 references thereto, subsection (14) and paragraph (a) of  
 3226 subsection (15) of section 499.0121, Florida Statutes, are  
 3227 reenacted to read:

3228 499.0121 Storage and handling of prescription drugs;  
 3229 recordkeeping.—The department shall adopt rules to implement  
 3230 this section as necessary to protect the public health, safety,  
 3231 and welfare. Such rules shall include, but not be limited to,  
 3232 requirements for the storage and handling of prescription drugs  
 3233 and for the establishment and maintenance of prescription drug  
 3234 distribution records.

3235 (14) DISTRIBUTION REPORTING.—Each prescription drug  
 3236 wholesale distributor, out-of-state prescription drug wholesale

3237 distributor, retail pharmacy drug wholesale distributor,  
 3238 manufacturer, or repackager that engages in the wholesale  
 3239 distribution of controlled substances as defined in s. 893.02  
 3240 shall submit a report to the department of its receipts and  
 3241 distributions of controlled substances listed in Schedule II,  
 3242 Schedule III, Schedule IV, or Schedule V as provided in s.  
 3243 893.03. Wholesale distributor facilities located within this  
 3244 state shall report all transactions involving controlled  
 3245 substances, and wholesale distributor facilities located outside  
 3246 this state shall report all distributions to entities located in  
 3247 this state. If the prescription drug wholesale distributor, out-  
 3248 of-state prescription drug wholesale distributor, retail  
 3249 pharmacy drug wholesale distributor, manufacturer, or repackager  
 3250 does not have any controlled substance distributions for the  
 3251 month, a report shall be sent indicating that no distributions  
 3252 occurred in the period. The report shall be submitted monthly by  
 3253 the 20th of the next month, in the electronic format used for  
 3254 controlled substance reporting to the Automation of Reports and  
 3255 Consolidated Orders System division of the federal Drug  
 3256 Enforcement Administration. Submission of electronic data must  
 3257 be made in a secured Internet environment that allows for manual  
 3258 or automated transmission. Upon successful transmission, an  
 3259 acknowledgment page must be displayed to confirm receipt. The  
 3260 report must contain the following information:  
 3261 (a) The federal Drug Enforcement Administration  
 3262 registration number of the wholesale distributing location.

3263 (b) The federal Drug Enforcement Administration  
 3264 registration number of the entity to which the drugs are  
 3265 distributed or from which the drugs are received.

3266 (c) The transaction code that indicates the type of  
 3267 transaction.

3268 (d) The National Drug Code identifier of the product and  
 3269 the quantity distributed or received.

3270 (e) The Drug Enforcement Administration Form 222 number or  
 3271 Controlled Substance Ordering System Identifier on all Schedule  
 3272 II transactions.

3273 (f) The date of the transaction.  
 3274

3275 The department must share the reported data with the Department  
 3276 of Law Enforcement and local law enforcement agencies upon  
 3277 request and must monitor purchasing to identify purchasing  
 3278 levels that are inconsistent with the purchasing entity's  
 3279 clinical needs. The Department of Law Enforcement shall  
 3280 investigate purchases at levels that are inconsistent with the  
 3281 purchasing entity's clinical needs to determine whether  
 3282 violations of chapter 893 have occurred.

3283 (15) DUE DILIGENCE OF PURCHASERS.—

3284 (a) Each prescription drug wholesale distributor, out-of-  
 3285 state prescription drug wholesale distributor, and retail  
 3286 pharmacy drug wholesale distributor must establish and maintain  
 3287 policies and procedures to credential physicians licensed under  
 3288 chapter 458, chapter 459, chapter 461, or chapter 466 and

3289 | pharmacies that purchase or otherwise receive from the wholesale  
 3290 | distributor controlled substances listed in Schedule II or  
 3291 | Schedule III as provided in s. 893.03. The prescription drug  
 3292 | wholesale distributor, out-of-state prescription drug wholesale  
 3293 | distributor, or retail pharmacy drug wholesale distributor shall  
 3294 | maintain records of such credentialing and make the records  
 3295 | available to the department upon request. Such credentialing  
 3296 | must, at a minimum, include:

3297 |       1. A determination of the clinical nature of the receiving  
 3298 | entity, including any specialty practice area.

3299 |       2. A review of the receiving entity's history of Schedule  
 3300 | II and Schedule III controlled substance purchasing from the  
 3301 | wholesale distributor.

3302 |       3. A determination that the receiving entity's Schedule II  
 3303 | and Schedule III controlled substance purchasing history, if  
 3304 | any, is consistent with and reasonable for that entity's  
 3305 | clinical business needs.

3306 |       Section 23. For the purpose of incorporating the amendment  
 3307 | made by this act to section 893.03, Florida Statutes, in a  
 3308 | reference thereto, paragraph (a) of subsection (3) of section  
 3309 | 499.029, Florida Statutes, is reenacted to read:

3310 |       499.029 Cancer Drug Donation Program.—

3311 |       (3) As used in this section:

3312 |       (a) "Cancer drug" means a prescription drug that has been  
 3313 | approved under s. 505 of the federal Food, Drug, and Cosmetic  
 3314 | Act and is used to treat cancer or its side effects or is used

3315 | to treat the side effects of a prescription drug used to treat  
 3316 | cancer or its side effects. "Cancer drug" does not include a  
 3317 | substance listed in Schedule II, Schedule III, Schedule IV, or  
 3318 | Schedule V of s. 893.03.

3319 |       Section 24. For the purpose of incorporating the amendment  
 3320 | made by this act to section 893.03, Florida Statutes, in  
 3321 | references thereto, subsections (1) and (4) of section 782.04,  
 3322 | Florida Statutes, are reenacted to read:

3323 |       782.04 Murder.—

3324 |       (1)(a) The unlawful killing of a human being:

3325 |       1. When perpetrated from a premeditated design to effect  
 3326 | the death of the person killed or any human being;

3327 |       2. When committed by a person engaged in the perpetration  
 3328 | of, or in the attempt to perpetrate, any:

3329 |       a. Trafficking offense prohibited by s. 893.135(1),

3330 |       b. Arson,

3331 |       c. Sexual battery,

3332 |       d. Robbery,

3333 |       e. Burglary,

3334 |       f. Kidnapping,

3335 |       g. Escape,

3336 |       h. Aggravated child abuse,

3337 |       i. Aggravated abuse of an elderly person or disabled  
 3338 | adult,

3339 |       j. Aircraft piracy,

3340 |       k. Unlawful throwing, placing, or discharging of a

3341 destructive device or bomb,  
 3342       1. Carjacking,  
 3343       m. Home-invasion robbery,  
 3344       n. Aggravated stalking,  
 3345       o. Murder of another human being,  
 3346       p. Resisting an officer with violence to his or her  
 3347 person,  
 3348       q. Aggravated fleeing or eluding with serious bodily  
 3349 injury or death,  
 3350       r. Felony that is an act of terrorism or is in furtherance  
 3351 of an act of terrorism; or  
 3352       3. Which resulted from the unlawful distribution of any  
 3353 substance controlled under s. 893.03(1), cocaine as described in  
 3354 s. 893.03(2)(a)4., opium or any synthetic or natural salt,  
 3355 compound, derivative, or preparation of opium, or methadone by a  
 3356 person 18 years of age or older, when such drug is proven to be  
 3357 the proximate cause of the death of the user,  
 3358  
 3359 is murder in the first degree and constitutes a capital felony,  
 3360 punishable as provided in s. 775.082.  
 3361       (b) In all cases under this section, the procedure set  
 3362 forth in s. 921.141 shall be followed in order to determine  
 3363 sentence of death or life imprisonment.  
 3364       (4) The unlawful killing of a human being, when  
 3365 perpetrated without any design to effect death, by a person  
 3366 engaged in the perpetration of, or in the attempt to perpetrate,

- 3367 any felony other than any:
- 3368 (a) Trafficking offense prohibited by s. 893.135(1),
- 3369 (b) Arson,
- 3370 (c) Sexual battery,
- 3371 (d) Robbery,
- 3372 (e) Burglary,
- 3373 (f) Kidnapping,
- 3374 (g) Escape,
- 3375 (h) Aggravated child abuse,
- 3376 (i) Aggravated abuse of an elderly person or disabled
- 3377 adult,
- 3378 (j) Aircraft piracy,
- 3379 (k) Unlawful throwing, placing, or discharging of a
- 3380 destructive device or bomb,
- 3381 (l) Unlawful distribution of any substance controlled
- 3382 under s. 893.03(1), cocaine as described in s. 893.03(2)(a)4.,
- 3383 or opium or any synthetic or natural salt, compound, derivative,
- 3384 or preparation of opium by a person 18 years of age or older,
- 3385 when such drug is proven to be the proximate cause of the death
- 3386 of the user,
- 3387 (m) Carjacking,
- 3388 (n) Home-invasion robbery,
- 3389 (o) Aggravated stalking,
- 3390 (p) Murder of another human being,
- 3391 (q) Aggravated fleeing or eluding with serious bodily
- 3392 injury or death,



3393 (r) Resisting an officer with violence to his or her  
 3394 person, or

3395 (s) Felony that is an act of terrorism or is in  
 3396 furtherance of an act of terrorism,

3397  
 3398 is murder in the third degree and constitutes a felony of the  
 3399 second degree, punishable as provided in s. 775.082, s. 775.083,  
 3400 or s. 775.084.

3401 Section 25. For the purpose of incorporating the amendment  
 3402 made by this act to section 893.03, Florida Statutes, in a  
 3403 reference thereto, paragraph (a) of subsection (2) of section  
 3404 787.06, Florida Statutes, is reenacted to read:

3405 787.06 Human trafficking.-

3406 (2) As used in this section, the term:

3407 (a) "Coercion" means:

3408 1. Using or threatening to use physical force against any  
 3409 person;

3410 2. Restraining, isolating, or confining or threatening to  
 3411 restrain, isolate, or confine any person without lawful  
 3412 authority and against her or his will;

3413 3. Using lending or other credit methods to establish a  
 3414 debt by any person when labor or services are pledged as a  
 3415 security for the debt, if the value of the labor or services as  
 3416 reasonably assessed is not applied toward the liquidation of the  
 3417 debt, the length and nature of the labor or services are not  
 3418 respectively limited and defined;

3419 4. Destroying, concealing, removing, confiscating,  
 3420 withholding, or possessing any actual or purported passport,  
 3421 visa, or other immigration document, or any other actual or  
 3422 purported government identification document, of any person;

3423 5. Causing or threatening to cause financial harm to any  
 3424 person;

3425 6. Enticing or luring any person by fraud or deceit; or

3426 7. Providing a controlled substance as outlined in  
 3427 Schedule I or Schedule II of s. 893.03 to any person for the  
 3428 purpose of exploitation of that person.

3429 Section 26. For the purpose of incorporating the amendment  
 3430 made by this act to section 893.03, Florida Statutes, in a  
 3431 reference thereto, subsection (1) of section 817.563, Florida  
 3432 Statutes, is reenacted to read:

3433 817.563 Controlled substance named or described in s.  
 3434 893.03; sale of substance in lieu thereof.—It is unlawful for  
 3435 any person to agree, consent, or in any manner offer to  
 3436 unlawfully sell to any person a controlled substance named or  
 3437 described in s. 893.03 and then sell to such person any other  
 3438 substance in lieu of such controlled substance. Any person who  
 3439 violates this section with respect to:

3440 (1) A controlled substance named or described in s.  
 3441 893.03(1), (2), (3), or (4) is guilty of a felony of the third  
 3442 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 3443 775.084.

3444 Section 27. For the purpose of incorporating the amendment

3445 made by this act to section 893.03, Florida Statutes, in a  
 3446 reference thereto, section 831.31, Florida Statutes, is  
 3447 reenacted to read:

3448 831.31 Counterfeit controlled substance; sale,  
 3449 manufacture, delivery, or possession with intent to sell,  
 3450 manufacture, or deliver.—

3451 (1) It is unlawful for any person to sell, manufacture, or  
 3452 deliver, or to possess with intent to sell, manufacture, or  
 3453 deliver, a counterfeit controlled substance. Any person who  
 3454 violates this subsection with respect to:

3455 (a) A controlled substance named or described in s.  
 3456 893.03(1), (2), (3), or (4) is guilty of a felony of the third  
 3457 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 3458 775.084.

3459 (b) A controlled substance named or described in s.  
 3460 893.03(5) is guilty of a misdemeanor of the second degree,  
 3461 punishable as provided in s. 775.082 or s. 775.083.

3462 (2) For purposes of this section, "counterfeit controlled  
 3463 substance" means:

3464 (a) A controlled substance named or described in s. 893.03  
 3465 which, or the container or labeling of which, without  
 3466 authorization bears the trademark, trade name, or other  
 3467 identifying mark, imprint, or number, or any likeness thereof,  
 3468 of a manufacturer other than the person who in fact manufactured  
 3469 the controlled substance; or

3470 (b) Any substance which is falsely identified as a

3471 controlled substance named or described in s. 893.03.

3472 Section 28. For the purpose of incorporating the amendment  
 3473 made by this act to section 893.03, Florida Statutes, in a  
 3474 reference thereto, section 893.0301, Florida Statutes, is  
 3475 reenacted to read:

3476 893.0301 Death resulting from apparent drug overdose;  
 3477 reporting requirements.—If a person dies of an apparent drug  
 3478 overdose:

3479 (1) A law enforcement agency shall prepare a report  
 3480 identifying each prescribed controlled substance listed in  
 3481 Schedule II, Schedule III, or Schedule IV of s. 893.03 which is  
 3482 found on or near the deceased or among the deceased's  
 3483 possessions. The report must identify the person who prescribed  
 3484 the controlled substance, if known or ascertainable. Thereafter,  
 3485 the law enforcement agency shall submit a copy of the report to  
 3486 the medical examiner.

3487 (2) A medical examiner who is preparing a report pursuant  
 3488 to s. 406.11 shall include in the report information identifying  
 3489 each prescribed controlled substance listed in Schedule II,  
 3490 Schedule III, or Schedule IV of s. 893.03 that was found in, on,  
 3491 or near the deceased or among the deceased's possessions.

3492 Section 29. For the purpose of incorporating the amendment  
 3493 made by this act to section 893.03, Florida Statutes, in a  
 3494 reference thereto, paragraph (a) of subsection (7) of section  
 3495 893.035, Florida Statutes, is reenacted to read:

3496 893.035 Control of new substances; findings of fact;

3497 | delegation of authority to Attorney General to control  
3498 | substances by rule.-

3499 |       (7)(a) If the Attorney General finds that the scheduling  
3500 | of a substance in Schedule I of s. 893.03 on a temporary basis  
3501 | is necessary to avoid an imminent hazard to the public safety,  
3502 | he or she may by rule and without regard to the requirements of  
3503 | subsection (5) relating to the Department of Health and the  
3504 | Department of Law Enforcement schedule such substance in  
3505 | Schedule I if the substance is not listed in any other schedule  
3506 | of s. 893.03. The Attorney General shall be required to  
3507 | consider, with respect to his or her finding of imminent hazard  
3508 | to the public safety, only those factors set forth in paragraphs  
3509 | (3)(a) and (4)(d), (e), and (f), including actual abuse,  
3510 | diversion from legitimate channels, and clandestine importation,  
3511 | manufacture, or distribution.

3512 |       Section 30. For the purpose of incorporating the amendment  
3513 | made by this act to section 893.03, Florida Statutes, in a  
3514 | reference thereto, subsection (1) of section 893.05, Florida  
3515 | Statutes, is reenacted to read:

3516 |       893.05 Practitioners and persons administering controlled  
3517 | substances in their absence.-

3518 |       (1) A practitioner, in good faith and in the course of his  
3519 | or her professional practice only, may prescribe, administer,  
3520 | dispense, mix, or otherwise prepare a controlled substance, or  
3521 | the practitioner may cause the same to be administered by a  
3522 | licensed nurse or an intern practitioner under his or her

3523 direction and supervision only. A veterinarian may so prescribe,  
 3524 administer, dispense, mix, or prepare a controlled substance for  
 3525 use on animals only, and may cause it to be administered by an  
 3526 assistant or orderly under the veterinarian's direction and  
 3527 supervision only. A certified optometrist licensed under chapter  
 3528 463 may not administer or prescribe a controlled substance  
 3529 listed in Schedule I or Schedule II of s. 893.03.

3530 Section 31. For the purpose of incorporating the amendment  
 3531 made by this act to section 893.03, Florida Statutes, in a  
 3532 reference thereto, paragraph (b) of subsection (1) of section  
 3533 893.055, Florida Statutes, is reenacted to read:

3534 893.055 Prescription drug monitoring program.—

3535 (1) As used in this section, the term:

3536 (b) "Controlled substance" means a controlled substance  
 3537 listed in Schedule II, Schedule III, or Schedule IV in s.  
 3538 893.03.

3539 Section 32. For the purpose of incorporating the amendment  
 3540 made by this act to section 893.03, Florida Statutes, in a  
 3541 reference thereto, paragraph (b) of subsection (5) of section  
 3542 893.07, Florida Statutes, is reenacted to read:

3543 893.07 Records.—

3544 (5) Each person described in subsection (1) shall:

3545 (b) In the event of the discovery of the theft or  
 3546 significant loss of controlled substances, report such theft or  
 3547 significant loss to the sheriff of that county within 24 hours  
 3548 after discovery. A person who fails to report a theft or

3549 significant loss of a substance listed in s. 893.03(3), (4), or  
 3550 (5) within 24 hours after discovery as required in this  
 3551 paragraph commits a misdemeanor of the second degree, punishable  
 3552 as provided in s. 775.082 or s. 775.083. A person who fails to  
 3553 report a theft or significant loss of a substance listed in s.  
 3554 893.03(2) within 24 hours after discovery as required in this  
 3555 paragraph commits a misdemeanor of the first degree, punishable  
 3556 as provided in s. 775.082 or s. 775.083.

3557 Section 33. For the purpose of incorporating the amendment  
 3558 made by this act to section 893.03, Florida Statutes, in  
 3559 references thereto, paragraphs (b), (c), and (d) of subsection  
 3560 (2) of section 893.12, Florida Statutes, are reenacted to read:

3561 893.12 Contraband; seizure, forfeiture, sale.-

3562 (2)

3563 (b) All real property, including any right, title,  
 3564 leasehold interest, and other interest in the whole of any lot  
 3565 or tract of land and any appurtenances or improvements, which  
 3566 real property is used, or intended to be used, in any manner or  
 3567 part, to commit or to facilitate the commission of, or which  
 3568 real property is acquired with proceeds obtained as a result of,  
 3569 a violation of any provision of this chapter related to a  
 3570 controlled substance described in s. 893.03(1) or (2) may be  
 3571 seized and forfeited as provided by the Florida Contraband  
 3572 Forfeiture Act except that no property shall be forfeited under  
 3573 this paragraph to the extent of an interest of an owner or  
 3574 lienholder by reason of any act or omission established by that

3575 owner or lienholder to have been committed or omitted without  
 3576 the knowledge or consent of that owner or lienholder.

3577 (c) All moneys, negotiable instruments, securities, and  
 3578 other things of value furnished or intended to be furnished by  
 3579 any person in exchange for a controlled substance described in  
 3580 s. 893.03(1) or (2) or a listed chemical in violation of any  
 3581 provision of this chapter, all proceeds traceable to such an  
 3582 exchange, and all moneys, negotiable instruments, and securities  
 3583 used or intended to be used to facilitate any violation of any  
 3584 provision of this chapter or which are acquired with proceeds  
 3585 obtained in violation of any provision of this chapter may be  
 3586 seized and forfeited as provided by the Florida Contraband  
 3587 Forfeiture Act, except that no property shall be forfeited under  
 3588 this paragraph to the extent of an interest of an owner or  
 3589 lienholder by reason of any act or omission established by that  
 3590 owner or lienholder to have been committed or omitted without  
 3591 the knowledge or consent of that owner or lienholder.

3592 (d) All books, records, and research, including formulas,  
 3593 microfilm, tapes, and data which are used, or intended for use,  
 3594 or which are acquired with proceeds obtained, in violation of  
 3595 any provision of this chapter related to a controlled substance  
 3596 described in s. 893.03(1) or (2) or a listed chemical may be  
 3597 seized and forfeited as provided by the Florida Contraband  
 3598 Forfeiture Act.

3599 Section 34. For the purpose of incorporating the amendment  
 3600 made by this act to section 893.03, Florida Statutes, in a



3601 reference thereto, subsection (2) of section 944.474, Florida  
 3602 Statutes, is reenacted to read:

3603 944.474 Legislative intent; employee wellness program;  
 3604 drug and alcohol testing.—

3605 (2) An employee of the department may not test positive  
 3606 for illegal use of controlled substances. An employee of the  
 3607 department may not be under the influence of alcohol while on  
 3608 duty. In order to ensure that these prohibitions are adhered to  
 3609 by all employees of the department and notwithstanding s.  
 3610 112.0455, the department may develop a program for the drug  
 3611 testing of all job applicants and for the random drug testing of  
 3612 all employees. The department may randomly evaluate employees  
 3613 for the contemporaneous use or influence of alcohol through the  
 3614 use of alcohol tests and observation methods. Notwithstanding s.  
 3615 112.0455, the department may develop a program for the  
 3616 reasonable suspicion drug testing of employees who are in  
 3617 mandatory-testing positions, as defined in s. 440.102(1)(o), or  
 3618 special risk positions, as defined in s. 112.0455(5), for the  
 3619 controlled substances listed in s. 893.03(3)(d). The reasonable  
 3620 suspicion drug testing authorized by this subsection shall be  
 3621 conducted in accordance with s. 112.0455, but may also include  
 3622 testing upon reasonable suspicion based on violent acts or  
 3623 violent behavior of an employee who is on or off duty. The  
 3624 department shall adopt rules pursuant to ss. 120.536(1) and  
 3625 120.54 that are necessary to administer this subsection.

3626 Section 35. For the purpose of incorporating the amendment

3627 made by this act to section 893.033, Florida Statutes, in a  
 3628 reference thereto, subsection (4) of section 893.149, Florida  
 3629 Statutes, is reenacted to read:

3630 893.149 Unlawful possession of listed chemical.—

3631 (4) Any damages arising out of the unlawful possession of,  
 3632 storage of, or tampering with a listed chemical, as defined in  
 3633 s. 893.033, shall be the sole responsibility of the person or  
 3634 persons unlawfully possessing, storing, or tampering with the  
 3635 listed chemical. In no case shall liability for damages arising  
 3636 out of the unlawful possession of, storage of, or tampering with  
 3637 a listed chemical extend to the lawful owner, installer,  
 3638 maintainer, designer, manufacturer, possessor, or seller of the  
 3639 listed chemical, unless such damages arise out of the acts or  
 3640 omissions of the owner, installer, maintainer, designer,  
 3641 manufacturer, possessor, or seller which constitute negligent  
 3642 misconduct or failure to abide by the laws regarding the  
 3643 possession or storage of a listed chemical.

3644 Section 36. For the purpose of incorporating the amendment  
 3645 made by this act to section 893.13, Florida Statutes, in a  
 3646 reference thereto, paragraph (b) of subsection (4) of section  
 3647 397.451, Florida Statutes, is reenacted to read:

3648 397.451 Background checks of service provider personnel.—

3649 (4) EXEMPTIONS FROM DISQUALIFICATION.—

3650 (b) Since rehabilitated substance abuse impaired persons  
 3651 are effective in the successful treatment and rehabilitation of  
 3652 substance abuse impaired adolescents, for service providers

3653 | which treat adolescents 13 years of age and older, service  
 3654 | provider personnel whose background checks indicate crimes under  
 3655 | s. 817.563, s. 893.13, or s. 893.147 may be exempted from  
 3656 | disqualification from employment pursuant to this paragraph.

3657 |       Section 37. For the purpose of incorporating the amendment  
 3658 | made by this act to section 893.13, Florida Statutes, in a  
 3659 | reference thereto, subsection (2) of section 435.07, Florida  
 3660 | Statutes, is reenacted to read:

3661 |           435.07 Exemptions from disqualification.—Unless otherwise  
 3662 | provided by law, the provisions of this section apply to  
 3663 | exemptions from disqualification for disqualifying offenses  
 3664 | revealed pursuant to background screenings required under this  
 3665 | chapter, regardless of whether those disqualifying offenses are  
 3666 | listed in this chapter or other laws.

3667 |       (2) Persons employed, or applicants for employment, by  
 3668 | treatment providers who treat adolescents 13 years of age and  
 3669 | older who are disqualified from employment solely because of  
 3670 | crimes under s. 817.563, s. 893.13, or s. 893.147 may be  
 3671 | exempted from disqualification from employment pursuant to this  
 3672 | chapter without application of the waiting period in  
 3673 | subparagraph (1)(a)1.

3674 |       Section 38. For the purpose of incorporating the amendment  
 3675 | made by this act to section 893.13, Florida Statutes, in a  
 3676 | reference thereto, subsection (2) of section 772.12, Florida  
 3677 | Statutes, is reenacted to read:

3678 |           772.12 Drug Dealer Liability Act.—

3679 (2) A person, including any governmental entity, has a  
 3680 cause of action for threefold the actual damages sustained and  
 3681 is entitled to minimum damages in the amount of \$1,000 and  
 3682 reasonable attorney's fees and court costs in the trial and  
 3683 appellate courts, if the person proves by the greater weight of  
 3684 the evidence that:

3685 (a) The person was injured because of the defendant's  
 3686 actions that resulted in the defendant's conviction for:

- 3687 1. A violation of s. 893.13, except for a violation of s.
- 3688 893.13(2)(a) or (b), (3), (5), (6)(a), (b), or (c), (7); or
- 3689 2. A violation of s. 893.135; and

3690 (b) The person was not injured by reason of his or her  
 3691 participation in the same act or transaction that resulted in  
 3692 the defendant's conviction for any offense described in  
 3693 subparagraph (a)1.

3694 Section 39. For the purpose of incorporating the amendment  
 3695 made by this act to section 893.13, Florida Statutes, in a  
 3696 reference thereto, paragraph (a) of subsection (1) of section  
 3697 775.084, Florida Statutes, is reenacted to read:

3698 775.084 Violent career criminals; habitual felony  
 3699 offenders and habitual violent felony offenders; three-time  
 3700 violent felony offenders; definitions; procedure; enhanced  
 3701 penalties or mandatory minimum prison terms.—

3702 (1) As used in this act:

3703 (a) "Habitual felony offender" means a defendant for whom  
 3704 the court may impose an extended term of imprisonment, as

3705 provided in paragraph (4)(a), if it finds that:

3706 1. The defendant has previously been convicted of any  
 3707 combination of two or more felonies in this state or other  
 3708 qualified offenses.

3709 2. The felony for which the defendant is to be sentenced  
 3710 was committed:

3711 a. While the defendant was serving a prison sentence or  
 3712 other sentence, or court-ordered or lawfully imposed supervision  
 3713 that is imposed as a result of a prior conviction for a felony  
 3714 or other qualified offense; or

3715 b. Within 5 years of the date of the conviction of the  
 3716 defendant's last prior felony or other qualified offense, or  
 3717 within 5 years of the defendant's release from a prison  
 3718 sentence, probation, community control, control release,  
 3719 conditional release, parole or court-ordered or lawfully imposed  
 3720 supervision or other sentence that is imposed as a result of a  
 3721 prior conviction for a felony or other qualified offense,  
 3722 whichever is later.

3723 3. The felony for which the defendant is to be sentenced,  
 3724 and one of the two prior felony convictions, is not a violation  
 3725 of s. 893.13 relating to the purchase or the possession of a  
 3726 controlled substance.

3727 4. The defendant has not received a pardon for any felony  
 3728 or other qualified offense that is necessary for the operation  
 3729 of this paragraph.

3730 5. A conviction of a felony or other qualified offense

3731 necessary to the operation of this paragraph has not been set  
 3732 aside in any postconviction proceeding.

3733 Section 40. For the purpose of incorporating the amendment  
 3734 made by this act to section 893.13, Florida Statutes, in a  
 3735 reference thereto, subsection (3) of section 810.02, Florida  
 3736 Statutes, is reenacted to read:

3737 810.02 Burglary.—

3738 (3) Burglary is a felony of the second degree, punishable  
 3739 as provided in s. 775.082, s. 775.083, or s. 775.084, if, in the  
 3740 course of committing the offense, the offender does not make an  
 3741 assault or battery and is not and does not become armed with a  
 3742 dangerous weapon or explosive, and the offender enters or  
 3743 remains in a:

3744 (a) Dwelling, and there is another person in the dwelling  
 3745 at the time the offender enters or remains;

3746 (b) Dwelling, and there is not another person in the  
 3747 dwelling at the time the offender enters or remains;

3748 (c) Structure, and there is another person in the  
 3749 structure at the time the offender enters or remains;

3750 (d) Conveyance, and there is another person in the  
 3751 conveyance at the time the offender enters or remains;

3752 (e) Authorized emergency vehicle, as defined in s.  
 3753 316.003; or

3754 (f) Structure or conveyance when the offense intended to  
 3755 be committed therein is theft of a controlled substance as  
 3756 defined in s. 893.02. Notwithstanding any other law, separate

3757 judgments and sentences for burglary with the intent to commit  
 3758 theft of a controlled substance under this paragraph and for any  
 3759 applicable possession of controlled substance offense under s.  
 3760 893.13 or trafficking in controlled substance offense under s.  
 3761 893.135 may be imposed when all such offenses involve the same  
 3762 amount or amounts of a controlled substance.

3763  
 3764 However, if the burglary is committed within a county that is  
 3765 subject to a state of emergency declared by the Governor under  
 3766 chapter 252 after the declaration of emergency is made and the  
 3767 perpetration of the burglary is facilitated by conditions  
 3768 arising from the emergency, the burglary is a felony of the  
 3769 first degree, punishable as provided in s. 775.082, s. 775.083,  
 3770 or s. 775.084. As used in this subsection, the term "conditions  
 3771 arising from the emergency" means civil unrest, power outages,  
 3772 curfews, voluntary or mandatory evacuations, or a reduction in  
 3773 the presence of or response time for first responders or  
 3774 homeland security personnel. A person arrested for committing a  
 3775 burglary within a county that is subject to such a state of  
 3776 emergency may not be released until the person appears before a  
 3777 committing magistrate at a first appearance hearing. For  
 3778 purposes of sentencing under chapter 921, a felony offense that  
 3779 is reclassified under this subsection is ranked one level above  
 3780 the ranking under s. 921.0022 or s. 921.0023 of the offense  
 3781 committed.

3782 Section 41. For the purpose of incorporating the amendment

3783 made by this act to section 893.13, Florida Statutes, in a  
 3784 reference thereto, subsection (2) of section 812.014, Florida  
 3785 Statutes, is reenacted to read:

3786 812.014 Theft.—

3787 (2)(a)1. If the property stolen is valued at \$100,000 or  
 3788 more or is a semitrailer that was deployed by a law enforcement  
 3789 officer; or

3790 2. If the property stolen is cargo valued at \$50,000 or  
 3791 more that has entered the stream of interstate or intrastate  
 3792 commerce from the shipper's loading platform to the consignee's  
 3793 receiving dock; or

3794 3. If the offender commits any grand theft and:

3795 a. In the course of committing the offense the offender  
 3796 uses a motor vehicle as an instrumentality, other than merely as  
 3797 a getaway vehicle, to assist in committing the offense and  
 3798 thereby damages the real property of another; or

3799 b. In the course of committing the offense the offender  
 3800 causes damage to the real or personal property of another in  
 3801 excess of \$1,000,

3802  
 3803 the offender commits grand theft in the first degree, punishable  
 3804 as a felony of the first degree, as provided in s. 775.082, s.  
 3805 775.083, or s. 775.084.

3806 (b)1. If the property stolen is valued at \$20,000 or more,  
 3807 but less than \$100,000;

3808 2. The property stolen is cargo valued at less than



3809 | \$50,000 that has entered the stream of interstate or intrastate  
 3810 | commerce from the shipper's loading platform to the consignee's  
 3811 | receiving dock;

3812 |         3. The property stolen is emergency medical equipment,  
 3813 | valued at \$300 or more, that is taken from a facility licensed  
 3814 | under chapter 395 or from an aircraft or vehicle permitted under  
 3815 | chapter 401; or

3816 |         4. The property stolen is law enforcement equipment,  
 3817 | valued at \$300 or more, that is taken from an authorized  
 3818 | emergency vehicle, as defined in s. 316.003,  
 3819 |  
 3820 | the offender commits grand theft in the second degree,  
 3821 | punishable as a felony of the second degree, as provided in s.  
 3822 | 775.082, s. 775.083, or s. 775.084. Emergency medical equipment  
 3823 | means mechanical or electronic apparatus used to provide  
 3824 | emergency services and care as defined in s. 395.002(9) or to  
 3825 | treat medical emergencies. Law enforcement equipment means any  
 3826 | property, device, or apparatus used by any law enforcement  
 3827 | officer as defined in s. 943.10 in the officer's official  
 3828 | business. However, if the property is stolen within a county  
 3829 | that is subject to a state of emergency declared by the Governor  
 3830 | under chapter 252, the theft is committed after the declaration  
 3831 | of emergency is made, and the perpetration of the theft is  
 3832 | facilitated by conditions arising from the emergency, the theft  
 3833 | is a felony of the first degree, punishable as provided in s.  
 3834 | 775.082, s. 775.083, or s. 775.084. As used in this paragraph,

3835 the term "conditions arising from the emergency" means civil  
 3836 unrest, power outages, curfews, voluntary or mandatory  
 3837 evacuations, or a reduction in the presence of or response time  
 3838 for first responders or homeland security personnel. For  
 3839 purposes of sentencing under chapter 921, a felony offense that  
 3840 is reclassified under this paragraph is ranked one level above  
 3841 the ranking under s. 921.0022 or s. 921.0023 of the offense  
 3842 committed.

3843 (c) It is grand theft of the third degree and a felony of  
 3844 the third degree, punishable as provided in s. 775.082, s.  
 3845 775.083, or s. 775.084, if the property stolen is:

- 3846 1. Valued at \$300 or more, but less than \$5,000.
- 3847 2. Valued at \$5,000 or more, but less than \$10,000.
- 3848 3. Valued at \$10,000 or more, but less than \$20,000.
- 3849 4. A will, codicil, or other testamentary instrument.
- 3850 5. A firearm.
- 3851 6. A motor vehicle, except as provided in paragraph (a).
- 3852 7. Any commercially farmed animal, including any animal of  
 3853 the equine, bovine, or swine class or other grazing animal; a  
 3854 bee colony of a registered beekeeper; and aquaculture species  
 3855 raised at a certified aquaculture facility. If the property  
 3856 stolen is aquaculture species raised at a certified aquaculture  
 3857 facility, then a \$10,000 fine shall be imposed.
- 3858 8. Any fire extinguisher.
- 3859 9. Any amount of citrus fruit consisting of 2,000 or more  
 3860 individual pieces of fruit.

3861           10. Taken from a designated construction site identified  
 3862 by the posting of a sign as provided for in s. 810.09(2)(d).  
 3863           11. Any stop sign.  
 3864           12. Anhydrous ammonia.  
 3865           13. Any amount of a controlled substance as defined in s.  
 3866 893.02. Notwithstanding any other law, separate judgments and  
 3867 sentences for theft of a controlled substance under this  
 3868 subparagraph and for any applicable possession of controlled  
 3869 substance offense under s. 893.13 or trafficking in controlled  
 3870 substance offense under s. 893.135 may be imposed when all such  
 3871 offenses involve the same amount or amounts of a controlled  
 3872 substance.  
 3873  
 3874 However, if the property is stolen within a county that is  
 3875 subject to a state of emergency declared by the Governor under  
 3876 chapter 252, the property is stolen after the declaration of  
 3877 emergency is made, and the perpetration of the theft is  
 3878 facilitated by conditions arising from the emergency, the  
 3879 offender commits a felony of the second degree, punishable as  
 3880 provided in s. 775.082, s. 775.083, or s. 775.084, if the  
 3881 property is valued at \$5,000 or more, but less than \$10,000, as  
 3882 provided under subparagraph 2., or if the property is valued at  
 3883 \$10,000 or more, but less than \$20,000, as provided under  
 3884 subparagraph 3. As used in this paragraph, the term "conditions  
 3885 arising from the emergency" means civil unrest, power outages,  
 3886 curfews, voluntary or mandatory evacuations, or a reduction in

3887 the presence of or the response time for first responders or  
 3888 homeland security personnel. For purposes of sentencing under  
 3889 chapter 921, a felony offense that is reclassified under this  
 3890 paragraph is ranked one level above the ranking under s.  
 3891 921.0022 or s. 921.0023 of the offense committed.

3892 (d) It is grand theft of the third degree and a felony of  
 3893 the third degree, punishable as provided in s. 775.082, s.  
 3894 775.083, or s. 775.084, if the property stolen is valued at \$100  
 3895 or more, but less than \$300, and is taken from a dwelling as  
 3896 defined in s. 810.011(2) or from the unenclosed curtilage of a  
 3897 dwelling pursuant to s. 810.09(1).

3898 (e) Except as provided in paragraph (d), if the property  
 3899 stolen is valued at \$100 or more, but less than \$300, the  
 3900 offender commits petit theft of the first degree, punishable as  
 3901 a misdemeanor of the first degree, as provided in s. 775.082 or  
 3902 s. 775.083.

3903 Section 42. For the purpose of incorporating the amendment  
 3904 made by this act to section 893.13, Florida Statutes, in a  
 3905 reference thereto, subsection (1) of section 831.311, Florida  
 3906 Statutes, is reenacted to read:

3907 831.311 Unlawful sale, manufacture, alteration, delivery,  
 3908 uttering, or possession of counterfeit-resistant prescription  
 3909 blanks for controlled substances.—

3910 (1) It is unlawful for any person having the intent to  
 3911 injure or defraud any person or to facilitate any violation of  
 3912 s. 893.13 to sell, manufacture, alter, deliver, utter, or

3913 possess with intent to injure or defraud any person, or to  
 3914 facilitate any violation of s. 893.13, any counterfeit-resistant  
 3915 prescription blanks for controlled substances, the form and  
 3916 content of which are adopted by rule of the Department of Health  
 3917 pursuant to s. 893.065.

3918 Section 43. For the purpose of incorporating the amendment  
 3919 made by this act to section 893.13, Florida Statutes, in a  
 3920 reference thereto, subsection (1) of section 893.1351, Florida  
 3921 Statutes, is reenacted to read:

3922 893.1351 Ownership, lease, rental, or possession for  
 3923 trafficking in or manufacturing a controlled substance.—

3924 (1) A person may not own, lease, or rent any place,  
 3925 structure, or part thereof, trailer, or other conveyance with  
 3926 the knowledge that the place, structure, trailer, or conveyance  
 3927 will be used for the purpose of trafficking in a controlled  
 3928 substance, as provided in s. 893.135; for the sale of a  
 3929 controlled substance, as provided in s. 893.13; or for the  
 3930 manufacture of a controlled substance intended for sale or  
 3931 distribution to another. A person who violates this subsection  
 3932 commits a felony of the third degree, punishable as provided in  
 3933 s. 775.082, s. 775.083, or s. 775.084.

3934 Section 44. For the purpose of incorporating the amendment  
 3935 made by this act to section 893.13, Florida Statutes, in a  
 3936 reference thereto, subsection (3) of section 893.138, Florida  
 3937 Statutes, is reenacted to read:

3938 893.38 Local administrative action to abate drug-related,

3939 prostitution-related, or stolen-property-related public  
 3940 nuisances and criminal gang activity.-  
 3941 (3) Any pain-management clinic, as described in s.  
 3942 458.3265 or s. 459.0137, which has been used on more than two  
 3943 occasions within a 6-month period as the site of a violation of:  
 3944 (a) Section 784.011, s. 784.021, s. 784.03, or s. 784.045,  
 3945 relating to assault and battery;  
 3946 (b) Section 810.02, relating to burglary;  
 3947 (c) Section 812.014, relating to dealing in theft;  
 3948 (d) Section 812.131, relating to robbery by sudden  
 3949 snatching; or  
 3950 (e) Section 893.13, relating to the unlawful distribution  
 3951 of controlled substances,  
 3952  
 3953 may be declared to be a public nuisance, and such nuisance may  
 3954 be abated pursuant to the procedures provided in this section.  
 3955 Section 45. For the purpose of incorporating the amendment  
 3956 made by this act to section 893.13, Florida Statutes, in a  
 3957 reference thereto, section 893.15, Florida Statutes, is  
 3958 reenacted to read:  
 3959 893.15 Rehabilitation.-Any person who violates s.  
 3960 893.13(6)(a) or (b) relating to possession may, in the  
 3961 discretion of the trial judge, be required to participate in a  
 3962 substance abuse services program approved or regulated by the  
 3963 Department of Children and Families pursuant to the provisions  
 3964 of chapter 397, provided the director of such program approves

3965 the placement of the defendant in such program. Such required  
 3966 participation shall be imposed in addition to any penalty or  
 3967 probation otherwise prescribed by law. However, the total time  
 3968 of such penalty, probation, and program participation shall not  
 3969 exceed the maximum length of sentence possible for the offense.

3970 Section 46. For the purpose of incorporating the amendment  
 3971 made by this act to section 893.13, Florida Statutes, in a  
 3972 reference thereto, section 903.133, Florida Statutes, is  
 3973 reenacted to read:

3974 903.133 Bail on appeal; prohibited for certain felony  
 3975 convictions.—Notwithstanding the provisions of s. 903.132, no  
 3976 person adjudged guilty of a felony of the first degree for a  
 3977 violation of s. 782.04(2) or (3), s. 787.01, s. 794.011(4), s.  
 3978 806.01, s. 893.13, or s. 893.135, or adjudged guilty of a  
 3979 violation of s. 794.011(2) or (3), shall be admitted to bail  
 3980 pending review either by posttrial motion or appeal.

3981 Section 47. For the purpose of incorporating the amendment  
 3982 made by this act to section 893.13, Florida Statutes, in a  
 3983 reference thereto, paragraph (1) of subsection (1) of section  
 3984 921.187, Florida Statutes, is reenacted to read:

3985 921.187 Disposition and sentencing; alternatives;  
 3986 restitution.—

3987 (1) The alternatives provided in this section for the  
 3988 disposition of criminal cases shall be used in a manner that  
 3989 will best serve the needs of society, punish criminal offenders,  
 3990 and provide the opportunity for rehabilitation. If the offender

3991 | does not receive a state prison sentence, the court may:

3992 |       (1)1. Require the offender who violates any criminal  
3993 | provision of chapter 893 to pay an additional assessment in an  
3994 | amount up to the amount of any fine imposed, pursuant to ss.  
3995 | 938.21 and 938.23.

3996 |       2. Require the offender who violates any provision of s.  
3997 | 893.13 to pay an additional assessment in an amount of \$100,  
3998 | pursuant to ss. 938.055 and 943.361.

3999 |       Section 48. For the purpose of incorporating the amendment  
4000 | made by this act to section 893.145, Florida Statutes, in a  
4001 | reference thereto, paragraph (a) of subsection (2) of section  
4002 | 893.12, Florida Statutes, is reenacted to read:

4003 |       893.12 Contraband; seizure, forfeiture, sale.-

4004 |       (2)(a) Any vessel, vehicle, aircraft, or drug  
4005 | paraphernalia as defined in s. 893.145 which has been or is  
4006 | being used in violation of any provision of this chapter or in,  
4007 | upon, or by means of which any violation of this chapter has  
4008 | taken or is taking place may be seized and forfeited as provided  
4009 | by the Florida Contraband Forfeiture Act.

4010 |       Section 49. For the purpose of incorporating the amendment  
4011 | made by this act to section 893.145, Florida Statutes, in a  
4012 | reference thereto, paragraph (a) of subsection (6) of section  
4013 | 893.147, Florida Statutes, is reenacted to read:

4014 |       893.147 Use, possession, manufacture, delivery,  
4015 | transportation, advertisement, or retail sale of drug  
4016 | paraphernalia.-



4017 (6) RETAIL SALE OF DRUG PARAPHERNALIA.—  
 4018 (a) It is unlawful for a person to knowingly and willfully  
 4019 sell or offer for sale at retail any drug paraphernalia  
 4020 described in s. 893.145(12)(a)-(c) or (g)-(m), other than a pipe  
 4021 that is primarily made of briar, meerschaum, clay, or corn cob.  
 4022 Section 50. For the purpose of incorporating the amendment  
 4023 made by this act to section 895.02, Florida Statutes, in a  
 4024 reference thereto, paragraph (a) of subsection (1) of section  
 4025 16.56, Florida Statutes, is reenacted to read:  
 4026 16.56 Office of Statewide Prosecution.—  
 4027 (1) There is created in the Department of Legal Affairs an  
 4028 Office of Statewide Prosecution. The office shall be a separate  
 4029 "budget entity" as that term is defined in chapter 216. The  
 4030 office may:  
 4031 (a) Investigate and prosecute the offenses of:  
 4032 1. Bribery, burglary, criminal usury, extortion, gambling,  
 4033 kidnapping, larceny, murder, prostitution, perjury, robbery,  
 4034 carjacking, and home-invasion robbery;  
 4035 2. Any crime involving narcotic or other dangerous drugs;  
 4036 3. Any violation of the Florida RICO (Racketeer Influenced  
 4037 and Corrupt Organization) Act, including any offense listed in  
 4038 the definition of racketeering activity in s. 895.02(1)(a),  
 4039 providing such listed offense is investigated in connection with  
 4040 a violation of s. 895.03 and is charged in a separate count of  
 4041 an information or indictment containing a count charging a  
 4042 violation of s. 895.03, the prosecution of which listed offense

4043 may continue independently if the prosecution of the violation  
 4044 of s. 895.03 is terminated for any reason;  
 4045       4. Any violation of the Florida Anti-Fencing Act;  
 4046       5. Any violation of the Florida Antitrust Act of 1980, as  
 4047 amended;  
 4048       6. Any crime involving, or resulting in, fraud or deceit  
 4049 upon any person;  
 4050       7. Any violation of s. 847.0135, relating to computer  
 4051 pornography and child exploitation prevention, or any offense  
 4052 related to a violation of s. 847.0135 or any violation of  
 4053 chapter 827 where the crime is facilitated by or connected to  
 4054 the use of the Internet or any device capable of electronic data  
 4055 storage or transmission;  
 4056       8. Any violation of chapter 815;  
 4057       9. Any criminal violation of part I of chapter 499;  
 4058       10. Any violation of the Florida Motor Fuel Tax Relief Act  
 4059 of 2004;  
 4060       11. Any criminal violation of s. 409.920 or s. 409.9201;  
 4061       12. Any crime involving voter registration, voting, or  
 4062 candidate or issue petition activities;  
 4063       13. Any criminal violation of the Florida Money Laundering  
 4064 Act;  
 4065       14. Any criminal violation of the Florida Securities and  
 4066 Investor Protection Act; or  
 4067       15. Any violation of chapter 787, as well as any and all  
 4068 offenses related to a violation of chapter 787;

4069  
 4070 or any attempt, solicitation, or conspiracy to commit any of the  
 4071 crimes specifically enumerated above. The office shall have such  
 4072 power only when any such offense is occurring, or has occurred,  
 4073 in two or more judicial circuits as part of a related  
 4074 transaction, or when any such offense is connected with an  
 4075 organized criminal conspiracy affecting two or more judicial  
 4076 circuits. Informations or indictments charging such offenses  
 4077 shall contain general allegations stating the judicial circuits  
 4078 and counties in which crimes are alleged to have occurred or the  
 4079 judicial circuits and counties in which crimes affecting such  
 4080 circuits or counties are alleged to have been connected with an  
 4081 organized criminal conspiracy.

4082 Section 51. For the purpose of incorporating the amendment  
 4083 made by this act to section 895.02, Florida Statutes, in a  
 4084 reference thereto, paragraph (g) of subsection (3) of section  
 4085 655.50, Florida Statutes, is reenacted to read:

4086 655.50 Florida Control of Money Laundering and Terrorist  
 4087 Financing in Financial Institutions Act.—

4088 (3) As used in this section, the term:

4089 (g) "Specified unlawful activity" means "racketeering  
 4090 activity" as defined in s. 895.02.

4091 Section 52. For the purpose of incorporating the amendment  
 4092 made by this act to section 895.02, Florida Statutes, in a  
 4093 reference thereto, paragraph (g) of subsection (2) of section  
 4094 896.101, Florida Statutes, is reenacted to read:

4095 896.101 Florida Money Laundering Act; definitions;  
 4096 penalties; injunctions; seizure warrants; immunity.—

4097 (2) As used in this section, the term:

4098 (g) "Specified unlawful activity" means any "racketeering  
 4099 activity" as defined in s. 895.02.

4100 Section 53. For the purpose of incorporating the amendment  
 4101 made by this act to section 895.02, Florida Statutes, in a  
 4102 reference thereto, section 905.34, Florida Statutes, is  
 4103 reenacted to read:

4104 905.34 Powers and duties; law applicable.—The jurisdiction  
 4105 of a statewide grand jury impaneled under this chapter shall  
 4106 extend throughout the state. The subject matter jurisdiction of  
 4107 the statewide grand jury shall be limited to the offenses of:

4108 (1) Bribery, burglary, carjacking, home-invasion robbery,  
 4109 criminal usury, extortion, gambling, kidnapping, larceny,  
 4110 murder, prostitution, perjury, and robbery;

4111 (2) Crimes involving narcotic or other dangerous drugs;

4112 (3) Any violation of the provisions of the Florida RICO  
 4113 (Racketeer Influenced and Corrupt Organization) Act, including  
 4114 any offense listed in the definition of racketeering activity in  
 4115 s. 895.02(1)(a), providing such listed offense is investigated  
 4116 in connection with a violation of s. 895.03 and is charged in a  
 4117 separate count of an information or indictment containing a  
 4118 count charging a violation of s. 895.03, the prosecution of  
 4119 which listed offense may continue independently if the  
 4120 prosecution of the violation of s. 895.03 is terminated for any

4121 reason;

4122 (4) Any violation of the provisions of the Florida Anti-

4123 Fencing Act;

4124 (5) Any violation of the provisions of the Florida

4125 Antitrust Act of 1980, as amended;

4126 (6) Any violation of the provisions of chapter 815;

4127 (7) Any crime involving, or resulting in, fraud or deceit

4128 upon any person;

4129 (8) Any violation of s. 847.0135, s. 847.0137, or s.

4130 847.0138 relating to computer pornography and child exploitation

4131 prevention, or any offense related to a violation of s.

4132 847.0135, s. 847.0137, or s. 847.0138 or any violation of

4133 chapter 827 where the crime is facilitated by or connected to

4134 the use of the Internet or any device capable of electronic data

4135 storage or transmission;

4136 (9) Any criminal violation of part I of chapter 499;

4137 (10) Any criminal violation of s. 409.920 or s. 409.9201;

4138 (11) Any criminal violation of the Florida Money

4139 Laundering Act;

4140 (12) Any criminal violation of the Florida Securities and

4141 Investor Protection Act; or

4142 (13) Any violation of chapter 787, as well as any and all

4143 offenses related to a violation of chapter 787;

4144

4145 or any attempt, solicitation, or conspiracy to commit any

4146 violation of the crimes specifically enumerated above, when any

4147 | such offense is occurring, or has occurred, in two or more  
 4148 | judicial circuits as part of a related transaction or when any  
 4149 | such offense is connected with an organized criminal conspiracy  
 4150 | affecting two or more judicial circuits. The statewide grand  
 4151 | jury may return indictments and presentments irrespective of the  
 4152 | county or judicial circuit where the offense is committed or  
 4153 | triable. If an indictment is returned, it shall be certified and  
 4154 | transferred for trial to the county where the offense was  
 4155 | committed. The powers and duties of, and law applicable to,  
 4156 | county grand juries shall apply to a statewide grand jury except  
 4157 | when such powers, duties, and law are inconsistent with the  
 4158 | provisions of ss. 905.31-905.40.

4159 |         Section 54. This act shall take effect July 1, 2016.

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: Appropriations Committee  
 2 Representative Ingram offered the following:

**Amendment**

Remove line 478 and insert:

6 136. CP 55,940 (2-[3-Hydroxy-6-propanol-cyclohexyl]-5-(2-

Remove line 778 and insert:

9 (III) CP-55,940 (2-(3-Hydroxy-6-propanol-cyclohexyl)-5-(2-

Remove line 937 and insert:

12 (XIV) Fluoro-AMB (N-(1-Methoxy-3-methyl-1-oxobutan-2-yl)-

Remove line 991 and insert:

15 a. Any compound containing a 2-amino-1-phenyl-1-propanone

Remove line 995 and insert:

Amendment No. 1

18 | c. Any compound containing a 2-amino-1-thiophenyl-1-

19 |

20 | Remove line 1111 and insert:

21 | aa. 3,4-Methylenedioxy-N-hydroxyamphetamine.

22 |

23 | Remove line 1171 and insert:

24 | methoxybenzyl)]phenethylamine).

25 |

26 | Remove line 1173 and insert:

27 | methoxybenzyl)]phenethylamine).

28 |

29 | Remove line 1175 and insert:

30 | methoxybenzyl)]phenethylamine).

31 |

32 | Remove line 1248 and insert:

33 | substituents, inclusion of the nitrogen in a cyclic structure,

34 |

35 | Remove line 2182 and insert:

36 | g. 3,4-Methylenedioxy-N-hydroxyamphetamine ~~N-Hydroxy-3,4-~~

37 | ~~methylenedioxyamphetamine;~~

38 |

39 | Remove line 2216 and insert:

40 | b. DOB (4-Bromo-2,5-dimethoxyamphetamine);





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 4027 Traffic Infraction Detectors  
**SPONSOR(S):** Artiles and others  
**TIED BILLS:** IDEN./SIM. BILLS: SB 168

| REFERENCE                     | ACTION    | ANALYST        | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|-------------------------------|-----------|----------------|--|
| 1) Economic Affairs Committee | 13 Y, 3 N | Johnson        | Pitts                                    |
| 2) Appropriations Committee   |           | Cobb <i>PC</i> | Leznoff <i>JW</i>                        |

### SUMMARY ANALYSIS

In 2010, the Legislature enacted the Mark Wandall Traffic Safety Act, authorizing the use of traffic infraction detectors, commonly known as red light cameras, and expressly preempting to the state the regulation and use of traffic infraction detectors.

The bill repeals and amends various provisions of law, removing authorization for the use of traffic infraction detectors, which are currently used to enforce specified provisions of traffic law by automatically photographing vehicles whose drivers run red lights.

The bill leaves intact the express preemption to the state the regulation of the use of traffic infraction detectors; thereby, prohibiting the implementation of red light camera programs by local ordinance.

The bill has a negative recurring impact even though it does not take effect until 2019. This is because revenues are considered nonrecurring until the effective date, given the prospective repeal of the law. Therefore, although there is no immediate loss of revenue, the accounting of those revenues as being temporary or time limited occurs immediately. The Revenue Estimating Conference met on October 16, 2015, and estimated that the bill has a recurring annual impact of \$54.8 million to general revenue, \$10.4 million to state trust funds, and \$63.3 million to local government revenues.

The bill has an effective date of July 1, 2019.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Current Situation

##### **Red Light Cameras Generally**

Traffic infraction detectors,<sup>1</sup> more commonly known as “red light cameras,”<sup>2</sup> are used to document traffic law violations by automatically photographing vehicles whose drivers have failed to yield at red lights. The cameras are connected to the traffic signal and to sensors that monitor traffic flow at the crosswalk or stop line. The system photographs vehicles that enter the intersection above a pre-set minimum speed after the signal has turned red; a second photograph typically shows the driver in the intersection. In some cases, video cameras are used. Red light cameras also record the license plate number, date and time of day, time elapsed since the beginning of the red signal, and the vehicle’s speed.

##### **Red light cameras in Florida**

In 2010, the Florida Legislature enacted CS/CS/HB 325,<sup>3</sup> expressly preempting to the state the regulation of the use of cameras for enforcing the provisions of Ch. 316, F.S.,<sup>4</sup> which is known as the Florida Uniform Traffic Control Law.<sup>5</sup> The law also authorized the Department of Highway Safety and Motor Vehicles (DHSMV), counties, and municipalities to employ red light camera programs.<sup>6</sup>

##### *Jurisdiction, Installation, and Awareness*

Every traffic infraction detector must meet requirements established by the Department of Transportation (DOT), and must be tested at regular intervals according to procedures prescribed by DOT.<sup>7</sup> If DHSMV, a county, or a municipality installs a red light camera at an intersection, the respective governmental entity must notify the public that a camera is in use at that intersection, including specific notification of enforcement of right-on-red violations.<sup>8</sup> Such signage must meet specifications adopted by DOT pursuant to s. 316.0745, F.S.<sup>9</sup>

Municipalities may install or authorize the installation of traffic infraction detectors on streets and highways in accordance with the DOT standards, and on state roads within the incorporated area when permitted by DOT.<sup>10</sup> Counties may install or authorize installation of traffic infraction detectors on streets and highways in unincorporated areas of the county in accordance with DOT standards, and on state roads in unincorporated areas of the county when permitted by DOT.<sup>11</sup> DHSMV may install or authorize installation of traffic infraction detectors on any state road under the original jurisdiction of DOT, when permitted by the DOT.<sup>12</sup>

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<sup>1</sup> Section 316.003(87), F.S., defines “traffic infraction detector” as “[a] vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal steady red light. Any notification under s. 316.0083(1)(b) or traffic citation issued by the use of a traffic infraction detector must include a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control device being violated.”

<sup>2</sup> In this analysis, the terms “traffic infraction detector” and “red light camera” are used interchangeably.

<sup>3</sup> Chapter 2010-80, L.O.F.

<sup>4</sup> Section 316.0076, F.S.

<sup>5</sup> Section 316.001, F.S.

<sup>6</sup> Section 316.0083, F.S.

<sup>7</sup> Section 316.0776, F.S.

<sup>8</sup> Section 316.0776(2), F.S.

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

<sup>10</sup> Section 316.008(8), F.S.; section. 316.0776(1), F.S.

<sup>11</sup> *Id.*

<sup>12</sup> Section 321.50, F.S. DHSMV is not currently administering a red-light camera program.

### *Traffic Control Devices*

Section 316.0745(1), F.S., requires DOT to adopt a uniform system of traffic control devices for use on the streets and highways of the state. Section 316.075(3)(a), F.S., provides that no traffic control signal device shall be used which does not exhibit a yellow or "caution" light between the green or "go" signal and the red or "stop" signal, but it does not specify the length of time that the yellow or red light must be exhibited.

### *Inspection of Traffic Control Signal Devices*

DOT officials reported that it enters into traffic signal maintenance agreements with counties and municipalities, and these agreements are the mechanism for ensuring that jurisdictions comply with yellow light timing and other traffic signal standards.<sup>13</sup> In addition, DOT staff conducts field tests and quality assurance reviews that encompass a number of issues, including yellow light interval timing.

### *Notifications and Citations*

If a red light camera captures an image of a driver running a red light, the visual information is reviewed by a traffic infraction enforcement officer. A notification of violation must be issued to the registered owner of the vehicle within 30 days of the alleged violation.<sup>14</sup> The notification must be sent by first-class mail, and must include a statement that informs the owner of the right to review the photographic or video evidence, upon which the violation is based, as well as the time and place or Internet location where the evidence may be reviewed.<sup>15</sup> Violations may not be issued if the driver is making a right-hand turn in a "careful and prudent manner,"<sup>16</sup> or if the driver comes to a complete stop before making a permissible right turn.<sup>17</sup>

A person who has been issued a notice of violation for a red light camera violation may elect to receive a hearing within 60 days following the date of the notice of violation. No payment or fee may be required in order to receive the hearing. Further, if a person elects to receive a hearing, the person waives his or her right to challenge delivery of the notice of violation.<sup>18</sup> If the notice of violation is upheld, the local hearing officer must require the petitioner to pay the \$158 penalty and may also require the petitioner to pay county or municipal costs, not to exceed \$250.<sup>19</sup>

If the registered owner of the vehicle does not pay the violation within 60 days following the date of notification, the traffic infraction enforcement officer must issue a uniform traffic citation (UTC) to the owner.<sup>20</sup> The UTC must be mailed by certified mail.<sup>21</sup> Like the notice of violation, the UTC must also include the photograph and statements described above regarding review of the photographic or video evidence.<sup>22</sup> The report of an officer and images provided by a traffic infraction detector are admissible in court and provide a rebuttable presumption the vehicle was used to commit the violation.<sup>23</sup>

A traffic infraction enforcement officer must provide by electronic transmission a replica of the citation data when issued under s. 316.0083, F.S., to the court having jurisdiction over the alleged offense or its traffic violations bureau within five days after the issuance date of a UTC to the violator.<sup>24</sup>

### *Penalties*

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<sup>13</sup> "Florida Red Light Camera Programs" OPPAGA research memorandum, (January 31, 2014)

<sup>14</sup> Section 316.0083(1)(b), F.S.

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

<sup>16</sup> Section 316.0083(2), F.S.

<sup>17</sup> Section 316.0083(1)(a), F.S.

<sup>18</sup> *Id.*

<sup>19</sup> Sections 316.0083(5)(e), and 318.18(22), F.S.

<sup>20</sup> Section 316.0083(1)(c), F.S.

<sup>21</sup> *Id.*

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

<sup>23</sup> Section 316.0083(1)(e), F.S.

<sup>24</sup> Section 316.650(3)(c), F.S.

Red light camera citations carry a \$158 penalty. When the \$158 penalty is the result of local government enforcement, \$75 is retained by the local government and \$83 is deposited with the Department of Revenue (DOR).<sup>25</sup> DOR subsequently distributes the penalty by depositing \$70 in the General Revenue Fund, \$10 in the Department of Health (DOH) Administrative Trust Fund, and \$3 in the Brain and Spinal Cord Injury Trust Fund.<sup>26</sup>

When the \$158 penalty is the result of enforcement by DHSMV, \$45 is retained by the local government and \$113 is deposited with DOR.<sup>27</sup> DOR subsequently distributes the penalty by depositing \$100 in the General Revenue Fund, \$10 in the DOH Administrative Trust Fund, and \$3 in the Brain and Spinal Cord Injury Trust Fund.<sup>28</sup> DHSMV does not currently operate any red light cameras.

If a law enforcement officer cites a motorist for the same offense, the penalty is still \$158, but the revenue is distributed from the local clerk of court to DOR, where \$30 is distributed to the General Revenue Fund, \$65 is distributed to the Department of Health Administrative Trust Fund, and \$3 is distributed to the Brain and Spinal Cord Injury Trust Fund. The remaining \$60 is distributed in small percentages to a number of funds pursuant to s. 318.21, F.S.<sup>29</sup>

Citations from traffic infraction detectors may not result in points assessed against the driver's driver license, and may not be used for the purpose of setting motor vehicle insurance rates.<sup>30</sup>

#### *Proceeds retained by local government*

As stated above, each time a \$158 red light violation penalty is collected the local government retains \$75 and remits \$83 to the state. In a survey of local governments that operate a red light camera program, the Office of Policy Analysis & Governmental Accountability (OPPAGA)<sup>31</sup> reported that, over a three- year period:

- 49 percent of total money collected went to red light camera vendors.
- 78 percent of respondents reported excess revenue after payments to vendors and other program expenses. Excess revenue was allocated to:
  - general fund (76%)
  - public safety/police (14%)
  - road repair/maintenance (5%)
- 16 percent of respondents had difficulty generating sufficient revenue to make vendor payments and have accrued outstanding balances

Local governments must procure for the services of a red light camera vendor. The contract term generally ranges from three to five years.<sup>32</sup> Local governments typically pay between \$4,250 and \$4,750 per camera, per month.<sup>33</sup>

#### *DHSMV – 2015 Red Light Camera Program Analysis*

Florida law requires each county or municipality operating a red light camera program to annually self-report data to DHSMV, which shall include the following information:

- Red light camera program results over the preceding fiscal year;
- The procedures for enforcement; and
- Other statistical data and information required by DHSMV.<sup>34</sup>

<sup>25</sup> Sections 318.18(15), and 316.0083(1)(b)3., F.S.

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

<sup>27</sup> *Id.*

<sup>28</sup> *Id.*

<sup>29</sup> Section 318.18(15), F.S.

<sup>30</sup> Section 322.27(3)(d)6., F.S.

<sup>31</sup> "Florida Red Light Camera Programs." *OPPAGA Research Memorandum* (January 31, 2014)

<sup>32</sup> *Id.*

<sup>33</sup> *Id.*

<sup>34</sup> Section 316.0083(4), F.S. DHSMV uses an on-line questionnaire to facilitate data collection.

Based on this data covering the period between July 1, 2014 and June 30, 2015 (survey period), DHSMV submitted a summary report to the Governor and Legislature containing the following findings:

- 71 agencies responded that they had red light camera in operation during the survey period.<sup>35</sup>
- During the survey period, the agencies issued a total of 963,039 Notices of Violation.
- Of the Notices of Violation issued, 630,369 paid the fine. (65.4%).
- 14,814 notices of violation were contested and dismissed (1.5%).
- Florida law states that “a notice of violation and a traffic citation may not be issued for failure to stop at a red light if the driver is making a right-hand turn in a careful and prudent manner at an intersection where right-hand turns are permissible.” Of the 71 agencies responding to the survey, 68 percent indicated that they issue Notices of Violation for a right-on-red violation, and 32 percent indicated that they did not issue Notices of Violation for a right-on-red violation. During the reporting period 253,744 (26.34%) Notices of Violation were issued for right hand turns.

#### *Crash statistics*

In its December 2015, Red Light Camera Report, DHSMV provided the following breakdown of the number of crashes at Red Light Camera (RLC) intersections before and after the cameras were installed:<sup>36</sup>

|                                   | Before RLC Installed | After RLC Installed | Percentage Change |
|-----------------------------------|----------------------|---------------------|-------------------|
| Total Crashes                     | 3,453                | 3,959               | 14.65%            |
| Angle Crashes                     | 815                  | 814                 | -0.12%            |
| Rear-End Crashes                  | 835                  | 920                 | 10.18%            |
| Non-Incapacitating Injuries       | 459                  | 506                 | 2.22%             |
| Incapacitating Injuries           | 174                  | 225                 | 29.31%            |
| Fatalities                        | 16                   | 18                  |                   |
| Crashes Involving Non-Motorists   | 185                  | 216                 | 16.75%            |
| Fatal Crashes Involving Motorists | 4                    | 7                   |                   |

#### *Litigation*

In October 2014, the Florida Fourth District Court of Appeal dismissed a red light camera citation after finding that the local government had delegated an impermissible measure of discretion and control over their red light camera program to a private third-party vendor.<sup>37</sup> Under the terms of the contract, the vendor decided which infractions would be reviewed by the city, obtained the information needed to fill out a citation, completed the citation, issued the citation, and transmitted the citation information to the court.<sup>38</sup> In Florida, only traffic infraction enforcement officers and sworn law enforcement officers are authorized to issue a traffic citation.<sup>39</sup> The Florida Supreme Court declined to accept jurisdiction on the case.<sup>40</sup>

The *Arem* decision may have an effect on the administration of red light camera programs throughout the state. Some jurisdictions have voted to suspend or terminate their red light camera programs since the decision was handed down.

<sup>35</sup> Two jurisdictions did not respond to DHSMV’s survey.

<sup>36</sup> It should be noted that other factors may have contributed to the number of crashes.

<sup>37</sup> *City of Hollywood v. Arem*, 39 Fla. L. Weekly D2175 (Fla. 4th DCA October 15, 2014)

<sup>38</sup> *Id.*

<sup>39</sup> Sections 316.0083(1)(b)3., and 316.650(3)(c), F.S.

<sup>40</sup> Supreme Court of Florida, *City of Hollywood vs. Arem*, Case No. SC15-236. Order Issued April 13, 2015.

## **Proposed Changes**

In general, the bill prohibits the use of traffic infraction detectors as of July 1, 2019.

### **Definitions (Section 1)**

Section 316.003(87), F.S., defines "traffic infraction detector" as a vehicle sensor installed to work in conjunction with a traffic control signal and a camera or cameras synchronized to automatically record two or more sequenced photographic or electronic images or streaming video of only the rear of a motor vehicle at the time the vehicle fails to stop behind the stop bar or clearly marked stop line when facing a traffic control signal exhibiting a red light. Any notification under s. 318.0083(1)(b), F.S., or traffic citation issued by the use of a traffic infraction detector must include a photograph or other recorded image showing both the license tag of the offending vehicle and the traffic control signal device being violated.

Section 316.003(91), F.S., defines "local hearing officer" as the person, designated by a department, county, or municipality that elects to authorize traffic infraction enforcement officers to issue traffic citations under s. 316.0083(1)(a), F.S., who is authorized to conduct hearings related to the notice of violation pursuant to s. 316.0083, F.S. The charter county, noncharter county, or municipality may use its currently appointed code enforcement board or special magistrate to serve as the local hearing officer. The department may enter into an interlocal agreement to use the local hearing officer of a county or municipality.

The bill repeals ss. 316.003(87) and (91), F.S., repealing the definitions of "traffic infraction detector" and "local hearing officer."

### **Powers of Local Authorities (Section 2)**

Section 316.008(8), F.S., authorizes counties and municipalities to use traffic infraction detectors when a driver fails to stop at a traffic signal on streets or highways under its jurisdiction.<sup>41</sup>

The bill repeals s. 316.008(8), F.S., repealing the authorization for municipalities and counties to use traffic infraction detectors.

### **Mark Wandall Traffic Safety Program; administration; report. (Section 3)**

Section 316.0083, F.S., creates the Mark Wandall Traffic Safety Program, authorizing the use of, and provides for the administration of traffic infraction detectors. More specifically the statute:

- Authorizes DHSMV, a county, or a municipality to authorize a traffic infraction enforcement officer to issue traffic citations for specified provisions of traffic law relating to the obedience to traffic control signals and stopping a vehicle facing a steady red signal;
- Prohibits issuance of notices of violation for traffic citations for failing to stop while making rolling "right-on-red" turns in a "careful and prudent manner" and for failing to stop before crossing the stop line or other point at which a stop is required when making a "right-on-red" turn;
- Provides the process and requirements for issuance of notices of violation, sets forth specific information to be included in such notices; provided alternative options for an alleged violator, including providing a specified affidavit, requesting a hearing, or paying the penalty stated in the notice; providing penalty amounts and fine distributions; and prohibits certain individuals, manufacturers, or vendors from receiving commissions, fees, or remuneration relating to the use of traffic infraction detectors;
- Provides the process and requirements for issuance of traffic citations; sets forth specific information to be included in such notices; provides for defenses to be established by affidavit, states requirements for information to be included in such affidavits, provides penalties for submission of false affidavits; provides for dismissal of citations and issuance notices of violation and traffic citations to the person designated in an affidavit as having care, custody, or control of the motor vehicle at the time of the violation; and provides for supplemental enforcement;

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<sup>41</sup> Section 316.008(8)(a), F.S.

- Requires each county or municipality that operates traffic infraction detectors to provide a specified annual summary report to DHSMV regarding the use and operation of traffic infraction detectors, and requires DHSMV to prepare an annual report to the Governor, the President of the Senate, and the Speaker of the House of Representatives; and
- Sets forth procedures for hearings on notices of violation and authorizes a specified appeal of a final administrative order.

The bill repeals s. 316.0083, F.S., repealing to the Mark Wandall Traffic Safety Program.

**Distribution of Penalties Collected (Section 4)**

Section 316.00831, F.S., provides for the distribution of penalties collected under the Mark Wandall Traffic Safety Program.

The bill repeals s. 316.00831, F.S., repealing the distribution of the penalties under the Mark Wandall Traffic Safety Program.

**Transitional Implementation (section 5)**

Section 316.07456, F.S., provides for transitional implementation for traffic infraction detectors.

The bill repeals s. 316.07456, F.S., repealing the transitional implementation for traffic infraction detectors.

**Traffic infraction detectors; placement and implementation. (Section 6)**

Section 316.0776, F.S., provides for the placement and installation of traffic infraction detectors.

The bill repeals s. 316.0776, F.S., repealing provisions relating to the placement and installation of traffic infraction detectors.

**Failure to comply with civil penalty or to appear; penalty. (Section 7)**

Section 318.15(3), F.S., requires the clerk of court to notify DHSMV of persons who were mailed notices of violation pursuant to the Mark Wandall Traffic Safety Program who fail to enter into, or comply with the terms of, a penalty payment plan, or order with the clerk to the local hearing officer of failed to appear at a scheduled hearing within 10 days after such failure.

Upon receiving the notice, DHSMV, or its authorized agent is prohibited from issuing a license plate or revalidation sticker for any motor vehicle owned or coowned by that person until the assessed amount has been fully paid.

After the issuance of the license plate or revalidation sticker is withheld, the person may challenge the withholding of the license plate or revalidation sticker only on the basis that the outstanding fines and civil penalties have been paid.

The bill repeals s. 318.15(3), F.S., relating to withholding vehicle registration for failure to pay penalties associated with the Mark Wandall Traffic Safety Program.

**Authorization to use traffic infraction detectors (Section 8)**

Section 321.50, F.S., authorizes DHMSV to use traffic infraction detectors on state roads under the original jurisdiction of DOT, when permitted by DOT.

The bill repeals s. 321.50, F.S., repealing the authorization for DHSMV to install traffic infraction detectors on state roads.

**Enforcement of Traffic Laws (Section 10)**



In general, s. 316.640, F.S., vests the enforcement of the state's traffic laws to various entities. Section 316.640(1), F.S., provides that various state agencies may enforce the state's traffic laws under various circumstances.

Section 316.640(1)(b)3., F.S., provides that for the purpose of enforcing the Mark Wandall Traffic Safety Program, DHSMV may designate employees as traffic infraction enforcement officers, and provides minimum requirement for these officers. The statute also provides that the traffic infraction enforcement officers must be physically located in the state.

Section 316.640(5)(a), F.S., provides that any sheriff's department or municipal police department may employ traffic infraction enforcement officers. Included in this paragraph is the authorization for traffic infraction enforcement officers to issue traffic citations under the Mark Wandall Traffic Safety Program.

The bill repeals s. 316.640(1)(b)3., F.S., repealing DHSMV's authority to designate employees as traffic infraction enforcement officers.

The bill amends s. 316.640(5)(2), F.S., removing the ability for traffic enforcement officers to issue traffic citations under the Mark Wandall Traffic Safety Program.

#### **Traffic Citations (Section 11)**

Section 316.650(3)(c), F.S., provides that if a traffic citation is issued under the Mark Wandall Traffic Safety Program, the traffic infraction enforcement officer is required to provide by electronic transmission a replica of the traffic citation data to the court having jurisdiction over the alleged offense or its traffic violations bureau within five days after the date of the issuance of the traffic citation to the violator. If a hearing is requested, the traffic infraction enforcement officer shall provide a replica of the traffic notice of violation data to the clerk for the local hearing officer having jurisdiction over the alleged offense within 14 days.

The bill repeals s. 316.650(3)(c), F.S., regarding traffic citations issued under the Mark Wandall Traffic Safety Program.

#### **Amount of Penalties (Section 14)**

Sections 318.18(15) and (22), F.S., provide for the amount of penalties for violations relating to traffic infraction detectors and the distribution of such penalties.

Section 318.18(15)(a)2., F.S., provides for distribution of the penalty for a violation enforced by DHSMV's traffic infraction enforcement officers. Section 318.18(15)(a)3., F.S., provides the penalties for violations enforced by a county's or municipality's traffic infraction enforcement officer. Section 318.18(15)(c), F.S., authorizes the clerk of court or the clerk to the local hearing officer to dismiss the case if the notice of violation was issued in error.

Section 318.18(15)(d), F.S., provides that an individual may not receive a commission or per-ticket fee from any revenue collected from violations detected through the use of a traffic infraction detector. A manufacturer or vendor may not receive a fee or remuneration based upon the number of violations detected through the use of traffic infraction detectors.

Section 318.18(22), F.S. provides that in addition to the penalty prescribed in the Mark Wandall Traffic Safety Program which are upheld, the local hearing officer may also order the payment of county or municipal costs, not to exceed \$250.

The bill amends s. 318.18(15), F.S., removing "when issued by a law enforcement officer" to provisions relating to the penalties for failing to stop at a traffic signal. The bill also removes provisions for the distribution of penalties, commission or per ticket fees or payment on the number of violations. The bill also repeals s. 318.18(22), F.S., relating to the payment of county and municipal costs.

**Authority of DHSMV to suspend or revoke driver license or identification card (Section 16)**

Section 322.27(3), F.S., provides the point system for the evaluation of convictions for motor vehicle violations. Section 322.27(3)(d)6., F.S., provides that the points for the violation of a traffic control signal is 4 points. However, the sub-paragraph provides that no points are imposed for a violation for failing to stop at a traffic control signal when enforced by a traffic infraction enforcement officer. Additionally, a violation where a driver has failed to stop at a traffic signal and when enforced by a traffic infraction enforcement officer may not be used for purposes of setting motor vehicle insurance rates.

The bill repeals the provision of s. 322.27(3)(d)6., F.S., repealing provisions regarding points and insurance rates regarding convictions regarding traffic infraction detectors.

**Cross-references (Sections 9, 11, 12, 13, and 15)**

The bill amends ss. 28.37(5), 316.650(3)(a), 318.121, 318.14(2), and 320.03(8), F.S., conforming cross-references.

**Effective Date (Section 17)**

The bill has an effective date of July 1, 2019.

**B. SECTION DIRECTORY:**

- Section 1 Repeals s. 316.003(87) and (91), F.S., providing the definition for “traffic infraction detector” and “local hearing officer.”
- Section 2 Repeals s. 316.008(8), F.S., relating to the powers of local authorities to use traffic infraction detectors.
- Section 3 Repeals s. 316.0083, F.S., relating to the Mark Wandall Traffic Safety Program.
- Section 4 Repeals s. 316.00831, F.S., relating to the distribution of penalties collected under s. 316.0083(1)(b), F.S.
- Section 5 Repeals s. 316.07456, F.S., relating to transitional implementation.
- Section 6 Repeals s. 316.0776, F.S., relating to traffic infraction detectors; placement and installation.
- Section 7 Repeals s. 318.15(3), F.S., relating to failure to comply with civil penalty or appear; penalty as it relates to traffic infraction detectors.
- Section 8 Repeals s. 321.50, F.S., relating to the authorization to use traffic infraction detectors.
- Section 9 Amends s. 28.37, F.S., relating to fines, fees, service charges, and costs remitted to the state to conform a cross-reference.
- Section 10 Amends s. 316.640, F.S., relating to enforcement.
- Section 11 Amends s. 316.650, F.S., relating to traffic citations to conform a cross-reference.
- Section 12 Amends s. 318.121, F.S., relating to the preemption of additional fees, fines, surcharges, and costs to conform a cross-reference.
- Section 13 Amends s. 318.14, F.S., relating to noncriminal traffic infractions; exceptions; procedures to conform a cross-reference.
- Section 14 Amends s. 318.18, F.S., relating to the amount of penalties.

- Section 15 Amends s. 320.03, F.S., relating to registration; duties of tax collectors; International Registration Plan.
- Section 16 Amends s. 322.27, F.S., relating to the authority of the department to suspend or revoke driver license or identification card.
- Section 17 Provides an effective date.

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

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

1. Revenues:

On October 16, 2015, the Revenue Estimating Conference reviewed the bill. The consensus estimate is that there will be the following **negative** recurring fiscal impact to state government revenues:

| Fiscal Year | General Revenue | Trust Funds    | Total          |
|-------------|-----------------|----------------|----------------|
| 2016-2017   | \$54.8 million  | \$10.4 million | \$65.2 million |
| 2017-2018   | \$55.5 million  | \$10.6 million | \$66.1 million |
| 2018-2019   | \$56.1 million  | \$10.7 million | \$66.8 million |
| 2019-2020   | \$56.8 million  | \$10.8 million | \$67.6 million |
| 2020-2021   | \$57.5 million  | \$11.0 million | \$68.5 million |

2. Expenditures:

DOR will no longer incur the expenses associated with processing the payments from municipalities and counties and distributing the monies to the appropriate funds.

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

1. Revenues:

On October 16, 2015, the Revenue Estimating Conference reviewed the bill. The consensus estimate is that there will be the following **negative** recurring fiscal impact to local government revenues:

| Fiscal Year | Revenue        |
|-------------|----------------|
| 2016-2017   | \$63.3 million |
| 2017-2018   | \$64.1 million |
| 2018-2019   | \$64.9 million |
| 2019-2020   | \$65.7 million |
| 2020-2021   | \$66.5 million |

2. Expenditures:

Municipalities and counties will no longer incur the expenses associated with traffic infraction detectors. However, these entities may incur some expenses associated with removing existing traffic infraction detectors.

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

The possibility of a \$158 fine for the violation of a traffic infraction detector would be eliminated.

According to DHSMV, according to its 2015 survey, 71 jurisdictions responded that they operated traffic infraction detectors during the survey period. Each of these jurisdictions has a unique contract with a vendor to provide some, if not all, of the following services: installation, maintenance, monitoring, and citation issuance. The value of these contracts and the specific stakeholders are not clear at this time, but the impact will be significant.<sup>42</sup>

#### D. FISCAL COMMENTS:

The bill has a negative recurring impact even though it does not take effect until 2019. This is because revenues are considered nonrecurring until the effective date, given the prospective repeal of the law. Therefore, although there is no immediate loss of revenue, the accounting of those revenues as being temporary or time limited occurs immediately. The Revenue Estimating Conference met on October 16, 2015, and estimated that the bill has a recurring annual impact of \$54.8 million to general revenue, \$10.4 million to state trust funds, and \$63.3 million to local government revenues.

According to DHSMV, passage of the bill would eliminate the need for the Annual Survey, Annual Red Light Camera Report, and the vendor approval process for the issuance of the Notices of Violation. This would also alleviate the workload related to handling red light camera disputes and for granting access and registration stops.<sup>43</sup>

The bill will also eliminate the need for hearings to dispute the issuance of red light camera notices of violation.<sup>44</sup>

### III. COMMENTS

#### A. CONSTITUTIONAL ISSUES:

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

The county/municipality mandates provision of Art. VII, section 18, of the Florida Constitution may apply because this bill diminishes their authority to raise revenue by repealing the authorization for traffic infraction detectors; however, an exception may apply since specific authority for traffic infraction detectors did not exist on February 1, 1989. Additionally, the bill also repeals the authority for DHSMV to install traffic infraction detectors.

##### 2. Other:

Municipalities or counties may have contracts that provide for the use of traffic infraction detectors beyond July 1, 2019. To the extent that these contracts do not contain provisions regarding the termination of the contract upon the repeal of the authorization for traffic infraction detectors, there may be an impairment of contracts argument.

#### B. RULE-MAKING AUTHORITY:

While not in its rules, DHSMV indicates that the bill will require it to implement some procedure changes.<sup>45</sup>

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

None.

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<sup>42</sup> DHSMV bill analysis of HB 4027. On file with the Economic Affairs Committee.

<sup>43</sup> *Id.*

<sup>44</sup> *Id.*

<sup>45</sup> *Id.*

#### IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.



27 registration and renewal of license plates, and points  
 28 assessed for certain violations, to conform provisions  
 29 to changes made by the act; providing an effective  
 30 date.

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

33

34 Section 1. Subsections (87) and (91) of section 316.003,  
 35 Florida Statutes, are repealed.

36 Section 2. Subsection (8) of section 316.008, Florida  
 37 Statutes, is repealed.

38 Section 3. Section 316.0083, Florida Statutes, is  
 39 repealed.

40 Section 4. Section 316.00831, Florida Statutes, is  
 41 repealed.

42 Section 5. Section 316.07456, Florida Statutes, is  
 43 repealed.

44 Section 6. Section 316.0776, Florida Statutes, is  
 45 repealed.

46 Section 7. Subsection (3) of section 318.15, Florida  
 47 Statutes, is repealed.

48 Section 8. Section 321.50, Florida Statutes, is repealed.

49 Section 9. Subsection (5) of section 28.37, Florida  
 50 Statutes, is amended to read:

51 28.37 Fines, fees, service charges, and costs remitted to  
 52 the state.-

53           (5) Ten percent of all court-related fines collected by  
 54 the clerk, except for penalties or fines distributed to counties  
 55 or municipalities under ~~s. 316.0083(1)(b)3.~~ or s. 318.18(15)(a),  
 56 shall be deposited into the clerk's Public Records Modernization  
 57 Trust Fund to be used exclusively for additional clerk court-  
 58 related operational needs and program enhancements.

59           Section 10. Paragraph (b) of subsection (1) and paragraph  
 60 (a) of subsection (5) of section 316.640, Florida Statutes, are  
 61 amended to read:

62           316.640 Enforcement.—The enforcement of the traffic laws  
 63 of this state is vested as follows:

64           (1) STATE.—

65           (b)1. The Department of Transportation has authority to  
 66 enforce on all the streets and highways of this state all laws  
 67 applicable within its authority.

68           2.a. The Department of Transportation shall develop  
 69 training and qualifications standards for toll enforcement  
 70 officers whose sole authority is to enforce the payment of tolls  
 71 pursuant to s. 316.1001. Nothing in this subparagraph shall be  
 72 construed to permit the carrying of firearms or other weapons,  
 73 nor shall a toll enforcement officer have arrest authority.

74           b. For the purpose of enforcing s. 316.1001, governmental  
 75 entities, as defined in s. 334.03, which own or operate a toll  
 76 facility may employ independent contractors or designate  
 77 employees as toll enforcement officers; however, any such toll  
 78 enforcement officer must successfully meet the training and



79 | qualifications standards for toll enforcement officers  
 80 | established by the Department of Transportation.

81 | ~~3. For the purpose of enforcing s. 316.0083, the~~  
 82 | ~~department may designate employees as traffic infraction~~  
 83 | ~~enforcement officers. A traffic infraction enforcement officer~~  
 84 | ~~must successfully complete instruction in traffic enforcement~~  
 85 | ~~procedures and court presentation through the Selective Traffic~~  
 86 | ~~Enforcement Program as approved by the Division of Criminal~~  
 87 | ~~Justice Standards and Training of the Department of Law~~  
 88 | ~~Enforcement, or through a similar program, but may not~~  
 89 | ~~necessarily otherwise meet the uniform minimum standards~~  
 90 | ~~established by the Criminal Justice Standards and Training~~  
 91 | ~~Commission for law enforcement officers or auxiliary law~~  
 92 | ~~enforcement officers under s. 943.13. This subparagraph does not~~  
 93 | ~~authorize the carrying of firearms or other weapons by a traffic~~  
 94 | ~~infraction enforcement officer and does not authorize a traffic~~  
 95 | ~~infraction enforcement officer to make arrests. The department's~~  
 96 | ~~traffic infraction enforcement officers must be physically~~  
 97 | ~~located in the state.~~

98 | (5)(a) Any sheriff's department or police department of a  
 99 | municipality may employ, as a traffic infraction enforcement  
 100 | officer, any individual who successfully completes instruction  
 101 | in traffic enforcement procedures and court presentation through  
 102 | the Selective Traffic Enforcement Program as approved by the  
 103 | Division of Criminal Justice Standards and Training of the  
 104 | Department of Law Enforcement, or through a similar program, but

105 | who does not necessarily otherwise meet the uniform minimum  
 106 | standards established by the Criminal Justice Standards and  
 107 | Training Commission for law enforcement officers or auxiliary  
 108 | law enforcement officers under s. 943.13. Any such traffic  
 109 | infraction enforcement officer who observes the commission of a  
 110 | traffic infraction or, in the case of a parking infraction, who  
 111 | observes an illegally parked vehicle may issue a traffic  
 112 | citation for the infraction when, based upon personal  
 113 | investigation, he or she has reasonable and probable grounds to  
 114 | believe that an offense has been committed which constitutes a  
 115 | noncriminal traffic infraction as defined in s. 318.14. ~~In~~  
 116 | ~~addition, any such traffic infraction enforcement officer may~~  
 117 | ~~issue a traffic citation under s. 316.0083. For purposes of~~  
 118 | ~~enforcing s. 316.0083, any sheriff's department or police~~  
 119 | ~~department of a municipality may designate employees as traffic~~  
 120 | ~~infraction enforcement officers.~~ The traffic infraction  
 121 | enforcement officers must be physically located in the county of  
 122 | the respective sheriff's or police department.

123 | Section 11. Paragraphs (a) and (c) of subsection (3) of  
 124 | section 316.650, Florida Statutes, are amended to read:

125 | 316.650 Traffic citations.—

126 | (3)(a) Except for a traffic citation issued pursuant to s.  
 127 | 316.1001 ~~or s. 316.0083~~, each traffic enforcement officer, upon  
 128 | issuing a traffic citation to an alleged violator of any  
 129 | provision of the motor vehicle laws of this state or of any  
 130 | traffic ordinance of any municipality or town, shall deposit the

131 original traffic citation or, in the case of a traffic  
 132 enforcement agency that has an automated citation issuance  
 133 system, the chief administrative officer shall provide by an  
 134 electronic transmission a replica of the citation data to a  
 135 court having jurisdiction over the alleged offense or with its  
 136 traffic violations bureau within 5 days after issuance to the  
 137 violator.

138 ~~(c) If a traffic citation is issued under s. 316.0083, the~~  
 139 ~~traffic infraction enforcement officer shall provide by~~  
 140 ~~electronic transmission a replica of the traffic citation data~~  
 141 ~~to the court having jurisdiction over the alleged offense or its~~  
 142 ~~traffic violations bureau within 5 days after the date of~~  
 143 ~~issuance of the traffic citation to the violator. If a hearing~~  
 144 ~~is requested, the traffic infraction enforcement officer shall~~  
 145 ~~provide a replica of the traffic notice of violation data to the~~  
 146 ~~clerk for the local hearing officer having jurisdiction over the~~  
 147 ~~alleged offense within 14 days.~~

148 Section 12. Section 318.121, Florida Statutes, is amended  
 149 to read:

150 318.121 Preemption of additional fees, fines, surcharges,  
 151 and costs.—Notwithstanding any general or special law, or  
 152 municipal or county ordinance, additional fees, fines,  
 153 surcharges, or costs other than the court costs and surcharges  
 154 assessed under s. 318.18(11), (13), (18), and (19), ~~and (22)~~ may  
 155 not be added to the civil traffic penalties assessed under this  
 156 chapter.

157           Section 13. Subsection (2) of section 318.14, Florida  
 158 Statutes, is amended to read:

159           318.14 Noncriminal traffic infractions; exception;  
 160 procedures.—

161           (2) Except as provided in s. 316.1001(2) ~~ss. 316.1001(2)~~  
 162 ~~and 316.0083~~, any person cited for a violation requiring a  
 163 mandatory hearing listed in s. 318.19 or any other criminal  
 164 traffic violation listed in chapter 316 must sign and accept a  
 165 citation indicating a promise to appear. The officer may  
 166 indicate on the traffic citation the time and location of the  
 167 scheduled hearing and must indicate the applicable civil penalty  
 168 established in s. 318.18. For all other infractions under this  
 169 section, except for infractions under s. 316.1001, the officer  
 170 must certify by electronic, electronic facsimile, or written  
 171 signature that the citation was delivered to the person cited.  
 172 This certification is prima facie evidence that the person cited  
 173 was served with the citation.

174           Section 14. Subsections (15) and (22) of section 318.18,  
 175 Florida Statutes, are amended to read:

176           318.18 Amount of penalties.—The penalties required for a  
 177 noncriminal disposition pursuant to s. 318.14 or a criminal  
 178 offense listed in s. 318.17 are as follows:

179           (15) ~~(a)1.~~ One hundred and fifty-eight dollars for a  
 180 violation of s. 316.074(1) or s. 316.075(1)(c)1. when a driver  
 181 has failed to stop at a traffic signal ~~and when enforced by a~~  
 182 ~~law enforcement officer~~. Sixty dollars shall be distributed as

183 provided in s. 318.21, \$30 shall be distributed to the General  
 184 Revenue Fund, \$3 shall be remitted to the Department of Revenue  
 185 for deposit into the Brain and Spinal Cord Injury Trust Fund,  
 186 and the remaining \$65 shall be remitted to the Department of  
 187 Revenue for deposit into the Emergency Medical Services Trust  
 188 Fund of the Department of Health.

189 ~~2. One hundred and fifty-eight dollars for a violation of~~  
 190 ~~s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~  
 191 ~~stop at a traffic signal and when enforced by the department's~~  
 192 ~~traffic infraction enforcement officer. One hundred dollars~~  
 193 ~~shall be remitted to the Department of Revenue for deposit into~~  
 194 ~~the General Revenue Fund, \$45 shall be distributed to the county~~  
 195 ~~for any violations occurring in any unincorporated areas of the~~  
 196 ~~county or to the municipality for any violations occurring in~~  
 197 ~~the incorporated boundaries of the municipality in which the~~  
 198 ~~infraction occurred, \$10 shall be remitted to the Department of~~  
 199 ~~Revenue for deposit into the Department of Health Emergency~~  
 200 ~~Medical Services Trust Fund for distribution as provided in s.~~  
 201 ~~395.4036(1), and \$3 shall be remitted to the Department of~~  
 202 ~~Revenue for deposit into the Brain and Spinal Cord Injury Trust~~  
 203 ~~Fund.~~

204 ~~3. One hundred and fifty-eight dollars for a violation of~~  
 205 ~~s. 316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~  
 206 ~~stop at a traffic signal and when enforced by a county's or~~  
 207 ~~municipality's traffic infraction enforcement officer. Seventy-~~  
 208 ~~five dollars shall be distributed to the county or municipality~~

209 ~~issuing the traffic citation, \$70 shall be remitted to the~~  
 210 ~~Department of Revenue for deposit into the General Revenue Fund,~~  
 211 ~~\$10 shall be remitted to the Department of Revenue for deposit~~  
 212 ~~into the Department of Health Emergency Medical Services Trust~~  
 213 ~~Fund for distribution as provided in s. 395.4036(1), and \$3~~  
 214 ~~shall be remitted to the Department of Revenue for deposit into~~  
 215 ~~the Brain and Spinal Cord Injury Trust Fund.~~

216 ~~(b)~~ Amounts deposited into the Brain and Spinal Cord  
 217 Injury Trust Fund pursuant to this subsection shall be  
 218 distributed quarterly to the Miami Project to Cure Paralysis and  
 219 shall be used for brain and spinal cord research.

220 ~~(c)~~ If a person who is mailed a notice of violation or  
 221 cited for a violation of s. 316.074(1) or s. 316.075(1) (c)1., as  
 222 enforced by a traffic infraction enforcement officer under s.  
 223 316.0083, presents documentation from the appropriate  
 224 governmental entity that the notice of violation or traffic  
 225 citation was in error, the clerk of court or clerk to the local  
 226 hearing officer may dismiss the case. The clerk of court or  
 227 clerk to the local hearing officer may not charge for this  
 228 service.

229 ~~(d)~~ An individual may not receive a commission or per-  
 230 ticket fee from any revenue collected from violations detected  
 231 through the use of a traffic infraction detector. A manufacturer  
 232 or vendor may not receive a fee or remuneration based upon the  
 233 number of violations detected through the use of a traffic  
 234 infraction detector.

235 ~~(e)~~ Funds deposited into the Department of Health  
 236 Emergency Medical Services Trust Fund under this subsection  
 237 shall be distributed as provided in s. 395.4036(1).

238 ~~(22) In addition to the penalty prescribed under s.~~  
 239 ~~316.0083 for violations enforced under s. 316.0083 which are~~  
 240 ~~upheld, the local hearing officer may also order the payment of~~  
 241 ~~county or municipal costs, not to exceed \$250.~~

242 Section 15. Subsection (8) of section 320.03, Florida  
 243 Statutes, is amended to read:

244 320.03 Registration; duties of tax collectors;  
 245 International Registration Plan.—

246 (8) If the applicant's name appears on the list referred  
 247 to in s. 316.1001(4), s. 316.1967(6), ~~s. 318.15(3)~~, or s.  
 248 713.78(13), a license plate or revalidation sticker may not be  
 249 issued until that person's name no longer appears on the list or  
 250 until the person presents a receipt from the governmental entity  
 251 or the clerk of court that provided the data showing that the  
 252 fines outstanding have been paid. This subsection does not apply  
 253 to the owner of a leased vehicle if the vehicle is registered in  
 254 the name of the lessee of the vehicle. The tax collector and the  
 255 clerk of the court are each entitled to receive monthly, as  
 256 costs for implementing and administering this subsection, 10  
 257 percent of the civil penalties and fines recovered from such  
 258 persons. As used in this subsection, the term "civil penalties  
 259 and fines" does not include a wrecker operator's lien as  
 260 described in s. 713.78(13). If the tax collector has private tag

261 agents, such tag agents are entitled to receive a pro rata share  
 262 of the amount paid to the tax collector, based upon the  
 263 percentage of license plates and revalidation stickers issued by  
 264 the tag agent compared to the total issued within the county.  
 265 The authority of any private agent to issue license plates shall  
 266 be revoked, after notice and a hearing as provided in chapter  
 267 120, if he or she issues any license plate or revalidation  
 268 sticker contrary to the provisions of this subsection. This  
 269 section applies only to the annual renewal in the owner's birth  
 270 month of a motor vehicle registration and does not apply to the  
 271 transfer of a registration of a motor vehicle sold by a motor  
 272 vehicle dealer licensed under this chapter, except for the  
 273 transfer of registrations which includes the annual renewals.  
 274 This section does not affect the issuance of the title to a  
 275 motor vehicle, notwithstanding s. 319.23(8)(b).

276 Section 16. Paragraph (d) of subsection (3) of section  
 277 322.27, Florida Statutes, is amended to read:

278 322.27 Authority of department to suspend or revoke driver  
 279 license or identification card.—

280 (3) There is established a point system for evaluation of  
 281 convictions of violations of motor vehicle laws or ordinances,  
 282 and violations of applicable provisions of s. 403.413(6)(b) when  
 283 such violations involve the use of motor vehicles, for the  
 284 determination of the continuing qualification of any person to  
 285 operate a motor vehicle. The department is authorized to suspend  
 286 the license of any person upon showing of its records or other



287 | good and sufficient evidence that the licensee has been  
 288 | convicted of violation of motor vehicle laws or ordinances, or  
 289 | applicable provisions of s. 403.413(6)(b), amounting to 12 or  
 290 | more points as determined by the point system. The suspension  
 291 | shall be for a period of not more than 1 year.

292 | (d) The point system shall have as its basic element a  
 293 | graduated scale of points assigning relative values to  
 294 | convictions of the following violations:

- 295 | 1. Reckless driving, willful and wanton—4 points.
- 296 | 2. Leaving the scene of a crash resulting in property  
 297 | damage of more than \$50—6 points.
- 298 | 3. Unlawful speed, or unlawful use of a wireless  
 299 | communications device, resulting in a crash—6 points.
- 300 | 4. Passing a stopped school bus—4 points.
- 301 | 5. Unlawful speed:
  - 302 | a. Not in excess of 15 miles per hour of lawful or posted  
 303 | speed—3 points.
  - 304 | b. In excess of 15 miles per hour of lawful or posted  
 305 | speed—4 points.
- 306 | 6. A violation of a traffic control signal device as  
 307 | provided in s. 316.074(1) or s. 316.075(1)(c)1.—4 points.  
 308 | ~~However, no points shall be imposed for a violation of s.~~  
 309 | ~~316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~  
 310 | ~~stop at a traffic signal and when enforced by a traffic~~  
 311 | ~~infraction enforcement officer. In addition, a violation of s.~~  
 312 | ~~316.074(1) or s. 316.075(1)(c)1. when a driver has failed to~~

313 ~~stop at a traffic signal and when enforced by a traffic~~  
 314 ~~infraction enforcement officer may not be used for purposes of~~  
 315 ~~setting motor vehicle insurance rates.~~

316 7. All other moving violations (including parking on a  
 317 highway outside the limits of a municipality)-3 points. However,  
 318 no points shall be imposed for a violation of s. 316.0741 or s.  
 319 316.2065(11); and points shall be imposed for a violation of s.  
 320 316.1001 only when imposed by the court after a hearing pursuant  
 321 to s. 318.14(5).

322 8. Any moving violation covered in this paragraph,  
 323 excluding unlawful speed and unlawful use of a wireless  
 324 communications device, resulting in a crash-4 points.

325 9. Any conviction under s. 403.413(6)(b)-3 points.

326 10. Any conviction under s. 316.0775(2)-4 points.

327 11. A moving violation covered in this paragraph which is  
 328 committed in conjunction with the unlawful use of a wireless  
 329 communications device within a school safety zone-2 points, in  
 330 addition to the points assigned for the moving violation.

331 Section 17. This act shall take effect July 1, 2019.



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 4049 Scrutinized Companies  
**SPONSOR(S):** Combee  
**TIED BILLS:** IDEN./SIM. BILLS:

| REFERENCE                             | ACTION    | ANALYST           | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF |
|---------------------------------------|-----------|-------------------|--|
| 1) Government Operations Subcommittee | 13 Y, 0 N | Moore             | Williamson                               |
| 2) Appropriations Committee           |           | Delaney <i>ED</i> | Leznoff <i>DL</i>                        |
| 3) State Affairs Committee            |           |                   |  |

### SUMMARY ANALYSIS

The State Board of Administration (SBA) has responsibility for oversight of the Florida Retirement System (FRS) Pension Plan and FRS Investment Plan, which represents approximately \$153.8 billion, or 87.1 percent, of the \$176.5 billion in assets managed by the SBA. The SBA's ability to invest the FRS assets is governed by a "legal list" of the types of investments and the total percentage that may be invested in each type. Currently, the SBA may invest up to 35 percent of any of its funds in foreign corporate securities and obligations.

The Protecting Florida's Investment Act (PFIA) requires the SBA to identify and divest from assets in foreign companies doing business in Iran and Sudan. The PFIA requires the SBA to assemble and publish a list of "Scrutinized Companies" that have prohibited business operations in Sudan and Iran. Once placed on the list, the SBA and its investment managers are prohibited from acquiring those companies' securities and are required to divest those securities if the companies on the list do not cease the prohibited activities or take certain compensating actions involving petroleum or energy, oil or mineral extraction, power production, or military support activities.

The PFIA specifies that the SBA may no longer scrutinize companies with certain business operations in Iran, may no longer assemble the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and must cease engagement, investment prohibitions, and divestment with respect to those companies upon the occurrence of certain actions by Congress or the President.

The bill repeals a provision requiring the SBA to cease scrutinizing and divesting of companies with certain business operations in Iran upon the occurrence of Congress or the President affirmatively and unambiguously declaring, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress, that such mandatory divestment interferes with the conduct of United States foreign policy.

The bill does not appear to have a fiscal impact on the state or local governments.

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### **Background**

###### State Board of Administration

The State Board of Administration (SBA or board) is established by Art. IV, s. 4(e) of the State Constitution and is composed of the Governor, the Chief Financial Officer, and the Attorney General. The SBA derives its powers to oversee state funds from Art. XII, s. 9 of the Constitution.

The SBA has responsibility for oversight of the Florida Retirement System (FRS) Pension Plan investments and the FRS Investment Plan,<sup>1</sup> which represent approximately \$153.8 billion, or 87.1 percent, of the \$176.5 billion in assets managed by the SBA, as of October 31, 2015.<sup>2</sup> The SBA also manages more than 30 other investment portfolios with combined assets of \$22.9 billion, including the Florida Hurricane Catastrophe Fund, the Florida Lottery Fund, the Florida Pre-Paid College Plan, and various debt-service accounts for state bond issues.<sup>3</sup>

###### Investments

Investment decisions for the pension plan are made by fiduciaries hired by the state. Under Florida law, an SBA fiduciary charged with an investment decision must act as a prudent expert would under similar circumstances, taking into account all relevant substantive factors. A nine-member Investment Advisory Council provides recommendations on investment policy, strategy, and procedures.<sup>4</sup>

The SBA's ability to invest the FRS assets is governed by s. 215.47, F.S., which provides a "legal list" of the types of investments and the total percentage that may be invested in each type. Some "legal list" guidelines specific to the pension plan provide:

- No more than 80 percent of assets should be invested in domestic common stocks.
- No more than 75 percent of assets should be invested in internally managed common stocks.
- No more than 3 percent of equity assets should be invested in the equity securities of any one corporation, except to the extent a higher percentage of the same issue is included in a nationally recognized market index, based on market values, or except upon a specific finding by the board that such higher percentage is in the best interest of the fund.
- No more than 25 percent of assets should be invested in notes issued by FHA-insured or VA-guaranteed first mortgages on real property, or foreign government general obligations.
- No more than 35 percent of assets should be invested in foreign corporate or commercial securities or obligations.
- No more than 20 percent of assets should be invested in alternative investments.

###### State Sponsors of Terrorism

Countries that are determined by the United States Secretary of State to have repeatedly provided support for acts of international terrorism are designated as "State Sponsors of Terrorism" and are subject to sanctions under the Export Administration Act, the Arms Export Control Act, and the Foreign Assistance Act.<sup>5</sup> The four main categories of sanctions resulting from designations under these acts

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<sup>1</sup> Members in the FRS may elect to participate in the pension plan, which is a defined benefit plan, or the investment plan, which is a defined contribution plan.

<sup>2</sup> See State Board of Administration, *Performance Report to the Trustees*, October 31, 2015, issued December 15, 2015, p. 5-6, available at [https://www.sbafla.com/fsb/Portals/Internet/Reports/20151031\\_Trustees\\_Performance\\_Reportrev.pdf](https://www.sbafla.com/fsb/Portals/Internet/Reports/20151031_Trustees_Performance_Reportrev.pdf).

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

<sup>4</sup> Section 215.444, F.S.

<sup>5</sup> U.S. Department of State, *State Sponsors of Terrorism*, <http://www.state.gov/j/ct/list/c14151.htm> (last visited Jan. 21, 2016).

are: restrictions on U.S. foreign assistance, a ban on defense exports and sales, certain controls over exports of dual use items, and miscellaneous financial and other restrictions.<sup>6</sup>

The three countries currently designated by the U.S. Secretary of State as "State Sponsors of Terrorism" are Iran, Sudan, and Syria.<sup>7</sup>

### Divestment of Securities

Divestment of securities is one method of applying economic pressures to companies, groups, or countries whose practices are not condoned by shareholders. Divestment may be used in conjunction with or in lieu of other sanctioning methods, such as economic embargoes and diplomatic and military activities. Alternatively, divestment may be used as a protective device if a particular investment carries a high level of risk to the performance of a fund.

### Federal Divestment Laws

The Comprehensive Iran Sanctions, Accountability, and Divestment Act of 2010<sup>8</sup> (CISADA) authorizes states to divest – within specified boundaries – from companies that invest in Iran. CISADA provides in pertinent part:

Authority to Divest—Notwithstanding any other provision of law, a State or local government may adopt and enforce measures that meet the requirements of subsection (d) to divest the assets of the State or local government from, or prohibit investment of the assets of the State or local government in, any person that the State or local government determines, using credible information available to the public, engages in investment activities in Iran described in subsection (c).

Section (c) of CISADA specifies that a person<sup>9</sup> engages in investment activities in Iran if the person:

- Has an investment of \$20,000,000 or more in the energy sector of Iran, including in a person that provides oil or liquefied natural gas tankers, or products used to construct or maintain pipelines used to transport oil or liquefied natural gas, for the energy sector of Iran; or
- Is a financial institution that extends \$20,000,000 or more in credit to another person, for 45 days or more, if that person will use the credit for investment in the energy sector of Iran.

CISADA specifies that the authorization for a state or local government to divest ends 30 days after the President certifies to Congress that the government of Iran no longer satisfies the requirements for designation as a state sponsor of terrorism and has ceased the pursuit, acquisition, and development of certain weapons.<sup>10</sup>

### Protecting Florida's Investment Act

In 2007, the Legislature unanimously passed the Protecting Florida's Investment Act (PFIA), which required the SBA to divest of companies with certain business operations in the countries of Sudan or Iran. The PFIA requires the SBA to assemble and publish a list of "Scrutinized Companies"<sup>11</sup> that have

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<sup>6</sup> *Id.*

<sup>7</sup> *Id.*

<sup>8</sup> 22 U.S.C. ss. 8501-8551.

<sup>9</sup> The term "person" includes corporations, companies, associations, firms, partnerships, societies, and joint stock companies, as well as individuals. 1 U.S.C. s. 1.

<sup>10</sup> *See* 22 U.S.C. s. 8551(a).

<sup>11</sup> Section 215.473(1)(t), F.S., defines "scrutinized company" as a company that meets any of the following criteria:

1. The company has business operations that involve contracts with or provision of supplies or services to the government of Sudan, companies in which the government of Sudan has any direct or indirect equity share, consortiums or projects commissioned by the government of Sudan, or companies involved in consortiums or projects commissioned by the government of Sudan, and:

a. More than 10 percent of the company's revenues or assets linked to Sudan involve oil-related activities or mineral-extraction activities; less than 75 percent of the company's revenues or assets linked to Sudan involve contracts with or provision of

prohibited business operations in Sudan or Iran. Once a company is placed on the list, the SBA and its investment managers are prohibited from acquiring that company's securities and are required to divest the company's securities if the company does not cease the prohibited activities or take certain compensating actions involving petroleum or energy, oil or mineral extraction, power production, or military support activities.

The PFIA specifies that the SBA may no longer scrutinize companies with certain business operations in Iran, may no longer assemble the Scrutinized Companies with Activities in the Iran Petroleum Energy Sector List, and must cease engagement, investment prohibitions, and divestment with respect to those companies upon the occurrence of any of the following:

- The Congress or President of the United States affirmatively and unambiguously states, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress, that the government of Iran has ceased to acquire weapons of mass destruction and support international terrorism;
- The United States revokes all sanctions imposed against the government of Iran; or
- The Congress or President of the United States affirmatively and unambiguously declares, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress, that mandatory divestment of companies with business operations in Iran interferes with the conduct of United States foreign policy.

### **Effect of Proposed Changes**

The bill repeals the provision requiring the SBA to cease scrutinizing and divesting of companies with certain business operations in Iran upon the occurrence of Congress or the President affirmatively and unambiguously declaring, by means including, but not limited to, legislation, executive order, or written certification from the President to Congress, that such mandatory divestment interferes with the conduct of United States foreign policy.

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

Section 1 amends s. 215.471, F.S., relating to divesture by the SBA; Sudan; Iran.

Section 2 provides an effective date of July 1, 2016.

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oil-related or mineral-extracting products or services to the regional government of southern Sudan or a project or consortium created exclusively by that regional government; and the company has failed to take substantial action; or

b. More than 10 percent of the company's revenues or assets linked to Sudan involve power-production activities; less than 75 percent of the company's power-production activities include projects whose intent is to provide power or electricity to the marginalized populations of Sudan; and the company has failed to take substantial action.

2. The company is complicit in the Darfur genocide.

3. The company supplies military equipment within Sudan, unless it clearly shows that the military equipment cannot be used to facilitate offensive military actions in Sudan or the company implements rigorous and verifiable safeguards to prevent use of that equipment by forces actively participating in armed conflict. Examples of safeguards include post-sale tracking of such equipment by the company, certification from a reputable and objective third party that such equipment is not being used by a party participating in armed conflict in Sudan, or sale of such equipment solely to the regional government of southern Sudan or any internationally recognized peacekeeping force or humanitarian organization.

4. The company has business operations that involve contracts with or provision of supplies or services to the government of Iran, companies in which the government of Iran has any direct or indirect equity share, consortiums, or projects commissioned by the government of Iran, or companies involved in consortiums or projects commissioned by the government of Iran and:

a. More than 10 percent of the company's total revenues or assets are linked to Iran and involve oil-related activities or mineral-extraction activities; and the company has failed to take substantial action; or

b. The company has, with actual knowledge, on or after August 5, 1996, made an investment of \$20 million or more, or any combination of investments of at least \$10 million each, which in the aggregate equals or exceeds \$20 million in any 12-month period, and which directly or significantly contributes to the enhancement of Iran's ability to develop the petroleum resources of Iran.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

1. Revenues:

None.

2. Expenditures:

None.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

1. Revenues:

None.

2. Expenditures:

None.

### 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. This bill does not appear to affect county or municipal governments.

2. Other:

None.

### B. RULE-MAKING AUTHORITY:

None.

### C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

## IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES

None.



1                                   A bill to be entitled  
 2           An act relating to scrutinized companies; amending s.  
 3           215.473, F.S.; revising the conditions under which the  
 4           public fund may no longer scrutinize certain companies  
 5           with activities in the Iran petroleum energy sector;  
 6           providing an effective date.

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

9  
 10           Section 1. Paragraph (b) of subsection (5) of section  
 11           215.473, Florida Statutes, is amended to read:

12           215.473   Divestiture by the State Board of Administration;  
 13           Sudan; Iran.—

14           (5)   EXPIRATION.—This section expires upon the occurrence  
 15           of all of the following:

16           (b)   If any of the following occur, the public fund shall  
 17           no longer scrutinize companies according to subparagraph  
 18           (1)(u)4. and shall no longer assemble the Scrutinized Companies  
 19           with Activities in the Iran Petroleum Energy Sector List and  
 20           shall cease engagement, investment prohibitions, and divestment.  
 21           The public fund may reinvest in such companies if such companies  
 22           do not satisfy the criteria for inclusion in the Scrutinized  
 23           Companies with Activities in Sudan List:

24           1.   The Congress or President of the United States  
 25           affirmatively and unambiguously states, by means including, but  
 26           not limited to, legislation, executive order, or written

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27 | certification from the President to Congress, that the  
 28 | government of Iran has ceased to acquire weapons of mass  
 29 | destruction and support international terrorism; or  
 30 |       2. The United States revokes all sanctions imposed against  
 31 | the government of Iran; ~~or~~  
 32 |       ~~3. The Congress or President of the United States~~  
 33 | ~~affirmatively and unambiguously declares, by means including,~~  
 34 | ~~but not limited to, legislation, executive order, or written~~  
 35 | ~~certification from the President to Congress, that mandatory~~  
 36 | ~~divestment of the type provided for in this section interferes~~  
 37 | ~~with the conduct of United States foreign policy.~~  
 38 |       Section 2. This act shall take effect July 1, 2016.

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## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 7107 PCB SAC 16-03 Public Employees  
**SPONSOR(S):** State Affairs Committee, Caldwell  
**TIED BILLS:** IDEN./SIM. BILLS:

| REFERENCE                            | ACTION    | ANALYST     | STAFF DIRECTOR or<br>BUDGET/POLICY CHIEF  |
|--------------------------------------|-----------|-------------|---|
| Orig. Comm.: State Affairs Committee | 10 Y, 8 N | Moore       | Camechis  |
| 1) Appropriations Committee          |           | Delaney JNO | Leznoff  |

### SUMMARY ANALYSIS

The Florida Retirement System (FRS) is a multiple-employer, contributory plan that provides retirement income benefits to 622,089 active members, 363,034 retired members and beneficiaries, and 38,058 members of the Deferred Retirement Option Program. It is the primary retirement plan for employees of the state and county government agencies, district school boards, state colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 189 cities and 273 independent hospitals and special districts that have elected to join the system.

Members of the FRS have two plan options available for participation: the pension plan, which is a defined benefit plan, and the investment plan, which is a defined contribution plan. In addition to the two primary plans, some eligible members have the choice of participating in optional retirement plans, which include the Senior Management Service Optional Annuity Program (SMSOAP), the State Community College System Optional Retirement Program (SCCSORP), and the State University System Optional Retirement Program (SUSORP).

Effective July 1, 2016, the bill authorizes renewed membership in the investment plan for retirees of the investment plan, the SMSOAP, the SUSORP, or the SCCSORP. Such renewed member will be a renewed member of the appropriate membership class in the investment plan, unless employed in a position eligible for participation in the SUSORP or the SCCSORP, in which case the retiree will become a renewed member of the applicable optional retirement program.

Effective July 1, 2016, the bill establishes new survivor benefits for members of the investment plan who are killed in the line of duty. It provides the same survivor benefits to the spouse and children of such member as those currently provided for pension plan members who are killed in the line of duty. The bill also provides the survivor benefits for any member of the investment plan who has been killed in the line of duty since 2002, when members were first allowed to participate in the investment plan. It also provides a process for calculating the retroactive benefit.

Effective July 1, 2017, the bill changes the default from the pension plan to the investment plan for members who do not affirmatively choose a plan. The bill also extends the plan election period to the last business day of the eighth month after the month of hire.

The bill provides that a proper and legitimate state purpose is served by the bill, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner. It also provides allocations for the survivor benefits authorized by the act and provides for adjustments to employer contribution rates in order to fund the proposed changes.

For the 2016-17 fiscal year (FY), the bill appropriates a recurring sum of \$4.2 million from the General Revenue Fund and a recurring sum of \$900 thousand from trust funds to Administered Funds in order to fund the increased employer contribution rates to be paid by state agencies, state universities, state colleges, and school districts. For FY 2016-17, the bill has a projected \$3.6 million fiscal impact on counties and municipalities. See Fiscal Comments section for further discussion.

This document does not reflect the intent or official position of the bill sponsor or House of Representatives.

STORAGE NAME: h7107.APC.DOCX

DATE: 2/12/2016

## FULL ANALYSIS

### I. SUBSTANTIVE ANALYSIS

#### A. EFFECT OF PROPOSED CHANGES:

##### Background

##### Florida Retirement System

The Florida Retirement System (FRS) was established in 1970 when the Legislature consolidated the Teachers' Retirement System, the State and County Officers and Employees' Retirement System, and the Highway Patrol Pension Fund. In 1972, the Judicial Retirement System was consolidated into the FRS, and in 2007, the Institute of Food and Agricultural Sciences Supplemental Retirement Program was consolidated under the Regular Class of the FRS as a closed group.<sup>1</sup>

The FRS is a multiple-employer, contributory plan<sup>2</sup> governed by the Florida Retirement System Act.<sup>3</sup> As of June 30, 2014, the FRS provides retirement income benefits to 622,089 active members,<sup>4</sup> 363,034 retired members and beneficiaries, and 38,058 members of the Deferred Retirement Option Program (DROP).<sup>5</sup> It is the primary retirement plan for employees of state and county government agencies, district school boards, state colleges, and universities. The FRS also serves as the retirement plan for participating employees of the 189 cities and 273 independent hospitals and special districts that have elected to join the system.<sup>6</sup>

The membership of the FRS is divided into five membership classes:<sup>7</sup>

- Regular Class<sup>8</sup> consists of 543,434 members (87.35 percent of the membership);
- Special Risk Class<sup>9</sup> includes 68,593 members (11.02 percent);
- Special Risk Administrative Support Class<sup>10</sup> has 84 members (.01 percent);
- Elected Officers' Class<sup>11</sup> has 2,187 members (0.35 percent); and
- Senior Management Service Class<sup>12</sup> has 7,791 members (1.25 percent).

Each class is funded separately based upon the costs attributable to the members of that class.

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<sup>1</sup> *Florida Retirement System Pension Plan And Other State Administered Systems Comprehensive Annual Financial Report Fiscal Year Ended June 30, 2014*, at 29. A copy of the report can be found online at:

[http://www.dms.myflorida.com/workforce\\_operations/retirement/publications/annual\\_reports](http://www.dms.myflorida.com/workforce_operations/retirement/publications/annual_reports) (last visited February 6, 2016) [hereinafter *Annual Report*].

<sup>2</sup> Prior to 1975, members of the FRS were required to make employee contributions of either 4 percent for Regular Class members or 6 percent for Special Risk Class members. Members were again required to contribute to the system after June 30, 2011.

<sup>3</sup> Chapter 121, F.S.

<sup>4</sup> As of June 30, 2014, the FRS Pension Plan, which is a defined benefit plan, had 512,364 members, and the investment plan, which is a defined contribution plan, had 109,725 members. *Annual Report, supra* note 1, at 112.

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

<sup>6</sup> Florida Retirement System Participating Employers for Plan Year 2015-16, prepared by the Department of Management Services, Division of Retirement, Revised November 2015, at 8. A copy of the document can be found online at: <https://www.rol.frs.state.fl.us/forms/part-emp.pdf> (last visited February 6, 2016).

<sup>7</sup> Email from staff of the Division of Retirement dated February 12, 2015 (on file with the State Affairs Committee).

<sup>8</sup> The Regular Class is for all members who are not assigned to another class. Section 121.021(12), F.S.

<sup>9</sup> The Special Risk Class is for members employed as law enforcement officers, firefighters, correctional officers, probation officers, paramedics, and emergency technicians, among others. Section 121.0515, F.S.

<sup>10</sup> The Special Risk Administrative Support Class is for a special risk member who moved or was reassigned to a nonspecial risk law enforcement, firefighting, correctional, or emergency medical care administrative support position with the same agency, or who is subsequently employed in such a position under the FRS. Section 121.0515(8), F.S.

<sup>11</sup> The Elected Officers' Class is for elected state and county officers, and for those elected municipal or special district officers whose governing body has chosen Elected Officers' Class participation for its elected officers. Section 121.052, F.S.

<sup>12</sup> The Senior Management Service Class is for members who fill senior management level positions assigned by law to the Senior Management Service Class or authorized by law as eligible for Senior Management Service designation. Section 121.055, F.S.

Members of the FRS have two primary plan options available for participation:

- The pension plan, which is a defined benefit plan; and
- The investment plan, which is a defined contribution plan.

Certain members, as specified by law and position title, may, in lieu of FRS participation, participate in optional retirement plans.

#### FRS Investment Plan

In 2000, the Legislature created the Public Employee Optional Retirement Program (investment plan), a defined contribution plan offered to eligible employees as an alternative to the pension plan. The earliest that any member could participate in the investment plan was July 1, 2002.

The State Board of Administration (SBA) is primarily responsible for administering the investment plan.<sup>13</sup> The SBA is comprised of the Governor as chair, the Chief Financial Officer, and the Attorney General.<sup>14</sup>

A member vests immediately in all employee contributions paid to the investment plan.<sup>15</sup> With respect to the employer contributions, a member vests after completing one work year with an FRS employer.<sup>16</sup> Vested benefits are payable upon termination or death as a lump-sum distribution, direct rollover distribution, or periodic distribution.<sup>17</sup>

Benefits under the investment plan accrue in individual member accounts funded by both employee and employer contributions and investment earnings. Benefits are provided through employee-directed investments offered by approved investment providers. The amount of money contributed to each member's account varies by class as follows:

| <b>Membership Class</b>                   | <b>Percentage of Gross Compensation</b> |
|---|---|
| Regular Class                             | 6.30%                                   |
| Special Risk Class                        | 14.00%                                  |
| Special Risk Administrative Support Class | 7.95%                                   |
| Elected Officers' Class                   |   |
| • Justices and Judges                     | 13.23%                                  |
| • County Elected Officers                 | 11.34%                                  |
| • Others                                  | 9.38%                                   |
| Senior Management Service Class           | 7.67%                                   |

#### FRS Pension Plan

The pension plan is a defined benefit plan that is administered by the secretary of the Department of Management Services (DMS) through the Division of Retirement (division).<sup>18</sup> Investment management is handled by the SBA.

Any member initially enrolled in the pension plan before July 1, 2011, vests in the pension plan after completing six years of service with an FRS employer.<sup>19</sup> For members initially enrolled on or after July

<sup>13</sup> Section 121.4501(8), F.S.

<sup>14</sup> Section 4(e), Art. IV, Fla. Const.

<sup>15</sup> Section 121.4501(6)(a), F.S.

<sup>16</sup> If a member terminates employment before vesting in the investment plan, the nonvested money is transferred from the member's account to the State Board of Administration (SBA) for deposit and investment by the SBA in its suspense account for up to five years. If the member is not reemployed as an eligible employee within five years, any nonvested accumulations transferred from a member's account to the SBA's suspense account are forfeited. Section 121.4501(6)(b) – (d), F.S.

<sup>17</sup> Section 121.591, F.S.

<sup>18</sup> Section 121.025, F.S.

<sup>19</sup> Section 121.021(45)(a), F.S.

1, 2011, the member vests in the pension plan after eight years of creditable service.<sup>20</sup> A member vests immediately in all employee contributions paid to the pension plan.

Benefits payable under the pension plan are calculated based on years of service x accrual rate x average final compensation.<sup>21</sup> The accrual rate varies by class as follows:

| <b>Membership Class</b>                   | <b>Accrual Rate</b>                      |
|---|--|
| Regular Class                             | 1.60%, 1.63%, 1.65%, 1.68% <sup>22</sup> |
| Special Risk Class                        | 3.00%                                    |
| Special Risk Administrative Support Class | 1.60%, 1.63%, 1.65%, 1.68% <sup>23</sup> |
| Elected Officers' Class                   |  |
| • Justices and Judges                     | 3.33%                                    |
| • Others                                  | 3.00%                                    |
| Senior Management Service Class           | 2.00%                                    |

For most members of the pension plan, normal retirement occurs at the earliest attainment of 30 years of service or age 62.<sup>24</sup> For members in the Special Risk and Special Risk Administrative Support Classes, normal retirement is the earliest of 25 years of service or age 55.<sup>25</sup> Members initially enrolled in the pension plan on or after July 1, 2011, must complete 33 years of service or attain age 65, and members in the Special Risk and Special Risk Administrative Support Classes must complete 30 years of service or attain age 60.<sup>26</sup>

#### Default and Second Election

A new member has until the last business day of the fifth month following the member's month of hire to make a plan selection. If the member fails to make a selection, the member defaults to participation in the pension plan.<sup>27</sup>

After the initial election or default election to participate in either the pension plan or investment plan, a member has one opportunity, at the member's discretion and prior to termination or retirement, to choose to move from the pension plan to the investment plan or from the investment plan to the pension plan.<sup>28</sup>

#### Disability Benefits

Disability retirement benefits are provided for both in-line-of-duty disability and regular disability. Pension plan disability retirement benefits, which apply for investment plan members who qualify for disability,<sup>29</sup> compensate a member who is disabled in the line of duty up to 65 percent of the average monthly compensation as of the disability retirement date for Special Risk Class members. Other members may receive up to 42 percent of the member's average monthly compensation for disability retirement benefits. If a disability occurs other than in the line of duty, the monthly benefit may not be less than 25 percent of the average monthly compensation as of the disability retirement date. A member who qualifies for disability while enrolled in the investment plan may apply for benefits as if the employee were a member of the pension plan. If approved for retirement disability benefits, the member is transferred to the pension plan.<sup>30</sup>

<sup>20</sup> Section 121.021(45)(b), F.S.

<sup>21</sup> Section 121.091, F.S.

<sup>22</sup> Section 121.091(1)(a)1., F.S.

<sup>23</sup> Section 121.0515(8)(a), F.S.

<sup>24</sup> Section 121.021(29)(a)1., F.S.

<sup>25</sup> Section 121.021(29)(b)1., F.S.

<sup>26</sup> Sections 121.021(29)(a)2. and (b)2., F.S.

<sup>27</sup> Section 121.4501(4), F.S.

<sup>28</sup> Section 121.4501(4)(g), F.S.

<sup>29</sup> See s. 121.4501(16), F.S.

<sup>30</sup> Section 121.091(4)(f), F.S.

### Death or Survivor Benefits

If the member is terminated by reason of death prior to becoming vested in the FRS, the member's beneficiary is only entitled to the member's accumulated contributions.<sup>31</sup> Under the pension plan, if the member has vested at the time of his or her death, the member's joint annuitant<sup>32</sup> is entitled to receive the optional form<sup>33</sup> of payment for the annuitant's lifetime.<sup>34</sup> If the designated beneficiary does not qualify as a joint annuitant, the member's beneficiary is only entitled to the return of the member's personal contributions, if any.<sup>35</sup> If the member dies in the line of duty, the surviving spouse of the member is entitled to receive a monthly benefit equal to one-half of the monthly salary being received by the member at the time of death for the rest of the surviving spouse's lifetime.<sup>36</sup> Members in the investment plan are not entitled to these death benefits; instead, the member's beneficiary is entitled to the balance of the member's investment plan account, provided the member has met the one-year vesting requirement.<sup>37</sup>

### DROP

All membership classes in the FRS Pension Plan may participate in DROP, which allows a member to retire without terminating employment; a member who enters DROP may extend employment for an additional five years.<sup>38</sup> While in DROP, the member's retirement benefits accumulate and earn interest compounded monthly.<sup>39</sup>

Members in the FRS Investment Plan may not participate in DROP; investment plan members are considered retired from the FRS when the member takes a distribution from his or her account.<sup>40</sup>

### Employment after Retirement

Section 121.091, F.S., governs the payment of benefits under the FRS. It requires a member of the FRS to terminate employment to begin receiving benefits, or begin participation in DROP to defer and accrue those benefits until termination from DROP. Termination occurs when a member ceases all employment relationships with her or his FRS employer.<sup>41</sup> Termination is void if any FRS-participating employer reemploys a member during a specified period of time.<sup>42</sup>

Subsection 121.091(9), F.S., governs employment after retirement. It allows reemployment of FRS retirees by a non-FRS employer and authorizes those retirees to continue receiving retirement benefits.<sup>43</sup>

An FRS retiree may be reemployed by an FRS employer provided certain requirements are met. A member who retired before July 1, 2010, may be reemployed by an FRS employer one calendar month

<sup>31</sup> For purposes of disbursement of benefits, a member is considered retired as of the date of the death.

<sup>32</sup> A joint annuitant is considered to be the member's spouse, natural or legally adopted child who is either under age 25 or is physically or mentally disabled and incapable of self-support (regardless of age), or any person who is financially dependent upon the member for one-half or more of his or her support and is the member's parent, grandparent, or person for whom the member is the legal guardian. Section 121.021(28), F.S.

<sup>33</sup> Under the pension plan, a member has a choice of payment options. If the member dies prior to retirement, the member's joint annuitant is entitled to select either to receive the member's contributions or a reduced monthly benefit payment for life.

<sup>34</sup> Section 121.091(7)(b)1., F.S.

<sup>35</sup> Section 121.091(7)(b)2., F.S.

<sup>36</sup> Section 121.091(7)(d)1., F.S. If the surviving spouse dies, or if the member is not married, the monthly payment that would have otherwise gone to the surviving spouse must be paid for the use and benefit of the member's child or children that are under 18 years of age and unmarried until the 18th birthday of the member's youngest child. Section 121.091(7)(d)2. and 3., F.S.

<sup>37</sup> See s. 121.591(3)(b), F.S.

<sup>38</sup> Section 121.091(13)(a) and (b), F.S. Instructional personnel may extend employment for an additional eight years under certain circumstances.

<sup>39</sup> If DROP participation began prior to July 1, 2011, the effective annual interest rate was 6.5 percent. On or after July 1, 2011, the annual interest rate for DROP is 1.3 percent.

<sup>40</sup> See s. 121.4501(2)(k) and (4)(f), F.S.

<sup>41</sup> Section 121.021(39)(a), F.S.

<sup>42</sup> *Id.*

<sup>43</sup> Section 121.091(9)(a), F.S.



after retiring or after the member's DROP termination date. If the retiree is reemployed during months two through 12 after retiring or terminating DROP, the retiree may not receive her or his pension benefit until month 13. However, a retiree who retired before July 1, 2010, may be reemployed as instructional personnel on an annual contractual basis after one calendar month without having her or his retirement benefits disrupted.<sup>44</sup>

A member who retires on or after July 1, 2010, may not be reemployed by an FRS employer until month seven after retiring or after the member's DROP termination date. If the retiree is reemployed during months seven through 12 after retiring or terminating DROP, the retiree may not receive her or his pension benefit until month 13.<sup>45</sup> The reemployment exception for retirees reemployed as instructional personnel no longer applies to members who retire on or after July 1, 2010.

#### Renewed Membership

Retirees of the FRS Pension Plan or the FRS Investment Plan who were initially re-employed in covered employment by June 30, 2010, renewed their membership in the FRS (the member could choose to participate in either the pension plan or the investment plan) or other state-administered retirement system and earn service credit toward a subsequent retirement benefit. Renewed members are not eligible to participate in DROP or the Special Risk Class, and are not eligible for disability retirement. However, the surviving spouse and dependent child of a renewed member may qualify for survivor benefits.<sup>46</sup>

Currently, retirees initially reemployed in a regularly established position on or after July 1, 2010, are not eligible for renewed membership and will not earn creditable service toward a subsequent retirement benefit.<sup>47</sup> This restriction from renewed membership includes retirees of the FRS Pension Plan and the FRS Investment Plan, as well as members of an optional retirement program.

#### Health Insurance Subsidy

Upon the conclusion of DROP, or upon service retirement or disability retirement, a retiree is eligible to receive the Health Insurance Subsidy (HIS), which assists retired members in paying for the costs of health insurance.<sup>48</sup> Eligible retirees receive \$5 per month for each year of creditable service used to calculate the retirement benefit. The HIS payment must be at least \$30, but not more than \$150 per month.<sup>49</sup>

#### Optional Retirement Programs

Eligible employees may choose to participate in one of three retirement programs instead of participating in the FRS:

- Members of the Senior Management Service Class may elect to enroll in the Senior Management Service Optional Annuity Program;<sup>50</sup>
- Members in specified positions in the State University System may elect to enroll in the State University System Optional Retirement Program;<sup>51</sup> and
- Members of a Florida College System institution may elect to enroll in the State Community College System Optional Retirement Program.<sup>52</sup>

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<sup>44</sup> Section 121.091(9)(b), F.S.

<sup>45</sup> Section 121.091(9)(c), F.S.

<sup>46</sup> Section 121.122(1), F.S.

<sup>47</sup> Section 121.122(2), F.S.

<sup>48</sup> Sections 112.363(1) and (2), F.S.

<sup>49</sup> Section 112.363(3)(e), F.S.

<sup>50</sup> The Senior Management Service Optional Annuity Program (SMSOAP) was established in 1986 for members of the Senior Management Service Class. Employees in eligible positions may irrevocably elect to participate in the SMSOAP rather than the FRS. Section 121.055(6), F.S.

<sup>51</sup> Eligible participants of the State University System Optional Retirement Program (SUSORP) are automatically enrolled in the SUSORP. However, the member must execute a contract with a SUSORP provider within the first 90 days of employment or the employee will default into the pension plan. If the employee decides to remain in the SUSORP, the decision is irrevocable and the member must remain in the SUSORP as long as the member remains in a SUSORP-eligible position. Section 121.35, F.S.

### Contribution Rates

FRS employers are responsible for contributing a set percentage of the member's monthly compensation to the division to be distributed into the FRS Contributions Clearing Trust Fund. The employer contribution rate is a blended contribution rate set by statute, which is the same percentage regardless of whether the member participates in the pension plan or the investment plan.<sup>53</sup> The rate is determined annually based on an actuarial study by DMS that calculates the necessary level of funding to support all of the benefit obligations under both FRS retirement plans.

The following are the current employer contribution rates for each class.<sup>54</sup>

| <b>Membership Class</b>  | <b>Effective July 1, 2015</b> |
|--|-------------------------------|
| Regular Class  | 2.91%                         |
| Special Risk Class   | 11.35%                        |
| Special Risk Administrative Support Class  | 3.71%                         |
| Elected Officers' Class  |                               |
| • Legislators, Governor, Lt. Governor,<br>Cabinet Officers, State Attorneys,<br>Public Defenders | 6.48%                         |
| • Justices and Judges  | 11.39%                        |
| • County Officers  | 8.48%                         |
| Senior Management Service Class  | 4.32%                         |

Regardless of employee class, all employees contribute 3 percent of their compensation towards retirement.<sup>55</sup>

After employer and employee contributions are placed into the FRS Contributions Clearing Trust Fund, the allocations under the investment plan are transferred to third-party administrators to be placed in the employee's individual investment accounts, whereas contributions under the pension plan are transferred into the FRS Trust Fund.<sup>56</sup>

### **Effect of the Bill**

#### Renewed Membership

Effective July 1, 2016, the bill allows for renewed membership for certain former participants of the investment plan, the Senior Management Service Optional Annuity Program, the State University System Optional Retirement Program (SUSORP), or the State Community College System Optional Retirement Program (SCCSORP). Such renewed member will be a renewed member of the appropriate membership class in the investment plan, unless employed in a position eligible for participation in the SUSORP or the SCCSORP, in which case the retiree will become a renewed member of the SUSORP or the SCCSORP, as applicable. To be eligible for renewed membership, the member must have retired from one of the four specified plans and must be employed in a regularly established position with a covered employer on or after July 1, 2016.

Such renewed member may not qualify for disability retirement benefits and must satisfy the vesting requirements of the specific plan. The bill prohibits certain funds from being paid into the renewed member's account for any employment in a regularly established position with a covered employer from

<sup>52</sup> If the member is eligible for participation in a State Community College System Optional Retirement Program, the member must elect to participate in the program within 90 days of employment. Unlike the other optional programs, an employee who elects to participate in this optional retirement program has one opportunity to transfer to the FRS. Section 1012.875, F.S.

<sup>53</sup> Section 121.70(1), F.S.

<sup>54</sup> Section 121.71(4), F.S.

<sup>55</sup> Section 121.71(3), F.S.

<sup>56</sup> See ss. 121.4503 and 121.72(1), F.S.

July 1, 2010, through June 30, 2016. A renewed member who is not receiving the maximum health insurance subsidy is entitled to earn additional credit toward the subsidy.

#### Line-of-Duty Death Benefits

The bill establishes line-of-duty death benefits for the investment plan. It provides survivor benefits to the spouse and children of members in the investment plan who are killed in the line of duty. The survivor benefits are the same as those currently provided for pension plan members who are killed in the line of duty, which is a monthly payment equal to one-half of the member's salary at the time of death. To receive the benefit, the spouse and children must elect to transfer the balance of the member's investment plan account to the survivor benefit account of the FRS Trust Fund. The line-of-duty death benefits supersede any other distribution that may have been provided by the member's designation of beneficiary.

The bill also provides survivor benefits for any member of the investment plan who has been killed in the line of duty since 2002, when members were first allowed to participate in the investment plan. For a member killed in the line of duty on or after July 1, 2002, but before July 1, 2016, the initial monthly benefit payable on or after July 1, 2016, will be equal to one-half the member's salary at the time of death, except that it will be:

- Actuarially reduced by the amount of the investment plan payout, if a payout was issued; and
- After the actuarial reduction, increased by the applicable cost-of-living adjustment that would have been payable if the survivor benefit payment had begun the month following the member's death. On each July 1 after the initial payment, the benefit will be increased by the applicable cost-of-living adjustment.

For Fiscal Year 2016-2017, upon notification from DMS that sufficient funds are not available to pay the survivor benefits, the bill directs the SBA to transfer funds from the Administrative Trust Fund to the survivor benefits account to ensure the timely payment of the benefits.

#### Default

For members initially enrolled in the FRS on or after July 1, 2017, the bill extends the plan election period from the last business day of the fifth month after the month of hire to the last business day of the eighth month after the month of hire to choose between participation in the investment plan or pension plan. If the member does not make a selection, the member will default to the investment plan instead of the pension plan. The bill maintains the member's second election option.

#### Important State Interest

The bill provides a statement of important state interest. It provides that a proper and legitimate state purpose is served by the bill, which includes providing benefits that are managed, administered, and funded in an actuarially sound manner.

#### B. SECTION DIRECTORY:

Section 1 amends s. 121.053, F.S., relating to participation in the Elected Officers' Class for retired members.

Section 2 amends s. 121.055, F.S., relating to the Senior Management Service Class.

Section 3 amends s. 121.091, F.S., relating to benefits payable under the FRS.

Section 4 amends s. 121.122, F.S., relating to renewed membership in the FRS.

Section 5 amends s. 121.4501, F.S., relating to the FRS Investment Plan.

Section 6 amends s. 121.571, F.S., relating to contributions.

Section 7 amends s. 121.591, F.S., relating to payment of benefits.

Section 8 creates s. 121.5912, F.S., relating to the survivor benefit retirement program.

Section 9 amends s. 121.71, F.S., relating to uniform rates.

Section 10 creates s. 121.735, F.S., relating to allocations for member line-of-duty death benefits.

Section 11 amends s. 121.74, F.S., relating to administrative and educational expenses.

Section 12 amends s. 121.75, F.S., relating to allocation for the pension plan.

Section 13 provides a mechanism to fund the survivor benefits account for Fiscal Year 2016-2017.

Section 14 requires employer contribution rates to be adjusted to fund changes made by the act.

Section 15 provides that the act fulfills an important state interest.

Section 16 provides an appropriation.

Section 17 provides an effective date of July 1, 2016.

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

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

1. Revenues:

None.

2. Expenditures:

For the 2016-17 fiscal year (FY), the bill appropriates a recurring sum of \$4.2 million from the General Revenue Fund and a recurring sum of \$900 thousand from trust funds to Administered Funds in order to fund the increased employer contribution rates to be paid by state agencies, state universities, state colleges, and school districts. See Fiscal Comments for further discussion.

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

1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

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

None.

D. FISCAL COMMENTS:

Death Benefits and Renewed Membership

The following table provides the projected (costs)/savings for FY 2016-17 (in millions):

| Employers Funded by State | Death Benefits <sup>57</sup> |              | Renewed Membership |              | Total        |              |
|---------------------------|------------------------------|--------------|--------------------|--------------|--------------|--------------|
|                           | GR                           | TF           | GR                 | TF           | GR           | TF           |
| State                     | (0.5)                        | (0.6)        | (0.3)              | (0.3)        | (0.8)        | (0.9)        |
| School Boards             | (1.1)                        |              | (1.6)              |              | (2.7)        |              |
| Universities              | (0.1)                        |              | (.3)               |              | (0.4)        |              |
| State Colleges            | (0.1)                        |              | (.2)               |              | (0.3)        |              |
| <b>Total</b>              | <b>(1.8)</b>                 | <b>(0.6)</b> | <b>(2.4)</b>       | <b>(0.3)</b> | <b>(4.2)</b> | <b>(0.9)</b> |

| Employers Not Funded by State |              |  |              |  |              |  |
|-------------------------------|--------------|--|--------------|--|--------------|--|
| Counties                      | (2.5)        |  | (0.6)        |  | (3.1)        |  |
| Cities/Other                  | (.3)         |  | (0.2)        |  | (0.5)        |  |
| <b>Grand Total</b>            | <b>(2.8)</b> |  | <b>(0.8)</b> |  | <b>(3.6)</b> |  |

Change in Default

The fiscal impact associated with changing the default from the pension plan to the investment plan is as follows:

- FY 2016-17 - No fiscal impact to the state or local governments
- FY 2017-18 - \$50,000 impact to the General Revenue Fund, and \$25,000 impact to local governments
- FY 2018-19 - \$3,900,000 impact to the General Revenue Fund, and \$1,500,000 impact to local governments<sup>58</sup>

Fiscal impacts for years, subsequent to FY 2016-17, will be imbedded in the recommended actuarial employer contribution rates determined in subsequent valuations and considered for funding by future legislatures.

**III. COMMENTS**

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

The mandates provision of Art. VII, s. 18, of the State Constitution may apply because this bill requires cities and counties to spend money or take an action that requires the expenditure of money; however, an exception applies as the Legislature has determined that this bill satisfies an important state interest. In addition, similarly situated persons are all required to comply.

2. Other:

Actuarial Requirements

<sup>57</sup> The Milliman actuarial and consulting firm conducted an actuarial study to determine the cost of providing the line-of-duty death benefits created by the bill. The study was completed on January 19, 2016. A copy of the study is on file with the State Affairs Committee.

<sup>58</sup> The Milliman actuarial and consulting firm conducted an actuarial study to determine the cost associated with changing the default from the pension plan to the investment plan. The study was completed on March 6, 2015. A copy of the study is on file with the State Affairs Committee.

Article X, s. 14 of the State Constitution requires that benefit improvements under public pension plans in the State of Florida be concurrently funded on a sound actuarial basis, as set forth below:

SECTION 14. State retirement systems benefit changes.—A governmental unit responsible for any retirement or pension system supported in whole or in part by public funds shall not after January 1, 1977, provide any increase in the benefits to the members or beneficiaries of such system unless such unit has made or concurrently makes provision for the funding of the increase in benefits on a sound actuarial basis.

Article X, s. 14 of the State Constitution is implemented by statute under part VII of ch. 112, F.S., the "Florida Protection of Public Employee Retirement Benefits Act" (Act). The Act establishes minimum standards for the operation and funding of public employee retirement systems and plans in the State of Florida. It prohibits the use of any procedure, methodology, or assumptions the effect of which is to transfer to future taxpayers any portion of the costs which may reasonably have been expected to be paid by the current taxpayers.

#### Contractual Obligations

Article I, s. 10 of the State Constitution prohibits any bill of attainder, ex post facto law, or law impairing the obligation of contracts from being passed by the Florida Legislature.

The Florida Statutes provide that the rights of members of the FRS are of a contractual nature, entered into between the member and the state, and such rights are legally enforceable as valid contractual rights and may not be abridged in any way.<sup>59</sup> This "preservation of rights" provision<sup>60</sup> was established by the Florida Legislature with an effective date of July 1, 1974.

The Florida Supreme Court has held that the Florida Legislature may only alter the benefits structure of the FRS prospectively.<sup>61</sup> The prospective application would only alter future benefits. Those benefits previously earned or accrued by the member under the previous benefit structure remain untouched, and the member continues to enjoy that level of benefit for the period of time up until the effective date of the proposed changes. Further, once the participating member reaches retirement status, the benefits under the terms of the FRS in effect at the time of the member's retirement vest.<sup>62</sup>

The Florida Supreme Court further held that the "preservation of rights" provision was not intended to bind future legislatures from prospectively altering benefits which accrue for future state service.<sup>63</sup> More recently, the Florida Supreme Court reaffirmed the previous holding, finding that the Legislature can alter the terms of the FRS, so long as the changes to the FRS are prospective.<sup>64</sup>

This bill does not change any benefits that a member earned prior to July 1, 2016.

#### B. RULE-MAKING AUTHORITY:

The bill authorizes the SBA and DMS to adopt any rules necessary to maintain the qualified status of the survivor benefit retirement program in the event that the Internal Revenue Service notifies them that the program will cause the FRS to be disqualified for tax purposes under the Internal Revenue Code.

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<sup>59</sup> Section 121.011(3)(d), F.S.

<sup>60</sup> The "preservation of rights" provision vests all rights and benefits already earned under the present retirement plan so the legislature may now only alter the benefits prospectively. *Florida Sheriffs Association v. Department of Administration, Division of Retirement*, 408 So. 2d 1033, 1037 (Fla. 1981).

<sup>61</sup> *Id.* at 1035.

<sup>62</sup> *Id.* at 1036.

<sup>63</sup> *Id.* at 1037.

<sup>64</sup> *Rick Scott, et al. v. George Williams, et al.*, 107 So. 3d 379 (Fla. 2013).

C. DRAFTING ISSUES OR OTHER COMMENTS:

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

None.

1                                   A bill to be entitled  
2           An act relating to public employees; amending s.  
3           121.053, F.S.; authorizing renewed membership in the  
4           Florida Retirement System for retirees who are  
5           reemployed in a position eligible for the Elected  
6           Officers' Class under certain circumstances; amending  
7           s. 121.055, F.S.; providing for renewed membership in  
8           the retirement system for retirees of the Senior  
9           Management Service Optional Annuity Program who are  
10          reemployed on or after a specified date; amending s.  
11          121.091, F.S.; conforming a provision to changes made  
12          by the act; amending s. 121.122, F.S.; requiring that  
13          certain retirees who are reemployed on or after a  
14          specified date be renewed members in the investment  
15          plan; providing exceptions; specifying that creditable  
16          service does not accrue for employment during a  
17          specified period; prohibiting certain funds from being  
18          paid into a renewed member's investment plan account  
19          for a specified period of employment; requiring the  
20          renewed member to satisfy vesting requirements;  
21          prohibiting a renewed member from receiving specified  
22          disability benefits; specifying limitations and  
23          requirements; requiring the employer and the retiree  
24          to make applicable contributions to the renewed  
25          member's investment plan account; providing for the  
26          transfer of contributions; authorizing a renewed



27 member to receive additional credit toward the health  
 28 insurance subsidy under certain circumstances;  
 29 prohibiting participation in the pension plan;  
 30 providing that a retiree reemployed on or after a  
 31 specified date in a regularly established position  
 32 eligible for the State University System Optional  
 33 Retirement Program or State Community College System  
 34 Optional Retirement Program is a renewed member of  
 35 that program; specifying limitations and requirements;  
 36 requiring the employer and the retiree to make  
 37 applicable contributions; amending s. 121.4501, F.S.;  
 38 revising definitions; revising a provision relating to  
 39 acknowledgement of an employee's election to  
 40 participate in the investment plan; enrolling certain  
 41 employees in the pension plan from their date of hire  
 42 until they are automatically enrolled in the  
 43 investment plan or timely elect enrollment in the  
 44 pension plan; providing certain members with a  
 45 specified time to choose participation in the pension  
 46 plan or the investment plan; conforming provisions to  
 47 changes made by the act; amending s. 121.571, F.S.;  
 48 conforming provisions to changes made by the act;  
 49 amending s. 121.591, F.S.; authorizing payment of  
 50 death benefits to the surviving spouse or surviving  
 51 children of a member in the investment plan;  
 52 establishing qualifications and eligibility

53 requirements for receipt of such benefits; prescribing  
 54 the method of calculating the benefit; specifying  
 55 circumstances under which benefit payments are  
 56 terminated; creating s. 121.5912, F.S.; providing  
 57 legislative intent; requiring the State Board of  
 58 Administration or the Division of Retirement of the  
 59 Department of Management Services to take certain  
 60 action upon receipt of notification of  
 61 disqualification from the Internal Revenue Service;  
 62 authorizing the state board and the department to  
 63 adopt rules; amending s. 121.71, F.S.; conforming  
 64 provisions to changes made by the act; creating s.  
 65 121.735, F.S.; providing for allocations for death  
 66 benefits authorized by the act; amending ss. 121.74  
 67 and 121.75, F.S.; conforming provisions to changes  
 68 made by the act; requiring the State Board of  
 69 Administration to transfer moneys to fund survivor  
 70 benefit payments under specified circumstances;  
 71 adjusting employer contribution rates in order to fund  
 72 changes made by the act; providing a directive to the  
 73 Division of Law Revision and Information; declaring  
 74 that the act fulfills an important state interest;  
 75 providing an appropriation; providing an effective  
 76 date.

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

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Section 1. Paragraph (a) of subsection (3) and subsection (5) of section 121.053, Florida Statutes, are amended to read:

121.053 Participation in the Elected Officers' Class for retired members.—

(3) On or after July 1, 2010:

(a) A retiree of a state-administered retirement system who is initially reemployed in ~~elected or appointed for the first time to~~ an elective office in a regularly established position with a covered employer may not reenroll in the Florida Retirement System, except as provided in s. 121.122.

(5) Any renewed member, as described in s. 121.122(1), (3), (4), or (5) ~~subsection (1) or subsection (2)~~, who is not receiving the maximum health insurance subsidy provided in s. 112.363 is entitled to earn additional credit toward the maximum health insurance subsidy. Any additional subsidy due because of such additional credit may be received only at the time of payment of the second career retirement benefit. The total health insurance subsidy received from initial and renewed membership may not exceed the maximum allowed in s. 112.363.

Section 2. Paragraph (f) of subsection (1) and paragraph (c) of subsection (6) of section 121.055, Florida Statutes, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service

105 Class," which shall become effective February 1, 1987.

106 (1)

107 (f) Effective July 1, 1997:

108 1. Except as provided in subparagraph 3., an elected state  
 109 officer eligible for membership in the Elected Officers' Class  
 110 under s. 121.052(2)(a), (b), or (c) who elects membership in the  
 111 Senior Management Service Class under s. 121.052(3)(c) may,  
 112 within 6 months after assuming office or within 6 months after  
 113 this act becomes a law for serving elected state officers, elect  
 114 to participate in the Senior Management Service Optional Annuity  
 115 Program, as provided in subsection (6), in lieu of membership in  
 116 the Senior Management Service Class.

117 2. Except as provided in subparagraph 3., an elected  
 118 officer of a local agency employer eligible for membership in  
 119 the Elected Officers' Class under s. 121.052(2)(d) who elects  
 120 membership in the Senior Management Service Class under s.  
 121 121.052(3)(c) may, within 6 months after assuming office, or  
 122 within 6 months after this act becomes a law for serving elected  
 123 officers of a local agency employer, elect to withdraw from the  
 124 Florida Retirement System, as provided in subparagraph (b)2., in  
 125 lieu of membership in the Senior Management Service Class.

126 3. A retiree of a state-administered retirement system who  
 127 is initially reemployed in a regularly established position on  
 128 or after July 1, 2010, through June 30, 2016, as an elected  
 129 official eligible for the Elected Officers' Class may not be  
 130 enrolled in renewed membership in the Senior Management Service

131 Class or in the Senior Management Service Optional Annuity  
 132 Program as provided in subsection (6), and may not withdraw from  
 133 the Florida Retirement System as a renewed member as provided in  
 134 subparagraph (b)2., as applicable, in lieu of membership in the  
 135 Senior Management Service Class. Effective July 1, 2016, a  
 136 retiree of the Senior Management Service Optional Annuity  
 137 Program who is reemployed in a regularly established position  
 138 with a covered employer shall be enrolled as a renewed member as  
 139 provided in s. 121.122.

140 (6)

141 (c) Participation.-

142 1. An eligible employee who is employed on or before  
 143 February 1, 1987, may elect to participate in the optional  
 144 annuity program in lieu of participating in the Senior  
 145 Management Service Class. Such election shall ~~must~~ be made in  
 146 writing and filed with the department and the personnel officer  
 147 of the employer on or before May 1, 1987. An eligible employee  
 148 who is employed on or before February 1, 1987, and who fails to  
 149 make an election to participate in the optional annuity program  
 150 by May 1, 1987, is ~~shall be~~ deemed to have elected membership in  
 151 the Senior Management Service Class.

152 2. Except as provided in subparagraph 6., an employee who  
 153 becomes eligible to participate in the optional annuity program  
 154 by reason of initial employment commencing after February 1,  
 155 1987, may, within 90 days after the date of commencing  
 156 employment, elect to participate in the optional annuity

157 program. Such election shall ~~must~~ be made in writing and filed  
 158 with the personnel officer of the employer. An eligible employee  
 159 who does not within 90 days after commencing employment elect to  
 160 participate in the optional annuity program is ~~shall be~~ deemed  
 161 to have elected membership in the Senior Management Service  
 162 Class.

163 3. A person who is appointed to a position in the Senior  
 164 Management Service Class and who is a member of an existing  
 165 retirement system or the Special Risk or Special Risk  
 166 Administrative Support Classes of the Florida Retirement System  
 167 may elect to remain in such system or class in lieu of  
 168 participating in the Senior Management Service Class or optional  
 169 annuity program. Such election shall ~~must~~ be made in writing and  
 170 filed with the department and the personnel officer of the  
 171 employer within 90 days after such appointment. An eligible  
 172 employee who fails to make an election to participate in the  
 173 existing system, the Special Risk Class of the Florida  
 174 Retirement System, the Special Risk Administrative Support Class  
 175 of the Florida Retirement System, or the optional annuity  
 176 program is ~~shall be~~ deemed to have elected membership in the  
 177 Senior Management Service Class.

178 4. Except as provided in subparagraph 5., an employee's  
 179 election to participate in the optional annuity program is  
 180 irrevocable if the employee continues to be employed in an  
 181 eligible position and continues to meet the eligibility  
 182 requirements set forth in this paragraph.

183           5. Effective from July 1, 2002, through September 30,  
 184 2002, an active employee in a regularly established position who  
 185 has elected to participate in the Senior Management Service  
 186 Optional Annuity Program has one opportunity to choose to move  
 187 from the Senior Management Service Optional Annuity Program to  
 188 the Florida Retirement System Pension Plan.

189           a. The election shall ~~must~~ be made in writing and ~~must be~~  
 190 filed with the department and the personnel officer of the  
 191 employer before October 1, 2002, or, in the case of an active  
 192 employee who is on a leave of absence on July 1, 2002, within 90  
 193 days after the conclusion of the leave of absence. This election  
 194 is irrevocable.

195           b. The employee shall receive service credit under the  
 196 pension plan equal to his or her years of service under the  
 197 Senior Management Service Optional Annuity Program. The cost for  
 198 such credit is the amount representing the present value of that  
 199 employee's accumulated benefit obligation for the affected  
 200 period of service.

201           c. The employee shall ~~must~~ transfer the total accumulated  
 202 employer contributions and earnings on deposit in his or her  
 203 Senior Management Service Optional Annuity Program account. If  
 204 the transferred amount is not sufficient to pay the amount due,  
 205 the employee shall ~~must~~ pay a sum representing the remainder of  
 206 the amount due. The employee may not retain any employer  
 207 contributions or earnings from the Senior Management Service  
 208 Optional Annuity Program account.

209           6. A retiree of a state-administered retirement system who  
 210 is initially reemployed on or after July 1, 2010, may not renew  
 211 membership in the Senior Management Service Optional Annuity  
 212 Program. Effective July 1, 2016, a retiree of the Senior  
 213 Management Service Optional Annuity Program who is reemployed in  
 214 a regularly established position with a covered employer shall  
 215 be enrolled as a renewed member as provided in s. 121.122.

216           Section 3. Paragraph (c) of subsection (9) of section  
 217 121.091, Florida Statutes, is amended to read:

218           121.091 Benefits payable under the system.—Benefits may  
 219 not be paid under this section unless the member has terminated  
 220 employment as provided in s. 121.021(39)(a) or begun  
 221 participation in the Deferred Retirement Option Program as  
 222 provided in subsection (13), and a proper application has been  
 223 filed in the manner prescribed by the department. The department  
 224 may cancel an application for retirement benefits when the  
 225 member or beneficiary fails to timely provide the information  
 226 and documents required by this chapter and the department's  
 227 rules. The department shall adopt rules establishing procedures  
 228 for application for retirement benefits and for the cancellation  
 229 of such application when the required information or documents  
 230 are not received.

231           (9) EMPLOYMENT AFTER RETIREMENT; LIMITATION.—

232           (c) Any person whose retirement is effective on or after  
 233 July 1, 2010, or whose participation in the Deferred Retirement  
 234 Option Program terminates on or after July 1, 2010, who is



235 | retired under this chapter, except under the disability  
 236 | retirement provisions of subsection (4) or as provided in s.  
 237 | 121.053, may be reemployed by an employer that participates in a  
 238 | state-administered retirement system and receive retirement  
 239 | benefits and compensation from that employer. However, a person  
 240 | may not be reemployed by an employer participating in the  
 241 | Florida Retirement System before meeting the definition of  
 242 | termination in s. 121.021 and may not receive both a salary from  
 243 | the employer and retirement benefits for 6 calendar months after  
 244 | meeting the definition of termination. However, a DROP  
 245 | participant shall continue employment and receive a salary  
 246 | during the period of participation in the Deferred Retirement  
 247 | Option Program, as provided in subsection (13).

248 |       1. The reemployed retiree may not renew membership in the  
 249 | Florida Retirement System, except as provided in s. 121.122.

250 |       2. The employer shall pay retirement contributions in an  
 251 | amount equal to the unfunded actuarial liability portion of the  
 252 | employer contribution that would be required for active members  
 253 | of the Florida Retirement System in addition to the  
 254 | contributions required by s. 121.76.

255 |       3. A retiree initially reemployed in violation of this  
 256 | paragraph and an employer that employs or appoints such person  
 257 | are jointly and severally liable for reimbursement of any  
 258 | retirement benefits paid to the retirement trust fund from which  
 259 | the benefits were paid, including the Florida Retirement System  
 260 | Trust Fund and the Public Employee Optional Retirement Program

261 Trust Fund, as appropriate. The employer must have a written  
 262 statement from the employee that he or she is not retired from a  
 263 state-administered retirement system. Retirement benefits shall  
 264 remain suspended until repayment is made. Benefits suspended  
 265 beyond the end of the retiree's 6-month reemployment limitation  
 266 period shall apply toward the repayment of benefits received in  
 267 violation of this paragraph.

268 Section 4. Subsection (2) of section 121.122, Florida  
 269 Statutes, is amended, and subsections (3) through (5) are added  
 270 to that section, to read:

271 121.122 Renewed membership in system.—

272 (2) Except as otherwise provided in subsections (3)-(5), a  
 273 retiree of a state-administered retirement system who is  
 274 initially reemployed in a regularly established position on or  
 275 after July 1, 2010, may not be enrolled as a renewed member.

276 (3) A retiree of the investment plan, the State University  
 277 System Optional Retirement Program, the Senior Management  
 278 Service Optional Annuity Program, or the State Community College  
 279 System Optional Retirement Program who is reemployed with a  
 280 covered employer in a regularly established position on or after  
 281 July 1, 2016, shall be enrolled as a renewed member of the  
 282 investment plan unless employed in a position eligible for  
 283 participation in the State University System Optional Retirement  
 284 Program as provided in subsection (4) or the State Community  
 285 College System Optional Retirement Program as provided in  
 286 subsection (5). The renewed member must satisfy the vesting

287 requirements and other provisions of this chapter.

288 (a) A renewed member of the investment plan shall be

289 enrolled in one of the following membership classes:

290 1. In the Regular Class, if the position does not meet the

291 requirements for membership under s. 121.0515, s. 121.053, or s.

292 121.055.

293 2. In the Special Risk Class, if the position meets the

294 requirements of s. 121.0515.

295 3. In the Elected Officers' Class, if the position meets

296 the requirements of s. 121.053.

297 4. In the Senior Management Service Class, if the position

298 meets the requirements of s. 121.055.

299 (b) Creditable service, including credit toward the

300 retiree health insurance subsidy provided in s. 112.363, does

301 not accrue for a renewed member's employment in a regularly

302 established position with a covered employer from July 1, 2010,

303 through June 30, 2016.

304 (c) Employer and employee contributions, interest,

305 earnings, or any other funds may not be paid into a renewed

306 member's investment plan account for any employment in a

307 regularly established position with a covered employer on or

308 after July 1, 2010, through June 30, 2016, by the renewed member

309 or the employer on behalf of the renewed member.

310 (d) To be eligible to receive a retirement benefit, the

311 renewed member must satisfy the vesting requirements in s.

312 121.4501(6).

313 (e) The renewed member is ineligible to receive disability  
 314 benefits as provided in s. 121.091(4) or s. 121.591(2).

315 (f) The renewed member is subject to the limitations on  
 316 reemployment after retirement provided in s. 121.091(9), as  
 317 applicable.

318 (g) The renewed member must satisfy the requirements for  
 319 termination from employment provided in s. 121.021(39).

320 (h) Upon renewed membership or reemployment of a retiree,  
 321 the employer and the renewed member shall pay the applicable  
 322 employer and employee contributions required under ss. 112.363,  
 323 121.71, 121.74, and 121.76. The contributions are payable only  
 324 for employment and salary earned in a regularly established  
 325 position with a covered employer on or after July 1, 2016. The  
 326 employer and employee contributions shall be transferred to the  
 327 investment plan and placed in a default fund as designated by  
 328 the state board. The renewed member may move the contributions  
 329 once an account is activated in the investment plan.

330 (i) A renewed member who earns creditable service under  
 331 the investment plan and who is not receiving the maximum health  
 332 insurance subsidy provided in s. 112.363 is entitled to earn  
 333 additional credit toward the subsidy. Such credit may be earned  
 334 only for employment in a regularly established position with a  
 335 covered employer on or after July 1, 2016. Any additional  
 336 subsidy due because of additional credit may be received only at  
 337 the time of paying the second career retirement benefit. The  
 338 total health insurance subsidy received by a retiree receiving

339 benefits from initial and renewed membership may not exceed the  
 340 maximum allowed under s. 112.363.

341 (j) Notwithstanding s. 121.4501(4)(g), the renewed member  
 342 is not eligible to elect membership in the pension plan.

343 (4) A retiree of the investment plan, the State University  
 344 System Optional Retirement Program, the Senior Management  
 345 Service Optional Annuity Program, or the State Community College  
 346 System Optional Retirement Program who is reemployed on or after  
 347 July 1, 2016, in a regularly established position eligible for  
 348 participation in the State University System Optional Retirement  
 349 Program shall become a renewed member of the optional retirement  
 350 program. The renewed member must satisfy the vesting  
 351 requirements and other provisions of this chapter. Once  
 352 enrolled, a renewed member remains enrolled in the optional  
 353 retirement program while employed in an eligible position for  
 354 the optional retirement program. If employment in a different  
 355 covered position results in the renewed member's enrollment in  
 356 the investment plan, the renewed member is no longer eligible to  
 357 participate in the optional retirement program unless employed  
 358 in a mandatory position under s. 121.35.

359 (a) The renewed member is subject to the limitations on  
 360 reemployment after retirement provided in s. 121.091(9), as  
 361 applicable.

362 (b) The renewed member must satisfy the requirements for  
 363 termination from employment provided in s. 121.021(39).

364 (c) Upon renewed membership or reemployment of a retiree,

365 the employer and the renewed member shall pay the applicable  
 366 employer and employee contributions required under s. 121.35.

367 (d) Employer and employee contributions, interest,  
 368 earnings, or any other funds may not be paid into a renewed  
 369 member's optional retirement program account for any employment  
 370 in a regularly established position with a covered employer on or  
 371 after July 1, 2010, through June 30, 2016, by the renewed member  
 372 or the employer on behalf of the renewed member.

373 (e) Notwithstanding s. 121.4501(4)(g), the renewed member  
 374 is not eligible to elect membership in the pension plan.

375 (5) A retiree of the investment plan, the State University  
 376 System Optional Retirement Program, the Senior Management  
 377 Service Optional Annuity Program, or the State Community College  
 378 System Optional Retirement Program who is reemployed on or after  
 379 July 1, 2016, in a regularly established position eligible for  
 380 participation in the State Community College System Optional  
 381 Retirement Program shall become a renewed member of the optional  
 382 retirement program. The renewed member must satisfy the  
 383 eligibility requirements of this chapter and s. 1012.875 for the  
 384 optional retirement program. Once enrolled, a renewed member  
 385 remains enrolled in the optional retirement program while  
 386 employed in an eligible position for the optional retirement  
 387 program. If employment in a different covered position results  
 388 in the renewed member's enrollment in the investment plan, the  
 389 renewed member is no longer eligible to participate in the  
 390 optional retirement program.

391 (a) The renewed member is subject to the limitations on  
 392 reemployment after retirement provided in s. 121.091(9), as  
 393 applicable.

394 (b) The renewed member must satisfy the requirements for  
 395 termination from employment provided in s. 121.021(39).

396 (c) Upon renewed membership or reemployment of a retiree,  
 397 the employer and the renewed member shall pay the applicable  
 398 employer and employee contributions required under ss.  
 399 121.051(2)(c) and 1012.875.

400 (d) Employer and employee contributions, interest,  
 401 earnings, or any other funds may not be paid into a renewed  
 402 member's optional retirement program account for any employment  
 403 in a regularly established position with a covered employer on  
 404 or after July 1, 2010, through June 30, 2016, by the renewed  
 405 member or the employer on behalf of the renewed member.

406 (e) Notwithstanding s. 121.4501(4)(g), the renewed member  
 407 is not eligible to elect membership in the pension plan.

408 Section 5. Paragraphs (e) and (i) of subsection (2),  
 409 paragraph (b) of subsection (3), subsection (4), paragraph (c)  
 410 of subsection (5), and paragraphs (a) and (h) of subsection (10)  
 411 of section 121.4501, Florida Statutes, are amended to read:

412 121.4501 Florida Retirement System Investment Plan.—

413 (2) DEFINITIONS.—As used in this part, the term:

414 (e) "Eligible employee" means an officer or employee, as  
 415 defined in s. 121.021, who:

416 1. Is a member of, or is eligible for membership in, the

417 Florida Retirement System, including any renewed member of the  
 418 Florida Retirement System initially enrolled before July 1,  
 419 2010; ~~or~~

420 2. Participates in, or is eligible to participate in, the  
 421 Senior Management Service Optional Annuity Program as  
 422 established under s. 121.055(6), the State Community College  
 423 System Optional Retirement Program as established under s.  
 424 121.051(2)(c), or the State University System Optional  
 425 Retirement Program established under s. 121.35; or

426 3. Is a retired member of the investment plan, the State  
 427 University System Optional Retirement Program, the Senior  
 428 Management Service Optional Annuity Program, or the State  
 429 Community College System Optional Retirement Program who is  
 430 reemployed in a regularly established position on or after July  
 431 1, 2016, and enrolled as a renewed member as provided in s.  
 432 121.122.

433  
 434 The term does not include any member participating in the  
 435 Deferred Retirement Option Program established under s.  
 436 121.091(13), a retiree of the pension plan who is reemployed in  
 437 a regularly established position on or after July 1, 2010, a  
 438 retiree of a state-administered retirement system initially  
 439 reemployed in a regularly established position on or after July  
 440 1, 2010, through June 30, 2016, or a mandatory participant of  
 441 the State University System Optional Retirement Program  
 442 established under s. 121.35.



443 (i) "Member" or "employee" means an eligible employee who  
 444 enrolls in, or who defaults into, the investment plan as  
 445 provided in subsection (4), a terminated Deferred Retirement  
 446 Option Program member as described in subsection (21), or a  
 447 beneficiary or alternate payee of a member or employee.

448 (3) RETIREMENT SERVICE CREDIT; TRANSFER OF BENEFITS.—

449 (b) Notwithstanding paragraph (a), an eligible employee  
 450 who elects to participate in, or who defaults into, the  
 451 investment plan and establishes one or more individual member  
 452 accounts may elect to transfer to the investment plan a sum  
 453 representing the present value of the employee's accumulated  
 454 benefit obligation under the pension plan, except as provided in  
 455 paragraph (4) (b). Upon transfer, all service credit earned under  
 456 the pension plan is nullified for purposes of entitlement to a  
 457 future benefit under the pension plan. A member may not transfer  
 458 the accumulated benefit obligation balance from the pension plan  
 459 after the time period for enrolling in the investment plan has  
 460 expired.

461 1. For purposes of this subsection, the present value of  
 462 the member's accumulated benefit obligation is based upon the  
 463 member's estimated creditable service and estimated average  
 464 final compensation under the pension plan, subject to  
 465 recomputation under subparagraph 2. For state employees, initial  
 466 estimates shall be based upon creditable service and average  
 467 final compensation as of midnight on June 30, 2002; for district  
 468 school board employees, initial estimates shall be based upon

469 | creditable service and average final compensation as of midnight  
 470 | on September 30, 2002; and for local government employees,  
 471 | initial estimates shall be based upon creditable service and  
 472 | average final compensation as of midnight on December 31, 2002.  
 473 | The dates specified are the "estimate date" for these employees.  
 474 | The actuarial present value of the employee's accumulated  
 475 | benefit obligation shall be based on the following:

476 |       a. The discount rate and other relevant actuarial  
 477 | assumptions used to value the Florida Retirement System Trust  
 478 | Fund at the time the amount to be transferred is determined,  
 479 | consistent with the factors provided in sub-subparagraphs b. and  
 480 | c.

481 |       b. A benefit commencement age, based on the member's  
 482 | estimated creditable service as of the estimate date.

483 |       c. Except as provided under sub-subparagraph d., for a  
 484 | member initially enrolled:

485 |           (I) Before July 1, 2011, the benefit commencement age is  
 486 | the younger of the following, but may not be younger than the  
 487 | member's age as of the estimate date:

488 |               (A) Age 62; or

489 |               (B) The age the member would attain if the member  
 490 | completed 30 years of service with an employer, assuming the  
 491 | member worked continuously from the estimate date, and  
 492 | disregarding any vesting requirement that would otherwise apply  
 493 | under the pension plan.

494 |           (II) On or after July 1, 2011, the benefit commencement

495 age is the younger of the following, but may not be younger than  
 496 the member's age as of the estimate date:

497 (A) Age 65; or

498 (B) The age the member would attain if the member  
 499 completed 33 years of service with an employer, assuming the  
 500 member worked continuously from the estimate date, and  
 501 disregarding any vesting requirement that would otherwise apply  
 502 under the pension plan.

503 d. For members of the Special Risk Class and for members  
 504 of the Special Risk Administrative Support Class entitled to  
 505 retain the special risk normal retirement date:

506 (I) Initially enrolled before July 1, 2011, the benefit  
 507 commencement age is the younger of the following, but may not be  
 508 younger than the member's age as of the estimate date:

509 (A) Age 55; or

510 (B) The age the member would attain if the member  
 511 completed 25 years of service with an employer, assuming the  
 512 member worked continuously from the estimate date, and  
 513 disregarding any vesting requirement that would otherwise apply  
 514 under the pension plan.

515 (II) Initially enrolled on or after July 1, 2011, the  
 516 benefit commencement age is the younger of the following, but  
 517 may not be younger than the member's age as of the estimate  
 518 date:

519 (A) Age 60; or

520 (B) The age the member would attain if the member

521 completed 30 years of service with an employer, assuming the  
 522 member worked continuously from the estimate date, and  
 523 disregarding any vesting requirement that would otherwise apply  
 524 under the pension plan.

525 e. The calculation must disregard vesting requirements and  
 526 early retirement reduction factors that would otherwise apply  
 527 under the pension plan.

528 2. For each member who elects to transfer moneys from the  
 529 pension plan to his or her account in the investment plan, the  
 530 division shall recompute the amount transferred under  
 531 subparagraph 1. within 60 days after the actual transfer of  
 532 funds based upon the member's actual creditable service and  
 533 actual final average compensation as of the initial date of  
 534 participation in the investment plan. If the recomputed amount  
 535 differs from the amount transferred by \$10 or more, the division  
 536 shall:

537 a. Transfer, or cause to be transferred, from the Florida  
 538 Retirement System Trust Fund to the member's account the excess,  
 539 if any, of the recomputed amount over the previously transferred  
 540 amount together with interest from the initial date of transfer  
 541 to the date of transfer under this subparagraph, based upon the  
 542 effective annual interest equal to the assumed return on the  
 543 actuarial investment which was used in the most recent actuarial  
 544 valuation of the system, compounded annually.

545 b. Transfer, or cause to be transferred, from the member's  
 546 account to the Florida Retirement System Trust Fund the excess,

547 | if any, of the previously transferred amount over the recomputed  
 548 | amount, together with interest from the initial date of transfer  
 549 | to the date of transfer under this subparagraph, based upon 6  
 550 | percent effective annual interest, compounded annually, pro rata  
 551 | based on the member's allocation plan.

552 |         3. If contribution adjustments are made as a result of  
 553 | employer errors or corrections, including plan corrections,  
 554 | following recomputation of the amount transferred under  
 555 | subparagraph 1., the member is entitled to the additional  
 556 | contributions or is responsible for returning any excess  
 557 | contributions resulting from the correction. However, a ~~any~~  
 558 | return of such erroneous excess pretax contribution by the plan  
 559 | must be made within the period allowed by the Internal Revenue  
 560 | Service. The present value of the member's accumulated benefit  
 561 | obligation may ~~shall~~ not be recalculated.

562 |         4. As directed by the member, the state board shall  
 563 | transfer or cause to be transferred the appropriate amounts to  
 564 | the designated accounts within 30 days after the effective date  
 565 | of the member's participation in the investment plan unless the  
 566 | major financial markets for securities available for a transfer  
 567 | are seriously disrupted by an unforeseen event that causes the  
 568 | suspension of trading on a ~~any~~ national securities exchange in  
 569 | the country where the securities were issued. In that event, the  
 570 | 30-day period may be extended by a resolution of the state  
 571 | board. Transfers are not commissionable or subject to other fees  
 572 | and may be in the form of securities or cash, as determined by

573 the state board. Such securities are valued as of the date of  
 574 receipt in the member's account.

575 5. If the state board or the division receives  
 576 notification from the United States Internal Revenue Service  
 577 that this paragraph or any portion of this paragraph will cause  
 578 the retirement system, or a portion thereof, to be disqualified  
 579 for tax purposes under the Internal Revenue Code, the portion  
 580 that will cause the disqualification does not apply. Upon such  
 581 notice, the state board and the division shall notify the  
 582 presiding officers of the Legislature.

583 (4) PARTICIPATION; ENROLLMENT.—

584 (a)1. Effective June 1, 2002, through February 28, 2003, a  
 585 90-day election period was provided to each eligible employee  
 586 participating in the Florida Retirement System, preceded by a  
 587 90-day education period, permitting each eligible employee to  
 588 elect membership in the investment plan. An employee who failed  
 589 to elect the investment plan during the election period remained  
 590 in the pension plan. An eligible employee who was employed in a  
 591 regularly established position during the election period was  
 592 granted the option to make one subsequent election, as provided  
 593 in paragraph (f). With respect to an eligible employee who did  
 594 not participate in the initial election period or who is  
 595 initially employed in a regularly established position after the  
 596 close of the initial election period but before July 1, 2017, ~~on~~  
 597 June 1, 2002, by a state employer:

598 ~~a. Any such employee may elect to participate in the~~

599 ~~investment plan in lieu of retaining his or her membership in~~  
 600 ~~the pension plan. The election must be made in writing or by~~  
 601 ~~electronic means and must be filed with the third party~~  
 602 ~~administrator by August 31, 2002, or, in the case of an active~~  
 603 ~~employee who is on a leave of absence on April 1, 2002, by the~~  
 604 ~~last business day of the 5th month following the month the leave~~  
 605 ~~of absence concludes. This election is irrevocable, except as~~  
 606 ~~provided in paragraph (g). Upon making such election, the~~  
 607 ~~employee shall be enrolled as a member of the investment plan,~~  
 608 ~~the employee's membership in the Florida Retirement System is~~  
 609 ~~governed by the provisions of this part, and the employee's~~  
 610 ~~membership in the pension plan terminates. The employee's~~  
 611 ~~enrollment in the investment plan is effective the first day of~~  
 612 ~~the month for which a full month's employer contribution is made~~  
 613 ~~to the investment plan.~~

614 ~~b. Any such employee who fails to elect to participate in~~  
 615 ~~the investment plan within the prescribed time period is deemed~~  
 616 ~~to have elected to retain membership in the pension plan, and~~  
 617 ~~the employee's option to elect to participate in the investment~~  
 618 ~~plan is forfeited.~~

619 ~~2. With respect to employees who become eligible to~~  
 620 ~~participate in the investment plan by reason of employment in a~~  
 621 ~~regularly established position with a state employer commencing~~  
 622 ~~after April 1, 2002:~~

623 ~~a. Any such employee shall, by default, be enrolled in the~~  
 624 ~~pension plan at the commencement of employment, and may, by the~~

625 last business day of the 5th month following the employee's  
 626 month of hire, elect to participate in the investment plan. The  
 627 employee's election must be made in writing or by electronic  
 628 means and must be filed with the third-party administrator. The  
 629 election to participate in the investment plan is irrevocable,  
 630 except as provided in paragraph (f) ~~(g)~~.

631 a.b. If the employee files such election within the  
 632 prescribed time period, enrollment in the investment plan is  
 633 effective on the first day of employment. The retirement  
 634 contributions paid through the month of the employee plan change  
 635 shall be transferred to the investment program, and, effective  
 636 the first day of the next month, the employer and employee must  
 637 pay the applicable contributions based on the employee  
 638 membership class in the program.

639 b.e. An employee who fails to elect to participate in the  
 640 investment plan within the prescribed time period is deemed to  
 641 have elected to retain membership in the pension plan, and the  
 642 employee's option to elect to participate in the investment plan  
 643 is forfeited.

644 2.3. With respect to employees who become eligible to  
 645 participate in the investment plan pursuant to s.  
 646 121.051(2)(c)3. or s. 121.35(3)(i), the employee may elect to  
 647 participate in the investment plan in lieu of retaining his or  
 648 her membership in the State Community College System Optional  
 649 Retirement Program or the State University System Optional  
 650 Retirement Program. The election must be made in writing or by



651 | electronic means and must be filed with the third-party  
 652 | administrator. This election is irrevocable, except as provided  
 653 | in paragraph (f) ~~(g)~~. Upon making such election, the employee  
 654 | shall be enrolled as a member in the investment plan, the  
 655 | employee's membership in the Florida Retirement System is  
 656 | governed by the provisions of this part, and the employee's  
 657 | participation in the State Community College System Optional  
 658 | Retirement Program or the State University System Optional  
 659 | Retirement Program terminates. The employee's enrollment in the  
 660 | investment plan is effective on the first day of the month for  
 661 | which a full month's employer and employee contribution is made  
 662 | to the investment plan.

663 |       (b)1. With respect to employees who become eligible to  
 664 | participate in the investment plan by reason of employment in a  
 665 | regularly established position commencing on or after July 1,  
 666 | 2017, or who did not complete an election window before July 1,  
 667 | 2017, any such employee shall be enrolled in the pension plan at  
 668 | the commencement of employment and may, by the last business day  
 669 | of the 8th month following the employee's month of hire, elect  
 670 | to participate in the pension plan or the investment plan.  
 671 | Eligible employees may make a plan election only if they are  
 672 | earning service credit in an employer-employee relationship  
 673 | consistent with s. 121.021(17)(b), excluding leaves of absence  
 674 | without pay.

675 |       2. The employee's election must be made in writing or by  
 676 | electronic means and must be filed with the third-party

677 administrator. The election to participate in the pension plan  
 678 or investment plan is irrevocable, except as provided in  
 679 paragraph (f).

680 3. If the employee fails to make an election of the  
 681 pension plan or investment plan within 8 months following the  
 682 month of hire, the employee is deemed to have elected the  
 683 investment plan and shall default into the investment plan  
 684 retroactively to the employee's date of employment. The  
 685 employee's option to participate in the pension plan is  
 686 forfeited, except as provided in paragraph (f).

687 4. The amount of the employee and employer contributions  
 688 paid through the date of default to the investment plan shall be  
 689 transferred to the investment plan and shall be placed in a  
 690 default fund as designated by the State Board of Administration.  
 691 The employee may move the contributions once an account is  
 692 activated in the investment plan.

693 5. Effective the first day of the month after an eligible  
 694 employee makes a plan election of the pension plan or investment  
 695 plan, or the first day of the month after default to the  
 696 investment plan, the employee and employer shall pay the  
 697 applicable contributions based on the employee membership class  
 698 in the program.

699 ~~4. For purposes of this paragraph, "state employer" means~~  
 700 ~~any agency, board, branch, commission, community college,~~  
 701 ~~department, institution, institution of higher education, or~~  
 702 ~~water management district of the state, which participates in~~

703 ~~the Florida Retirement System for the benefit of certain~~  
 704 ~~employees.~~

705 ~~(b)1. With respect to an eligible employee who is employed~~  
 706 ~~in a regularly established position on September 1, 2002, by a~~  
 707 ~~district school board employer:~~

708 ~~a. Any such employee may elect to participate in the~~  
 709 ~~investment plan in lieu of retaining his or her membership in~~  
 710 ~~the pension plan. The election must be made in writing or by~~  
 711 ~~electronic means and must be filed with the third party~~  
 712 ~~administrator by November 30, or, in the case of an active~~  
 713 ~~employee who is on a leave of absence on July 1, 2002, by the~~  
 714 ~~last business day of the 5th month following the month the leave~~  
 715 ~~of absence concludes. This election is irrevocable, except as~~  
 716 ~~provided in paragraph (g). Upon making such election, the~~  
 717 ~~employee shall be enrolled as a member of the investment plan,~~  
 718 ~~the employee's membership in the Florida Retirement System is~~  
 719 ~~governed by the provisions of this part, and the employee's~~  
 720 ~~membership in the pension plan terminates. The employee's~~  
 721 ~~enrollment in the investment plan is effective the first day of~~  
 722 ~~the month for which a full month's employer contribution is made~~  
 723 ~~to the investment program.~~

724 ~~b. Any such employee who fails to elect to participate in~~  
 725 ~~the investment plan within the prescribed time period is deemed~~  
 726 ~~to have elected to retain membership in the pension plan, and~~  
 727 ~~the employee's option to elect to participate in the investment~~  
 728 ~~plan is forfeited.~~

729           ~~2. With respect to employees who become eligible to~~  
 730 ~~participate in the investment plan by reason of employment in a~~  
 731 ~~regularly established position with a district school board~~  
 732 ~~employer commencing after July 1, 2002:~~

733           ~~a. Any such employee shall, by default, be enrolled in the~~  
 734 ~~pension plan at the commencement of employment, and may, by the~~  
 735 ~~last business day of the 5th month following the employee's~~  
 736 ~~month of hire, elect to participate in the investment plan. The~~  
 737 ~~employee's election must be made in writing or by electronic~~  
 738 ~~means and must be filed with the third party administrator. The~~  
 739 ~~election to participate in the investment plan is irrevocable,~~  
 740 ~~except as provided in paragraph (g).~~

741           ~~b. If the employee files such election within the~~  
 742 ~~prescribed time period, enrollment in the investment plan is~~  
 743 ~~effective on the first day of employment. The employer~~  
 744 ~~retirement contributions paid through the month of the employee~~  
 745 ~~plan change shall be transferred to the investment plan, and,~~  
 746 ~~effective the first day of the next month, the employer shall~~  
 747 ~~pay the applicable contributions based on the employee~~  
 748 ~~membership class in the investment plan.~~

749           ~~c. Any such employee who fails to elect to participate in~~  
 750 ~~the investment plan within the prescribed time period is deemed~~  
 751 ~~to have elected to retain membership in the pension plan, and~~  
 752 ~~the employee's option to elect to participate in the investment~~  
 753 ~~plan is forfeited.~~

754           ~~3. For purposes of this paragraph, "district school board~~

755 ~~employer" means any district school board that participates in~~  
 756 ~~the Florida Retirement System for the benefit of certain~~  
 757 ~~employees, or a charter school or charter technical career~~  
 758 ~~center that participates in the Florida Retirement System as~~  
 759 ~~provided in s. 121.051(2)(d).~~

760 ~~(c)1. With respect to an eligible employee who is employed~~  
 761 ~~in a regularly established position on December 1, 2002, by a~~  
 762 ~~local employer:~~

763 ~~a. Any such employee may elect to participate in the~~  
 764 ~~investment plan in lieu of retaining his or her membership in~~  
 765 ~~the pension plan. The election must be made in writing or by~~  
 766 ~~electronic means and must be filed with the third-party~~  
 767 ~~administrator by February 28, 2003, or, in the case of an active~~  
 768 ~~employee who is on a leave of absence on October 1, 2002, by the~~  
 769 ~~last business day of the 5th month following the month the leave~~  
 770 ~~of absence concludes. This election is irrevocable, except as~~  
 771 ~~provided in paragraph (g). Upon making such election, the~~  
 772 ~~employee shall be enrolled as a participant of the investment~~  
 773 ~~plan, the employee's membership in the Florida Retirement System~~  
 774 ~~is governed by the provisions of this part, and the employee's~~  
 775 ~~membership in the pension plan terminates. The employee's~~  
 776 ~~enrollment in the investment plan is effective the first day of~~  
 777 ~~the month for which a full month's employer contribution is made~~  
 778 ~~to the investment plan.~~

779 ~~b. Any such employee who fails to elect to participate in~~  
 780 ~~the investment plan within the prescribed time period is deemed~~

781 ~~to have elected to retain membership in the pension plan, and~~  
 782 ~~the employee's option to elect to participate in the investment~~  
 783 ~~plan is forfeited.~~

784 ~~2. With respect to employees who become eligible to~~  
 785 ~~participate in the investment plan by reason of employment in a~~  
 786 ~~regularly established position with a local employer commencing~~  
 787 ~~after October 1, 2002:~~

788 ~~a. Any such employee shall, by default, be enrolled in the~~  
 789 ~~pension plan at the commencement of employment, and may, by the~~  
 790 ~~last business day of the 5th month following the employee's~~  
 791 ~~month of hire, elect to participate in the investment plan. The~~  
 792 ~~employee's election must be made in writing or by electronic~~  
 793 ~~means and must be filed with the third-party administrator. The~~  
 794 ~~election to participate in the investment plan is irrevocable,~~  
 795 ~~except as provided in paragraph (g).~~

796 ~~b. If the employee files such election within the~~  
 797 ~~prescribed time period, enrollment in the investment plan is~~  
 798 ~~effective on the first day of employment. The employer~~  
 799 ~~retirement contributions paid through the month of the employee~~  
 800 ~~plan change shall be transferred to the investment plan, and,~~  
 801 ~~effective the first day of the next month, the employer shall~~  
 802 ~~pay the applicable contributions based on the employee~~  
 803 ~~membership class in the investment plan.~~

804 ~~c. Any such employee who fails to elect to participate in~~  
 805 ~~the investment plan within the prescribed time period is deemed~~  
 806 ~~to have elected to retain membership in the pension plan, and~~

807 ~~the employee's option to elect to participate in the investment~~  
 808 ~~plan is forfeited.~~

809 ~~3. For purposes of this paragraph, "local employer" means~~  
 810 ~~any employer not included in paragraph (a) or paragraph (b).~~

811 ~~(c)(d)~~ Contributions available for self-direction by a  
 812 member who has not selected one or more specific investment  
 813 products shall be allocated as prescribed by the state board.  
 814 The third-party administrator shall notify the member at least  
 815 quarterly that the member should take an affirmative action to  
 816 make an asset allocation among the investment products.

817 ~~(d)(e)~~ On or after July 1, 2011, a member of the pension  
 818 plan who obtains a refund of employee contributions retains his  
 819 or her prior plan choice upon return to employment in a  
 820 regularly established position with a participating employer.

821 ~~(e)1.(f)~~ A member of the investment plan who takes a  
 822 distribution of any contributions from his or her investment  
 823 plan account is considered a retiree. A retiree who is initially  
 824 reemployed in a regularly established position on or after July  
 825 1, 2010, but before July 1, 2016, is not eligible for to be  
 826 enrolled in renewed membership, except as provided in s.  
 827 121.122.

828 2. A retiree who is reemployed on or after July 1, 2016,  
 829 shall be enrolled as a renewed member as provided in s. 121.122.

830 ~~(f)(g)~~ After the period during which an eligible employee  
 831 had the choice to elect the pension plan or the investment plan,  
 832 or the month following the receipt of the eligible employee's

833 plan election, if sooner, the employee shall have one  
 834 opportunity, at the employee's discretion, to choose to move  
 835 from the pension plan to the investment plan or from the  
 836 investment plan to the pension plan. Eligible employees may  
 837 elect to move between plans only if they are earning service  
 838 credit in an employer-employee relationship consistent with s.  
 839 121.021(17)(b), excluding leaves of absence without pay.  
 840 Effective July 1, 2005, such elections are effective on the  
 841 first day of the month following the receipt of the election by  
 842 the third-party administrator and are not subject to the  
 843 requirements regarding an employer-employee relationship or  
 844 receipt of contributions for the eligible employee in the  
 845 effective month, except when the election is received by the  
 846 third-party administrator. This paragraph is contingent upon  
 847 approval by the Internal Revenue Service.

848 1. If the employee chooses to move to the investment plan,  
 849 the provisions of subsection (3) govern the transfer.

850 2. If the employee chooses to move to the pension plan,  
 851 the employee must transfer from his or her investment plan  
 852 account, and from other employee moneys as necessary, a sum  
 853 representing the present value of that employee's accumulated  
 854 benefit obligation immediately following the time of such  
 855 movement, determined assuming that attained service equals the  
 856 sum of service in the pension plan and service in the investment  
 857 plan. Benefit commencement occurs on the first date the employee  
 858 is eligible for unreduced benefits, using the discount rate and



859 other relevant actuarial assumptions that were used to value the  
 860 pension plan liabilities in the most recent actuarial valuation.  
 861 For any employee who, at the time of the second election,  
 862 already maintains an accrued benefit amount in the pension plan,  
 863 the then-present value of the accrued benefit is deemed part of  
 864 the required transfer amount. The division must ensure that the  
 865 transfer sum is prepared using a formula and methodology  
 866 certified by an enrolled actuary. A refund of any employee  
 867 contributions or additional member payments made which exceed  
 868 the employee contributions that would have accrued had the  
 869 member remained in the pension plan and not transferred to the  
 870 investment plan is not permitted.

871 3. Notwithstanding subparagraph 2., an employee who  
 872 chooses to move to the pension plan and who became eligible to  
 873 participate in the investment plan by reason of employment in a  
 874 regularly established position with a state employer after June  
 875 1, 2002; a district school board employer after September 1,  
 876 2002; or a local employer after December 1, 2002, must transfer  
 877 from his or her investment plan account, and from other employee  
 878 moneys as necessary, a sum representing the employee's actuarial  
 879 accrued liability. A refund of any employee contributions or  
 880 additional member ~~participant~~ payments made which exceed the  
 881 employee contributions that would have accrued had the member  
 882 remained in the pension plan and not transferred to the  
 883 investment plan is not permitted.

884 4. An employee's ability to transfer from the pension plan

885 to the investment plan pursuant to paragraphs (a) and (b) ~~(a)~~  
 886 ~~(d)~~, and the ability of a current employee to have an option to  
 887 later transfer back into the pension plan under subparagraph 2.,  
 888 shall be deemed a significant system amendment. Pursuant to s.  
 889 121.031(4), any resulting unfunded liability arising from actual  
 890 original transfers from the pension plan to the investment plan  
 891 must be amortized within 30 plan years as a separate unfunded  
 892 actuarial base independent of the reserve stabilization  
 893 mechanism defined in s. 121.031(3)(f). For the first 25 years, a  
 894 direct amortization payment may not be calculated for this base.  
 895 During this 25-year period, the separate base shall be used to  
 896 offset the impact of employees exercising their second program  
 897 election under this paragraph. The actuarial funded status of  
 898 the pension plan will not be affected by such second program  
 899 elections in any significant manner, after due recognition of  
 900 the separate unfunded actuarial base. Following the initial 25-  
 901 year period, any remaining balance of the original separate base  
 902 shall be amortized over the remaining 5 years of the required  
 903 30-year amortization period.

904 5. If the employee chooses to transfer from the investment  
 905 plan to the pension plan and retains an excess account balance  
 906 in the investment plan after satisfying the buy-in requirements  
 907 under this paragraph, the excess may not be distributed until  
 908 the member retires from the pension plan. The excess account  
 909 balance may be rolled over to the pension plan and used to  
 910 purchase service credit or upgrade creditable service in the

911 pension plan.

912 (5) CONTRIBUTIONS.—

913 (c) The state board, acting as plan fiduciary, must ensure  
 914 that all plan assets are held in a trust, pursuant to s. 401 of  
 915 the Internal Revenue Code. The fiduciary must ensure that such  
 916 contributions are allocated as follows:

917 1. The employer and employee contribution portion  
 918 earmarked for member accounts shall be used to purchase  
 919 interests in the appropriate investment vehicles as specified by  
 920 the member, or in accordance with paragraph (4)(c) ~~(4)(d)~~.

921 2. The employer contribution portion earmarked for  
 922 administrative and educational expenses shall be transferred to  
 923 the State Board of Administration Administrative Florida  
 924 ~~Retirement System Investment Plan~~ Trust Fund.

925 3. The employer contribution portion earmarked for  
 926 disability benefits and line-of-duty death benefits shall be  
 927 transferred to the Florida Retirement System Trust Fund.

928 (10) EDUCATION COMPONENT.—

929 (a) The state board, in coordination with the department,  
 930 shall provide for an education component for eligible employees  
 931 ~~system members~~ in a manner consistent with ~~the provisions of~~  
 932 this subsection ~~section~~. ~~The education component must be~~  
 933 ~~available to eligible employees at least 90 days prior to the~~  
 934 ~~beginning date of the election period for the employees of the~~  
 935 ~~respective types of employers.~~

936 ~~(h) Pursuant to subsection (8), all Florida Retirement~~

937 ~~System employers have an obligation to regularly communicate the~~  
 938 ~~existence of the two Florida Retirement System plans and the~~  
 939 ~~plan choice in the natural course of administering their~~  
 940 ~~personnel functions, using the educational materials supplied by~~  
 941 ~~the state board and the Department of Management Services.~~

942 Section 6. Subsection (2) of section 121.571, Florida  
 943 Statutes, is amended to read:

944 121.571 Contributions.—Contributions to the Florida  
 945 Retirement System Investment Plan shall be made as follows:

946 (2) CONTRIBUTION RATES GENERALLY.—Contributions to fund  
 947 the retirement, and disability, and line-of-duty death benefits  
 948 provided under this part must be based on the uniform  
 949 contribution rates established by s. 121.71 and on the  
 950 membership class or subclass of the member. Such contributions  
 951 must be allocated as provided in ss. 121.72, and 121.73, and  
 952 121.735.

953 Section 7. Subsection (3) of section 121.591, Florida  
 954 Statutes, is amended, subsection (4) of that section is  
 955 renumbered as subsection (5), and a new subsection (4) is added  
 956 to that section, to read:

957 121.591 Payment of benefits.—Benefits may not be paid  
 958 under the Florida Retirement System Investment Plan unless the  
 959 member has terminated employment as provided in s.  
 960 121.021(39)(a) or is deceased and a proper application has been  
 961 filed as prescribed by the state board or the department.  
 962 Benefits, including employee contributions, are not payable

963 | under the investment plan for employee hardships, unforeseeable  
 964 | emergencies, loans, medical expenses, educational expenses,  
 965 | purchase of a principal residence, payments necessary to prevent  
 966 | eviction or foreclosure on an employee's principal residence, or  
 967 | any other reason except a requested distribution for retirement,  
 968 | a mandatory de minimis distribution authorized by the  
 969 | administrator, or a required minimum distribution provided  
 970 | pursuant to the Internal Revenue Code. The state board or  
 971 | department, as appropriate, may cancel an application for  
 972 | retirement benefits if the member or beneficiary fails to timely  
 973 | provide the information and documents required by this chapter  
 974 | and the rules of the state board and department. In accordance  
 975 | with their respective responsibilities, the state board and the  
 976 | department shall adopt rules establishing procedures for  
 977 | application for retirement benefits and for the cancellation of  
 978 | such application if the required information or documents are  
 979 | not received. The state board and the department, as  
 980 | appropriate, are authorized to cash out a de minimis account of  
 981 | a member who has been terminated from Florida Retirement System  
 982 | covered employment for a minimum of 6 calendar months. A de  
 983 | minimis account is an account containing employer and employee  
 984 | contributions and accumulated earnings of not more than \$5,000  
 985 | made under the provisions of this chapter. Such cash-out must be  
 986 | a complete lump-sum liquidation of the account balance, subject  
 987 | to the provisions of the Internal Revenue Code, or a lump-sum  
 988 | direct rollover distribution paid directly to the custodian of

989 an eligible retirement plan, as defined by the Internal Revenue  
 990 Code, on behalf of the member. Any nonvested accumulations and  
 991 associated service credit, including amounts transferred to the  
 992 suspense account of the Florida Retirement System Investment  
 993 Plan Trust Fund authorized under s. 121.4501(6), shall be  
 994 forfeited upon payment of any vested benefit to a member or  
 995 beneficiary, except for de minimis distributions or minimum  
 996 required distributions as provided under this section. If any  
 997 financial instrument issued for the payment of retirement  
 998 benefits under this section is not presented for payment within  
 999 180 days after the last day of the month in which it was  
 1000 originally issued, the third-party administrator or other duly  
 1001 authorized agent of the state board shall cancel the instrument  
 1002 and credit the amount of the instrument to the suspense account  
 1003 of the Florida Retirement System Investment Plan Trust Fund  
 1004 authorized under s. 121.4501(6). Any amounts transferred to the  
 1005 suspense account are payable upon a proper application, not to  
 1006 include earnings thereon, as provided in this section, within 10  
 1007 years after the last day of the month in which the instrument  
 1008 was originally issued, after which time such amounts and any  
 1009 earnings attributable to employer contributions shall be  
 1010 forfeited. Any forfeited amounts are assets of the trust fund  
 1011 and are not subject to chapter 717.

1012 (3) DEATH BENEFITS.—Under the Florida Retirement System  
 1013 Investment Plan:

1014 (a) Survivor benefits are payable in accordance with the

1015 following terms and conditions, except as provided in subsection  
 1016 (4):

1017 1. To the extent vested, benefits are payable only to a  
 1018 member's beneficiary or beneficiaries as designated by the  
 1019 member as provided in s. 121.4501(20).

1020 2. Benefits shall be paid by the third-party administrator  
 1021 or designated approved providers in accordance with the law, the  
 1022 contracts, and any applicable state board rule or policy.

1023 3. To receive benefits, the member must be deceased.

1024 (b) Except as provided in subsection (4), in the event of  
 1025 a member's death, all vested accumulations as described in s.  
 1026 121.4501(6), less withholding taxes remitted to the Internal  
 1027 Revenue Service, shall be distributed, as provided in paragraph  
 1028 (c) or as described in s. 121.4501(20), as if the member retired  
 1029 on the date of death. No other death benefits are available for  
 1030 survivors of members, except for benefits, or coverage for  
 1031 benefits, as are otherwise provided by law or separately  
 1032 provided by the employer, at the employer's discretion.

1033 (c) Except as provided in subsection (4), upon receipt by  
 1034 the third-party administrator of a properly executed application  
 1035 for distribution of benefits, the total accumulated benefit is  
 1036 payable by the third-party administrator to the member's  
 1037 surviving beneficiary or beneficiaries, as:

1038 1. A lump-sum distribution payable to the beneficiary or  
 1039 beneficiaries, or to the deceased member's estate;

1040 2. An eligible rollover distribution, if permitted, on

1041 | behalf of the surviving spouse of a deceased member, whereby all  
 1042 | accrued benefits, plus interest and investment earnings, are  
 1043 | paid from the deceased member's account directly to the  
 1044 | custodian of an eligible retirement plan, as described in s.  
 1045 | 402(c)(8)(B) of the Internal Revenue Code, on behalf of the  
 1046 | surviving spouse; or

1047 |         3. A partial lump-sum payment whereby a portion of the  
 1048 | accrued benefit is paid to the deceased member's surviving  
 1049 | spouse or other designated beneficiaries, less withholding taxes  
 1050 | remitted to the Internal Revenue Service, and the remaining  
 1051 | amount is transferred directly to the custodian of an eligible  
 1052 | retirement plan, if permitted, as described in s. 402(c)(8)(B)  
 1053 | of the Internal Revenue Code, on behalf of the surviving spouse.  
 1054 | The proportions must be specified by the member or the surviving  
 1055 | beneficiary.

1056 |  
 1057 | This paragraph does not abrogate other applicable provisions of  
 1058 | state or federal law providing for payment of death benefits.

1059 |         (4) LINE-OF-DUTY DEATH BENEFITS FOR INVESTMENT PLAN  
 1060 | MEMBERS.—Benefits are provided under this subsection to the  
 1061 | spouse and child or children of members in the investment plan  
 1062 | when such members are killed in the line of duty and are payable  
 1063 | in lieu of the benefits that would otherwise be payable under  
 1064 | subsection (1) or subsection (3). Benefits provided by this  
 1065 | subsection supersede any other distribution that may have been  
 1066 | provided by the member's designation of beneficiary. Such



1067 benefits must be funded from employer contributions made under  
 1068 s. 121.571, transferred employee contributions and funds  
 1069 accumulated pursuant to paragraph (a), and interest and earnings  
 1070 thereon.

1071 (a) Transfer of funds.—To qualify to receive monthly  
 1072 benefits under this subsection:

1073 1. All moneys accumulated in the member's account,  
 1074 including vested and nonvested accumulations as described in s.  
 1075 121.4501(6), must be transferred from such individual accounts  
 1076 to the division for deposit in the survivor benefit account of  
 1077 the Florida Retirement System Trust Fund.

1078 2. Moneys in the survivor benefit account must be  
 1079 accounted for separately. Earnings must be credited on an annual  
 1080 basis for amounts held in the survivor benefit account of the  
 1081 Florida Retirement System Trust Fund based on actual earnings of  
 1082 the trust fund.

1083 3. If the member has retained retirement credit earned  
 1084 under the pension plan as provided in s. 121.4501(3), a sum  
 1085 representing the actuarial present value of such credit within  
 1086 the Florida Retirement System Trust Fund shall be transferred by  
 1087 the division from the pension plan to the survivor benefit  
 1088 retirement program as implemented under this subsection and  
 1089 shall be deposited in the survivor benefit account of the trust  
 1090 fund.

1091 (b) Survivor retirement; entitlement.—An investment plan  
 1092 member who is killed in the line of duty on or after July 1,

1093 2002, regardless of length of creditable service, may receive  
 1094 survivor benefits in accordance with s. 121.091(7)(d). Such  
 1095 benefits must be calculated as provided in paragraph (e) and be  
 1096 provided to:

- 1097 1. The surviving spouse for the spouse's lifetime; or
- 1098 2. If there is no surviving spouse or the surviving spouse  
 1099 dies, the member's child or children under 18 years of age and  
 1100 unmarried until the 18th birthday of the member's youngest  
 1101 child.

1102 (c) Survivor benefit retirement effective date.—The  
 1103 effective retirement date for the surviving spouse or eligible  
 1104 child or children of an investment plan member who is killed in  
 1105 the line of duty shall be:

- 1106 1. The first day of the month following the member's  
 1107 death, if the member is killed on or after July 1, 2016; or
- 1108 2. July 1, 2016, if the member is killed in the line of  
 1109 duty on or after July 1, 2002, but before July 1, 2016, and the  
 1110 application is received before July 1, 2016, or the first day of  
 1111 the month following receipt of the application.

1112 (d) Line-of-duty death benefit.—

- 1113 1. The following individuals are eligible to receive a  
 1114 retirement benefit under s. 121.091(7)(d) if the member's  
 1115 account balance is surrendered and an application is received  
 1116 and approved:

- 1117 a. The surviving spouse.
- 1118 b. If there is no surviving spouse or the surviving spouse

1119 dies, the member's child or children under 18 years of age and  
 1120 unmarried until the 18th birthday of the member's youngest  
 1121 child.

1122 2. Such surviving spouse or such child or children shall  
 1123 receive a monthly survivor benefit that begins accruing on the  
 1124 first day of the month of survivor benefit retirement, as  
 1125 approved by the division, and is payable on the last day of that  
 1126 month and each month thereafter during the surviving spouse's  
 1127 lifetime or on behalf of the unmarried child or children of the  
 1128 member until the 18th birthday of the youngest child. Survivor  
 1129 benefits must be paid out of the survivor benefit account of the  
 1130 Florida Retirement System Trust Fund established under this  
 1131 subsection.

1132 (e) Computation of survivor benefit retirement benefit.—

1133 1. For a member killed in the line of duty on or after  
 1134 July 1, 2016, the amount of each monthly payment must be  
 1135 calculated as provided under s. 121.091(7)(d).

1136 2. For a member killed in the line of duty on or after  
 1137 July 1, 2002, but before July 1, 2016, the initial benefit  
 1138 payable on or after July 1, 2016, shall be equal to the benefit  
 1139 provided under s. 121.091(7)(d), except that it shall be:

1140 a. Actuarially reduced by the amount of the investment  
 1141 plan account payout if a payout was provided to the beneficiary;  
 1142 and

1143 b. After the actuarial reduction, increased by the  
 1144 applicable cost-of-living adjustment that would have been

1145 payable if the survivor benefit payment had begun the month  
 1146 following the member's death. On each July 1 thereafter, the  
 1147 survivor benefit payment shall be increased by the applicable  
 1148 cost-of-living adjustment.

1149 (f) Death of surviving spouse or children.—

1150 1. Upon the death of a surviving spouse, the monthly  
 1151 benefits shall be paid through the last day of the month of  
 1152 death and shall terminate or be paid on behalf of the unmarried  
 1153 child or children until the 18th birthday of the youngest child.

1154 2. If the surviving spouse dies and the benefits are being  
 1155 paid on behalf of the member's unmarried child or children as  
 1156 provided in subparagraph 1., benefits shall be paid until the  
 1157 last day of the month the youngest child reaches his or her 18th  
 1158 birthday.

1159 Section 8. Section 121.5912, Florida Statutes, is created  
 1160 to read:

1161 121.5912 Survivor benefit retirement program; qualified  
 1162 status; rulemaking authority.—It is the intent of the  
 1163 Legislature that the survivor benefit retirement program for  
 1164 members of the Florida Retirement System Investment Plan meet  
 1165 all applicable requirements for a qualified plan. If the state  
 1166 board or the division receives notification from the Internal  
 1167 Revenue Service that this program or any portion of this program  
 1168 will cause the retirement system, or any portion thereof, to be  
 1169 disqualified for tax purposes under the Internal Revenue Code,  
 1170 the portion that will cause the disqualification does not apply.

1171 Upon such notice, the state board or the division shall notify  
 1172 the presiding officers of the Legislature. The state board and  
 1173 the department may adopt any rules necessary to maintain the  
 1174 qualified status of the survivor benefit retirement program.

1175 Section 9. Subsection (1) of section 121.71, Florida  
 1176 Statutes, is amended to read:

1177 121.71 Uniform rates; process; calculations; levy.-

1178 (1) In conducting the system actuarial study required  
 1179 under s. 121.031, the actuary shall follow all requirements  
 1180 specified to determine, by Florida Retirement System employee  
 1181 membership class, the dollar contribution amounts necessary for  
 1182 the next fiscal year for the pension plan. In addition, the  
 1183 actuary shall determine, by Florida Retirement System membership  
 1184 class, based on an estimate for the next fiscal year of the  
 1185 gross compensation of employees participating in the investment  
 1186 plan, the dollar contribution amounts necessary to make the  
 1187 allocations required under ss. 121.72, and 121.73, and 121.735.  
 1188 For each employee membership class and subclass, the actuarial  
 1189 study must establish a uniform rate necessary to fund the  
 1190 benefit obligations under both Florida Retirement System  
 1191 retirement plans by dividing the sum of total dollars required  
 1192 by the estimated gross compensation of members in both plans.

1193 Section 10. Section 121.735, Florida Statutes, is created  
 1194 to read:

1195 121.735 Allocations for member line-of-duty death  
 1196 benefits; percentage amounts.-

1197        (1) The allocations established in subsection (3) shall be  
 1198 used to provide line-of-duty death benefit coverage for the  
 1199 surviving spouses and children of members in the investment plan  
 1200 and shall be transferred monthly by the division from the  
 1201 Florida Retirement System Contributions Clearing Trust Fund to  
 1202 the survivor benefit account of the Florida Retirement System  
 1203 Trust Fund.

1204        (2) Such allocations are stated as a percentage of each  
 1205 investment plan member's gross compensation for the calendar  
 1206 month. Any change in a contribution percentage is effective the  
 1207 first day of the month for which retirement contributions may be  
 1208 made on or after the beginning date of the change. Contribution  
 1209 percentages may be modified by general law.

1210        (3) Effective July 1, 2016, allocations from the Florida  
 1211 Retirement System Contributions Clearing Trust Fund to provide  
 1212 line-of-duty death benefits for the surviving spouses and  
 1213 children of members in the investment plan and to offset the  
 1214 costs of administering said coverage are as follows:

| <u>Membership Class</u> | <u>Percentage of</u><br><u>Gross</u><br><u>Compensation</u> |
|-------------------------|---|
| <u>Regular Class</u>    | <u>0.06%</u>  |

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|      |   |              |
|------|---|--------------|
| 1219 | <u>Special Risk Class</u>   | <u>0.46%</u> |
| 1220 | <u>Special Risk</u><br><u>Administrative</u><br><u>Support Class</u>  | <u>0.04%</u> |
| 1221 | <u>Elected Officers' Class-</u><br><u>Legislators, Governor,</u><br><u>Lieutenant Governor,</u><br><u>Cabinet Officers,</u><br><u>State Attorneys,</u><br><u>Public Defenders</u> | <u>0.17%</u> |
| 1222 | <u>Elected Officers' Class-</u><br><u>Justices, Judges</u>  | <u>0.14%</u> |
| 1223 | <u>Elected Officers' Class-</u><br><u>County Elected Officers</u>   | <u>0.23%</u> |
| 1224 | <u>Senior Management Service Class</u>  | <u>0.06%</u> |
| 1225 |   |              |
| 1226 | Section 11. Section 121.74, Florida Statutes, is amended  |              |
| 1227 | to read:  |              |
| 1228 | 121.74 Administrative and educational expenses.—In  |              |
| 1229 | addition to contributions required to fund member accounts under  |              |

1230 | s. ~~ss.~~ 121.71 and ~~121.73~~, effective July 1, 2010, through June  
 1231 | 30, 2014, employers participating in the Florida Retirement  
 1232 | System shall contribute an employer assessment amount equal to  
 1233 | 0.03 percent of the payroll reported for each class or subclass  
 1234 | of Florida Retirement System membership. Effective July 1, 2014,  
 1235 | the employer assessment is 0.04 percent of the payroll reported  
 1236 | for each class or subclass of membership. The amount assessed  
 1237 | shall be transferred by the division ~~of Retirement~~ from the  
 1238 | Florida Retirement System Contributions Clearing Trust Fund to  
 1239 | the State Board of Administration's Administrative Trust Fund to  
 1240 | offset the costs of administering the investment plan and the  
 1241 | costs of providing educational services to members of the  
 1242 | Florida Retirement System. Approval of the trustees is required  
 1243 | before the expenditure of these funds. Payments for third-party  
 1244 | administrative or educational expenses shall be made only  
 1245 | pursuant to the terms of the approved contracts for such  
 1246 | services.

1247 |       Section 12. Section 121.75, Florida Statutes, is amended  
 1248 | to read:

1249 |       121.75 Allocation for pension plan.—After making the  
 1250 | transfers required pursuant to ss. 121.71, 121.72, 121.73,  
 1251 | 121.735, and 121.74, the monthly balance of funds in the Florida  
 1252 | Retirement System Contributions Clearing Trust Fund shall be  
 1253 | transferred to the Florida Retirement System Trust Fund to pay  
 1254 | the costs of providing pension plan benefits and plan  
 1255 | administrative costs under the pension plan.



1256           Section 13. For the 2016-2017 fiscal year only, upon  
 1257 notification by the Department of Management Services that  
 1258 sufficient funds are not available to make survivor benefit  
 1259 payments authorized by this act, the State Board of  
 1260 Administration shall transfer, to the extent necessary, moneys  
 1261 in the Administrative Trust Fund to the survivor benefits  
 1262 account in the Florida Retirement System Trust Fund to ensure  
 1263 the timely payment of survivor benefits.

1264           Section 14. (1) In order to fund the benefit changes  
 1265 provided in this act, the required employer contribution rates  
 1266 for members of the Florida Retirement System established in s.  
 1267 121.71(4), Florida Statutes, are adjusted as follows:

1268           (a) The Regular Class is increased by 0.01 percentage  
 1269 points.

1270           (b) The Special Risk Class is increased by 0.07 percentage  
 1271 points.

1272           (c) The Special Risk Administrative Support Class is  
 1273 increased by 0.02 percentage points.

1274           (d) The Elected Officers' Class—Legislators, Governor,  
 1275 Lieutenant Governor, Cabinet Officers, State Attorneys, Public  
 1276 Defenders is increased by 0.05 percentage points.

1277           (e) The Elected Officers' Class—Justices, Judges is  
 1278 increased by 0.02 percentage points.

1279           (f) The Elected Officers' Class—County Elected Officers is  
 1280 increased by 0.07 percentage points.

1281           (g) The Senior Management Service Class is increased by

1282 0.01 percentage points.

1283 (2) The adjustments provided in subsection (1) are in  
 1284 addition to any other changes to such contribution rates that  
 1285 may be enacted into law to take effect on July 1, 2016. The  
 1286 Division of Law Revision and Information is directed to adjust  
 1287 accordingly the contribution rates provided in s. 121.71,  
 1288 Florida Statutes.

1289 Section 15. The Legislature finds that a proper and  
 1290 legitimate state purpose is served when employees and retirees  
 1291 of the state and its political subdivisions, and the dependents,  
 1292 survivors, and beneficiaries of such employees and retirees, are  
 1293 extended the basic protections afforded by governmental  
 1294 retirement systems. These persons must be provided benefits that  
 1295 are fair and adequate and that are managed, administered, and  
 1296 funded in an actuarially sound manner, as required by s. 14,  
 1297 Article X of the State Constitution and part VII of chapter 112,  
 1298 Florida Statutes. Therefore, the Legislature determines and  
 1299 declares that this act fulfills an important state interest.

1300 Section 16. For the 2016-2017 fiscal year, the recurring  
 1301 sums of \$4,249,000 from the General Revenue Fund and \$564,000  
 1302 from trust funds are appropriated to Administered Funds in order  
 1303 to fund the increased employer contribution rates to be paid  
 1304 under this act by state agencies, state universities, state  
 1305 colleges, and school districts.

1306 Section 17. This act shall take effect July 1, 2016.



