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# **Justice Appropriations Subcommittee**

Wednesday, April 13, 2011

8:30 a.m.

Reed Hall

## **MEETING PACKET**

**Dean Cannon**  
Speaker

**Richard Glorioso**  
Chair



# The Florida House of Representatives

## Justice Appropriations Subcommittee

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**Speaker**

**Richard Glorioso**  
**Chair**

### AGENDA

Wednesday, April 13, 2011

8:30 a.m.

Reed Hall (102 HOB)

I. Call to Order/Roll Call

II. Opening Remarks

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

CS/HB 17 Military Veterans Convicted of Criminal Offenses by Criminal Justice Subcommittee,  
Nelson, Abruzzo

HB 1039 Controlled Substances by Patronis

III. Closing Remarks and Adjournment



## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** CS/HB 17 Military Veterans Convicted of Criminal Offenses  
**SPONSOR(S):** Criminal Justice Subcommittee; Nelson, Abruzzo and others  
**TIED BILLS:** None **IDEN./SIM. BILLS:** CS/SB 138

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	15 Y, 0 N, As CS	De La Paz	Cunningham
2) Justice Appropriations Subcommittee		McAuliffe	Jones Darity <i>J. Darity</i>
3) Health & Human Services Committee			
4) Judiciary Committee			

### SUMMARY ANALYSIS

CS/HB 17 creates the "T. Patt Maney Veterans' Treatment Intervention Act."

CS/HB 17 requires a judge to hold a "veteran's status hearing" before sentencing a defendant found to have committed a crime if the defendant alleges that he or she committed the offense as a result of posttraumatic stress disorder (PTSD), traumatic brain injury (TBI), substance use disorder, or psychological problems stemming from service with the United States military in a combat theater. Although the defendant must allege the crime was committed "as a result of" any of the listed conditions stemming from service in a combat theater, the court's inquiry does not require any finding that the allegation is true or established by the evidence. The purpose of the hearing is limited to determining whether the defendant:

- Was a member of the United States military who served in combat; and
- Suffers from PTSD, TBI, substance abuse, or psychological problems as a result of that service.

Under the bill a judge may place a defendant who satisfies the above criteria on probation or community control and order the defendant to participate in a treatment program. Under CS/HB 17, persons convicted of any felony offenses, except capital felonies, are eligible to participate in the veterans' court program.

The bill also provides the court may sentence a defendant to felony or misdemeanor pre-trial diversion programs for veterans who are current or former United States military service members suffering from PTSD, TBI, a substance use disorder, or psychological problems stemming from service in a combat theater. The bill authorizes placement of eligible veterans into an existing treatment program approved by the chief judge of the circuit in lieu of proceeding with criminal prosecution.

On March 2, 2011, the Criminal Justice Impact Conference determined that the original version of this bill would have no impact on the state prison population. The modifications CS/HB 17 made to the original bill would not appear to alter that assessment.

The bill is effective July 1, 2011.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### Present Situation

The Department of Corrections does not have statistics of how many of the 152,000 offenders on community supervision are military veterans. However, it reports that 6,864 state prison inmates (approximately 6.7% of the total prison population) identified themselves as a military veteran as of December 20, 2010. This claim of veteran status was verified for 1,273 of these inmates by submission of a Certificate of Release or Discharge from Active Duty (Department of Defense Form 214). The types of offenses for which these veterans are incarcerated are reflected in the following table:<sup>1</sup>

<b>Primary Offense</b>	<b>Claimed Veteran Status</b>	<b>%</b>	<b>Verified Veteran Status</b>	<b>%</b>
Murder/Manslaughter	1,079	15.7	353	27.7
Sexual/Lewd Behavior	1,773	25.8	501	39.4
Robbery	593	8.6	97	7.6
Aggravated Battery/Assault, Kidnapping, Other Violent Crimes Against Persons	747	10.9	84	6.6
Burglary	677	9.9	98	7.7
Property Theft/Fraud/Damage	579	8.4	36	2.8
Drugs	860	12.5	62	4.9
Weapons	165	2.4	17	1.3
Other	391	5.7	25	2.0
<b>Total</b>	<b>6,864</b>		<b>1,273</b>	

The above table indicates that the overwhelming majority of veteran inmates in Florida are incarcerated for violent crimes while less than 8% are imprisoned for property and drug offenses. There is no comprehensive data on how many veterans are among the approximately 59,000 persons either serving sentences or awaiting trial or hearing in county jails throughout Florida.

In 2008, the Florida Department of Veterans' Affairs and the Florida Office of Drug Control issued a paper examining the issue of mental health and substance abuse needs of returning veterans and their families.<sup>2</sup> The study noted that combat medical advances are enabling veterans of Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) to survive wounds that would have been fatal in previous conflicts, and thus some are returning with "more complex physical and emotional disorders, such as Traumatic Brain Injuries and Post-Traumatic Stress Disorder (PTSD),<sup>3</sup> substance abuse and depression."<sup>4</sup> The study also estimated at that time that approximately 29,000 returning veterans residing in Florida may suffer from PTSD or some form of major depression.<sup>5</sup>

<sup>1</sup> Department of Corrections Analysis of House Bill 17 – Military Veterans Convicted of Criminal Offenses, December 21, 2010, p. 1.

<sup>2</sup> Florida Department of Veterans' Affairs and Florida Office of Drug Control Green Paper, Returning Veterans and Their Families with Substance Abuse and Mental Health Needs: Florida's Action Plan, January 2009, p. 5.

<sup>3</sup> According to the National Institute for Mental Health, "Post-Traumatic Stress Disorder," is an anxiety disorder that can develop after exposure to a terrifying event or ordeal in which grave physical harm occurred or was threatened. Traumatic events that may trigger PTSD include violent personal assaults, natural or human-caused disasters, accidents, or military combat.

<sup>4</sup> Florida Department of Veterans' Affairs and Florida Office of Drug Control Green Paper, Returning Veterans and Their Families with Substance Abuse and Mental Health Needs: Florida's Action Plan, January 2009.

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

A Rand Center report in 2008 indicated that preliminary studies showed that 5 to 15 percent of OIF and OEF service members are returning with PTSD, 2 to 10 percent with depression, and an unknown number with Traumatic Brain Injury (TBI).<sup>6</sup> A person with any of these disorders also has a greater likelihood of experiencing other psychiatric diagnoses than do other persons.<sup>7</sup>

A report by the Center for Mental Health Services National GAINS Center of the federal Substance Abuse and Mental Health Services Administration (SAMHSA) noted that many veterans coming into contact with the criminal justice system may have unmet treatment needs.<sup>8</sup>

Since 2008, legislation authorizing the establishment of veterans' courts has been adopted or at least considered in California, Colorado, Texas, Nevada, Illinois, Connecticut, New Mexico, New York, Minnesota, and Oklahoma.<sup>9</sup> The National Association of Drug Court Professionals website indicates that there are veterans' courts in 47 cities or counties nationwide.<sup>10</sup> "Veterans' courts" have the goal of identifying veterans who would benefit from a treatment program instead of incarceration or other sanctions.

Some veterans who have committed criminal offenses may be eligible for treatment services provided and funded by the United States Department of Veterans Affairs (VA). An American Bar Association (ABA) study indicates that 82 percent of veterans in jail nationwide are eligible for services from the VA based on the character of their discharge.<sup>11</sup>

### Veterans Courts in Florida

Currently, there are some veterans' court and veterans' jail diversion initiatives around the state. Okaloosa County has begun referring veterans' cases to a court docket with special knowledge of veterans and veterans' issues. This was established through the cooperation of the local State Attorney's Office, the court, and local treatment professionals. To determine eligibility, offenders are asked at initial booking if they have ever served in the military and what type of discharge they received. Veterans are further asked if they will sign a release in order to share information with the VA. Further screening is conducted through the Pre-Trial Services Office, and the program uses drug court case managers to monitor participants. Access to VA treatment facilities is sought for eligible veterans in the program.

Palm Beach County started a veterans' court program in December 2010. A feature of the program is assignment of a VA social worker supervisor to act as the court's VA liaison. This VA employee has oversight of screening and case management services for eligible veterans. In addition to receiving any needed mental health and substance abuse treatment, participating veterans also have access to VA programs that address homelessness and unemployment. This is compatible with the VA's national Veteran's Justice Outreach Initiative that will assign staff and trained volunteer resources to facilitate veterans' court programs.<sup>12</sup>

In October 2009, the Department of Children and Families Mental Health Program Office was awarded over \$1.8 million from SAMHSA over the next five years to provide services and support for Florida's

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<sup>6</sup> Rand Center for Military Health Policy Research, Benjamin R. Karney, Rajeev Ramchand, Karen Chan Osilla, Leah B. Caldarone, and Rachel M. Burns, *Invisible Wounds, Predicting the Immediate and Long-Term Consequences of Mental Health Problems in Veterans of Operation Enduring Freedom and Operation Iraqi Freedom*, April 2008, p. xxi. A "Traumatic Brain Injury" occurs when an external force traumatically injures the brain.

<sup>7</sup> *Id.* at 127.

<sup>8</sup> GAINS Center, *Responding to the Needs of Justice-Involved Combat Veterans with Service-Related Trauma and Mental Health Conditions*, August 2008, page 6, at [www.gainscenter.samhsa.gov/pdfs/veterans/CVTJS\\_Report.pdf](http://www.gainscenter.samhsa.gov/pdfs/veterans/CVTJS_Report.pdf). The observation was based upon information provided by the VA.

<sup>9</sup> Interim Report 2011-131, *Veterans' Courts*, Florida Senate Committee on Military Affairs and Domestic Security, October 2011, p. 1.

<sup>10</sup> National Association of Drug Court Professionals website at <http://www.nadcp.org/JusticeForVets>.

<sup>11</sup> ABA Commission on Homelessness and Poverty, Resolution 105A, February 10, 2010 at [http://www.americanbar.org/content/dam/aba/migrated/homeless/PublicDocuments/ABA\\_Policy\\_on\\_Vets\\_Treatment\\_Courts\\_FINAL\\_authcheckdam.pdf](http://www.americanbar.org/content/dam/aba/migrated/homeless/PublicDocuments/ABA_Policy_on_Vets_Treatment_Courts_FINAL_authcheckdam.pdf),

<sup>12</sup> The Veteran's Justice Outreach Initiative website is <http://www.va.gov/HOMELESS/VJO.asp>.

returning veterans who served in Iraq and Afghanistan and who suffer with PTSD and other behavioral health disorders.<sup>13</sup>

### The Prison Diversion Program

Florida currently has a program to divert offenders who would otherwise be sentenced to prison by authorizing a judge to sentence a defendant to a non-state prison sanction if the following conditions are met:

- The offender's primary offense is a felony of the third degree.
- The offender's total sentence points score, as provided in s. 921.0024, F.S., is not more than 48 points, or the offender's total sentence points score is 54 points and 6 of those points are for a violation of probation, community control, or other community supervision, and do not involve a new violation of law.
- The offender has not been convicted or previously convicted of a forcible felony as defined in s. 776.08, F.S., but excluding any third degree felony violation under Chapter 810, F.S.
- The offender's primary offense does not require a minimum mandatory sentence.

If the court elects to sentence a defendant under the prison diversion program the court must sentence the offender to a term of probation, community control, or community supervision with mandatory participation in a prison diversion program of the Department of Corrections if such program is funded and exists in the judicial circuit in which the offender is sentenced.<sup>14</sup> The prison diversion programs are designed to meet the unique needs of each judicial circuit and of the offender population of that circuit. The program may require residential, nonresidential, or day-reporting requirements; substance abuse treatment; employment; restitution; academic or vocational opportunities; or community service work.<sup>15</sup>

### Contrast to the Drug Courts Program

By way of comparison, s. 397.334, F.S., authorizes the establishment of drug courts that divert eligible persons to county-funded treatment programs in lieu of state prison. The drug courts program is available to a person whose prison sentence is 18 months or less, whose crime was a "non-violent felony,"<sup>16</sup> who is amenable to treatment, and who is otherwise qualified under s. 397.334(3), F.S. To be otherwise qualified under s. 397.334(4), F.S., entry into the program must be based on the sentencing judge's assessment of the defendant's criminal history, substance abuse screening outcome, amenability to the services, the total sentence points, the recommendation of the State Attorney and the victim (if any), and the defendant's agreement to enter the program.<sup>17</sup>

### **Effect of Proposed Changes**

CS/HB 17 creates the "T. Patt Maney Veterans' Treatment Intervention Act."<sup>18</sup>

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<sup>13</sup> Florida Department of Children and Families' description of the Veterans Jail Diversion Grant can be viewed at <http://www.dcf.state.fl.us/programs/samh/mentalhealth/consumerfamilyaffairs/currinitiatives.shtml>.

<sup>14</sup> This program was created in 2009 and established two pilot programs. One in Pinellas and Pasco counties (6th Judicial Circuit) and the other Hillsborough county (13th Judicial Circuit). The Legislature appropriated 1.4 million over the last two years to the Department of Corrections for the programs. In December 2010, the Office of Program Policy Analysis and Government Accountability (OPPAGA) reported that the program in the 13th Judicial Circuit is fully operational, but is serving many offenders whose sentencing scores suggest they were not prison-bound. The program in the 6th Judicial Circuit ceased operation in August 2010 due to a lack of referrals. HB 7127 is currently pending before the House and expands eligibility criteria for the program.

<sup>15</sup> Section 921.00241, F.S.

<sup>16</sup> For purposes of the program a "nonviolent felony" means a third degree felony violation of Chapter 810, F.S., (relating to burglary and trespass), or any felony that is not a forcible felony as defined in s. 776.08, F.S.

<sup>17</sup> Section 397.334(3)(a), F.S.

<sup>18</sup> Patt Maney is presently a county court judge Okaloosa County. He is a retired Brigadier General in the United States Army Reserves and received a Purple Heart for extensive injuries as the result of an IED explosion while he was serving in Afghanistan in 2005. That explosion caused life-threatening injuries and left him with a Traumatic Brain Injury. After a lengthy recovery at the Walter Reed Army Medical Center, Judge Maney was able to resume his duties. Judge Maney has donated a great deal of his personal time to assisting homeless or disabled veterans.

### Veteran Status Hearing

CS/HB 17 requires a judge to hold a "veteran's status hearing" before sentencing a defendant found to have committed a crime if the defendant alleges that he or she committed the offense as a result of PTSD, TBI, substance use disorder, or psychological problems stemming from service with the United States military in a combat theater. Although the defendant must allege the crime was committed "as a result of" any of the listed conditions stemming from service in a combat theater, the court's inquiry does not require any finding that the allegation is true or established by the evidence. In other words, the court need not find a nexus between the commission of the crime and the fact that the veteran suffers from any of the specific conditions. Instead the purpose of the hearing is limited to determining whether the defendant:

- Was a member of the United States military who served in combat; and
- Suffers from PTSD, TBI, substance abuse, or psychological problems as a result of that service.

Under the bill the defendant bears the burden of proof of establishing the above criteria at the hearing. The term "psychological problems" is not defined. Neither is "service in a combat theater" defined. (See Drafting Issues or Other Comments) If the court determines that the defendant satisfies both of the above criteria, and concludes that the defendant is eligible for probation or community control and places the defendant on probation or community control, the court may order the defendant to participate in a local, state, federal, or private non-profit treatment program, for a period that is no more than the length of time which they would have been incarcerated. In order for the court to exercise this option, the defendant must agree to participate and the court must determine that there is an appropriate treatment program. The court must, wherever possible, place the defendant in a treatment program that has a history of successfully treating combat veterans, and must give preference to a treatment program for which the veteran is eligible through the state or federal Departments of Veterans Affairs.

### The Criminal Punishment Code and CS/HB 17

With respect to felony level offenses, CS/HB 17 seeks to provide a mechanism for courts to sentence veterans who have been convicted of crimes and who meet specified criteria from being sentenced under the Criminal Punishment Code (Code). The Code establishes the sentencing range for felony offenses committed on or after October 1, 1998. Criminal offenses are ranked in the "offense severity ranking chart"<sup>19</sup> from level one (least severe) to level ten (most severe) and are assigned points based on the severity of the offense as determined by the Legislature. The points are added in order to determine the "lowest permissible sentence" for the offense.

Although the provisions of CS/HB 17 apply when a court makes the required finding in a veterans' status hearing, the bill also requires the court to conclude that the defendant "*is otherwise eligible for probation and community control,*" before the court may place the defendant on community supervision and order the defendant into a treatment program. Under the Code, defendants scoring a prison sentence are not eligible for placement on probation or community control in lieu of the prescribed state prison sentence. Absent scoring a nonstate prison sanction, a judge may sentence someone who would otherwise receive a prison sentence under the Code to probation or community control only by imposing a sentence that is a downward departure from the lowest permissible sentence.

A judge cannot impose a downward departure sentence unless the judge makes written findings that there are "circumstances or factors that reasonably justify the downward departure."<sup>20</sup> The imposition of a downward departure sentence is subject to appellate review.<sup>21</sup> Mitigating circumstances which may reasonably justify a downward departure sentence include but are not limited to:

- The capacity of the defendant to appreciate the criminal nature of the conduct or to conform that conduct to the requirements of law was substantially impaired.

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<sup>19</sup> Section 921.0022, F.S.

<sup>20</sup> Downward departure sentences are prohibited, however, when the offense is subject to a minimum mandatory prison sentence.

<sup>21</sup> Section 921.0026(1), F.S.



- The defendant requires specialized treatment for a mental disorder that is unrelated to substance abuse or addiction or for a physical disability, and the defendant is amenable to treatment.
- The defendant's offense is a nonviolent felony, the defendant's Criminal Punishment Code scoresheet total sentence points under s. 921.0024, F.S., are 52 points or fewer, and the court determines that the defendant is amenable to the services of a postadjudicatory treatment-based drug court program and is otherwise qualified to participate in the program as part of the sentence.<sup>22</sup>

CS/HB 17 is silent as to whether the new section of statute would operate within the bounds of a judge considering a downward departure sentence when authorized by the Code, or whether it is independent of it. If the bill is construed to operate independently of the sentencing structure of the Code, then the section will operate in a manner which not is patterned after current mechanisms to impose sentences that avoid incarceration in state prison in order to place defendants into appropriate treatment programs. Unlike the current drug court program and prison diversion program, which are restricted to lower level non-forcible felons, CS/HB 17 does not establish any qualifying or disqualifying factors relating to the type of offense charged, the prior designation of the offender as statutorily defined repeat offender, or other legal status of the defendant. Under CS/HB 17, all felony offenses, except capital felonies, are within the scope of inclusion into the veterans' court program.<sup>23</sup> It is unclear whether offenses subject to minimum mandatory prison sentences, such as 10-20-Life, would also be included in the program.<sup>24</sup> Unlike downward departure sentences imposed pursuant to the s. 926.0026, F.S., CS/HB 17 does not expressly provide a state's right to appeal from a sentence imposed under its provisions.

#### Credit For Time Served

Under CS/HB 17, a veteran who is ordered into a residential treatment program as a result of the hearing will earn sentence credits for the time he or she actually serves in the treatment program if the court finds in writing that he or she would have sentenced the defendant to incarceration except for the fact that the defendant met the criteria in the bill. These credits would be applied to reduce any remaining sentence in the event that the veteran is committed to jail or prison as a result of violating the terms of community supervision. Current law allows a court to require an offender to participate in treatment programs as a special condition of probation or community control, however, an offender cannot receive credit against prison sentence for any time served in a treatment or rehabilitation program when the defendant violates the terms of that community supervision.<sup>25</sup> CS/HB 17 awards sentencing credit for time that the defendant spends in an inpatient treatment program for veterans without requiring successful compliance with terms of supervision.

#### Pretrial Veterans' Treatment Intervention Program

The bill also provides the court may sentence a defendant to felony or misdemeanor pre-trial diversion programs for veterans who are current or former United States military service members suffering from PTSD, TBI, a substance use disorder, or psychological problems stemming from service in a combat theater. The bill authorizes placement of eligible veterans into an existing pretrial treatment program approved by the chief judge of the circuit in lieu of proceeding with criminal prosecution.

The bill amends s. 948.08, F.S., to provide the court may sentence a defendant to a felony pretrial veterans treatment intervention program. It applies to any veteran with one of the listed psychological conditions who is charged with a felony that is not a disqualifying offense. The bill references offenses listed in s. 948.06 (8)(c), F.S., to disqualify defendants charged with the following crimes from eligibility for the program:

- Kidnapping or attempted kidnapping under s. 787.01, F.S.,
- False imprisonment of a child under the age of 13 under s. 787.02(3), F.S., or luring or enticing a child under s. 787.025(2)(b) or (c), F.S.

<sup>22</sup> Section 921.0026(2), F.S. This is a partial list of mitigating circumstances specifically listed in the statute.

<sup>23</sup> Section 948.01(1), F.S., specifically disqualifies persons convicted of capital felonies from eligibility for probation.

<sup>24</sup> Section 775.087, F.S.

<sup>25</sup> See *State v. Cregan*, 908 So.2d 387 (Fla. 2005).

- Murder or attempted murder under s. 782.04, F.S., attempted felony murder under s. 782.051, F.S., or manslaughter under s. 782.07, F.S.
- Aggravated battery or attempted aggravated battery under s. 784.045, F.S.
- Sexual battery or attempted sexual battery under s. 794.011(2), (3), (4), or (8)(b) or (c), F.S.
- Lewd or lascivious battery or attempted lewd or lascivious battery under s. 800.04(4), F.S., lewd or lascivious molestation under s. 800.04(5)(b) or (c)2., F.S., lewd or lascivious conduct under s. 800.04(6)(b), F.S., lewd or lascivious exhibition under s. 800.04(7)(b), F.S., or lewd or lascivious exhibition on computer under s. 847.0135(5)(b), F.S.
- Robbery or attempted robbery under s. 812.13, F.S., carjacking or attempted carjacking under s. 812.133, F.S., or home invasion robbery or attempted home invasion robbery under s. 812.135, F.S.
- Lewd or lascivious offense upon or in the presence of an elderly or disabled person or attempted lewd or lascivious offense upon or in the presence of an elderly or disabled person under s. 825.1025, F.S.
- Sexual performance by a child or attempted sexual performance by a child under s. 827.071, F.S.
- Computer pornography under s. 847.0135(2) or (3), F.S., transmission of child pornography under s. 847.0137, F.S., or selling or buying of minors under s. 847.0145, F.S.
- Poisoning food or water under s. 859.01, F.S.
- Abuse of a dead human body under s. 872.06, F.S.
- Burglary or attempted burglary that is a first-degree or second-degree felony, or any attempted burglary offense, under s. 810.02(2) or (3), F.S.
- Arson or attempted arson under s. 806.01(1), F.S. Aggravated assault under s. 784.021, F.S. Aggravated stalking under s. 784.048(3), (4), (5), or (7), F.S.
- Aircraft piracy under s. 860.16, F.S.
- Unlawful throwing, placing, or discharging of a destructive device or bomb under s. 790.161(2), (3), or (4), F.S.
- Treason under s. 876.32, F.S. Any offense in another jurisdiction that would meet the definitions of these offenses if committed in Florida.

If a veteran with one of the listed conditions is not charged with a disqualifying offense, he or she is eligible to be voluntarily admitted into a felony pretrial veterans treatment intervention program if one has been approved by the chief judge of the circuit. Admission may be upon the court's own motion or the motion of either party. The bill authorizes three reasons a defendant can be denied entry into the program:

- The court may deny admission to the program if the defendant rejected an offer of admission to a pretrial veterans' treatment intervention program on the record at any time prior to trial.
- The court may deny admission to the program if the defendant previously entered a court-ordered veterans' treatment program.
- The court must deny admission into the program if the state attorney establishes by a preponderance of the evidence at a preadmission hearing that the defendant was involved in selling controlled substances.

Because the bill specifically lists instances in which the court may deny admission into the program, it precludes from consideration any other reason a judge may believe admission into the program should be denied. For example, because program disqualification is based solely on the charged offense, a prior record of violent offenses would not render a defendant ineligible for admission into the program, and a court would have no discretion to deny admission on that basis.

The bill also amends s. 948.16, F.S., to provide the court may sentence a defendant to a misdemeanor pretrial veterans' treatment intervention program. Any veteran with one of the listed conditions who is charged with a misdemeanor is eligible to be admitted voluntarily into a misdemeanor pretrial veterans treatment intervention program if one has been approved by the chief judge of the circuit. The court may deny admission if the defendant previously entered a court-ordered veterans' treatment program.

The bill requires that a "veterans' treatment intervention team" develop an individualized coordinated strategy for any veteran who is to be admitted to either a felony or misdemeanor pretrial veterans

treatment intervention program. This coordinated strategy must be provided to the veteran in writing before he or she agrees to enter the program. The strategy is to be modeled after the ten therapeutic jurisprudence principles and key components for treatment-based drug court programs that are found in s. 397.334(4), F.S. These principles and components include the provision of treatment services facilitated through a nonadversarial approach to resolving the criminal charge between the prosecution and defense counsel. They also include early identification of eligible participants, and monitoring and evaluation of achievement of program goals.

The coordinated strategy may include a system of sanctions for non-compliance. The sanctions may include placement in a residential or jail-based treatment program or incarceration for up to the length of time allowed for contempt of court.

At the end of the intervention program, the court must dismiss the charges if it finds that the defendant successfully completed the intervention program. If, on the other hand, the court finds that the defendant did not successfully complete the program, the court may either order the defendant to continue in treatment or order that the charges revert to normal channels for prosecution.

Any defendant whose charges are dismissed after successful completion of the pretrial veterans' treatment intervention program, if otherwise eligible, may have his or her arrest record and a plea of nolo contendere to the dismissed charges expunged pursuant to s. 943.0585, F.S. (See Drafting Issues or Other Comments.)

Currently, s. 948.16(3), F.S., requires any public or private entity providing substance abuse programs as part of the misdemeanor pretrial substance abuse intervention program to contract with local government entities. The addition of the pretrial veterans' treatment intervention program by CS/HB 17 into this section of statute incorporates these requirements into the veteran's pretrial intervention program. CS/HB 17 exempts services provided by the state or federal Department of Veterans Affairs from this requirement.

## B. SECTION DIRECTORY:

Section 1. Entitles the act, the "T. Patt Maney Veterans' Treatment Intervention Act."

Section 2. Creates s. 921.00242, F.S., relating to convicted military veterans; posttraumatic stress disorder, traumatic brain injury, substance use disorder, or psychological problems from service; treatment services.

Section 3. Amends s. 948.08, F.S., relating to Pretrial intervention program.

Section 4. Amends s. 948.16, F.S., relating to misdemeanor pretrial substance abuse education and treatment intervention program; misdemeanor pretrial veterans' treatment intervention program.

Section 5. Provides an effective date of July 1, 2011.

## II. FISCAL ANALYSIS & ECONOMIC IMPACT STATEMENT

### A. FISCAL IMPACT ON STATE GOVERNMENT:

#### 1. Revenues:

None.

#### 2. Expenditures:

See Fiscal Comments.

### B. FISCAL IMPACT ON LOCAL GOVERNMENTS:

#### 1. Revenues:

None.

2. Expenditures:

See Fiscal Comments.

C. DIRECT ECONOMIC IMPACT ON PRIVATE SECTOR:

This bill would have an impact on the private sector to the extent that participants are diverted from incarceration into private treatment programs.

D. FISCAL COMMENTS:

On March 2, 2011, the Criminal Justice Impact Conference assessed this bill as originally filed and determined it would have no impact on the state prison population. In as much as the substance of the bill in this respect has not been materially altered in CS/HB 17, there does not appear to be any basis to assume this bill would increase the state prison population. The Office of State Courts Administrator reports that the fiscal impact on the state courts cannot be accurately determined due to the unavailability of data needed to establish the number of convicted veterans who may claim the mitigating factor. However, the courts stated that the bill will have a minimal workload impact because defendants already have a procedure in place to present mitigating circumstances for purposes of sentencing.

This bill is not clear who is responsible for providing veteran's services, and who bears the associated costs. The bill does state that the court may order the defendant into a local, state, federal, or private nonprofit treatment program for veterans' if such a program exists, and must give preference to treatment programs through the U.S. Department of Veterans Affairs. The bill does not require state or local entities to create new programs, but creates another option for the court if the services are available; therefore, the effect of this bill should be limited to existing programs that specifically provide such services to veterans.

### III. COMMENTS

A. CONSTITUTIONAL ISSUES:

1. Applicability of Municipality/County Mandates Provision:

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

2. Other:

None.

B. RULE-MAKING AUTHORITY:

None.

C. DRAFTING ISSUES OR OTHER COMMENTS:

CS/HB 17 provides that the veteran must claim that the specified psychological disorder or other psychological problem stems from "military service in a combat theater" without defining the terms "military service" or "combat theater." Without having a definition, any type of military service that occurs in a "combat theater," including service where the veteran serves a support role but has not actually been involved in combat, would constitute a sufficient type of military service to qualify. Also, deployment to a foreign country where combat is occurring may suffice without regard to the proximity of the defendant's service to the actual combat in the combat theater.

The bill requires the court to conduct a veteran status hearing if a judge "finds" that the defendant committed a crime. Generally a finding by a judge that a defendant committed a crime means a judge found the defendant guilty after a non-jury trial or entered a judgment against a defendant after a jury returned a verdict of guilty. It is unclear if this language would render persons who pled nolo contendere to the crime (a plea not admitting guilt but entered on grounds the defendant asserts are in his or her best interests). Nolo contendere pleas which are accepted by a judge are not "findings" that the defendant committed the crime, but merely that the defendant understood the charges and voluntarily entered a plea not contesting the charges.<sup>26</sup>

With regard to the provision of the bill providing that a defendant who successfully completes the pretrial veterans' treatment intervention program may have his or her arrest record and plea of nolo contendere to the dismissed charges expunged pursuant to s. 943.0585, F.S., pretrial intervention programs by their very nature divert cases from the court system prior to the entry of any nolo contendere plea and therefore there would be no such plea to expunge.

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

On March 29, 2011 the Criminal Justice Subcommittee adopted a strike-all amendment and reported the bill favorably as a Committee Substitute. The amendment:

- Names the act the "T. Patt Maney Veterans' Treatment Intervention Act."
- Expands the type of type of conditions that qualify a veteran for a pre-sentencing hearing by adding "traumatic brain injury" and replacing "substance abuse" with "substance use disorder." "Substance abuse" refers only to use of illegal drugs, while "substance use disorder" refers to abuse of alcohol, illegal drugs, and prescription drugs.
- Amends s. 948.08, F.S., to create a felony pretrial veterans' treatment intervention program.
- Amends s. 948.16, F.S., to create a misdemeanor pretrial veterans' treatment intervention program.

This analysis is drafted to the Committee Substitute.

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<sup>26</sup> Fla. R. Crim. P. 3.172(a)&(e).

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A bill to be entitled  
 An act relating to military veterans convicted of criminal offenses; providing a short title; creating s. 921.00242, F.S.; providing that persons found to have committed criminal offenses who allege that the offenses resulted from posttraumatic stress disorder, traumatic brain injury, substance use disorder, or psychological problems stemming from service in a combat theater in the United States military may have a hearing on that issue before sentencing; providing that defendants found to have committed offenses due to such causes and who are eligible for probation or community control may be placed in treatment programs in certain circumstances; providing for sentence credit for defendants placed in treatment who would have otherwise been incarcerated; providing a preference for treatment programs that have histories of successfully treating such combat veterans; amending s. 948.08, F.S.; creating a pretrial veterans' treatment intervention program; providing requirements for a defendant to be voluntarily admitted to the pretrial program; providing certain exceptions to such admission; providing for the disposition of pending charges after a defendant's completion of the pretrial intervention program; providing for the charges to be expunged under certain circumstances; amending s. 948.16, F.S.; creating a misdemeanor pretrial veterans' treatment intervention program; providing requirements for voluntary admission to the misdemeanor pretrial program; providing for the

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29        misdemeanor charges to be expunged under certain  
30        circumstances; exempting treatment services provided by  
31        the Department of Veterans' Affairs or the United States  
32        Department of Veterans Affairs from certain contract  
33        requirements; providing an effective date.

34

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

36

37        Section 1. This act may be cited as the "T. Patt Maney  
38        Veterans' Treatment Intervention Act."

39        Section 2. Section 921.00242, Florida Statutes, is created  
40        to read:

41        921.00242 Convicted military veterans; posttraumatic  
42        stress disorder, traumatic brain injury, substance use disorder,  
43        or psychological problems from service; treatment services.-

44        (1) If a circuit or county court finds that a defendant  
45        has committed a criminal offense, the court must hold a  
46        veterans' status hearing before sentencing if the defendant has  
47        alleged that he or she committed the offense as a result of  
48        posttraumatic stress disorder, traumatic brain injury, substance  
49        use disorder, or psychological problems stemming from service in  
50        a combat theater in the United States military.

51        (2) At a veterans' status hearing conducted as required by  
52        subsection (1), the court shall determine whether the defendant  
53        was a member of the military forces of the United States who  
54        served in a combat theater and assess whether the defendant  
55        suffers from posttraumatic stress disorder, traumatic brain  
56        injury, substance use disorder, or psychological problems as a

57 result of that service. The defendant shall bear the burden of  
 58 proof at the hearing.

59 (3) If the court concludes that the defendant is a person  
 60 described in subsection (2) who is eligible for probation or  
 61 community control and the court places the defendant on county  
 62 or state probation or into community control, the court may  
 63 order the defendant into a local, state, federal, or private  
 64 nonprofit treatment program as a condition of probation or  
 65 community control if the defendant agrees to participate in the  
 66 program and the court determines that an appropriate treatment  
 67 program exists.

68 (4) A defendant who is placed on county or state probation  
 69 or into community control and committed to a residential  
 70 treatment program under this section shall earn sentence credits  
 71 for the actual time he or she serves in the residential  
 72 treatment program if the court makes a written finding that it  
 73 would otherwise have sentenced the defendant to incarceration  
 74 except for the fact that the defendant is a person described in  
 75 subsection (2).

76 (5) In making an order under this section to commit a  
 77 defendant to an treatment program, whenever possible the court  
 78 shall place the defendant in a treatment program that has a  
 79 history of successfully treating combat veterans who suffer from  
 80 posttraumatic stress disorder, traumatic brain injury, substance  
 81 use disorder, or psychological problems as a result of that  
 82 service. The court shall give preference to treatment programs  
 83 for which the veteran is eligible through the United States



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84 Department of Veterans Affairs or the Department of Veterans'  
85 Affairs.

86 Section 3. Present subsection (7) of section 948.08,  
87 Florida Statutes, is renumbered as subsection (8), and a new  
88 subsection (7) is added to that section, to read:

89 948.08 Pretrial intervention program.—

90 (7)(a) A person who is charged with a felony, other than a  
91 felony listed in s. 948.06(8)(c), and identified as a member or  
92 former member of the military forces of the United States who  
93 served in a combat theater and who suffers from posttraumatic  
94 stress disorder, traumatic brain injury, substance use disorder,  
95 or psychological problems as a result of that service is  
96 eligible for voluntary admission into a pretrial veterans'  
97 treatment intervention program approved by the chief judge of  
98 the circuit, upon motion of either party or the court's own  
99 motion, except:

100 1. If a defendant was previously offered admission to a  
101 pretrial veterans' treatment intervention program at any time  
102 before trial and the defendant rejected that offer on the  
103 record, the court may deny the defendant's admission to such a  
104 program.

105 2. If a defendant previously entered a court-ordered  
106 veterans' treatment program, the court may deny the defendant's  
107 admission into the pretrial veterans' treatment program.

108 3. If the state attorney believes that the facts and  
109 circumstances of the case suggest the defendant's involvement in  
110 selling controlled substances, the court shall hold a  
111 preadmission hearing. If the state attorney establishes, by a

112 preponderance of the evidence at such hearing, that the  
 113 defendant was involved in selling controlled substances, the  
 114 court shall deny the defendant's admission into a pretrial  
 115 intervention program.

116 (b) While enrolled in a pretrial intervention program  
 117 authorized by this subsection, the participant is subject to a  
 118 coordinated strategy developed by a veterans' treatment  
 119 intervention team. The coordinated strategy should be modeled  
 120 after the therapeutic jurisprudence principles and key  
 121 components in s. 397.334(4), with treatment specific to the  
 122 needs of veterans. The coordinated strategy may include a  
 123 protocol of sanctions that may be imposed upon the participant  
 124 for noncompliance with program rules. The protocol of sanctions  
 125 may include, but is not limited to, placement in a treatment  
 126 program offered by a licensed service provider or in a jail-  
 127 based treatment program or serving a period of incarceration  
 128 within the time limits established for contempt of court. The  
 129 coordinated strategy must be provided in writing to the  
 130 participant before the participant agrees to enter into a  
 131 pretrial veterans' treatment intervention program or other  
 132 pretrial intervention program. Any person whose charges are  
 133 dismissed after successful completion of the pretrial veterans'  
 134 treatment intervention program, if otherwise eligible, may have  
 135 his or her arrest record and plea of nolo contendere to the  
 136 dismissed charges expunged under s. 943.0585.

137 (c) At the end of the pretrial intervention period, the  
 138 court shall consider the recommendation of the administrator  
 139 pursuant to subsection (5) and the recommendation of the state

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140 attorney as to disposition of the pending charges. The court  
 141 shall determine, by written finding, whether the defendant has  
 142 successfully completed the pretrial intervention program. If the  
 143 court finds that the defendant has not successfully completed  
 144 the pretrial intervention program, the court may order the  
 145 person to continue in education and treatment, which may include  
 146 treatment programs offered by licensed service providers or  
 147 jail-based treatment programs, or order that the charges revert  
 148 to normal channels for prosecution. The court shall dismiss the  
 149 charges upon a finding that the defendant has successfully  
 150 completed the pretrial intervention program.

151 Section 4. Section 948.16, Florida Statutes, is amended to  
 152 read:

153 948.16 Misdemeanor pretrial substance abuse education and  
 154 treatment intervention program; misdemeanor pretrial veterans'  
 155 treatment intervention program.-

156 (1) (a) A person who is charged with a misdemeanor for  
 157 possession of a controlled substance or drug paraphernalia under  
 158 chapter 893, and who has not previously been convicted of a  
 159 felony nor been admitted to a pretrial program, is eligible for  
 160 voluntary admission into a misdemeanor pretrial substance abuse  
 161 education and treatment intervention program, including a  
 162 treatment-based drug court program established pursuant to s.  
 163 397.334, approved by the chief judge of the circuit, for a  
 164 period based on the program requirements and the treatment plan  
 165 for the offender, upon motion of either party or the court's own  
 166 motion, except, if the state attorney believes the facts and  
 167 circumstances of the case suggest the defendant is involved in

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168 | dealing and selling controlled substances, the court shall hold  
 169 | a preadmission hearing. If the state attorney establishes, by a  
 170 | preponderance of the evidence at such hearing, that the  
 171 | defendant was involved in dealing or selling controlled  
 172 | substances, the court shall deny the defendant's admission into  
 173 | the pretrial intervention program.

174 |       (b) While enrolled in a pretrial intervention program  
 175 | authorized by this section, the participant is subject to a  
 176 | coordinated strategy developed by a drug court team under s.  
 177 | 397.334(4). The coordinated strategy may include a protocol of  
 178 | sanctions that may be imposed upon the participant for  
 179 | noncompliance with program rules. The protocol of sanctions may  
 180 | include, but is not limited to, placement in a substance abuse  
 181 | treatment program offered by a licensed service provider as  
 182 | defined in s. 397.311 or in a jail-based treatment program or  
 183 | serving a period of incarceration within the time limits  
 184 | established for contempt of court. The coordinated strategy must  
 185 | be provided in writing to the participant before the participant  
 186 | agrees to enter into a pretrial treatment-based drug court  
 187 | program or other pretrial intervention program. Any person whose  
 188 | charges are dismissed after successful completion of the  
 189 | treatment-based drug court program, if otherwise eligible, may  
 190 | have his or her arrest record and plea of nolo contendere to the  
 191 | dismissed charges expunged under s. 943.0585.

192 |       (2) (a) A member or former member of the military forces of  
 193 | the United States who served in a combat theater and who suffers  
 194 | from posttraumatic stress disorder, traumatic brain injury,  
 195 | substance use disorder, or psychological problems as a result of

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196 that service who is charged with a misdemeanor is eligible for  
197 voluntary admission into a misdemeanor pretrial veterans'  
198 treatment intervention program approved by the chief judge of  
199 the circuit, for a period based on the program requirements and  
200 the treatment plan for the offender, upon motion of either party  
201 or the court's own motion. However, the court may deny the  
202 defendant admission into a misdemeanor pretrial veterans'  
203 treatment intervention program if the defendant has previously  
204 entered a court-ordered veterans' treatment program.

205 (b) While enrolled in a pretrial intervention program  
206 authorized by this section, the participant is subject to a  
207 coordinated strategy developed by a veterans' treatment  
208 intervention team. The coordinated strategy should be modeled  
209 after the therapeutic jurisprudence principles and key  
210 components in s. 397.334(4), with treatment specific to the  
211 needs of veterans. The coordinated strategy may include a  
212 protocol of sanctions that may be imposed upon the participant  
213 for noncompliance with program rules. The protocol of sanctions  
214 may include, but is not limited to, placement in a treatment  
215 program offered by a licensed service provider or in a jail-  
216 based treatment program or serving a period of incarceration  
217 within the time limits established for contempt of court. The  
218 coordinated strategy must be provided in writing to the  
219 participant before the participant agrees to enter into a  
220 misdemeanor pretrial veterans' treatment intervention program or  
221 other pretrial intervention program. Any person whose charges  
222 are dismissed after successful completion of the misdemeanor  
223 pretrial veterans' treatment intervention program, if otherwise

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224 eligible, may have his or her arrest record and plea of nolo  
225 contendere to the dismissed charges expunged under s. 943.0585.

226 (3)-(2) At the end of the pretrial intervention period, the  
227 court shall consider the recommendation of the treatment program  
228 and the recommendation of the state attorney as to disposition  
229 of the pending charges. The court shall determine, by written  
230 finding, whether the defendant successfully completed the  
231 pretrial intervention program. Notwithstanding the coordinated  
232 strategy developed by a drug court team pursuant to s.  
233 397.334(4) or by the veterans' treatment intervention team, if  
234 the court finds that the defendant has not successfully  
235 completed the pretrial intervention program, the court may order  
236 the person to continue in education and treatment or return the  
237 charges to the criminal docket for prosecution. The court shall  
238 dismiss the charges upon finding that the defendant has  
239 successfully completed the pretrial intervention program.

240 (4)-(3) Any public or private entity providing a pretrial  
241 substance abuse education and treatment program under this  
242 section shall contract with the county or appropriate  
243 governmental entity. The terms of the contract shall include,  
244 but not be limited to, the requirements established for private  
245 entities under s. 948.15(3). This requirement does not apply to  
246 services provided by the Department of Veterans' Affairs or the  
247 United States Department of Veterans Affairs.

248 Section 5. This act shall take effect July 1, 2011.

COMMITTEE/SUBCOMMITTEE AMENDMENT

Bill No. CS/HB 17 (2011)

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Justice Appropriations  
2 Subcommittee  
3 Representative(s) Nelson offered the following:

4  
5 **Amendment**

6 Remove line 248 and insert:  
7 Section 5. This act shall take effect January 1, 2012.





## HOUSE OF REPRESENTATIVES STAFF ANALYSIS

**BILL #:** HB 1039 Controlled Substances  
**SPONSOR(S):** Patronis  
**TIED BILLS:** None **IDEN./SIM. BILLS:** SB 1886

REFERENCE	ACTION	ANALYST	STAFF DIRECTOR or BUDGET/POLICY CHIEF
1) Criminal Justice Subcommittee	13 Y, 0 N	Williams	Cunningham
2) Justice Appropriations Subcommittee		McAuliffe	Jones Darity
3) Judiciary Committee			

### SUMMARY ANALYSIS

3,4-Methylenedioxymethcathinone, (Methylone), 3,4-Methylenedioxypyrovalerone (MDPV), 4-Methylmethcathinone (Mephedrone), 3-Methoxymethcathinone, 3-Fluoromethcathinone, and 4-Fluoromethcathinone, are psychoactive substances that, when used improperly, offer alternatives to illegal drugs. Much like the marketing of Synthetic Cannabinoids (Spice/K2) as incense, these substances are commercially available and are being marketed as "bath salts".

In recent years, the abuse of bath salts, predominately by the youth population, has been increasing. Law enforcement and medical professionals have indicated that bath salts are becoming increasingly popular due to the perception that they pose a seemingly safer alternative to illegal methods of getting "high" and can easily be obtained at convenience stores, pawnshops, and gas stations. Some abusers describe the effects as similar to methamphetamine, ecstasy, and cocaine, and have referred to bath salts as "complete crank" and "fake cocaine."

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act and classifies controlled substances into five categories, known as schedules. These schedules are used to regulate the manufacture, distribution, preparation and dispensing of the substances. Currently, Florida Statutes do not regulate the sale, purchase, possession, or manufacture of bath salts.

HB 1039 amends s. 893.03, F.S., to add the following substances to Schedule I of Florida's controlled substance schedules:

- 3,4-Methylenedioxymethcathinone (Methylone).
- 3,4-Methylenedioxypyrovalerone (MDPV).
- 4-Methylmethcathinone (Mephedrone).
- 3-Methoxymethcathinone.
- 3-Fluoromethcathinone.
- 4-Fluoromethcathinone (Flephedrone).

As a result, anyone in possession of these substances will be guilty of a third degree felony in conformity with other Schedule I hallucinogens such as LSD and peyote. This offense will be ranked in Level 3 of the offense severity ranking chart. The offense of sale, manufacture or delivery or possession with intent to sell, manufacture or deliver these substances will be a third degree felony and will be ranked in Level 3 of the offense severity ranking chart. The purchase of these substances will be a third degree felony and will be ranked in Level 2 of the offense severity ranking chart.

The Criminal Justice Impact Conference met April 4, 2011 and determined the bill will have an insignificant impact on state prison beds.

The effective date of the bill is July 1, 2011.

# FULL ANALYSIS

## I. SUBSTANTIVE ANALYSIS

### A. EFFECT OF PROPOSED CHANGES:

#### **Bath Salts**

3,4 - Methylenedioxyamphetaminone (Methylone), 3,4 - Methylenedioxypropylamphetamine (MDPV), 4 - Methylmethcathinone (Mephedrone), 3 - Methoxyamphetaminone, 3 - Fluoromethcathinone, and 4 - Fluoromethcathinone, are psychoactive substances that, when used improperly, offer alternatives to illegal drugs.<sup>1</sup> Much like the marketing of Synthetic Cannabinoids (Spice/K2) as incense, these substances are commercially available and are being marketed as "bath salts".<sup>2</sup> While bath salts are comprised of the different unregulated chemical substances listed above, MDPV appears to be the substance most commonly referred to as bath salts.<sup>3</sup>

#### **MDPV**

MDPV is a central nervous system stimulant which was first seized in Germany in 2007.<sup>4</sup> MDPV is structurally related to cathinone, an active alkaloid found in the khat plant,<sup>5</sup> methamphetamine<sup>6</sup>, and methylenedioxyamphetamine,<sup>7</sup> and has not been approved for medical use in the United States.<sup>8</sup>

Bath salts are known by a variety of names, including "Red Dove," "Blue Silk," "Zoom," "Bloom," "Cloud Nine," "Ocean Snow," "Lunar Wave," "Vanilla Sky," "Ivory Wave," "White Lightning," "Scarface" "Purple Wave," "Blizzard," "Star Dust," "Lovey, Dovey," "Snow Leopard," "Aura," and "Hurricane Charlie." While they have become popular under the guise of being sold as bath salts, they are sometimes sold as other products such as insect repellent, or plant food with names like "Bonsai Grow" among others.<sup>9</sup>

#### **Substance Abuse**

In recent years, the abuse of bath salts has been increasing. Law enforcement and medical professionals have indicated that bath salts are becoming increasingly popular due to the perception that they pose a seemingly safer alternative to illegal methods of getting "high" and can easily be obtained.<sup>10</sup>

While the abuse of the substance MDPV has increased, particularly in Europe and Australia, in recent years, it has also begun to be increasingly used as a recreational drug in the U.S.<sup>11</sup> User population

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<sup>1</sup> Florida Fusion Center, Unit Reporting: Office of Statewide Intelligence. "Bath Salts" Receive Emergency Drug Scheduling. Brief # 10-194 Public, January 26, 2011. ([http://www.fdle.state.fl.us/Content/BathSalts/FDLEBrief10\\_194BathSaltsPublic.pdf](http://www.fdle.state.fl.us/Content/BathSalts/FDLEBrief10_194BathSaltsPublic.pdf)) (last accessed March 19, 2011).

<sup>2</sup> Hunterdon Drug Awareness Program, Comprehensive Drug Information on MDPV, Mephedrone ("Bath Salts"). (<http://www.hdap.org/mdpv.html>) (last accessed March 19, 2011).

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

<sup>4</sup> Methylenedioxypropylamphetamine (MDPV). Drug Enforcement Administration. March 2011. ([http://www.deadiversion.usdoj.gov/drugs\\_concern/mdpv.pdf](http://www.deadiversion.usdoj.gov/drugs_concern/mdpv.pdf)) (last accessed March 19, 2011).

<sup>5</sup> "Khat" is a stimulant drug derived from a shrub that is native to East Africa and southern Arabia. The leaves of this plant contain the alkaloids cathine and cathinone, and are chewed for the stimulant effects. U.S. Drug Enforcement Administration. Khat AKA: Catha Edulis. (<http://www.justice.gov/dea/pubs/pressrel/pr072606a.html>) (last accessed March 19, 2011).

<sup>6</sup> "Methamphetamine" is a central nervous system stimulant drug that is similar in structure to amphetamine. National Institutes of Health. *NIDA InfoFacts: Methamphetamine*. March 2010. (<http://www.nida.nih.gov/infofacts/methamphetamine.html>) (last accessed March 19, 2011).

<sup>7</sup> "Methylenedioxyamphetamine" (MDMA) is a synthetic, psychoactive drug that is chemically similar to the stimulant methamphetamine and the hallucinogen mescaline. National Institutes of Health. *NIDA InfoFacts: MDMA (Ecstasy)*. December 2010. (<http://www.drugabuse.gov/Infofacts/ecstasy.html>) (last accessed March 19, 2011).

<sup>8</sup> Methylenedioxypropylamphetamine (MDPV). Drug Enforcement Administration. March 2011. ([http://www.deadiversion.usdoj.gov/drugs\\_concern/mdpv.pdf](http://www.deadiversion.usdoj.gov/drugs_concern/mdpv.pdf)) (last accessed March 19, 2011).

<sup>9</sup> *Id.*

<sup>10</sup> Florida Fusion Center, Unit Reporting: Office of Statewide Intelligence. "Bath Salts" Receive Emergency Drug Scheduling. Brief # 10-194 Public, January 26, 2011. ([http://www.fdle.state.fl.us/Content/BathSalts/FDLEBrief10\\_194BathSaltsPublic.pdf](http://www.fdle.state.fl.us/Content/BathSalts/FDLEBrief10_194BathSaltsPublic.pdf)) (last accessed March 19, 2011).

<sup>11</sup> Methylenedioxypropylamphetamine (MDPV). Drug Enforcement Administration. March 2011. ([http://www.deadiversion.usdoj.gov/drugs\\_concern/mdpv.pdf](http://www.deadiversion.usdoj.gov/drugs_concern/mdpv.pdf)) (last accessed March 19, 2011).

information in the U.S. is very limited; however, there have been reports of MDVP being used predominantly by the youth population.<sup>12</sup> The Drug Enforcement Administration's (DEA) National Forensic Laboratory Information System indicates that state and local law enforcement officials encountered MDPV in 2009 and 2010 in Iowa, Kansas, Kentucky, Minnesota, North Dakota, Oklahoma, Texas, and Wisconsin.<sup>13</sup>

Bath salts are readily available at convenience stores, discount tobacco outlets, gas stations, pawnshops, tattoo parlors, and truck stops, among other locations.<sup>14</sup> Bath salts are sold in 50mg to 500mg packets that usually contain a disclaimer, such as "not for human consumption."<sup>15</sup> The costs of these substances range from \$25 - \$50 per 50mg packet. Bath salts are abused typically by injection, smoking, snorting, and less often, by the use of an atomizer.<sup>16</sup> Some abusers describe the effects as similar to methamphetamine, ecstasy, and cocaine, and have referred to the substance as "complete crank" and "fake cocaine."<sup>17</sup>

Reports of the side effects of MDPV include tachycardia, hypertension, vasoconstriction, and sweating.<sup>18</sup> However, higher doses of MDPV have caused intense, prolonged panic attacks in stimulant-intolerant users.<sup>19</sup> The duration of the subjective effects is about 3 to 4 hours and the side effects continuing a total of 6 to 8 hours after administration.<sup>20</sup>

There have been numerous calls to poison control centers throughout the U.S. concerning the abuse of bath salts. Poison control centers in Florida have reported 61 calls of bath salts abuse, making the state the second-highest in call volume after Louisiana.<sup>21</sup> Most of Florida's cases have come from Central and Northern Florida, but disoriented users have also arrived in Broward County hospitals with high blood pressure and hallucinations, according to Nabil El Sanadi, Chief of Emergency Medicine at Broward Health.<sup>22</sup> According to Panama City Beach police, one of the most shocking cases of bath salts abuse involved a woman who burst into her 71-year-old mother's room swinging a machete.<sup>23</sup>

### Drug Schedules

Chapter 893, F.S., sets forth the Florida Comprehensive Drug Abuse Prevention and Control Act and classifies controlled substances into five categories, known as schedules. These schedules are used to regulate the manufacture, distribution, preparation and dispensing of the substances.

The distinguishing factors between the different drug schedules are the "potential for abuse"<sup>24</sup> of the substance contained therein and whether there is a currently accepted medical use for the substance. Schedule I substances have a high potential for abuse and have no currently accepted medical use in the United States.<sup>25</sup> Cannabis and heroin are examples of Schedule I drugs.

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<sup>12</sup> *Id.*

<sup>13</sup> *Id.*

<sup>14</sup> National Drug Intelligence Center. U.S. Department of Justice. DRUG WATCH: Increasing abuse of bath salts. December 2010.

<sup>15</sup> *Id.*

<sup>16</sup> *Id.*

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

<sup>18</sup> Methylenedioxypropylvalerone (MDPV). Drug Enforcement Administration. March 2011.

([http://www.deadiversion.usdoj.gov/drugs\\_concern/mdpv.pdf](http://www.deadiversion.usdoj.gov/drugs_concern/mdpv.pdf)) (last accessed March 19, 2011).

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

<sup>20</sup> *Id.*

<sup>21</sup> Alexia Campbell and Aaron Deslatte, Sun Sentinel, *Florida bans 'bath salt' drugs after violent outbursts*. January 27, 2011.

([http://articles.sun-sentinel.com/2011-01-27/news/fl-bath-salts-florida-20110126\\_1\\_salts-fake-cocaine-bath](http://articles.sun-sentinel.com/2011-01-27/news/fl-bath-salts-florida-20110126_1_salts-fake-cocaine-bath)) (last accessed March 19, 2011).

<sup>22</sup> *Id.*

<sup>23</sup> *Id.*

<sup>24</sup> See s. 893.02(19), F.S.

<sup>25</sup> See s. 893.03, F.S.

## Florida law

Currently, Florida Statutes do not regulate the sale, purchase, possession, or manufacture of bath salts. However, current law authorizes the Attorney General, by means of an emergency rule,<sup>26</sup> to schedule a substance on a temporary basis if it is found that scheduling the substance is necessary to avoid an imminent hazard to the public safety.<sup>27</sup>

On January 26, 2011, Attorney General Pam Bondi, issued an emergency rule to add bath salts to Schedule I of Florida's controlled substance schedules.<sup>28</sup> Attorney General Bondi stated that "due to the violent nature of the side effects involved in taking these drugs, the emergency rule will provide law enforcement with the tools necessary to take this dangerous substance off the shelves and protect the abusers from themselves as well as others. These are dangerous drugs that should not be confused with any type of common bath product."<sup>29</sup> If the Legislature fails to take legislative action, the emergency rule scheduling bath salts will expire on June 30, 2011.<sup>30</sup>

## Other State Actions

Several states, including Hawaii, Michigan, Louisiana, Kentucky, and North Dakota, have introduced legislation to ban bath salts. In addition, several counties, cities, and local municipalities have also taken action to ban bath salts.<sup>31</sup>

## Federal Actions

Currently, bath salts are not scheduled drugs under the Federal Controlled Substances Act.<sup>32</sup> However, the DEA has MDPV and Mephedrone listed as drugs and chemicals of concern.<sup>33</sup>

On February 1, 2011, Gil Kerlikowske, Director of National Drug Control Policy, released the following statement following recent reports indicating the emerging threat of synthetic stimulants, including MDPV and mephedrone:

*"I am deeply concerned about the distribution, sale, and use of synthetic stimulants – especially those that are marketed as legal substances. Although we lack sufficient data to understand exactly how prevalent the use of these stimulants are, we know they pose a serious threat to the health and well-being of young people and anyone who may use them. At a time when drug use in America is increasing, the marketing and sale of these poisons as "bath salts" is both unacceptable and dangerous. As public health officials work to address this emerging threat, I ask that parents and other adult influencers act immediately to discuss with young people the severe harm that can be caused by the use of both legal and illegal drugs and to prevent drug use before it starts."<sup>34</sup>*

## Effect of Bill

HB 1039 amends s. 893.03, F.S., to add the following substances to Schedule I of Florida's controlled substance schedules:

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<sup>26</sup> Section 120.54, F.S.

<sup>27</sup> Section 893.035(7), F.S.

<sup>28</sup> Office of the Attorney General of Florida Pam Bondi, New Release: *Attorney General Bondi Files Emergency Rule Banning the Dangerous Synthetic Drug Marketed as "Bath Salts"* January 26, 2011. (<http://www.myfloridalegal.com/newsrel.nsf/newsreleases/81CC463863D88DC4852578240077FD45>) (last accessed March 19, 2011).

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

<sup>30</sup> Section 893.035(9), F.S.

<sup>31</sup> Nora D. Volkow, M.D., National Institute of Drug Abuse, Message from the Director on "Bath Salts" - Emerging and Dangerous Products. (<http://www.nida.nih.gov/about/welcome/MessageBathSalts211.html>) (last accessed March 19, 2011).

<sup>32</sup> Methylenedioxypropylvalerone (MDPV). Drug Enforcement Administration. March 2011. ([http://www.dea diversion.usdoj.gov/drugs\\_concern/mdpv.pdf](http://www.dea diversion.usdoj.gov/drugs_concern/mdpv.pdf)) (last accessed March 19, 2011).

<sup>33</sup> U.S. Department of Justice drug Administration. Drugs and Chemicals of Concern. ([http://www.dea diversion.usdoj.gov/drugs\\_concern/index.html](http://www.dea diversion.usdoj.gov/drugs_concern/index.html)) (last accessed March 19, 2011).

<sup>34</sup> Office of National Drug Control Policy, Press Release: Statement from White House Drug Policy Director on Synthetic Stimulants, a.k.a "Bath Salts". February 1, 2011. (<http://www.whitehousedrugpolicy.gov/news/press11/020111.html>) (last accessed March 19, 2011).

- 3,4-Methylenedioxy methcathinone (Methylone).
- 3,4-Methylenedioxy pyrovalerone (MDPV).
- 4-Methylmethcathinone (Mephedrone).
- 3-Methoxymethcathinone.
- 3-Fluoromethcathinone.
- 4-Fluoromethcathinone (Flephedrone).

As a result, anyone in possession of these substances will be guilty of a third degree felony<sup>35</sup> in conformity with other Schedule I hallucinogens such as LSD and peyote. This offense will be ranked in Level 3 of the offense severity ranking chart. The offense of sale, manufacture or delivery or possession with intent to sell, manufacture or deliver these substances will be a third degree felony and will be ranked in Level 3 of the offense severity ranking chart.<sup>36</sup> The purchase of these substances will be a third degree felony and will be ranked in Level 2 of the offense severity ranking chart.<sup>37</sup>

The bill also reenacts ss. 893.13(1), (2), (4), and (5), 893.135(1)(l), and 921.0022(3)(b), (c), and (e), F.S., to incorporate changes made by the bill.

**B. SECTION DIRECTORY:**

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

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

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

Section 4: Reenacts s. 921.0022, F.S., relating to Criminal Punishment Code; offense severity ranking chart.

Section 5: Provides an effective date of July 1, 2011.

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

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

1. Revenues:

None.

2. Expenditures:

The Criminal Justice Impact Conference met April 4, 2011 and determined the bill will have an insignificant impact on state prison beds.

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

1. Revenues:

None.

2. Expenditures:

<sup>35</sup> A third degree felony is punishable by up to five years imprisonment and a \$5,000 fine. ss. 775.082 and 775.083, F.S.

<sup>36</sup> Sections 893.13(1)(a)2 and 921.0022, F.S. Section 893.13, F.S. provides for enhanced penalties if the sale occurs within close proximity to certain locations such as a church or school.

<sup>37</sup> Section 893.13(2)(a)2., F.S.

None.

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

This bill would make it illegal to sell bath salts, which are currently sold over the Internet and in tobacco and smoke shops, drug paraphernalia shops, and convenience stores. Therefore, the bill could have a negative fiscal impact on such entities.

**D. FISCAL COMMENTS:**

None.

**III. COMMENTS**

**A. CONSTITUTIONAL ISSUES:**

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

Not applicable because the bill does not appear to: require the counties or municipalities to spend funds or take an action requiring the expenditure of funds; reduce the authority that counties or municipalities have to raise revenues in the aggregate; or reduce the percentage of a state tax shared with counties and municipalities.

**2. Other:**

None.

**B. RULE-MAKING AUTHORITY:**

None.

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

None.

**IV. AMENDMENTS/ COMMITTEE SUBSTITUTE CHANGES**

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1                   A bill to be entitled

2           An act relating to controlled substances; amending s.  
3           893.03, F.S.; including certain hallucinogenic substances  
4           on the list of controlled substances in Schedule I;  
5           reenacting ss. 893.13(1), (2), (4), and (5),  
6           893.135(1)(1), and 921.0022(3)(b), (c), and (e), F.S.,  
7           relating to prohibited acts and penalties regarding  
8           controlled substances and the offense severity chart of  
9           the Criminal Punishment Code, to incorporate the amendment  
10          to s. 893.03, F.S., in references thereto; providing an  
11          effective date.

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

14  
15           Section 1. Paragraph (c) of subsection (1) of section  
16    893.03, Florida Statutes, is amended to read:

17           893.03 Standards and schedules.—The substances enumerated  
18    in this section are controlled by this chapter. The controlled  
19    substances listed or to be listed in Schedules I, II, III, IV,  
20    and V are included by whatever official, common, usual,  
21    chemical, or trade name designated. The provisions of this  
22    section shall not be construed to include within any of the  
23    schedules contained in this section any excluded drugs listed  
24    within the purview of 21 C.F.R. s. 1308.22, styled "Excluded  
25    Substances"; 21 C.F.R. s. 1308.24, styled "Exempt Chemical  
26    Preparations"; 21 C.F.R. s. 1308.32, styled "Exempted  
27    Prescription Products"; or 21 C.F.R. s. 1308.34, styled "Exempt  
28    Anabolic Steroid Products."

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

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

34 (c) Unless specifically excepted or unless listed in  
 35 another schedule, any material, compound, mixture, or  
 36 preparation which contains any quantity of the following  
 37 hallucinogenic substances or which contains any of their salts,  
 38 isomers, and salts of isomers, whenever the existence of such  
 39 salts, isomers, and salts of isomers is possible within the  
 40 specific chemical designation:

- 41 1. Alpha-ethyltryptamine.
- 42 2. 2-Amino-4-methyl-5-phenyl-2-oxazoline (4-  
 43 methylaminorex).
- 44 3. 2-Amino-5-phenyl-2-oxazoline (Aminorex).
- 45 4. 4-Bromo-2,5-dimethoxyamphetamine.
- 46 5. 4-Bromo-2, 5-dimethoxyphenethylamine.
- 47 6. Bufotenine.
- 48 7. Cannabis.
- 49 8. Cathinone.
- 50 9. Diethyltryptamine.
- 51 10. 2,5-Dimethoxyamphetamine.
- 52 11. 2,5-Dimethoxy-4-ethylamphetamine (DOET).
- 53 12. Dimethyltryptamine.
- 54 13. N-Ethyl-1-phenylcyclohexylamine (PCE) (Ethylamine  
 55 analog of phencyclidine).
- 56 14. N-Ethyl-3-piperidyl benzilate.



- 57 | 15. N-ethylamphetamine.
- 58 | 16. Fenethylamine.
- 59 | 17. N-Hydroxy-3,4-methylenedioxyamphetamine.
- 60 | 18. Ibogaine.
- 61 | 19. Lysergic acid diethylamide (LSD).
- 62 | 20. Mescaline.
- 63 | 21. Methcathinone.
- 64 | 22. 5-Methoxy-3,4-methylenedioxyamphetamine.
- 65 | 23. 4-methoxyamphetamine.
- 66 | 24. 4-methoxymethamphetamine.
- 67 | 25. 4-Methyl-2,5-dimethoxyamphetamine.
- 68 | 26. 3,4-Methylenedioxy-N-ethylamphetamine.
- 69 | 27. 3,4-Methylenedioxyamphetamine.
- 70 | 28. N-Methyl-3-piperidyl benzilate.
- 71 | 29. N,N-dimethylamphetamine.
- 72 | 30. Parahexyl.
- 73 | 31. Peyote.
- 74 | 32. N-(1-Phenylcyclohexyl)-pyrrolidine (PCPY) (Pyrrolidine
- 75 | analog of phencyclidine).
- 76 | 33. Psilocybin.
- 77 | 34. Psilocyn.
- 78 | 35. Salvia divinorum, except for any drug product approved
- 79 | by the United States Food and Drug Administration which contains
- 80 | Salvia divinorum or its isomers, esters, ethers, salts, and
- 81 | salts of isomers, esters, and ethers, whenever the existence of
- 82 | such isomers, esters, ethers, and salts is possible within the
- 83 | specific chemical designation.
- 84 | 36. Salvinorin A, except for any drug product approved by

85 the United States Food and Drug Administration which contains  
 86 Salvinorin A or its isomers, esters, ethers, salts, and salts of  
 87 isomers, esters, and ethers, whenever the existence of such  
 88 isomers, esters, ethers, and salts is possible within the  
 89 specific chemical designation.

- 90 37. Tetrahydrocannabinols.
- 91 38. 1-[1-(2-Thienyl)-cyclohexyl]-piperidine (TCP)
- 92 (Thiophene analog of phencyclidine).
- 93 39. 3,4,5-Trimethoxyamphetamine.
- 94 40. 3,4-Methylenedioxymethcathinone (Methylone).
- 95 41. 3,4-Methylenedioxypyrovalerone (MDPV).
- 96 42. 4-Methylmethcathinone (Mephedrone).
- 97 43. 3-Methoxymethcathinone.
- 98 44. 3-Fluoromethcathinone.
- 99 45. 4-Fluoromethcathinone (Flephedrone).

100 Section 2. For the purpose of incorporating the amendment  
 101 made by this act to section 893.03, Florida Statutes, in  
 102 references thereto, subsections (1), (2), (4), and (5) of  
 103 section 893.13, Florida Statutes, are reenacted to read:

- 104 893.13 Prohibited acts; penalties.—
- 105 (1)(a) Except as authorized by this chapter and chapter  
 106 499, it is unlawful for any person to sell, manufacture, or  
 107 deliver, or possess with intent to sell, manufacture, or  
 108 deliver, a controlled substance. Any person who violates this  
 109 provision with respect to:
- 110 1. A controlled substance named or described in s.
  - 111 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,
  - 112 commits a felony of the second degree, punishable as provided in

113 s. 775.082, s. 775.083, or s. 775.084.

114 2. A controlled substance named or described in s.  
 115 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 116 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 117 the third degree, punishable as provided in s. 775.082, s.  
 118 775.083, or s. 775.084.

119 3. A controlled substance named or described in s.  
 120 893.03(5) commits a misdemeanor of the first degree, punishable  
 121 as provided in s. 775.082 or s. 775.083.

122 (b) Except as provided in this chapter, it is unlawful to  
 123 sell or deliver in excess of 10 grams of any substance named or  
 124 described in s. 893.03(1)(a) or (1)(b), or any combination  
 125 thereof, or any mixture containing any such substance. Any  
 126 person who violates this paragraph commits a felony of the first  
 127 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 128 775.084.

129 (c) Except as authorized by this chapter, it is unlawful  
 130 for any person to sell, manufacture, or deliver, or possess with  
 131 intent to sell, manufacture, or deliver, a controlled substance  
 132 in, on, or within 1,000 feet of the real property comprising a  
 133 child care facility as defined in s. 402.302 or a public or  
 134 private elementary, middle, or secondary school between the  
 135 hours of 6 a.m. and 12 midnight, or at any time in, on, or  
 136 within 1,000 feet of real property comprising a state, county,  
 137 or municipal park, a community center, or a publicly owned  
 138 recreational facility. For the purposes of this paragraph, the  
 139 term "community center" means a facility operated by a nonprofit  
 140 community-based organization for the provision of recreational,

141 social, or educational services to the public. Any person who  
 142 violates this paragraph with respect to:

143 1. A controlled substance named or described in s.  
 144 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 145 commits a felony of the first degree, punishable as provided in  
 146 s. 775.082, s. 775.083, or s. 775.084. The defendant must be  
 147 sentenced to a minimum term of imprisonment of 3 calendar years  
 148 unless the offense was committed within 1,000 feet of the real  
 149 property comprising a child care facility as defined in s.  
 150 402.302.

151 2. A controlled substance named or described in s.  
 152 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 153 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 154 the second degree, punishable as provided in s. 775.082, s.  
 155 775.083, or s. 775.084.

156 3. Any other controlled substance, except as lawfully  
 157 sold, manufactured, or delivered, must be sentenced to pay a  
 158 \$500 fine and to serve 100 hours of public service in addition  
 159 to any other penalty prescribed by law.

160  
 161 This paragraph does not apply to a child care facility unless  
 162 the owner or operator of the facility posts a sign that is not  
 163 less than 2 square feet in size with a word legend identifying  
 164 the facility as a licensed child care facility and that is  
 165 posted on the property of the child care facility in a  
 166 conspicuous place where the sign is reasonably visible to the  
 167 public.

168 (d) Except as authorized by this chapter, it is unlawful

169 | for any person to sell, manufacture, or deliver, or possess with  
 170 | intent to sell, manufacture, or deliver, a controlled substance  
 171 | in, on, or within 1,000 feet of the real property comprising a  
 172 | public or private college, university, or other postsecondary  
 173 | educational institution. Any person who violates this paragraph  
 174 | with respect to:

175 |       1. A controlled substance named or described in s.  
 176 | 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 177 | commits a felony of the first degree, punishable as provided in  
 178 | s. 775.082, s. 775.083, or s. 775.084.

179 |       2. A controlled substance named or described in s.  
 180 | 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 181 | (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 182 | the second degree, punishable as provided in s. 775.082, s.  
 183 | 775.083, or s. 775.084.

184 |       3. Any other controlled substance, except as lawfully  
 185 | sold, manufactured, or delivered, must be sentenced to pay a  
 186 | \$500 fine and to serve 100 hours of public service in addition  
 187 | to any other penalty prescribed by law.

188 |       (e) Except as authorized by this chapter, it is unlawful  
 189 | for any person to sell, manufacture, or deliver, or possess with  
 190 | intent to sell, manufacture, or deliver, a controlled substance  
 191 | not authorized by law in, on, or within 1,000 feet of a physical  
 192 | place for worship at which a church or religious organization  
 193 | regularly conducts religious services or within 1,000 feet of a  
 194 | convenience business as defined in s. 812.171. Any person who  
 195 | violates this paragraph with respect to:

196 |       1. A controlled substance named or described in s.

197 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 198 commits a felony of the first degree, punishable as provided in  
 199 s. 775.082, s. 775.083, or s. 775.084.

200 2. A controlled substance named or described in s.  
 201 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 202 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 203 the second degree, punishable as provided in s. 775.082, s.  
 204 775.083, or s. 775.084.

205 3. Any other controlled substance, except as lawfully  
 206 sold, manufactured, or delivered, must be sentenced to pay a  
 207 \$500 fine and to serve 100 hours of public service in addition  
 208 to any other penalty prescribed by law.

209 (f) Except as authorized by this chapter, it is unlawful  
 210 for any person to sell, manufacture, or deliver, or possess with  
 211 intent to sell, manufacture, or deliver, a controlled substance  
 212 in, on, or within 1,000 feet of the real property comprising a  
 213 public housing facility at any time. For purposes of this  
 214 section, the term "real property comprising a public housing  
 215 facility" means real property, as defined in s. 421.03(12), of a  
 216 public corporation created as a housing authority pursuant to  
 217 part I of chapter 421. Any person who violates this paragraph  
 218 with respect to:

219 1. A controlled substance named or described in s.  
 220 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 221 commits a felony of the first degree, punishable as provided in  
 222 s. 775.082, s. 775.083, or s. 775.084.

223 2. A controlled substance named or described in s.  
 224 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,

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225 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 226 the second degree, punishable as provided in s. 775.082, s.  
 227 775.083, or s. 775.084.

228 3. Any other controlled substance, except as lawfully  
 229 sold, manufactured, or delivered, must be sentenced to pay a  
 230 \$500 fine and to serve 100 hours of public service in addition  
 231 to any other penalty prescribed by law.

232 (g) Except as authorized by this chapter, it is unlawful  
 233 for any person to manufacture methamphetamine or phencyclidine,  
 234 or possess any listed chemical as defined in s. 893.033 in  
 235 violation of s. 893.149 and with intent to manufacture  
 236 methamphetamine or phencyclidine. If any person violates this  
 237 paragraph and:

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

244 2. The commission of the crime causes any child under 16  
 245 years of age to suffer great bodily harm, the person commits a  
 246 felony of the first degree, punishable as provided in s.  
 247 775.082, s. 775.083, or s. 775.084. In addition, the defendant  
 248 must be sentenced to a minimum term of imprisonment of 10  
 249 calendar years.

250 (h) Except as authorized by this chapter, it is unlawful  
 251 for any person to sell, manufacture, or deliver, or possess with  
 252 intent to sell, manufacture, or deliver, a controlled substance

253 in, on, or within 1,000 feet of the real property comprising an  
 254 assisted living facility, as that term is used in chapter 429.  
 255 Any person who violates this paragraph with respect to:

256 1. A controlled substance named or described in s.  
 257 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.  
 258 commits a felony of the first degree, punishable as provided in  
 259 s. 775.082, s. 775.083, or s. 775.084.

260 2. A controlled substance named or described in s.  
 261 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 262 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 263 the second degree, punishable as provided in s. 775.082, s.  
 264 775.083, or s. 775.084.

265 (2)(a) Except as authorized by this chapter and chapter  
 266 499, it is unlawful for any person to purchase, or possess with  
 267 intent to purchase, a controlled substance. Any person who  
 268 violates this provision with respect to:

269 1. A controlled substance named or described in s.  
 270 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 271 commits a felony of the second degree, punishable as provided in  
 272 s. 775.082, s. 775.083, or s. 775.084.

273 2. A controlled substance named or described in s.  
 274 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 275 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 276 the third degree, punishable as provided in s. 775.082, s.  
 277 775.083, or s. 775.084.

278 3. A controlled substance named or described in s.  
 279 893.03(5) commits a misdemeanor of the first degree, punishable  
 280 as provided in s. 775.082 or s. 775.083.



281 (b) Except as provided in this chapter, it is unlawful to  
 282 purchase in excess of 10 grams of any substance named or  
 283 described in s. 893.03(1)(a) or (1)(b), or any combination  
 284 thereof, or any mixture containing any such substance. Any  
 285 person who violates this paragraph commits a felony of the first  
 286 degree, punishable as provided in s. 775.082, s. 775.083, or s.  
 287 775.084.

288 (4) Except as authorized by this chapter, it is unlawful  
 289 for any person 18 years of age or older to deliver any  
 290 controlled substance to a person under the age of 18 years, or  
 291 to use or hire a person under the age of 18 years as an agent or  
 292 employee in the sale or delivery of such a substance, or to use  
 293 such person to assist in avoiding detection or apprehension for  
 294 a violation of this chapter. Any person who violates this  
 295 provision with respect to:

296 (a) A controlled substance named or described in s.  
 297 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 298 commits a felony of the first degree, punishable as provided in  
 299 s. 775.082, s. 775.083, or s. 775.084.

300 (b) A controlled substance named or described in s.  
 301 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 302 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 303 the second degree, punishable as provided in s. 775.082, s.  
 304 775.083, or s. 775.084.

305  
 306 Imposition of sentence may not be suspended or deferred, nor  
 307 shall the person so convicted be placed on probation.

308 (5) It is unlawful for any person to bring into this state

309 any controlled substance unless the possession of such  
 310 controlled substance is authorized by this chapter or unless  
 311 such person is licensed to do so by the appropriate federal  
 312 agency. Any person who violates this provision with respect to:

313 (a) A controlled substance named or described in s.  
 314 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.,  
 315 commits a felony of the second degree, punishable as provided in  
 316 s. 775.082, s. 775.083, or s. 775.084.

317 (b) A controlled substance named or described in s.  
 318 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6.,  
 319 (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) commits a felony of  
 320 the third degree, punishable as provided in s. 775.082, s.  
 321 775.083, or s. 775.084.

322 (c) A controlled substance named or described in s.  
 323 893.03(5) commits a misdemeanor of the first degree, punishable  
 324 as provided in s. 775.082 or s. 775.083.

325 Section 3. For the purpose of incorporating the amendment  
 326 made by this act to section 893.03, Florida Statutes, in  
 327 references thereto, paragraph (1) of subsection (1) of section  
 328 893.135, Florida Statutes, is reenacted to read:

329 893.135 Trafficking; mandatory sentences; suspension or  
 330 reduction of sentences; conspiracy to engage in trafficking.-

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

333 (1)1. Any person who knowingly sells, purchases,  
 334 manufactures, delivers, or brings into this state, or who is  
 335 knowingly in actual or constructive possession of, 1 gram or  
 336 more of lysergic acid diethylamide (LSD) as described in s.

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337 893.03(1)(c), or of any mixture containing lysergic acid  
 338 diethylamide (LSD), commits a felony of the first degree, which  
 339 felony shall be known as "trafficking in lysergic acid  
 340 diethylamide (LSD)," punishable as provided in s. 775.082, s.  
 341 775.083, or s. 775.084. If the quantity involved:

342 a. Is 1 gram or more, but less than 5 grams, such person  
 343 shall be sentenced to a mandatory minimum term of imprisonment  
 344 of 3 years, and the defendant shall be ordered to pay a fine of  
 345 \$50,000.

346 b. Is 5 grams or more, but less than 7 grams, such person  
 347 shall be sentenced to a mandatory minimum term of imprisonment  
 348 of 7 years, and the defendant shall be ordered to pay a fine of  
 349 \$100,000.

350 c. Is 7 grams or more, such person shall be sentenced to a  
 351 mandatory minimum term of imprisonment of 15 calendar years and  
 352 pay a fine of \$500,000.

353 2. Any person who knowingly manufactures or brings into  
 354 this state 7 grams or more of lysergic acid diethylamide (LSD)  
 355 as described in s. 893.03(1)(c), or any mixture containing  
 356 lysergic acid diethylamide (LSD), and who knows that the  
 357 probable result of such manufacture or importation would be the  
 358 death of any person commits capital manufacture or importation  
 359 of lysergic acid diethylamide (LSD), a capital felony punishable  
 360 as provided in ss. 775.082 and 921.142. Any person sentenced for  
 361 a capital felony under this paragraph shall also be sentenced to  
 362 pay the maximum fine provided under subparagraph 1.

363 Section 4. For the purpose of incorporating the amendment  
 364 made by this act to section 893.03, Florida Statutes, in

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365 references thereto, paragraphs (b), (c), and (e) of subsection  
 366 (3) of section 921.0022, Florida Statutes, are reenacted to  
 367 read:

368 921.0022 Criminal Punishment Code; offense severity  
 369 ranking chart.—

370 (3) OFFENSE SEVERITY RANKING CHART

371 (b) LEVEL 2

372

Florida	Felony	Description
Statute	Degree	
379.2431 (1)(e)3.	3rd	Possession of 11 or fewer marine turtle eggs in violation of the Marine Turtle Protection Act.
379.2431 (1)(e)4.	3rd	Possession of more than 11 marine turtle eggs in violation of the Marine Turtle Protection Act.
403.413(5)(c)	3rd	Dumps waste litter exceeding 500 lbs. in weight or 100 cubic feet in volume or any quantity for commercial purposes, or hazardous waste.
517.07	3rd	Registration of securities and furnishing of prospectus required.

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378	590.28(1)	3rd	Intentional burning of lands.
379	784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
380	787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
381	806.13(1)(b)3.	3rd	Criminal mischief; damage \$1,000 or more to public communication or any other public service.
382	810.061(2)	3rd	Impairing or impeding telephone or power to a dwelling; facilitating or furthering burglary.
383	810.09(2)(e)	3rd	Trespassing on posted commercial horticulture property.
384	812.014(2)(c)1.	3rd	Grand theft, 3rd degree; \$300 or more but less than \$5,000.
385	812.014(2)(d)	3rd	Grand theft, 3rd degree; \$100 or more but less than \$300, taken from unenclosed curtilage of dwelling.

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386	812.015(7)	3rd	Possession, use, or attempted use of an antishoplifting or inventory control device countermeasure.
387	817.234(1)(a)2.	3rd	False statement in support of insurance claim.
388	817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over \$300.
389	817.52(3)	3rd	Failure to redeliver hired vehicle.
390	817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
391	817.60(5)	3rd	Dealing in credit cards of another.
392	817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
393	817.61	3rd	Fraudulent use of credit cards over \$100 or more within 6 months.
394	826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.

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395	831.01	3rd	Forgery.
396	831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
397	831.07	3rd	Forging bank bills, checks, drafts, or promissory notes.
398	831.08	3rd	Possessing 10 or more forged notes, bills, checks, or drafts.
399	831.09	3rd	Uttering forged notes, bills, checks, drafts, or promissory notes.
400	831.11	3rd	Bringing into the state forged bank bills, checks, drafts, or notes.
401	832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
402	843.08	3rd	Falsely impersonating an officer.
403	893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs other than cannabis.

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404	893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
405	(c)	LEVEL 3	
406			
407	Florida Statute	Felony Degree	Description
408	119.10(2)(b)	3rd	Unlawful use of confidential information from police reports.
409	316.066 (4)(b)-(d)	3rd	Unlawfully obtaining or using confidential crash reports.
410	316.193(2)(b)	3rd	Felony DUI, 3rd conviction.
411	316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer in patrol vehicle with siren and lights activated.
412	319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
413	319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.



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414	319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
415	319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
416	327.35(2)(b)	3rd	Felony BUI.
417	328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
418	328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
419	376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
420	379.2431 (1)(e)5.	3rd	Taking, disturbing, mutilating, destroying, causing to be destroyed, transferring, selling, offering to sell, molesting, or harassing marine turtles, marine turtle eggs, or marine turtle nests in violation of the Marine Turtle Protection Act.

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421	379.2431 (1) (e) 6.	3rd	Soliciting to commit or conspiring to commit a violation of the Marine Turtle Protection Act.
422	400.9935 (4)	3rd	Operating a clinic without a license or filing false license application or other required information.
423	440.1051 (3)	3rd	False report of workers' compensation fraud or retaliation for making such a report.
424	501.001 (2) (b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
425	624.401 (4) (a)	3rd	Transacting insurance without a certificate of authority.
426	624.401 (4) (b) 1.	3rd	Transacting insurance without a certificate of authority; premium collected less than \$20,000.
427	626.902 (1) (a) & (b)	3rd	Representing an unauthorized insurer.
428	697.08	3rd	Equity skimming.

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429	790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
430	796.05(1)	3rd	Live on earnings of a prostitute.
431	806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
432	806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
433	810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
434	812.014(2)(c)2.	3rd	Grand theft; \$5,000 or more but less than \$10,000.
435	812.0145(2)(c)	3rd	Theft from person 65 years of age or older; \$300 or more but less than \$10,000.
436	815.04(4)(b)	2nd	Computer offense devised to defraud or obtain property.
	817.034(4)(a)3.	3rd	Engages in scheme to defraud (Florida

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			Communications Fraud Act), property valued at less than \$20,000.
437			
	817.233	3rd	Burning to defraud insurer.
438			
	817.234	3rd	Unlawful solicitation of persons involved in motor vehicle accidents.
	(8) (b) - (c)		
439			
	817.234(11) (a)	3rd	Insurance fraud; property value less than \$20,000.
440			
	817.236	3rd	Filing a false motor vehicle insurance application.
441			
	817.2361	3rd	Creating, marketing, or presenting a false or fraudulent motor vehicle insurance card.
442			
	817.413(2)	3rd	Sale of used goods as new.
443			
	817.505(4)	3rd	Patient brokering.
444			
	828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
445			
	831.28(2) (a)	3rd	Counterfeiting a payment instrument with

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			intent to defraud or possessing a counterfeit payment instrument.
446	831.29	2nd	Possession of instruments for counterfeiting drivers' licenses or identification cards.
447	838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
448	843.19	3rd	Injure, disable, or kill police dog or horse.
449	860.15(3)	3rd	Overcharging for repairs and parts.
450	870.01(2)	3rd	Riot; inciting or encouraging.
451	893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs).
452	893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs

453 within 1,000 feet of university.

893.13(1)(f)2. 2nd Sell, manufacture, or deliver s.  
 893.03(1)(c), (2)(c)1., (2)(c)2.,  
 (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,  
 (2)(c)8., (2)(c)9., (3), or (4) drugs  
 within 1,000 feet of public housing  
 facility.

454 893.13(6)(a) 3rd Possession of any controlled substance  
 other than felony possession of  
 cannabis.

455 893.13(7)(a)8. 3rd Withhold information from practitioner  
 regarding previous receipt of or  
 prescription for a controlled substance.

456 893.13(7)(a)9. 3rd Obtain or attempt to obtain controlled  
 substance by fraud, forgery,  
 misrepresentation, etc.

457 893.13(7)(a)10. 3rd Affix false or forged label to package  
 of controlled substance.

458 893.13(7)(a)11. 3rd Furnish false or fraudulent material  
 information on any document or record  
 required by chapter 893.

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- 460 893.13(8)(a)1. 3rd Knowingly assist a patient, other person, or owner of an animal in obtaining a controlled substance through deceptive, untrue, or fraudulent representations in or related to the practitioner's practice.
- 461 893.13(8)(a)2. 3rd Employ a trick or scheme in the practitioner's practice to assist a patient, other person, or owner of an animal in obtaining a controlled substance.
- 462 893.13(8)(a)3. 3rd Knowingly write a prescription for a controlled substance for a fictitious person.
- 463 893.13(8)(a)4. 3rd Write a prescription for a controlled substance for a patient, other person, or an animal if the sole purpose of writing the prescription is a monetary benefit for the practitioner.
- 464 918.13(1)(a) 3rd Alter, destroy, or conceal investigation evidence.
- 944.47 3rd Introduce contraband to correctional

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465	(1) (a) 1.-2.		facility.
466	944.47 (1) (c)	2nd	Possess contraband while upon the grounds of a correctional institution.
467	985.721	3rd	Escapes from a juvenile facility (secure detention or residential commitment facility).
468	(e) LEVEL 5		
469	Florida	Felony	
470	Statute	Degree	Description
471	316.027 (1) (a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
472	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
473	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
474	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing



			HIV positive.
475	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
476	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
477	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums.
478	624.401 (4) (b) 2.	2nd	Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
479	626.902 (1) (c)	2nd	Representing an unauthorized insurer; repeat offender.
480	790.01 (2)	3rd	Carrying a concealed firearm.
481	790.162	2nd	Threat to throw or discharge destructive device.
482	790.163 (1)	2nd	False report of deadly explosive or

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			weapon of mass destruction.
483	790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
484	790.23	2nd	Felons in possession of firearms, ammunition, or electronic weapons or devices.
485	800.04(6)(c)	3rd	Lewd or lascivious conduct; offender less than 18 years.
486	800.04(7)(b)	2nd	Lewd or lascivious exhibition; offender 18 years or older.
487	806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
488	812.0145(2)(b)	2nd	Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.
489	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
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491	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
492	812.131(2)(b)	3rd	Robbery by sudden snatching.
493	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
494	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
495	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
496	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
497	817.568(2)(b)	2nd	Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals.

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498	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
499	825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
500	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
501	827.071(5)	3rd	Possess any photographic material, motion picture, etc., which includes sexual conduct by a child.
502	839.13(2)(b)	2nd	Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death.
503	843.01	3rd	Resist officer with violence to person; resist arrest with violence.
504	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.
	847.0137	3rd	Transmission of pornography by

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505	(2) & (3)		electronic device or equipment.
506	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.
507	874.05 (2)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.
508	893.13 (1) (a) 1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1) (a), (1) (b), (1) (d), (2) (a), (2) (b), or (2) (c) 4. drugs).
509	893.13 (1) (c) 2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1) (c), (2) (c) 1., (2) (c) 2., (2) (c) 3., (2) (c) 5., (2) (c) 6., (2) (c) 7., (2) (c) 8., (2) (c) 9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center.
	893.13 (1) (d) 1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1) (a), (1) (b),

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510 (1) (d), (2) (a), (2) (b), or (2) (c) 4.  
drugs) within 1,000 feet of university.

893.13(1)(e)2. 2nd Sell, manufacture, or deliver cannabis  
or other drug prohibited under s.  
893.03(1)(c), (2)(c)1., (2)(c)2.,  
(2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,  
(2)(c)8., (2)(c)9., (3), or (4) within  
1,000 feet of property used for  
religious services or a specified  
business site.

511 893.13(1)(f)1. 1st Sell, manufacture, or deliver cocaine  
(or other s. 893.03(1)(a), (1)(b),  
(1)(d), or (2)(a), (2)(b), or (2)(c)4.  
drugs) within 1,000 feet of public  
housing facility.

512 893.13(4)(b) 2nd Deliver to minor cannabis (or other s.  
893.03(1)(c), (2)(c)1., (2)(c)2.,  
(2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7.,  
(2)(c)8., (2)(c)9., (3), or (4) drugs).

513 893.1351(1) 3rd Ownership, lease, or rental for  
trafficking in or manufacturing of  
controlled substance.

514  
515 Section 5. This act shall take effect July 1, 2011.

Amendment No. 1

COMMITTEE/SUBCOMMITTEE ACTION

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

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1 Committee/Subcommittee hearing bill: Justice Appropriations  
2 Subcommittee

3 Representative Patronis offered the following:

4  
5  
6  
7  
8  
9  
10  
11  
12  
13

**Amendment**

Remove lines 94-99 and insert:

40. 3,4-Methylenedioxymethcathinone.

41. 3,4-Methylenedioxypropylvalerone (MDPV).

42. Methylmethcathinone.

43. Methoxymethcathinone.

44. Fluoromethcathinone.

45. Methylethcathinone.