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**COMMITTEE ON  
HOMELAND SECURITY &  
PUBLIC SAFETY**

**COMMITTEE MEETING**

**WEDNESDAY, MARCH 12, 2008**

**9:00 a.m. - 9:45 a.m.**

**ROOM  
REED HALL  
(102 HOB)**

**ACTION PACKET**

Marco Rubio  
Speaker

Sandra "Sandy" Adams  
Chair

**COMMITTEE MEETING REPORT**  
**Committee on Homeland Security & Public Safety**

**3/12/2008 9:00:00AM**

**Location:** Reed Hall (102 HOB)

**Attendance:**

	<i>Present</i>	<i>Absent</i>	<i>Excused</i>
Sandra Adams (Chair)	X		
Jennifer Carroll	X		
Luis Garcia	X		
Gayle Harrell	X		
Doug Holder	X		
Matt Hudson	X		
Evan Jenne	X		
Paige Kreegel	X		
Ari Porth	X		
Michael Scionti	X		
William Snyder	X		
<b>Totals:</b>	<b>11</b>	<b>0</b>	<b>0</b>

Committee meeting was reported out: Wednesday, March 12, 2008 10:51:42AM

**COMMITTEE MEETING REPORT**  
**Committee on Homeland Security & Public Safety**

**3/12/2008 9:00:00AM**

**Location:** Reed Hall (102 HOB)

**HB 427 : Correctional Officers**

Favorable With Amendments (1)

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jennifer Carroll	X				
Luis Garcia	X				
Gayle Harrell				X	
Doug Holder	X				
Matt Hudson	X				
Evan Jenne	X				
Paige Kreegel			X		
Ari Porth	X				
Michael Scionti	X				
William Snyder	X				
Sandra Adams (Chair)	X				
<b>Total Yeas: 9</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Wednesday, March 12, 2008 10:51:42AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 427

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 WITHDRAWN  (Y/N)  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 \_\_\_\_\_

**ADOPTED**

1 Council/Committee hearing bill: Homeland Security & Public Safety  
 2 Representative Patterson offered the following:

**Amendment (with title amendment)**

Remove everything after the enacting clause and insert:

Section 1. Subsection (2) of section 943.10, Florida Statutes, is amended to read:

943.10 Definitions; ss. 943.085-943.255.--The following words and phrases as used in ss. 943.085-943.255 are defined as follows:

(2) "Correctional officer" means any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity contracting which has contracted with the state or political subdivision county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution. The term also includes any person employed full time by the state as institutional security personnel as defined in s. 916.106; however, The the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

22 Section 2. This act shall take effect July 1, 2008.

23 -----

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

25 Remove the entire title and insert:

26 An act relating to correctional officers; amending s. 943.10,  
27 F.S.; revising the definition of "correctional officer" to  
28 include institutional security personnel; providing an effective  
29 date.

**COMMITTEE MEETING REPORT**  
**Committee on Homeland Security & Public Safety**

**3/12/2008 9:00:00AM**

**Location:** Reed Hall (102 HOB)

**HB 513 : Offenses Against Unborn Children**

Favorable

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jennifer Carroll	X				
Luis Garcia		X			
Gayle Harrell	X				
Doug Holder	X				
Matt Hudson	X				
Evan Jenne		X			
Paige Kreegel	X				
Ari Porth		X			
Michael Scionti		X			
William Snyder	X				
Sandra Adams (Chair)	X				
<b>Total Yeas: 7</b>		<b>Total Nays: 4</b>			

**Appearances:**

HB 513 by Poppell--Offenses Against Unborn Children

Courtenay Strickland (Lobbyist) - Opponent

ACLU of Florida

4500 Biscayne Blvd. Suite 340

Miami Florida 33137

Phone: 786-363-2734/305-457-5422

Committee meeting was reported out: Wednesday, March 12, 2008 10:51:42AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 513

COUNCIL/COMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	<b>X</b>	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	—	

*Failed*

1 Council/Committee hearing bill: Homeland Security & Public Safety  
 2 Representative Porth offered the following:

**Amendment (with title amendment)**

Remove lines 94-99 and insert:

6 (6) An offense under this section requires that the person  
 7 engaging in the conduct knows or should have known the victim of  
 8 the underlying offense was pregnant.

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

Remove lines 9-10 and insert:

12 child by injury to the mother require specified knowledge;  
 13 amending ss. 316.193, 435.03, 435.04,  
 14

**COMMITTEE ON HOMELAND SECURITY & PUBLIC SAFETY**

Date: 3/12/08

Amendment: #2 by Rep. Porth

To HB: 513

MOTION: Failed to Adopt

MEMBERS	2nd	YES	NO	VOICE VOTE	COMMENTS
Carroll			✓		
Garcia		✓			
Harrell			✓		
Holder			✓		
Hudson			✓		
Jenne		✓			
Kreegel			✓		
* , Vice-Chair SNYDER			✓		
** , Chair Adams			✓		
Porth		✓			
Scionti		✓			
<b>TOTALS:</b>		4	7		



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 2

Bill No. 513

COUNCIL/COMMITTEE ACTION

ADOPTED	—	(Y/N)
ADOPTED AS AMENDED	—	(Y/N)
ADOPTED W/O OBJECTION	—	(Y/N)
FAILED TO ADOPT	<input checked="" type="checkbox"/>	(Y/N)
WITHDRAWN	—	(Y/N)
OTHER	_____	

*Failed*

1 Council/Committee hearing bill: Homeland Security & Public Safety  
 2 Representative Porth offered the following:

**Amendment (with title amendment)**

Between lines 272 and 273 insert:

6 Nothing in this act shall be construed to affirm, deny or  
 7 contract any legal status or legal right applicable to any  
 8 member of the species homo sapien at any point prior to being  
 9 born alive; affect existing federal or state law regarding  
 10 abortion; or alter generally accepted medical standards.

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

14 Remove line 11 and insert:  
 15 and 921.0022, F.S.; conforming terminology; providing language  
 16 relating to how the act shall be construed; providing an  
 17 effective date.

**COMMITTEE MEETING REPORT**  
**Committee on Homeland Security & Public Safety**

**3/12/2008 9:00:00AM**

**Location:** Reed Hall (102 HOB)

**HB 559 : Distribution of Material Harmful to Minors**

Favorable With Amendments (1)

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jennifer Carroll	X				
Luis Garcia	X				
Gayle Harrell	X				
Doug Holder	X				
Matt Hudson	X				
Evan Jenne	X				
Paige Kreegel	X				
Ari Porth	X				
Michael Scionti	X				
William Snyder	X				
Sandra Adams (Chair)	X				
<b>Total Yeas: 11</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Wednesday, March 12, 2008 10:51:42AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 559

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 \_\_\_\_\_

**ADOPTED**

1 Council/Committee hearing bill: Homeland Security & Public Safety  
 2 Representative Schenk offered the following:

**Amendment (with title amendments)**

Remove everything after the enacting clause and insert:

Section 1. Subsection (6) of section 847.001, Florida Statutes, is amended to read:

847.001 Definitions.--As used in this chapter, the term:

(6) "Harmful to minors" means any reproduction, imitation, characterization, description, exhibition, presentation, or representation, of whatever kind or form, depicting nudity, sexual conduct, or sexual excitement when it:

(a) Predominantly appeals to the prurient, shameful, or morbid interest ~~of minors~~;

(b) Is patently offensive to prevailing standards in the adult community as a whole with respect to what is suitable material or conduct for minors; and

(c) Taken as a whole, is without serious literary, artistic, political, or scientific value for minors.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

21 A mother's breastfeeding of her baby is not under any  
22 circumstance "harmful to minors."

23 Section 2. Subsections (1) and (2) of section 847.011,  
24 Florida Statutes, are amended to read:

25 847.011 Prohibition of certain acts in connection with  
26 obscene, lewd, etc., materials; penalty.--

27 (1)(a) Except as provided in paragraph (c), any Any person  
28 who knowingly sells, lends, gives away, distributes, transmits,  
29 shows, or transmutes, or offers to sell, lend, give away,  
30 distribute, transmit, show, or transmute, or has in his or her  
31 possession, custody, or control with intent to sell, lend, give  
32 away, distribute, transmit, show, transmute, or advertise in any  
33 manner, any obscene book, magazine, periodical, pamphlet,  
34 newspaper, comic book, story paper, written or printed story or  
35 article, writing, paper, card, picture, drawing, photograph,  
36 motion picture film, figure, image, phonograph record, or wire  
37 or tape or other recording, or any written, printed, or recorded  
38 matter of any such character which may or may not require  
39 mechanical or other means to be transmuted into auditory,  
40 visual, or sensory representations of such character, or any  
41 article or instrument for obscene use, or purporting to be for  
42 obscene use or purpose; or who knowingly designs, copies, draws,  
43 photographs, poses for, writes, prints, publishes, or in any  
44 manner whatsoever manufactures or prepares any such material,  
45 matter, article, or thing of any such character; or who  
46 knowingly writes, prints, publishes, or utters, or causes to be  
47 written, printed, published, or uttered, any advertisement or  
48 notice of any kind, giving information, directly or indirectly,  
49 stating, or purporting to state, where, how, of whom, or by what  
50 means any, or what purports to be any, such material, matter,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

51 article, or thing of any such character can be purchased,  
52 obtained, or had; or who in any manner knowingly hires, employs,  
53 uses, or permits any person knowingly to do or assist in doing  
54 any act or thing mentioned above, commits ~~is guilty of~~ a  
55 misdemeanor of the first degree, punishable as provided in s.  
56 775.082 or s. 775.083. A person who, after having been convicted  
57 of a violation of this subsection, thereafter violates any of  
58 its provisions, commits ~~is guilty of~~ a felony of the third  
59 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
60 775.084.

61 (b) The knowing possession by any person of three or more  
62 identical or similar materials, matters, articles, or things  
63 coming within the provisions of paragraph (a) is prima facie  
64 evidence of the violation of the said paragraph.

65 (c) A person who commits a violation of paragraph (a) or  
66 subsection (2) which is based on materials that depict a minor  
67 engaged in any act or conduct that is harmful to minors commits  
68 a felony of the third degree, punishable as provided in s.  
69 775.082, s. 775.083, or s. 775.084.

70 (d) A person's ignorance of a minor's age, a minor's  
71 misrepresentation of his or her age, a bona fide belief of a  
72 minor's age, or a minor's consent may not be raised as a defense  
73 in a prosecution for one or more violations of paragraph (a) or  
74 subsection (2).

75 (2) Except as provided in subsection (1)(c), a A person  
76 who knowingly has in his or her possession, custody, or control  
77 any obscene book, magazine, periodical, pamphlet, newspaper,  
78 comic book, story paper, written or printed story or article,  
79 writing, paper, card, picture, drawing, photograph, motion  
80 picture film, film, any sticker, decal, emblem or other device

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

81 attached to a motor vehicle containing obscene descriptions,  
82 photographs, or depictions, any figure, image, phonograph  
83 record, or wire or tape or other recording, or any written,  
84 printed, or recorded matter of any such character which may or  
85 may not require mechanical or other means to be transmuted into  
86 auditory, visual, or sensory representations of such character,  
87 or any article or instrument for obscene use, or purporting to  
88 be for obscene use or purpose, without intent to sell, lend,  
89 give away, distribute, transmit, show, transmute, or advertise  
90 the same, commits ~~is guilty of~~ a misdemeanor of the second  
91 degree, punishable as provided in s. 775.082 or s. 775.083. A  
92 person who, after having been convicted of violating this  
93 subsection, thereafter violates any of its provisions commits ~~is~~  
94 ~~guilty of~~ a misdemeanor of the first degree, punishable as  
95 provided in s. 775.082 or s. 775.083. In any prosecution for  
96 such possession, it is ~~shall~~ not be necessary to allege or prove  
97 the absence of such intent.

98 Section 3. Section 847.012, Florida Statutes, is amended  
99 to read:

100 847.012 Prohibition of sale or other distribution of  
101 harmful materials to persons under 18 years of age; prohibition  
102 on using minors in the production of harmful materials;  
103 penalty.--

104 (1) As used in this section, "knowingly" means having the  
105 general knowledge of, reason to know, or a belief or ground for  
106 belief which warrants further inspection or inquiry of both:

107 (a) The character and content of any material described in  
108 this section herein which is reasonably susceptible of  
109 examination by the defendant; 7 and

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

110 (b) The age of the minor; ~~however, an honest mistake shall~~  
111 ~~constitute an excuse from liability hereunder if the defendant~~  
112 ~~made a reasonable bona fide attempt to ascertain the true age of~~  
113 ~~such minor.~~

114 (2) A person's ignorance of a minor's age, a minor's  
115 misrepresentation of his or her age, a bona fide belief of a  
116 minor's age, or a minor's consent may not be raised as a defense  
117 in a prosecution for a violation of this section.

118 (3) ~~(2)~~ A ~~It is unlawful for any person may not~~ knowingly  
119 ~~to~~ sell, rent, or loan for monetary consideration to a minor:

120 (a) Any picture, photograph, drawing, sculpture, motion  
121 picture film, videocassette, or similar visual representation or  
122 image of a person or portion of the human body which depicts  
123 nudity or sexual conduct, sexual excitement, sexual battery,  
124 bestiality, or sadomasochistic abuse and which is harmful to  
125 minors; ~~or~~

126 (b) Any book, pamphlet, magazine, printed matter however  
127 reproduced, or sound recording that ~~which~~ contains any matter  
128 defined in s. 847.001, explicit and detailed verbal descriptions  
129 or narrative accounts of sexual excitement, or sexual conduct  
130 and that ~~which~~ is harmful to minors.

131 (4) A person may not knowingly use a minor in the  
132 production of any material described in subsection (3),  
133 regardless of whether the material is intended for distribution  
134 to minors or is actually distributed to minors.

135 (5) ~~(3)~~ Any person violating any provision of this section  
136 commits ~~is guilty of~~ a felony of the third degree, punishable as  
137 provided in s. 775.082, s. 775.083, or s. 775.084.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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138            ~~(6)(4)~~ Every act, thing, or transaction forbidden by this  
139 section constitutes a separate offense and is punishable as  
140 such.

141            ~~(7)(5)~~(a) The circuit court has jurisdiction to enjoin a  
142 violation of this section upon complaint filed by the state  
143 attorney in the name of the state upon the relation of such  
144 state attorney.

145            (b) After the filing of such a complaint, the judge to  
146 whom it is presented may grant an order restraining the person  
147 complained of until final hearing or further order of the court.  
148 Whenever the relator state attorney requests a judge of such  
149 court to set a hearing upon an application for ~~such~~ a  
150 restraining order, ~~the such~~ judge shall set ~~the such~~ hearing for  
151 a time within 3 days after the making of ~~the such~~ request. ~~The~~  
152 ~~No such~~ order ~~may not shall~~ be made unless ~~the such~~ judge is  
153 satisfied that sufficient notice of the application therefor has  
154 been given to the party restrained of the time when and place  
155 where the application for ~~the such~~ restraining order is to be  
156 made.

157            (c) The person sought to be enjoined ~~is shall be~~ entitled  
158 to a trial of the issues within 1 day after joinder of issue,  
159 and a decision shall be rendered by the court within 2 days  
160 ~~after of~~ the conclusion of the trial.

161            (d) ~~If In the event that~~ a final decree of injunction is  
162 entered, it ~~must shall~~ contain a provision directing the  
163 defendant having the possession, custody, or control of the  
164 materials, matters, articles, or things affected by the  
165 injunction to surrender the same to the sheriff and requiring  
166 the sheriff to seize and destroy the same. The sheriff shall  
167 file a certificate of her or his compliance.



HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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168 (e) In any action brought as provided in this section, a  
169 ~~no~~ bond or undertaking may not ~~shall~~ be required of the state or  
170 the state attorney before the issuance of a restraining order  
171 provided for by paragraph (b), and ~~there shall be no liability~~  
172 ~~on the part of~~ the state or the state attorney may not be held  
173 liable for costs or for damages sustained by reason of ~~the~~ such  
174 restraining order in any case where a final decree is rendered  
175 in favor of the person sought to be enjoined.

176 (f) Every person who has possession, custody, or control  
177 of, or otherwise deals with, any of the materials, matters,  
178 articles, or things described in this section, after the service  
179 upon her or him of a summons and complaint in an action for  
180 injunction brought under this section, is chargeable with  
181 knowledge of the contents and character thereof.

182 ~~(8)(6)~~ The several sheriffs and state attorneys shall  
183 vigorously enforce this section within their respective  
184 jurisdictions.

185 ~~(9)(7)~~ This section does not apply to the exhibition of  
186 motion pictures, shows, presentations, or other representations  
187 regulated under ~~the provisions of~~ s. 847.013.

188 Section 4. Section 847.013, Florida Statutes, is amended  
189 to read:

190 847.013 Exposing minors to harmful motion pictures,  
191 exhibitions, shows, presentations, or representations.--

192 (1) "KNOWINGLY" DEFINED.--As used in this section  
193 "knowingly" means having general knowledge of, reason to know,  
194 or a belief or ground for belief which warrants further  
195 inspection or inquiry of both:

196 (a) The character and content of any motion picture  
197 described herein which is reasonably susceptible of examination

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

198 by the defendant, or the character of any exhibition,  
199 presentation, representation, or show described herein, other  
200 than a motion picture show, which is reasonably susceptible of  
201 being ascertained by the defendant;~~7~~ and

202 (b) The age of the minor; ~~however, an honest mistake shall~~  
203 ~~constitute an excuse from liability hereunder if the defendant~~  
204 ~~made a reasonable bona fide attempt to ascertain the true age of~~  
205 ~~such minor.~~

206 (2) MINOR'S AGE.--A person's ignorance of a minor's age, a  
207 minor's misrepresentation of his or her age, a bona fide belief  
208 of a minor's age, or a minor's consent may not be raised as a  
209 defense in a prosecution for a violation of this section.

210 (3) ~~(2)~~ OFFENSES AND PENALTIES.--

211 (a) A ~~It is unlawful for any person~~ may not knowingly ~~to~~  
212 exhibit for a monetary consideration to a minor or knowingly ~~to~~  
213 sell or rent a videotape of a motion picture to a minor or  
214 knowingly sell to a minor an admission ticket or pass or  
215 knowingly admit a minor for a monetary consideration to premises  
216 whereon there is exhibited a motion picture, exhibition, show,  
217 representation, or other presentation which, in whole or in  
218 part, depicts nudity, sexual conduct, sexual excitement, sexual  
219 battery, bestiality, or sadomasochistic abuse and which is  
220 harmful to minors.

221 (b) A ~~It is unlawful for any person~~ may not knowingly ~~to~~  
222 rent or sell, or loan to a minor for monetary consideration, a  
223 videocassette or a videotape of a motion picture, or similar  
224 presentation, which, in whole or in part, depicts nudity, sexual  
225 conduct, sexual excitement, sexual battery, bestiality, or  
226 sadomasochistic abuse and which is harmful to minors.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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227 (c) The provisions of paragraph (a) do not apply to a  
228 minor when the minor is accompanied by his or her parents or  
229 either of them.

230 (d) ~~A It is unlawful for any~~ minor may not ~~to~~ falsely  
231 represent to the owner of any premises mentioned in paragraph  
232 (a), or to the owner's agent, or to any person mentioned in  
233 paragraph (b), that the ~~such~~ minor is 17 years of age or older,  
234 with the intent to procure the ~~such~~ minor's admission to such  
235 premises, or the ~~such~~ minor's purchase or rental of a videotape,  
236 for a monetary consideration.

237 (e) ~~A It is unlawful for any~~ person may not ~~to~~ knowingly  
238 make a false representation to the owner of any premises  
239 mentioned in paragraph (a), or to the owner's agent, or to any  
240 person mentioned in paragraph (b), that he or she is the parent  
241 of any minor or that any minor is 17 years of age or older, with  
242 intent to procure the ~~such~~ minor's admission to the ~~such~~  
243 premises or to aid the ~~such~~ minor in procuring admission  
244 thereto, or to aid or enable the ~~such~~ minor's purchase or rental  
245 of a videotape, for a monetary consideration.

246 (f) A violation of any provision of this subsection  
247 constitutes a misdemeanor of the first degree, punishable as  
248 provided in s. 775.082 or s. 775.083.

249 (4) ~~(3)~~ INJUNCTIVE PROCEEDINGS.--

250 (a) The circuit court has jurisdiction to enjoin a  
251 threatened violation of subsection (2) upon complaint filed by  
252 the state attorney in the name of the state upon the relation of  
253 such state attorney.

254 (b) After the filing of such a complaint, the judge to  
255 whom it is presented may grant an order restraining the person  
256 or persons complained of until final hearing or further order of

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Amendment No. 1

257 the court. Whenever the relator requests a judge of the such  
258 court to set a hearing upon an application for such a  
259 restraining order, the such judge shall set the such hearing for  
260 a time within 3 days after the making of the such request. An No  
261 such order may not shall be made unless the such judge is  
262 satisfied that sufficient notice of the application therefor has  
263 been given to the person or persons restrained of the time when  
264 and place where the application for the such restraining order  
265 is to be heard. However, the such notice shall be dispensed with  
266 when it is manifest to the such judge, from the allegations of a  
267 sworn complaint or independent affidavit, sworn to by the  
268 relator or by some person associated with him or her in the  
269 field of law enforcement and filed by the relator, that the  
270 apprehended violation will be committed if an immediate remedy  
271 is not afforded.

272 (c) The person or persons sought to be enjoined are shall  
273 be entitled to a trial of the issues within 1 day after joinder  
274 of issue, and a decision shall be rendered by the court within 2  
275 days after the conclusion of the trial.

276 (d) In any action brought as provided in this section, a  
277 no bond or undertaking is not shall be required of the state or  
278 the relator state attorney before the issuance of a restraining  
279 order provided for by this section, and there is shall be no  
280 liability on the part of the state or the relator state attorney  
281 for costs or damages sustained by reason of such restraining  
282 order in any case in which a final decree is rendered in favor  
283 of the person or persons sought to be enjoined.

284 (e) Every person who has possession, custody, or control  
285 of, or otherwise deals with, any motion picture, exhibition,  
286 show, representation, or presentation described in this section,

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Amendment No. 1

287 after the service upon him or her of a summons and complaint in  
288 an action for injunction brought under this section, is  
289 chargeable with knowledge of the contents or character thereof.

290 (5) ~~(4)~~ LEGISLATIVE INTENT.--In order to make the  
291 application and enforcement of this section uniform throughout  
292 the state, it is the intent of the Legislature to preempt the  
293 field, to the exclusion of counties and municipalities, insofar  
294 as it concerns exposing persons under 17 years of age to harmful  
295 motion pictures, exhibitions, shows, representations, ~~and~~  
296 presentations, and commercial or sexual exploitation. To that  
297 end, it is hereby declared that every county ordinance and every  
298 municipal ordinance adopted prior to July 1, 1969, and relating  
299 to such subject shall stand abrogated and unenforceable on and  
300 after such date and that no county, municipality, or  
301 consolidated county-municipal government shall have the power to  
302 adopt any ordinance relating to that subject on or after such  
303 effective date.

304 Section 5. Section 847.0133, Florida Statutes, is amended  
305 to read:

306 847.0133 Protection of minors; prohibition of certain acts  
307 in connection with obscenity; penalty.--

308 (1) A ~~It is unlawful for any person may not~~ knowingly to  
309 sell, rent, loan, give away, distribute, transmit, or show any  
310 obscene material to a minor. For purposes of this section  
311 "obscene material" means any obscene book, magazine, periodical,  
312 pamphlet, newspaper, comic book, story paper, written or printed  
313 story or article, writing paper, card, picture, drawing,  
314 photograph, motion picture film, figure, image, videotape,  
315 videocassette, phonograph record, or wire or tape or other  
316 recording, or any written, printed, or recorded matter of any

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

317 such character which may or may not require mechanical or other  
318 means to be transmuted into auditory, visual, or sensory  
319 representations of such character, or any article or instrument  
320 for obscene use, or purporting to be for obscene use or purpose.  
321 The term "obscene" has ~~shall have~~ the same meaning as set forth  
322 in s. 847.001.

323 (2) As used in this section "knowingly" has the same  
324 meaning set forth in s. 847.012(1). A "minor" is any person  
325 under the age of 18 years.

326 (3) A violation of the provisions of this section  
327 constitutes a felony of the third degree, punishable as provided  
328 in s. 775.082 or s. 775.083.

329 Section 6. Paragraph (f) of subsection (3) of section  
330 921.0022, Florida Statutes, is amended to read:

331 921.0022 Criminal Punishment Code; offense severity  
332 ranking chart.--

333 (3) OFFENSE SEVERITY RANKING CHART

334 (f) LEVEL 6

335

Florida Statute	Felony Degree	Description
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
499.0051(3)	2nd	Forgery of pedigree papers.
499.0051(4)	2nd	Purchase or receipt of legend drug from unauthorized person.

339

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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340	499.0051(5)	2nd	Sale of legend drug to unauthorized person.
341	775.0875(1)	3rd	Taking firearm from law enforcement officer.
342	784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
343	784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
344	784.041	3rd	Felony battery; domestic battery by strangulation.
345	784.048(3)	3rd	Aggravated stalking; credible threat.
346	784.048(5)	3rd	Aggravated stalking of person under 16.
347	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
348	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
349	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
	784.081(2)	2nd	Aggravated assault on specified official or employee.

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350	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
351	784.083(2)	2nd	Aggravated assault on code inspector.
352	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
353	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
354	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
355	790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
356	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
357	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
358	794.05(1)	2nd	Unlawful sexual activity with specified minor.
359	800.04(5)(d)	3rd	Lewd or lascivious molestation; victim



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12 years of age or older but less than  
16 years; offender less than 18 years.

360

800.04 (6) (b) 2nd Lewd or lascivious conduct; offender 18  
years of age or older.

361

806.031 (2) 2nd Arson resulting in great bodily harm to  
firefighter or any other person.

362

810.02 (3) (c) 2nd Burglary of occupied structure;  
unarmed; no assault or battery.

363

812.014 (2) (b) 1. 2nd Property stolen \$20,000 or more, but  
less than \$100,000, grand theft in 2nd  
degree.

364

812.014 (6) 2nd Theft; property stolen \$3,000 or more;  
coordination of others.

365

812.015 (9) (a) 2nd Retail theft; property stolen \$300 or  
more; second or subsequent conviction.

366

812.015 (9) (b) 2nd Retail theft; property stolen \$3,000 or  
more; coordination of others.

367

812.13 (2) (c) 2nd Robbery, no firearm or other weapon  
(strong-arm robbery).

368

817.034 (4) (a) 1. 1st Communications fraud, value greater  
than \$50,000.

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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369	817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
370	825.102(1)	3rd	Abuse of an elderly person or disabled adult.
371	825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
372	825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
373	825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at less than \$20,000.
374	827.03(1)	3rd	Abuse of a child.
375	827.03(3)(c)	3rd	Neglect of a child.
376	827.071(2)&(3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.
377	836.05	2nd	Threats; extortion.
378	836.10	2nd	Written threats to kill or do bodily injury.

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379	843.12	3rd	Aids or assists person to escape.
380	<u>847.011</u>	<u>3rd</u>	<u>Distributing, offering to distribute, or possessing with intent to distribute obscene materials depicting minors.</u>
381	<u>847.012</u>	<u>3rd</u>	<u>Knowingly using a minor in the production of materials that are harmful to minors.</u>
382	847.0135(2)	3rd	Facilitates sexual conduct of or with a minor or the visual depiction of such conduct.
383	914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
384	944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
385	944.40	2nd	Escapes.
386	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
387	944.47(1)(a)5.	2nd	Introduction of contraband (firearm,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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weapon, or explosive) into correctional facility.

388

951.22(1) 3rd Intoxicating drug, firearm, or weapon introduced into county facility.

389

390 Section 7. This act shall take effect July 1, 2008.

391

392

393

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

394

Remove the entire title and insert:

395

An act relating to the distribution of material harmful to

396

minors; amending s. 847.001, F.S.; redefining the term "harmful

397

to minors"; amending s. 847.011, F.S.; providing that it is a

398

third-degree felony for any person to sell, distribute,

399

transmit, advertise, or possess with the intent to sell,

400

distribute, transmit, or advertise certain materials to minors;

401

providing that ignorance of a minor's age or the minor's consent

402

is not a defense in a prosecution for such a violation; amending

403

s. 847.012, F.S.; prohibiting a person from knowingly using a

404

minor in the production of certain materials, regardless of

405

whether those materials are intended for distribution to minors

406

or actually distributed to minors; providing a penalty;

407

providing that ignorance of a minor's age or the minor's consent

408

is not a defense in a prosecution for specified violations;

409

amending s. 847.013, F.S.; providing that it is a first-degree

410

misdemeanor for any person to knowingly use a minor in the

411

production of certain materials depicting certain images,

412

representations, or acts; providing that ignorance of a minor's

413

age or the minor's consent is not a defense in a prosecution for

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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414 specified violations; revising legislative intent concerning the  
415 enforcement of such laws with respect to minors; amending s.  
416 847.0133, F.S.; providing that it is a felony of the third  
417 degree for any person to knowingly give away, distribute,  
418 transmit, or show any obscene material to a minor, display,  
419 distribute, transmit, or show erotic nudity to a minor, or  
420 distribute, display, transmit, or show erotic fondling to a  
421 minor; amending s. 921.0022, F.S., relating to the offense  
422 severity ranking chart of the Criminal Punishment Code;  
423 establishing offense levels to conform to changes made by the  
424 act; providing an effective date.

**COMMITTEE MEETING REPORT**  
**Committee on Homeland Security & Public Safety**

**3/12/2008 9:00:00AM**

**Location:** Reed Hall (102 HOB)

**HB 789 : Surveyors and Mappers**

Favorable With Amendments (1)

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jennifer Carroll	X				
Luis Garcia	X				
Gayle Harrell	X				
Doug Holder	X				
Matt Hudson	X				
Evan Jenne	X				
Paige Kreegel			X		
Ari Porth	X				
Michael Scionti	X				
William Snyder	X				
Sandra Adams (Chair)	X				
<b>Total Yeas: 10</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Wednesday, March 12, 2008 10:51:42AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

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

Bill No. 789

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                                      \_\_\_\_\_

**ADOPTED**

1 Council/Committee hearing bill: Committee on Homeland Security  
2 & Public Safety  
3 Representative(s) Kendrick offered the following:

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
7 Section 1. Subsection (3) is added to section 472.029,  
8 Florida Statutes, to read:

9 472.029 Authorization to enter lands of third parties;  
10 conditions.--

(3) BREAKING OR INJURING FENCES ON AGRICULTURAL LAND.--

12 (a) Any person authorized to enter lands pursuant to  
13 subsection (1) who willfully and maliciously breaks down, mars,  
14 injures, defaces, cuts, or otherwise creates or causes to be  
15 created an opening, gap, interruption, or break in any fence, or  
16 any part thereof, belonging to or enclosing land not his or her  
17 own, or whoever willfully and maliciously causes to be broken  
18 down, marred, injured, defaced, or cut any fence belonging to or  
19 enclosing land not his or her own, commits a misdemeanor of the  
20 first degree, punishable as provided in s. 775.082 or s.  
21 775.083. A person who commits a second or subsequent offense

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

22 under this subsection commits a felony of the third degree,  
23 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

24 (b) If an offender willfully and maliciously breaks or  
25 injures a fence as provided in paragraph (a) and the fence or  
26 any part thereof is used to contain livestock as defined in s.  
27 588.13(1) at the time of the offense, the offender commits a  
28 felony of the third degree, punishable as provided in s.  
29 775.082, s. 775.083, or s. 775.084.

30 (c) The court may require full compensation to the owner  
31 of the damaged fence for any and all damages or losses resulting  
32 directly or indirectly from the act or commission pursuant to s.  
33 775.089.

34 (d) This subsection applies only to land classified as  
35 agricultural pursuant to s. 193.461.

36 (e) Nothing in subsection (3) shall be construed to  
37 restrict or modify the rights of entry or authority granted to  
38 surveyors and mappers or their subordinates under subsection  
39 (1).

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



**COMMITTEE MEETING REPORT**  
**Committee on Homeland Security & Public Safety**

**3/12/2008 9:00:00AM**

**Location:** Reed Hall (102 HOB)

**HB 837 : Unlawful Use of Utility Services**

Favorable With Amendments (1)

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jennifer Carroll	X				
Luis Garcia	X				
Gayle Harrell	X				
Doug Holder	X				
Matt Hudson	X				
Evan Jenne	X				
Paige Kreegel			X		
Ari Porth	X				
Michael Scionti	X				
William Snyder	X				
Sandra Adams (Chair)	X				
<b>Total Yeas: 10</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Wednesday, March 12, 2008 10:51:42AM

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

Bill No. 837

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 \_\_\_\_\_

**ADOPTED**

1 Council/Committee hearing bill: Committee on Homeland Security  
 2 & Public Safety  
 3 Representative Grimsley offered the following:  
 4

**Amendment (with title amendment)**

6 Remove everything after the enacting clause and insert:  
 7 Section 1. Section 812.14, Florida Statutes, is amended to  
 8 read:

9 812.14 Trespass and larceny with relation to utility  
 10 fixtures; theft of utility services.--

11 (1) As used in this section, "utility" includes any  
 12 person, firm, corporation, association, or political  
 13 subdivision, whether private, municipal, county, or cooperative,  
 14 which is engaged in the sale, generation, provision, or delivery  
 15 of gas, electricity, heat, water, oil, sewer service, telephone  
 16 service, telegraph service, radio service, or telecommunication  
 17 service.

18 (2) As used in this section, "manufacture" has the same  
 19 meaning as in s. 893.02(13)(a).

20 (3)~~(2)~~ It is unlawful to:

21 (a) Willfully alter, tamper with, injure, or knowingly  
 22 suffer to be injured any meter, meter seal, pipe, conduit, wire,

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

23 line, cable, transformer, amplifier, or other apparatus or  
24 device belonging to a utility line service in such a manner as  
25 to cause loss or damage or to prevent any meter installed for  
26 registering electricity, gas, or water from registering the  
27 quantity which otherwise would pass through the same; or to  
28 alter the index or break the seal of any such meter; or in any  
29 way to hinder or interfere with the proper action or just  
30 registration of any such meter or device; or knowingly to use,  
31 waste, or suffer the waste, by any means, of electricity or gas  
32 or water passing through any such meter, wire, pipe, or fitting,  
33 or other appliance or appurtenance connected with or belonging  
34 to any such utility, after such meter, wire, pipe or fitting, or  
35 other appliance or appurtenance has been tampered with, injured,  
36 or altered.

37 (b) Make or cause to be made any connection with any wire,  
38 main, service pipe or other pipes, appliance, or appurtenance in  
39 such manner as to use, without the consent of the utility, any  
40 service or any electricity, gas, or water, or to cause to be  
41 supplied any service or electricity, gas, or water from a  
42 utility to any person, firm, or corporation or any lamp, burner,  
43 orifice, faucet, or other outlet whatsoever, without such  
44 service being reported for payment or such electricity, gas, or  
45 water passing through a meter provided by the utility and used  
46 for measuring and registering the quantity of electricity, gas,  
47 or water passing through the same.

48 (c) Use or receive the direct benefit from the use of a  
49 utility knowing, or under such circumstances as would induce a  
50 reasonable person to believe, that such direct benefits have  
51 resulted from any tampering with, altering of, or injury to any  
52 connection, wire, conductor, meter, pipe, conduit, line, cable,  
53 transformer, amplifier, or other apparatus or device owned,

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54 operated, or controlled by such utility, for the purpose of  
55 avoiding payment.

56 (d) Violate paragraph (a), paragraph (b), or paragraph (c)  
57 for the purpose of facilitating the manufacture of a controlled  
58 substance.

59 (4)(3) The presence on property in the actual possession  
60 of a person of any device or alteration that ~~which~~ affects the  
61 diversion or use of the services of a utility so as to avoid the  
62 registration of such use by or on a meter installed by the  
63 utility or so as to otherwise avoid the reporting of use of such  
64 service for payment is ~~shall be~~ prima facie evidence of the  
65 violation of this section by such person; however, this  
66 presumption does ~~shall~~ not apply unless:

67 (a) The presence of such a device or alteration can be  
68 attributed only to a deliberate act in furtherance of an intent  
69 to avoid payment for utility services;

70 (b) The person charged has received the direct benefit of  
71 the reduction of the cost of such utility services; and

72 (c) The customer or recipient of the utility services has  
73 received the direct benefit of such utility service for at least  
74 one full billing cycle.

75 (5) It is prima facie evidence of a person's intent to  
76 violate paragraph (2)(d) if:

77 (a) The person violated paragraph (2)(a), paragraph  
78 (2)(b), or paragraph (2)(c), resulting in a structure, as  
79 defined in s. 810.011, or a dwelling, as defined in s. 810.011,  
80 receiving unauthorized access to utility services;

81 (b) A controlled substance and materials for manufacturing  
82 the controlled substance were found in the structure or  
83 dwelling; and

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84        (c) The person knew of the presence of the controlled  
85 substance and materials for manufacturing the controlled  
86 substance in the structure or dwelling, regardless of whether  
87 the person was involved in the manufacture of the controlled  
88 substance.

89        (6)(4) Any person who willfully violates paragraph (2)(a),  
90 paragraph (2)(b), or paragraph (2)(c) commits this section shall  
91 be guilty of a misdemeanor of the first degree, punishable as  
92 provided in s. 775.082 or s. 775.083. Any person who willfully  
93 violates paragraph (2)(d) commits a felony of the third degree,  
94 punishable as provided in s. 775.082, s. 775.083, or s. 775.084.  
95 Prosecution of a violation of subsection (2) does not preclude  
96 prosecution of theft pursuant to subsection (6) or s. 812.014.

97        (7) Theft of utility services for the purpose of  
98 facilitating the manufacture of a controlled substance is a  
99 felony of the third degree, punishable as provided in s.  
100 775.082, s. 775.083, or s. 775.084. Prosecution pursuant this  
101 subsection is in lieu of prosecution for theft pursuant to s.  
102 812.014.

103        (8) It is prima facie evidence of a person's intent to  
104 violate subsection (6) if:

105        (a) The person committed theft of utility services,  
106 resulting in a structure, as defined in s. 810.011, or a  
107 dwelling, as defined in s. 810.011, receiving unauthorized  
108 access to utility services;

109        (b) A controlled substance and materials for manufacturing  
110 the controlled substance were found in the structure or  
111 dwelling; and

112        (c) The person knew of the presence of the controlled  
113 substance and materials for manufacturing the controlled  
114 substance in the structure or dwelling, regardless of whether

HOUSE AMENDMENT FOR COUNCIL/COMMITTEE PURPOSES

Amendment No. 1

115 the person was involved in the manufacture of the controlled  
116 substance.

117 ~~(9)(5)~~ Whoever is found in a civil action to have violated  
118 the provisions of this section is hereof shall be liable to the  
119 utility involved in an amount equal to 3 times the amount of  
120 services unlawfully obtained or \$1,000, whichever is greater.

121 ~~(10)(6)~~ ~~Nothing in This section does not act shall be~~  
122 ~~construed to~~ apply to licensed and certified electrical  
123 contractors while performing usual and ordinary service in  
124 accordance with recognized standards.

125 Section 2. This act shall take effect July 1, 2008.  
126  
127  
128

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

131 Remove the entire title and insert:  
132

133 A bill to be entitled

134 An act relating to the unlawful use of utility services;  
135 amending s. 812.14, F.S.; prohibiting trespass and larceny  
136 in relation to utility fixtures for the purpose of  
137 manufacturing a controlled substance; providing for prima  
138 facie evidence of the intent to commit such offense;  
139 providing that trespass and larceny in relation to utility  
140 fixtures for the purpose of manufacturing a controlled  
141 substance is a third-degree felony; providing that  
142 prosecution for trespass and larceny in relation to  
143 utility fixtures does not preclude prosecution for theft  
144 of utility services; providing that theft of utility  
145 services for the purpose of manufacturing a controlled

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146 substance is a third-degree felony; providing that  
147 prosecution of theft of utility services is in lieu of  
148 prosecution for theft pursuant to s. 812.014, F.S.;  
149 providing for prima facie evidence of intent to commit  
150 theft of utility services; providing an effective date.

**COMMITTEE MEETING REPORT**  
**Committee on Homeland Security & Public Safety**

**3/12/2008 9:00:00AM**

**Location:** Reed Hall (102 HOB)

**HB 1151 : Sex Trafficking**

*Favorable*

	<i>Yea</i>	<i>Nay</i>	<i>No Vote</i>	<i>Absentee Yea</i>	<i>Absentee Nay</i>
Jennifer Carroll	X				
Luis Garcia	X				
Gayle Harrell	X				
Doug Holder	X				
Matt Hudson	X				
Evan Jenne	X				
Paige Kreegel	X				
Ari Porth	X				
Michael Scionti	X				
William Snyder	X				
Sandra Adams (Chair)	X				
<b>Total Yeas: 11</b>		<b>Total Nays: 0</b>			

Committee meeting was reported out: Wednesday, March 12, 2008 10:51:42AM



**COMMITTEE MEETING REPORT**  
**Committee on Homeland Security & Public Safety**

**3/12/2008 9:00:00AM**

**Location:** Reed Hall (102 HOB)

**Other Business Appearance:**

Presentation on Domestic Security Oversight Council funding recommendations

Tom McInerney (State Employee) - Information Only

FDLE

P.O. Box 1489

Tallahassee Florida 32302

Phone: 850-410-8390

**Committee meeting was reported out: Wednesday, March 12, 2008 10:51:42AM**

**COMMITTEE MEETING REPORT**  
**Committee on Homeland Security & Public Safety**

**3/12/2008 9:00:00AM**

**Location:** Reed Hall (102 HOB)

**Summary:**

**Committee on Homeland Security & Public Safety**

*Wednesday March 12, 2008 09:00 am*

HB 427	Favorable With Amendments (1)	Yeas: 9	Nays: 0
HB 513	Favorable	Yeas: 7	Nays: 4
HB 559	Favorable With Amendments (1)	Yeas: 11	Nays: 0
HB 789	Favorable With Amendments (1)	Yeas: 10	Nays: 0
HB 837	Favorable With Amendments (1)	Yeas: 10	Nays: 0
HB 1151	Favorable	Yeas: 11	Nays: 0

**Committee meeting was reported out: Wednesday, March 12, 2008 10:51:42AM**