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# Justice Council

**Tuesday, April 25, 2006  
9:00 AM – 10:00 AM  
404 House Office Building**

## Council Action

# Council Meeting Notice

## HOUSE OF REPRESENTATIVES

Speaker Allan G. Bense

### Justice Council

**Start Date and Time:** Tuesday, April 25, 2006 09:00 am

**End Date and Time:** Tuesday, April 25, 2006 10:00 am

**Location:** 404 HOB

**Duration:** 1.00 hrs

#### Consideration of the following bill(s):

HB 199 Sovereign Immunity by Patterson

HB 495 CS Baker County by Bean

HB 591 CS Electronic Monitoring by Ambler

HB 827 CS Pretrial Release by Planas

HB 1239 Child Abuse by Detert

HB 1457 CS Youth Custody Officers by Lopez-Cantera

**NOTICE FINALIZED on 04/24/2006 16:20 by COCHRAN.MARGARET**

# COUNCIL MEETING REPORT

## Justice Council

4/25/2006 9:00:00AM

Location: 404 HOB

### Attendance:

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Bruce Kyle (Chair)	X		
Faye Culp	X		
Carl Domino	X		
Greg Evers	X		
Arthenia Joyner	X		
Dick Kravitz			X
Marcelo Llorente	X		
Mark Mahon	X		
John Quinones	X		
David Simmons	X		
Irving Slosberg	X		
<b>Totals:</b>	<b>10</b>	<b>0</b>	<b>1</b>

Committee meeting was reported out: Tuesday, April 25, 2006 10:43:28AM

# COUNCIL MEETING REPORT

## Justice Council

4/25/2006 9:00:00AM

**Location:** 404 HOB

### Summary:

#### Justice Council

*Tuesday April 25, 2006 09:00 am*

HB 199	Favorable	Yeas: 8	Nays: 1
HB 495 CS	Favorable	Yeas: 9	Nays: 0
HB 591 CS	Favorable With Committee Substitute	Yeas: 8	Nays: 0
HB 827 CS	Favorable With Committee Substitute	Yeas: 9	Nays: 0
HB 1239	Favorable With Committee Substitute	Yeas: 9	Nays: 0
HB 1457 CS	Favorable	Yeas: 9	Nays: 0

Committee meeting was reported out: Tuesday, April 25, 2006 10:43:28AM

# COUNCIL MEETING REPORT

## Justice Council

4/25/2006 9:00:00AM

Location: 404 HOB

HB 199 : Sovereign Immunity

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Faye Culp	X				
Carl Domino	X				
Greg Evers			X		
Arthenia Joyner		X			
Dick Kravitz			X		
Marcelo Llorente	X				
Mark Mahon	X				
John Quinones	X				
David Simmons	X				
Irving Slosberg	X				
Bruce Kyle (Chair)	X				
<b>Total Yeas: 8</b>		<b>Total Nays: 1</b>			

Committee meeting was reported out: Tuesday, April 25, 2006 10:43:28AM



W/S

### COUNCIL/COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Bill No. H 199 Date 4/25/06

Name Frank Mengershitz

Title \_\_\_\_\_

Address 2901 Lake Bradford

City Tall State /Zip FL

Phone Number 576-5858

Representing FL. Sheriffs Assoc

Lobbyist (registered) Yes  No

State Employee Yes  No

I wish to speak:  Proponent   
\*I have been requested to speak:  Opponent   
Information

Subject matter: Sovereign Immunity

Council/Committee/Subcommittee: Justice Council

\*If you are appearing at the request of the Chair, you must get signature of the Chair before leaving.  
Appearing at request of Chair   
Approved by \_\_\_\_\_ Chair

Copies to:  
Original - Council/Committee/Subcommittee  
Copy - Person requested to appear



W/S

### COUNCIL/COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Bill No. HB 199 Date 4-25-06  
 Name Tammy Perdue  
 Title General Counsel  
 Address 317 N. Calhoun St.  
 City Tallahassee State /Zip FL 32301  
 Phone Number 850-222-2229  
 Representing Associated Industries of Florida

Lobbyist (registered) Yes  No

State Employee Yes  No

I wish to speak:  Proponent   
 \*I have been requested to speak:  Opponent   
 Information

Subject matter: Sovereign Immunity for Law Enforcement

Council/Committee/Subcommittee: H. Justice Council

**\*If you are appearing at the request of the Chair, you must get signature of the Chair before leaving.**

Appearing at request of Chair

Approved by \_\_\_\_\_ Chair

Copies to:  
 Original - Council/Committee/Subcommittee  
 Copy - Person requested to appear

W/S



### COUNCIL/COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Bill No. HB 199 Date 4/25/06

Name HOWARD E. "GONE" ADAMS

Title ATTORNEY - PENNINGTON LAW FIRM

Address 215 S. MONROE ST., SUITE 200

City TALAHASSEE, FLA. State/Zip FLA. 32312-1570

Phone Number 850-222-3533

Representing FLA. SHERIFFS ASSOC. SELF INS. FUND

Lobbyist (registered) Yes  No

State Employee Yes  No

I wish to speak:

Proponent

\*I have been requested to speak:

Opponent

Information

Subject matter: HIGH SPEED PURSUIT LIABILITY

Council/Committee/Subcommittee: JUSTICE COUNCIL

\*If you are appearing at the request of the Chair, you must get signature of the Chair before leaving.

Appearing at request of Chair

Approved by \_\_\_\_\_ Chair

Copies to:  
Original - Council/Committee/Subcommittee  
Copy - Person requested to appear



# COUNCIL MEETING REPORT

## Justice Council

4/25/2006 9:00:00AM

Location: 404 HOB

HB 495 CS : Baker County

<input checked="" type="checkbox"/> Favorable	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Faye Culp	X				
Carl Domino	X				
Greg Evers			X		
Arthenia Joyner	X				
Dick Kravitz			X		
Marcelo Llorente	X				
Mark Mahon	X				
John Quinones	X				
David Simmons	X				
Irving Slosberg	X				
Bruce Kyle (Chair)	X				
<b>Total Yeas: 9</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Tuesday, April 25, 2006 10:43:28AM

# COUNCIL MEETING REPORT

## Justice Council

4/25/2006 9:00:00AM

Location: 404 HOB

HB 591 CS : Electronic Monitoring

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Faye Culp	X				
Carl Domino	X				
Greg Evers	X				
Arthenia Joyner	X				
Dick Kravitz			X		
Marcelo Llorente			X		
Mark Mahon			X		
John Quinones	X				
David Simmons	X				
Irving Slosberg	X				
Bruce Kyle (Chair)	X				
<b>Total Yeas: 8</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Tuesday, April 25, 2006 10:43:28AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

Bill No. **HB 591 CS**

COUNCIL/COMMITTEE ACTION

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

1 Council/Committee hearing bill: Justice Council  
2 Representative(s) Simmons, Ambler and Brandenburg offered the  
3 following:

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

6 Remove everything after the enacting clause and insert:

7  
8 Section 1. Subsection (6) is added to section 648.387,  
9 Florida Statutes, to read:

10 648.387 Primary bail bond agents; duties; provision of  
11 electronic monitoring equipment and services by licensed  
12 agents.--

13 (6) (a) A licensed bail bond agent qualifying under s.  
14 907.07 may provide electronic monitoring equipment and services  
15 for defendants released from custody on a surety bond and  
16 subject to conditions including electronic monitoring. A  
17 licensed bail bond agent may subcontract with a third party to  
18 provide these services if the third party complies with the  
19 requirements under s. 907.07. A licensed bail bond agent  
20 qualifying under s. 907.07 may also register with a governmental  
21 entity to provide electronic monitoring equipment and services  
22 under contract with that entity.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

23        (b) A licensed bail bond agent may charge a defendant  
24 subject to electronic monitoring a reasonable, nonrefundable fee  
25 for electronic monitoring equipment and services. The amount of  
26 the fee charged in each judicial circuit shall not exceed the  
27 maximum daily fee set annually by the chief judge for the  
28 judicial circuit in which the defendant is released. The failure  
29 of a defendant to pay this fee in a timely manner shall  
30 constitute grounds for the agent to remand the person to the  
31 custody of the court or appropriate law enforcement agency. Fees  
32 charged by a bail bond agent for electronic monitoring equipment  
33 and services shall not be considered part of the bail bond  
34 premium and shall be exempt from the provisions of s. 648.33.

35        (c) Records and receipts for electronic monitoring  
36 equipment and services provided by a licensed bail bond agent  
37 shall be kept separate and apart from bail bond records and  
38 shall be available for inspection by the court or the  
39 appropriate governmental entity.

40        Section 2. Paragraphs (f) and (g) of subsection (2),  
41 paragraph (a) of subsection (7), and paragraph (b) of subsection  
42 (10) of section 775.21, Florida Statutes, are amended to read:

43        775.21 The Florida Sexual Predators Act.--

44        (2) DEFINITIONS.--As used in this section, the term:

45        (f) "Permanent residence" means a place where the person  
46 abides, lodges, or resides for 5 ~~14~~ or more consecutive days.

47        (g) "Temporary residence" means a place where the person  
48 abides, lodges, or resides for a period of 5 ~~14~~ or more days in  
49 the aggregate during any calendar year and which is not the  
50 person's permanent address; or, for a person whose permanent  
51 residence is not in this state, a place where the person is  
52 employed, practices a vocation, or is enrolled as a student for  
53 any period of time in this state; ~~or a place where the person~~

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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54 ~~routinely abides, lodges, or resides for a period of 4 or more~~  
55 ~~consecutive or nonconsecutive days in any month and which is not~~  
56 ~~the person's permanent residence, including any out of state~~  
57 ~~address.~~

58 (7) COMMUNITY AND PUBLIC NOTIFICATION.--

59 (a) Law enforcement agencies must inform members of the  
60 community and the public of a sexual predator's presence. Upon  
61 notification of the presence of a sexual predator, the sheriff  
62 of the county or the chief of police of the municipality where  
63 the sexual predator establishes or maintains a permanent or  
64 temporary residence shall notify members of the community and  
65 the public of the presence of the sexual predator in a manner  
66 deemed appropriate by the sheriff or the chief of police. Within  
67 48 hours after receiving notification of the presence of a  
68 sexual predator, the sheriff of the county or the chief of  
69 police of the municipality where the sexual predator temporarily  
70 or permanently resides shall notify each licensed day care  
71 center, elementary school, middle school, ~~and~~ high school, and  
72 library within a 1-mile radius of the temporary or permanent  
73 residence of the sexual predator of the presence of the sexual  
74 predator. Information provided to members of the community and  
75 the public regarding a sexual predator must include:

- 76 1. The name of the sexual predator;
- 77 2. A description of the sexual predator, including a  
78 photograph;
- 79 3. The sexual predator's current address, including the  
80 name of the county or municipality if known;
- 81 4. The circumstances of the sexual predator's offense or  
82 offenses; and
- 83 5. Whether the victim of the sexual predator's offense or  
84 offenses was, at the time of the offense, a minor or an adult.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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85  
86 This paragraph does not authorize the release of the name of any  
87 victim of the sexual predator.

88 (10) PENALTIES.--

89 (b) A sexual predator who has been convicted of or found  
90 to have committed, or has pled nolo contendere or guilty to,  
91 regardless of adjudication, any violation, or attempted  
92 violation, of s. 787.01, s. 787.02, or s. 787.025, where the  
93 victim is a minor and the defendant is not the victim's parent;  
94 s. 794.011(2), (3), (4), (5), or (8); s. 794.05; s. 796.03; s.  
95 800.04; s. 827.071; s. 847.0133; or s. 847.0145, or a violation  
96 of a similar law of another jurisdiction, when the victim of the  
97 offense was a minor, and who works, whether for compensation or  
98 as a volunteer, at any ~~business~~, school, day care center, park,  
99 playground, library, or business or other place where children  
100 regularly congregate, commits a felony of the third degree,  
101 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

102 Section 3. Section 775.215, Florida Statutes, is created  
103 to read:

104 775.215 Residency exclusions for sexual offenders or  
105 predators; local ordinances preempted.--

106 (1) The establishment of residency exclusions applicable  
107 to the residences of a person required to register as a sexual  
108 offender or sexual predator is expressly preempted to the state,  
109 and the provisions of ss. 794.065, 947.1405, and 948.30  
110 establishing such exclusions supersede any municipal or county  
111 ordinances imposing different exclusions.

112 (2) A provision of any ordinance adopted by a county or  
113 municipality prior to October 1, 2006, imposing residency  
114 exclusions for the residences of persons subject to the

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

115 provisions of s. 794.065, s. 947.1405, or s. 948.30 is hereby  
116 repealed and abolished as of October 1, 2006.

117 Section 4. Subsection (2) of section 775.24, Florida  
118 Statutes, is amended to read:

119 775.24 Duty of the court to uphold laws governing sexual  
120 predators and sexual offenders.--

121 (2) If a person meets the criteria in this chapter for  
122 designation as a sexual predator or meets the criteria in s.  
123 943.0435, s. 944.606, s. 944.607, or any other law for  
124 classification as a sexual offender, the court may not enter an  
125 order, for the purpose of approving a plea agreement or for any  
126 other reason, which:

127 (a) Exempts a person who meets the criteria for  
128 designation as a sexual predator or classification as a sexual  
129 offender from such designation or classification, ~~or~~ exempts  
130 such person from the requirements for registration or community  
131 and public notification imposed upon sexual predators and sexual  
132 offenders, or exempts such person from the residency exclusions  
133 contained in ss. 794.065, 947.1405, and 948.30;

134 (b) Restricts the compiling, reporting, or release of  
135 public records information that relates to sexual predators or  
136 sexual offenders; or

137 (c) Prevents any person or entity from performing its  
138 duties or operating within its statutorily conferred authority  
139 as such duty or authority relates to sexual predators or sexual  
140 offenders.

141 Section 5. Section 794.065, Florida Statutes, is amended  
142 to read:

143 794.065 Unlawful place of residence for persons convicted  
144 of certain sex offenses.--

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

145 (1)(a)1. It is unlawful for any person who has been  
146 convicted of a violation of s. 794.011, s. 800.04, s. 827.071,  
147 or s. 847.0145, regardless of whether adjudication has been  
148 withheld, in which the victim of the offense was less than 16  
149 years of age, to reside within 1,000 feet of any school, day  
150 care center, park, or playground.

151 2. A person who violates this section and whose conviction  
152 for an offense listed in subparagraph 1. under s. 794.011, s.  
153 800.04, s. 827.071, or s. 847.0145 was classified as:

154 a. A felony of the first degree or higher, commits a  
155 felony of the third degree, punishable as provided in s. 775.082  
156 or s. 775.083. ~~A person who violates this section and whose~~  
157 ~~conviction under s. 794.011, s. 800.04, s. 827.071, or s.~~  
158 ~~847.0145 was classified as~~

159 b. A felony of the second or third degree, commits a  
160 misdemeanor of the first degree, punishable as provided in s.  
161 775.082 or s. 775.083.

162 (b)(2) This subsection section applies to any person  
163 convicted of an offense listed in subparagraph 1. if the offense  
164 occurred a violation of s. 794.011, s. 800.04, s. 827.071, or s.  
165 847.0145 for offenses that occur on or after October 1, 2004.

166 (2)(a)1. It is unlawful for any person who has been  
167 convicted of a violation of s. 787.01 (3)(a) 2., 3., 4., or 5.,  
168 s. 787.02 (3)(a) 2., 3., 4., or 5., s. 794.011, s. 800.04, s.  
169 827.071, or s. 847.0145, regardless of whether adjudication has  
170 been withheld, in which the victim of the offense was less than  
171 16 years of age, to reside within 1,500 feet of any school, day  
172 care center, park, playground, library, or other business or  
173 place where children regularly congregate.

174 2. A person violating this subsection whose conviction of  
175 an offense listed in subparagraph 1. was classified as:



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

76 a. A felony of the first degree or higher, commits a  
177 felony of the third degree, punishable as provided in s. 775.082  
178 or s. 775.083.

179 b. A felony of the second or third degree, commits a  
180 misdemeanor of the first degree, punishable as provided in s.  
181 775.082 or s. 775.083.

182 (b) The distances in this subsection shall be measured in  
183 a straight line from the offender's place of residence to the  
184 nearest boundary line of the school, day care center, park,  
185 playground, library, or other business or place where children  
186 regularly congregate. The distance may not be measured by a  
187 pedestrian route or automobile route.

188 (c) This subsection applies to any person convicted of an  
189 offense listed in subparagraph 1. if the offense occurred on or  
190 after October 1, 2006.

91 Section 6. Section 907.06, Florida Statutes, is created to  
192 read:

193 907.06 Electronic monitoring of certain defendants;  
194 general requirements for equipment and services.--

195 (1)(a) The court may order a defendant charged with a  
196 forcible felony or a sexual offense, or charged with any crime  
197 and previously convicted of a forcible felony or a sexual  
198 offense, to be released from custody on a surety bond subject to  
199 conditions that include, without limitation, electronic  
200 monitoring, if electronic monitoring is available in the  
201 jurisdiction.

202 (b) For purposes of this section, the term:

203 1. "Forcible felony" has the same meaning as in s. 776.08.

204 2. "Sexual offense" includes any of the offenses contained  
205 in s. 943.0435(1)(a)1.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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206       (2) A defendant who is released on a surety bond that  
207 includes a condition requiring electronic monitoring shall pay a  
208 reasonable fee for equipment use and monitoring as an additional  
209 condition of pretrial release not to exceed the maximum daily  
210 fee set by the chief judge of the judicial circuit in which the  
211 defendant is released.

212       (3) (a) Electronic monitoring shall include the equipment  
213 and services necessary to continuously receive electronic  
214 signals from the transmitter worn by the defendant to determine  
215 the defendant's geographic position at any time to within 10  
216 meters, using Global Positioning Satellite (GPS) technology,  
217 subject to the limitations related to the technology and to  
218 circumstances of force majeure.

219       (b) Electronic monitoring equipment and services may be  
220 undertaken as a primary responsibility of a governmental entity  
221 or a licensed bail bond agent qualifying as a vendor under s.  
222 907.07.

223       (c) A governmental entity or licensed bail bond agent may  
224 subcontract with an eligible third-party vendor for electronic  
225 monitoring equipment and services, provided the third-party  
226 vendor complies with all provisions of this subsection and s.  
227 907.08 and operates under the direction and control of the  
228 governmental entity or licensed bail bond agent. A governmental  
229 entity subcontracting for electronic monitoring equipment and  
230 services must select the third-party vendor through a  
231 competitive bidding process.

232       (4) (a) Any governmental entity or bail bond agent  
233 providing electronic monitoring services must report as soon as  
234 possible any known violations of the defendant's pretrial  
235 release conditions to the appropriate court, law enforcement  
236 agency, and state attorney. Additionally, if a third party

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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237 vendor is providing the electronic monitoring equipment and  
238 services under a subcontract, the third party vendor must report  
239 any known violations to the governmental entity or bail bond  
240 agent with whom the third party vendor has a subcontract.

241 (b) Notwithstanding the reporting requirements in  
242 paragraph (a), the provision of electronic monitoring services  
243 by a governmental entity, bail bond agent, or any subcontractor  
244 thereof, shall not constitute a legal duty to protect members of  
245 the public from criminal acts committed by a monitored  
246 defendant. The sole purpose of electronic monitoring is to give  
247 the governmental entity, bail bond agent, or law enforcement  
248 agency, upon request, an indication of the physical location of  
249 the monitored defendant at any point in time. The governmental  
250 entity or licensed bail bond agent, or any subcontractor  
251 thereof, is not responsible to third parties for the failure of  
252 the monitoring equipment or for the criminal acts of the  
253 monitored defendant.

254 (5) A defendant released in accordance with this section  
255 shall not alter, tamper with, damage, or destroy any electronic  
256 monitoring equipment or the data recorded by such equipment. A  
257 defendant notified of a malfunction in the equipment shall  
258 immediately cooperate with the governmental entity, bail bond  
259 agent, or subcontractor thereof, to restore the equipment to  
260 proper functioning. A violation of this subsection shall  
261 constitute a violation of pretrial release and be grounds for  
262 the defendant to be remanded to the court or appropriate law  
263 enforcement agency.

264 Section 7. Section 907.07, Florida Statutes, is created to  
265 read:

266 907.07 Vendors of electronic monitoring equipment and  
267 services; bail bond agent eligibility; process; standards.--

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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268 (1) This section shall not apply to electronic monitoring  
269 services and equipment provided directly by a governmental  
270 entity.

271 (2) The chief judge of each judicial circuit shall  
272 maintain a list of all licensed bail bond agents qualified  
273 pursuant to this section to serve as vendors of electronic  
274 monitoring equipment and services in the judicial circuit. To  
275 qualify as a vendor, a licensed bail bond agent must:

276 (a) Register the name of the licensed bail bond agent and,  
277 if applicable, the subcontractor; the name and telephone number  
278 of the individual employed by the licensed bail bond agent and,  
279 if applicable, subcontractor that is serving as the contact  
280 person for the licensed bail bond agent and, if applicable,  
281 subcontractor; and the address of the licensed bail bond agent  
282 and, if applicable, subcontractor.

283 (b) Certify in writing, both initially and annually by  
284 January 1, thereafter, the following:

285 1. That the electronic monitoring equipment used by the  
286 licensed bail bond agent or subcontractor complies with the  
287 specifications for privately owned electronic monitoring devices  
288 pursuant to s. 907.08.

289 2. The maximum daily fee to be charged a defendant for  
290 electronic monitoring services in that judicial circuit.

291 3. That the licensed bail bond agent or subcontractor has  
292 not plead nolo contendere to, or been adjudicated guilty of, or  
293 convicted of, a felony offense.

294 (c) Promptly notify the chief judge of any changes in the  
295 registration information required under this section.

296 (3) The chief judge may remove any licensed bail bond  
297 agent from the list of eligible vendors if:

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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298 (a) The licensed bail bond agent fails to comply with the  
299 registration or recertification requirements of this section;

300 (b) The licensed bail bond agent or, if applicable, the  
301 subcontractor fails to properly monitor any defendant pursuant  
302 to s. 907.06;

303 (c) The licensed bail bond agent charges a defendant a fee  
304 for electronic monitoring services and equipment in excess of  
305 the maximum amount established by the chief judge for the  
306 judicial circuit in which the defendant is released; or

307 (d) The licensed bail bond agent or, if applicable, the  
308 subcontractor has plead nolo contendere to, or been adjudicated  
309 guilty of, or convicted of, a felony offense.

310 Section 8. Section 907.08, Florida Statutes, is created to  
311 read:

312 907.08 Standards for privately owned electronic monitoring  
313 system.--To be used for electronic monitoring of a defendant  
314 under s. 907.06, privately owned electronic monitoring systems  
315 must meet the minimum specifications set forth in subsections  
316 (1) and (2), and additionally must be consistent with the  
317 performance standards set forth in subsections (3) through (9),  
318 subject to the best commercially available technology at time of  
319 procurement. Such a system must:

320 (1) Use a transmitter unit that meets certification  
321 standards approved by the Federal Communications Commission.

322 (2) (a) Emit signal content 24 hours per day identifying  
323 the specific device being worn by the defendant and the  
324 defendant's physical location using Global Positioning Satellite  
325 (GPS) technology accurate to within 10 meters; or

326 (b) Receive signal content 24 hours per day determining  
327 the defendant's physical location using Global Positioning  
328 Satellite (GPS) technology accurate to within 10 meters,

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329 recording the defendant's physical locations throughout the day,  
330 and being capable of transmitting that record of locations to  
331 the vendor at least daily.

332 (3) With respect to a unit affixed to a defendant, possess  
333 an internal power source that provides a minimum of 1 year of  
334 normal operation without having to recharge or replace the power  
335 source. The device must emit signal content indicating its power  
336 status and notifying the vendor when the power source needs to  
337 be recharged or replaced.

338 (4) Possess and emit signal content indicating whether or  
339 not the transmitter has been tampered with or removed.

340 (5) Possess encrypted signal content or another feature  
341 designed to discourage duplication.

342 (6) Be shock resistant, waterproof, and capable of  
343 reliable function under normal atmospheric and environmental  
344 conditions.

345 (7) Be capable of wear and use in a manner that does not  
346 pose a safety hazard or unduly restrict the activities of the  
347 defendant.

348 (8) Be capable of being attached to the defendant in a  
349 manner that readily reveals any efforts to tamper with or remove  
350 the transmitter upon visual inspection.

351 (9) Make use of straps or other mechanisms for attaching  
352 the transmitter to the defendant that are either capable of  
353 being adjusted to fit a defendant of any size or that are made  
354 available in a variety of sizes.

355 Section 9. Section 907.09, Florida Statutes, is created to  
356 read:

357 907.09 Offenses related to electronic monitoring  
358 devices.--

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Amendment No. (for drafter's use only)

359 (1) It is illegal for any person to intentionally alter,  
360 tamper with, damage, or destroy any electronic monitoring device  
361 used to monitor the location of a person pursuant to court  
362 order, unless the person is the owner of the equipment or an  
363 agent of the owner performing ordinary maintenance and repairs.  
364 A person violating this subsection commits a felony of the third  
365 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
366 775.084.

367 (2) It is illegal for any person to develop, build,  
368 create, possess, or use any device that is intended to mimic,  
369 clone, interfere with, or jam the signal of an electronic  
370 monitoring device used to monitor the location of a defendant  
371 pursuant to court order. A person violating this subsection  
372 commits a felony of the third degree, punishable as provided in  
373 s. 775.082, s. 775.083, or s. 775.084.

374 (3) It is illegal for any person to intentionally alter,  
375 tamper with, damage, or destroy any data stored or transmitted  
376 by any electronic monitoring device used to monitor the location  
377 of a defendant pursuant to court order with the intent to  
378 violate the court order or to conceal a violation. A person  
379 violating this subsection commits a felony of the third degree,  
380 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

381 Section 10. Section 944.161, Florida Statutes, is created  
382 to read:

383 944.161 Electronic monitoring of inmates within  
384 correctional facilities.--

385 (1) The department is authorized to employ electronic  
386 monitoring of inmates incarcerated within state and private  
387 correctional facilities. The department must use electronic  
388 monitoring systems that meet the minimum specifications set  
389 forth in paragraphs (a) and (b), and are consistent with the

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90 performance standards set forth in paragraph (c), subject to the  
391 best commercially available technology at the time of  
392 procurement. Such a system must:

393 (a) Have the capacity to continuously receive electronic  
394 signals at a monitoring station within the correctional facility  
395 from a transmitter that continuously transmits in real time and  
396 identifies the specific geographic position within the facility  
397 at any time of the following persons who must wear a  
398 transmitter:

399 1. Inmates.

400 2. Department employees.

401 3. Employees of any private sector company contracted to  
402 operate a correctional facility.

403 4. Any visitor to a correctional facility provided access  
404 to areas designated for authorized personnel only.

405 (b) Use electronic monitoring transmitters worn by persons  
406 in any correctional facility that are capable of providing  
407 updates in at least 5-second intervals and transmit the  
408 geographical location of a person wearing a transmitter to  
409 within at least a 3-meter radius of his or her actual location  
410 or to within a radius equal to the width of a facility's average  
411 size sleeping quarters, whichever is less, subject to the  
412 limitations relating to the state of the art of the technology  
413 used and to circumstances of force majeure. Transmitters worn by  
414 persons other than inmates shall also include a panic safety  
415 button.

416 (c) Be consistent with the following technological and  
417 functional performance standards:

418 1. Compatibility with a commercially recognized wireless  
419 network access standard as designated by the department and  
20 sufficient bandwidth to support additional wireless networking



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421 devices to expand the capacity of the correctional facility to  
422 use the service.

423 2. The capability of issuing an alarm to an internal  
424 correctional monitoring station in an appropriate amount of time  
425 after receiving a panic alert from an employee or visitor  
426 transmitter or within an appropriate amount of time after  
427 violation of the established parameters for permissible movement  
428 of inmates, employees, and visitors within the facility.

429 3. The capability of maintaining a historical storage  
430 capacity sufficient to store up to at least 6 months of complete  
431 inmate, employee, and visitor tracking data for purposes of  
432 followup investigations and vendor contract auditing. The system  
433 should be capable of recording the continuous uninterrupted  
434 movement of all monitored individuals by specific position,  
435 rather than solely by area or zone. All tracking data shall also  
436 be periodically archived by appropriate electronic data transfer  
437 to a permanent storage medium designated as acceptable by the  
438 department and retained for at least a 5-year period. In  
439 addition, tracking data collected from each facility shall be  
440 electronically transmitted periodically to a secure centralized  
441 offsite location designated by the department and in an  
442 appropriate storage medium designated as acceptable by the  
443 department as a supplemental backup to protect the archived data  
444 from alteration and to prevent loss due to disaster or other  
445 cause.

446 4. With respect to a transmitter affixed to an inmate, be  
447 capable of possessing an internal power source that is field  
448 rechargeable or provides at least 1 year of normal operation  
449 without the need to recharge or replace the power source.  
450 Batteries used in devices should be capable of being replaced by  
451 correctional employees. The device should emit signal content

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452 indicating the power status of the transmitter and notifying the  
453 correctional facility monitoring station of any need to recharge  
454 or replace the power source.

455 5. Possess and emit signal content indicating whether or  
456 not the transmitter has been tampered with or removed.

457 6. Possess encrypted signal content or another feature  
458 designed to discourage duplication.

459 7. Be shock resistant, waterproof, and capable of reliable  
460 function under normal atmospheric and environmental conditions.

461 8. The capability to sustain wear and use in a manner that  
462 does not pose a safety hazard or unduly restrict the activities  
463 of the inmate.

464 9. The capability of being attached to the inmate in a  
465 manner that readily reveals any efforts to tamper with or remove  
466 the transmitter upon visual inspection.

467 10. Either possess straps or other mechanisms for  
468 attaching the transmitter to the inmate which are capable of  
469 being adjusted to fit an inmate of any size or available in a  
470 variety of sizes.

471 11. Be designed and constructed in such a way as to resist  
472 tampering with or removal by the inmate.

473 12. Provide a backup power source in the event of a power  
474 failure.

475 (2) A person shall not intentionally alter, tamper with,  
476 damage, or destroy any electronic monitoring equipment used to  
477 monitor the location of a person within a correctional facility,  
478 unless the person is the owner of the equipment or an agent of  
479 the owner performing ordinary maintenance and repairs. A person  
480 violating this subsection commits a felony of the third degree,  
481 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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82       (3) A person shall not develop, build, create, possess, or  
483 use any device that is intended to mimic, clone, interfere with,  
484 or jam the signal of an electronic monitoring device used to  
485 monitor the location of a person within a correctional facility.  
486 A person violating this subsection commits a felony of the third  
487 degree, punishable as provided in s. 775.082, s.  
488 775.083, or s. 775.084.

489       (4) A person shall not intentionally alter, tamper with,  
490 damage, or destroy any data stored in an electronic monitoring  
491 device pursuant to subparagraph (1)(c)3. unless done so with  
492 written permission from an authorized official of the department  
493 or in compliance with a data-retention policy of the department  
494 adopted by rule. A person violating this subsection commits a  
495 felony of the third degree, punishable as provided in s.  
496 775.082, s. 775.083, or s. 775.084.

97       (5) The department is authorized to adopt rules pursuant  
498 to ss. 120.536(1) and 120.54 to implement the provisions of this  
499 section.

500       Section 11. Subsections (2) and (6) and paragraph (a) of  
501 subsection (7) of section 947.1405, Florida Statutes, are  
502 amended, and subsection (11) is added to that section, to read:

503       947.1405 Conditional release program.--

504       (2)(a) Any inmate who:

505       1.(a) Is convicted of a crime committed on or after  
506 October 1, 1988, and before January 1, 1994; ~~and any inmate who~~  
507 is convicted of a crime committed on or after January 1, 1994,  
508 which crime is or was contained in category 1, category 2,  
509 category 3, or category 4 of Rule 3.701 and Rule 3.988, Florida  
510 Rules of Criminal Procedure (1993), and who has served at least  
511 one prior felony commitment at a state or federal correctional

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512 institution; or is convicted under any of the following  
513 statutory provisions committed on or after July 1, 2006:

514 a. Kidnapping, under s. 787.01 (3) (a) 2., 3., 4., or 5.;

515 b. False imprisonment, under s. 787.02 (3) (a) 2., 3., 4.,  
516 or 5.;

517 c. Sexual performance by a child, under s. 827.071; or

518 d. Selling or buying of minors, under s. 847.0145;

519 2.(b) Is sentenced as a habitual or violent habitual  
520 offender or a violent career criminal pursuant to s. 775.084; or

521 3.(e) Is found to be a sexual predator under s. 775.21 or  
522 former s. 775.23,

523  
524 shall, upon reaching the tentative release date or provisional  
525 release date, whichever is earlier, as established by the  
526 Department of Corrections, be released under supervision subject  
527 to specified terms and conditions, including payment of the cost  
528 of supervision pursuant to s. 948.09. Such supervision shall be  
529 applicable to all sentences within the overall term of sentences  
530 if an inmate's overall term of sentences includes one or more  
531 sentences that are eligible for conditional release supervision  
532 as provided herein.

533 (b) Effective July 1, 1994, and applicable for offenses  
534 committed on or after that date, the commission may require, as  
535 a condition of conditional release, that the releasee make  
536 payment of the debt due and owing to a county or municipal  
537 detention facility under s. 951.032 for medical care, treatment,  
538 hospitalization, or transportation received by the releasee  
539 while in that detention facility. The commission, in determining  
540 whether to order such repayment and the amount of such  
541 repayment, shall consider the amount of the debt, whether there  
542 was any fault of the institution for the medical expenses

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43 incurred, the financial resources of the releasee, the present  
544 and potential future financial needs and earning ability of the  
545 releasee, and dependents, and other appropriate factors.

546 (c) If any inmate, other than an inmate required to  
547 register as a sexual predator under s. 775.21 or as a sexual  
548 offender under s. 943.0435, placed on conditional release  
549 supervision is also subject to probation or community control,  
550 resulting from a probationary or community control split  
551 sentence within the overall term of sentences, the Department of  
552 Corrections shall supervise such person according to the  
553 conditions imposed by the court and the commission shall defer  
554 to such supervision. If the court revokes probation or community  
555 control and resentences the offender to a term of incarceration,  
556 such revocation also constitutes a sufficient basis for the  
557 revocation of the conditional release supervision on any  
558 nonprobationary or noncommunity control sentence without further  
559 hearing by the commission. If any such supervision on any  
560 nonprobationary or noncommunity control sentence is revoked,  
561 such revocation may result in a forfeiture of all gain-time, and  
562 the commission may revoke the resulting deferred conditional  
563 release supervision or take other action it considers  
564 appropriate. If the term of conditional release supervision  
565 exceeds that of the probation or community control, then, upon  
566 expiration of the probation or community control, authority for  
567 the supervision shall revert to the commission and the  
568 supervision shall be subject to the conditions imposed by the  
569 commission.

570 (d) If any inmate required to register as a sexual  
571 predator under s. 775.21 or as a sexual offender under s.  
572 943.0435 is placed on conditional release supervision is also  
573 subject to probation or community control, the period of court-

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774 ordered community supervision shall not be substituted for  
575 conditional release supervision and shall follow the term of  
576 conditional release supervision.

577 (e) A panel of no fewer than two commissioners shall  
578 establish the terms and conditions of any such release. If the  
579 offense was a controlled substance violation, the conditions  
580 shall include a requirement that the offender submit to random  
581 substance abuse testing intermittently throughout the term of  
582 conditional release supervision, upon the direction of the  
583 correctional probation officer as defined in s. 943.10(3). The  
584 commission shall also determine whether the terms and conditions  
585 of such release have been violated and whether such violation  
586 warrants revocation of the conditional release.

587 (6) The commission shall review the recommendations of the  
588 department, and such other information as it deems relevant, and  
589 may conduct a review of the inmate's record for the purpose of  
590 establishing the terms and conditions of the conditional  
591 release. The commission may impose any special conditions it  
592 considers warranted from its review of the release plan and  
593 recommendation. If the commission determines that the inmate is  
594 eligible for release under this section, the commission shall  
595 enter an order establishing the length of supervision and the  
596 conditions attendant thereto. However, an inmate who has been  
597 convicted of a violation of chapter 794 or found by the court to  
598 be a sexual predator is subject to the maximum level of  
599 supervision provided, with the mandatory conditions as required  
600 in subsection (7), and that supervision shall continue through  
601 the end of the releasee's original court-imposed sentence. The  
602 length of supervision must not exceed the maximum penalty  
603 imposed by the court. The commission may modify the conditions

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604 of supervision at any time as warranted in the interest of  
605 public safety.

606 (7)(a) Any inmate who is convicted of a crime committed on  
607 or after October 1, 1995, or who has been previously convicted  
608 of a crime committed on or after October 1, 1995, in violation  
609 of chapter 794, s. 800.04, s. 827.071, or s. 847.0145, and is  
610 subject to conditional release supervision, shall have, in  
611 addition to any other conditions imposed, the following special  
612 conditions imposed by the commission:

613 1. A mandatory curfew from 10 p.m. to 6 a.m. The  
614 commission may designate another 8-hour period if the offender's  
615 employment precludes the above specified time, and such  
616 alternative is recommended by the Department of Corrections. If  
617 the commission determines that imposing a curfew would endanger  
618 the victim, the commission may consider alternative sanctions.

619 2.a. If the victim was under the age of 18, a prohibition  
620 on living within 1,000 feet of a school, day care center, park,  
621 playground, designated public school bus stop, or other place  
622 where children regularly congregate. A releasee who is subject  
623 to this subparagraph may not relocate to a residence that is  
624 within 1,000 feet of a public school bus stop.

625 b. Beginning October 1, 2004, the commission or the  
626 department may not approve a residence that is located within  
627 1,000 feet of a school, day care center, park, playground,  
628 designated school bus stop, or other place where children  
629 regularly congregate for any releasee who is subject to this  
630 subparagraph. On October 1, 2004, the department shall notify  
631 each affected school district of the location of the residence  
632 of a releasee 30 days prior to release and thereafter, if the  
633 releasee relocates to a new residence, shall notify any affected  
634 school district of the residence of the releasee within 30 days

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35 after relocation. If, on October 1, 2004, any public school bus  
636 stop is located within 1,000 feet of the existing residence of  
637 such releasee, the district school board shall relocate that  
638 school bus stop. Beginning October 1, 2004, a district school  
639 board may not establish or relocate a public school bus stop  
640 within 1,000 feet of the residence of a releasee who is subject  
641 to this subparagraph. The failure of the district school board  
642 to comply with this subparagraph shall not result in a violation  
643 of conditional release supervision.

644 c. Beginning October 1, 2006, neither the commission nor  
645 the department may approve a residence located within 1,500 feet  
646 of a school, day care center, park, playground, designated  
647 school bus stop, library, or other business or place where  
648 children regularly congregate for any releasee who is subject to  
649 this subparagraph. The distance provided in this sub-  
50 subparagraph shall be measured in a straight line from the  
651 offender's place of residence to the nearest boundary line of  
652 the school, day care center, park, playground, library, or other  
653 business or place where children regularly congregate. The  
654 distance may not be measured by a pedestrian route or automobile  
655 route.

656 3. Active participation in and successful completion of a  
657 sex offender treatment program with qualified practitioners  
658 specifically trained to treat sex offenders, at the releasee's  
659 own expense. If a qualified practitioner is not available within  
660 a 50-mile radius of the releasee's residence, the offender shall  
661 participate in other appropriate therapy.

662 4. A prohibition on any contact with the victim, directly  
663 or indirectly, including through a third person, unless approved  
664 by the victim, the offender's therapist, and the sentencing  
665 court.



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666 5. If the victim was under the age of 18, a prohibition  
667 against contact with children under the age of 18 without review  
668 and approval by the commission. The commission may approve  
669 supervised contact with a child under the age of 18 if the  
670 approval is based upon a recommendation for contact issued by a  
671 qualified practitioner who is basing the recommendation on a  
672 risk assessment. Further, the sex offender must be currently  
673 enrolled in or have successfully completed a sex offender  
674 therapy program. The commission may not grant supervised contact  
675 with a child if the contact is not recommended by a qualified  
676 practitioner and may deny supervised contact with a child at any  
677 time. When considering whether to approve supervised contact  
678 with a child, the commission must review and consider the  
679 following:

680 a. A risk assessment completed by a qualified  
681 practitioner. The qualified practitioner must prepare a written  
682 report that must include the findings of the assessment and  
683 address each of the following components:

684 (I) The sex offender's current legal status;

685 (II) The sex offender's history of adult charges with  
686 apparent sexual motivation;

687 (III) The sex offender's history of adult charges without  
688 apparent sexual motivation;

689 (IV) The sex offender's history of juvenile charges,  
690 whenever available;

691 (V) The sex offender's offender treatment history,  
692 including a consultation from the sex offender's treating, or  
693 most recent treating, therapist;

694 (VI) The sex offender's current mental status;

695 (VII) The sex offender's mental health and substance abuse  
696 history as provided by the Department of Corrections;

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697 (VIII) The sex offender's personal, social, educational,  
698 and work history;

699 (IX) The results of current psychological testing of the  
700 sex offender if determined necessary by the qualified  
701 practitioner;

702 (X) A description of the proposed contact, including the  
703 location, frequency, duration, and supervisory arrangement;

704 (XI) The child's preference and relative comfort level  
705 with the proposed contact, when age-appropriate;

706 (XII) The parent's or legal guardian's preference  
707 regarding the proposed contact; and

708 (XIII) The qualified practitioner's opinion, along with  
709 the basis for that opinion, as to whether the proposed contact  
710 would likely pose significant risk of emotional or physical harm  
711 to the child.

712  
713 The written report of the assessment must be given to the  
714 commission.

715 b. A recommendation made as a part of the risk-assessment  
716 report as to whether supervised contact with the child should be  
717 approved;

718 c. A written consent signed by the child's parent or legal  
719 guardian, if the parent or legal guardian is not the sex  
720 offender, agreeing to the sex offender having supervised contact  
721 with the child after receiving full disclosure of the sex  
722 offender's present legal status, past criminal history, and the  
723 results of the risk assessment. The commission may not approve  
724 contact with the child if the parent or legal guardian refuses  
725 to give written consent for supervised contact;

726 d. A safety plan prepared by the qualified practitioner,  
727 who provides treatment to the offender, in collaboration with

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28 the sex offender, the child's parent or legal guardian, and the  
729 child, when age appropriate, which details the acceptable  
730 conditions of contact between the sex offender and the child.

731 The safety plan must be reviewed and approved by the Department  
732 of Corrections before being submitted to the commission; and

733 e. Evidence that the child's parent or legal guardian, if  
734 the parent or legal guardian is not the sex offender,  
735 understands the need for and agrees to the safety plan and has  
736 agreed to provide, or to designate another adult to provide,  
737 constant supervision any time the child is in contact with the  
738 offender.

739  
740 The commission may not appoint a person to conduct a risk  
741 assessment and may not accept a risk assessment from a person  
742 who has not demonstrated to the commission that he or she has  
743 met the requirements of a qualified practitioner as defined in  
744 this section.

745 6. If the victim was under age 18, a prohibition on  
746 working for pay or as a volunteer at any school, day care  
747 center, park, playground, library, or other business or place  
748 where children regularly congregate, as prescribed by the  
749 commission.

750 7. Unless otherwise indicated in the treatment plan  
751 provided by the sexual offender treatment program, a prohibition  
752 on viewing, owning, or possessing any obscene, pornographic, or  
753 sexually stimulating visual or auditory material, including  
754 telephone, electronic media, computer programs, or computer  
755 services that are relevant to the offender's deviant behavior  
756 pattern.

757 8. Effective for a releasee whose crime is committed on or  
758 after July 1, 2005, a prohibition on accessing the Internet or

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759 other computer services until the offender's sex offender  
760 treatment program, after a risk assessment is completed,  
761 approves and implements a safety plan for the offender's  
762 accessing or using the Internet or other computer services.

763 9. A requirement that the releasee must submit two  
764 specimens of blood to the Florida Department of Law Enforcement  
765 to be registered with the DNA database.

766 10. A requirement that the releasee make restitution to  
767 the victim, as determined by the sentencing court or the  
768 commission, for all necessary medical and related professional  
769 services relating to physical, psychiatric, and psychological  
770 care.

771 11. Submission to a warrantless search by the community  
772 control or probation officer of the probationer's or community  
773 controllee's person, residence, or vehicle.

774 (11) Effective for a releasee whose crime was a violation  
775 of s. 787.01 (3)(a) 2., 3., 4., or 5. or s. 787.02 (3)(a) 2.,  
776 3., 4., or 5., who committed the offense on or after October 1,  
777 2006, and who was 18 years of age or older at the time of the  
778 offense, in addition to any other provision of this section, the  
779 commission must order electronic monitoring for the duration of  
780 the releasee's supervision.

781 Section 12. Subsection (8) is added to section 947.141,  
782 Florida Statutes, to read:

783 947.141 Violations of conditional release, control  
784 release, or conditional medical release or addiction-recovery  
785 supervision.--

786 (8) Because of the compelling state interest in protecting  
787 the public from sexual offenders or sexual predators granted the  
788 privilege of conditional release, in any hearing alleging a  
789 violation of conditional release by a releasee for failure to

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790 comply with the residency exclusion in s. 947.1405, the  
791 inability of the releasee to locate a residence in compliance  
792 with s. 947.1405 shall not be a defense to the finding of a  
793 violation under this section.

794 Section 13. Subsection (4) of section 948.06, Florida  
795 Statutes, is amended to read:

796 948.06 Violation of probation or community control;  
797 revocation; modification; continuance; failure to pay  
798 restitution or cost of supervision.--

799 (4) Notwithstanding any other provision of this section, a  
800 probationer or an offender in community control who is arrested  
801 for violating his or her probation or community control in a  
802 material respect may be taken before the court in the county or  
803 circuit in which the probationer or offender was arrested. That  
804 court shall advise him or her of such charge of a violation and,  
805 if such charge is admitted, shall cause him or her to be brought  
806 before the court which granted the probation or community  
807 control. If such violation is not admitted by the probationer or  
808 offender, the court may commit him or her or release him or her  
809 with or without bail to await further hearing. However, if the  
810 probationer or offender is under supervision for any criminal  
811 offense proscribed in chapter 794, s. 800.04(4), (5), (6), s.  
812 827.071, or s. 847.0145, or is a registered sexual predator or a  
813 registered sexual offender, or is under supervision for a  
814 criminal offense for which he or she would meet the registration  
815 criteria in s. 775.21, s. 943.0435, or s. 944.607 but for the  
816 effective date of those sections, the court must make a finding  
817 that the probationer or offender poses no ~~is not~~ a danger to the  
818 public prior to release with or without bail. In determining  
819 that the offender poses no danger to the public ~~the danger posed~~  
820 ~~by the offender's or probationer's release~~, the court may

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821 consider the nature and circumstances of the violation and any  
822 new offenses charged; the offender's or probationer's past and  
823 present conduct, including convictions of crimes; any record of  
824 arrests without conviction for crimes involving violence or  
825 sexual crimes; any other evidence of allegations of unlawful  
826 sexual conduct or the use of violence by the offender or  
827 probationer; the offender's or probationer's family ties, length  
828 of residence in the community, employment history, and mental  
829 condition; his or her history and conduct during the probation  
830 or community control supervision from which the violation arises  
831 and any other previous supervisions, including disciplinary  
832 records of previous incarcerations; the likelihood that the  
833 offender or probationer will engage again in a criminal course  
834 of conduct; the weight of the evidence against the offender or  
835 probationer; whether or not the probationer is currently subject  
836 to electronic monitoring; and any other facts the court  
837 considers relevant. The court, as soon as is practicable, shall  
838 give the probationer or offender an opportunity to be fully  
839 heard on his or her behalf in person or by counsel. After such  
840 hearing, the court shall make findings of fact and forward the  
841 findings to the court which granted the probation or community  
842 control and to the probationer or offender or his or her  
843 attorney. The findings of fact by the hearing court are binding  
844 on the court which granted the probation or community control.  
845 Upon the probationer or offender being brought before it, the  
846 court which granted the probation or community control may  
847 revoke, modify, or continue the probation or community control  
848 or may place the probationer into community control as provided  
849 in this section.

850 Section 14. Section 948.063, Florida Statutes, is amended  
851 to read:

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852 948.063 Violations of probation or community control by  
853 designated sexual offenders and sexual predators.--

854 (1) If probation or community control for any felony  
855 offense is revoked by the court pursuant to s. 948.06(2)(e) and  
856 the offender is required to register designated as a sexual  
857 offender or sexual predator under pursuant to s. 775.21 or as a  
858 sexual offender pursuant to s. 943.0435 or s. 944.607 for  
859 unlawful sexual activity involving a victim under 16 15 years of  
860 age or younger and the offender is 18 years of age or older, and  
861 if the court imposes a subsequent term of supervision following  
862 the revocation of probation or community control, the court must  
863 order electronic monitoring as a condition of the subsequent  
864 term of probation or community control.

865 (2) If the probationer or offender is required to register  
866 as a sexual predator under s. 775.21 or as a sexual offender  
867 under s. 943.0435 for unlawful sexual activity involving a  
868 victim under 16 years of age and the probationer or offender is  
869 18 years of age or older and has violated the conditions of his  
870 or her probation or community control, but the court does not  
871 revoke the probation or community control, the court shall  
872 nevertheless modify the probation or community control to  
873 include electronic monitoring for any probationer or offender  
874 not then subject to electronic monitoring.

875 Section 15. Paragraph (b) of subsection (1) and subsection  
876 (3) of section 948.30, Florida Statutes, are amended, and  
877 subsection (4) is added to that section, to read:

878 948.30 Additional terms and conditions of probation or  
879 community control for certain sex offenses.--Conditions imposed  
880 pursuant to this section do not require oral pronouncement at  
881 the time of sentencing and shall be considered standard

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

882 conditions of probation or community control for offenders  
883 specified in this section.

884 (1) Effective for probationers or community controllees  
885 whose crime was committed on or after October 1, 1995, and who  
886 are placed under supervision for violation of chapter 794, s.  
887 800.04, s. 827.071, or s. 847.0145, the court must impose the  
888 following conditions in addition to all other standard and  
889 special conditions imposed:

890 (b) 1. Except as provided in subparagraph 2., if the victim  
891 was under the age of 18, a prohibition on living within 1,000  
892 feet of a school, day care center, park, playground, or other  
893 place where children regularly congregate, as prescribed by the  
894 court. The 1,000-foot distance shall be measured in a straight  
895 line from the offender's place of residence to the nearest  
896 boundary line of the school, day care center, park, playground,  
897 or other place where children regularly congregate. The distance  
898 may not be measured by a pedestrian route or automobile route.

899 2. For probationers or community controllees whose crime  
900 was committed on or after October 1, 2006, if the victim was  
901 under the age of 18, a prohibition on living within 1,500 feet  
902 of a school, day care center, park, playground, library, or  
903 other business or place where children regularly congregate, as  
904 prescribed by the court. This distance shall be measured in a  
905 straight line from the offender's place of residence to the  
906 nearest boundary line of the school, day care center, park,  
907 playground, library, or other business or place where children  
908 regularly congregate. The distance may not be measured by a  
909 pedestrian route or automobile route.

910 (3) Effective for a probationer or community controllee  
911 whose felony offense ~~crime~~ was committed on or after September  
912 1, 2005, and who:



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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13 (a) Is placed on probation or community control for a  
914 violation of chapter 794, s. 800.04(4), (5), or (6), s. 827.071,  
915 or s. 847.0145 and the unlawful sexual activity involved a  
916 victim under 16 ~~15~~ years of age ~~or younger~~ and the offender is  
917 18 years of age or older;

918 (b) Is designated a sexual predator pursuant to s. 775.21;  
919 or

920 (c) Has previously been convicted of a violation of  
921 chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.  
922 847.0145 and the unlawful sexual activity involved a victim  
923 under 16 ~~15~~ years of age ~~or younger~~ and the offender is 18 years  
924 of age or older,

925  
926 the court must order, in addition to any other provision of this  
927 section, mandatory electronic monitoring as a condition of the  
928 probation or community control supervision.

929 (4) Effective for a probationer or community controllee  
930 whose felony offense was committed on or after September 1,  
931 2006, and who:

932 (a) Is placed on probation or community control for a  
933 violation of s. 787.01 (3)(a) 2., 3., 4., or 5., s. 787.02(3)(a)  
934 2., 3., 4., or 5., chapter 794, s. 800.04(4), (5), or (6), s.  
935 827.071, or s. 847.0145 and the unlawful sexual activity  
936 involved a victim under 16 years of age and the offender is 18  
937 years of age or older;

938 (b) Is designated a sexual predator pursuant to s. 775.21;  
939 or

940 (c) Has previously been convicted of a violation of s.  
941 787.01 (3)(a) 2., 3., 4., or 5., s. 787.02(3)(a) 2., 3., 4., or  
942 5., chapter 794, s. 800.04(4), (5), or (6), s. 827.071, or s.  
43 847.0145 and the unlawful sexual activity involved a victim

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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944 under 16 years of age and the offender is 18 years of age or  
945 older,

946  
947 the court must order, in addition to any other provision of this  
948 section, mandatory electronic monitoring as a condition of the  
949 probation or community control supervision.

950 Section 16. Section 985.4047, Florida Statutes, is created  
951 to read:

952 985.4047 Electronic monitoring of juvenile offenders  
953 within juvenile facilities.--

954 (1) The department is authorized to employ electronic  
955 monitoring of juvenile offenders incarcerated within state and  
956 private juvenile offender facilities for the purpose or reducing  
957 offender-on-offender violence and reducing employee sexual  
958 misconduct as defined in s. 985.4045. The department must use  
959 electronic monitoring systems that meet the minimum  
960 specifications set forth in paragraphs (a) and (b), and are  
961 consistent with the performance standards set forth in paragraph  
962 (c), subject to the best commercially available technology at  
963 the time of procurement. Such a system must:

964 (a) Have the capacity to continuously receive electronic  
965 signals at a monitoring station within the correctional facility  
966 from a transmitter that continuously transmits in real time and  
967 identifies the specific geographic position within the facility  
968 at any time of the following persons who must wear a  
969 transmitter:

- 970 1. Juvenile offenders.  
971 2. Department employees.  
972 3. Employees of a private sector company contracted to  
973 operate a juvenile facility.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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974 4. Any visitor to a juvenile facility provided access to  
975 areas designated for authorized personnel only.

976 (b) Use electronic monitoring transmitters worn by persons  
977 in any juvenile facility that provide updates in at least 5-  
978 second intervals and transmit the geographical location of a  
979 person wearing a transmitter to within at least a 3-meter radius  
980 of his or her actual location or to within a radius equal to the  
981 width of a facility's average size sleeping quarters, whichever  
982 is less, subject to the limitations relating to the state of the  
983 art of the technology used and to circumstances of force  
984 majeure. Transmitters worn by persons other than juvenile  
985 offenders shall also include a panic safety button.

986 (c) Be consistent with the following technological and  
987 functional performance standards:

988 1. Compatibility with a commercially recognized wireless  
989 network access standard as designated by the department and  
990 sufficient bandwidth to support additional wireless networking  
991 devices to expand the capacity of the correctional facility to  
992 use the service.

993 2. The capability of issuing an alarm to an internal  
994 correctional monitoring station in an appropriate amount of time  
995 after receiving a panic alert from an employee or visitor  
996 transmitter or within an appropriate amount of time after  
997 violation of the established parameters for permissible movement  
998 of inmates, employees, and visitors within the facility.

999 3. The capability of maintaining a historical storage  
1000 capacity sufficient to store up to at least 6 months of complete  
1001 juvenile offender, employee, and visitor tracking data for  
1002 purposes of follow-up investigations and vendor contract  
1003 auditing. The system should be capable of recording the  
1004 continuous uninterrupted movement of all monitored individuals

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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05 by specific position, rather than solely by area or zone. All  
1006 tracking data shall also be periodically archived by appropriate  
1007 electronic data transfer to a permanent storage medium  
1008 designated as acceptable by the department and retained for at  
1009 least a 5-year period. In addition, tracking data collected from  
1010 each facility shall be electronically transmitted periodically  
1011 to a secure centralized offsite location designated by the  
1012 department and in an appropriate storage medium designated as  
1013 acceptable by the department as a supplemental backup to protect  
1014 the archived data from alteration and to prevent loss due to  
1015 disaster or other cause.

1016 4. With respect to a unit affixed to a juvenile offender,  
1017 be capable of possessing an internal power source that is field  
1018 rechargeable or provides at least 1 year of normal operation  
1019 without the need to recharge or replace the power source.

20 Batteries used in devices should be capable of being replaced by  
1021 correctional employees. The device should emit signal content  
1022 indicating the power status of the transmitter and notifying the  
1023 juvenile facility monitoring station of any need to recharge or  
1024 replace the power source.

1025 5. Possess and emit signal content indicating whether or  
1026 not the transmitter has been tampered with or removed.

1027 6. Possess encrypted signal content or another feature  
1028 designed to discourage duplication.

1029 7. Be shock resistant, waterproof, and capable of reliable  
1030 function under normal atmospheric and environmental conditions.

1031 8. The capacity to sustain wear and use in a manner that  
1032 does not pose a safety hazard or unduly restrict the activities  
1033 of the offender.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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34           9. The capability of being attached to the offender in a  
1035 manner that readily reveals any efforts to tamper with or remove  
1036 the transmitter upon visual inspection.

1037           10. Either possess straps or other mechanisms for  
1038 attaching the transmitter to the offender which are capable of  
1039 being adjusted to fit an offender of any size or available in a  
1040 variety of sizes.

1041           11. Be designed and constructed in such a way as to resist  
1042 tampering with or removal by the offender.

1043           12. Provide a backup power source in the event of a power  
1044 failure.

1045           (2) A person shall not intentionally alter, tamper with,  
1046 damage, or destroy any electronic monitoring equipment used to  
1047 monitor the location of a person within a juvenile facility,  
1048 unless the person is the owner of the equipment or an agent of  
49 the owner performing ordinary maintenance and repairs. A person  
1050 violating this subsection commits a felony of the third degree,  
1051 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

1052           (3) A person shall not develop, build, create, possess, or  
1053 use any device that is intended to mimic, clone, interfere with,  
1054 or jam the signal of an electronic monitoring device used to  
1055 monitor the location of a person within a juvenile facility. A  
1056 person violating this subsection commits a felony of the third  
1057 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
1058 775.084.

1059           (4) A person shall not intentionally alter, tamper with,  
1060 damage, or destroy any data stored in an electronic monitoring  
1061 device pursuant to subparagraph (1)(c)3. unless done so with  
1062 written permission from an authorized official of the department  
1063 or in compliance with a data-retention policy of the department  
64 adopted by rule. A person violating this subsection commits a

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

1065 felony of the third degree, punishable as provided in s.  
1066 775.082, s. 775.083, or s. 775.084.

1067 (5) The department is authorized to adopt rules pursuant  
1068 to ss. 120.536(1) and 120.54 to implement the provisions of this  
1069 section.

1070 Section 17. This act shall take effect October 1, 2006.

1071  
1072 ===== T I T L E A M E N D M E N T =====

1073 Remove the entire title and insert:

1074  
1075 A bill to be entitled  
1076 An act relating to criminal justice; amending s. 648.387,  
1077 F.S.; authorizing bail bond agents to provide electronic  
1078 monitoring equipment and services; authorizing bail bond  
1079 agents to contract with third-party vendors to provide  
1080 electronic monitoring services; authorizing bail bond  
1081 agents to register with a governmental entity to provide  
1082 electronic monitoring equipment and services in certain  
1083 circumstances; authorizing such agents to collect a fee  
1084 for electronic monitoring equipment and services;  
1085 providing that failure to timely pay fees constitutes  
1086 grounds to remand; providing that such fees are exempt  
1087 from specified premium requirements; amending s. 775.21,  
1088 F.S.; redefining the terms "permanent residence" and  
1089 "temporary residence" in order to reduce the number of  
1090 consecutive days and days in the aggregate which  
1091 constitute the residence of a sexual predator for purposes  
1092 of requirements that the predator register with the  
1093 Department of Law Enforcement, the sheriff's office, or  
1094 the Department of Corrections; revising provisions  
1095 relating to reimbursement of specified costs by sexual

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

96 predators; revising provisions relating to the residence  
1097 of sexual predators; providing penalties; creating s.  
1098 775.215, F.S.; specifying residency exclusions for sexual  
1099 offenders or sexual predators; preempting certain local  
1100 ordinances; amending s. 775.24, F.S.; revising provisions  
1101 relating to residency exclusions for sexual predators and  
1102 sexual offenders; amending s. 794.065, F.S.; providing  
1103 additional residency restrictions on certain offenders;  
1104 providing penalties; creating s. 907.06, F.S.; providing  
1105 for electronic monitoring of certain defendants on  
1106 pretrial release; requiring the monitored defendant to pay  
1107 fees; providing that provision of electronic monitoring  
1108 equipment and services is not an undertaking to protect  
1109 members of the public from harm occasioned by a monitored  
1110 defendant; prohibiting a defendant being monitored from  
1111 tampering with monitoring equipment; creating s. 907.07,  
1112 F.S.; requiring the chief judge of each circuit to  
1113 maintain a list of licensed bail bond agents who are  
1114 eligible private vendors for provision of electronic  
1115 monitoring equipment and services; requiring registration  
1116 of such vendors and certification of electronic monitoring  
1117 devices; providing grounds for removal from the list;  
1118 creating s. 907.08, F.S.; providing standards for  
1119 privately owned electronic monitoring systems; creating s.  
1120 907.09, F.S.; providing criminal penalties for tampering  
1121 with electronic monitoring devices; providing criminal  
1122 penalties for cloning or jamming the signal of an  
1123 electronic monitoring device; providing criminal penalties  
1124 for the alteration or destruction of data stored or  
1125 transmitted by an electronic monitoring device with  
26 specified intent; creating s. 944.161, F.S.; providing for

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. (for drafter's use only)

27 electronic monitoring of inmates within correctional  
1128 facilities; requiring monitoring of certain employees and  
1129 visitors to such facilities; providing system  
1130 requirements; prohibiting specified actions relating to  
1131 such monitoring systems and data from such systems;  
1132 providing penalties; providing rulemaking authority;  
1133 amending s. 947.1405, F.S.; providing additional  
1134 conditional release restrictions for certain offenders;  
1135 amending s. 947.141, F.S.; revising provisions relating to  
1136 hearings alleging a violation of community release by  
1137 specified releasees for failure to comply with specified  
1138 residency exclusions; amending s. 948.06, F.S.; revising  
1139 provisions relating to probation or community control for  
1140 sexual predators and sexual offenders; amending s.  
1141 948.063, F.S.; revising provisions relating to violations  
42 of probation or community control by designated sexual  
1143 offenders and sexual predators; amending s. 948.30, F.S.;  
1144 revising provisions relating to terms and conditions of  
1145 probation or community control for certain sex offenses;  
1146 creating s. 985.4047, F.S., providing for electronic  
1147 monitoring of juvenile offenders within juvenile  
1148 facilities; requiring monitoring of certain employees and  
1149 visitors to such facilities; providing system  
1150 requirements; prohibiting specified actions relating to  
1151 such monitoring systems and data from such systems;  
1152 providing penalties; providing rulemaking authority;  
1153 providing an effective date.  
1154



WIS



### COUNCIL/COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Bill No. HB 571 Date 4/25/06

Name Frank Spennert

Title \_\_\_\_\_

Address 2901 Lake Bradford

City Tall State / Zip Fl.

Phone Number 576-5858

Representing FL. Surety Agents Assoc

Lobbyist (registered) Yes  No

State Employee Yes  No

I wish to speak:  Proponent   
\*I have been requested to speak:  Opponent   
Information

Subject matter: Electronic Monitoring

Council/Committee/Subcommittee: Justice Council

\*If you are appearing at the request of the Chair, you must get signature of the Chair before leaving.  
Appearing at request of Chair   
Approved by \_\_\_\_\_ Chair

Copies to:  
Original - Council/Committee/Subcommittee  
Copy - Person requested to appear

# COUNCIL MEETING REPORT

## Justice Council

4/25/2006 9:00:00AM

Location: 404 HOB

HB 827 CS : Pretrial Release

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Faye Culp	X				
Carl Domino	X				
Greg Evers			X		
Arthenia Joyner	X				
Dick Kravitz			X		
Marcelo Llorente	X				
Mark Mahon	X				
John Quinones	X				
David Simmons	X				
Irving Slosberg	X				
Bruce Kyle (Chair)	X				
<b>Total Yeas: 9</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Tuesday, April 25, 2006 10:43:28AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 827

COUNCIL/COMMITTEE ACTION

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

1  
ⓐ w/o obj.

1 Council/Committee hearing bill: Justice Council  
 2 Representative Planas offered the following:

3

4 **Amendment (with title amendments)**

5 Remove line 106 and insert:  
 6 ~~construed to~~ guarantee deferred sentences,

7

8 ===== T I T L E A M E N D M E N T =====

9 Remove lines 20-22 and insert:  
 10 conditions; providing an effective date.

000000

W/S



### COUNCIL/COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Bill No. HB 827 Date 4/25/06

Name Row Book

Title \_\_\_\_\_

Address 104 E. College Ave

City TLH State /Zip \_\_\_\_\_

Phone Number \_\_\_\_\_

Representing BAIL FLA

Lobbyist (registered) Yes  No

State Employee Yes  No

I wish to speak:

Proponent

\*I have been requested to speak:

Opponent

Information

Subject matter: \_\_\_\_\_

Council/Committee/Subcommittee: \_\_\_\_\_

\*If you are appearing at the request of the Chair, you must get signature of the Chair before leaving.

Appearing at request of Chair

Approved by \_\_\_\_\_ Chair

Copies to:  
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WIS

# COUNCIL/COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Bill No. 827 Date 4-25-06  
 Name Ann Tenue  
 Title President of BAIL Florida  
 Address 112 E. Forsyth St  
 City Jax State/Zip FL 32202  
 Phone Number 904-358-1905  
 Representing B.A.L Agents

Lobbyist (registered) Yes  No

State Employee Yes  No

I wish to speak:  Proponent   
 \*I have been requested to speak:  Opponent   
 Information

Subject matter: Prisoner Release

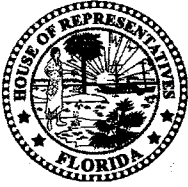
Council/Committee/Subcommittee: \_\_\_\_\_

**\*If you are appearing at the request of the Chair, you must get signature of the Chair before leaving.**

Appearing at request of Chair

Approved by \_\_\_\_\_ Chair

Copies to:  
 Original - Council/Committee/Subcommittee  
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W/S

### COUNCIL/COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Bill No. 827 Date 4-25-06

Name Dan Amato

Title \_\_\_\_\_

Address 6421 St. Martin Place

City Orlando State / Zip FL 32812

Phone Number 407-399-2002

Representing B.A.I.L. Florida

Lobbyist (registered) Yes  No

State Employee Yes  No

I wish to speak:

Proponent

\*I have been requested to speak:

Opponent

Information

Subject matter: Pre Trial Release

Council/Committee/Subcommittee: \_\_\_\_\_

\*If you are appearing at the request of the Chair, you must get signature of the Chair before leaving.

Appearing at request of Chair

Approved by \_\_\_\_\_ Chair

Copies to:  
Original - Council/Committee/Subcommittee  
Copy - Person requested to appear



W/S

### COUNCIL/COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Bill No. 827 Date 4-25-06

Name EDWARD SHEPARD

Title \_\_\_\_\_

Address 9000 SW 94 ST

City MIAMI State /Zip FL 33167

Phone Number 305 596 9878

Representing BAIL FLORIDA

Lobbyist (registered) Yes  No

State Employee Yes  No

I wish to speak:

\*I have been requested to speak:

Proponent

Opponent

Information

Subject matter: \_\_\_\_\_

\_\_\_\_\_

Council/Committee/Subcommittee: \_\_\_\_\_

\*If you are appearing at the request of the Chair, you must get signature of the Chair before leaving.

Appearing at request of Chair

Approved by \_\_\_\_\_ Chair

Copies to:  
Original - Council/Committee/Subcommittee  
Copy - Person requested to appear



W/S

### COUNCIL/COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Bill No. 827 Date 04/25/06

Name MICHAEL A. NEFZGER

Title \_\_\_\_\_

Address 424 S. CONGRESS AVE

City WEST PALM BEACH State/Zip FL 33406

Phone Number 561-686-2221

Representing BAIL FL

Lobbyist (registered) Yes  No

State Employee Yes  No

I wish to speak:  Proponent   
\*I have been requested to speak:  Opponent   
Information

Subject matter: PRE TRIAL RELEASE

Council/Committee/Subcommittee: JUSTICE COUNCIL

**\*If you are appearing at the request of the Chair, you must get signature of the Chair before leaving.**  
Appearing at request of Chair   
Approved by \_\_\_\_\_ Chair

Copies to:  
Original - Council/Committee/Subcommittee  
Copy - Person requested to appear



# COUNCIL MEETING REPORT

## Justice Council

4/25/2006 9:00:00AM

Location: 404 HOB

HB 1239 : Child Abuse

Favorable With Committee Substitute

	Yea	Nay	No Vote	Absentee Yea	Absentee Nay
Faye Culp	X				
Carl Domino	X				
Greg Evers			X		
Arthenia Joyner	X				
Dick Kravitz			X		
Marcelo Llorente	X				
Mark Mahon	X				
John Quinones	X				
David Simmons	X				
Irving Slosberg	X				
Bruce Kyle (Chair)	X				
<b>Total Yeas: 9</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Tuesday, April 25, 2006 10:43:28AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 1239

COUNCIL/COMMITTEE ACTION

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

1  
 (A) w/o obj.

1 Council/Committee hearing bill: Justice Council  
 2 Representatives Detert offered the following:

**Amendment (with title amendments)**

Remove everything after the enacting clause and insert:

Section 1. Subsection (2) of section 39.301, Florida Statutes, is amended to read:

39.301 Initiation of protective investigations.--

(2) (a) The department shall immediately forward  
 allegations of criminal conduct to the municipal or county law  
 enforcement agency of the municipality or county in which the  
 alleged conduct has occurred.

(b) As used in this subsection, the term "criminal conduct" means:

1. A child is known or suspected to be the victim of child  
 abuse, as defined in s. 827.03, or of neglect of a child, as  
 defined in s. 827.03, or of inappropriate or excessively harsh  
 corporal discipline as defined by s. 827.032.

2. A child is known or suspected to have died as a result  
 of abuse or neglect.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

21 3. A child is known or suspected to be the victim of  
22 aggravated child abuse, as defined in s. 827.03.

23 4. A child is known or suspected to be the victim of  
24 sexual battery, as defined in s. 827.071, or of sexual abuse, as  
25 defined in s. 39.01.

26 5. A child is known or suspected to be the victim of  
27 institutional child abuse or neglect, as defined in s. 39.01,  
28 and as provided for in s. 39.302(1).

29 (c) Upon receiving a written report of an allegation of  
30 criminal conduct from the department, the law enforcement agency  
31 shall review the information in the written report to determine  
32 whether a criminal investigation is warranted. If the law  
33 enforcement agency accepts the case for criminal investigation,  
34 it shall coordinate its investigative activities with the  
35 department, whenever feasible. If the law enforcement agency  
36 does not accept the case for criminal investigation, the agency  
37 shall notify the department in writing.

38 (d) The local law enforcement agreement required in s.  
39 39.306 shall describe the specific local protocols for  
40 implementing this section.

41 Section 2. Section 827.032, Florida Statutes, is created  
42 to read:

43 827.032 Inappropriate or excessively harsh corporal  
44 discipline; penalties.--

45 (1) "Inappropriate or excessively harsh corporal  
46 discipline" means an act of discipline that results or could  
47 reasonably be expected to result in any of the following or  
48 other similar injuries:

49 (a) Sprains, dislocations, or cartilage damage.

50 (b) Bone or skull fractures.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

51 (c) Brain or spinal cord damage.

52 (d) Intracranial hemorrhage or injury to other internal  
53 organs.

54 (e) Asphyxiation, suffocation, or drowning.

55 (f) Injury resulting from the use of a deadly weapon.

56 (g) Burns or scalding.

57 (h) Cuts, lacerations, punctures, or bites.

58 (i) Disfigurement.

59 (j) Loss or impairment of a body part or function.

60 (k) Significant bruises or welts.

61 (1) Mental injury, as defined in s. 39.01.

62 (2) A parent, legal custodian, or caregiver who knowingly  
63 or willfully inflicts inappropriate or excessively harsh  
64 corporal discipline upon a child commits a felony of the third  
65 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
66 775.084.

67 (3) APPLICABILITY - This section does not preclude  
68 prosecution under s. 827.03 when s. 827.03 is charged in lieu of  
69 this section.

70 Section 3. Paragraph (f) of subsection (3) of section  
71 921.0022, Florida Statutes, is amended to read:

72 921.0022 Criminal Punishment Code; offense severity  
73 ranking chart.--

74 (3) OFFENSE SEVERITY RANKING CHART

Florida Statute	Felony Degree	Description
316.193(2) (b)	3rd	Felony DUI, 4th or

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

			subsequent conviction.
77	499.0051(3)	2nd	Forgery of pedigree papers.
78	499.0051(4)	2nd	Purchase or receipt of legend drug from unauthorized person.
79	499.0051(5)	2nd	Sale of legend drug to unauthorized person.
80	775.0875(1)	3rd	Taking firearm from law enforcement officer.
81	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
82	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
83	784.041	3rd	Felony battery.
84	784.048(3)	3rd	Aggravated stalking;
	000000		

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

85			credible threat.
	784.048 (5)	3rd	Aggravated stalking of person under 16.
86			
	784.07 (2) (c)	2nd	Aggravated assault on law enforcement officer.
87			
	784.074 (1) (b)	2nd	Aggravated assault on sexually violent predators facility staff.
88			
	784.08 (2) (b)	2nd	Aggravated assault on a person 65 years of age or older.
89			
	784.081 (2)	2nd	Aggravated assault on specified official or employee.
90			
	784.082 (2)	2nd	Aggravated assault by detained person on visitor or other detainee.
91			
	784.083 (2)	2nd	Aggravated assault on code inspector.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

92	787.02 (2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
93	790.115 (2) (d)	2nd	Discharging firearm or weapon on school property.
94	790.161 (2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
95	790.164 (1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
96	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
97	794.011 (8) (a)	3rd	Solicitation of minor to participate

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

98			in sexual activity by custodial adult.
	794.05 (1)	2nd	Unlawful sexual activity with specified minor.
99			
	800.04 (5) (d)	3rd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender less than 18 years.
100			
	800.04 (6) (b)	2nd	Lewd or lascivious conduct; offender 18 years of age or older.
101			
	806.031 (2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
102			
	810.02 (3) (c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
103			
	812.014 (2) (b) 1.	2nd	Property stolen
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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

104	812.015 (9)	2nd	\$20,000 or more, but less than \$100,000, grand theft in 2nd degree.
105	812.13 (2) (c)	2nd	Retail theft; property stolen \$300 or more; second or subsequent conviction.
106	817.034 (4) (a) 1.	1st	Robbery, no firearm or other weapon (strong-arm robbery).
107	817.4821 (5)	2nd	Communications fraud, value greater than \$50,000.
108	825.102 (1)	3rd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
109			Abuse of an elderly person or disabled adult.

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

110

825.102(3)(c) 3rd Neglect of an elderly person or disabled adult.

111

825.1025(3) 3rd Lewd or lascivious molestation of an elderly person or disabled adult.

112

825.103(2)(c) 3rd Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.

827.03(1) 3rd Abuse of a child.  
827.032 3rd Inappropriate or excessively harsh corporal discipline by a parent, legal custodian, or caregiver upon a child.

113

827.03(3)(c) 3rd Neglect of a child.

827.071(2) & (3) 2nd Use or induce a child in a sexual performance, or promote or direct

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

114			such performance.
836.05	2nd		Threats; extortion.
115			
836.10	2nd		Written threats to kill or do bodily injury.
116			
843.12	3rd		Aids or assists person to escape.
117			
847.0135(2)	3rd		Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
118			
914.23	2nd		Retaliation against a witness, victim, or informant, with bodily injury.
119			
944.35(3)(a)2.	3rd		Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision,

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

resulting in great  
bodily harm.

120

944.40 2nd

Escapes.

121

944.46 3rd

Harboring,  
concealing, aiding  
escaped prisoners.

122

944.47(1)(a)5. 2nd

Introduction of  
contraband (firearm,  
weapon, or  
explosive) into  
correctional  
facility.

123

951.22(1) 3rd

Intoxicating drug,  
firearm, or weapon  
introduced into  
county facility.

124

Section 4. This act shall take effect October 1, 2006.

125

126

127

===== T I T L E A M E N D M E N T =====

128

Remove lines 2-15 and insert:

129

An act relating to inappropriate or excessively harsh corporal  
discipline; amending s. 39.301, F.S.; including "inappropriate  
or excessively harsh corporal discipline" to the definition of  
"criminal conduct" in relation to protective investigations;  
creating s. 827.032, F.S.; defining "inappropriate or

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131

132

133

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HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

134 excessively harsh corporal discipline"; prohibiting parents,  
135 legal custodians, or caregivers from inflicting inappropriate or  
136 excessively harsh corporal discipline; providing penalties;  
137 providing applicability; providing an effective date.

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# COUNCIL MEETING REPORT

## Justice Council

4/25/2006 9:00:00AM

Location: 404 HOB

HB 1457 CS : Youth Custody Officers

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Faye Culp	X				
Carl Domino	X				
Greg Evers			X		
Arthenia Joyner	X				
Dick Kravitz			X		
Marcelo Llorente	X				
Mark Mahon	X				
John Quinones	X				
David Simmons	X				
Irving Slosberg	X				
Bruce Kyle (Chair)	X				
<b>Total Yeas: 9</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Tuesday, April 25, 2006 10:43:28AM