Journal of the Senate

Number 22—Regular Session **Thursday, May 1, 1997**

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CALL TO ORDER

The Senate was called to order by the President at 9:00 a.m. A quorum present—40:

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Excused: Senators Kirkpatrick and Sullivan, periodically for the purpose of conference committee meetings.

PRAYER

The following prayer was offered by Chaplain Dan Pabon, Florida Hospital Medical Center, Orlando:

Father in Heaven, once more we come to you as we celebrate another National Day of Prayer, to ask for guidance and wisdom from above. Many see elected officials as finger pointers and blame finders instead of problem solvers. Therefore, we pray that this session will be one that restores faith in our government and its elected officials. From every corner of this "The Sunshine State", the men and women in this chamber representing their constituents back home gather to discuss important issues. You've blessed the State of Florida with natural beauty, with variety, with noble people; and for that we thank you.

May your presence be felt here today. We pray that this session will renew a pride in where we live, who we are and what we are about. When this day draws to a close, may every person here today be able to look back with pride and satisfaction that the job today was done well, but more important, that it has your stamp of approval.

In thy name we pray. Amen.

PLEDGE

Senate Pages, Tracey Minton of Boca Raton and Michael Belitzky of Tallahassee, led the Senate in the pledge of allegiance to the flag of the United States of America.

ADOPTION OF RESOLUTIONS

At the request of Senator Harris—

By Senator Harris—

SR 2500—A resolution relating to the United Nations Convention on the Elimination of All Forms of Discrimination Against Women.

WHEREAS, the Convention on the Elimination of All Forms of Discrimination Against Women was adopted by the United Nations General Assembly on December 18, 1979, and became an international treaty on September 3, 1981, and by 1996, 151 nations, including all of the industrialized world, except the United States, have agreed to be bound by the Convention's provisions, and

WHEREAS, the United States supports and has a position of leadership in the United Nations, and was an active participant in and a signatory to the Convention, and

WHEREAS, the spirit of the Convention is rooted in the goals of the United Nations and the United States—to affirm faith in fundamental human rights, in the dignity and worth of the human person, and in the equal rights of men and women, and

WHEREAS, the Convention provides a comprehensive framework for challenging the various forces that have created and sustained discrimination based on sex against half the world's population, and the nations in support of the present Convention have agreed to follow Convention prescriptions, and

WHEREAS, although women have made major gains in the struggle for equality in social, business, political, legal, educational, and other fields in this century, there is much yet to be accomplished, and through its support, leadership, and prestige, the United States can help create a world where women are no longer discriminated against and have achieved one of the most fundamental of human rights, equality, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Florida Senate strongly supports the United Nations Convention on the Elimination of All Forms of Discrimination Against Women and hereby pledges its support in the future for the achievement of the Convention's continuing goals.

—**SR 2500** was introduced, read and adopted by publication.

At the request of Senator Harris—

By Senator Harris—

SR 2532—A resolution acknowledging May 1, 1997, as National Day of Prayer in Florida.

WHEREAS, the Congress of the United States has proclaimed the first Thursday of each May as "National Day of Prayer," and

WHEREAS, May 1, 1997, is the first Thursday in May of 1997, and

WHEREAS, it is fitting and appropriate that the Florida Senate acknowledge May 1, 1997, as National Day of Prayer in Florida, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the Senate joyfully acknowledges May 1, 1997, as National Day of Prayer in Florida and joins Floridians of all faiths in celebrating this occasion. Let us express our faith with gladness, knowing that we are protected in our ability to worship devoutly. Let us be thankful and enjoy and exercise our religious beliefs, secure in the knowledge that we shall always be free to do so in this great country.

—**SR 2532** was introduced, read and adopted by publication.

At the request of Senator Jones—

By Senator Jones—

SR 2540—A resolution honoring the 75th Anniversary of the Reserve Officers Association of the United States and the men and women of Florida who are members.

WHEREAS, on October 2, 1922, the Reserve Officers Association of the United States (ROA) was organized in Washington, D.C., at the urging of General John J. Pershing, with the purpose of supporting and promoting an adequate national security, and

WHEREAS, on June 30, 1950, this objective was reaffirmed in a Charter granted to the ROA by the United States Congress, and

WHEREAS, since 1922, ROA has served as a catalyst among the Armed Forces, Reservists, and Congress to ensure that our nation's defense remains strong and visible through coordinated efforts on both the local and national levels, and

WHEREAS, both the Reserve Officers Association, Department of Florida, and the Reserve Officers Association, Ladies Department of Florida, were granted separate charters by ROA in recognition of their outstanding support and promotion of the foregoing objectives in Florida and in our country, NOW, THEREFORE,

Be It Resolved by the Senate of the State of Florida:

That the men and women who are members of the Reserve Officers Association are commended for the accomplishments of this outstanding organization and for their 75 years of dedication to the development, support and promotion of a strong and adequate national defense of the United States of America.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to the Reserve Officers Association, Department of Florida and Ladies Department of Florida, as a tangible token of the sentiments of the Florida Senate.

—**SR 2540** was introduced, read and adopted by publication.

MOTIONS RELATING TO COMMITTEE REFERENCE

On motion by Senator Turner, by two-thirds vote **SB 320**, **SB 734**, **SB 736**, **SB 738**, **SB 1354**, **SB 1460**, **SB 1554**, **SB 1560**, **SB 1724**, **SB 2238** and **SB 2302** were withdrawn from the committees of reference and further consideration.

On motion by Senator Bankhead, by two-thirds vote **HB 1835** was withdrawn from the Committees on Natural Resources; and Ways and Means; and by two-thirds vote placed on the Special Order Calendar; **HB 1837** was withdrawn from the Committees on Health Care; Children, Families and Seniors; and Ways and Means; and by two-thirds vote placed on the Special Order Calendar; and **HB 1839** was withdrawn from the Committees on Education; and Ways and Means; and by two-thirds vote placed on the Special Order Calendar.

MOTIONS

On motion by Senator Jones, **HB 255** was returned to the House as requested.

On motion by Senator Bankhead, a deadline of 7:00 a.m. Friday, May 2, was set for filing amendments to Bills on Third Reading to be considered that day.

On motion by Senator Bankhead, by two-thirds vote **CS for SB 2186** was placed on the Consent Calendar for Friday, May 2, to be considered in lieu of **SB 1914**.

CONSENT CALENDAR

MOTION

On motion by Senator Bankhead, by two-thirds vote **CS for SB 112** was placed on the Consent Calendar.

On motion by Senator Meadows, by two-thirds vote **HB 157** was withdrawn from the Committees on Community Affairs; and Ways and Means.

On motion by Senator Meadows—

HB 157—A bill to be entitled An act relating to ad valorem taxes; amending s. 196.081, F.S.; providing an exemption from taxation for the homestead of the surviving spouse of a veteran who was killed while on active duty; providing an effective date.

—a companion measure, was substituted for **SB 14** and read the second time by title. On motion by Senator Meadows, by two-thirds vote **HB 157** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Holzendorf	Ostalkiewicz
Bankhead	Dantzler	Horne	Rossin
Bronson	Diaz-Balart	Jenne	Silver
Brown-Waite	Dudley	Jones	Sullivan
Burt	Dyer	Klein	Thomas
Campbell	Forman	Kurth	Turner
Casas	Grant	Latvala	Williams
Childers	Gutman	McKay	
Clary	Hargrett	Meadows	
Cowin	Harris	Myers	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Lee

On motion by Senator Klein—

SB 162—A bill to be entitled An act relating to controlled substances; amending s. 893.13, F.S.; prohibiting the sale, manufacture, or delivery of controlled substances, or possession of controlled substances with intent to sell, manufacture, or deliver, within 1,000 feet of the real property comprising a child care facility; providing penalties; amending s. 921.0012, F.S.; providing for classification of such offenses within the offense severity ranking chart; providing an effective date.

—was read the second time by title.

Senator Klein moved the following amendments which were adopted:

Amendment 1 (with title amendment)—On page 1, line 16 through page 2, line 10, delete those lines and insert:

Section 1. Paragraphs (b) and (c) of subsection (1), paragraph (a) of subsection (2), paragraph (c) of subsection (6), and subsections (8), (9), and (10) of section 893.13, Florida Statutes, 1996 Supplement, are amended to read:

893.13 Prohibited acts; penalties.—

(1)

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

(c) Except as authorized by this chapter, it is unlawful for any person to sell, manufacture, or deliver, or possess with intent to sell, manufacture, or deliver a controlled substance in, on, or within 1,000 feet of the real property comprising a *child care facility as defined in s. 402.302 or a* public or private elementary, middle, or secondary school between the hours of 6 a.m. and 12 a.m. Any person who violates this paragraph with respect to:

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

2. A controlled substance named or described in s. 893.03(1)(c), (2)(c), (3), or (4) commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

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

(2)

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

(6)

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

And the title is amended as follows:

On page 1, line 2, after the semicolon (;) insert: prohibiting the sale, delivery, purchase, or possession of certain mixtures containing controlled substances;

Amendment 2 (with title amendment)—On page 2, between lines 10 and 11, insert:

Paragraph (c) as it relates to a child care facility does not apply unless the owner or operator of the facility posts a sign of not less than two square feet in size with a word legend that identifies the facility as a licensed child care facility and that is posted on the property of the child care facility in a conspicuous place where the sign is reasonably visible to the public.

And the title is amended as follows:

On page 1, line 9, after the the first semicolon (;) insert: providing that the penalties do not apply unless a sign is posted that identifies the facility as a child care facility;

On motion by Senator Klein, by two-thirds vote **SB 162** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Madam President	Brown-Waite	Casas	Cowin
Bankhead	Burt	Childers	Crist
Bronson	Campbell	Clary	Dantzler
Diaz-Balart	Harris	Kurth	Rossin
Dudley	Holzendorf	Latvala	Silver
Dyer	Horne	McKay	Sullivan
Forman	Jenne	Meadows	Thomas
Gutman	Jones	Myers	Turner
Hargrett	Klein	Ostalkiewicz	Williams

Nays—None

Vote after roll call:

Yea—Grant, Kirkpatrick, Lee

On motion by Senator Brown-Waite—

SB 172—A bill to be entitled An act relating to juries; amending s. 40.24, F.S., relating to compensation for juror service; authorizing donation of juror compensation to a program specified by a certified guardian ad litem program or to a domestic violence shelter; providing duties of the clerk of court and guidelines with respect to receipt or expenditures of such donated moneys; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **SB 172** to **CS for HB 377**.

Pending further consideration of **SB 172** as amended, on motion by Senator Brown-Waite, by two-thirds vote **CS for HB 377** was withdrawn from the Committee on Judiciary.

On motion by Senator Brown-Waite—

CS for HB 377—A bill to be entitled An act relating to juries; amending s. 40.013, F.S.; providing for permanent excusal of certain persons from jury service; amending s. 40.24, F.S., relating to compensation for juror service; authorizing donation of juror compensation to a program specified by a certified guardian ad litem program or to a domestic violence shelter; providing duties of the clerk of court and guidelines with respect to receipt or expenditures of such donated moneys; providing an effective date.

—a companion measure, was substituted for **SB 172** as amended and read the second time by title. On motion by Senator Brown-Waite, by two-thirds vote **CS for HB 377** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Madam President	Cowin	Hargrett	McKay
Bankhead	Crist	Harris	Meadows
Bronson	Dantzler	Holzendorf	Myers
Brown-Waite	Diaz-Balart	Horne	Ostalkiewicz
Burt	Dudley	Jenne	Rossin
Campbell	Dyer	Jones	Silver
Casas	Forman	Klein	Sullivan
Childers	Grant	Kurth	Thomas
Clary	Gutman	Latvala	Williams

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Lee

On motion by Senator McKay—

SB 190—A bill to be entitled An act relating to public nuisances; amending s. 893.138, F.S.; providing that counties and municipalities may impose additional penalties by ordinance on the owner of a place declared to be a public nuisance; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **SB 190** to **CS for CS for HB 381**.

Pending further consideration of **SB 190** as amended, on motion by Senator McKay, by two-thirds vote **CS for CS for HB 381** was with-

drawn from the Committees on Community Affairs and Criminal Justice.

On motion by Senator McKay—

CS for CS for HB 381—A bill to be entitled An act relating to public nuisances; amending s. 893.138, F.S.; providing legislative intent; providing that counties and municipalities may impose additional penalties by ordinance on the owner of a place declared to be a public nuisance; providing an effective date.

—a companion measure, was substituted for **SB 190** as amended and read the second time by title. On motion by Senator McKay, by two-thirds vote **CS for CS for HB 381** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Holzendorf	Ostalkiewicz
Bankhead	Dantzler	Horne	Rossin
Bronson	Diaz-Balart	Jenne	Silver
Brown-Waite	Dudley	Jones	Sullivan
Burt	Dyer	Klein	Thomas
Campbell	Forman	Kurth	Turner
Casas	Grant	Latvala	Williams
Childers	Gutman	McKay	
Clary	Hargrett	Meadows	
Cowin	Harris	Myers	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Lee

On motion by Senator Burt, by two-thirds vote **CS for HB 417** was withdrawn from the Committees on Criminal Justice; and Ways and Means.

On motion by Senator Burt—

CS for HB 417—A bill to be entitled An act relating to sentencing; amending s. 921.0016, F.S.; providing that addiction, alcoholism, or substance abuse, or diminished capacity due to the influence of alcohol or controlled substances, shall not be the basis for mitigating a recommended guidelines sentence; reenacting s. 921.001(6), F.S., relating to Sentencing Commission and sentencing guidelines, generally, to incorporate a reference to said amendment; providing an effective date.

—a companion measure, was substituted for **SB 204** and read the second time by title.

Senator Gutman moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, line 15, insert:

Section 1. Paragraph (j) of subsection (4) of section 775.084, Florida Statutes, 1996 Supplement, is amended to read:

775.084 Violent career criminals; habitual felony offenders and habitual violent felony offenders; definitions; procedure; enhanced penalties.—

(4)

(j)1. A defendant sentenced under this section as a habitual felony offender, a habitual violent felony offender, or a violent career criminal is eligible for gain-time granted by the Department of Corrections as provided in *s. 944.275(4)(b)* ~~s. 944.275(4)~~.

2. For an offense committed on or after October 1, 1995, a defendant sentenced under this section as a violent career criminal is not eligible for any form of discretionary early release, other than pardon or executive clemency, or conditional medical release granted pursuant to s. 947.149.

Section 2. Section 921.0017, Florida Statutes, is amended to read:

921.0017 Credit upon recommitment of offender serving split sentence.—Effective for offenses committed on or after January 1, 1994, if an offender's probation or community control is revoked and the offender is serving a split sentence pursuant to s. 948.01, upon recommitment to the Department of Corrections, the court shall order credit for time served *in state prison or county jail* only, without considering any type of gain-time earned before release to supervision, or any type of sentence reduction granted to avoid prison overcrowding, including, but not limited to, any sentence reduction resulting from administrative gain-time, provisional credits, or control release. The court shall determine the amount of jail-time credit to be awarded for time served between the date of arrest as a violator and the date of recommitment, and shall direct the Department of Corrections to compute and apply credit for all other time served previously on the prior sentence for the offense for which the offender is being recommitted. This section does not affect or limit the department's authority to forfeit gain-time under ss. 944.28(1) and 948.06(6).

Section 3. Section 944.279, Florida Statutes, 1996 Supplement, is amended to read:

944.279 *Disciplinary procedures applicable to prisoner* ~~Loss of gain-time~~ for filing frivolous or malicious actions *or bringing false information before court*.—

(1) At any time, and upon its own motion or on motion of a party, a court may conduct an inquiry into whether any action or appeal brought by a prisoner was brought in good faith. A prisoner who is found by a court to have brought a frivolous or malicious suit, action, claim, proceeding, or appeal in any court of this state or in any federal court, which is filed after June 30, 1996, or who knowingly or with reckless disregard for the truth brought false information or evidence before the court, is subject to *disciplinary procedures pursuant to the rules of the Department of Corrections* ~~forfeiture of gain-time and the right to earn gain-time~~. The court shall issue a written finding and direct that a certified copy be forwarded to the appropriate institution or facility for disciplinary *procedures pursuant to the rules of the department* ~~action~~ as provided in s. *944.09* ~~944.28(2)~~.

(2) This section does not apply to a criminal proceeding or a collateral criminal proceeding.

(3) For purposes of this section, "prisoner" means a person who is convicted of a crime and is incarcerated for that crime or who is being held in custody pending extradition or sentencing.

Section 4. Subsection (2) of section 944.35, Florida Statutes, 1996 Supplement, is amended to read:

944.35 Authorized use of force; malicious battery and sexual misconduct prohibited; reporting required; penalties.—

(2) Each employee of the department who either applies physical force or was responsible for making the decision to apply physical force upon an inmate or an offender supervised by the department in the community pursuant to this subsection shall prepare, date, and sign an independent report within 5 working days of the incident. The report shall be delivered to the superintendent or the regional administrator, who shall have an investigation made and shall approve or disapprove the force used. The employee's report, together with the superintendent's or regional administrator's written approval or disapproval of the force used and the reasons therefor, shall be forwarded within 5 working days of the date of the completion of the investigation to the regional director. The regional director shall, in writing, concur in the superintendent's or regional administrator's evaluation or disapprove it. Copies of the employee's report, the superintendent's or regional administrator's evaluation, and the regional director's review shall be kept in the files of ~~both~~ the inmate or the offender supervised by the department in the community~~, and the employee~~. *A notation of each incident involving use of force and the outcome based on the superintendent's or regional director's evaluation and the regional administrator's review shall be kept in the employee's file.*

Section 5. Paragraph (c) of subsection (1) and subsection (2) of section 944.472, Florida Statutes, are amended to read:

944.472 Drug-free corrections; legislative findings and purposes.—

(1) FINDINGS.—The Legislature finds that:

(c) Certain substance abuse testing standards are necessary to ensure uniform and economical application of policy throughout the state's institutions and to protect both inmates and employers participating in random *and reasonable suspicion* substance abuse testing programs.

(2) PURPOSES.—The purposes of the Drug-Free Corrections Act of 1992 are to:

(a) Promote the goal of a drug-free correctional system through fair, economical, and reasonable methods of random *and reasonable suspicion* substance abuse testing of inmates for the protection of inmates, employees, employers, and the public.

(b) Establish an aggressive, routine random substance abuse testing program *and a reasonable suspicion substance abuse testing program* to identify substance-abusing inmates, determine appropriate treatment, and provide a strong deterrent to future substance abuse.

Section 6. Subsections (1) and (3) of section 944.473, Florida Statutes, are amended to read:

944.473 Inmate substance abuse testing program.—

(1) RULES AND PROCEDURES.—The department shall establish *programs* ~~a program~~ for random *and reasonable suspicion* drug and alcohol testing by urinalysis or other noninvasive procedure for inmates to effectively identify those inmates abusing drugs, alcohol, or both. The department shall also adopt rules relating to fair, economical, and accurate operations and procedures of a random inmate substance abuse testing program *and a reasonable suspicion substance abuse testing program* by urinalysis or other noninvasive procedure which enumerate penalties for positive test results, including but not limited to the forfeiture of both basic and incentive gain-time, and which do not limit the number of times an inmate may be tested in any one fiscal or calendar year.

(3) REPORTING REQUIREMENT.—The department shall, as part of its annual report, report the number of random *and reasonable suspicion* substance abuse tests administered in the fiscal year, the number of positive results obtained, the number of negative results obtained, the number of inmates requesting and participating in substance abuse treatment programs as the result of a positive random *or reasonable suspicion* substance abuse test, and the number of repeat substance abuse offenders.

Section 7. Effective upon this act becoming a law, subsection (4) is added to section 944.801, Florida Statutes, 1996 Supplement, to read:

944.801 Education for state prisoners.—

(4) Notwithstanding s. 120.81(3), all inmates under 22 years of age who qualify for special educational services and programs pursuant to the Individuals with Disabilities Education Act, 20 U.S.C. ss. 1400 et seq., and who request a due process hearing as provided by that act shall be entitled to such hearing before the Division of Administrative Hearings. Administrative law judges shall not be required to travel to state or private correctional institutions and facilities in order to conduct these hearings.

Section 8. Subsection (11) of section 948.01, Florida Statutes, 1996 Supplement, is amended to read:

948.01 When court may place defendant on probation or into community control.—

(11) The court may also impose a split sentence whereby the defendant is sentenced to a term of probation which may be followed by a period of incarceration or, with respect to a felony, into community control, as follows:

(a) If the offender meets the terms and conditions of probation or community control, any term of incarceration may be modified by court order to eliminate the term of incarceration.

(b) If the offender does not meet the terms and conditions of probation or community control, the court *may revoke, modify, or continue the probation or community control as provided in s. 948.06. If the probation or community control is revoked, the court may impose any sentence that it could have imposed at the time the offender was placed on probation or community control. The court may not provide credit for time served for any portion of a probation of community control term toward a subsequent term of probation or community control. However, the court may not impose a subsequent term of probation or community control which, when combined with any amount of time served on preceding terms of probation or community control for offenses pending before the court for sentencing, would exceed the maximum penalty allowable as provided in s. 775.082* ~~shall impose a term of incarceration equal to the remaining portion of the order of probation or community control~~. Such term of incarceration shall be served under applicable law or county ordinance governing service of sentences in state or county jurisdiction. This paragraph does not prohibit any other sanction provided by law.

Section 9. Subsection (1) of section 948.03, Florida Statutes, 1996 Supplement, is amended to read:

948.03 Terms and conditions of probation or community control.—

(1) The court shall determine the terms and conditions of probation or community control. Conditions specified in paragraphs (a) through and including *(m)* ~~(n)~~ do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. Conditions specified in paragraphs (a) through and including *(m)* ~~(n)~~ and (2)(a) do not require oral pronouncement at sentencing and may be considered standard conditions of community control. These conditions may include among them the following, that the probationer or offender in community control shall:

(a) Report to the probation and parole supervisors as directed.

(b) Permit such supervisors to visit him at his home or elsewhere.

(c) Work faithfully at suitable employment insofar as may be possible.

(d) Remain within a specified place.

(e) Make reparation or restitution to the aggrieved party for the damage or loss caused by his offense in an amount to be determined by the court. The court shall make such reparation or restitution a condition of probation, unless it determines that clear and compelling reasons exist to the contrary. If the court does not order restitution, or orders restitution of only a portion of the damages, as provided in s. 775.089, it shall state on the record in detail the reasons therefor.

(f) Effective July 1, 1994, and applicable for offenses committed on or after that date, make payment of the debt due and owing to a county or municipal detention facility under s. 951.032 for medical care, treatment, hospitalization, or transportation received by the felony probationer while in that detention facility. The court, in determining whether to order such repayment and the amount of such repayment, shall consider the amount of the debt, whether there was any fault of the institution for the medical expenses incurred, the financial resources of the felony probationer, the present and potential future financial needs and earning ability of the probationer, and dependents, and other appropriate factors.

(g) Support his legal dependents to the best of his ability.

(h) Make payment of the debt due and owing to the state under s. 960.17, subject to modification based on change of circumstances.

(i) Pay any attorney's fees and costs assessed under s. 27.56, subject to modification based on change of circumstances.

(j) Not associate with persons engaged in criminal activities.

(k)1. Submit to random testing as directed by the correctional probation officer or the professional staff of the treatment center where he is receiving treatment to determine the presence or use of alcohol or controlled substances.

2. If the offense was a controlled substance violation and the period of probation immediately follows a period of incarceration in the state correction system, the conditions shall include a requirement that the offender submit to random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3).

(l) Be prohibited from possessing, carrying, or owning any firearm unless authorized by the court and consented to by the probation officer.

(m) Be prohibited from using intoxicants to excess or possessing any drugs or narcotics unless prescribed by a physician. The probationer or community controlee shall not knowingly visit places where intoxicants, drugs, or other dangerous substances are unlawfully sold, dispensed, or used.

(n) Attend an HIV/AIDS awareness program consisting of a class of not less than 2 hours or more than 4 hours in length, the cost for which shall be paid by the offender, *if such a program is available in the county of the offender's residence.*

(o) Pay not more than $1 per month during the term of probation or community control to a nonprofit organization established for the sole purpose of supplementing the rehabilitative efforts of the Department of Corrections.

Section 10. Section 948.06, Florida Statutes, is amended to read:

948.06 Violation of probation or community control; revocation; modification; continuance; failure to pay restitution or cost of supervision.—

(1) Whenever within the period of probation or community control there are reasonable grounds to believe that a probationer or offender in community control has violated his probation or community control in a material respect, any parole or probation supervisor may arrest or request any county or municipal law enforcement officer to arrest such probationer or offender without warrant wherever found and forthwith return him to the court granting such probation or community control. Any committing magistrate may issue a warrant, upon the facts being made known to him by affidavit of one having knowledge of such facts, for the arrest of the probationer or offender, returnable forthwith before the court granting such probation or community control. Any parole or probation supervisor, any officer authorized to serve criminal process, or any peace officer of this state is authorized to serve and execute such warrant. The court, upon the probationer or offender being brought before it, shall advise him of such charge of violation and, if such charge is admitted to be true, may forthwith revoke, modify, or continue the probation or community control or place the probationer into a community control program. If probation or community control is revoked, the court shall adjudge the probationer or offender guilty of the offense charged and proven or admitted, unless he has previously been adjudged guilty, and impose any sentence which it might have originally imposed before placing the probationer on probation or the offender into community control. If such violation of probation or community control is not admitted by the probationer or offender, the court may commit him or release him with or without bail to await further hearing, or it may dismiss the charge of probation or community control violation. If such charge is not at that time admitted by the probationer or offender and if it is not dismissed, the court, as soon as may be practicable, shall give the probationer or offender an opportunity to be fully heard on his behalf in person or by counsel. After such hearing, the court may revoke, modify, or continue the probation or community control or place the probationer into community control. If such probation or community control is revoked, the court shall adjudge the probationer or offender guilty of the offense charged and proven or admitted, unless he has previously been adjudged guilty, and impose any sentence which it might have originally imposed before placing the probationer or offender on probation or into community control.

(2) *When the court imposes a subsequent term of supervision following a revocation of probation or community control, it shall not provide credit for time served while on probation or community control toward any subsequent term of probation or community control. However, the court may not impose a subsequent term of probation or community control which, when combined with any amount of time served on preceding terms of probation or community control for offenses before the court for sentencing, would exceed the maximum penalty allowable as provided by s. 775.082.* No part of the time that the defendant is on probation or in community control shall be considered as any part of the time that he *or she* shall be sentenced to serve.

(3) Notwithstanding any other provision of this section, a probationer or an offender in community control who is arrested for violating his probation or community control in a material respect may be taken before the court in the county or circuit in which he was arrested. That court shall advise him of such charge of a violation and, if such charge is admitted, shall cause him to be brought before the court which granted the probation or community control. If such violation is not admitted by the probationer or offender, the court may commit him or release him with or without bail to await further hearing. The court, as soon as is practicable, shall give the probationer or offender an opportunity to be fully heard on his behalf in person or by counsel. After such hearing, the court shall make findings of fact and forward the findings to the court which granted the probation or community control and to the probationer or offender or his attorney. The findings of fact by the hearing court are binding on the court which granted the probation or community control. Upon the probationer or offender being brought before it, the court which granted the probation or community control may revoke, modify, or continue the probation or community control or may place the probationer into community control as provided in this section.

(4) In any hearing in which the failure of a probationer or offender in community control to pay restitution or the cost of supervision as provided in s. 948.09, as directed, is established by the state, if the probationer or offender asserts his inability to pay restitution or the cost of supervision, it is incumbent upon him to prove by clear and convincing evidence that he does not have the present resources available to pay restitution or the cost of supervision despite sufficient bona fide efforts legally to acquire the resources to do so. If the probationer or offender cannot pay restitution or the cost of supervision despite sufficient bona fide efforts, the court shall consider alternate measures of punishment other than imprisonment. Only if alternate measures are not adequate to meet the state's interests in punishment and deterrence may the court imprison a probationer or offender in community control who has demonstrated sufficient bona fide efforts to pay restitution or the cost of supervision.

(5) Any parolee in a community control program who has allegedly violated the terms and conditions of such placement is subject to the provisions of ss. 947.22 and 947.23.

(6) Any provision of law to the contrary notwithstanding, whenever probation, community control, or control release, including the probationary, community control portion of a split sentence, is violated and the probation or community control is revoked, the offender, by reason of his misconduct, may be deemed to have forfeited all gain-time or commutation of time for good conduct, as provided by law, earned up to the date of his release on probation, community control, or control release. This subsection does not deprive the prisoner of his right to gain-time or commutation of time for good conduct, as provided by law, from the date on which he is returned to prison. However, if a prisoner is sentenced to incarceration following termination from a drug punishment program imposed as a condition of probation, the sentence may include incarceration without the possibility of gain-time or early release for the period of time remaining in his treatment program placement term.

Section 11. Section 947.04, Florida Statutes, 1996 Supplement, is amended to read:

947.04 Organization of commission; officers; offices.—

(1) Before July 1 of each even-numbered year, the Governor and Cabinet shall select a chairman who shall serve for a period of 2 years and until a successor is selected and qualified. The Governor and Cabinet shall, at the same time that a chairman is selected, select a vice chairman to serve during the same 2-year period as the chairman, in the absence of the chairman. The chairman may ~~not~~ succeed himself *or herself*. The chairman, as chief administrative officer of the commission, has the authority and responsibility to plan, direct, coordinate, and execute the powers, duties, and responsibilities assigned to the commission, except those of granting and revoking parole as provided for in this chapter. Subject to approval by the Governor and the Cabinet, the chairman may assign consenting retired commissioners or former commissioners to temporary duty when there is a workload need. Any such commissioner shall be paid $100 for each day or portion of a day spent on the work of the commission and shall be reimbursed for travel expenses as provided in s. 112.061. The chairman is authorized to provide or disseminate information relative to parole by means of documents, seminars, programs, or otherwise as he determines necessary. The chairman shall establish, execute, and be held accountable for all administrative policy decisions. However, decisions to grant or revoke parole shall be made in accordance with the provisions of ss. 947.172, 947.174, and 947.23. The commissioners shall be directly accountable to the

chairman in the execution of their duties as commissioners, and the chairman has authority to recommend to the Governor suspension of a commissioner who fails to perform the duties provided for by statute.

(2) Notwithstanding the provisions of s. 20.05(1)(g), the chairman shall appoint administrators with responsibility for the management of commission activities in the following functional areas:

(a) Administration.
(b) Operations.
(c) Clemency.

(3) The commissioners shall select from their number a secretary who shall serve for a period of 1 year or until a successor is elected and qualified.

(4) The commission may establish and maintain offices in centrally and conveniently located places in Florida. Headquarters shall be located in Tallahassee. The business of the commission shall be transacted anywhere in the state as provided in s. 947.06. The commission shall keep its official records and papers at the headquarters, which it shall furnish and equip.

(5) Acts and decisions of the chairman may be modified as provided in s. 947.06.

Section 12. Section 947.1405, Florida Statutes, 1996 Supplement, is amended to read:

947.1405 Conditional release program.—

(1) This section and s. 947.141 may be cited as the "Conditional Release Program Act."

(2) Any inmate who:

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

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

(c) Is found to be a sexual predator under s. 775.21 or former s. 775.23,

shall, upon reaching the tentative release date or provisional release date, whichever is earlier, as established by the Department of Corrections, be released under supervision subject to specified terms and conditions, including payment of the cost of supervision pursuant to s. 948.09. *Such supervision is applicable to all sentences within the overall term of sentences if an inmate's overall term of sentences includes one or more sentences that are eligible for conditional release supervision as provided in this section.* Effective July 1, 1994, and applicable for offenses committed on or after that date, the commission may require, as a condition of conditional release, that the releasee make payment of the debt due and owing to a county or municipal detention facility under s. 951.032 for medical care, treatment, hospitalization, or transportation received by the releasee while in that detention facility. The commission, in determining whether to order such repayment and the amount of such repayment, shall consider the amount of the debt, whether there was any fault of the institution for the medical expenses incurred, the financial resources of the releasee, the present and potential future financial needs and earning ability of the releasee, and dependents, and other appropriate factors. If an inmate has received a term of probation or community control supervision to be served after release from incarceration, the period of probation or community control must be substituted for the conditional release supervision. A panel of no fewer than two commissioners shall establish the terms and conditions of any such release. If the offense was a controlled substance violation, the conditions shall include a requirement that the offender submit to random substance abuse testing intermittently throughout the term of conditional release supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3). The commission shall also determine whether the terms and conditions of such release have been violated and whether such violation warrants revocation of the conditional release.

(3) As part of the conditional release process, the commission shall determine:

(a) The amount of reparation or restitution.

(b) The consequences of the offense as reported by the aggrieved party.

(c) The aggrieved party's fear of the inmate or concerns about the release of the inmate.

(4) The commission shall provide to the aggrieved party information regarding the manner in which notice of any developments concerning the status of the inmate during the term of conditional release may be requested.

(5) Within 180 days prior to the tentative release date or provisional release date, whichever is earlier, a representative of the commission shall interview the inmate. The commission representative shall review the inmate's program participation, disciplinary record, psychological and medical records, and any other information pertinent to the impending release. A commission representative shall conduct a personal interview with the inmate for the purpose of determining the details of the inmate's release plan, including his planned residence and employment. The results of the interview must be forwarded to the commission in writing.

(6) Upon receipt of notice as required under s. 947.175, the commission shall conduct a review of the inmate's record for the purpose of establishing the terms and conditions of the conditional release. The commission may impose any special conditions it considers warranted from its review of the record. If the commission determines that the inmate is eligible for release under this section, the commission shall enter an order establishing the length of supervision and the conditions attendant thereto. However, an inmate who has been convicted of a violation of chapter 794 or found by the court to be a sexual predator is subject to the maximum level of supervision provided, with the mandatory conditions as required in subsection (7), and that supervision shall continue through the end of the releasee's original court-imposed sentence. The length of supervision must not exceed the maximum penalty imposed by the court.

(7) Any inmate who is convicted of a crime committed on or after October 1, 1995, or has been previously convicted of a crime committed on or after October 1, 1995, and who meets the criteria of s. 775.21 or former s. 775.23(2)(a) or (b) shall have, in addition to any other conditions imposed, the following special conditions imposed by the commission:

(a) A curfew, if appropriate, during hours set by the commission.

(b) If the victim was under the age of 18, a prohibition on living within 1,000 feet of a school, day care center, park, playground, or other place where children regularly congregate.

(c) Active participation in and successful completion of a sex offender treatment program, at the releasee's own expense, unless one is not available within a 50-mile radius of the releasee's residence.

(d) A prohibition on any contact with the victim, directly or indirectly, including through a third person, unless approved by the commission.

(e) If the victim was under the age of 18, a prohibition, until successful completion of a sex offender treatment program, on unsupervised contact with a child under the age of 18, unless authorized by the commission without another adult present who is responsible for the child's welfare, has been advised of the crime, and is approved by the commission.

(f) If the victim was under age 18, a prohibition on working for pay or as a volunteer at any school, day care center, park, playground, or other place where children regularly congregate, as prescribed by the commission.

(g) Unless otherwise indicated in the treatment plan provided by the sexual offender treatment program, a prohibition on viewing, owning, or possessing any obscene, pornographic, or sexually explicit material.

(h) A requirement that the releasee must submit two specimens of blood to the Florida Department of Law Enforcement to be registered with the DNA database.

Section 13. *Section 775.0121, Florida Statutes, as created by section 1 of chapter 96-388, Laws of Florida, is repealed.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, delete line 2 and insert: An act relating to criminal justice; amending s. 775.084, F.S.; clarifying that the gain-time that the Department of Corrections may award to a habitual felony offender, a habitual violent felony offender, or a violent career criminal is limited to monthly incentive gain-time; amending s. 921.0017, F.S.; clarifying that credit for time served means time spent in state prison or county jail on the same offense; amending s. 944.279, F.S.; providing that a prisoner who is found to have brought a frivolous or malicious action or brought false information before the court is subject to disciplinary procedures; defining the term "prisoner"; amending s. 944.35, F.S., relating to authorized use of force by a departmental employee against an inmate or supervised offender; removing requirement that a report on such use of force be kept in the file of an employee; providing for notation of a use-of-force incident and outcome in the file of an employee; amending s. 944.472, F.S., relating to drug-free corrections; providing legislative findings and purposes with respect to reasonable suspicion of substance-abuse testing programs for inmates; amending s. 944.473, F.S.; providing for adoption of rules for such programs; amending s. 944.801, F.S., relating to education for state prisoners; entitling certain inmates who qualify for special educational services and programs under federal law to request hearings before the Division of Administrative Hearings; providing that administrative law judges are not required to travel to state and private correctional institutions and facilities to conduct such hearings; amending s. 948.01, F.S., relating to the court's authority to place a defendant on probation or community control; authorizing the court to revoke, modify, or continue supervision upon violation; providing certain sentencing authority upon violation; prohibiting the court from giving credit for time served; providing limitations on the court for subsequent supervision upon violation; amending s. 948.03, F.S., relating to terms and conditions of probation or community control; deleting attendance at an HIV/AIDS awareness program as a standard condition; authorizing courts to impose such a condition if such a program is available as specified; amending s. 948.06, F.S.; prohibiting the award of credit for time served while on probation or community control for subsequent terms of supervision following a revocation of probation or community control; providing limitations on the court for imposing a subsequent term of supervision following revocation; amending s. 947.04, F.S.; authorizing the chairman of the Parole Commission to serve successive terms; amending s. 947.1405, F.S.; clarifying the inclusion of violent career criminals as eligible for conditional release supervision; clarifying that conditional release supervision applies to all sentences of an inmate if the inmate's overall sentences include one or more sentences that are eligible for conditional release supervision; repealing s. 775.0121, F.S., relating to a continuous revision cycle of criminal penalties; amending s.

On motion by Senator Burt, by two-thirds vote **CS for HB 417** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Holzendorf	Ostalkiewicz
Bankhead	Dantzler	Horne	Rossin
Bronson	Diaz-Balart	Jenne	Scott
Brown-Waite	Dudley	Jones	Silver
Burt	Dyer	Klein	Sullivan
Campbell	Forman	Kurth	Thomas
Casas	Grant	Latvala	Turner
Childers	Gutman	McKay	Williams
Clary	Hargrett	Meadows	
Cowin	Harris	Myers	

Nays—None

Vote after roll call:

Yea—Kirkpatrick, Lee

Consideration of **CS for SB's 234 and 456** was deferred.

On motion by Senator Kurth, by two-thirds vote **CS for HB 1631** was withdrawn from the Committees on Transportation; Rules and Calendar; and Ways and Means.

On motions by Senator Kurth, by two-thirds vote—

CS for HB 1631—A bill to be entitled An act relating to Challenger license plates; amending s. 320.08058, F.S.; revising language with respect to the distribution of the Challenger license plate funds; providing for the use of such funds; providing for the expiration of authority for issuance of such license plates; amending s. 320.08056, F.S.; authorizing a reduction in the annual use fee for bulk purchasers of such license plates; providing an effective date.

—a companion measure, was substituted for **CS for SB 250** and by two-thirds vote read the second time by title. On motion by Senator Kurth, by two-thirds vote **CS for HB 1631** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—35

Madam President	Cowin	Hargrett	Myers
Bankhead	Crist	Harris	Ostalkiewicz
Bronson	Dantzler	Holzendorf	Rossin
Brown-Waite	Diaz-Balart	Horne	Silver
Burt	Dudley	Jenne	Sullivan
Campbell	Dyer	Jones	Thomas
Casas	Forman	Klein	Turner
Childers	Grant	Kurth	Williams
Clary	Gutman	Latvala	

Nays—1

McKay

Vote after roll call:

Yea—Kirkpatrick, Lee

On motion by Senator Bronson, by two-thirds vote **HB 61** was withdrawn from the Committees on Criminal Justice; and Ways and Means.

On motion by Senator Bronson—

HB 61—A bill to be entitled An act relating to battery; creating s. 784.041, F.S.; defining the offense of felony battery, and providing penalties therefor; amending s. 921.0012, F.S., relating to sentencing guidelines offense levels; providing for classification of felony battery offenses in the level 6 category of the offense severity ranking chart; providing an effective date.

—a companion measure, was substituted for **SB 252** and read the second time by title. On motion by Senator Bronson, by two-thirds vote **HB 61** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Myers
Bankhead	Dantzler	Horne	Ostalkiewicz
Bronson	Diaz-Balart	Jenne	Rossin
Brown-Waite	Dudley	Jones	Scott
Burt	Dyer	Klein	Silver
Campbell	Forman	Kurth	Sullivan
Casas	Grant	Latvala	Thomas
Childers	Gutman	Lee	Turner
Clary	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Gutman—

CS for SB's 234 and 456—A bill to be entitled An act relating to the funding for beach management; amending s. 161.091, F.S.; requiring the Department of Environmental Protection to identify a dedicated revenue source for the beach management plan; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **CS for SB's 234 and 456** to **CS for HB 103**.

Pending further consideration of **CS for SB's 234 and 456** as amended, on motion by Senator Gutman, by two-thirds vote **CS for HB 103** was withdrawn from the Committees on Natural Resources; and Ways and Means.

On motion by Senator Gutman, the rules were waived and—

CS for HB 103—A bill to be entitled An act relating to funding for beach management; amending s. 161.091, F.S.; requiring the Department of Environmental Protection to make a concerted effort to identify an additional dedicated revenue source to fund the beach nourishment plan; requiring the department, in concert with any increased funding, to develop a corresponding multiyear repair and maintenance strategy and providing the requirements thereof; providing an effective date.

—a companion measure, was substituted for **CS for SB's 234 and 456** as amended and read the second time by title. On motion by Senator Gutman, by two-thirds vote **CS for HB 103** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Myers
Bankhead	Dantzler	Horne	Ostalkiewicz
Bronson	Diaz-Balart	Jenne	Rossin
Brown-Waite	Dudley	Jones	Scott
Burt	Dyer	Klein	Silver
Campbell	Forman	Kurth	Sullivan
Casas	Grant	Latvala	Thomas
Childers	Gutman	Lee	Turner
Clary	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Sullivan—

SB 388—A bill to be entitled An act relating to funding for the rehabilitation of persons with brain or spinal cord injuries; amending s. 316.193, F.S.; assessing an additional fine for driving under the influence, to be deposited in the Brain and Spinal Cord Rehabilitation Trust Fund; amending s. 327.35, F.S.; assessing an additional fine for boating while under the influence, to be deposited in the Brain and Spinal Cord Rehabilitation Trust Fund; providing an effective date.

—was read the second time by title.

The Committee on Ways and Means recommended the following amendment which was moved by Senator Rossin and adopted:

Amendment 1 (with title amendment)—On page 1, line 16 through page 4, line 31, delete those lines and insert:

Section 1. *The Legislature declares its intent to provide for the creation of a new chapter of the Florida Statutes consolidating and categorizing the provisions relating to court costs, in order to accomplish the purposes of assisting the judiciary and other court participants to identify and locate applicable law relating to court costs and thereby facilitating the uniform imposition and collection of court costs.*

Section 2. *Sections 938.01, 938.03, 938.04, and 938.05, Florida Statutes, are designated as part I of chapter 938, Florida Statutes, and entitled "Mandatory Costs in All Cases."*

Section 3. Subsection (3) of section 943.25, Florida Statutes, is renumbered as subsection (1) of section 938.01, Florida Statutes, and amended, and subsection (2) is created to read:

938.01 Additional Court Cost Clearing Trust Fund.—

(1)~~(3)~~ All courts created by Art. V of the State Constitution shall, in addition to any fine or other penalty, assess $3 as a court cost against every person convicted for violation of a state penal or criminal statute or convicted for violation of a municipal or county ordinance. However, such assessment shall not be imposed in addition to civil penalties provided in s. 318.18. Any person whose adjudication is withheld pursuant to the provisions of s. 318.14(9) or (10) shall also be assessed such cost. In addition, $3 from every bond estreature or forfeited bail bond related to such penal statutes or penal ordinances shall be forwarded to the Treasurer as described in this subsection. However, no such assessment may be made against any person convicted for violation of any state statute, municipal ordinance, or county ordinance relating to the parking of vehicles.

(a) All such costs collected by the courts shall be remitted to the Department of Revenue, in accordance with administrative rules adopted by the executive director of the Department of Revenue, for deposit in the Additional Court Cost Clearing Trust Fund and shall be earmarked to the Department of Law Enforcement and the Department of Community Affairs for distribution as follows:

1. Two dollars and seventy-five cents of each $3 assessment shall be deposited in the Criminal Justice Standards and Training Trust Fund, and the remaining 25 cents of each such assessment shall be deposited into the Operating Trust Fund and shall be disbursed to the Bureau of Public Safety Management of the Department of Community Affairs.

2. Ninety-two percent of the money distributed to the Additional Court Cost Clearing Trust Fund pursuant to s. 318.21 shall be earmarked to the Department of Law Enforcement for deposit in the Criminal Justice Standards and Training Trust Fund, and 8 percent of such money shall be deposited into the Operating Trust Fund and shall be disbursed to the Bureau of Public Safety Management of the Department of Community Affairs.

(b) The funds deposited in the Criminal Justice Standards and Training Trust Fund and the Operating Trust Fund may be invested. Any interest earned from investing such funds and any unencumbered funds remaining at the end of the budget cycle shall be deposited, for redistribution, in the Additional Court Cost Clearing Trust Fund. However, revenues generated from officer certification examination fees shall not revert to the Additional Court Cost Clearing Trust Fund and shall remain in the Criminal Justice Standards and Training Trust Fund.

(c) All funds in the Criminal Justice Standards and Training Trust Fund earmarked to the Department of Law Enforcement shall be disbursed only in compliance with *s. 943.25(9)* ~~subsection (10)~~.

(2) Except as provided by s. 938.15 and notwithstanding any other provision of law, no funds collected and deposited pursuant to this section or s. 943.25 shall be expended unless specifically appropriated by the Legislature.

Section 4. Section 960.20, Florida Statutes, is renumbered as section 938.03, Florida Statutes, and amended to read:

938.03 ~~960.20~~ *Crimes Compensation Trust Fund* ~~Additional costs~~.—

(1) When any person pleads guilty or nolo contendere to, or is convicted of or adjudicated delinquent for, any felony, misdemeanor, delinquent act, or criminal traffic offense under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, there shall be imposed as an additional cost in the case, in addition and prior to any other cost required to be imposed by law, the sum of $50. Any person whose adjudication is withheld shall also be assessed such cost.

(2) These costs are considered assessed unless specifically waived by the court. If the court does not order these costs, it shall state on the record, in detail, the reasons therefor.

(3) In the event that the individual has been ordered to pay restitution in accordance with s. 775.089, costs referenced in this section shall be included in a judgment.

(4) The clerk of the court shall collect and forward $49 of each $50 collected to the Treasurer, to be deposited in the Crimes Compensation Trust Fund. The clerk shall retain the remaining $1 of each $50 collected as a service charge of the clerk's office. Under no condition shall a political subdivision be held liable for the payment of this sum of $50.

Section 5. Section 960.25, Florida Statutes, is renumbered as section 938.04, Florida Statutes, and amended to read:

938.04 ~~960.25~~ *Additional cost with respect to criminal* ~~Surcharge on~~ fines and bail bonds.—In addition to any fine for any criminal offense prescribed by law, including a criminal traffic offense, and in addition to the cost imposed pursuant to the provisions of s. 318.14(10), there is hereby established and created *as a court cost* an additional 5-percent surcharge thereon which shall be imposed, levied, and collected together with such fine or cost *imposed pursuant to s. 318.14(10). The additional court cost created under this section shall be deposited in the Crimes Compensation Trust Fund created by s. 960.21.*

Section 6. Subsections (2) and (3) of section 775.0835, Florida Statutes, are amended to read:

775.0835 Fines; surcharges; Crimes Compensation Trust Fund.—

~~(2) In addition to any fine, civil penalty, or other penalty provided by statute, ordinance, or other law, there shall be imposed, levied, and collected by the courts of this state the 5-percent surcharge on all fines, civil penalties, and forfeitures, as established and created in s. 960.25, which surcharge shall be deposited in the Crimes Compensation Trust Fund created by s. 960.21.~~

(2)~~(3)~~ The additional $50 obligation created by s. *938.03* ~~960.20~~ shall be collected, and $49 of each $50 collected shall be credited to the Crimes Compensation Trust Fund, prior to any fine or surcharge authorized by this chapter. These costs are considered assessed unless specifically waived by the court. If the court does not order these costs, it shall state on the record, in detail, the reasons therefor.

Section 7. Subsections (1), (2), and (3) of section 27.3455, Florida Statutes, 1996 Supplement, are renumbered as section 938.05, Florida Statutes, and amended to read:

938.05 Local Government Criminal Justice Trust Fund.—

(1) When any person pleads nolo contendere to a misdemeanor or criminal traffic offense under s. 318.14(10)(a) or pleads guilty or nolo contendere to, or is found guilty of, any felony, misdemeanor, or criminal traffic offense under the laws of this state or the violation of any municipal or county ordinance which adopts by reference any misdemeanor under state law, there shall be imposed as a cost in the case, in addition to any other cost required to be imposed by law, a sum in accordance with the following schedule:

(a) Felonies $200

(b) Misdemeanors $50

(c) Criminal traffic offenses $50

(2) Payment of the additional court costs provided for in subsection (1) shall be made part of any plea agreement reached by the prosecuting attorney and defense counsel or the criminal defendant where the plea agreement provides for the defendant to plead guilty or nolo contendere to any felony, misdemeanor, or criminal traffic offense under the laws of this state or any municipal or county ordinance which adopts by reference any misdemeanor under state law.

(3) The clerk of the court shall collect such additional costs and shall notify the agency supervising a person upon whom costs have been imposed upon full payment of fees. The clerk shall deposit all but $3 for each misdemeanor or criminal traffic case and all but $5 for each felony case in a special trust fund of the county. Such funds shall be used exclusively for those purposes set forth in *s. 27.3455(3)* ~~subsection (6)~~. The clerk shall retain $3 for each misdemeanor or criminal traffic case and $5 for each felony case of each scheduled amount collected as a service charge of the clerk's office. A political subdivision shall not be held liable for the payment of the additional costs imposed by this section.

Section 8. *Sections 938.07, 938.09, 938.11, and 938.13, Florida Statutes, are designated as part II of chapter 938, Florida Statutes, and entitled "Mandatory Costs in Specific Types of Cases."*

Section 9. Section 938.07, Florida Statutes, is created to read:

938.07 Driving under the influence.—Notwithstanding any other provision of s. 316.193, a court cost of $135 shall be added to any fine imposed pursuant to s. 316.193, of which $25 shall be deposited in the Emergency Medical Services Trust Fund, $50 shall be deposited in the Criminal Justice Standards and Training Trust Fund of the Department of Law Enforcement to be used for operational expenses of the Division of Local Law Enforcement Assistance in conducting the statewide criminal analysis laboratory system established in s. 943.32, and $60 shall be deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund created in s. 413.613.

Section 10. Section 939.015, Florida Statutes, is renumbered as section 938.09, Florida Statutes, and amended to read:

938.09 ~~939.015~~ Cases in which victim is handicapped or elderly~~; additional costs.—~~

(1) When any person pleads guilty or nolo contendere to, or is convicted of, any felony or misdemeanor under the laws of this state or any county or municipal ordinance violation in which any victim is handicapped or elderly, as defined in s. 426.002, there shall be imposed an additional cost in the case, in addition to any other cost required to be imposed by law, in the sum of $20. Under no condition shall a political subdivision be held liable for the payment of such sum of $20.

(2) The clerk of the court shall collect the $20 and forward $19 thereof to the Treasurer, to be deposited in the General Revenue Fund. The clerk shall retain the remaining $1 of each $20 collected as a service charge of the clerk's office.

(3) The costs imposed by this section apply only in counties containing housing projects ~~as defined in this chapter~~.

Section 11. Section 775.0836, Florida Statutes, is renumbered as section 938.11, Florida Statutes, and amended to read:

938.11 ~~775.0836 Surcharges in~~ Cases in which victim is handicapped or elderly.—

(1) In addition to any fine prescribed by law for any criminal offense or any county or municipal ordinance, when any victim of such criminal offense or any county or municipal ordinance violation is handicapped or elderly, as defined in s. 426.002, there is hereby assessed *as a court cost* an additional 10-percent surcharge on such fine, which *cost* ~~surcharge~~ shall be imposed by all county and circuit courts, and collected by the clerk of the court together with such fine. The *cost* ~~surcharge~~ shall be deposited in the General Revenue Fund.

(2) The *costs* ~~surcharges~~ imposed by this section apply only in counties containing housing projects ~~as defined in this chapter~~.

Section 12. Section 939.017, Florida Statutes, is renumbered as section 938.13, Florida Statutes, and amended to read:

938.13 ~~939.017~~ Misdemeanor convictions involving drugs or alcohol~~; additional costs.—~~

(1)(a) When any person, on or after October 1, 1988, is found guilty of any misdemeanor under the laws of this state in which the unlawful use of drugs or alcohol is involved, there shall be imposed an additional cost in the case, in addition to any other cost required to be imposed by law, in the sum of $15. Under no condition shall a political subdivision be held liable for the payment of such sum.

(b) The clerk of the court shall collect the $15 and forward $14 thereof to the Treasurer to be deposited to the credit of the Department of Health and Rehabilitative Services for allocation to local substance abuse treatment programs under s. 397.321. The clerk shall retain the remaining $1 of each $15 collected as a service charge of the clerk's office.

(2) The costs imposed by this section apply only in each county in which the board of county commissioners has adopted an ordinance which requires the collection of such costs.

Section 13. *Sections 938.15, 938.17, and 938.19, Florida Statutes, are designated as part III of chapter 938, Florida Statutes, and entitled "Mandatory Court Costs Authorized by Local Governmental Entities."*

Section 14. Subsection (13) of section 943.25, Florida Statutes, is renumbered as section 938.15, Florida Statutes, and amended to read:

938.15 Criminal justice education for local government.—

~~(13)~~ *In addition to the costs provided for in s. 938.01,* municipalities and counties may assess an additional $2 for expenditures for criminal justice education degree programs and training courses, including basic recruit training, for their respective officers and employing agency support personnel, provided such education degree programs and training courses are approved by the employing agency administrator, on a form provided by the commission, for local funding.

(1)~~(a)~~ Workshops, meetings, conferences, and conventions shall, on a form approved by the commission for use by the employing agency, be individually approved by the employing agency administrator prior to attendance. The form shall include, but not be limited to, a demonstration by the employing agency of the purpose of the workshop, meeting, conference, or convention; the direct relationship of the training to the officer's job; the direct benefits the officer and agency will receive; and all anticipated costs.

(2)~~(b)~~ The commission may inspect and copy the documentation of independent audits conducted of the municipalities and counties which make such assessments to ensure that such assessments have been made and that expenditures are in conformance with the requirements of this subsection and with other applicable procedures.

Section 15. Section 775.0833, Florida Statutes, 1996 Supplement, is renumbered as section 938.17, Florida Statutes, and amended to read:

938.17 ~~775.0833~~ County delinquency prevention ~~fines~~.—

(1) A county may adopt a mandatory cost to be assessed in specific cases by incorporating by reference the provisions of this section in a county ordinance. Prior to the adoption of the county ordinance, the sheriff's office of the county must be a partner in a written agreement with the Department of Juvenile Justice to participate in a juvenile assessment center or with the district school board to participate in a suspension program.

(2) In counties in which the sheriff's office is a partner in a juvenile justice assessment center pursuant to s. 39.0471, or a partner in a suspension program developed in conjunction with the district school board in the county of the sheriff's jurisdiction, the court shall assess court costs of $3 per case, in addition to any other authorized cost or fine, on every person who, with respect to a charge, indictment, prosecution commenced, or petition of delinquency filed in that county or circuit, pleads guilty, nolo contendere to, or is convicted of, or adjudicated delinquent for, or has an adjudication withheld for, a felony or misdemeanor, or a criminal traffic offense or handicapped parking violation under state law, or a violation of any municipal or county ordinance, if the violation constitutes a misdemeanor under state law.

(3)(a) The clerks of the county and circuit court, in a county where the sheriff's office is a partner in an assessment center or suspension program as specified in subsection (1), shall collect and deposit the assessments collected pursuant to this section in an appropriate, designated account established by the clerk of the court, for disbursement to the sheriff as needed for the implementation and operation of an assessment center or suspension program.

(b) The clerk of the circuit and county court shall withhold 5 percent of the assessments each court collects pursuant to this section, for the costs of administering the collection of assessments under this section.

(c) Assessments collected by clerks of the circuit courts comprised of more than one county shall remit the funds collected pursuant to this section to the county in which the offense at issue was committed for deposit and disbursement according to this section.

(d) Any other funds the sheriff's office obtains for the implementation or operation of an assessment center or suspension program may be deposited into the designated account for disbursement to the sheriff as needed.

(4) A sheriff's office that receives the cost assessments established in subsection (1) shall account for all funds that have been deposited into the designated account by August 1 annually in a written report to the county juvenile justice council if funds are used for assessment centers, and to the district school board if funds are used for suspension programs.

Section 16. Section 39.019, Florida Statutes, 1996 Supplement, is renumbered as section 938.19, Florida Statutes, and amended to read:

938.19 ~~39.019~~ Teen courts; operation and administration.—In each county in which a teen court has been created, a county may adopt a mandatory cost to be assessed in specific cases as provided for in subsection (1) by incorporating by reference the provisions of this section in a county ordinance. Assessments collected by the clerk of the circuit court pursuant to this section shall be deposited into an account specifically for the operation and administration of the teen court:

(1) A sum of $3, which shall be assessed as a court cost by both the circuit court and the county court in the county against every person who pleads guilty or nolo contendere to, or is convicted of, regardless of adjudication, a violation of a state criminal statute or a municipal ordinance or county ordinance or who pays a fine or civil penalty for any violation of chapter 316. Any person whose adjudication is withheld pursuant to the provisions of s. 318.14(9) or (10) shall also be assessed such cost. The $3 assessment for court costs shall be assessed in addition to any fine, civil penalty, or other court cost and shall not be deducted from the proceeds of that portion of any fine or civil penalty which is received by a municipality in the county or by the county in accordance with ss. 316.660 and 318.21. The $3 assessment shall specifically be added to any civil penalty paid for a violation of chapter 316, whether such penalty is paid by mail, paid in person without request for a hearing, or paid after hearing and determination by the court. However, the $3 assessment shall not be made against a person for a violation of any state statutes, county ordinance, or municipal ordinance relating to the parking of vehicles, with the exception of a violation of the handicapped parking laws. The clerk of the circuit court shall collect the respective $3 assessments for court costs established in this subsection and shall remit the same to the teen court monthly, less 5 percent, which is to be retained as fee income of the office of the clerk of the circuit court.

(2) Such other moneys as become available for establishing and operating teen courts under the provisions of Florida law.

Section 17. *Sections 938.21, 938.23, 938.25, 938.27, and 938.29, Florida Statutes, are designated as part IV of chapter 938, Florida Statutes, and entitled "Discretionary Costs in Specific Types of Cases."*

Section 18. Section 938.21, Florida Statutes, is created to read:

938.21 Alcohol and drug abuse programs.—Notwithstanding any provision to the contrary of the laws of this state, the court may assess for alcohol and other drug abuse programs as provided in s. 893.165 any defendant who pleads guilty or nolo contendere to, or is convicted of, a violation of any provision of chapter 893 or which involves a criminal violation of s. 316.193, s. 856.011, s. 856.015, or chapter 562, chapter 567, or chapter 568, in addition to any fine and other penalty provided by law, a court cost in an amount up to the amount of the fine authorized for the violation. The court is authorized to order a defendant to pay an additional assessment if it finds that the defendant has the ability to pay the fine and the additional assessment and will not be prevented thereby from being rehabilitated or from making restitution.

Section 19. Section 893.16, Florida Statutes, is renumbered as section 938.23, Florida Statutes, and amended to read:

938.23 ~~893.16~~ *Assistance grants for* ~~Assessment for~~ alcohol and other drug abuse programs.—

(1) In addition to any fine imposed by law for any criminal offense under ~~this~~ chapter *893* or for any criminal violation of s. 316.193, s. 856.011, s. 856.015, or chapter 562, chapter 567, or chapter 568, the court shall be authorized, pursuant to the requirements of s. *938.21* ~~893.13(8)(a)~~, to impose an additional assessment in an amount up to the amount of the fine authorized for the offense. Such additional assessments shall be deposited for the purpose of providing assistance grants to drug abuse treatment or alcohol treatment or education programs as provided in s. 893.165.

(2) All assessments authorized by this section shall be collected by the clerk of court and remitted to the jurisdictional county as described in s. 893.165(2) for deposit into the County Alcohol and Other Drug Abuse Trust Fund or to the Department of Health and Rehabilitative Services for deposit into the department's Community Alcohol and Other Drug Abuse Services Grants and Donations Trust Fund pursuant to guidelines and priorities developed by the department. If a County Alcohol and Other Drug Abuse Trust Fund has not been established for any jurisdictional county, assessments collected by the clerk of court shall be remitted to the Department of Health and Rehabilitative Services for deposit into the department's Community Alcohol and Other Drug Abuse Services Grants and Donations Trust Fund.

Section 20. Section 938.25, Florida Statutes, is created to read:

938.25 Operating Trust Fund of the Department of Law Enforcement.—Notwithstanding any provision to the contrary of the laws of this state, the court may assess any defendant who pleads guilty or nolo contendere to, or is convicted of, a violation of any provision of s. 893.13, without regard to whether adjudication was withheld, in addition to any fine and other penalty provided or authorized by law, an amount of $100, to be paid to the clerk of the court, who shall forward it to the Operating Trust Fund of the Department of Law Enforcement to be used by the statewide criminal analysis laboratory system for the purposes specified in s. 943.361. The court is authorized to order a defendant to pay an additional assessment if it finds that the defendant has the ability to pay the fine and the additional assessment and will not be prevented thereby from being rehabilitated or from making restitution.

Section 21. Section 939.01, Florida Statutes, is renumbered as section 938.27, Florida Statutes, and amended to read:

938.27 ~~939.01~~ Judgment for costs on conviction.—

(1) In all criminal cases the costs of prosecution, including investigative costs incurred by law enforcement agencies, and by fire departments for arson investigations, if requested and documented by such agencies, shall be included and entered in the judgment rendered against the convicted person.

(2) If the court does not enter costs, or orders only partial costs under this section, it shall state on the record the reasons therefor.

(3)(a) The court may require that the defendant pay the costs within a specified period or in specified installments.

(b) The end of such period or the last such installment shall not be later than:

1. The end of the period of probation or community control, if probation or community control is ordered;

2. Five years after the end of the term of imprisonment imposed, if the court does not order probation or community control; or

3. Five years after the date of sentencing in any other case.

(c) If not otherwise provided by the court under this section, costs shall be paid immediately.

(4) If a defendant is placed on probation or community control, any costs ordered under this section shall be a condition of such probation or community control. The court may revoke probation or community control if the defendant fails to comply with such order.

(5) The court, in determining whether to order costs and the amount of such costs, shall consider the amount of the costs incurred, the financial resources of the defendant, the financial needs and earning ability of the defendant, and such other factors which it deems appropriate.

(6) Any dispute as to the proper amount or type of costs ordered shall be resolved by the court by the preponderance of the evidence. The burden of demonstrating the amount of costs incurred is on the state attorney. The burden of demonstrating the financial resources of the defendant and the financial needs of the defendant is on the defendant. The burden of demonstrating such other matters as the court deems appropriate is upon the party designated by the court as justice requires.

(7) Any default in payment of costs ordered may be collected by any means authorized by law for enforcement of a judgment.

(8) The court may order the clerk of the court to collect and dispense cost payments in any case.

(9) Investigative costs which are recovered shall be returned to the appropriate investigative agency which incurred the expense. Costs shall include actual expenses incurred in conducting the investigation and prosecution of the criminal case; however, costs may also include the salaries of permanent employees.

(10) Costs that are collected by the state attorney under this section shall be deposited into the state attorney's grants and donations trust fund to be used during the fiscal year in which the funds are collected, or in any subsequent fiscal year, for actual expenses incurred in investigating and prosecuting criminal cases, which may include the salaries of permanent employees.

Section 22. Section 27.56, Florida Statutes, 1996 Supplement, is renumbered as section 938.29, Florida Statutes, and amended to read:

938.29 ~~27.56~~ *Legal* assistance; lien for payment of attorney's fees or costs.—

(1)(a) The court having jurisdiction over any defendant who has been determined to be guilty of a criminal act by a court or jury or through a plea of guilty or nolo contendere and who has received the assistance of the public defender's office or a special assistant public defender, or the services of a private attorney appointed pursuant to the Florida Statutes or the Florida Rules of Criminal Procedure, but is not indigent under s. 27.52(2), or has been determined indigent but able to contribute, may assess attorney's fees and costs against the defendant. At the sentencing hearing, the court shall assess attorney's fees and costs against the defendant and shall determine the appropriate amount and method of payment. Such costs may include the cost of depositions; cost of transcripts of depositions, including the cost of defendant's copy, which transcripts are certified by the defendant's attorney as having served a useful purpose in the disposition of the case; investigative costs; witness fees; the cost of psychiatric examinations; or other reasonable costs specially incurred by the county for the defense of the defendant in criminal prosecutions within the county. Costs shall not include expenses inherent in providing a constitutionally guaranteed jury trial or expenditures in connection with the maintenance and operation of government agencies that must be made by the public irrespective of specific violations of law. Any cost assessed pursuant to this paragraph shall be reduced by any amount assessed against a defendant pursuant to s. *938.05* ~~27.3455~~.

(b) Upon entering a judgment of conviction, the trial court may order the defendant to pay the costs assessed by the court in full, or within a time certain as set by the court, after the judgment of conviction becomes final.

(c) After assessment of the attorney's fees and costs, the court may order the defendant to pay the attorney's fees in full or in installments, at the time or times specified. The court may order payment of the assessed attorney's fees as a condition of probation, of suspension of sentence, or of withholding the imposition of sentence.

(2)(a) When payment of attorney's fees or costs has been ordered by the court, there is hereby created in the name of the county in which such assistance was rendered a lien, enforceable as hereinafter provided, upon all the property, both real and personal, of any person who:

1. Has received any assistance from any public defender of the state, from any special assistant public defender, or from any appointed private legal counsel; or

2. Is a parent of an accused minor or an accused adult tax-dependent person who is being, or has been, represented by any public defender of the state, by any special assistant public defender, or by any appointed private legal counsel.

Such lien shall constitute a claim against the defendant-recipient or parent and his or her estate, enforceable according to law, in an amount to be determined by the court in which such assistance was rendered.

(b) Immediately after the issuance of an order for the payment of attorney's fees or costs, a judgment showing the name and residence of the defendant-recipient or parent shall be filed for record in the office of the clerk of the circuit court in the county where the defendant-recipient

or parent resides and in each county in which such defendant-recipient or parent then owns or later acquires any property. Such judgments shall be enforced on behalf of the county by the board of county commissioners of the county in which assistance was rendered.

(3) In lieu of the procedure above described, the court is authorized to require that the defendant-recipient of the services of the public defender, special assistant public defender, or appointed private legal counsel, or that the parent of an accused minor or an accused adult tax-dependent person who has received such services, execute a lien upon his or her real or personal property, presently owned or after-acquired, as security for the debt created hereby. Such lien shall be recorded in the public records of the county at no charge by the clerk of the circuit court and shall be enforceable in the same manner as a mortgage.

(4) The board of county commissioners of the county wherein the defendant-recipient was tried or received the services of a public defender, special assistant public defender, or appointed private legal counsel shall enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debt or lien imposed under this section. A defendant-recipient or parent, who has been ordered to pay attorney's fees or costs and who is not in willful default in the payment thereof, may, at any time, petition the court which entered the order for remission of the payment of attorney's fees or costs or of any unpaid portion thereof. If it appears to the satisfaction of the court that payment of the amount due will impose manifest hardship on such person or his or her immediate family, the court may remit all or part of the amount due in attorney's fees or costs or may modify the method of payment.

(5) The board of county commissioners of the county claiming such lien is authorized to contract with a collection agency for collection of such debts or liens, provided the fee for such collection shall be on a contingent basis not to exceed 50 percent of the recovery. However, no fee shall be paid to any collection agency by reason of foreclosure proceedings against real property or from the proceeds from the sale or other disposition of real property.

(6) No lien thus created shall be foreclosed upon the homestead of such defendant-recipient or parent, nor shall any defendant-recipient or parent who is ordered to pay attorney's fees or costs be denied any of the protections afforded any other civil judgment debtor.

(7) The court having jurisdiction of the defendant-recipient may, at such stage of the proceedings as the court may deem appropriate, determine the value of the services of the public defender, special assistant public defender, or appointed private legal counsel and costs, at which time the defendant-recipient or parent, after adequate notice thereof, shall have opportunity to be heard and offer objection to the determination, and to be represented by counsel, with due opportunity to exercise and be accorded the procedures and rights provided in the laws and court rules pertaining to civil cases at law.

Section 23. *Section 938.31, Florida Statutes, is designated as part V of chapter 938, Florida Statutes, and entitled "Miscellaneous Provisions."*

Section 24. Section 938.31, Florida Statutes, is created to read:

938.31 Incorporation by reference.—The purpose of this chapter is to facilitate uniform imposition and collection of court costs throughout the state and, to this end, a reference to this chapter, or to any section or subdivision within this chapter, constitutes a general reference under the doctrine of incorporation by reference.

Section 25. Subsection (6) of section 316.193, Florida Statutes, 1996 Supplement, is amended to read:

316.193 Driving under the influence; penalties.—

(6) With respect to any person convicted of a violation of subsection (1), regardless of any penalty imposed pursuant to subsection (2), subsection (3), or subsection (4):

(a) For the first conviction, the court shall place the defendant on probation for a period not to exceed 1 year and, as a condition of such probation, shall order the defendant to participate in public service or a community work project for a minimum of 50 hours; or the court may order instead, that any defendant pay an additional fine of $10 for each hour of public service or community work otherwise required, if, after consideration of the residence or location of the defendant at the time public service or community work is required, payment of the fine is in the best interests of the state. However, the total period of probation and incarceration may not exceed 1 year.

(b) For the second conviction for an offense that occurs within a period of 5 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 10 days. At least 48 hours of confinement must be consecutive.

(c) For the third or subsequent conviction for an offense that occurs within a period of 10 years after the date of a prior conviction for violation of this section, the court shall order imprisonment for not less than 30 days. At least 48 hours of confinement must be consecutive.

(d) In addition to the penalty imposed under paragraph (a), paragraph (b), or paragraph (c), the court shall also order the impoundment or immobilization of the vehicle that was driven by, or in the actual physical control of, the offender, unless the court finds that the family of the owner of the vehicle has no other public or private means of transportation. The period of impoundment or immobilization is 10 days, or, for the second conviction within 3 years, 30 days, or, for the third conviction within 5 years, 90 days and may not be concurrent with probation or imprisonment. If the vehicle is leased or rented, the period of impoundment or immobilization may not extend beyond the expiration of the lease or rental agreement. Within 7 business days after the date that the court issues the order of impoundment or immobilization, the clerk of the court shall send notice by certified mail, return receipt requested, to the registered owner of the vehicle if the registered owner is a person other than the offender and to each person of record claiming a lien against the vehicle. All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the vehicle or, if the vehicle is leased or rented, by the person leasing or renting the vehicle. The person who owns a vehicle that is impounded or immobilized under this paragraph, or a person who has a lien of record against such a vehicle, may, within 10 days after the date that person has knowledge of the location of the vehicle, file a complaint in the county in which the owner resides to determine whether the vehicle was wrongfully taken or withheld from the owner or lienholder. Upon the filing of a complaint, the owner or lienholder may have the vehicle released by posting with the court a bond or other adequate security equal to the amount of the costs and fees for impoundment or immobilization, including towing or storage, to ensure the payment of such costs and fees if the owner or lienholder does not prevail. When the bond is posted and the fee is paid as set forth in s. 28.24, the clerk of the court shall issue a certificate releasing the vehicle. At the time of release, after reasonable inspection, the owner or lienholder must give a receipt to the towing or storage company indicating any loss or damage to the vehicle or to the contents of the vehicle.

(e) A defendant, in the court's discretion, may be required to serve all or any portion of a term of imprisonment to which the defendant has been sentenced pursuant to this section in a residential alcoholism treatment program or a residential drug abuse treatment program. Any time spent in such a program must be credited by the court toward the term of imprisonment.

For the purposes of this section, any conviction for a violation of s. 327.35; a previous conviction for the violation of former s. 316.1931, former s. 860.01, or former s. 316.028; or a previous conviction outside this state for driving under the influence, driving while intoxicated, driving with an unlawful blood-alcohol level, driving with an unlawful breath-alcohol level, or any other similar alcohol-related or drug-related traffic offense, is also considered a previous conviction for violation of this section. ~~Notwithstanding any other provision of this section, $100 shall be added to any fine imposed pursuant to this section, of which one-quarter shall be deposited in the Emergency Medical Services Trust Fund, one-half shall be deposited in the Criminal Justice Standards and Training Trust Fund of the Department of Law Enforcement to be used for operational expenses of the Division of Local Law Enforcement Assistance in conducting the statewide criminal analysis laboratory system established in s. 943.32, and one-quarter shall be deposited in the Brain and Spinal Cord Injury Rehabilitation Trust Fund created in s. 413.613.~~ However, in satisfaction of the fine imposed pursuant to this section, the court may, upon a finding that the defendant is financially unable to pay either all or part of the fine, order that the defendant participate for a specified additional period of time in public service or a community work project in lieu of payment of that portion of the fine which the court determines the defendant is unable to pay. In determining such additional sentence, the court shall consider the amount of the

unpaid portion of the fine and the reasonable value of the services to be ordered; however, the court may not compute the reasonable value of services at a rate less than the federal minimum wage at the time of sentencing.

Section 26. Paragraph (c) of subsection (3) of section 11.45, Florida Statutes, 1996 Supplement, is amended to read:

11.45 Definitions; duties; audits; reports.—

(3)

(c) The Auditor General shall at least every 2 years make a performance audit of the local government financial reporting system, which, for the purpose of this chapter, means the reporting provisions of this subsection and subsection (4); s. *27.3455(1) and (2)* ~~27.3455(4) and (5)~~; part VII of chapter 112; s. 163.05; s. 166.241; chapter 189; parts III and V of chapter 218; and s. 925.037(5). The performance audit shall analyze each component of the reporting system separately and analyze the reporting system as a whole. The purpose of such an audit is to determine the accuracy, efficiency, and effectiveness of the reporting system in achieving its goals and objectives and to make recommendations to the local governments, the Governor, and the Legislature as to how the reporting system can be improved and how program costs can be reduced. Such goals and objectives must include, but need not be limited to, the timely, accurate, uniform, and cost-effective accumulation of financial and other information that can be used by the members of the Legislature and other appropriate officials in order to:

1. Compare and contrast revenue sources and expenditures of local governmental entities;

2. Assess the fiscal impact of the formation, dissolution, and activity of special districts;

3. Evaluate the fiscal impact of state mandates on local governmental entities;

4. Assess financial or economic conditions of local governmental entities; and

5. Improve communication and coordination among state agencies and local governmental entities.

Section 27. Subsections (4) through (8) of section 27.3455, Florida Statutes, 1996 Supplement, are renumbered as subsections (1) through (5), respectively, and are amended to read:

27.3455 Additional court costs; collection, use, and distribution of funds.—

(1)~~(4)~~ Each county shall submit annually to the Comptroller and the Auditor General a statement of revenues and expenditures as set forth in this section in the form and manner prescribed by the Comptroller in consultation with the Legislative Committee on Intergovernmental Relations, provided that such statement identify total county expenditures on:

(a) Medical examiner services.

(b) County victim witness programs.

(c) Each of the services outlined in ss. 27.34(2) and 27.54(3).

(d) Appellate filing fees in criminal cases in which an indigent defendant appeals a judgment of a county or circuit court to a district court of appeal or the Florida Supreme Court.

(e) Other court-related costs of the state attorney and public defender that were paid by the county where such costs were included in a judgment or order rendered by the trial court against the county.

Such statement also shall identify the revenues provided by *s. 938.05(1)* ~~subsection (1)~~ that were used to meet or reimburse the county for such expenditures.

(2)~~(5)~~(a) Within 6 months of the close of the local government fiscal year, each county shall submit to the Comptroller a statement of compliance from its independent certified public accountant, engaged pursuant to chapter 11, that the certified statement of expenditures was in accordance with ss. 27.34(2), 27.54(3), and this section. All discrepancies noted by the independent certified public accountant shall be included in the statement furnished by the county to the Comptroller.

(b) Should the Comptroller determine that additional auditing procedures are appropriate because:

1. The county failed to submit timely its annual statement;

2. Discrepancies were noted by the independent certified public accountant; or

3. The county failed to file before March 31 of each year the certified public accountant statement of compliance, the Comptroller is hereby authorized to send his or her personnel or to contract for services to bring the county into compliance. The costs incurred by the Comptroller shall be paid promptly by the county upon certification by the Comptroller.

(c) Where the Comptroller elects to utilize the services of an independent contractor, such certification by the Comptroller may require the county to make direct payment to a contractor. Any funds owed by a county in such matters shall be recovered pursuant to s. 17.04 or s. 17.041.

(3)~~(6)~~ The priority for the allocation of funds collected pursuant to *s. 938.05(1)* ~~subsection (1)~~ shall be as follows:

(a) Reimbursement to the county for actual county expenditures incurred in providing the state attorney and public defender the services outlined in ss. 27.34(2) and 27.54(3), with the exception of office space, utilities, and custodial services.

(b) At the close of the local government fiscal year, funds remaining on deposit in the special trust fund of the county after reimbursements have been made pursuant to paragraph (a) shall be reimbursed to the county for actual county expenditures made in support of the operations and services of medical examiners, including the costs associated with the investigation of state prison inmate deaths. Special county trust fund revenues used to reimburse the county for medical examiner expenditures in any year shall not exceed $1 per county resident.

(c) At the close of the local government fiscal year, counties establishing or having in existence a comprehensive victim-witness program which meets the standards set by the Crime Victims' Services Office shall be eligible to receive 50 percent matching moneys from the balance remaining in the special trust fund after reimbursements have been made pursuant to paragraphs (a) and (b). Special trust fund moneys used in any year to supplement such programs shall not exceed 25 cents per county resident.

(d) At the close of the local government fiscal year, funds remaining in the special trust fund after reimbursements have been made pursuant to paragraphs (a), (b), and (c) shall be used to reimburse the county for county costs incurred in the provision of office space, utilities, and custodial services to the state attorney and public defender, for county expenditures on appellate filing fees in criminal cases in which an indigent defendant appeals a judgment of a county or circuit court to a district court of appeal or the Florida Supreme Court, and for county expenditures on court-related costs of the state attorney and public defender that were paid by the county, provided that such court-related costs were included in a judgment or order rendered by the trial court against the county. Where a state attorney or a public defender is provided space in a county-owned facility, responsibility for calculating county costs associated with the provision of such office space, utilities, and custodial services is hereby vested in the Comptroller in consultation with the Legislative Committee on Intergovernmental Relations.

(4)~~(7)~~ At the end of the local government fiscal year, all funds remaining on deposit in the special trust fund after all reimbursements have been made as provided for in subsection *(3)*~~(6)~~ shall be forwarded to the Treasurer for deposit in the General Revenue Fund of the state.

(5)~~(8)~~ The Comptroller shall adopt any rules necessary to implement his or her responsibilities pursuant to this section.

Section 28. Paragraph (d) of subsection (1) and paragraph (e) of subsection (2) of section 27.52, Florida Statutes, 1996 Supplement, are amended to read:

27.52 Determination of indigency.—

(1)

(d) If the court finds that the accused person applying for representation appears to be indigent based on the factual information provided, the court shall appoint the public defender to provide representation. If the fee is not paid prior to the disposition of the case, the sentencing judge shall be advised of this fact and may:

1. Assess the fee as part of the sentence or as a condition of probation; or

2. Assess the fee pursuant to s. *938.29* ~~27.56~~.

Notwithstanding any provision of law or local order to the contrary, the collecting entity shall assign the first $40 to the Indigent Criminal Defense Trust Fund, if created by law; otherwise it shall be deposited in the General Revenue Fund. In no event should a person who is found to be indigent be refused counsel for failure to pay the fee.

(2)

(e) A nonindigent parent or legal guardian of an accused minor or an accused adult tax-dependent person shall furnish the minor or dependent person with the necessary legal services and costs incident to a delinquency proceeding or, upon transfer of such person for criminal prosecution as an adult pursuant to s. 39.052, a criminal prosecution, in which the person has a right to legal counsel under the Constitution of the United States or the Constitution of the State of Florida. The failure of a parent or legal guardian to furnish legal services and costs under this section shall not bar the appointment of legal counsel pursuant to s. 27.53. When the public defender, a special assistant public defender appointed pursuant to s. 27.53(2), or appointed private legal counsel is appointed to represent an accused minor or an accused adult tax-dependent person in any proceeding in circuit court or in a criminal proceeding in any other court, the parents or the legal guardian shall be liable for the fees and costs of such representation even if the person is a minor being tried as an adult. Liability for the costs of such representation may be imposed in the form of a lien against the property of the nonindigent or indigent but able to contribute parents or legal guardian of the accused minor or accused adult tax-dependent person, which lien shall be enforceable as provided in ~~s. 27.56 or~~ s. 27.561 *or s. 938.29*. The court shall determine the amount of the obligation; and, in determining the amount of the obligation, the court shall follow the procedure outlined by this section.

Section 29. Section 27.562, Florida Statutes, 1996 Supplement, is amended to read:

27.562 Disposition of funds.—All funds collected pursuant to s. *938.29* ~~27.56~~ shall be remitted to the board of county commissioners of the county wherein the defendant-recipient was tried. Such funds shall be placed in the fine and forfeiture fund of that county to be used to defray the expenses incurred by the county in defense of criminal prosecutions. All judgments entered pursuant to the provisions of this act shall be in the name of the county in which the judgment was rendered.

Section 30. Section 39.041, Florida Statutes, 1996 Supplement, is amended to read:

39.041 Right to counsel.—

(1) A child is entitled to representation by legal counsel at all stages of any proceedings under this part. If the child and the parents or other legal guardian are indigent and unable to employ counsel for the child, the court shall appoint counsel pursuant to s. 27.52. Determination of indigency and costs of representation shall be as provided by ss. 27.52 and *938.29* ~~27.56~~. Legal counsel representing a child who exercises the right to counsel shall be allowed to provide advice and counsel to the child at any time subsequent to the child's arrest, including prior to a detention hearing while in secure detention care. A child shall be represented by legal counsel at all stages of all court proceedings unless the right to counsel is freely, knowingly, and intelligently waived by the child. If the child appears without counsel, the court shall advise the child of his or her rights with respect to representation of court-appointed counsel.

(2) If the parents or legal guardian of an indigent child are not indigent but refuse to employ counsel, the court shall appoint counsel pursuant to s. 27.52(2)(d) to represent the child at the detention hearing and until counsel is provided. Costs of representation shall be assessed as provided by ss. 27.52(2)(d) and *938.29* ~~27.56~~. Thereafter, the court shall not appoint counsel for an indigent child with nonindigent parents or legal guardian but shall order the parents or legal guardian to obtain private counsel. A parent or legal guardian of an indigent child who has been ordered to obtain private counsel for the child and who willfully fails to follow the court order shall be punished by the court in civil contempt proceedings.

(3) An indigent child with nonindigent parents or legal guardian may have counsel appointed pursuant to s. 27.52(2)(d) if the parents or legal guardian have willfully refused to obey the court order to obtain counsel for the child and have been punished by civil contempt and then still have willfully refused to obey the court order. Costs of representation shall be assessed as provided by ss. 27.52(2)(d) and *938.29* ~~27.56~~.

Section 31. Section 142.01, Florida Statutes, is amended to read:

142.01 Fine and forfeiture fund contents.—There shall be in every county of this state a separate fund to be known as the fine and forfeiture fund. Said fund shall consist of all fines and forfeitures collected in the county under the penal laws of the state, except those fines imposed under s. 775.0835(1) and assessments imposed under ss. *938.21, 938.23, and 938.25* ~~893.13(8) and 893.16~~; all costs refunded to the county; all funds arising from the hire or other disposition of convicts; and the proceeds of any special tax that may be levied by the county commissioners for expenses of criminal prosecutions. Said funds shall be paid out only for criminal expenses, fees, and costs, where the crime was committed in the county and the fees and costs are a legal claim against the county, in accordance with the provisions of this chapter. Any surplus funds remaining in the fine and forfeiture fund at the end of a fiscal year may be transferred to the county general fund.

Section 32. Section 142.03, Florida Statutes, is amended to read:

142.03 Disposition of fines, forfeitures, and civil penalties.—Except as to fines, forfeitures, and civil penalties collected in cases involving violations of municipal ordinances, violations of chapter 316 committed within a municipality, or infractions under the provisions of chapter 318 committed within a municipality, in which cases such fines, forfeitures, and civil penalties shall be fully paid monthly to the appropriate municipality as provided in ss. 34.191, 316.660, and 318.21, and except as to fines imposed under s. 775.0835(1), and assessments imposed under ss. *938.21, 938.23, and 938.25* ~~893.13(8) and 893.16~~, all fines imposed under the penal laws of this state in all other cases, and the proceeds of all forfeited bail bonds or recognizances in all other cases, shall be paid into the fine and forfeiture fund of the county in which the indictment was found or the prosecution commenced, and judgment must be entered therefor in favor of the state for the use of the particular county.

Section 33. Paragraph (c) of subsection (2) and subsections (3) and (11) of section 318.21, Florida Statutes, 1996 Supplement, are amended to read:

318.21 Disposition of civil penalties by county courts.—All civil penalties received by a county court pursuant to the provisions of this chapter shall be distributed and paid monthly as follows:

(1) One dollar from every civil penalty shall be paid to the Department of Health and Rehabilitative Services for deposit into the Child Welfare Training Trust Fund for child welfare training purposes pursuant to s. 404.40. One dollar from every civil penalty shall be paid to the Department of Juvenile Justice for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes pursuant to s. 39.024.

(2) Of the remainder:

(c) Five and one-tenth percent shall be deposited in the Additional Court Cost Clearing Trust Fund established pursuant to s. *938.01* ~~943.25~~ for criminal justice purposes.

(3)(a) Moneys paid to a municipality or special improvement district under subparagraph (2)(g)1. must be used to fund local criminal justice training as provided in s. *938.15* ~~943.25(13)~~ when such a program is established by ordinance; to fund a municipal school crossing guard training program; and for any other lawful purpose.

(b) Moneys paid to a county under subparagraph (2)(g)2. shall be used to fund local criminal justice training as provided in s. *938.15*

~~943.25(13)~~ when such a program is established by ordinance, to fund a county school crossing guard training program, and for any other lawful purpose.

(11) The additional costs and surcharges on criminal traffic offenses provided for under ss. *938.03 and 938.04* ~~960.20 and 960.25 of the Florida Crimes Compensation Act~~ must be collected and distributed by the clerk of the court as provided in those sections. The additional costs and surcharges must also be collected for the violation of any ordinances adopting the criminal traffic offenses enumerated in s. 318.17.

Section 34. Subsection (20) of section 397.321, Florida Statutes, is amended to read:

397.321 Duties of the department.—The department shall:

(20) Establish a program to disseminate funds collected pursuant to s. *938.13* ~~939.017~~ to the counties of origin for use in substance abuse programs, whereby the boards of county commissioners determine allocations to specific programs pursuant to department criteria and guidelines.

Section 35. Subsection (1) of section 401.113, Florida Statutes, is amended to read:

401.113 Department; powers and duties.—

(1) Funds deposited into the Emergency Medical Services Trust Fund as provided by ss. 316.061, 316.192, ~~316.193, and~~ 318.21, *and 938.07* must be used solely to improve and expand prehospital emergency medical services in the state.

Section 36. Subsection (2) of section 426.003, Florida Statutes, is amended to read:

426.003 Handicapped and elderly assistance program; administration; rules.—

(2) To the extent that the department receives completed applications from a county which collects surcharges and costs pursuant to ss. *938.09 and 938.11* ~~775.0836 and 939.015~~, and as consistent with the priorities for award of security assistance grants contained in s. 426.004, the department shall approve grants to a county in an amount equal to that county's contribution to the Handicapped and Elderly Security Assistance Program, less a pro rata portion of the department's administrative costs.

Section 37. Subsections (1) and (2) and paragraph (a) of subsection (3) of section 893.165, Florida Statutes, are amended to read:

893.165 County alcohol and other drug abuse treatment or education trust funds.—

(1) Counties in which there is established or in existence a comprehensive alcohol and other drug abuse treatment or education program which meets the standards for qualification of such programs by the Department of Health and Rehabilitative Services are authorized to establish a County Alcohol and Other Drug Abuse Trust Fund for the purpose of receiving the assessments collected pursuant to s. *938.23* ~~893.16~~ and disbursing assistance grants on an annual basis to such alcohol and other drug abuse treatment or education program.

(2) Assessments collected by the clerks of court pursuant to s. *938.23* ~~893.16~~ shall be remitted to the board of county commissioners of the county in which the indictment was found or the prosecution commenced for payment into the County Alcohol and Other Drug Abuse Trust Fund. The county commissioners shall require a full report from all clerks of county courts and clerks of circuit courts once each month of the amount of assessments imposed by their courts.

(3)(a) No county shall receive assessments collected pursuant to s. *938.23* ~~893.16~~ in an amount exceeding that county's jurisdictional share as described in subsection (2).

Section 38. Subsection (1) of section 921.187, Florida Statutes, 1996 Supplement, is amended to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The alternatives provided in this section for the disposition of criminal cases shall be used in a manner that will best serve the needs of society, punish criminal offenders, and provide the opportunity for rehabilitation.

(a) If the offender does not receive a state prison sentence, the court may:

1. Impose a split sentence whereby the offender is to be placed on probation upon completion of any specified period of such sentence, which period may include a term of years or less.

2. Make any other disposition that is authorized by law.

3. Place the offender on probation with or without an adjudication of guilt pursuant to s. 948.01.

4. Impose a fine and probation pursuant to s. 948.011 when the offense is punishable by both a fine and imprisonment and probation is authorized.

5. Place the offender into community control requiring intensive supervision and surveillance pursuant to chapter 948.

6. Impose, as a condition of probation or community control, a period of treatment which shall be restricted to a county facility, a Department of Corrections probation and restitution center, a probation program drug punishment treatment community, or a community residential or nonresidential facility, excluding a community correctional center as defined in s. 944.026, which is owned and operated by any qualified public or private entity providing such services. Before admission to such a facility, the court shall obtain an individual assessment and recommendations on the appropriate treatment needs, which shall be considered by the court in ordering such placements. Placement in such a facility, except for a county residential probation facility, may not exceed 364 days. Placement in a county residential probation facility may not exceed 3 years. Early termination of placement may be recommended to the court, when appropriate, by the center supervisor, the supervising probation officer, or the probation program manager.

7. Sentence the offender pursuant to s. 922.051 to imprisonment in a county jail when a statute directs imprisonment in a state prison, if the offender's cumulative sentence, whether from the same circuit or from separate circuits, is not more than 364 days.

8. Sentence the offender who is to be punished by imprisonment in a county jail to a jail in another county if there is no jail within the county suitable for such prisoner pursuant to s. 950.01.

9. Require the offender to participate in a work-release or educational or vocational training program pursuant to s. 951.24 while serving a sentence in a county jail, if such a program is available.

10. Require the offender to perform a specified public service pursuant to s. 775.091.

11. Require the offender who violates chapter 893 or violates any law while under the influence of a controlled substance or alcohol to participate in a substance abuse program.

12.a. Require the offender who violates any criminal provision of chapter 893 to pay an additional assessment in an amount up to the amount of any fine imposed, pursuant to ss. *938.21 and 938.23* ~~893.13(8)(a) and 893.16~~.

b. Require the offender who violates any provision of s. 893.13 to pay an additional assessment in an amount of $100, pursuant to ss. *938.25* ~~893.13(8)(b)~~ and 943.361.

13. Impose a split sentence whereby the offender is to be placed in a county jail or county work camp upon the completion of any specified term of community supervision.

14. Impose split probation whereby upon satisfactory completion of half the term of probation, the Department of Corrections may place the offender on administrative probation pursuant to s. 948.01 for the remainder of the term of supervision.

15. Require residence in a state probation and restitution center or private drug treatment program for offenders on community control or offenders who have violated conditions of probation.

16. Impose any other sanction which is provided within the community and approved as an intermediate sanction by the county public safety coordinating council as described in s. 951.26.

17. Impose, as a condition of community control, probation, or probation following incarceration, a requirement that an offender who has not obtained a high school diploma or high school equivalency diploma or who lacks basic or functional literacy skills, upon acceptance by an adult education program, make a good faith effort toward completion of such basic or functional literacy skills or high school equivalency diploma, as defined in s. 229.814, in accordance with the assessed adult general education needs of the individual offender.

(b)1. Notwithstanding any provision of s. 921.001 to the contrary, on or after October 1, 1993, the court may require any defendant who violates s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria described in s. *893.13(9)* ~~893.13(10)~~, to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(1), in lieu of serving a term of imprisonment.

2. Notwithstanding any provision of s. 921.001 to the contrary, on or after October 1, 1993, the court may require any defendant who violates s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), and meets the criteria described in s. *893.13(10)* ~~893.13(11)~~, to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(2), in lieu of serving a term of imprisonment.

Section 39. Paragraph (j) of subsection (2) of section 943.08, Florida Statutes, 1996 Supplement, is amended to read:

943.08 Duties; Criminal and Juvenile Justice Information Systems Council.—

(2) The council shall review proposed rules and operating policies and procedures, and amendments thereto, of the Division of Criminal Justice Information Systems and make recommendations to the executive director which shall be represented in the meeting minutes of the council. In addition, the council shall review proposed policies, rules, and procedures relating to the information system of the Department of Juvenile Justice and make recommendations to the Secretary of Juvenile Justice or designated assistant who shall attend council meetings. Those recommendations shall relate to the following areas:

(j) The training, which may be provided pursuant to *s. 938.01, s. 938.15, or* s. 943.25, of employees of the department and other state and local criminal justice agencies in the proper use and control of criminal justice information.

Section 40. Paragraph (c) of subsection (1) of section 943.17, Florida Statutes, is amended to read:

943.17 Basic recruit, advanced, and career development training programs; participation; cost; evaluation.—The commission shall, by rule, design, implement, maintain, evaluate, and revise job-related curricula and performance standards for basic recruit, advanced, and career development training programs and courses. The rules shall include, but are not limited to, a methodology to assess relevance of the subject matter to the job, student performance, and instructor competency.

(1) The commission shall:

(c) Design, implement, maintain, evaluate, and revise a career development training program which is limited to those courses related to promotion to a higher rank or position. Career development courses will not be eligible for funding as provided in s. *943.25(9)* ~~943.25(10)~~.

Section 41. Subsections (4) through (12) and subsection (14) of section 943.25, Florida Statutes, are renumbered as subsections (3) through (12), respectively, and amended to read:

943.25 Criminal justice trust funds; source of funds; use of funds.—

(3)~~(4)~~ The Auditor General is directed in his financial audit of courts to ascertain that such assessments have been collected and remitted and shall report to the Legislature annually. All such records of the courts shall be open for his inspection. The Auditor General is further directed to conduct financial audits of the expenditures of the trust funds and to report to the Legislature annually.

(4)~~(5)~~ The commission shall, by rule, establish, implement, supervise, and evaluate the expenditures of the Criminal Justice Standards and Training Trust Fund for approved advanced and specialized training program courses. Criminal justice training school enhancements may be authorized by the commission subject to the provisions of subsection *(7)*~~(8)~~. The commission may approve the training of appropriate support personnel when it can be demonstrated that these personnel directly support the criminal justice function.

(5)~~(6)~~ The commission shall authorize the establishment of regional training councils to advise and assist the commission in developing and maintaining a plan assessing regional criminal justice training needs and to act as an extension of the commission in the planning, programming, and budgeting for expenditures of the moneys in the Criminal Justice Standards and Training Trust Fund.

(a) The commission shall annually forward to each regional training council a list of its specific recommended priority issues or items to be funded. Each regional training council shall consider the recommendations of the commission in relation to the needs of the region and either include the recommendations in the region's budget plan or satisfactorily justify their exclusion.

(b) Criminal Justice Standards and Training Trust Fund moneys allocated to the regions shall be distributed to each region based upon a formula approved by the commission. The distribution shall be used by each region to implement the regional plan approved by the commission.

(c) By rule, the commission may establish criteria and procedures for use by the division and regions to amend the approved plan when an emergency exists. The division shall, with the consent of the chairman of the commission, initially grant, modify, or deny the requested amendment pending final approval by the commission. The commission's plan and amendments thereto must comply with the provisions of chapter 216.

(d) A public criminal justice training school must be designated by the commission to receive and distribute the disbursements authorized under subsection *(9)* ~~(10)~~.

(e) Commission members, regional training council members, division staff personnel, and other authorized persons who are performing duties directly related to the trust fund may be reimbursed for reasonable per diem and travel expenses as provided in s. 112.061.

(6)~~(7)~~ No training, room, or board cost may be assessed against any officer or employing agency for any advanced and specialized training course funded from the Criminal Justice Standards and Training Trust Fund. Such expenses shall be paid from the trust fund and are not reimbursable by the officer. Travel costs to and from the training site are the responsibility of the trainee or employing agency. Any compensation, including, but not limited to, salaries and benefits, paid to any person during the period of training shall be fixed and determined by the employing agency; and such compensation shall be paid directly to the person.

(a) The commission shall develop a policy of reciprocal payment for training officers from regions other than the region providing the training.

(b) An officer who is not employed or appointed by an employing agency of this state may attend a course funded by the trust fund, provided he is required to pay to the criminal justice training school all training costs incurred for his attendance.

(7)~~(8)~~ No trust fund money may be expended for the planning or construction of any new school or expansion of any existing school without the specific prior approval of the Legislature, designating the location and the amount to be expended for the training school.

(8)~~(9)~~ All funds deposited in the Criminal Justice Standards and Training Trust Fund shall be made available to the department for implementation of training programs approved by the commission and the head of the department.

(9)~~(10)~~ The Executive Office of the Governor may approve, for disbursement from funds appropriated to the Department of Law Enforcement, Criminal Justice Standards and Training Trust Fund, those sums

necessary and required for the administration of the division and implementation of the training programs approved by the commission.

(10)~~(11)~~ Up to $250,000 per annum from the Criminal Justice Standards and Training Trust Fund may be used to develop, validate, update, and maintain test or assessment instruments relating to selection, employment, training, or evaluation of officers, instructors, or courses. Pursuant to s. 943.12(4), (5), and (8), the commission shall adopt those test or assessment instruments which are appropriate and job-related as minimum requirements.

(11)~~(12)~~ The commission, with the approval of the head of the department, either by contract or agreement, may authorize any university or community college in the state, or any other organization, to provide training for or facilities for training officers in the area of crime reduction, crime control, inmate control, or professional development.

(12)~~(14)~~ Except as provided by *s. 938.15* ~~subsection (13)~~ and notwithstanding any other provision of law, no funds collected and deposited pursuant to this section shall be expended unless specifically appropriated by the Legislature.

Section 42. Section 943.361, Florida Statutes, is amended to read:

943.361 Statewide criminal analysis laboratory system; funding through fine surcharges.—

(1) Funds deposited pursuant to ss. *938.07 and 938.25* ~~316.193(6) and 893.13(8)(b)~~ for the statewide criminal analysis laboratory system shall be used for state reimbursements to local county-operated crime laboratories enumerated in s. 943.35(1), and for the equipment, health, safety, and training of member crime laboratories of the statewide criminal analysis laboratory system.

(2) Moneys deposited pursuant to ss. *938.07 and 938.25* ~~316.193(6) and 893.13(8)(b)~~ for the statewide criminal analysis laboratory system shall be appropriated by the Legislature in accordance with the provisions of chapter 216 and with the purposes stated in subsection (1).

Section 43. Section 947.18, Florida Statutes, 1996 Supplement, is amended to read:

947.18 Conditions of parole.—No person shall be placed on parole merely as a reward for good conduct or efficient performance of duties assigned in prison. No person shall be placed on parole until and unless the commission finds that there is reasonable probability that, if he is placed on parole, he will live and conduct himself as a respectable and law-abiding person and that his release will be compatible with his own welfare and the welfare of society. No person shall be placed on parole unless and until the commission is satisfied that he will be suitably employed in self-sustaining employment or that he will not become a public charge. The commission shall determine the terms upon which such person shall be granted parole. If the person's conviction was for a controlled substance violation, one of the conditions must be that the person submit to random substance abuse testing intermittently throughout the term of supervision, upon the direction of the correctional probation officer as defined in s. 943.10(3). In addition to any other lawful condition of parole, the commission may make the payment of the debt due and owing to the state under s. 960.17 or the payment of the attorney's fees and costs due and owing to a county under s. *938.29* ~~27.56~~ a condition of parole subject to modification based on change of circumstances.

Section 44. Paragraph (i) of subsection (1) of section 948.03, Florida Statutes, 1996 Supplement, is amended to read:

948.03 Terms and conditions of probation or community control.—

(1) The court shall determine the terms and conditions of probation or community control. Conditions specified in paragraphs (a) through and including (n) do not require oral pronouncement at the time of sentencing and may be considered standard conditions of probation. Conditions specified in paragraphs (a) through and including (n) and (2)(a) do not require oral pronouncement at sentencing and may be considered standard conditions of community control. These conditions may include among them the following, that the probationer or offender in community control shall:

(i) Pay any attorney's fees and costs assessed under s. *938.29* ~~27.56~~, subject to modification based on change of circumstances.

Section 45. Section 948.0345, Florida Statutes, is amended to read:

948.0345 Community service alternative to fine; fine disposal.—Fines imposed pursuant to s. 948.034(1) and (2) shall be disposed of pursuant to s. *938.23(2)* ~~893.16(2)~~. If the court finds that an offender is financially unable to pay all or part of the fine, the court may order the offender to perform community service for a specified additional period of time in lieu of payment of that portion of the fine which the court determines the offender is unable to pay. The court shall take into consideration the amount of the unpaid portion of the fine and the reasonable value of the services; however, the court shall not compute the reasonable value of services at a rate less than the federal minimum wage at the time of placing the offender on probation.

Section 46. Subsection (2) of section 960.14, Florida Statutes, is amended to read:

960.14 Manner of payment; execution or attachment.—

(2) If a claimant owes money to the Crimes Compensation Trust Fund in connection with any other claim as provided for in ss. *938.03,* 960.16, *and* 960.17, ~~and 960.20,~~ the amount owed shall be reduced from any award.

Section 47. *Subsection (8) of section 893.13, Florida Statutes, is repealed.*

Section 48. *This act shall be liberally construed so as to facilitate the permanent statutory revision plan of this state created in section 11.241, Florida Statutes.*

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to court costs; providing legislative intent; creating chapter 938, F.S.; providing for certain mandatory costs in all cases; providing for certain mandatory costs in specific types of cases; providing for mandatory costs as authorized by local governmental entities; providing discretionary costs in specific types of cases; providing miscellaneous provisions; amending and renumbering s. 943.25(3), F.S., relating to certain additional costs deposited in Additional Court Cost Clearing Trust Fund; conforming terminology and references; amending and renumbering s. 960.20, F.S., relating to assessment of certain additional costs deposited in Crimes Compensation Trust Fund; conforming terminology; amending and renumbering s. 960.25, F.S., relating to surcharge on fines and bail bonds; conforming terminology; amending s. 775.0835, F.S.; removing provisions relating to deposit of certain surcharges in the Crimes Compensation Trust Fund; conforming a reference; amending and renumbering s. 27.3455(1), (2), (3), F.S., relating to certain additional court costs in special local government trust fund for criminal justice purposes; conforming terminology and references; providing for certain costs with respect to fines imposed under s. 316.193, F.S., relating to fines and other penalties for driving under the influence, and amending s. 316.193, F.S., to conform; renumbering and amending s. 939.015, F.S., relating to certain additional costs in cases in which victim is handicapped or elderly; conforming terminology; amending and renumbering s. 775.0836, F.S., relating to certain surcharges in cases in which victim is handicapped or elderly; conforming terminology; renumbering s. 939.017, F.S., relating to certain additional costs for misdemeanor convictions involving drugs or alcohol; amending and renumbering s. 943.25(13), F.S., relating to certain assessments for criminal justice education for local government; conforming terminology; amending and renumbering s. 775.0833, F.S., relating to certain costs for county delinquency prevention; conforming terminology; amending and renumbering s. 39.019, F.S., relating to certain costs for teen court operation and maintenance; conforming terminology; amending and renumbering s. 893.16, F.S., relating to certain additional assessments for alcohol and other drug abuse programs; conforming terminology and references; renumbering s. 939.01, F.S., relating to judgment for costs on conviction; amending and renumbering s. 27.56, F.S., relating to lien for payment of attorney's fees and costs in connection with certain legal assistance; conforming a reference; providing for incorporation of references to the new chapter or subdivisions thereof; amending ss. 11.45, 27.3455, 27.52, 27.562, 39.041, 142.01, 142.03, 318.21, 397.321, 401.113, 426.003, 893.165, 921.187, 943.08, 943.17, 943.25, 943.361, 947.18, 948.03, 948.0345, and 960.14, F.S., to conform; repealing s. 893.13(8), F.S., relating to additional assessments against certain violators for alcohol and other drug abuse programs; providing for construction; amending s. 327.35, F.S.; assessing an additional fine for boating while under the

influence, to be deposited in the Brain and Spinal Cord Rehabilitation Trust Fund; providing an effective date.

On motion by Senator Sullivan, by two-thirds vote **SB 388** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Holzendorf	Myers
Bankhead	Dantzler	Horne	Ostalkiewicz
Bronson	Diaz-Balart	Jenne	Rossin
Brown-Waite	Dudley	Jones	Silver
Burt	Dyer	Klein	Sullivan
Campbell	Forman	Kurth	Thomas
Casas	Grant	Latvala	Turner
Childers	Gutman	Lee	Williams
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Grant, by two-thirds vote **HB 99** was withdrawn from the Committees on Commerce and Economic Opportunities; and Governmental Reform and Oversight.

On motion by Senator Grant—

HB 99—A bill to be entitled An act relating to public records; creating s. 315.18, F.S.; providing an exemption from public records requirements for certain proposals and counterproposals exchanged between certain deepwater ports and nongovernmental entities for a specified period; providing an exemption from public records requirements for certain financial records submitted by such entities to such ports; providing for future review and repeal; providing a finding of public necessity; providing an effective date.

—a companion measure, was substituted for **SB 450** and read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 99** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Madam President	Cowin	Holzendorf	Meadows
Bankhead	Crist	Horne	Myers
Bronson	Dantzler	Jenne	Ostalkiewicz
Brown-Waite	Diaz-Balart	Jones	Rossin
Burt	Dudley	Klein	Scott
Campbell	Forman	Kurth	Silver
Casas	Grant	Latvala	Thomas
Childers	Gutman	Lee	Turner
Clary	Hargrett	McKay	Williams

Nays—None

Vote after roll call:

Yea—Harris, Kirkpatrick, Sullivan

On motion by Senator Silver, by two-thirds vote **HB 449** was withdrawn from the Committees on Criminal Justice; Judiciary; and Ways and Means.

On motion by Senator Silver—

HB 449—A bill to be entitled An act relating to criminal actions committed through the use of simulated legal process or under false color of law; creating s. 843.0855, F.S.; providing definitions; defining the offense of deliberately impersonating or falsely acting as a public officer or tribunal or public employee or utility employee in connection with or relating to legal process, or taking action under color of law against persons or property, and providing penalties therefor; defining the offense of simulating legal process with knowledge or reason to know of fraud with respect to a legal document, proceeding, or basis for action, and providing penalties therefor; defining the offense of falsely under color of law attempting to influence, intimidate, or hinder a public officer or law enforcement officer in the discharge of official duties, and providing penalties therefor; providing for applicability; providing an effective date.

—a companion measure, was substituted for **SB 468** and read the second time by title. On motion by Senator Silver, by two-thirds vote **HB 449** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Myers
Bankhead	Dantzler	Horne	Ostalkiewicz
Bronson	Diaz-Balart	Jenne	Rossin
Brown-Waite	Dudley	Jones	Scott
Burt	Dyer	Klein	Silver
Campbell	Forman	Kurth	Sullivan
Casas	Grant	Latvala	Thomas
Childers	Gutman	Lee	Turner
Clary	Hargrett	McKay	Williams
Cowin	Harris	Meadows	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Gutman, by two-thirds vote **CS for HB 663** was withdrawn from the Committees on Governmental Reform and Oversight; and Ways and Means.

On motions by Senator Gutman—

CS for HB 663—A bill to be entitled An act relating to the Florida Retirement System, amending s. 121.021, F.S.; redefining the term "termination" for Deferred Retirement Option Program participants; defining the term "DROP participants"; amending s. 121.091, F.S.; specifying benefits that may be payable to a participant's Deferred Retirement Option Program; specifying that the option selection for payment of benefits shall be final at the time a benefit payment is assigned to the Deferred Retirement Option Program; specifying death benefits applicable to Deferred Retirement Option Program participants; specifying employment after retirement limitations applicable to Deferred Retirement Option Program participants; providing eligibility criteria; providing for procedures for election of participation; providing for benefits payable; providing for death benefits; providing for a cost-of-living adjustment; specifying health insurance subsidy payments are not payable; specifying Deferred Retirement Option Program participation does not qualify as renewed membership; providing limitations on employment after participation; specifying contribution rates; specifying Deferred Retirement Option Program participation does not exempt such participants from the forfeiture of benefits under the provisions of ss. 112.3173 and 121.091(5), F.S; providing for administration of the program; providing a declaration of important state interest; providing for an appropriation; providing an effective date dependent upon the Division of Retirement's receipt of a favorable written determination letter and a favorable private letter ruling from the Internal Revenue Service.

—a companion measure, was substituted for **CS for SB 748** and read the second time by title. On motion by Senator Gutman, by two-thirds vote **CS for HB 663** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Childers	Dyer	Jenne
Bankhead	Clary	Forman	Jones
Bronson	Cowin	Grant	Klein
Brown-Waite	Crist	Gutman	Kurth
Burt	Dantzler	Harris	Latvala
Campbell	Diaz-Balart	Holzendorf	Lee
Casas	Dudley	Horne	McKay

Meadows	Rossin	Sullivan	Turner
Myers	Scott	Thomas	Williams
Ostalkiewicz	Silver		

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Diaz-Balart, by two-thirds vote **HB 1077** was withdrawn from the Committees on Executive Business, Ethics and Elections; and Rules and Calendar.

On motion by Senator Diaz-Balart—

HB 1077—A bill to be entitled An act relating to elections; changing the date of the second primary election in 1998; ensuring that dates tied to the date of the second primary remain unchanged, with specified exceptions; providing an effective date.

—a companion measure, was substituted for **SB 1008** as amended and read the second time by title.

Senator Dudley moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 2, between lines 3 and 4, insert:

Section 2. Subsection (4) of section 106.15, Florida Statutes, is amended to read:

106.15 Certain acts prohibited.—

(4) No person shall make and no person shall solicit or knowingly accept any *political* ~~campaign~~ contribution in a building owned by a governmental entity. For purposes of this subsection, "accept" means to receive a contribution by personal hand delivery from a contributor or the contributor's agent. This subsection shall not apply when a government-owned building or any portion thereof is rented for the specific purpose of holding a campaign fundraiser.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 6, after the semicolon (;) insert: amending s. 106.15, F.S.; prohibiting political contributions in government buildings;

On motion by Senator Diaz-Balart, by two-thirds vote **HB 1077** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

On motion by Senator Klein—

SB 1028—A bill to be entitled An act relating to felonies arising from the use of destructive devices; amending s. 775.15, F.S, relating to time limitations upon prosecution; providing that prosecution for such felonies arising from use of a destructive device and resulting in personal injury may be commenced at any time; providing an effective date.

—was read the second time by title.

Senator Klein moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, line 21, delete "*at any time*" and insert: *within 10 years*

And the title is amended as follows:

On page 1, line 8, delete "at any time" and insert: within 10 years

On motion by Senator Klein, by two-thirds vote **SB 1028** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Madam President	Crist	Horne	Myers
Bankhead	Dantzler	Jenne	Ostalkiewicz
Bronson	Dudley	Jones	Rossin
Brown-Waite	Dyer	Klein	Scott
Burt	Forman	Kurth	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Lee	Thomas
Clary	Harris	McKay	Turner
Cowin	Holzendorf	Meadows	Williams

Nays—None

Vote after roll call:

Yea—Campbell, Diaz-Balart, Kirkpatrick

On motion by Senator Klein—

CS for SB 1056—A bill to be entitled An act relating to health care; creating s. 381.0408, F.S.; creating the Public Health Partnership Council on Stroke; providing responsibility and duties; providing council membership; directing the Department of Health to contract for certain services; providing for administrative location of the council at the Institute of Public Health at Florida Agricultural and Mechanical University; providing for members' per diem and travel expenses; requiring a report; providing for legislative review of council accomplishments; providing an appropriation; providing an effective date.

—was read the second time by title.

Senator Klein moved the following amendments which were adopted:

Amendment 1 (with title amendment)—On page 4, lines 11-18, delete those lines and insert:

(3) The council shall be located for administrative purposes at the Institute for Public Health at Florida Agriculture and Mechanical University. The council shall not be subject to the control, supervision, or direction of the university. The council shall coordinate its activities with the Department of Health's health education and disease prevention programs.

And the title is amended as follows:

On page 1, lines 6 and 7, delete "directing the Department of Health to contract for certain services";

Amendment 2 (with title amendment)—On page 5, lines 4-6, delete those lines and renumber subsequent section.

And the title is amended as follows:

On page 1, line 14, delete "providing an appropriation;"

On motion by Senator Klein, by two-thirds vote **CS for SB 1056** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—39

Madam President	Burt	Clary	Diaz-Balart
Bankhead	Campbell	Cowin	Dudley
Bronson	Casas	Crist	Dyer
Brown-Waite	Childers	Dantzler	Forman

Grant	Jenne	McKay	Silver
Gutman	Jones	Meadows	Sullivan
Hargrett	Klein	Myers	Thomas
Harris	Kurth	Ostalkiewicz	Turner
Holzendorf	Latvala	Rossin	Williams
Horne	Lee	Scott	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Scott, by two-thirds vote **HB 201** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Scott—

HB 201—A bill to be entitled An act relating to educational finance; creating s. 236.08105, F.S.; requiring an advance distribution of Florida Education Finance Program funds under certain circumstances; providing an effective date.

—a companion measure, was substituted for **SB 1102** and read the second time by title. On motion by Senator Scott, by two-thirds vote **HB 201** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Holzendorf	Rossin
Bankhead	Dantzler	Horne	Scott
Bronson	Diaz-Balart	Jenne	Silver
Brown-Waite	Dudley	Jones	Sullivan
Burt	Dyer	Kirkpatrick	Thomas
Campbell	Forman	Kurth	Turner
Casas	Grant	Lee	Williams
Childers	Gutman	Meadows	
Clary	Hargrett	Myers	
Cowin	Harris	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—McKay

On motion by Senator Forman, by two-thirds vote **CS for HB's 719, 1223 and 1439** was withdrawn from the Committee on Judiciary.

On motions by Senator Forman, by two-thirds vote—

CS for HB's 719, 1223 and 1439—A bill to be entitled An act relating to guardians; creating s. 744.1085, F.S.; providing for the regulation of professional guardians; providing for a bond; providing educational requirements; authorizing issuance of a blanket fiduciary bond; amending s. 744.3135, F.S.; requiring criminal history and credit check; providing for waiver; amending s. 744.3145, F.S.; excluding professional guardians from certain educational requirements; amending s. 744.3675, F.S.; revising language with respect to the annual guardianship plan; amending s. 744.454, F.S.; forbidding professional guardian from purchasing property or borrowing money from his ward; providing an effective date.

—a companion measure, was substituted for **CS for SB 1214** and by two-thirds vote read the second time by title. On motion by Senator Forman, by two-thirds vote **CS for HB's 719, 1223 and 1439** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Campbell	Crist	Forman
Bankhead	Casas	Dantzler	Grant
Bronson	Childers	Diaz-Balart	Gutman
Brown-Waite	Clary	Dudley	Hargrett
Burt	Cowin	Dyer	Harris
Holzendorf	Kurth	Myers	Sullivan
Horne	Latvala	Ostalkiewicz	Thomas
Jenne	Lee	Rossin	Turner
Jones	McKay	Scott	Williams
Klein	Meadows	Silver	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Lee, by two-thirds vote **HB 1591** was withdrawn from the Committees on Governmental Reform and Oversight; Criminal Justice; and Ways and Means.

On motion by Senator Lee—

HB 1591—A bill to be entitled An act relating to private investigative, private security, and repossession services; amending s. 493.6101, F.S.; redefining the term "private investigation" and defining the term "felony"; amending s. 493.6102, F.S.; revising language with respect to inapplicability of ch. 493, F.S., to certain local, state, and federal officers; providing for inapplicability of the chapter to certain persons and firms conducting genealogical research; amending s. 493.6105, F.S.; revising firearms training requirements for applicants for a Class "G" license; amending s. 493.6108, F.S.; authorizing physicians licensed under similar law of other states to certify the physical fitness of Class "G" applicants; authorizing rather than requiring the department to deny a Class "G" license to certain persons; amending s. 493.6115, F.S.; revising a provision relating to the firearms certain licensees may carry; providing that certain licensees may carry a 9 millimeter semiautomatic pistol while performing security-related services; providing training criteria for Class "G" applicants; amending s. 493.6118, F.S.; revising language with respect to grounds for disciplinary action relating to criminal convictions; amending s. 493.6121, F.S.; providing for compliance with certain subpoenas; amending s. 493.6201, F.S.; providing that certain licensees may perform bodyguard services; amending s. 493.6301, F.S.; providing that certain licensees may be designated as managers of certain agencies or branch offices; amending s. 493.6305, F.S.; requiring return of uniforms and certain other equipment by licensees upon resignation or termination; amending s. 493.6404, F.S.; providing that United States Postal Service proof of mailing is sufficient for notification to debtors of the intent to dispose of their property; providing an effective date.

—a companion measure, was substituted for **CS for SB 1228** and read the second time by title. On motion by Senator Lee, by two-thirds vote **HB 1591** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Madam President	Crist	Harris	Meadows
Bankhead	Dantzler	Holzendorf	Myers
Bronson	Diaz-Balart	Horne	Ostalkiewicz
Brown-Waite	Dudley	Jenne	Rossin
Burt	Dyer	Jones	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Latvala	Sullivan
Childers	Gutman	Lee	Turner
Cowin	Hargrett	McKay	Williams

Nays—None

Vote after roll call:

Yea—Clary, Kirkpatrick, Kurth

On motion by Senator Dudley, by two-thirds vote **HB 1741** was withdrawn from the Committees on Community Affairs; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Dudley—

HB 1741—A bill to be entitled An act relating to firesafety; creating the Independent Special Fire Control District Act; prescribing uniform

criteria for operation of independent special fire control districts; preempting certain special acts and general acts of local application; providing for the election of district boards of commissioners; providing for conformance by existing districts; authorizing certain exceptions; providing for officers of such boards; providing for commissioners' compensation and expenses; requiring a bond; providing general and special powers of districts; exempting district assets and property from taxation; providing requirements and procedures for the levy of ad valorem taxes, non-ad valorem assessments, user charges, and impact fees; providing for referenda; providing for enforcement; providing requirements and procedures for issuance of bonds; providing for referenda; providing for organization of county fire chiefs; providing requirements for creation, expansion, and merger of such districts; amending s. 316.072, F.S.; providing penalties for failure to obey orders or directions of fire department members at the scene of rescue operations or other emergencies; providing notwithstanding the provisions of this paragraph, certified EMS providers or paramedics may provide response and treatment at the scene of emergencies and transport to patients in performance of their duties as an emergency medical services provider licensed under chapter 401 and in accordance with any local emergency medical response protocols; requiring existing fire control districts to submit draft codified charters to the Legislature for codification; providing an effective date.

—a companion measure, was substituted for **CS for SB 1248** and read the second time by title. On motion by Senator Dudley, by two-thirds vote **HB 1741** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Silver
Campbell	Forman	Klein	Sullivan
Casas	Grant	Kurth	Thomas
Childers	Gutman	Latvala	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	McKay	

Nays—None

On motion by Senator Thomas—

CS for SB 1362—A bill to be entitled An act relating to propane gas; creating ss. 527.20-527.23, F.S.; creating the Florida Propane Gas Education, Safety, and Research Act; providing a statement of legislative purpose; providing definitions; establishing the Florida Propane Gas Education, Safety, and Research Council; providing for membership, duties, and responsibilities; providing for marketing orders and requirements; providing referendum requirements; providing for industry assessments; providing for rules; providing an effective date.

—was read the second time by title.

Senator Thomas moved the following amendment which was adopted:

Amendment 1—On page 1, line 19, delete "*517.20*" and insert: *527.20*

On motion by Senator Thomas, by two-thirds vote **CS for SB 1362** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Madam President	Clary	Forman	Kirkpatrick
Bankhead	Cowin	Gutman	Klein
Brown-Waite	Crist	Harris	Kurth
Burt	Dantzler	Holzendorf	Latvala
Campbell	Diaz-Balart	Horne	Lee
Casas	Dudley	Jenne	McKay
Childers	Dyer	Jones	Meadows
Myers	Rossin	Sullivan	Turner
Ostalkiewicz	Silver	Thomas	Williams

Nays—None

Vote after roll call:

Yea—Bronson, Grant, Hargrett

On motion by Senator Childers—

CS for SB 1432—A bill to be entitled An act relating to title loan transactions; creating the "Florida Title Loan Act"; providing definitions; requiring licensure by the Department of Agriculture and Consumer Services to be in the business as a title loan lender; providing for eligibility for licensure; providing for application; providing for suspension or revocation of license; providing for a title loan transaction form; providing for recordkeeping and reporting and safekeeping of property; providing for title loan charges; providing a holding period when there is a failure to redeem; providing for attempts at collection; providing for the disposal of pledged property; providing for disposition of excess proceeds; prohibiting certain acts; providing for the right to redeem; providing for lost title loan transaction forms; providing for a title loan lenders lien; providing for criminal penalties; providing for certain records from the Department of Law Enforcement; providing for subpoenas, enforcement of actions, and rules; providing a fine; providing for investigations and complaints; providing an appropriation; providing legislative intent; repealing ss. 538.06(5), 538.15(4) and (5), F.S., relating to title loan transactions by secondhand dealers; amending ss. 538.03, 538.16, F.S., relating to secondhand dealers, to remove provisions relating to title loan transactions; providing an effective date.

—was read the second time by title.

Senator Williams moved the following amendment:

Amendment 1—On page 16, line 19 through page 17, line 15, delete those lines and insert: *charge may not exceed 15 percent simple interest per 30-day period.*

(2) Any extension must be done in writing and must clearly specify the new maturity date, the title loan finance charges paid for the extension, and the title loan finance charges owed on the new maturity date, and a copy must be supplied to the pledgor. In this event, the daily title loan finance charge for the extension shall be equal to the title loan finance charge for the original 30-day period divided by 30 days, one-thirtieth of the original total title loan finance charge. A title loan lender is not permitted to capitalize any unpaid finance charge as part of the amount financed in a subsequent title loan transaction.

(3) When a title loan agreement has not been satisfied within 30 days after its inception, the title loan lender shall be entitled to receive a finance charge on the outstanding principal balance at a rate not to exceed 31 percent per annum for that period of time the loan remains outstanding after the initial 30-day period. However, the title loan lender may collect a finance charge as set forth in subsection (1) for the first 30 days the title loan agreement is in effect.

On motion by Senator Childers, further consideration of **CS for SB 1432** with pending **Amendment 1** was deferred.

MOTION

On motion by Senator Childers, by two-thirds vote **CS for SB 1432** with pending **Amendment 1** by Senator Williams was removed from the Consent Calendar.

On motion by Senator Williams—

CS for SB 1456—A bill to be entitled An act relating to insurance; creating s. 624.22, F.S.; providing the purpose of ch. 624, F.S.; declaring legislative intent regarding adequate regulation of insurers and reinsurers; requiring that, upon the insolvency of a non-U.S. insurer or reinsurer certain security be maintained in the U.S. and that claims be filed with the state with regulatory oversight; providing a legislative declaration that the matters are fundamental to the business of insurance in accordance with federal law; amending s. 624.610, F.S.; providing an

additional form of approved reinsurance, subject to certain conditions; amending s. 624.424, F.S.; revising the length of time an insurer may engage the same accountant or partner of an accounting firm; amending s. 626.321, F.S.; authorizing certain entities that hold a limited license for credit life or disability insurance to sell credit property insurance; amending s. 627.311, F.S.; providing civil immunity for certain persons associated with the Florida Joint Underwriting Association; providing an exception; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **CS for SB 1456** to **HB 743**.

Pending further consideration of **CS for SB 1456** as amended, on motion by Senator Williams, by two-thirds vote **HB 743** was withdrawn from the Committees on Banking and Insurance; and Judiciary.

On motion by Senator Williams—

HB 743—A bill to be entitled An act relating to insurance; amending s. 624.424, F.S.; increasing the time limit on an insurer's use of certain accountants; amending s. 627.311, F.S.; providing civil immunity for certain persons associated with the Florida Joint Underwriting Association; providing an exception; amending s. 626.321, F.S.; authorizing certain entities that hold a limited license for credit life and disability insurance to sell credit property insurance; providing an effective date.

—a companion measure, was substituted for **CS for SB 1456** as amended and read the second time by title. On motion by Senator Williams, by two-thirds vote **HB 743** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Dudley	Jenne	Ostalkiewicz
Brown-Waite	Dyer	Jones	Rossin
Burt	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—1

Campbell

Vote after roll call:

Yea—Diaz-Balart, Kirkpatrick

On motion by Senator Harris—

SB 1496—A bill to be entitled An act relating to museums; providing legislative intent; providing definitions; providing obligations of museums to lenders; providing for notice to lenders by museums; providing for termination of loans; providing conditions under which a museum gains title to property; providing for conservation or disposal of loaned property by a museum; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **SB 1496** to **HB 1199**.

Pending further consideration of **SB 1496** as amended, on motion by Senator Harris, by two-thirds vote **HB 1199** was withdrawn from the Committees on Governmental Reform and Oversight; and Judiciary.

On motions by Senator Harris, by two-thirds vote—

HB 1199—A bill to be entitled An act relating to museums; providing legislative intent; providing definitions; providing obligations of museums to lenders; providing for notice to lenders by museums; providing for termination of loans; providing conditions under which a museum gains title to property; providing for conservation or disposal of loaned property by a museum; providing an effective date.

—a companion measure, was substituted for **SB 1496** as amended and by two-thirds vote read the second time by title. On motion by Senator Harris, by two-thirds vote **HB 1199** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Madam President	Cowin	Holzendorf	Meadows
Bankhead	Crist	Horne	Myers
Bronson	Dantzler	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Forman	Klein	Silver
Campbell	Grant	Kurth	Sullivan
Casas	Gutman	Latvala	Thomas
Childers	Hargrett	Lee	Turner
Clary	Harris	McKay	Williams

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Holzendorf, by two-thirds vote **HB 1179** was withdrawn from the Committees on Regulated Industries; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Holzendorf—

HB 1179—A bill to be entitled An act relating to regulation of professions and occupations; amending s. 455.213, F.S., relating to general licensing provisions; providing for direct payment of organization-related or vendor-related fees associated with the examination to the organization or vendor; providing that passing a required examination does not entitle a person to licensure if the person is not otherwise qualified; amending s. 455.217, F.S., relating to examinations; authorizing the contracting for examinations and services related to examinations; providing requirements with respect to examinations developed by the department or a contracted vendor and to national examinations; amending s. 455.225, F.S.; providing that complaints or actions against unlicensed persons or persons operating outside their scope of practice are not confidential; amending s. 489.109, F.S.; revising language relating to fees applicable to regulation of construction contracting, to conform to changes authorizing contracted examinations; amending s. 489.111, F.S.; revising provisions relating to licensure by examination; amending s. 489.113, F.S.; authorizing a local construction regulation board to deny, suspend, or revoke the authority of a certified contractor to obtain a building permit or limit such authority to obtaining a permit or permits with specific conditions; providing for notices of noncompliance for minor violations of regulatory law; amending s. 489.114, F.S., relating to evidence of workers' compensation coverage; conforming terminology; amending s. 489.115, F.S.; providing for licensure by endorsement reciprocity with other jurisdictions; providing for rules covering requirements relating to the content of continuing education courses and standards for approval of continuing education providers; requiring submission of a credit report reflecting financial responsibility as a prerequisite to the initial issuance of a certificate; amending s. 489.119, F.S.; requiring business organizations other than sole proprietorships to secure a certificate of authority rather than registration or certification; amending s. 489.1195, F.S.; specifying requirements for financially responsible officers; amending s. 489.127, F.S., relating to prohibitions and penalties; including reference to certificates of authority; specifying that a local occupational license issued under authority of chapter 205, F.S., is not a license for purposes of part I of chapter 489, F.S., relating to construction contracting; amending s. 489.129, F.S., relating to disciplinary proceedings; including reference to certificates of authority; prohibiting issuance or renewal of licensure until restitution is paid in full, if restitution has been ordered, or until all terms and conditions of the final order have been satisfied; amending s. 489.131, F.S.; providing applicability of the part to the authority of local authorities to issue and the requirement of specified contractors to obtain local occupational license tax certificates; providing for payment of local bonds into the Construction Industry Recovery Fund; providing for issuance of notices of noncompliance for minor violations of regulatory law; amending s. 489.132, F.S., relating to prohibited acts by unlicensed principals; conforming terminology; creating ss. 489.1455 and 489.5335, F.S.; providing requirements for local reciprocity of licensed journeymen; providing for

a fee; creating s. 489.146, F.S.; requiring privatization of services of the Department of Business and Professional Regulation; providing requirements and rulemaking authority for such purpose; providing effective dates.

—a companion measure, was substituted for **CS for CS for SB 1532** and read the second time by title. On motion by Senator Holzendorf, by two-thirds vote **HB 1179** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Horne	Ostalkiewicz
Bankhead	Dantzler	Jenne	Rossin
Bronson	Dudley	Jones	Scott
Brown-Waite	Dyer	Klein	Silver
Burt	Forman	Kurth	Sullivan
Campbell	Grant	Latvala	Thomas
Casas	Gutman	Lee	Turner
Childers	Hargrett	McKay	Williams
Clary	Harris	Meadows	
Cowin	Holzendorf	Myers	

Nays—None

Vote after roll call:

Yea—Diaz-Balart, Kirkpatrick

SENATOR HORNE PRESIDING

On motion by Senator McKay—

CS for SB 1592—A bill to be entitled An act relating to continuing care contracts; amending s. 651.011, F.S.; revising definitions; amending s. 651.013, F.S.; specifying application of additional laws to providers of continuing care; amending s. 651.015, F.S.; revising certain filing fee provisions; amending s. 651.022, F.S.; deleting certain escrow agreement requirements; limiting the Department of Insurance's authority to approve certain applications; amending s. 651.023, F.S.; clarifying provisions for applications for certificates of authority; revising criteria for granting certain mortgages; limiting department authority to approve certain applications; deleting certain provisions for renewal of certificates of authority; amending s. 651.0235, F.S.; providing for continuing validity of certificates of authority; amending s. 651.026, F.S.; requiring a filing fee for annual reports; providing requirements for financial reports and information; amending s. 651.033, F.S.; revising investment criteria for escrow accounts; revising criteria for managing and administering escrow accounts; amending s. 651.035, F.S.; clarifying minimum liquid reserve requirements; decreasing certain escrow operating reserve requirements; requiring providers to maintain a renewal and replacement reserve in escrow; providing criteria; providing requirements for use of such reserves; amending s. 651.051, F.S.; requiring certain notice before removal of certain assets and records from the state; amending s. 651.055, F.S.; requiring submittal to and approval by the department of all continuing care contracts and addenda; revising continuing care agreement provisions to apply to continuing care contracts; amending s. 651.061, F.S.; providing criteria and requirements for certain refunds to residents upon termination of contracts; amending s. 651.065, F.S.; applying certain waiver provisions to continuing care contracts; amending s. 651.071, F.S.; applying preferred claims provisions to continuing care contracts in receivership; amending s. 651.091, F.S.; requiring providers to make available for review certain master plans and plans for expansion or development; requiring providers to furnish residents a copy of resident's rights; requiring filing of certain information with the department; amending s. 651.095, F.S.; requiring department approval of certain provider advertising; limiting certain provider advertising; amending s. 651.105, F.S.; applying examination and inspection provisions to continuing care contracts; amending s. 651.106, F.S.; providing additional grounds for refusal, suspension, or revocation of certificates of authority; providing continuing requirements for providers after revocation of a certificate; amending s. 651.107, F.S.; clarifying status of certificates of authority not reinstated; creating s. 651.1081, F.S.; specifying remedies in cases of unlawful sales by providers; amending s. 651.111, F.S.; broadening the department's inspection authority; amending s. 651.114, F.S.; applying delinquency proceedings and remedial rights provisions to continuing care contracts; clarifying certain notice requirements relating to release of certain escrow funds; amending s. 651.1151, F.S.; requiring accessibility by residents or resident organizations to management services contracts; amending s. 651.118, F.S.; clarifying a receivership provision; amending s. 651.121, F.S.; requiring the Continuing Care Advisory Council to assist the department in certain actions; repealing s. 651.041, F.S., relating to use of reserves for investment purposes; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **CS for SB 1592** to **CS for HB 1243**.

Pending further consideration of **CS for SB 1592** as amended, on motion by Senator McKay, by two-thirds vote **CS for HB 1243** was withdrawn from the Committees on Banking and Insurance; and Ways and Means.

On motion by Senator McKay—

CS for HB 1243—A bill to be entitled An act relating to continuing care contracts; amending s. 651.011, F.S.; revising definitions; amending s. 651.013, F.S.; specifying application of additional laws to providers of continuing care; amending s. 651.015, F.S.; revising certain filing fee provisions; amending s. 651.022, F.S.; deleting certain escrow agreement requirements; limiting the Department of Insurance's authority to approve certain applications; amending s. 651.023, F.S.; clarifying provisions for applications for certificates of authority; revising criteria for granting certain mortgages; limiting department authority to approve certain applications; deleting certain provisions for renewal of certificates of authority; amending s. 651.0235, F.S.; providing for continuing validity of certificates of authority; amending s. 651.026, F.S.; requiring a filing fee for annual reports; providing requirements for financial reports and information; amending s. 651.033, F.S.; revising investment criteria for escrow accounts; revising criteria for managing and administering escrow accounts; amending s. 651.035, F.S.; clarifying minimum liquid reserve requirements; decreasing certain escrow operating reserve requirements; requiring providers to maintain a renewal and replacement reserve in escrow; providing criteria; providing requirements for use of such reserves; amending s. 651.051, F.S.; requiring certain notice before removal of certain assets and records from the state; amending s. 651.055, F.S.; requiring submittal to and approval by the department of all continuing care contracts and addenda; revising continuing care agreement provisions to apply to continuing care contracts; amending s. 651.061, F.S.; providing criteria and requirements for certain refunds to residents upon termination of contracts; amending s. 651.065, F.S.; applying certain waiver provisions to continuing care contracts; amending s. 651.071, F.S.; applying preferred claims provisions to continuing care contracts in receivership; amending s. 651.091, F.S.; requiring providers to make available for review certain master plans and plans for expansion or development; requiring providers to furnish residents a copy of resident's rights; requiring filing of certain information with the department; amending s. 651.095, F.S.; requiring department approval of certain provider advertising; limiting certain provider advertising; amending s. 651.105, F.S.; applying examination and inspection provisions to continuing care contracts; amending s. 651.106, F.S.; providing additional grounds for refusal, suspension, or revocation of certificates of authority; providing continuing requirements for providers after revocation of a certificate; amending s. 651.107, F.S.; clarifying status of certificates of authority not reinstated; creating s. 651.1081, F.S.; specifying remedies in cases of unlawful sales by providers; amending s. 651.111, F.S.; broadening the department's inspection authority; amending s. 651.114, F.S.; applying delinquency proceedings and remedial rights provisions to continuing care contracts; clarifying certain notice requirements relating to release of certain escrow funds; amending s. 651.1151, F.S.; requiring accessibility by residents or resident organizations to management services contracts; amending s. 651.118, F.S.; clarifying a receivership provision; amending s. 651.121, F.S.; requiring the Continuing Care Advisory Council to assist the department in certain actions; repealing s. 651.041, F.S., relating to use of reserves for investment purposes; providing an effective date.

—a companion measure, was substituted for **CS for SB 1592** as amended and read the second time by title. On motion by Senator McKay, by two-thirds vote **CS for HB 1243** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Bankhead	Dantzler	Jenne	Ostalkiewicz
Bronson	Dudley	Jones	Rossin
Brown-Waite	Dyer	Kirkpatrick	Scott
Burt	Forman	Klein	Silver
Campbell	Grant	Kurth	Sullivan
Casas	Gutman	Latvala	Thomas
Childers	Hargrett	Lee	Turner
Clary	Harris	McKay	Williams
Cowin	Holzendorf	Meadows	
Crist	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Madam President, Diaz-Balart

THE PRESIDENT PRESIDING

On motion by Senator Bankhead, by two-thirds vote **CS for HB 1263** was withdrawn from the Committee on Regulated Industries.

On motions by Senator Bankhead, by two-thirds vote—

CS for HB 1263—A bill to be entitled An act relating to underground facilities damage prevention and safety; amending s. 556.106, F.S.; specifying liability for damage occurring in certain excavations; amending s. 556.108, F.S.; revising certain exemptions from notification requirements; providing an effective date.

—a companion measure, was substituted for **CS for SB 1598** and by two-thirds vote read the second time by title. On motion by Senator Bankhead, by two-thirds vote **CS for HB 1263** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Horne	Ostalkiewicz
Bankhead	Dantzler	Jenne	Rossin
Bronson	Dudley	Jones	Scott
Brown-Waite	Dyer	Kirkpatrick	Silver
Burt	Forman	Klein	Sullivan
Campbell	Grant	Kurth	Thomas
Casas	Gutman	Latvala	Turner
Childers	Hargrett	Lee	Williams
Clary	Harris	McKay	
Cowin	Holzendorf	Myers	

Nays—None

Vote after roll call:

Yea—Diaz-Balart

On motion by Senator Cowin—

SB 1784—A bill to be entitled An act relating to medical practice; amending s. 458.311, F.S.; providing for certain persons to take the licensure examination without applying for a license; providing fees; providing an effective date.

—was read the second time by title. On motion by Senator Cowin, by two-thirds vote **SB 1784** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Madam President	Childers	Grant	Klein
Bankhead	Clary	Gutman	Kurth
Bronson	Cowin	Hargrett	Latvala
Brown-Waite	Dantzler	Harris	Lee
Burt	Dudley	Horne	McKay
Campbell	Dyer	Jenne	Meadows
Casas	Forman	Jones	Myers
Ostalkiewicz	Scott	Sullivan	Turner
Rossin	Silver	Thomas	Williams

Nays—None

Vote after roll call:

Yea—Crist, Diaz-Balart, Kirkpatrick

On motion by Senator Clary, by two-thirds vote **HB 1469** was withdrawn from the Committees on Commerce and Economic Opportunities; and Ways and Means.

On motion by Senator Clary—

HB 1469—A bill to be entitled An act relating to food and beverage vending machines; amending s. 212.0515, F.S.; deleting requirements relating to quarterly reports filed by operators; providing effective dates.

—a companion measure, was substituted for **CS for SB's 1846 and 1876** and read the second time by title.

Senator Forman moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, between lines 8 and 9, insert:

Section 1. Paragraph (nn) is added to subsection (7) of section 212.08, Florida Statutes, 1996 Supplement, to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(7) MISCELLANEOUS EXEMPTIONS.—

(nn) There is exempt from the tax imposed by this chapter passenger rail service rolling stock specifically designed for, and intended for use in, providing substantial entertainment services to passengers. Such stock must be intended for use in inter-city transportation on routes approved by federal regulatory agencies. This exemption is available by refund only, and the total amount refunded shall not exceed $600,000. This paragraph is repealed on December 31, 1998.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, lines 2 and 3, delete "An act relating to food and beverage vending machines;" and insert: An act relating to the tax on sales, use, and other transactions; amending s. 212.08, F.S.; providing an exemption for certain rolling stock used for passenger rail service;

Senator McKay moved the following amendment which was adopted:

Amendment 2 (with title amendment)—On page 2, between lines 2 and 3, insert:

Section 2. Effective upon this act becoming a law and applicable retroactively to November 1, 1989, paragraph (a) of subsection (1) of section 212.031, Florida Statutes, 1996 Supplement, is amended to read:

212.031 Lease or rental of or license in real property.—

(1)(a) It is declared to be the legislative intent that every person is exercising a taxable privilege who engages in the business of renting, leasing, letting, or granting a license for the use of any real property unless such property is:

1. Assessed as agricultural property under s. 193.461.

2. Used exclusively as dwelling units.

3. Property subject to tax on parking, docking, or storage spaces under s. 212.03(6).

4. Recreational property or the common elements of a condominium when subject to a lease between the developer or owner thereof and the

condominium association in its own right or as agent for the owners of individual condominium units or the owners of individual condominium units. However, only the lease payments on such property shall be exempt from the tax imposed by this chapter, and any other use made by the owner or the condominium association shall be fully taxable under this chapter.

5. A public or private street or right-of-way occupied or used by a utility for utility purposes.

6. A public street or road which is used for transportation purposes.

7. Property used at an airport exclusively for the purpose of aircraft landing or aircraft taxiing or property used by an airline for the purpose of loading or unloading passengers or property onto or from aircraft or for fueling aircraft.

8.*a.* Property used at a port authority, as defined in s. 315.02(2), exclusively for the purpose of oceangoing vessels or tugs docking, or such vessels mooring on property used by a port authority for the purpose of loading or unloading passengers or cargo onto or from such a vessel, or property used at a port authority for fueling such vessels, *or to the extent that the amount paid for the use of any property at the port is based on the charge for the amount of tonnage actually imported or exported through the port by a tenant or licensee.*

b. The amount charged for the use of any property at the port in excess of the amount charged for tonnage actually imported or exported shall remain subject to tax except as provided in sub-subparagraph a.

9. Property used as an integral part of the performance of qualified production services. As used in this subparagraph, the term "qualified production services" means any activity or service performed directly in connection with the production of a qualified motion picture, as defined in s. 212.06(1)(b), and includes:

a. Photography, sound and recording, casting, location managing and scouting, shooting, creation of special and optical effects, animation, adaptation (language, media, electronic, or otherwise), technological modifications, computer graphics, set and stage support (such as electricians, lighting designers and operators, greensmen, prop managers and assistants, and grips), wardrobe (design, preparation, and management), hair and makeup (design, production, and application), performing (such as acting, dancing, and playing), designing and executing stunts, coaching, consulting, writing, scoring, composing, choreographing, script supervising, directing, producing, transmitting dailies, dubbing, mixing, editing, cutting, looping, printing, processing, duplicating, storing, and distributing;

b. The design, planning, engineering, construction, alteration, repair, and maintenance of real or personal property including stages, sets, props, models, paintings, and facilities principally required for the performance of those services listed in sub-subparagraph a.; and

c. Property management services directly related to property used in connection with the services described in sub-subparagraphs a. and b.

10. Leased, subleased, or rented to a person providing food and drink concessionaire services within the premises of a movie theater, a business operated under a permit issued pursuant to chapter 550, or any publicly owned arena, sports stadium, convention hall, exhibition hall, auditorium, or recreational facility. A person providing retail concessionaire services involving the sale of food and drink or other tangible personal property within the premises of an airport shall be subject to tax on the rental of real property used for that purpose, but shall not be subject to the tax on any license to use the property. For purposes of this subparagraph, the term "sale" shall not include the leasing of tangible personal property.

11. Property occupied pursuant to an instrument calling for payments which the department has declared, in a Technical Assistance Advisement issued on or before March 15, 1993, to be nontaxable pursuant to rule 12A-1.070(19)(c), Florida Administrative Code; provided that this subparagraph shall only apply to property occupied by the same person before and after the execution of the subject instrument and only to those payments made pursuant to such instrument, exclusive of renewals and extensions thereof occurring after March 15, 1993.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, lines 2-5, delete those lines and insert: An act relating to taxation; amending s. 212.0515, F.S.; deleting requirements relating to quarterly reports filed by operators; amending s. 212.031, F.S.; revising the exemption from the tax on the lease or rental of a license in real property for property used at a port authority; providing for application when payment for use of the property is based on tonnage imported or exported; providing for retroactive application; providing an effective date.

Senator Ostalkiewicz moved the following amendment which was adopted:

Amendment 3 (with title amendment)—On page 2, between lines 6 and 7, insert:

Section 2. Paragraph (o) of subsection (7) of section 212.08, Florida Statutes, 1996 Supplement, is amended to read:

212.08 Sales, rental, use, consumption, distribution, and storage tax; specified exemptions.—The sale at retail, the rental, the use, the consumption, the distribution, and the storage to be used or consumed in this state of the following are hereby specifically exempt from the tax imposed by this part.

(7) MISCELLANEOUS EXEMPTIONS.—

(o) Religious, charitable, scientific, educational, and veterans' institutions and organizations.—

1. There are exempt from the tax imposed by this part transactions involving:

a. Sales or leases directly to churches or sales or leases of tangible personal property by churches;

b. Sales or leases to nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational institutions when used in carrying on their customary nonprofit religious, nonprofit charitable, nonprofit scientific, or nonprofit educational activities, including church cemeteries; and

c. Sales or leases to the state headquarters of qualified veterans' organizations and the state headquarters of their auxiliaries when used in carrying on their customary veterans' organization activities. If a qualified veterans' organization or its auxiliary does not maintain a permanent state headquarters, then transactions involving sales or leases to such organization and used to maintain the office of the highest ranking state official are exempt from the tax imposed by this part.

2. The provisions of this section authorizing exemptions from tax shall be strictly defined, limited, and applied in each category as follows:

a. "Religious institutions" means churches, synagogues, and established physical places for worship at which nonprofit religious services and activities are regularly conducted and carried on. The term "religious institutions" includes nonprofit corporations the sole purpose of which is to provide free transportation services to church members, their families, and other church attendees. The term "religious institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of religious organizations or members. The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code of 1986, as amended, which owns and operates a Florida television station, at least 90 percent of the programming of which station consists of programs of a religious nature, and the financial support for which, exclusive of receipts for broadcasting from other nonprofit organizations, is predominantly from contributions from the general public. The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code of 1986, as amended, which provides regular religious services to Florida state prisoners and which from its own established physical place of worship, operates a ministry providing worship and services of a charitable nature to the community on a weekly basis. *The term "religious institutions" also includes any nonprofit corporation which is qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code of 1986, as amended, the primary activity of*

which is distribution of audio recordings of religious scriptures to blind or visually impaired persons at no charge.

b. "Charitable institutions" means only nonprofit corporations qualified as nonprofit pursuant to s. 501(c)(3), United States Internal Revenue Code of 1954, as amended, and other nonprofit entities, the sole or primary function of which is to provide, or to raise funds for organizations which provide, one or more of the following services if a reasonable percentage of such service is provided free of charge, or at a substantially reduced cost, to persons, animals, or organizations that are unable to pay for such service:

(I) Medical aid for the relief of disease, injury, or disability;

(II) Regular provision of physical necessities such as food, clothing, or shelter;

(III) Services for the prevention of or rehabilitation of persons from alcoholism or drug abuse; the prevention of suicide; or the alleviation of mental, physical, or sensory health problems;

(IV) Social welfare services including adoption placement, child care, community care for the elderly, and other social welfare services which clearly and substantially benefit a client population which is disadvantaged or suffers a hardship;

(V) Medical research for the relief of disease, injury, or disability;

(VI) Legal services; or

(VII) Food, shelter, or medical care for animals or adoption services, cruelty investigations, or education programs concerning animals;

and the term includes groups providing volunteer staff to organizations designated as charitable institutions under this sub-subparagraph; nonprofit organizations the sole or primary purpose of which is to coordinate, network, or link other institutions designated as charitable institutions under this sub-subparagraph with those persons, animals, or organizations in need of their services; and nonprofit national, state, district, or other governing, coordinating, or administrative organizations the sole or primary purpose of which is to represent or regulate the customary activities of other institutions designated as charitable institutions under this sub-subparagraph. Notwithstanding any other requirement of this section, any blood bank that relies solely upon volunteer donations of blood and tissue, that is licensed under chapter 483, and that qualifies as tax exempt under s. 501(c)(3) of the Internal Revenue Code constitutes a charitable institution and is exempt from the tax imposed by this part.

c. "Scientific organizations" means scientific organizations which hold current exemptions from federal income tax under s. 501(c)(3) of the Internal Revenue Code and also means organizations the purpose of which is to protect air and water quality or the purpose of which is to protect wildlife and which hold current exemptions from the federal income tax under s. 501(c)(3) of the Internal Revenue Code.

d. "Educational institutions" means state tax-supported or parochial, church and nonprofit private schools, colleges, or universities which conduct regular classes and courses of study required for accreditation by, or membership in, the Southern Association of Colleges and Schools, the Department of Education, the Florida Council of Independent Schools, or the Florida Association of Christian Colleges and Schools, Inc., or nonprofit private schools which conduct regular classes and courses of study accepted for continuing education credit by a Board of the Division of Medical Quality Assurance of the Department of Business and Professional Regulation or which conduct regular classes and courses of study accepted for continuing education credit by the American Medical Association. Nonprofit libraries, art galleries, and museums open to the public are defined as educational institutions and are eligible for exemption. The term "educational institutions" includes private nonprofit organizations the purpose of which is to raise funds for schools teaching grades kindergarten through high school, colleges, and universities. The term "educational institutions" includes any nonprofit newspaper of free or paid circulation primarily on university or college campuses which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code, and any educational television or radio network or system established pursuant to s. 229.805 or s. 229.8051 and any nonprofit television or radio station which is a part of such network or system and which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code. The term "educational institutions" also includes state, district, or other governing or administrative offices the function of which is to assist or regulate the customary activities of educational organizations or members. The term "educational institutions" also includes a nonprofit educational cable consortium which holds a current exemption from federal income tax under s. 501(c)(3) of the Internal Revenue Code of 1986, as amended, whose primary purpose is the delivery of educational and instructional cable television programming and whose members are composed exclusively of educational organizations which hold a valid consumer certificate of exemption and which are either an educational institution as defined in this sub-subparagraph, or qualified as a nonprofit organization pursuant to s. 501(c)(3) of the Internal Revenue Code of 1986, as amended.

e. "Veterans' organizations" means nationally chartered or recognized veterans' organizations, including, but not limited to, Florida chapters of the Paralyzed Veterans of America, Catholic War Veterans of the U.S.A., Jewish War Veterans of the U.S.A., and the Disabled American Veterans, Department of Florida, Inc., which hold current exemptions from federal income tax under s. 501(c)(4) or (19) of the Internal Revenue Code.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 5, after the semicolon (;) insert: amending s. 212.08, F.S.; including within the definition of "religious institutions" for exemption purposes certain radio stations, certain nonprofit corporations which distribute audio recordings to blind or visually impaired persons;

On motion by Senator Clary, by two-thirds vote **HB 1469** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Holzendorf	Myers
Bankhead	Dantzler	Horne	Ostalkiewicz
Bronson	Diaz-Balart	Jenne	Rossin
Brown-Waite	Dudley	Jones	Silver
Burt	Dyer	Klein	Sullivan
Campbell	Forman	Kurth	Thomas
Casas	Grant	Latvala	Turner
Childers	Gutman	Lee	Williams
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Latvala—

CS for SB 2038—A bill to be entitled An act relating to correctional work programs; amending s. 212.08, F.S., relating to specified exemptions from retail sale, rental, use, consumption, distribution, and storage taxes; providing an exemption for products sold by the corporation authorized to operate correctional work programs; providing for applicability of the exemption retroactive to July 1, 1983; amending s. 283.31, F.S., relating to records of executive agency publications; removing requirement for financial and performance audits of the corporation by the Auditor General; amending s. 946.503, F.S.; redefining "facilities" with respect to correctional work programs; amending s. 946.504, F.S., relating to lease of facilities by the Department of Corrections to corporation authorized to operate correctional work programs, to conform; amending s. 946.505, F.S., relating to reversion of property to the department upon dissolution of corporation or termination of lease, and reenacting s. 946.509(1), F.S., relating to insurance of property leased or acquired by the corporation, to incorporate said amendment in a reference; providing for reversion of certain facilities subsequently constructed or otherwise acquired after the original lease; amending s. 946.511, F.S.; revising objectives and priorities for assignment of inmates to programs to specify priority with respect to essential operational functions and revenue-generating contracts; defining the term "revenue-generating contracts";

amending s. 946.512, F.S., relating to inmate compensation plan; providing for certain payments to the Correctional Work Program Trust Fund in lieu of the Grants and Donations Trust Fund; removing provision for annual appropriation; amending s. 946.515, F.S.; permitting the furnishing or sale of services or items produced by the corporation when not otherwise prohibited by law; amending s. 946.516, F.S.; requiring a performance audit in 1999, and thereafter at the request of the Joint Legislative Auditing Committee, of the corporation by the Office of Program Policy Analysis and Government Accountability; authorizing the Auditor General to conduct a financial audit at least once every five years or upon request of the Joint Legislative Auditing Committee; amending s. 945.04, F.S., deleting certain requirements for assignments of inmates within a specified period of their release dates, and report by the department thereon; deleting the prohibition against the department removing inmates assigned to certain work programs with specified exceptions; repealing s. 946.009, F.S., relating to operational guidelines for correctional work programs; creating s. 946.520, F.S.; requiring the department to assign certain inmates to specified work programs; requiring the department to assign a certain percentage of specified inmates collectively to the specified work programs; providing an exclusion to the percentage requirement for certain institutions; prohibiting the department from removing inmates from specified work assignments except under certain circumstances; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **CS for SB 2038** to **CS for HB 1129**.

Pending further consideration of **CS for SB 2038** as amended, on motion by Senator Latvala, by two-thirds vote **CS for HB 1129** was withdrawn from the Committees on Criminal Justice; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Latvala—

CS for HB 1129—A bill to be entitled An act relating to correctional work programs; amending s. 212.08, F.S., relating to specified exemptions from retail sale, rental, use, consumption, distribution, and storage taxes; providing an exemption for products sold by the corporation authorized to operate correctional work programs; providing for applicability of the exemption retroactive to July 1, 1983; amending s. 946.503, F.S.; redefining "facilities" with respect to correctional work programs; amending s. 946.504, F.S., relating to lease of facilities by the Department of Corrections to corporation authorized to operate correctional work programs, to conform; amending s. 946.505, F.S., relating to reversion of property to the department upon dissolution of corporation or termination of lease, and reenacting s. 946.509(1), F.S., relating to insurance of property leased or acquired by the corporation, to incorporate said amendment in a reference; providing for reversion of certain facilities subsequently constructed or otherwise acquired after the original lease; amending s. 946.511, F.S.; revising objectives and priorities for assignment of inmates to programs to specify priority with respect to essential operational functions and "revenue-generating contracts," as defined; amending s. 946.512, F.S., relating to inmate compensation plan, and reenacting s. 946.513(1), F.S., relating to disposition of compensation received for private employment of inmates, to incorporate said amendment in a reference; providing for certain payments to the Correctional Work Program Trust Fund in lieu of the Grants and Donations Trust Fund; removing provision for annual appropriation; amending s. 946.515, F.S., and reenacting s. 946.518, F.S., relating to prohibitions on sale of goods by prisoners, to incorporate said amendment in a reference; permitting the furnishing or sale of services or items produced by the corporation when not otherwise prohibited by law; creating s. 946.520, F.S.; providing for assignment of certain inmates to specified work programs; requiring the department to assign a certain percentage of specified inmates collectively to the specified work programs; providing an exclusion to the percentage requirement for certain institutions; prohibiting the department from removing inmates from specified work assignments except under certain circumstances; repealing s. 945.04(4) & (5), F.S., relating to certain requirements for assignments of inmates within a specified period of their release dates, and report by the department thereon; repealing s. 946.009, F.S., relating to operational guidelines for correctional work programs; providing an effective date.

—a companion measure, was substituted for **CS for SB 2038** as amended and read the second time by title. On motion by Senator Latvala, by two-thirds vote **CS for HB 1129** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Horne	Ostalkiewicz
Bankhead	Dantzler	Jenne	Rossin
Bronson	Diaz-Balart	Jones	Silver
Brown-Waite	Dudley	Kirkpatrick	Sullivan
Burt	Dyer	Klein	Thomas
Campbell	Forman	Kurth	Turner
Casas	Grant	Latvala	Williams
Childers	Gutman	Lee	
Clary	Hargrett	Meadows	
Cowin	Harris	Myers	

Nays—None

Vote after roll call:

Yea—McKay

SENATOR BANKHEAD PRESIDING

On motion by Senator Campbell—

SB 2058—A bill to be entitled An act relating to equitable distribution of marital assets and liabilities; amending s. 61.075, F.S.; prescribing factors to be considered by a court before entering a final judgment making a determination of the credits or set-offs upon the sale of the marital home; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **SB 2058** to **HB 1601**.

Pending further consideration of **SB 2058** as amended, on motion by Senator Campbell, by two-thirds vote **HB 1601** was withdrawn from the Committee on Judiciary.

On motion by Senator Campbell—

HB 1601—A bill to be entitled An act relating to equitable distribution of marital assets and liabilities; creating s. 61.077, F.S.; prescribing factors to be considered by a court before entering a final judgment making a determination of the credits or set-offs upon the sale of the marital home; providing an effective date.

—a companion measure, was substituted for **SB 2058** as amended and read the second time by title. On motion by Senator Campbell, by two-thirds vote **HB 1601** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Silver
Campbell	Forman	Klein	Sullivan
Casas	Grant	Kurth	Thomas
Childers	Gutman	Latvala	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	McKay	
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Madam President

THE PRESIDENT PRESIDING

On motion by Senator Horne, by two-thirds vote **HB 1853** was withdrawn from the Committees on Education; Health Care; and Ways and Means.

On motion by Senator Horne—

HB 1853—A bill to be entitled An act relating to Medicaid; amending ss. 236.0812, 409.9071, 409.908, 409.9122, and 409.9126, F.S.; revising and conforming provisions relating to school-based services provided to children under the Medicaid certified school match program; expanding included services; providing limitations; deleting obsolete language; clarifying recipient eligibility requirements and providing for cooperation with the Department of Education; directing the Agency for Health Care Administration to submit a state plan amendment, and to seek federal waivers when necessary; authorizing the agency to conduct school district compliance reviews; revising budget and reimbursement provisions; directing the agency to develop a reimbursement schedule; authorizing certain retroactive reimbursements; providing an exemption from background screening requirements; providing for managed care plan agreements with school districts and county health departments; providing for procedures to ensure continuity of care; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 2194** and read the second time by title. On motion by Senator Horne, by two-thirds vote **HB 1853** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—34

Madam President	Dantzler	Horne	Meadows
Bronson	Dudley	Jenne	Myers
Brown-Waite	Dyer	Jones	Rossin
Burt	Forman	Kirkpatrick	Scott
Campbell	Grant	Klein	Silver
Casas	Gutman	Kurth	Turner
Clary	Hargrett	Latvala	Williams
Cowin	Harris	Lee	
Crist	Holzendorf	McKay	

Nays—None

Vote after roll call:

Yea—Diaz-Balart, Ostalkiewicz, Sullivan

On motion by Senator Hargrett—

CS for SB 2310—A bill to be entitled An act relating to the DUI Programs Coordination Trust Fund; amending s. 322.293, F.S.; providing for an offender security account; providing for assessments; providing an effective date.

—was read the second time by title. On motion by Senator Hargrett, by two-thirds vote **CS for SB 2310** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—37

Madam President	Dantzler	Jenne	Ostalkiewicz
Bankhead	Diaz-Balart	Jones	Rossin
Bronson	Dudley	Kirkpatrick	Silver
Brown-Waite	Dyer	Klein	Sullivan
Burt	Forman	Kurth	Thomas
Casas	Grant	Latvala	Turner
Childers	Gutman	Lee	Williams
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	
Crist	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Campbell

On motion by Senator Jones, by two-thirds vote **HB 1623** was withdrawn from the Committees on Commerce and Economic Opportunities; Community Affairs; and Ways and Means.

On motion by Senator Jones—

HB 1623—A bill to be entitled An act relating to enterprise zones; amending s. 290.0055, F.S.; authorizing certain charter counties to apply to enlarge the boundary lines of an enterprise zone within the county under certain conditions; providing for approval of the application under certain conditions; providing an effective date.

—a companion measure, was substituted for **SB 2342** and read the second time by title. On motion by Senator Jones, by two-thirds vote **HB 1623** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Dantzler	Horne	Myers
Bankhead	Diaz-Balart	Jenne	Ostalkiewicz
Bronson	Dudley	Jones	Rossin
Brown-Waite	Dyer	Kirkpatrick	Silver
Burt	Forman	Klein	Sullivan
Casas	Grant	Kurth	Thomas
Childers	Gutman	Latvala	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	McKay	
Crist	Holzendorf	Meadows	

Nays—None

Vote after roll call:

Yea—Campbell

On motion by Senator Rossin—

SB 2346—A bill to be entitled An act relating to health insurance contracts; amending ss. 627.6416, 627.6579, F.S.; amending the definition of the term "child health supervision services"; amending requirements for such services; providing requirements for the coverage of such services under health insurance policies and under group, blanket, or franchise health insurance policies; amending s. 641.31, F.S.; providing requirements for health maintenance contracts relating to coverage of newborn children and premiums relating thereto; requiring the continuing coverage, past the usual limiting age, of certain dependent children; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **SB 2346** to **HB 1785**.

Pending further consideration of **SB 2346** as amended, on motion by Senator Rossin, by two-thirds vote **HB 1785** was withdrawn from the Committees on Banking and Insurance; Health Care; and Ways and Means.

On motion by Senator Rossin—

HB 1785—A bill to be entitled An act relating to health insurance contracts; amending ss. 627.6416, 627.6579, F.S.; amending the definition of the term "child health supervision services"; amending requirements for such services; providing requirements for the coverage of such services under health insurance policies and under group, blanket, or franchise health insurance policies; amending s. 627.6699, F.S.; authorizing certain small employer carriers to impose certain requirements in participating in, administering, or issuing certain health benefits under certain circumstances; amending s. 641.31, F.S.; providing requirements for health maintenance contracts relating to coverage of newborn children and premiums relating thereto; requiring the continuing coverage, past the usual limiting age, of certain dependent children; requiring health maintenance contracts relating to family coverage to provide specified child health supervision services; providing an effective date.

—a companion measure, was substituted for **SB 2346** as amended and read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 1785** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Silver
Campbell	Forman	Klein	Sullivan
Casas	Grant	Kurth	Thomas
Childers	Gutman	Latvala	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	McKay	

Nays—None

On motion by Senator Dyer, by two-thirds vote **CS for HB 1803** was withdrawn from the Committees on Community Affairs; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Dyer—

CS for HB 1803—A bill to be entitled An act relating to affordable housing; amending s. 420.0003, F.S.; revising provisions relating to implementation of the State Housing Strategy; amending s. 420.0005, F.S.; providing directions for use of the State Housing Trust Fund; creating s. 420.0006, F.S.; directing the Secretary of Community Affairs to contract with the Florida Housing Finance Corporation to provide affordable housing; amending s. 420.501, F.S.; conforming terminology; amending s. 420.502, F.S.; providing legislative findings; amending s. 420.503, F.S.; defining terms; amending s. 420.504, F.S.; renaming the Florida Housing Finance Agency as the Florida Housing Finance Corporation; specifying its status as a public corporation; revising membership of its board of directors; providing liability of members; amending s. 420.505, F.S.; conforming terminology; amending s. 420.506, F.S.; providing employment conditions for the executive director and other employees; creating s. 420.5061, F.S.; providing for the transfer of agency assets and liabilities; amending s. 420.507, F.S.; providing powers of the corporation; amending s. 420.508, F.S.; providing special powers of the corporation with respect to multifamily and single family projects; revising requirements relating to security for loans and bonds; establishing the Florida Housing Finance Corporation Fund and providing for deposit of funds in the Housing Finance Agency Trust Fund therein and for closure of the trust fund; amending s. 420.5087, F.S.; renaming and revising the status of the State Apartment Incentive Loan Trust Fund and transferring amounts to the renamed fund; conforming terminology; amending s. 420.5088, F.S.; renaming and revising the status of the Florida Homeownership Assistance Trust Fund and transferring amounts to the renamed fund; conforming terminology; amending s. 420.5089, F.S.; renaming and revising the status of the HOME Partnership Trust Fund and transferring amounts to the renamed fund; eliminating pilot programs; amending s. 420.509, F.S.; providing conditions for the issuance of bonds by the corporation; amending ss. 420.5091 and 420.5092, F.S.; conforming terminology; amending s. 420.5099, F.S.; providing for allocation of low-income housing tax credits; providing considerations for assessment of tax credit developments; amending s. 420.51, F.S.; conforming terminology; amending s. 420.511, F.S.; directing the corporation to develop a business plan and a strategic plan and make an annual report; requiring submission of a financial audit and compliance audit with the annual report; amending s. 420.512, F.S.; providing for standards of conduct and conflicts of interest; amending s. 420.513, F.S.; providing for exemption from taxes; amending ss. 420.514 and 420.523, F.S.; conforming terminology; creating s. 420.517, F.S.; providing for affordable housing and job training coordination; amending s. 420.525, F.S.; renaming and revising the status of the Housing Predevelopment Trust Fund and transferring amounts to the renamed fund; amending ss. 420.526, 420.527, 420.528, and 420.529, F.S.; conforming terminology; amending s. 420.602, F.S.; revising definitions under the Affordable Housing Planning and Community Assistance Act; amending s. 420.606, F.S.; revising provisions relating to training and technical assistance; amending s. 420.9071, F.S.; revising definitions under the State Housing Initiatives Partnership Program; amending s. 420.9072, F.S.; revising requirements for the State Housing Initiatives Partnership Program; amending s. 420.9073, F.S., relating to local housing distributions; raising the guaranteed minimum allocation; amending s. 420.9075, F.S.; providing for local housing assistance plans; amending s. 420.9076, F.S.; providing for the adoption of local housing incentive strategies; amending ss. 420.9078 and 420.9079, F.S.; providing for the administration of, and distributions from, the Local Government Housing Trust Fund; repealing s. 420.5085, F.S., relating to energy conservation loans; repealing s. 420.5094, F.S., relating to the single-family mortgage revenue bond program; amending ss. 239.505 and 381.0081, F.S.; conforming terminology; amending s. 285.11, F.S.; providing that leases of Seminole Indian Reservation land entered into with a Florida Indian for housing development and residential purposes may be for a term not to exceed 50 years; providing for transition; providing an effective date.

—a companion measure, was substituted for **CS for SB 2436** and read the second time by title. On motion by Senator Dyer, by two-thirds vote **CS for HB 1803** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—33

Madam President	Dantzler	Jones	Ostalkiewicz
Bankhead	Diaz-Balart	Kirkpatrick	Rossin
Bronson	Dudley	Klein	Silver
Burt	Dyer	Kurth	Sullivan
Casas	Forman	Latvala	Thomas
Childers	Gutman	Lee	Turner
Clary	Harris	McKay	
Cowin	Holzendorf	Meadows	
Crist	Jenne	Myers	

Nays—None

Vote after roll call:

Yea—Grant, Horne

On motion by Senator Dantzler, by two-thirds vote **HB 491** was withdrawn from the Committees on Natural Resources; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Dantzler—

HB 491—A bill to be entitled An act relating to citizen support organizations; amending s. 212.08, F.S.; clarifying a sales and use tax exemption for certain citizen support organizations; amending s. 370.0205, F.S.; providing for partnerships between the state and private entities for certain purposes; providing an effective date.

—a companion measure, was substituted for **SB 2054** and read the second time by title. On motion by Senator Dantzler, by two-thirds vote **HB 491** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Dantzler	Jones	Rossin
Bankhead	Diaz-Balart	Kirkpatrick	Scott
Bronson	Dudley	Klein	Silver
Burt	Dyer	Kurth	Sullivan
Campbell	Forman	Latvala	Thomas
Casas	Gutman	Lee	Turner
Childers	Hargrett	McKay	Williams
Clary	Harris	Meadows	
Cowin	Holzendorf	Myers	
Crist	Horne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Brown-Waite, Grant

On motion by Senator Kirkpatrick, by two-thirds vote **HB 1873** was withdrawn from the Committees on Education; and Ways and Means.

On motion by Senator Kirkpatrick, the rules were waived and—

HB 1873—A bill to be entitled An act relating to education; requiring the Department of Education to develop a student financial assistance

database; providing a definition; requiring a report; amending s. 228.502, F.S.; deleting requirement that the Education Success Incentive Council serve as the board of directors for a direct-support organization; amending s. 232.2465, F.S., relating to the Florida Academic Scholars' Certificate Program; changing an eligibility date; amending s. 239.117, F.S.; allowing children adopted from the Department of Children and Family Services to be exempt from certain student fees; amending s. 239.217, F.S., relating to the Florida Gold Seal Vocational Endorsement Program; changing an eligibility date; amending s. 240.107, F.S.; conforming provisions; amending ss. 240.235 and 240.35, F.S.; allowing children adopted from the Department of Children and Family Services to be exempt from certain student fees; amending s. 240.404, F.S., relating to general requirements for eligibility for state financial aid; deleting a requirement for participation in a testing program; deleting a requirement regarding Selective Service System registration; creating s. 240.4041, F.S.; providing eligibility requirements for state financial aid for a student with a disability; amending s. 240.4069, F.S.; transferring administration of the Virgil Hawkins Fellows Assistance Program to the Board of Regents; revising program requirements; amending s. 240.408, F.S.; conforming provisions; amending s. 240.412, F.S., relating to the Jose Marti Scholarship Challenge Grant Program; revising matching fund requirements; deleting a testing requirement; amending s. 240.437, F.S., relating to a state student financial aid program; deleting a testing requirement; amending s. 240.6045, F.S., relating to a limited access competitive grant program; revising eligibility requirements; amending s. 240.606, F.S., relating to the Florida Work Experience Program; changing eligibility requirements; deleting a requirement that a certain portion of funds be used for contracts with public schools; repealing ss. 240.4025, 240.4045, 240.407, 240.4085, and 240.4093, F.S., relating to the Florida Graduate Scholars' Fund, compliance with Selective Service System registration requirements, general scholarship loans, the Florida Student Tuition Scholarship Grant Program, and the Vocational Student Assistance Grant Program; providing an effective date.

—a companion measure, was substituted for **CS for SB 112** and read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **HB 1873** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Holzendorf	Myers
Bankhead	Dantzler	Horne	Ostalkiewicz
Bronson	Diaz-Balart	Jenne	Rossin
Brown-Waite	Dudley	Jones	Silver
Burt	Dyer	Kirkpatrick	Sullivan
Campbell	Forman	Klein	Thomas
Casas	Grant	Kurth	Turner
Childers	Gutman	Lee	Williams
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	

Nays—None

LOCAL BILL CALENDAR

SENATOR CASAS PRESIDING

HB 295—A bill to be entitled An act relating to Lee and Charlotte Counties; amending chapter 96-507, Laws of Florida, the Gasparilla Island Bridge Authority Act; revising the powers and duties of the authority to eliminate the requirement that electors authorize the maximum toll and maximum ad valorem tax in a single vote of the electors; eliminating the requirement that the proceeds of tolls and ad valorem taxes may only be used for certain purposes; providing an effective date.

—was read the second time by title. On motion by Senator Harris, by two-thirds vote **HB 295** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Campbell	Crist	Forman
Bankhead	Casas	Dantzler	Grant
Bronson	Childers	Diaz-Balart	Gutman
Brown-Waite	Clary	Dudley	Hargrett
Burt	Cowin	Dyer	Harris
Holzendorf	Klein	Meadows	Silver
Horne	Kurth	Myers	Sullivan
Jenne	Latvala	Ostalkiewicz	Thomas
Jones	Lee	Rossin	Turner
Kirkpatrick	McKay	Scott	Williams

Nays—None

HB 421—A bill to be entitled An act relating to the North Fort Myers Fire Control and Rescue Service District, Lee County, amending ch. 30925, Laws of Florida, 1955, as amended; providing for emergency medical and rescue response services; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 421** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 423—A bill to be entitled An act relating to the Iona McGregor Fire Protection and Rescue Service District, Lee County; amending ch. 75-421, Laws of Florida, as amended; authorizing the board of the district to establish and maintain emergency and rescue response services; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 423** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 427—A bill to be entitled An act relating to Lee County; amending chapter 76-411, Laws of Florida, as amended; amending the Enabling Act of the San Carlos Park Fire Protection and Rescue Service District; excluding certain lands within the district and revising powers of the board of the district; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 427** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Campbell	Crist	Forman
Bankhead	Casas	Dantzler	Grant
Bronson	Childers	Diaz-Balart	Gutman
Brown-Waite	Clary	Dudley	Hargrett
Burt	Cowin	Dyer	Harris

Holzendorf	Klein	Meadows	Silver
Horne	Kurth	Myers	Sullivan
Jenne	Latvala	Ostalkiewicz	Thomas
Jones	Lee	Rossin	Turner
Kirkpatrick	McKay	Scott	Williams

Nays—None

HB 429—A bill to be entitled An act relating to the Estero Fire Protection and Rescue Service District, Lee County; amending ch. 76-408, Laws of Florida, as amended; authorizing the district to establish and maintain emergency medical and rescue response services; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 429** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 515—A bill to be entitled An act relating to Pelican Lake Water Control District, Palm Beach County; amending chapter 77-625, Laws of Florida, as amended; providing that the Board of Supervisors shall be composed of three citizens of the United States who shall be resident freeholders of the State of Florida; repealing chapter 28417, Laws of Florida, 1953, which authorizes Pahokee Water Control District to provide water control to Pelican Lake Sub-Drainage District; amending chapter 26739, Laws of Florida, 1951, as amended; deleting land from Pelican Lake Water Control District and annexing land into Pahokee Water Control District; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 515** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 517—A bill to be entitled An act relating to the Sarasota-Manatee Airport Authority; amending chapter 91-358, Laws of Florida; providing an alternate provision for runoff elections; providing an effective date.

—was read the second time by title. On motion by Senator McKay, by two-thirds vote **HB 517** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 519—A bill to be entitled An act relating to Indian River County; amending chapter 79-480, Laws of Florida; providing for certain restrictions on the harvesting of shellfish; providing an effective date.

—was read the second time by title. On motion by Senator Kurth, by two-thirds vote **HB 519** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 521—A bill to be entitled An act relating to the City of Delray Beach, Palm Beach County; amending chapter 25784, Laws of Florida, 1949, as amended, relating to the civil service act of the city; amending provisions relating to exclusion of certain employees; revising layoff and recall procedures; clarifying procedures relating to reductions in force due to a change in work; providing for return to a civil service position under certain circumstances; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Klein, by two-thirds vote **HB 521** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 567—A bill to be entitled An act relating to the Sanibel Island Fire Control District, Lee County; amending ch. 30930, Laws of Florida, 1955, as amended; providing for the establishment and maintenance of emergency medical and advanced life support and rescue services; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 567** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 569—A bill to be entitled An act relating to Palm Beach County; amending ch. 93-367, Laws of Florida, as amended; revising provisions relating to employees of the Palm Beach County Sheriff; limiting benefits to employees beyond the rank of captain; deleting a provision which preserves current benefits when a new sheriff takes office; providing for construction; providing an effective date.

—was read the second time by title. On motion by Senator Klein, by two-thirds vote **HB 569** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 591—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County; amending ch. 24981, Laws of Florida, 1947, as amended, relating to the West Palm Beach Firefighters' Pension Fund; providing for a Deferred Retirement Option Plan; providing additional exclusions from disability pensions; providing for retroactive effect; providing for Internal Revenue Code limits; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 591** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 593—A bill to be entitled An act relating to Palm Beach County; amending s. 1 of ch. 59-994, Laws of Florida; providing for the annexation of lands into the Northern Palm Beach County Improvement District; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 593** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 595—A bill to be entitled An act relating to Palm Beach County; abolishing the Town of Golfview subject to certain conditions and revoking the charter; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 595** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 597—A bill to be entitled An act relating to the Greater Boca Raton Beach Tax District, Palm Beach County; amending sections 1, 2, and 7 of chapter 74-423, Laws of Florida, as amended, providing for a redesignation of the Greater Boca Raton Beach Tax District, compensation of commissioners, and purchases of supplies, equipment, and material; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 597** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 619—A bill to be entitled An act relating to the Matlacha and Pine Island Fire Control District, Lee County; repealing ss. 12, 13, 14, and 15 of ch. 63-1558, Laws of Florida, as amended, relating to emergency ambulance service, annual assessments therefor, adoption of fees or service charges, and requirement of a referendum election in order to dissolve the district; creating new ss. 12 and 13 of ch. 63-1558, Laws of

Florida, as amended; providing for emergency medical rescue response services; providing for the levying of taxes to support same; renumbering subsequent sections of ch. 63-1558, Laws of Florida, as amended; providing for a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 619** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 621—A bill to be entitled An act relating to Putnam County; repealing chapter 71-884, Laws of Florida, relating to the Putnam County Nursing Home Authority; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **HB 621** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 623—A bill to be entitled An act relating to Lake County; repealing subsection I of section 4 of chapter 95-508, Laws of Florida, relating to alternative revenue raising capabilities of the Board of Trustees of the North Lake County Hospital District; providing an effective date.

—was read the second time by title. On motion by Senator Cowin, by two-thirds vote **HB 623** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 635—A bill to be entitled An act relating to the Pinellas Police Standards Council, Pinellas County; amending ch. 72-666, Laws of Florida, as amended; prescribing purposes, membership, powers, and duties of the countywide police standards council; providing for screening applicants for public-safety positions; providing for continued funding of the council through a court cost; providing for fees from applicants for public-safety positions; providing an effective date.

—was read the second time by title. On motion by Senator Latvala, by two-thirds vote **HB 635** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 637—A bill to be entitled An act relating to the Orlando Utilities Commission; amending chapter 9861, Laws of Florida, 1923, as amended; authorizing the establishment, construction, maintenance, and operation of energy services, all grades of water, and plants, lines, and facilities within Orange and Osceola Counties; providing an effective date.

—was read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 637** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 645—A bill to be entitled An act relating to Pahokee Water Control District, Palm Beach County; amending chapter 10002, Laws of Florida, 1923, as amended, to provide that the Board of Supervisors shall be composed of three citizens of the United States, who shall be resident freeholders of the State of Florida, and expanding the boundaries of said district to include land from Pelican Lake Water Control District; repealing chapter 28417, Laws of Florida, 1953, which authorizes the Pahokee Water Control District to provide water control to Pelican Lake Sub-Drainage District; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 645** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Clary	Grant	Kirkpatrick
Bankhead	Cowin	Gutman	Klein
Bronson	Crist	Hargrett	Kurth
Brown-Waite	Dantzler	Harris	Latvala
Burt	Diaz-Balart	Holzendorf	Lee
Campbell	Dudley	Horne	McKay
Casas	Dyer	Jenne	Meadows
Childers	Forman	Jones	Myers

Ostalkiewicz	Scott	Sullivan	Turner
Rossin	Silver	Thomas	Williams

Nays—None

HB 655—A bill to be entitled An act relating to the City of West Palm Beach, Palm Beach County; amending ch. 24981, Laws of Florida, 1947, as amended, relating to the West Palm Beach Police Pension and Relief Fund; providing definitions; providing for chapter 185 share accounts; providing for a Deferred Retirement Option Plan; providing for investments; providing for Internal Revenue Code limits; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 655** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 783—A bill to be entitled An act relating to the City of Jacksonville, Duval County; amending chapter 92-341, Laws of Florida, as amended; amending the Charter of the City of Jacksonville; clarifying the exemptions provided by the charter to designated employees; providing an effective date.

—was read the second time by title. On motion by Senator Holzendorf, by two-thirds vote **HB 783** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 917—A bill to be entitled An act relating to the City of Jacksonville, Duval County; providing for the abolition or restructuring of certain community redevelopment agencies currently existing within the city and providing for the redistribution of their powers, functions, duties, liabilities, property and personnel; amending chapter 92-341, Laws of Florida, as amended; creating the Jacksonville Economic Development Commission to exist as an autonomous body within the executive branch of the consolidated government; providing for designation as an industrial development authority and as a community redevelopment agency; providing for powers, duties, functions, personnel and obligations of the Jacksonville Sports Development Authority, the Jacksonville Downtown Development Authority, the Jacksonville International Airport Community Redevelopment Authority, the Cecil Field Development Commission and the Economic Development Division of the Planning and Development Department of the city; excluding officials and employees of the commission from civil service; transferring all existing powers, duties, responsibilities and authorities of the Jacksonville Downtown Development Authority to the commission and restructuring the authority as an advisory body to the commission; amending chapter 89-509, Laws of Florida, as amended; transferring to the commission all powers, duties, functions, personnel and obligations of the Jacksonville Sports Development Authority; restructuring the authority as an advisory body to the commission; providing an effective date.

—was read the second time by title. On motion by Senator Bankhead, by two-thirds vote **HB 917** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 927—A bill to be entitled An act relating to Lee County independent fire control districts; prescribing uniform criteria for operation of independent special fire-control districts; providing definitions; preempting certain special acts and general acts of local application; providing for district boards of commissioners and for their election; providing for officers of boards; providing for commissioners' compensation and expenses; providing general and special powers of districts; providing for ad valorem taxes, non-ad valorem assessments, user charges, bonds, and impact fees; providing for referenda; providing for intergovernmental coordination; providing for expansion, merger, and dissolution of districts; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 927** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 951—A bill to be entitled An act relating to Hillsborough County; amending chapter 95-488, Laws of Florida; authorizing the Tampa Port Authority to delegate control and regulation of submerged lands; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 951** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Childers	Dyer	Horne
Bankhead	Clary	Forman	Jenne
Bronson	Cowin	Grant	Jones
Brown-Waite	Crist	Gutman	Kirkpatrick
Burt	Dantzler	Hargrett	Klein
Campbell	Diaz-Balart	Harris	Kurth
Casas	Dudley	Holzendorf	Latvala

Lee	Myers	Scott	Thomas
McKay	Ostalkiewicz	Silver	Turner
Meadows	Rossin	Sullivan	Williams

Nays—None

HB 959—A bill to be entitled An act relating to Hillsborough County; amending chapter 96-519, Laws of Florida; revising the powers and duties of the Hillsborough County Civil Service Board to include provisions relating to employee grievances; providing a definition; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 959** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 961—A bill to be entitled An act relating to Hillsborough County; amending chapter 96-519, Laws of Florida; amending provisions relating to suspension or dismissal of employees under the Civil Service Act of Hillsborough County; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 961** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1103—A bill to be entitled An act relating to Monroe County; specifying rights of members of the classified service of the Monroe County Sheriff's Office; providing procedures for appeal of disciplinary actions against members; providing for the appointment of boards to hear appeals and procedures with respect thereto; providing a procedure for transition upon the expiration of a sheriff's term; repealing chapters 89-410 and 89-461, Laws of Florida; providing an effective date.

—was read the second time by title. On motion by Senator Jones, by two-thirds vote **HB 1103** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Campbell	Crist	Forman
Bankhead	Casas	Dantzler	Grant
Bronson	Childers	Diaz-Balart	Gutman
Brown-Waite	Clary	Dudley	Hargrett
Burt	Cowin	Dyer	Harris
Holzendorf	Klein	Meadows	Silver
Horne	Kurth	Myers	Sullivan
Jenne	Latvala	Ostalkiewicz	Thomas
Jones	Lee	Rossin	Turner
Kirkpatrick	McKay	Scott	Williams

Nays—None

HB 1173—A bill to be entitled An act relating to Collier County; to extinguish, because of nonuse, certain perimeter and bisecting easements within the Golden Gate Estates subdivisions; exempting public easements, under certain circumstances; providing that all of such easements shall be extinguished and be void as of midnight, December 31, 1999, except to the extent that an easement, on or before December 31, 1999, is in actual use as a road, for drainage, or for utility facilities, and a proper notice of claim to the easement is recorded in the official records of Collier County, not later than December 31, 1999; providing that this act shall not modify any effect chapter 712, Florida Statutes, may have over easements; providing that this special act shall be published in a newspaper of general circulation prior to July 1, 1997, and prior to July 1 for the next 3 years; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 1173** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1265—A bill to be entitled An act relating to Monroe County; creating the "Islamorada, Village of Islands"; providing legislative intent; providing municipal boundaries and municipal powers; providing a council-manager form of government; providing for election of a village council; providing for membership, qualifications, terms, powers, and duties of its members, including the mayor; providing for a vice mayor; providing for compensation and expenses; providing general powers and duties; providing circumstances resulting in vacancy in office; providing grounds for forfeiture and suspension; providing for filling of vacancies; providing for meetings; providing for keeping of records; providing for adoption, distribution, and recording of technical codes; providing a limitation upon employment of council members; providing that certain interference with village employees shall constitute malfeasance in office; establishing the fiscal year; providing for adoption of annual budget and appropriation; providing amendments for supplemental, reduction, and transfer of appropriations; providing for limitations; providing for appointment of charter offices, including a village manager and village attorney; providing for removal, compensation, and filling of vacancies; providing qualifications, powers, and duties; providing for nonpartisan elections and for matters relative thereto; providing for recall; providing for initiative and referenda; providing the village a transitional schedule and procedures for first election; providing for first-year expenses; providing for adoption of transitional ordinances, resolutions, comprehensive plan, and local development regulations; providing for accelerated entitlement to state-shared revenues; providing for gas tax revenue; providing for a transition agreement between Monroe County and Islamorada, Village of Islands; providing land descriptions of the village; providing for future amendments of the charter; providing for standards of conduct in office; providing for severability; providing for a referendum approval; providing effective dates.

—was read the second time by title. On motion by Senator Jones, by two-thirds vote **HB 1265** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1281—A bill to be entitled An act relating to Hillsborough County; amending chapter 96-519, Laws of Florida, relating to the Civil Service Act; amending and adding definitions; providing guidelines for the adoption of a salary schedule; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 1281** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1283—A bill to be entitled An act relating to Hillsborough County; amending ch. 96-519, Laws of Florida, which created the civil service act; providing procedures relating to demotion of nontenured and tenured employees covered by the act; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 1283** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1285—A bill to be entitled An act relating to the Hillsborough County City-County Planning Commission; consolidating, compiling, and codifying extant laws pertaining to the district; providing legislative intent; conforming terminology and improving clarity; deleting provisions that have had their effect; deleting provisions duplicative of chapter 163, part II, F.S., relating to comprehensive planning; providing notice with respect to the effect of the Hillsborough County Charter; providing notice with respect to duties and responsibilities prescribed by chapter 163, part II, F.S.; amending special requirements for local governments and providing an exception; providing for review and recodification; repealing chapters 78-523, 81-392, and 82-303, Laws of Florida, relating to the Hillsborough County City-County Planning Commission, chapters 75-390, 77-564, 83-421, 84-442, and 86-407, Laws of Florida, relating to the Hillsborough County Local Government Comprehensive Planning Act of 1975, chapters 67-1507, 75-399, and 77-566, Laws of Florida, relating to review of the capital improvements budgets of local governments by the Hillsborough County City-County Planning Commission, and chapters 94-406 and 96-517, Laws of Florida, relating to the requirement for performance audits of the Hillsborough County City-County Planning Commission; providing a saving clause; providing an effective date.

—was read the second time by title. On motion by Senator Grant, by two-thirds vote **HB 1285** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1293—A bill to be entitled An act relating to Volusia County; amending ch. 70-966, Laws of Florida, which establishes the charter government of the county; establishing nonpartisan election of school board members; ratifying the referendum election; providing for the provisions of this bill to control in the event of a conflict with other laws; providing an effective date.

—was read the second time by title. On motion by Senator Burt, by two-thirds vote **HB 1293** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Rossin
Brown-Waite	Dudley	Jones	Scott
Burt	Dyer	Kirkpatrick	Silver
Campbell	Forman	Klein	Sullivan
Casas	Grant	Kurth	Thomas
Childers	Gutman	Latvala	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	McKay	

Nays—1

Ostalkiewicz

HB 1305—A bill to be entitled An act relating to the St. Lucie County Erosion District; amending ch. 67-2001, Laws of Florida; providing the board of the district shall be the St. Lucie County Commission; providing for meetings and applicability of ch. 189, F.S.; providing definitions; providing district powers; providing that employees of the district shall be considered employees of St. Lucie County; providing that contracts for services, supplies and materials shall be entered into as provided by the act and general law; providing district board authorizations to amend, abolish, or consolidate existing district zone boundaries and determine benefits for the purpose of levying ad valorem taxes; providing district board authorization to levy and collect non-ad valorem assessments; providing district board authorization for issuance of bonds pursuant to general law and this act; providing that the purchase of commodities and services shall be in accordance with the purchasing policies of St. Lucie County; repealing sections 25 and 26 of ch. 67-2001, Laws of Florida, relating to a required referendum for the creation of the district; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 1305** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1315—A bill to be entitled An act relating to the Ranger Drainage District, Orange County; establishing district boundaries; providing legislative intent; increasing the number of supervisors and changing the voting procedures by which members of the board of supervisors are elected; authorizing the levy of non-ad valorem assessments and specifying services which may be financed by said assessments; providing for a conditional limitation on liability; changing the method for approval of supervisors' compensation; providing a referendum; providing an effective date.

—was read the second time by title. On motion by Senator Ostalkiewicz, by two-thirds vote **HB 1315** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1365—A bill to be entitled An act relating to the St. Lucie County Fire District; amending ch. 96-532, Laws of Florida, revising the responsibilities of the clerk-treasurer of the district; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 1365** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1383—A bill to be entitled An act relating to the Bayshore Gardens Park and Recreation District; amending chapter 79-509, Laws of Florida; increasing the minimum cost price or consideration of contracts involving the acquisition of real or tangible personal property which would require a two-thirds vote of district trustees and a referendum election; providing an effective date.

—was read the second time by title. On motion by Senator McKay, by two-thirds vote **HB 1383** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1389—A bill to be entitled An act relating to the City of North Lauderdale, Broward County; extending and enlarging the corporate limits of the City of North Lauderdale to include specified unincorporated lands within said corporate limits; qualifying the effective date of the annexation upon specified conditions; requiring a report; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **HB 1389** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1401—A bill to be entitled An act relating to the City of Lauderdale-by-the-Sea, Broward County; extending and enlarging the corporate limits of the City of Lauderdale-by-the-Sea to include specified unincorporated lands within said corporate limits; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **HB 1401** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1431—A bill to be entitled An act relating to the City of Deerfield Beach, Broward County; extending and enlarging the corporate limits of the City of Deerfield Beach to include specified unincorporated lands within said corporate limits; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **HB 1431** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1459—A bill to be entitled An act relating to Escambia County; conveying an easement in sovereignty submerged lands to the county; permitting the maintenance and operation of the Old Pensacola Bay Bridge for public recreational use; providing for private entities to maintain and operate the bridge under contract with the county; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Clary, by two-thirds vote **HB 1459** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1473—A bill to be entitled An act relating to the municipality of Gulf Breeze, Santa Rosa County, and Escambia County; providing for law enforcement jurisdiction on the Bob Sikes Bridge; authorizing the municipality of Gulf Breeze, Santa Rosa County, and Escambia County to exercise law enforcement jurisdiction over the entire length of the bridge; providing an effective date.

—was read the second time by title. On motion by Senator Clary, by two-thirds vote **HB 1473** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Clary	Grant	Kirkpatrick
Bankhead	Cowin	Gutman	Klein
Bronson	Crist	Hargrett	Kurth
Brown-Waite	Dantzler	Harris	Latvala
Burt	Diaz-Balart	Holzendorf	Lee
Campbell	Dudley	Horne	McKay
Casas	Dyer	Jenne	Meadows
Childers	Forman	Jones	Myers
Ostalkiewicz	Scott	Sullivan	Turner
Rossin	Silver	Thomas	Williams

Nays—None

HB 1477—A bill to be entitled An act relating to the City of Pensacola, Escambia County; amending chapter 15425, Laws of Florida, 1931, as amended; revising the charter of the city to provide that the city council may adopt its budget, and amendments thereto, by ordinance or resolution; providing an effective date.

—was read the second time by title. On motion by Senator Clary, by two-thirds vote **HB 1477** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1517—A bill to be entitled An act relating to Escambia County; amending chapter 92-248, Laws of Florida; providing for partisan election of members of the Escambia County Utilities Authority; providing an effective date.

—was read the second time by title. On motion by Senator Clary, by two-thirds vote **HB 1517** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1659—A bill to be entitled An act relating to the City of Coconut Creek, Broward County; extending and enlarging the corporate limits of the City of Coconut Creek to include specified unincorporated lands within said corporate limits; redefining city limits; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **HB 1659** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Clary	Grant	Kirkpatrick
Bankhead	Cowin	Gutman	Klein
Bronson	Crist	Hargrett	Kurth
Brown-Waite	Dantzler	Harris	Latvala
Burt	Diaz-Balart	Holzendorf	Lee
Campbell	Dudley	Horne	McKay
Casas	Dyer	Jenne	Meadows
Childers	Forman	Jones	Myers

Ostalkiewicz	Scott	Sullivan	Turner
Rossin	Silver	Thomas	Williams

Nays—None

HB 1709—A bill to be entitled An act relating to the Alachua County School Board; amending s. 1, ch. 95-466, Laws of Florida; specifying an alternative method of qualification for candidates for election to the board; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **HB 1709** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1729—A bill to be entitled An act relating to Collier County; establishing and organizing a municipality to be known and designated as the City of Marco Island; defining territorial boundaries; providing for government, jurisdiction, elections, administrative code, procedure, powers, franchises, immunities, privileges, and means for exercising the same; prescribing the general powers to be exercised by said city; providing prohibitions; providing procedures for filling vacancies in office; providing for a city council, city manager, and city attorney; providing for an initial election; providing for ordinances; providing for budget adoption; providing for amendments to the city charter; providing for referendum petitions; providing severability; providing for dissolution of the Marco Island Fire Control District; providing for participation in state-shared revenue programs and local option gas taxes; providing for a referendum; providing a transition schedule; providing for county ordinances and services during transition period; providing effective dates.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 1729** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1765—A bill to be entitled An act relating to the General Pension and Retirement Fund of the City of Pensacola, Escambia County; amending chapter 61-2655, Laws of Florida, as amended; providing for membership requirements; repealing section 3(b), (c), (d), (e), and (f), chapter 61-2655, Laws of Florida, as amended, relating to contributions to the fund by employees and the city; providing for a deferred retirement option plan; providing for buy back of prior service; providing for investment authority; permitting the board of trustees and City of Pensacola to contract with investment banks; providing for multiple plan participant; providing for exclusion of any officer or employee of the police department hired on or after October 1, 1979, who is eligible to participate in the Police Officer's Retirement Fund; providing for authority to allow additional members into the General Pension and Retirement Fund, credit for prior service, and allowing transfers to the General Pension and Retirement Fund from other qualified retirement plans; providing provisions for repeal of conflicting laws; providing an effective date.

—was read the second time by title. On motion by Senator Clary, by two-thirds vote **HB 1765** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1773—A bill to be entitled An act relating to the Rainbow River Management Area; repealing chapter 88-469, Laws of Florida, as amended; providing an effective date.

—was read the second time by title. On motion by Senator Williams, by two-thirds vote **HB 1773** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1907—A bill to be entitled An act relating to Broward County; providing for extending the corporate limits of the Cities of Pembroke Pines, Davie, Cooper City, and Weston; providing for annexation of the unincorporated areas known as "Southwest Ranches" and "Sunshine Ranches" and surrounding areas; providing for incorporation of a new municipality; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **HB 1907** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Clary	Grant	Kirkpatrick
Bankhead	Cowin	Gutman	Klein
Bronson	Crist	Hargrett	Kurth
Brown-Waite	Dantzler	Harris	Latvala
Burt	Diaz-Balart	Holzendorf	Lee
Campbell	Dudley	Horne	McKay
Casas	Dyer	Jenne	Meadows
Childers	Forman	Jones	Myers

Ostalkiewicz	Scott	Sullivan	Turner
Rossin	Silver	Thomas	Williams

Nays—None

HB 1953—A bill to be entitled An act relating to the North Broward Hospital District, Broward County, amending chapter 27438, Laws of Florida, 1951, as amended, relating to the powers of the Board of Commissioners of the North Broward Hospital District to enter into interest rate swap agreements and certain other derivative instruments; to invest available funds of the pension plan in accordance with certain provisions of state law; providing severability; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **HB 1953** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1987—A bill to be entitled An act relating to Gilchrist County; amending chapter 59-1308, Laws of Florida, as amended, relating to the Gilchrist County Development Authority; increasing the number of members of the authority from 5 to 9; providing that the membership of the Gilchrist County Development Authority be the same as the membership of the Gilchrist County Industrial Development Authority and that the Gilchrist County Development Authority and the Gilchrist County Industrial Development Authority operate as one authority; providing an effective date.

—was read the second time by title. On motion by Senator Williams, by two-thirds vote **HB 1987** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 2003—A bill to be entitled An act relating to Santa Rosa County; amending chapter 79-561, Laws of Florida, as amended; revising provisions relating to the Civil Service System for certain employees of Santa Rosa County; providing for the appointment of the fifth member to the board; providing for transfers within the Civil Service System; providing an effective date.

—was read the second time by title. On motion by Senator Clary, by two-thirds vote **HB 2003** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 2021—A bill to be entitled An act relating to Rainbow Lake Estates, Marion and Levy Counties; amending chapter 69-1298, Laws of Florida; authorizing the levy and assessment of special assessments to fund municipal services; providing an effective date.

—was read the second time by title. On motion by Senator Kirkpatrick, by two-thirds vote **HB 2021** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 2027—A bill to be entitled An act relating to the Civil Service System for the Seminole County Sheriff's Office; amending ch. 70-942, Laws of Florida, as amended; providing that any decision of the board must be made by a majority vote of the members; lowering the minimum age for members; providing for designation of positions within the unclassified service; providing for responsibilities of the board chairman; providing for annual submission of table of organization; clarifying authority and powers of the board; deleting certain provisions and adding correctional officers to the act; amending time validity of the list for initial appointment and promotions; amending the time period for challenging a test; amending notice procedures; amending provisions relating to probationary periods; revising provisions relating to return of demoted employees in the unclassified service; revising provisions relating to transfer; eliminating certain positions; providing for rules to be used in hearings; amending provisions relating to hearings for classified employees; revising provisions relating to suspension of classified employees; revising provisions relating to time period for and subject matter of hearings; requiring written requests for hearings; providing an effective date.

—was read the second time by title. On motion by Senator Dyer, by two-thirds vote **HB 2027** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Clary	Grant	Kirkpatrick
Bankhead	Cowin	Gutman	Klein
Bronson	Crist	Hargrett	Kurth
Brown-Waite	Dantzler	Harris	Latvala
Burt	Diaz-Balart	Holzendorf	Lee
Campbell	Dudley	Horne	McKay
Casas	Dyer	Jenne	Meadows
Childers	Forman	Jones	Myers

Ostalkiewicz	Scott	Sullivan	Turner
Rossin	Silver	Thomas	Williams

Nays—None

HB 2029—A bill to be entitled An act relating to the St. Lucie County Port and Airport Authority; providing definitions; reorganizing, updating, and clarifying provisions; providing for the continuing existence of the authority and of its rights and obligations; providing that employees of the authority shall be considered employees of St. Lucie County; providing that authority meetings shall be held in accordance with chapter 189, Florida Statutes; amending and reorganizing provisions relating to powers and duties of the authority, and consultants, travel expense, taxation, and bonding; providing for the approval by the authority of privately owned airports within the district; deleting obsolete text relating to ad valorem taxation; authorizing the levy of non-ad valorem assessments and issuance of bonds secured thereby; clarifying purposes for which bonds may be issued; providing the authority to enter trust agreements to secure bonds; providing that the purchase of commodities and services by the authority shall be in accordance with the St. Lucie County purchasing policy; declaring legislative intent; repealing chapter 88-515, Laws of Florida; providing for severability; providing an effective date.

—was read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 2029** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1291—A bill to be entitled An act relating to Brevard County; creating the "City of Suntree Charter"; providing for the corporate name and purpose of the charter; establishing territorial boundaries of the municipality and authorizing annexations; providing powers of the municipality and of certain officers; providing for election of a city council, including the mayor and vice mayor, and providing for qualifications, powers, and duties of its membership, and a procedure for establishing their compensation and expense reimbursement; establishing circumstances which create vacancies in office and providing for filling vacancies and for forfeiture and recall; requiring independent financial audit; providing for council meetings, rules, recordkeeping, and voting at meetings; providing for nominations, elections, and terms of office of the mayor and council; providing for a city manager, city clerk, and city attorney and powers and duties of each; authorizing establishment of administrative departments; providing definitions; providing procedures for adoption of ordinances and resolutions and for handling finances; establishing fiscal year and annual budgets; providing procedures for initiative and referendum; providing for charter amendments and review; providing for severability; providing for transition, including initial election and terms, date of creation and establishment of the municipality, payment of certain revenues, and transitional comprehensive plan and land development regulations; entitling the city to state-shared and local option gas tax revenues; providing for contractual services and facilities; eliminating transition elements; providing a referendum.

—was read the second time by title.

Senator Kurth moved the following amendments which were adopted:

Amendment 1—On page 25, line 16, delete "*July 12,*" and insert: *July 15,*

Amendment 2—On page 31, lines 29 and 30, delete "sections 14.01 and 15.10" and insert: section 15.01

On motion by Senator Kurth, by two-thirds vote **HB 1291** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

Consideration of **HB 1655** was deferred.

HB 571—A bill to be entitled An act relating to Indian Trail Water Control District, Palm Beach County; changing the name of the district to Indian Trail Improvement District; clarifying the district's authority to provide, finance, construct, operate, and maintain and include as a component of roads, bridges, parkways, and other elements; providing for adoption by resolution of rules and procedures for the letting of contracts; providing alternative methods to amend, modify, and change the district's water management plans; authorizing the district to accept for maintenance additional facilities; ratifying all existing water management plans as amended and constructed; providing an effective date.

—was read the second time by title.

Senator Rossin moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 2, line 14 through page 3, line 31, delete those lines and renumber subsequent section.

And the title is amended as follows:

On page 1, lines 11-16, delete those lines and insert: providing an effective date.

On motion by Senator Rossin, by two-thirds vote **HB 571** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 871—A bill to be entitled An act relating to Volusia County; providing for members of the Volusia County School Board to be elected on an nonpartisan basis; prescribing procedures for qualification for office and for conducting elections for members of the board; ratifying referendum election; providing an effective date.

—was read the second time by title. On motion by Senator Burt, by two-thirds vote **HB 871** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Rossin
Brown-Waite	Dudley	Jones	Scott
Burt	Dyer	Kirkpatrick	Silver
Campbell	Forman	Klein	Sullivan
Casas	Grant	Kurth	Thomas
Childers	Gutman	Latvala	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	McKay	

Nays—1

Ostalkiewicz

HB 425—A bill to be entitled An act relating to Lee County; amending chapter 76-414, Laws of Florida, as amended; authorizing the district to establish and maintain emergency medical services and acquire and maintain rescue, medical, and other emergency equipment; amending the date the board elects its officers; increasing the minimum rate of ad valorem taxes that may be levied to provide funds for the district; providing for a referendum; reporting the actions of the board and accounting of its funds in accordance with chapter 189, Florida Statutes; providing an effective date.

—was read the second time by title.

Senator Rossin moved the following amendment which was adopted:

Amendment 1—In title, on page 1, line 4, delete "district" and insert: Bayshore Fire Protection and Rescue Service District

On motion by Senator Rossin, by two-thirds vote **HB 425** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1875—A bill to be entitled An act relating to the North Lauderdale Water Control District, Broward County; amending chapter 63-661, Laws of Florida, as amended; reducing the number of members of the Board of Supervisors of the North Lauderdale Water Control District from a board of seven members to a board of five members to be composed of sitting members of the City Council of the City of North Lauderdale within 30 days after this act becomes a law; providing intent with respect to the election of supervisors; providing an effective date.

—was read the second time by title. On motion by Senator Forman, by two-thirds vote **HB 1875** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Childers	Dyer	Horne
Bankhead	Clary	Forman	Jenne
Bronson	Cowin	Grant	Jones
Brown-Waite	Crist	Gutman	Kirkpatrick
Burt	Dantzler	Hargrett	Klein
Campbell	Diaz-Balart	Harris	Kurth
Casas	Dudley	Holzendorf	Latvala
Lee	Myers	Scott	Thomas
McKay	Ostalkiewicz	Silver	Turner
Meadows	Rossin	Sullivan	Williams

Nays—None

HB 1175—A bill to be entitled An act applying to Collier County; amending ss. 1, 2, and 3, chapter 89-449, Laws of Florida, to empower county park enforcement officers to issue citations to enforce any county ordinance within the boundaries of any county park, county operated parking facilities, public beaches, beach access areas adjacent to any county park, and public areas immediately adjacent to county parks; revising list of prohibited offenses; amending s. 4, chapter 89-449, Laws of Florida, to permit the violator to pay the appropriate fines as prescribed by county ordinance without a mandatory court appearance; providing an effective date.

—was read the second time by title. On motion by Senator Rossin, by two-thirds vote **HB 1175** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

SB 2510—A bill to be entitled An act relating to Polk County; repealing chapter 14580, Laws of Florida, 1929, and chapter 13899, Laws of Florida, 1929; dissolving the Wahneta Drainage District and providing for the disposition of its assets; amending chapter 8378, Laws of Florida, 1919, as amended; revising the law relating to the Lake Region Lakes Management District; authorizing said district to engage in certain acts relating to drainage canals, lake level management, and the operation of water management structures; providing immunity from liability for said district with respect to any failure of such water management structures; providing an effective date.

—was read the second time by title. On motion by Senator Dantzler, by two-thirds vote **SB 2510** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 977—A bill to be entitled An act relating to Polk County; repealing chapter 14580, Laws of Florida, 1929, and chapter 13899, Laws of Florida, 1929; dissolving the Wahneta Drainage District and providing for the disposition of its assets; amending chapter 8378, Laws of Florida, 1919, as amended; revising the law relating to the Lake Region Lakes Management District; authorizing said district to engage in certain acts relating to drainage canals, lake level management, and the operation of water management structures; providing immunity from liability for

said district with respect to any failure of such water management structures; providing an effective date.

—was read the second time by title. On motion by Senator Dantzler, by two-thirds vote **HB 977** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

SB 2530—A bill to be entitled An act relating to Volusia County; creating the Task Force on Health Care Organization in Volusia County; requiring the task force to determine if the health care needs of county residents are being met; requiring that the task force make recommendations for administering and providing health care services within the county; providing for the appointment of members to the task force; providing for funding the activities of the task force through a proportionate assessment on each hospital taxing district within the county; requiring that the task force contract with an institution of higher learning for assistance in producing a final report; requiring the task force to provide an official copy of its final report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Volusia County Legislative Delegation, the Volusia County Council, the Halifax Hospital Medical Center, the Southeast Volusia Hospital District, the West Volusia Hospital Authority, and the District Four Health Planning Council; providing for expiration of the task force; capping the millage rate within each of the three hospital taxing districts within Volusia County; providing that the millage rates may be adjusted downward; authorizing the governing authority of each respective hospital taxing district to set millage rates after specific legislative action is taken based on the recommendations of the task force; providing an effective date.

—was read the second time by title. On motion by Senator Burt, by two-thirds vote **SB 2530** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

HB 1543—A bill to be entitled An act relating to Volusia County; creating the Task Force on Health Care Organization in Volusia County; requiring the task force to determine if the health care needs of county residents are being met; requiring that the task force make recommendations for administering and providing health care services within the county; providing for the appointment of members to the task force; providing for funding the activities of the task force through a proportionate assessment on each hospital taxing district within the county; requiring that the task force contract with an institution of higher learning for assistance in producing a final report; requiring the task force to provide an official copy of its final report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Volusia County Legislative Delegation, the Volusia County Council, the Halifax Hospital Medical Center, the Southeast Volusia Hospital District, the West Volusia Hospital Authority, and the District Four Health Planning Council; providing for expiration of the task force; capping the millage rate within each of the three hospital taxing districts within Volusia County; providing that the millage rates may be adjusted downward; authorizing the governing authority of each respective hospital taxing district to set millage rates after specific legislative action is taken based on the recommendations of the task force; providing an effective date.

—was read the second time by title. On motion by Senator Burt, by two-thirds vote **HB 1543** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

SPECIAL ORDER CALENDAR

THE PRESIDENT PRESIDING

Consideration of **CS for CS for SB 214** was deferred.

MOTION

On motion by Senator Jenne, the rules were waived and consideration of **CS for SB 1398** was scheduled for 11:59 a.m.

CS for SB 1398—A bill to be entitled An act relating to termination of pregnancies; renumbering and amending s. 390.001, F.S.; prohibiting partial-birth abortion; providing a penalty; providing civil liability; providing for relief; renumbering s. 390.002, F.S.; amending s. 390.011, F.S.; expanding scope of definitions; defining "partial-birth abortion"; providing an effective date.

—was read the second time by title.

An amendment was considered to conform **CS for SB 1398** to **CS for HB 1227**.

Pending further consideration of **CS for SB 1398** as amended, on motion by Senator Cowin, by two-thirds vote **CS for HB 1227** was withdrawn from the Committees on Health Care; Judiciary; and Ways and Means.

On motion by Senator Cowin—

CS for HB 1227—A bill to be entitled An act relating to termination of pregnancies; renumbering and amending s. 390.001, F.S.; revising provisions relating to consents required prior to a termination of pregnancy; prohibiting partial-birth abortion; providing a penalty; providing civil liability; providing for relief; renumbering s. 390.002, F.S.; amending s. 390.011, F.S.; expanding scope of definitions; defining "partial-birth abortion"; providing an effective date.

—a companion measure, was substituted for **CS for SB 1398** as amended and read the second time by title.

Senator Klein moved the following amendment which failed:

Amendment 1—On page 3, line 31 through page 4, line 3, delete those lines and insert: *abortion that is necessary to save the life of a mother or avoid a severe physical threat to the health of a pregnant woman.*

The vote was:

Yeas—15

Brown-Waite	Hargrett	Klein	Rossin
Campbell	Holzendorf	Kurth	Silver
Dyer	Jenne	Latvala	Turner
Forman	Jones	Meadows	

Nays—20

Madam President	Cowin	Harris	Ostalkiewicz
Bankhead	Crist	Horne	Scott
Bronson	Dantzler	Lee	Sullivan
Childers	Dudley	McKay	Thomas
Clary	Grant	Myers	Williams

Vote after roll call:

Nay—Gutman

MOTION

On motion by Senator Jenne, the rules were waived and debate on amendments to **CS for HB 1227** was limited to one minute per side; and debate on **CS for HB 1227** was limited to two minutes per side.

Senator Klein moved the following amendments which failed:

Amendment 2—On page 5, lines 17-31, delete those lines

Amendment 3—On page 6, lines 20 and 21, delete those lines and insert: *pregnancy partially vaginally delivers a viable fetus before completing the procedure.*

On motion by Senator Cowin, by two-thirds vote **CS for HB 1227** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—28

Madam President	Childers	Grant	Meadows
Bankhead	Clary	Harris	Myers
Bronson	Cowin	Horne	Ostalkiewicz
Brown-Waite	Crist	Jones	Scott
Burt	Dantzler	Latvala	Sullivan
Campbell	Dudley	Lee	Thomas
Casas	Dyer	McKay	Williams

Nays—9

Forman	Jenne	Kurth	Silver
Hargrett	Klein	Rossin	Turner
Holzendorf			

Vote after roll call:

Yea—Diaz-Balart, Gutman

RECESS

On motion by Senator Bankhead, the Senate recessed at 12:00 noon to reconvene at 1:15 p.m.

AFTERNOON SESSION

The Senate was called to order by the President at 1:29 p.m. A quorum present—40:

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

RECONSIDERATION OF BILL

On motion by Senator Bankhead, the Senate reconsidered the vote by which—

SB 2530—A bill to be entitled An act relating to Volusia County; creating the Task Force on Health Care Organization in Volusia County; requiring the task force to determine if the health care needs of county residents are being met; requiring that the task force make recommendations for administering and providing health care services within the county; providing for the appointment of members to the task force; providing for funding the activities of the task force through a proportionate assessment on each hospital taxing district within the county; requiring that the task force contract with an institution of higher learning for assistance in producing a final report; requiring the task force to provide an official copy of its final report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Volusia County Legislative Delegation, the Volusia County Council, the Halifax Hospital Medical Center, the Southeast Volusia Hospital District, the West Volusia Hospital Authority, and the District Four Health Planning Council; providing for expiration of the task force; capping the millage rate within each of the three hospital taxing districts within Volusia County; providing that the millage rates may be adjusted downward; authorizing the governing authority of each respective hospital taxing district to set millage rates after specific legislative action is taken based on the recommendations of the task force; providing an effective date.

—passed this day.

On motion by Senator Bankhead, by two-thirds vote the Senate reconsidered the vote by which **SB 2530** was read the third time.

Senator Bankhead moved the following amendment which was adopted:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *(1)(a) There is created the Task Force on Health Care Organization in Volusia County.*

(b) The task force shall study the tax revenues generated from health care services provided within Volusia County and the county's health care resources and determine if the health care needs of the residents of the county are being met in the most efficient manner possible. The task force shall review how initiatives have been organized for funding health care services within other counties, including, but not limited to, the special health care taxing district in Palm Beach County and the sales tax initiative for funding health care for indigents in Hillsborough County. The task force shall also evaluate whether it is appropriate for a single governmental entity to be responsible for purchasing health care services as well as delivering health care services.

(c) The task force shall conduct a thorough review of all publicly funded health care services provided in Volusia County and recommend the most efficient system of administering a health care system and the most efficient method of providing health care services. The task force shall:

1. Review how various areas in the state provide health care, including areas that do not have a dedicated source of tax revenues. The review must compare the per-capita cost of health care services delivered in areas that have a dedicated source of tax revenues with the per-capita cost of health care services delivered in areas that do not have a dedicated source of tax revenues, and must identify the strengths and weaknesses of each method of funding.

2. Determine whether there is a need to provide public funds for health care services in Volusia County.

3. Recommend the extent to which a publicly funded health care delivery system is needed, the level of tax support needed, and a system of administration and service delivery, if the task force determines that a publicly funded health care delivery system is necessary for Volusia County.

4. Recommend how the existing publicly funded health care delivery system should be modified to complement the existing private-sector health care delivery system, if the task force determines that a publicly funded health care delivery system is not necessary in Volusia County.

(2) The task force shall be composed of 17 members, who shall serve until the task force expires by operation of law, and who shall be appointed as follows:

(a) One member appointed by the Florida League of Health Systems.

(b) One member appointed by the Florida Hospital Association.

(c) One member appointed by the Association of Community Hospitals and Health Systems of Florida.

(d) One member appointed by the Tax Cap Committee.

(e) One member appointed by Florida TaxWatch.

(f) Nine members, each appointed by a single member of the Volusia County Legislative Delegation.

(g) One member of the Volusia County Council, appointed by the chairperson of the council.

(h) One member appointed by the President of the Senate.

(i) One member appointed by the Speaker of the House of Representatives.

(3) Failure to appoint a member to the task force does not invalidate the task force. The first meeting of the task force must be held within 45 days after this act becomes a law.

(4)(a) The operation and activities of the task force shall be funded by a proportionate assessment on each hospital taxing district. A total of not more than $250,000 shall be assessed. The Southeast Volusia Hospital District shall be assessed not more than $45,000, the West Volusia Hospital Authority shall be assessed not more than $67,500, and the Halifax Hospital Medical Center shall be assessed not more than $137,500. Any funds that remain upon expiration of the task force shall be proportionally divided and returned to the respective hospital taxing district.

(b) The task force shall contract with a public institution of higher learning within the state for purposes of staffing and producing a final report of its findings and recommendations. The Governor, the President of the Senate, the Speaker of the House of Representatives, the Volusia County Legislative Delegation, the Volusia County Council, the Halifax Hospital Medical Center, the Southeast Volusia Hospital District, the West Volusia Hospital Authority, and the District Four Health Planning Council shall each receive an official copy of the final report of the task force. The final report is due by January 15, 1998, with an interim report on the study presented to the delegation due by November 15, 1997.

(c) The Volusia County Council shall provide meeting facilities and administrative support, free of charge, including an equipped office that will accommodate the task force.

(5) The task force shall expire on June 1, 1998.

Section 2. *Notwithstanding any other law, the millage rate of the Southeast Volusia Hospital Taxing District and the millage rate of the Halifax Hospital Taxing District are capped at the rate in place as of January 1, 1997, for each respective district. The millage rate of the West Volusia Hospital Authority is capped at 1.52 mills. The millage rate of each hospital taxing district may be adjusted downward at any time by the governing authority of each respective district. The authority to set millage rates shall be restored to the governing authorities of the hospital taxing districts within Volusia County only after specific legislative action is taken based on the recommendations generated by the task force created by this act.*

Section 3. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to Volusia County; creating the Task Force on Health Care Organization in Volusia County; requiring the task force to determine if the health care needs of county residents are being met; requiring that the task force make recommendations for administering and providing health care services within the county; providing for the appointment of members to the task force; providing for funding the activities of the task force through a proportionate assessment on each hospital taxing district within the county; requiring that the task force contract with an institution of higher learning for assistance in producing a final report; requiring the task force to provide an official copy of its final report to the Governor, the President of the Senate, the Speaker of the House of Representatives, the Volusia County Legislative Delegation, the Volusia County Council, the Halifax Hospital Medical Center, the Southeast Volusia Hospital District, the West Volusia Hospital Authority, and the District Four Health Planning Council; providing for expiration of the task force; capping the millage rate within each of the three hospital taxing districts within Volusia County; providing that the millage rates may be adjusted downward; authorizing the governing authority of each respective hospital taxing district to set millage rates after specific legislative action is taken based on the recommendations of the task force; providing an effective date.

On motion by Senator Bankhead, by two-thirds vote **SB 2530** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—37

Madam President	Dantzler	Jenne	Rossin
Bankhead	Diaz-Balart	Jones	Scott
Bronson	Dudley	Klein	Silver
Brown-Waite	Dyer	Kurth	Sullivan
Burt	Forman	Latvala	Thomas
Casas	Grant	Lee	Turner
Childers	Gutman	McKay	Williams
Clary	Harris	Meadows	
Cowin	Holzendorf	Myers	
Crist	Horne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

SPECIAL ORDER CALENDAR, continued

Consideration of **CS for CS for SB 690** and **CS for SB 584** was deferred.

On motion by Senator Clary—

CS for SB 746—A bill to be entitled An act relating to informed consent; creating the "Woman's Right-To-Know Act"; amending and renumbering s. 390.001, F.S.; requiring the voluntary and informed consent of a woman upon whom a termination of pregnancy is to be performed or induced; providing requirements of informed consent; providing that a physician provide certain information; requiring written acknowledgment that the pregnant woman has been provided with certain information; providing requirements relating to an emergency procedure; providing for disciplinary action; amending and renumbering s. 390.002, F.S.; conforming references to the Department of Health; amending s. 390.011, F.S.; expanding scope and revising definitions; amending ss. 390.012, 390.014, 390.015, 390.016, 390.017, 390.018, 390.019, and 390.021, F.S.; conforming references to the department, the Agency for Health Care Administration, and the chapter; providing an effective date

—was read the second time by title.

POINT OF ORDER

Senator Silver raised a point of order that pursuant to Rule 4.8 the bill should be referred to the Committee on Ways and Means.

RULING ON POINT OF ORDER

On recommendation of Senator W. G. (Bill) Bankhead, Chairman of the Committee on Rules and Calendar, the President ruled the point well taken and referred **CS for SB 746** to the Committee on Ways and Means.

On motion by Senator Dudley, by two-thirds vote **CS for HB 129** was withdrawn from the Committees on Education; Governmental Reform and Oversight; and Ways and Means.

On motion by Senator Dudley—

CS for HB 129—A bill to be entitled An act relating to investments in education; creating the Florida Education Technology Foundation for certain purposes; providing for a board of directors; providing for membership; providing for appointing members; providing for electing members; providing duties of the board; providing for creation of Florida's Future Investment Funds for certain purposes; providing for investment of moneys in such funds; providing for donating certain revenues to the foundation; providing for contributing a portion of investment interest to the foundation for certain purposes; providing for a reduced intangibles tax rate on securities in Florida's Future Investment Funds under certain circumstances; creating s. 212.0602, F.S.; exempting certain educational entities, institutions, or organizations from the sales and use tax under certain limited circumstances; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 690** and read the second time by title.

Senator Dudley moved the following amendment which was adopted:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *(1) The purpose of this section is to provide a mechanism by which the business community in this state can directly participate in providing assistance to the growth and development of education enhancement in this state through contributions to special state-sponsored investment funds. The purpose of such funds is to provide funding for computers, computer technology, training in computer education, and scholarships for business-related careers for the education system, including kindergarten through twelfth grade, community colleges, and universities.*

(2) The Florida Education Technology Foundation is created as a nonprofit corporation for the purpose of establishing a series of state-sponsored investment funds to be known as Florida's Future Investment Funds. The purpose of such funds is to provide a source of revenue which shall be used by the foundation to provide funding for:

(a) Buying and maintaining computers and computer-related technology for all levels of the education system supported in whole or in part with public funds in this state.

(b) Training teachers and faculty to use computer equipment and technology and to teach the effective use of computer equipment and technology.

(c) Scholarships for business-related fields.

(3) The foundation shall be governed by a board of directors consisting of 11 members, one of whom shall be the Commissioner of Education or his or her designee, one of whom shall be the Treasurer or his or her designee, one of whom shall be appointed by the President of the Senate, one of whom shall be appointed by the Speaker of the House of Representatives, and the remaining 7 of whom shall initially be appointed by the Florida Council of 100 from membership of the council and thereafter shall be elected by the corporations and businesses that contribute moneys to a Florida's Future Investment Fund. Of the first members appointed by the Florida Council of 100, three shall be appointed for a term of 1 year and four shall be appointed for a term of 2 years. Thereafter, those members shall be elected and shall serve for terms of 4 years. Each corporation shall receive one vote for investing up to $25 million in a Florida's Future Investment Fund and shall receive an additional vote for each additional investment of $25 million. A chair shall be elected by the members of the board and the board shall meet at the call of the chair. In no event shall the state or its officers, employees, or agencies be liable for the actions of the foundation, its directors, or the fund managers.

(4) The foundation shall establish Florida's Future Investment Funds for the purpose of investing moneys placed in such funds by corporations and businesses in this state and receiving a portion of such interest to be used as provided in subsection (2). The board of directors shall provide for the administration and management of such funds to maximize the return on investment of moneys in such funds. The board of directors may hire outside managers to administer and invest the moneys in the Florida's Future Investment Funds. The board shall prescribe the level of prudence and ethical standards to be followed by the fund managers. Alternatively, moneys in the Florida's Future Investment Funds may be invested by the State Board of Administration in accordance with a trust agreement entered into between the board of directors and the State Board of Administration in accordance with sections 215.44-215.53, Florida Statutes. It is the intent of the Legislature that administrative fees be as low as possible. The staff of the Commissioner of Education shall serve as support staff for the board of directors.

(5) A corporation or business participating in a Florida's Future Investment Fund shall contribute a portion of the interest earned on investments of moneys in the fund to the Florida Education Technology Foundation to be used as provided in subsection (2). The portion of interest earned and donated may be determined by action of the board of directors of the foundation.

(6) The provisions of chapter 119, Florida Statutes, relating to public records and chapter 286, Florida Statutes, relating to public meetings apply to all records and meetings of the foundation. The financial records of the foundation must be made available to the Auditor General for post audit purposes.

(7) Within 90 days after its organization, the foundation shall develop a business plan for the conduct of its financial operations. Moneys realized from investment gains must be distributed to schools in a manner consistent with the business plan. Such moneys shall not be subject to appropriation by the Legislature, and no school shall have any other distribution of funds to which it is entitled reduced, compromised, or supplanted as a result of its receipt of moneys from the foundation.

Section 2. *(1) Notwithstanding the provisions of chapter 199, Florida Statutes, the tax imposed under section 199.032, Florida Statutes, on securities in a Florida's Future Investment Fund shall apply at the rate of 1.85 mills when the average daily balance in such funds exceeds $2 billion and at the rate of 1.70 mills when the average daily balance in such funds exceeds $5 billion.*

(2) This section shall not apply in any year in which the revenues of the foundation in the previous calendar year are less than the tax savings allowed by this section. "Tax savings" means the difference between the tax that would be imposed pursuant to section 199.032, Florida Statutes, and the tax rate specified in subsection (1).

Section 3. Section 212.0602, Florida Statutes, is created to read:

212.0602 Education; limited exemption.—To facilitate investment in education and job training, there is also exempt from the taxes levied under this chapter, subject to the provisions of this section, the purchase or lease of materials, equipment, and other items by any entity, institution, or organization that is primarily engaged in teaching students to perform any of the activities or services described in s. 212.031(1)(a)9., that conducts classes at a fixed location located in this state, that is licensed under chapter 246, and that has at least 500 enrolled students. Any entity, institution, or organization meeting the requirements of this section shall be deemed to qualify for the exemptions in ss. 212.031(1)(a)9., 212.08(5)(f), and 212.08(12), and to qualify for an exemption for its purchase or lease of materials, equipment, and other items used for education or demonstration of the school's curriculum. Nothing in this section shall preclude an entity described in this section from qualifying for any other exemption provided for in this chapter.

Section 4. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to investments in education; creating the Florida Education Technology Foundation for certain purposes; providing for a board of directors; providing for membership; providing for appointing members; providing for electing members; providing duties of the board; providing for creation of Florida's Future Investment Funds for certain purposes; providing for investment of moneys in such funds; providing for donating certain revenues to the foundation; providing for contributing a portion of investment interest to the foundation for certain purposes; providing for a reduced intangibles tax rate on securities in Florida's Future Investment Funds under certain circumstances; creating s. 212.0602, F.S.; exempting the purchase or lease of certain items by

certain educational entities, institutions, or organizations from the sales and use tax under certain limited circumstances; providing an effective date.

On motion by Senator Dudley, by two-thirds vote **CS for HB 129** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Holzendorf	Ostalkiewicz
Bankhead	Dantzler	Horne	Rossin
Bronson	Diaz-Balart	Jones	Scott
Brown-Waite	Dudley	Klein	Silver
Burt	Dyer	Kurth	Sullivan
Campbell	Forman	Latvala	Thomas
Casas	Grant	Lee	Turner
Childers	Gutman	McKay	Williams
Clary	Hargrett	Meadows	
Cowin	Harris	Myers	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

On motion by Senator Latvala, by two-thirds vote **CS for CS for HB 313** was withdrawn from the Committees on Regulated Industries; Community Affairs; and Ways and Means.

On motions by Senator Latvala—

CS for CS for HB 313—A bill to be entitled An act relating to telecommunications; creating ss. 125.421, 166.047, F.S.; specifying circumstances under which a county or other entity of local government may obtain or hold a certificate under chapter 364, F.S., relating to telecommunications companies, and under which the provision of telecommunications services constitutes a municipal or public purpose; providing exceptions; amending s. 196.012, F.S.; providing that certain telecommunications services provided to the public for hire are not exempt from taxation unless provided by the operator of a public-use airport or provided by a public hospital; providing that certain property used to provide such services is exempt until a specified date; amending s. 199.183, F.S.; providing that telecommunication services provided to the public for hire by the state or a political subdivision are not exempt from intangible personal property taxes; providing exceptions; amending s. 212.08, F.S.; providing that telecommunication services provided to the public for hire by the state or political subdivision are not exempt from sales or use taxes; providing exceptions; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 214** and read the second time by title.

Senator Latvala moved the following amendment which was adopted:

Amendment 1—On page 6, line 6 and on page 7, line 4, delete "*s. 332.044*" and insert: *s. 332.004*

Senator Dantzler moved the following amendment which failed:

Amendment 2—On page 6, delete line 10 and insert: *public hospital, or unless the telecommunications services are provided by a municipality or other entity of local government to a municipality, county, other entity of local government, a school district, the federal government, or the state or any of its agencies in the same county as the municipality or other entity of local government. However, property that is being used to*

Senator Lee moved the following amendment which failed:

Amendment 3—On page 6, lines 12 and 13, delete those lines and insert: *1, 1997, shall remain exempt.*

Senator Latvala moved the following amendment which was adopted:

Amendment 4—On page 6, line 28 through page 7, line 1 delete those lines and insert: *when such service is provided by any county, municipality, or other political subdivision of the state. Any immunity of any political subdivision of the state or other entity of local government from taxation of the property used to provide telecommunication services that is taxed as a result of this paragraph is hereby waived. However, intangible*

Senator Dudley moved the following amendment:

Amendment 5 (with title amendment)—On page 9, between lines 13 and 14, insert:

Section 7. Section 365.172, Florida Statutes, is created to read:

*365.172 Limitation of liability for wireless carrier provisions of "911" or "*FHP".—A wireless service provider involved in providing 911 or *FHP service, a manufacturer of equipment used in providing 911 or *FHP service, or an officer or employee of a wireless service provider involved in providing 911 or *FHP service is not liable for any claim, damage, or loss arising from the provision of 911 or *FHP service unless the act or omission causing the claim, damage, or loss was performed with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property in providing such services.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 27, after the semicolon (;) insert: creating s. 365.172, F.S.; limiting the liability of persons and entities involved in the wireless provisions of emergency "911" service;

POINT OF ORDER

Senator Latvala raised a point of order that pursuant to Rule 7.1 **Amendment 5** was not germane to the bill.

DISPOSITION OF POINT OF ORDER

On motion by Senator Dudley, **Amendment 5** was withdrawn and the point of order was therefore withdrawn.

Senator Dudley moved the following amendment:

Amendment 6 (with title amendment)—On page 9, between lines 13 and 14, insert:

Section 7. Subsections (3), (14), and (15) of section 365.171, Florida Statutes, 1996 Supplement, are amended to read:

365.171 Emergency telephone number "911."—

(3) DEFINITIONS.—As used in this section:

(a) *"Commercial mobile radio service provider" means a commercial mobile radio service provider as defined by and pursuant to 47 U.S.C. ss. 153(n) and 332(d).*

(b)~~(a)~~ "Department" means the Department of Management Services.

(c)~~(b)~~ "Division" means the Division of Communications of the department.

(d)~~(c)~~ "Local government" means any city, county, or political subdivision of the state and its agencies.

(e)~~(d)~~ "Public agency" means the state and any city, county, city and county, municipal corporation, chartered organization, public district, or public authority located in whole or in part within this state which provides, or has authority to provide, firefighting, law enforcement, ambulance, medical, or other emergency services.

(f)~~(e)~~ "Public safety agency" means a functional division of a public agency which provides firefighting, law enforcement, medical, or other emergency services.

(14) INDEMNIFICATION AND LIMITATION OF LIABILITY.—All local governments are authorized to undertake to indemnify the telephone company against liability in accordance with the telephone company's lawfully filed tariffs *or to indemnify a commercial mobile radio service provider against liability pursuant to an indemnification agreement*. Regardless of any indemnification agreement, *a* ~~the~~ telephone

company *or a commercial mobile radio service provider* shall not be liable for damages resulting from or in connection with "911" service or identification of the telephone number, address, or name associated with any person accessing "911" service, unless the telephone company *or a commercial mobile radio service provider* acted with malicious purpose or in a manner exhibiting wanton and willful disregard of human rights, safety, or property in providing such services.

(15) CONFIDENTIALITY OF RECORDS.—Any record, recording, or information, or portions thereof, obtained by a public agency or a public safety agency for the purpose of providing services in an emergency and which reveals the name, address, telephone number, or personal information about, or information which may identify any person requesting emergency service or reporting an emergency by accessing an emergency telephone number "911" system is confidential and exempt from the provisions of s. 119.07(1), except that such record or information may be disclosed to a public safety agency. The exemption applies only to the name, address, telephone number or personal information about, or information which may identify any person requesting emergency services or reporting an emergency while such information is in the custody of the public agency or public safety agency providing emergency services. A telephone company *or a commercial mobile radio service provider* shall not be liable for damages to any person resulting from or in connection with such telephone company's *or commercial mobile radio service provider's* provision of any lawful assistance to any investigative or law enforcement officer of the State of Florida or political subdivisions thereof, of the United States, or of any other state or political subdivision thereof, in connection with any lawful investigation or other law enforcement activity by such law enforcement officer unless the telephone company *or commercial mobile radio service provider* acted in a wanton and willful manner. The exemptions in this section are subject to the Open Government Sunset Review Act of 1995 in accordance with s. 119.15 and shall stand repealed on October 2, 2001, unless reviewed and saved from repeal through reenactment by the Legislature.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 27, after the semicolon (;) insert: amending s. 356.171, F.S.; defining commercial mobile radio service provider; providing for indemnification of commercial mobile radio service providers; limiting liability of commercial mobile radio service providers;

POINT OF ORDER

Senator Latvala raised a point of order that pursuant to Rule 7.1 **Amendment 6** was not germane to the bill.

DISPOSITION OF POINT OF ORDER

On motion by Senator Dudley, **Amendment 6** was withdrawn and the point of order was therefore withdrawn.

Senator Latvala moved the following amendment which was adopted:

Amendment 7 (with title amendment)—On page 9, between lines 13 and 14, insert:

Section 7. *Under s. 18, Art. VII of the State Constitution, the Legislature determines and declares that the provisions of this act fulfill an important state interest.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 27, after the second semicolon (;) insert: providing a finding of an important state interest;

On motion by Senator Latvala, by two-thirds vote **CS for CS for HB 313** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Brown-Waite	Casas	Cowin
Bankhead	Burt	Childers	Crist
Bronson	Campbell	Clary	Dantzler
Diaz-Balart	Holzendorf	Latvala	Silver
Dyer	Horne	McKay	Sullivan
Forman	Jenne	Meadows	Thomas
Grant	Jones	Myers	Turner
Gutman	Kirkpatrick	Ostalkiewicz	Williams
Hargrett	Klein	Rossin	
Harris	Kurth	Scott	

Nays—2

Dudley	Lee

CS for SB 584—A bill to be entitled An act relating to mining; amending s. 378.601, F.S.; providing that certain heavy mineral mining operations are not required to undergo development-of-regional-impact review; amending s. 378.901, F.S.; providing conditions when a life-of-the-mine permit for sand mines may be issued; providing an effective date.

—was read the second time by title.

Senator Kirkpatrick moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 1, line 20 through page 5, line 2, delete those lines and insert: *s. 378.901, are issued. This subsection applies only in the following circumstances:*

(a) Mining is conducted in counties where the operator has conducted heavy mineral mining activities prior to March 1, 1997; and

(b) The operator of the heavy mineral mining operation has executed a developer agreement pursuant to s. 380.032 as of March 1, 1997. Lands mined pursuant to this section need not be the subject of the developer agreement.

Section 2. Subsections (5), (6), and (7) are added to section 378.035, Florida Statutes, to read:

378.035 Department responsibilities and duties with respect to Nonmandatory Land Reclamation Trust Fund.—

(5) On July 1, 1997, $30 million of the unencumbered funds within the Nonmandatory Land Reclamation Trust Fund are hereby reserved for use by the department. These reserved moneys are to be used to reclaim lands disturbed by the severance of phosphate rock on or after July 1, 1975, in the event that a mining company ceases mining, and the associated reclamation prior to all lands disturbed by the operation being reclaimed. Moneys expended by the department to accomplish reclamation pursuant to this subsection shall become a lien upon the property enforceable pursuant to chapter 85. The moneys received as a result of a lien foreclosure or as repayment shall be deposited into the trust fund. In the event the money received as a result of lien foreclosure or repayment is less than the amount expended for reclamation, the department shall use all means available to recover the difference from the affected parties for the use of the fund. Paragraph (3)(b) shall apply to lands acquired as a result of a lien foreclosure.

(6)(a) Up to one-half of the interest income accruing to the funds reserved by subsection (5) shall be available to the department annually for the purpose of funding basic management or protection of reclaimed, restored, or preserved phosphate lands:

1. Which have wildlife habitat value as determined by the Bureau of Mine Reclamation;

2. Which have been transferred by the landowner to a public agency or a private, nonprofit land conservation and management entity in fee simple, or which have been made subject to a conservation easement pursuant to s. 704.06; and

3. For which other management funding options are not available.

These funds may, after the basic management or protection has been assured for all such lands, be combined with other available funds to provide a higher level of management for such lands.

(b) Up to one-half of the interest income accruing to the funds reserved by subsection (5) shall be available to the department annually for the sole purpose of funding the department's implementation of:

1. The NPDES permitting program authorized by s. 403.0885, as it applies to phosphate mining and beneficiation facilities, phosphate fertilizer production facilities, and phosphate loading and handling facilities;

2. The regulation of dams in accordance with department Rule 62-672, Florida Administrative Code; and

3. The phosphogypsum management program pursuant to s. 403.4154 and department Rule 62-673, Florida Administrative Code.

On or before August 1 of each fiscal year, the department shall prepare a report presenting the expenditures using the interest income allocated by this section made by the department during the immediately preceding fiscal year, which report shall be available to the public upon request.

(7) Should the nonmandatory land reclamation program encumber all the funds in the Nonmandatory Land Reclamation Trust Fund except those reserved by subsection (5) prior to funding all the reclamation applications for eligible parcels, the funds reserved by subsection (5) shall be available to the program to the extent required to complete the reclamation of all eligible parcels for which the department has received applications.

Section 3. Present subsections (3) through (9) of section 378.901, Florida Statutes, 1996 Supplement, are renumbered as subsections (4) through (10), respectively, and a new subsection (3) is added to that section to read:

378.901 Life-of-the-mine permit.—

(3) The bureau may also issue life-of-the-mine permits to operators of sand mines as part of the consideration for conveyance to the Board of Trustees of the Internal Improvement Trust Fund of environmentally sensitive lands in an amount equal to or greater than the acreage included in the life-of-the-mine permit and provided such environmentally sensitive lands are contiguous with or within reasonable proximity to the lands included in the life-of-the-mine permit.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 5, after the semicolon (;) insert: requiring certain permits or plan approvals; amending s. 378.035, F.S.; providing for use of Nonmandatory Land Reclamation Trust Fund moneys for reclamation and management of phosphate lands; providing for liens; requiring a report;

On motion by Senator Kirkpatrick, further consideration of **CS for SB 584** as amended was deferred.

CS for CS for SB 170—A bill to be entitled An act relating to offenses involving intent to defraud persons who hire or lease personal property or equipment; amending s. 812.155, F.S., relating to the offenses of obtaining personal property or equipment by trick or false representation, hiring or leasing with intent to defraud, and failure to redeliver hired or leased personal property; removing provisions relating to the inference of fraudulent intent for purposes of prosecution of such offenses; providing that certain acts involving obtaining equipment under false pretenses, absconding without payment, or removing or attempting to remove property without express written consent constitute prima facie evidence of such fraudulent intent; specifying circumstances under which failure upon demand to redeliver property or equipment constitutes such fraudulent intent; specifying circumstances under which failure upon demand to pay amounts due for the full rental period constitutes such fraudulent intent; providing an effective date.

—was read the second time by title.

Senator Gutman moved the following amendments which were adopted:

Amendment 1 (with title amendment)—On page 1, line 27, insert:

Section 1. Section 812.15, Florida Statutes, is amended to read:

812.15 Unauthorized reception of cable television services; penalties.—

(1) As used in this section, the term:

(a) "Cable operator" means "cable operator" as defined in 47 U.S.C. s. 522(4) (1988).

(b) "Cable system" means "cable system" as defined in 47 U.S.C. s. 522(6) (1988).

(2)(a) No person shall intercept or receive or assist in intercepting or receiving any communications service offered over a cable system, unless specifically authorized to do so by a cable operator or as may otherwise be specifically authorized by law.

(b) For the purpose of this section, the term "assist in intercepting or receiving" shall include the manufacture of or distribution of equipment intended by the manufacturer or distributor, as the case may be, for unauthorized reception of any communications service offered over a cable system in violation of this section.

(3)(a) Any person who willfully violates this section shall be guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. *Any person who has previously been convicted twice of willfully violating this section shall, upon any subsequent willful violation of this section, be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.*

(b) Any person who willfully and for purposes of direct or indirect commercial advantage violates this section shall be guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4)(a) Any person aggrieved by any violation of this section may bring a civil action in a circuit court or in any other court of competent jurisdiction.

(b) The court may:

1. Grant temporary and final injunctions on such terms as it may deem reasonable to prevent or restrain violations of this section in conformity with the principles that govern the granting of injunctive relief from threatened loss or damage in other civil cases, except that no showing of special or irreparable damages to the person shall have to be made;

2. Award damages pursuant to paragraphs (c), (d), and (e); and

3. Direct the recovery of full costs, including awarding reasonable attorney's fees, to an aggrieved party who prevails.

(c) Damages awarded by any court under this section shall be computed in accordance with either of the following:

1. The party aggrieved may recover the actual damages suffered by him as a result of the violation and any profits of the violator that are attributable to the violation which are not taken into account in computing the actual damages; in determining the violator's profits, the party aggrieved shall be required to prove only the violator's gross revenue, and the violator is required to prove his deductible expenses and the elements of profit attributable to factors other than the violation; or

2. The party aggrieved may recover an award of statutory damages for all violations involved in the action, in a sum of not less than $250 or more than $10,000, as the court considers just.

(d) In any case in which the court finds that the violation was committed willfully and for purposes of commercial advantage, the court in its discretion may increase the award of damages, whether actual or statutory under this section, by an amount of not more than $50,000.

(e) In any case in which the court finds that the violator was not aware and had no reason to believe that his acts constituted a violation of this section, the court in its discretion may reduce the award of damages to a sum of not less than $100.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, lines 2-4, delete those lines and insert: amending s. 812.15, F.S., relating to unauthorized reception of cable television ser-

vices; providing an enhanced penalty for a third or subsequent violation; amending s. 812.155,

Amendment 2 (with title amendment)—On page 1, line 27, insert:

Section 1. Subsection (1) of section 806.13, Florida Statutes, is amended, and subsection (7) is added to said section, to read:

806.13 Criminal mischief; penalties; penalty for minor.—

(1)(a) A person commits the offense of criminal mischief if he willfully and maliciously injures or damages by any means any real or personal property belonging to another, including, but not limited to, the placement of graffiti thereon or other acts of vandalism thereto.

(b)1. If the damage to such property is $200 or less, it is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

2. If the damage to such property is greater than $200 but less than $1,000, it is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

3. If the damage is $1,000 or greater, or if there is interruption or impairment of a business operation or public communication, transportation, supply of water, gas or power, or other public service which costs $1,000 or more in labor and supplies to restore, it is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

4. If the person has one or more previous convictions for violating this subsection, the offense under subparagraph 1. or subparagraph 2. for which the person is charged shall be reclassified as a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(7) Because of the difficulty of confronting the blight of graffiti, it is the intent of the Legislature that cities and counties not be preempted by state law from establishing ordinances prohibiting the marking of graffiti or other graffiti-related offenses. Furthermore, as related to graffiti, such cities and counties shall not be preempted by state law from establishing higher penalties than those state law provides and mandatory penalties when state law provides discretionary penalties. Such higher and mandatory penalties include fines not to exceed those prescribed in ss. 125.69 and 162.21, community service, restitution, and forfeiture. Upon a finding that a juvenile has violated a graffiti-related ordinance, no court acting under chapter 39 shall provide a disposition of the case that is less severe than any mandatory penalties prescribed by municipal or county ordinance for such violation.

Section 2. Paragraph (d) is added to subsection (7) of section 901.15, Florida Statutes, 1996 Supplement, to read:

901.15 When arrest by officer without warrant is lawful.—A law enforcement officer may arrest a person without a warrant when:

(7) There is probable cause to believe that the person has committed:

(d) An act of criminal mischief or graffiti-related offense as defined in s. 806.13.

With respect to an arrest for an act of domestic violence, the decision to arrest shall not require consent of the victim or consideration of the relationship of the parties. A law enforcement officer who acts in good faith and exercises due care in making an arrest under this subsection is immune from civil liability that otherwise might result by reason of his action.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, lines 2-4, delete those lines and insert: An act relating to criminal justice; amending s. 806.13, F.S., relating to criminal mischief offenses and penalties; providing for reclassification of a misdemeanor violation of said section involving less than $1,000 property damage when the offender has one or more prior convictions under said section; providing legislative intent; providing that a county or municipality is not preempted by state law from establishing an ordinance which prohibits the marking of graffiti or other graffiti-related offense and penalizes such offense with higher penalties than those provided by state law or with mandatory penalties; providing for the court to provide a disposition of the case no less severe than such higher or mandatory penalties in certain juvenile proceedings for violation of the ordinance; amending s. 901.15, F.S., relating to circumstances for arrest without a warrant; providing for such arrest when there is probable cause to believe that the person has committed criminal mischief or a graffiti-related offense;

Senator Gutman moved the following amendment:

Amendment 3—On page 3, lines 18-28, delete those lines and insert:

(b) In prosecutions under subsection (3), failure to redeliver the property or equipment upon demand made in person or by certified mail is prima facie evidence of such fraudulent intent.

(c) In prosecutions under subsection (3), failure to pay any amounts due for the full rental period, including reasonable costs for damage to the property or equipment, not to exceed the lesser of the cost of repair or replacement, upon demand made in person or by certified mail is prima facie evidence of such fraudulent intent.

(d) For purposes of this subsection, notice mailed by certified or registered mail, return receipt requested, to the address in the signed rental agreement, is sufficient and equivalent to notice having been received by the person renting the personal property or equipment.

On motion by Senator Gutman, further consideration of **CS for CS for SB 170** with pending **Amendment 3** was deferred.

CS for SB 2352—A bill to be entitled An act relating to nonresident public adjusters; creating s. 626.8591, F.S.; providing a definition; creating s. 626.8681, F.S.; providing qualifications for licensure as a nonresident public adjuster by the Department of Insurance; providing requirements for an applicant for licensure; requiring an applicant to file a bond with the department of a specified amount; providing requirements with respect to retaining records; requiring a nonresident public adjuster to submit an affidavit to the department; providing certain limitations on the license that may be issued by the department; providing rulemaking authority for the department; providing requirements for the period of time that a nonresident public adjuster may occupy an office in the state; providing for the department to extend such period; creating s. 626.8694, F.S.; providing for appointment of the Insurance Commissioner and Treasurer for the purpose of receiving service of process filed against a nonresident public adjuster; creating s. 626.8801, F.S.; providing a penalty; amending s. 626.869, F.S., relating to the licensing of adjusters; clarifying certain exceptions that apply to the issuance by the department of a limited license; providing an effective date.

—was read the second time by title.

Senator Burt moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 2, between lines 2 and 3, insert:

Section 1. Paragraph (f) of subsection (2) of section 624.316, Florida Statutes, is amended to read:

624.316 Examination of insurers.—

(f)1.

a. An examination under this section must be conducted at least once every year with respect to a domestic insurer that has continuously held a certificate of authority for less than 3 years. The examination must cover the preceding fiscal year or the period since the last examination of the insurer. The department may limit the scope of the examination if the insurer has demonstrated sufficient compliance *with the provisions of this code and rules promulgated thereunder* ~~as determined under subparagraph 3~~.

b. The department may not accept an independent certified public accountant's audit report in lieu of an examination required by this subparagraph.

c. An insurer may not be required to pay more than $25,000 to cover the costs of any one examination under this subparagraph.

2. An examination under this section must be conducted not less frequently than once every 5 years with respect to an insurer that has continuously held a certificate of authority, without a change in ownership subject to s. 624.4245 or s. 628.461, for more than 15 years and has demonstrated sufficient compliance *with the provisions of this code and rules promulgated thereunder* ~~as determined under subparagraph 3~~. The examination must cover the preceding 5 fiscal years of the insurer or the period since the last examination of the insurer. This subparagraph does not limit the ability of the department to conduct more frequent examinations.

~~3. The department must, by rule, adopt procedures and criteria for determining if an insurer has demonstrated sufficient compliance with this code and cooperation with the department. The rules must include consideration of such factors as financial strength, timeliness, consumer service, economic and community contributions and support, responsiveness to department requests, and any other relevant factors. The department must annually publish and disseminate a listing of those insurers found to demonstrate sufficient compliance under the rules, including special recognition for community contributions and support.~~

Section 2. Subsection (7) of section 626.989, Florida Statutes, 1996 Supplement, is amended to read:

626.989 Division of Insurance Fraud; definition; investigative, subpoena powers; protection from civil liability; reports to division; division investigator's power to execute warrants and make arrests.—

(7) Division investigators shall have the power to make arrests for criminal violations established as a result of *division* investigations *and to escort and protect the non-law-enforcement employees or officers of the department in the exercises of their duties and responsibilities consistent with the Insurance Code and any corresponding rules of the Florida Administrative Code* ~~only~~. The general laws applicable to arrests by law enforcement officers of this state shall also be applicable to such investigators. Such investigators shall have the power to execute arrest warrants and search warrants for the same criminal violations; to serve subpoenas issued for the examination, investigation, and trial of all offenses determined by their investigations; and to arrest upon probable cause without warrant any person found in the act of violating any of the provisions of applicable laws. Investigators empowered to make arrests under this section shall be empowered to bear arms in the performance of their duties. In such a situation, the investigator must be certified in compliance with the provisions of s. 943.1395 or must meet the temporary employment or appointment exemption requirements of s. 943.131 until certified.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 1, lines 2 and 3, delete those lines and insert: An act relating to insurance; amending s. 624.316, F.S.; deleting a requirement for rulemaking by the Department of Insurance relating to compliance by an insurer with provisions of the Florida Insurance Code; amending s. 626.989, F.S.; providing certain department investigators authority to protect and escort non-law-enforcement personnel;

On motion by Senator Burt, by two-thirds vote **CS for SB 2352** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—30

Madam President	Crist	Holzendorf	Rossin
Bankhead	Dantzler	Horne	Silver
Bronson	Diaz-Balart	Jones	Sullivan
Brown-Waite	Dudley	Klein	Thomas
Burt	Dyer	Kurth	Turner
Campbell	Forman	McKay	Williams
Casas	Gutman	Meadows	
Childers	Harris	Myers	

Nays—None

Vote after roll call:

Yea—Clary, Cowin, Kirkpatrick, Ostalkiewicz

SENATOR HOLZENDORF PRESIDING

CS for SB 1822—A bill to be entitled An act relating to juvenile justice; amending s. 39.01, F.S.; providing that the penalty imposed for the offense of escaping from a detention facility applies to a juvenile who escapes from a low-risk residential facility; amending s. 39.021, F.S.; revising requirements for the Department of Juvenile Justice and the Juvenile Justice Advisory Board with respect to reporting to the Legislature on the costs and benefits of the department's commitment programs; amending s. 39.037, F.S.; providing for a law enforcement officer to take a juvenile into custody if the officer has probable cause to believe that the juvenile is in violation of community control, furlough, or aftercare supervision; amending s. 39.042, F.S.; revising requirements for detaining a juvenile in secure detention if the juvenile is charged with domestic violence; amending s. 39.044, F.S.; authorizing the detention of a juvenile who is charged with a felony offense of domestic violence; providing for detaining a juvenile in a consequence unit if the juvenile violates the conditions of community control or aftercare supervision; amending s. 39.052, F.S.; providing for the transfer of pending cases when a juvenile is prosecuted as an adult; amending s. 39.054, F.S.; providing for disposition of a juvenile who has violated conditions of community control or aftercare; providing for a juvenile to be taken into custody; requiring a hearing; providing circumstances under which the court may place the juvenile in a consequence unit; providing additional sanctions; authorizing the court to take further action if the restitution is not made; authorizing the court to order the juvenile's parent or guardian to make restitution if the parent or guardian failed to make a diligent and good-faith effort to prevent the juvenile from engaging in delinquent acts; amending s. 39.057, F.S.; clarifying the minimum period a juvenile who is committed to certain programs is required to participate in the boot camp component of the program; revising requirements for the department in evaluating boot camp programs; amending s. 39.059, F.S.; revising circumstances under which a juvenile may be prosecuted as an adult; prohibiting the court from imposing a combination of adult and juvenile sanctions against a juvenile; providing for the department to return a juvenile to the custody of the sentencing court if the department determines that the court has imposed sanctions that are unsuitable for the juvenile; providing for supervision by the department to terminate if a juvenile is sentenced as an adult; amending s. 39.076, F.S.; revising standards for screening department personnel; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **CS for SB 1822** to **HB 1369**.

Pending further consideration of **CS for SB 1822** as amended, on motion by Senator Cowin, by two-thirds vote **HB 1369** was withdrawn from the Committees on Criminal Justice; Children, Families and Seniors; and Ways and Means.

On motion by Senator Cowin, the rules were waived and—

HB 1369—A bill to be entitled An act relating to juvenile justice; amending s. 39.01, F.S.; providing that the penalty imposed for the offense of escaping from a detention facility applies to a juvenile who escapes from a low-risk residential facility; amending s. 39.021, F.S.; revising requirements for the Department of Juvenile Justice and the Juvenile Justice Advisory Board with respect to reporting to the Legislature on the costs and benefits of the department's commitment programs; amending s. 39.042, F.S.; specifying the conditions under which a juvenile charged with domestic violence may be placed in detention if the juvenile does not meet the criteria for detention; requires a court order to hold the juvenile in detention beyond 48 hours; requires a court hearing upon the request of the state attorney or victim to determine whether continued detention is necessary; repealing s. 39.0445, F.S., relating to juvenile justice domestic violence offenders; amending s. 39.052, F.S.; requiring the court to transfer all pending juvenile court cases to adult court on a juvenile transferred to adult court; amending s. 39.054, F.S.; authorizing the court to take further action if the restitution is not made; authorizing the court to order the juvenile's parent or guardian to make restitution if the parent or guardian failed to make a diligent and good-faith effort to prevent the juvenile from engaging in delinquent acts; amending s. 39.057, F.S.; clarifying the minimum period a juvenile who is committed to certain programs is required to participate in the boot camp component of the program; revising requirements for the department in evaluating boot camp programs; amending s. 39.059, F.S.; revising circumstances under which a juvenile may be

prosecuted as an adult; prohibiting the court from imposing a combination of adult and juvenile sanctions against a juvenile; providing for supervision by the department to terminate if a juvenile is sentenced as an adult; amending s. 39.076, F.S.; revising standards for screening department personnel; providing an effective date.

—a companion measure, was substituted for **CS for SB 1822** as amended and read the second time by title.

Senators Cowin and Bankhead offered the following amendment which was moved by Senator Bankhead:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 985.01, Florida Statutes, is created to read:

985.01 Purposes and intent; personnel standards and screening.—

(1) The purposes of this chapter are:

(a) To provide judicial and other procedures to assure due process through which children and other interested parties are assured fair hearings by a respectful and respected court or other tribunal and the recognition, protection, and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and dignity of the courts are adequately protected.

(b) To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; and to promote the health and well-being of all children under the state's care.

(c) To ensure the protection of society, by providing for a comprehensive standardized assessment of the child's needs so that the most appropriate control, discipline, punishment, and treatment can be administered consistent with the seriousness of the act committed, the community's long-term need for public safety, the prior record of the child, and the specific rehabilitation needs of the child, while also providing whenever possible restitution to the victim of the offense.

(d) To preserve and strengthen the child's family ties whenever possible, by providing for removal of the child from parental custody only when his or her welfare or the safety and protection of the public cannot be adequately safeguarded without such removal; and, when the child is removed from his or her own family, to secure custody, care, and discipline for the child as nearly as possible equivalent to that which should have been given by the parents; and to assure, in all cases in which a child must be permanently removed from parental custody, that the child be placed in an approved family home, adoptive home, independent living program, or other placement that provides the most stable and permanent living arrangement for the child, as determined by the court.

(e)1. To assure that the adjudication and disposition of a child alleged or found to have committed a violation of Florida law be exercised with appropriate discretion and in keeping with the seriousness of the offense and the need for treatment services, and that all findings made under this chapter be based upon facts presented at a hearing that meets the constitutional standards of fundamental fairness and due process.

2. To assure that the sentencing and placement of a child tried as an adult be appropriate and in keeping with the seriousness of the offense and the child's need for rehabilitative services, and that the proceedings and procedures applicable to such sentencing and placement be applied within the full framework of constitutional standards of fundamental fairness and due process.

(f) To provide children committed to the Department of Juvenile Justice with training in life skills, including career education.

(2) The Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the Department of Juvenile Justice or the Department of Children and Family Services contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

(b) The Department of Juvenile Justice and the Department of Children and Family Services shall require employment screening pursuant to chapter 435, using the level 2 standards set forth in that chapter for personnel in programs for children or youths.

(c) The Department of Juvenile Justice or the Department of Children and Family Services may grant exemptions from disqualification from working with children as provided in s. 435.07.

(3) It is the intent of the Legislature that this chapter be liberally interpreted and construed in conformity with its declared purposes.

Section 2. Section 985.02, Florida Statutes, is created to read:

985.02 Legislative intent for the juvenile justice system.—

(1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(a) Protection from abuse, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(g) Access to preventive services.

(h) An independent, trained advocate, when intervention is necessary, and a skilled guardian or caretaker in a safe environment when alternative placement is necessary.

(2) SUBSTANCE ABUSE SERVICES.—The Legislature finds that children in the care of the state's dependency and delinquency systems need appropriate health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency and delinquency systems must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related substance abuse problems. It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency and delinquency systems, which will be fully implemented and utilized as resources permit.

(3) JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—It is the policy of the state with respect to juvenile justice and delinquency prevention to first protect the public from acts of delinquency. In addition, it is the policy of the state to:

(a) Develop and implement effective methods of preventing and reducing acts of delinquency, with a focus on maintaining and strengthening the family as a whole so that children may remain in their homes or communities.

(b) Develop and implement effective programs to prevent delinquency, to divert children from the traditional juvenile justice system, to intervene at an early stage of delinquency, and to provide critically needed alternatives to institutionalization and deep-end commitment.

(c) Provide well-trained personnel, high-quality services, and cost-effective programs within the juvenile justice system.

(d) Increase the capacity of local governments and public and private agencies to conduct rehabilitative treatment programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention.

The Legislature intends that detention care, in addition to providing secure and safe custody, will promote the health and well-being of the children committed thereto and provide an environment that fosters their social, emotional, intellectual, and physical development.

(4) DETENTION.—

(a) The Legislature finds that there is a need for a secure placement for certain children alleged to have committed a delinquent act. The Legislature finds that detention under part II should be used only when less restrictive interim placement alternatives prior to adjudication and disposition are not appropriate. The Legislature further finds that decisions to detain should be based in part on a prudent assessment of risk and be limited to situations where there is clear and convincing evidence that a child presents a risk of failing to appear or presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior; presents a history of committing a serious property offense prior to adjudication, disposition, or placement; has acted in direct or indirect contempt of court; or requests protection from imminent bodily harm.

(b) The Legislature intends that a juvenile found to have committed a delinquent act understands the consequences and the serious nature of such behavior. Therefore, the Legislature finds that secure detention is appropriate to provide punishment that discourages further delinquent behavior. The Legislature also finds that certain juveniles have committed a sufficient number of criminal acts, including acts involving violence to persons, to represent sufficient danger to the community to warrant sentencing and placement within the adult system. It is the intent of the Legislature to establish clear criteria in order to identify these juveniles and remove them from the juvenile justice system.

(5) SERIOUS OR HABITUAL JUVENILE OFFENDERS.—The Legislature finds that fighting crime effectively requires a multipronged effort focusing on particular classes of delinquent children and the development of particular programs. This state's juvenile justice system has an inadequate number of beds for serious or habitual juvenile offenders and an inadequate number of community and residential programs for a significant number of children whose delinquent behavior is due to or connected with illicit substance abuse. In addition, a significant number of children have been adjudicated in adult criminal court and placed in this state's prisons where programs are inadequate to meet their rehabilitative needs and where space is needed for adult offenders. Recidivism rates for each of these classes of offenders exceed those tolerated by the Legislature and by the citizens of this state.

(6) SITING OF FACILITIES.—

(a) The Legislature finds that timely siting and development of needed residential facilities for juvenile offenders is critical to the public safety of the citizens of this state and to the effective rehabilitation of juvenile offenders.

(b) It is the purpose of the Legislature to guarantee that such facilities are sited and developed within reasonable timeframes after they are legislatively authorized and appropriated.

(c) The Legislature further finds that such facilities must be located in areas of the state close to the home communities of the children they house in order to ensure the most effective rehabilitation efforts and the most intensive postrelease supervision and case management.

(d) It is the intent of the Legislature that all other departments and agencies of the state shall cooperate fully with the Department of Juvenile Justice to accomplish the siting of facilities for juvenile offenders.

The supervision, counseling, rehabilitative treatment, and punitive efforts of the juvenile justice system should avoid the inappropriate use of correctional programs and large institutions. The Legislature finds that detention services should exceed the primary goal of providing safe and secure custody pending adjudication and disposition.

(7) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision to deter their participation in delinquent acts. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caretakers to fulfill their responsibilities are identified through the delinquency intake process and that appropriate recommendations to address those problems are considered in any judicial or nonjudicial proceeding.

Section 3. Section 985.03, Florida Statutes, is created to read:

985.03 Definitions.—When used in this chapter, the term:

(1) "Addictions receiving facility" means a substance abuse service provider as defined in chapter 397.

(2) "Adjudicatory hearing" means a hearing for the court to determine whether or not the facts support the allegations stated in the petition, as is provided for under s. 985.228 in delinquency cases.

(3) "Adult" means any natural person other than a child.

(4) "Arbitration" means a process whereby a neutral third person or panel, called an arbitrator or an arbitration panel, considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding.

(5) "Authorized agent" or "designee" of the department means a person or agency assigned or designated by the Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, to perform duties or exercise powers pursuant to this chapter and includes contract providers and their employees for purposes of providing services to and managing cases of children in need of services and families in need of services.

(6) "Child" or "juvenile" or "youth" means any unmarried person under the age of 18 who has not been emancipated by order of the court and who has been found or alleged to be dependent, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.

(7) "Child eligible for an intensive residential treatment program for offenders less than 13 years of age" means a child who has been found to have committed a delinquent act or a violation of law in the case currently before the court and who meets at least one of the following criteria:

(a) The child is less than 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:

1. *Arson;*
2. *Sexual battery;*
3. *Robbery;*
4. *Kidnapping;*
5. *Aggravated child abuse;*
6. *Aggravated assault;*
7. *Aggravated stalking;*
8. *Murder;*
9. *Manslaughter;*
10. *Unlawful throwing, placing, or discharging of a destructive device or bomb;*
11. *Armed burglary;*
12. *Aggravated battery;*
13. *Lewd or lascivious assault or act in the presence of a child; or*
14. *Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.*

(b) The child is less than 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least once to a delinquency commitment program.

(c) The child is less than 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

(8) "Child in need of services" means a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the Department of Juvenile Justice or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also, pursuant to this chapter, be found by the court:

(a) To have persistently run away from the child's parents or legal custodians despite reasonable efforts of the child, the parents or legal custodians, and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts shall include voluntary participation by the child's parents or legal custodians and the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Family Services;

(b) To be habitually truant from school, while subject to compulsory school attendance, despite reasonable efforts to remedy the situation pursuant to s. 232.19 and through voluntary participation by the child's parents or legal custodians and by the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Family Services; or

(c) To have persistently disobeyed the reasonable and lawful demands of the child's parents or legal custodians, and to be beyond their control despite efforts by the child's parents or legal custodians and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts may include such things as good faith participation in family or individual counseling.

(9) "Child who has been found to have committed a delinquent act" means a child who, pursuant to the provisions of this chapter, is found by a court to have committed a violation of law or to be in direct or indirect contempt of court, except that this definition shall not include an act constituting contempt of court arising out of a dependency proceeding or a proceeding pursuant to part III of this chapter.

(10) "Child support" means a court-ordered obligation, enforced under chapter 61 and ss. 409.2551-409.2597, for monetary support for the care, maintenance, training, and education of a child.

(11) "Circuit" means any of the 20 judicial circuits as set forth in s. 26.021.

(12) "Community control" means the legal status of probation created by law and court order in cases involving a child who has been found to have committed a delinquent act. Community control is an individualized program in which the freedom of the child is limited and the child is restricted to noninstitutional quarters or restricted to the child's home in lieu of commitment to the custody of the Department of Juvenile Justice.

(13) "Comprehensive assessment" or "assessment" means the gathering of information for the evaluation of a juvenile offender's or a child's physical, psychological, educational, vocational, and social condition and family environment as they relate to the child's need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.

(14) "Court," unless otherwise expressly stated, means the circuit court assigned to exercise jurisdiction under this chapter.

(15)(a) "Delinquency program" means any intake, community control and furlough, or similar program; regional detention center or facility; or community-based program, whether owned and operated by or contracted by the Department of Juvenile Justice, or institution owned and operated by or contracted by the Department of Juvenile Justice, which provides intake, supervision, or custody and care of children who are alleged to be or who have been found to be delinquent pursuant to part II.

(b) "Delinquency program staff" means supervisory and direct care staff of a delinquency program as well as support staff who have direct contact with children in a delinquency program.

(c) "Delinquency prevention programs" means programs designed for the purpose of reducing the occurrence of delinquency, including youth and street gang activity, and juvenile arrests. The term excludes arbitration, diversionary or mediation programs, and community service work or other treatment available subsequent to a child committing a delinquent act.

(16) "Department" means the Department of Juvenile Justice.

(17) "Designated facility" or "designated treatment facility" means any facility designated by the Department of Juvenile Justice to provide treatment to juvenile offenders.

(18) "Detention care" means the temporary care of a child in secure, nonsecure, or home detention, pending a court adjudication or disposition or execution of a court order. There are three types of detention care, as follows:

(a) "Secure detention" means temporary custody of the child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.

(b) "Nonsecure detention" means temporary custody of the child while the child is in a residential home in the community in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice pending adjudication, disposition, or placement.

(c) "Home detention" means temporary custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice staff pending adjudication, disposition, or placement.

(19) "Detention center or facility" means a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure or nonsecure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention center or facility.

(20) "Detention hearing" means a hearing for the court to determine if a child should be placed in temporary custody, as provided for under ss. 985.213 and 985.215 in delinquency cases.

(21) "Disposition hearing" means a hearing in which the court determines the most appropriate dispositional services in the least restrictive available setting provided for under s. 985.231, in delinquency cases.

(22) "District" means a service district of the Department of Juvenile Justice.

(23) "District juvenile justice manager" means the person appointed by the Secretary of Juvenile Justice, responsible for planning, managing, and evaluating all juvenile justice continuum programs and services delivered or funded by the Department of Juvenile Justice within the district.

(24) "Family" means a collective body of persons, consisting of a child and a parent, guardian, adult custodian, or adult relative, in which:

(a) The persons reside in the same house or living unit; or

(b) The parent, guardian, adult custodian, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

(25) "Family in need of services" means a family that has a child for whom there is no pending investigation into an allegation of abuse, neglect, or abandonment or no current supervision by the Department of Juvenile Justice or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also have been referred to a law enforcement agency or the Department of Juvenile Justice for:

(a) Running away from parents or legal custodians;

(b) Persistently disobeying reasonable and lawful demands of parents or legal custodians, and being beyond their control; or

(c) Habitual truancy from school.

(26) "Foster care" means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.

(27) "Habitually truant" means that:

(a) The child has 15 unexcused absences within 90 days with or without the knowledge or justifiable consent of the child's parent or legal guardian and is not exempt from attendance by virtue of being over the age of compulsory school attendance or by meeting the criteria in s. 232.06, s. 232.09, or any other exemptions specified by law or the rules of the State Board of Education;

(b) In addition to the actions described in s. 232.17, the school administration has completed the following escalating activities to determine the cause, and to attempt the remediation, of the child's truant behavior:

1. After a minimum of 3 and prior to 15 unexcused absences within 90 days, one or more meetings have been held, either in person or by phone, between a school attendance assistant or school social worker, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the truancy problem. However, if the school attendance assistant or school social worker has documented the refusal of the parent or guardian to participate in the meetings, then this requirement has been met;

2. Educational counseling has been provided to determine whether curriculum changes would help solve the truancy problem, and, if any changes were indicated, such changes were instituted but proved unsuccessful in remedying the truant behavior. Such curriculum changes may include enrollment of the child in an alternative education program that meets the specific educational and behavioral needs of the child, including a second chance school, as provided for in s. 230.2316, designed to resolve truant behavior;

3. Educational evaluation, pursuant to the requirements of s. 232.19(3)(b)3., has been provided; and

4. The school social worker, the attendance assistant, or the school superintendent's designee if there is no school social worker or attendance assistant has referred the student and family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee, established pursuant to s. 984.12, as determined by the cooperative agreement required in s. 232.19(3). The case staffing committee may request the department or its designee to file a child-in-need-of-services petition based upon the report and efforts of the school district or other community agency or may seek to resolve the truancy behavior through the school or community-based organizations or agencies.

If a child within the compulsory school attendance age is responsive to the interventions described in this paragraph and has completed the necessary requirements to pass the current grade as indicated in the district pupil progression plan, the child shall not be determined to be habitually truant. If a child within the compulsory school attendance age has 15 unexcused absences or fails to enroll in school, the state attorney may file a child-in-need-of-services petition. Prior to filing a petition, the child must be referred to the appropriate agency for evaluation. After consulting with the evaluating agency, the state attorney may elect to file a child-in-need-of-services petition.

(c) A school social worker or other person designated by the school administration, if the school does not have a school social worker, and an intake counselor or case manager of the Department of Juvenile Justice have jointly investigated the truancy problem or, if that was not feasible, have performed separate investigations to identify conditions which may be contributing to the truant behavior; and if, after a joint staffing of the case to determine the necessity for services, such services were determined to be needed, the persons who performed the investigations met jointly with the family and child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truant behavior; and

(d) The failure or refusal of the parent or legal guardian or the child to participate, or make a good faith effort to participate, in the activities prescribed to remedy the truant behavior, or the failure or refusal of the child to return to school after participation in activities required by this subsection, or the failure of the child to stop the truant behavior after the school administration and the Department of Juvenile Justice have worked with the child as described in s. 232.19(3) shall be handled as prescribed in s. 232.19.

(28) "Halfway house" means a community-based residential program for 10 or more committed delinquents at the moderate-risk restrictiveness level that is operated or contracted by the Department of Juvenile Justice.

(29) "Intake" means the initial acceptance and screening by the Department of Juvenile Justice of a complaint or a law enforcement report or probable cause affidavit of delinquency, family in need of services, or child in need of services to determine the recommendation to be taken in the best interests of the child, the family, and the community. The emphasis of intake is on diversion and the least restrictive available services. Consequently, intake includes such alternatives as:

(a) The disposition of the complaint, report, or probable cause affidavit without court or public agency action or judicial handling when appropriate.

(b) The referral of the child to another public or private agency when appropriate.

(c) The recommendation by the intake counselor or case manager of judicial handling when appropriate and warranted.

(30) "Intake counselor" or "case manager" means the authorized agent of the Department of Juvenile Justice performing the intake or case management function for a child alleged to be delinquent.

(31) "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

(32) "Juvenile justice continuum" includes, but is not limited to, delinquency prevention programs and services designed for the purpose of preventing or reducing delinquent acts, including criminal activity by youth gangs, and juvenile arrests, as well as programs and services targeted at children who have committed delinquent acts, and children who have previously been committed to residential treatment programs for delinquents. The term includes children-in-need-of-services and families-in-need-of-services programs; aftercare and reentry services; substance abuse and mental health programs; educational and vocational programs; recreational programs; community services programs; community service work programs; and alternative dispute resolution programs serving children at risk of delinquency and their families, whether offered or delivered by state or local governmental entities, public or private for-profit or not-for-profit organizations, or religious or charitable organizations.

(33) "Juvenile sexual offender" means:

(a) A juvenile who has been found by the court pursuant to s. 985.228 to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;

(b) A juvenile found to have committed any violation of law or delinquent act involving juvenile sexual abuse. "Juvenile sexual abuse" means any sexual behavior which occurs without consent, without equality, or as a result of coercion. For purposes of this subsection, the following definitions apply:

1. "Coercion" means the exploitation of authority, use of bribes, threats of force, or intimidation to gain cooperation or compliance.

2. "Equality" means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.

3. "Consent" means an agreement including all of the following:

a. Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.

b. Knowledge of societal standards for what is being proposed.

c. Awareness of potential consequences and alternatives.

d. Assumption that agreement or disagreement will be accepted equally.

e. Voluntary decision.

f. Mental competence.

Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts.

(34) "Legal custody" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

(35) "Licensed child-caring agency" means a person, society, association, or agency licensed by the Department of Children and Family Services to care for, receive, and board children.

(36) "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under chapter 464, a physician assistant certified under chapter 458, or a dentist licensed under chapter 466.

(37) "Likely to injure oneself" means that, as evidenced by violent or other actively self-destructive behavior, it is more likely than not that within a 24-hour period the child will attempt to commit suicide or inflict serious bodily harm on himself or herself.

(38) "Likely to injure others" means that it is more likely than not that within a 24-hour period the child will inflict serious and unjustified bodily harm on another person.

(39) "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision-making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

(40) "Necessary medical treatment" means care which is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child's condition or to alleviate immediate pain of a child.

(41) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. 39.4051(7) or s. 63.062(1)(b).

(42) "Preliminary screening" means the gathering of preliminary information to be used in determining a child's need for further evaluation or assessment or for referral for other substance abuse services through means such as psychosocial interviews; urine and breathalyzer screenings; and reviews of available educational, delinquency, and dependency records of the child.

(43) "Preventive services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's need for a safe, continuous, stable living environment and shall promote family autonomy and shall strengthen family life as the first priority whenever possible.

(44) "Relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

(45) "Restrictiveness level" means the level of custody provided by programs that service the custody and care needs of committed children. There shall be five restrictiveness levels:

(a) Minimum-risk nonresidential.—Youth assessed and classified for placement in programs at this restrictiveness level represent a minimum risk to themselves and public safety and do not require placement and services in residential settings. Programs or program models in this restrictiveness level include: community counselor supervision programs, special intensive group programs, nonresidential marine programs, nonresidential training and rehabilitation centers, and other local community nonresidential programs.

(b) Low-risk residential.—Youth assessed and classified for placement in programs at this level represent a low risk to themselves and public safety and do require placement and services in residential settings. Programs or program models in this restrictiveness level include: Short Term Offender Programs (STOP), group treatment homes, family group homes, proctor homes, and Short Term Environmental Programs (STEP). Section 944.401 applies to children placed in programs in this restrictiveness level.

(c) Moderate-risk residential.—Youth assessed and classified for placement in programs in this restrictiveness level represent a moderate risk to public safety. Programs are designed for children who require close supervision but do not need placement in facilities that are physically secure. Programs in the moderate-risk residential restrictiveness level provide 24-hour awake supervision, custody, care, and treatment. Upon specific appropriation, a facility at this restrictiveness level may have a security fence around the perimeter of the grounds of the facility and may be hardware-secure or staff-secure. The staff at a facility at this restrictiveness level may seclude a child who is a physical threat to himself or others. Mechanical restraint may also be used when necessary. Programs or program models in this restrictiveness level include: halfway houses, START Centers, the Dade Intensive Control Program, licensed substance abuse residential programs, and moderate-term wilderness programs designed for committed delinquent youth that are operated or contracted by the Department of Juvenile Justice. Section 944.401 applies to children in moderate-risk residential programs.

(d) High-risk residential.—Youth assessed and classified for this level of placement require close supervision in a structured residential setting that provides 24-hour-per-day secure custody, care, and supervision. Placement in programs in this level is prompted by a concern for public safety that outweighs placement in programs at lower restrictiveness levels. Programs or program models in this level are staff-secure or physically secure residential commitment facilities and include: training schools, intensive halfway houses, residential sex offender programs, long-term wilderness programs designed exclusively for committed delinquent youth, boot camps, secure halfway house programs, and the Broward Control Treatment Center. Section 944.401 applies to children placed in programs in this restrictiveness level.

(e) Maximum-risk residential.—Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting that provides 24-hour-per-day secure custody, care, and supervision. Placement in a program in this level is prompted by a demonstrated need to protect the public. Programs or program models in this level are maximum-secure-custody, long-term residential commitment facilities that are intended to provide a moderate overlay of educational, vocational, and behavioral-modification services and include programs for serious and habitual juvenile offenders and other maximum-security program models authorized by the Legislature and established by rule.

(46) "Secure detention center or facility" means a physically restricting facility for the temporary care of children, pending adjudication, disposition, or placement.

(47) "Serious or habitual juvenile offender," for purposes of commitment to a residential facility and for purposes of records retention, means a child who has been found to have committed a delinquent act or a violation of law, in the case currently before the court, and who meets at least one of the following criteria:

(a) The youth is at least 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:

1. Arson;
2. Sexual battery;
3. Robbery;

4. Kidnapping;
5. Aggravated child abuse;
6. Aggravated assault;
7. Aggravated stalking;
8. Murder;
9. Manslaughter;
10. Unlawful throwing, placing, or discharging of a destructive device or bomb;
11. Armed burglary;
12. Aggravated battery;
13. Lewd or lascivious assault or act in the presence of a child; or
14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.

(b) The youth is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least two times to a delinquency commitment program.

(c) The youth is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.

(48) "Serious or habitual juvenile offender program" means the program established in s. 985.31.

(49) "Shelter" means a place for the temporary care of a child who is alleged to be or who has been found to be delinquent.

(50) "Shelter hearing" means a hearing provided for under s. 984.14 in family-in-need-of-services cases or child-in-need-of-services cases.

(51) "Staff-secure shelter" means a facility in which a child is supervised 24 hours a day by staff members who are awake while on duty. The facility is for the temporary care and assessment of a child who has been found to be dependent, who has violated a court order and been found in contempt of court, or whom the Department of Children and Family Services is unable to properly assess or place for assistance within the continuum of services provided for dependent children.

(52) "Substance abuse" means using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in such a manner as to induce impairment resulting in dysfunctional social behavior.

(53) "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child's release, detention, placement, or other disposition as authorized by law.

(54) "Temporary legal custody" means the relationship that a juvenile court creates between a child and an adult relative of the child, adult nonrelative approved by the court, or other person until a more permanent arrangement is ordered. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.

(55) "Temporary release" means the terms and conditions under which a child is temporarily released from a commitment facility or allowed home visits. If the temporary release is from a moderate-risk residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility. The term includes periods during which the child is supervised pursuant to a reentry program or an aftercare program or a period during which the child is supervised by a case manager or other nonresidential staff of the department or staff employed by an entity under contract with the department. A child placed in a postcommitment community control program by order of the court is not considered to be on temporary release and is not subject to the terms and conditions of temporary release.

(56) "Training school" means one of the following facilities: the Arthur G. Dozier School or the Eckerd Youth Development Center.

(57) "Violation of law" or "delinquent act" means a violation of any law of this state, the United States, or any other state which is a misdemeanor or a felony or a violation of a county or municipal ordinance which would be punishable by incarceration if the violation were committed by an adult.

(58) "Waiver hearing" means a hearing provided for under s. 985.226(3).

Section 4. Section 39.045, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.04, Florida Statutes, and amended to read:

985.04 ~~39.045~~ Oaths; records; confidential information.—

(1) Authorized agents of the Department of Juvenile Justice may administer oaths and affirmations.

~~(2) The clerk of the court shall make and keep records of all cases brought before it pursuant to this part. The court shall preserve the records pertaining to a child charged with committing a delinquent act or violation of law until the child reaches 24 years of age or reaches 26 years of age if he or she is a serious or habitual delinquent child, until 5 years after the last entry was made, or until 3 years after the death of the child, whichever is earlier, and may then destroy them, except that records made of traffic offenses in which there is no allegation of delinquency may be destroyed as soon as this can be reasonably accomplished. The court shall make official records of all petitions and orders filed in a case arising pursuant to this part and of any other pleadings, certificates, proofs of publication, summonses, warrants, and writs that are filed pursuant to the case.~~

(2)~~(3)~~ Records maintained by the Department of Juvenile Justice, including copies of records maintained by the court, which pertain to a child found to have committed a delinquent act which, if committed by an adult, would be a crime specified in ss. 110.1127, 393.0655, 394.457, 397.451, 402.305(2), 409.175, and 409.176 may not be destroyed pursuant to this section, except in cases of the death of the child. Such records, however, shall be sealed by the court for use only in meeting the screening requirements for personnel in s. 402.3055 and the other sections cited above, or pursuant to departmental rule; however, current criminal history information must be obtained from the Department of Law Enforcement in accordance with s. 943.053. The information shall be released to those persons specified in the above cited sections for the purposes of complying with those sections. The court may punish by contempt any person who releases or uses the records for any unauthorized purpose.

~~(4) The clerk shall keep all official records required by this section separate from other records of the circuit court, except those records pertaining to motor vehicle violations, which shall be forwarded to the Department of Highway Safety and Motor Vehicles. Except as provided in subsection (9) and s. 943.053, official records required by this part are not open to inspection by the public, but may be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents, guardians, or legal custodians of the child and their attorneys, law enforcement agencies, the Department of Juvenile Justice and its designees, the Parole Commission, and the Department of Corrections shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect, and make abstracts from, official records under whatever conditions upon the use and disposition of such records the court may deem proper and may punish by contempt proceedings any violation of those conditions.~~

(3)~~(5)~~ Except as provided in subsections *(2), (4), (5), and (6)* ~~(3), (8), (9), and (10)~~, and s. 943.053, all information obtained under this part in the discharge of official duty by any judge, any employee of the court, any authorized agent of the Department of Juvenile Justice, the Parole Commission, the Juvenile Justice Advisory Board, the Department of Corrections, the district juvenile justice boards, any law enforcement agent, or any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile is confidential and may be disclosed only to the authorized personnel of the court, the Department of Juvenile Justice and its designees, the Department of Corrections, the Parole Commission, the Juvenile Justice Advisory Board, law enforcement agents, school superintendents and their designees, any licensed professional or licensed community agency representative participating in the assessment or treatment of a juvenile, and others entitled under this *chapter* ~~part~~ to receive that information, or upon order of the court. Within each county, the sheriff, the chiefs of

police, the district school superintendent, and the department shall enter into an interagency agreement for the purpose of sharing information about juvenile offenders among all parties. The agreement must specify the conditions under which summary criminal history information is to be made available to appropriate school personnel, and the conditions under which school records are to be made available to appropriate department personnel. The agencies entering into such agreement must comply with s. 943.0525, and must maintain the confidentiality of information that is otherwise exempt from s. 119.07(1), as provided by law.

~~(6) All orders of the court entered pursuant to this part must be in writing and signed by the judge, except that the clerk or deputy clerk may sign a summons or notice to appear.~~

~~(7) A court record of proceedings under this part is not admissible in evidence in any other civil or criminal proceeding, except that:~~

~~(a) Orders transferring a child for trial as an adult are admissible in evidence in the court in which he or she is tried, but create no presumption as to the guilt of the child; nor may such orders be read to, or commented upon in the presence of, the jury in any trial.~~

~~(b) Orders binding an adult over for trial on a criminal charge, made by the judge as a committing magistrate, are admissible in evidence in the court to which the adult is bound over.~~

~~(c) Records of proceedings under this part forming a part of the record on appeal must be used in the appellate court in the manner provided in s. 39.069(4).~~

~~(d) Records are admissible in evidence in any case in which a person is being tried upon a charge of having committed perjury, to the extent such records are necessary to prove the charge.~~

~~(e) Records of proceedings under this part may be used to prove disqualification pursuant to ss. 39.076, 110.1127, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, and 409.176, and for proof in a chapter 120 proceeding pursuant to s. 415.1075.~~

(4)~~(8)~~(a) Records in the custody of the Department of Juvenile Justice regarding children are not open to inspection by the public. Such records may be inspected only upon order of the Secretary of Juvenile Justice or his or her authorized agent by persons who have sufficient reason and upon such conditions for their use and disposition as the secretary or his or her authorized agent deems proper. The information in such records may be disclosed only to other employees of the Department of Juvenile Justice who have a need therefor in order to perform their official duty; to other persons as authorized by rule of the Department of Juvenile Justice; and, upon request, to the Juvenile Justice Advisory Board and the Department of Corrections. The secretary or his or her authorized agent may permit properly qualified persons to inspect and make abstracts from records for statistical purposes under whatever conditions upon their use and disposition the secretary or his or her authorized agent deems proper, provided adequate assurances are given that children's names and other identifying information will not be disclosed by the applicant.

(b) The destruction of records pertaining to children committed to or supervised by the Department of Juvenile Justice pursuant to a court order, which records are retained until a child reaches the age of 24 years or until a serious or habitual delinquent child reaches the age of 26 years, shall be subject to chapter 943.

(5)~~(9)~~ Notwithstanding any other provisions of this part, the name, photograph, address, and crime or arrest report of a child:

(a) Taken into custody if the child has been taken into custody by a law enforcement officer for a violation of law which, if committed by an adult, would be a felony; or

(b) Found by a court to have committed three or more violations of law which, if committed by an adult, would be misdemeanors

shall not be considered confidential and exempt from the provisions of s. 119.07(1) solely because of the child's age.

(6)~~(10)~~ This part does not prohibit the release of the juvenile offense report by a law enforcement agency to the victim of the offense. *However, information gained by the victim pursuant to this chapter, including the next of kin of a homicide victim, regarding any case handled in juvenile court, must not be revealed to any outside party, except as is reasonably necessary in pursuit of legal remedies.*

(7)~~(11)~~(a) Notwithstanding any other provision of this section, when a child of any age is taken into custody by a law enforcement officer for an offense that would have been a felony if committed by an adult, or a crime of violence, the law enforcement agency must notify the superintendent of schools that the child is alleged to have committed the delinquent act.

(b) Notwithstanding paragraph (a) or any other provision of this section, when a child of any age is formally charged by a state attorney with a felony or a delinquent act that would be a felony if committed by an adult, the state attorney shall notify the superintendent of the child's school that the child has been charged with such felony or delinquent act. The information obtained by the superintendent of schools pursuant to this section must be released within 48 hours after receipt to appropriate school personnel, including the principal of the school of the child. The principal must immediately notify the child's immediate classroom teachers. Upon notification, the principal is authorized to begin disciplinary actions pursuant to s. 232.26.

(8)~~(12)~~ Criminal history information made available to governmental agencies by the Department of Law Enforcement or other criminal justice agencies shall not be used for any purpose other than that specified in the provision authorizing the releases.

Section 5. Section 985.05, Florida Statutes, is created to read:

985.05 Court records.—

(1) The clerk of the court shall make and keep records of all cases brought before it pursuant to this part. The court shall preserve the records pertaining to a child charged with committing a delinquent act or violation of law until the child reaches 24 years of age or reaches 26 years of age if he or she is a serious or habitual delinquent child, until 5 years after the last entry was made, or until 3 years after the death of the child, whichever is earlier, and may then destroy them, except that records made of traffic offenses in which there is no allegation of delinquency may be destroyed as soon as this can be reasonably accomplished. The court shall make official records of all petitions and orders filed in a case arising pursuant to this part and of any other pleadings, certificates, proofs of publication, summonses, warrants, and writs that are filed pursuant to the case.

(2) The clerk shall keep all official records required by this section separate from other records of the circuit court, except those records pertaining to motor vehicle violations, which shall be forwarded to the Department of Highway Safety and Motor Vehicles. Except as provided in ss. 943.053 and 985.04(4), official records required by this part are not open to inspection by the public, but may be inspected only upon order of the court by persons deemed by the court to have a proper interest therein, except that a child and the parents, guardians, or legal custodians of the child and their attorneys, law enforcement agencies, the Department of Juvenile Justice and its designees, the Parole Commission, and the Department of Corrections shall always have the right to inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect, and make abstracts from, official records under whatever conditions upon the use and disposition of such records the court may deem proper and may punish by contempt proceedings any violation of those conditions.

(3) All orders of the court entered pursuant to this part must be in writing and signed by the judge, except that the clerk or deputy clerk may sign a summons or notice to appear.

(4) A court record of proceedings under this part is not admissible in evidence in any other civil or criminal proceeding, except that:

(a) Orders transferring a child for trial as an adult are admissible in evidence in the court in which he or she is tried, but create no presumption as to the guilt of the child; nor may such orders be read to, or commented upon in the presence of, the jury in any trial.

(b) Orders binding an adult over for trial on a criminal charge, made by the judge as a committing magistrate, are admissible in evidence in the court to which the adult is bound over.

(c) Records of proceedings under this part forming a part of the record on appeal must be used in the appellate court in the manner provided in s. 985.234.

(d) Records are admissible in evidence in any case in which a person is being tried upon a charge of having committed perjury, to the extent such records are necessary to prove the charge.

(e) Records of proceedings under this part may be used to prove disqualification pursuant to ss. 110.1127, 393.0655, 394.457, 397.451, 402.305, 402.313, 409.175, 409.176, and 985.407, and for proof in a chapter 120 proceeding pursuant to s. 415.1075.

Section 6. Section 39.0573, Florida Statutes, is transferred, renumbered as section 985.06, Florida Statutes, and amended to read:

985.06 ~~39.0573~~ Statewide information sharing system; interagency workgroup.—

(1) The Department of Education, the Department of Juvenile Justice, and the Department of Law Enforcement shall create an information-sharing workgroup for the purpose of developing and implementing a workable statewide system of sharing information among school districts, state and local law enforcement agencies, providers, the Department of Juvenile Justice, and the Department of Education. The system shall build on processes previously authorized in statute and on any revisions to federal statutes on confidentiality. The information to be shared shall focus on youth who are involved in the juvenile justice system, youth who have been tried as adults and found guilty of felonies, and students who have been serious discipline problems in schools. The participating agencies shall implement improvements that maximize the sharing of information within applicable state and federal statutes and rules and that utilize statewide databases and data delivery systems to streamline access to the information needed to provide joint services to disruptive, violent, and delinquent youth.

(2) The interagency workgroup shall be coordinated through the Department of Education and shall include representatives from the state agencies specified in subsection (1), school superintendents, school district information system directors, principals, teachers, juvenile court judges, police chiefs, county sheriffs, clerks of the circuit court, the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, providers of juvenile services including a provider from a juvenile substance abuse program, and district juvenile justice managers.

(3) The interagency workgroup shall, at a minimum, address the following:

(a) The use of the Florida Information Resource Network and other statewide information access systems as means of delivering information to school personnel or providing an initial screening for purposes of determining whether further access to information is warranted.

(b) A statewide information delivery system that will provide local access by participating agencies and schools.

(c) The need for cooperative agreements among agencies which may access information.

(d) Legal considerations and the need for legislative action necessary for accessing information by participating agencies.

(e) Guidelines for how the information shall be accessed, used, and disseminated.

(f) The organizational level at which information may be accessed and shared.

(g) The specific information to be maintained and shared through the system.

(h) The cost implications of an improved system.

(4) The Department of Education, the Department of Juvenile Justice, and the Department of Law Enforcement shall implement improvements leading to the statewide information access and delivery system, to the extent feasible, and shall develop a cooperative agreement specifying their roles in such a system.

(5) By December 31, 1995, the interagency workgroup shall make an interim report to the President of the Senate, the Speaker of the House of Representatives, the Governor, and the Cabinet on its progress toward designing and implementing improvements in the access and delivery of information.

(6) Members of the interagency workgroup shall serve without added compensation and each participating agency shall support the travel, per diem, and other expenses of its representatives.

Section 7. Section 39.0574, Florida Statutes, is transferred and renumbered as section 985.07, Florida Statutes.

Section 8. Section 39.0585, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.08, Florida Statutes, and amended to read:

985.08 ~~39.0585~~ Information systems.—

(1)(a) For the purpose of assisting in law enforcement administration and decisionmaking, such as juvenile diversion from continued involvement with the law enforcement and judicial systems, the sheriff of the county in which juveniles are taken into custody is encouraged to maintain a central identification file on serious habitual juvenile offenders and on juveniles who are at risk of becoming serious habitual juvenile offenders by virtue of having an arrest record.

(b) The central identification file shall contain, but not be limited to, pertinent dependency record information maintained by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and delinquency record information maintained by the Department of Juvenile Justice; pertinent school records, including information on behavior, attendance, and achievement; pertinent information on delinquency and dependency maintained by law enforcement agencies and the state attorney; and pertinent information on delinquency and dependency maintained by those agencies charged with screening, assessment, planning, and treatment responsibilities. The information obtained shall be used to develop a multiagency information sheet on serious habitual juvenile offenders or juveniles who are at risk of becoming serious habitual juvenile offenders. The agencies and persons specified in this paragraph shall cooperate with the law enforcement agency or county in providing needed information and in developing the multiagency information sheet to the greatest extent possible.

(c) As used in this section, "a juvenile who is at risk of becoming a serious habitual juvenile offender" means a juvenile who has been adjudicated delinquent and who meets one or more of the following criteria:

1. Is arrested for a capital, life, or first degree felony offense or sexual battery.

2. Has five or more arrests, at least three of which are for felony offenses. Three of such arrests must have occurred within the preceding 12-month period.

3. Has 10 or more arrests, at least 2 of which are for felony offenses. Three of such arrests must have occurred within the preceding 12-month period.

4. Has four or more arrests, at least one of which is for a felony offense and occurred within the preceding 12-month period.

5. Has 10 or more arrests, at least 8 of which are for any of the following offenses:

a. Petit theft;
b. Misdemeanor assault;
c. Possession of a controlled substance;
d. Weapon or firearm violation; or
e. Substance abuse.

Four of such arrests must have occurred within the preceding 12-month period.

6. Meets at least one of the criteria for youth and street gang membership.

(2)(a) Notwithstanding any provision of law to the contrary, confidentiality of records information does not apply to juveniles who have

been arrested for an offense that would be a crime if committed by an adult, regarding the sharing of the information on the juvenile with the law enforcement agency or county and any agency or person providing information for the development of the multiagency information sheet as well as the courts, the child, the parents or legal custodians of the child, their attorneys, or any other person authorized by the court to have access. A public or private educational agency shall provide pertinent records to and cooperate with the law enforcement agency or county in providing needed information and developing the multiagency information sheet to the greatest extent possible. Neither these records provided to the law enforcement agency or county nor the records developed from these records for serious habitual juvenile offenders nor the records provided or developed from records provided to the law enforcement agency or county on juveniles at risk of becoming serious habitual juvenile offenders shall be available for public disclosure and inspection under s. 119.07.

(b) The department shall notify the sheriffs of both the prior county of residence and the new county of residence immediately upon learning of the move or other relocation of a juvenile offender who has been adjudicated or had adjudication withheld for a violent misdemeanor or violent felony.

(3) In order to assist in the integration of the information to be shared, the sharing of information obtained, the joint planning on diversion and early intervention strategies for juveniles at risk of becoming serious habitual juvenile offenders, and the intervention strategies for serious habitual juvenile offenders, a multiagency task force should be organized and utilized by the law enforcement agency or county in conjunction with the initiation of the information system described in subsections (1) and (2). The multiagency task force shall be composed of representatives of those agencies and persons providing information for the central identification file and the multiagency information sheet.

(4) This multiagency task force shall develop a plan for the information system that includes measures which identify and address any disproportionate representation of ethnic or racial minorities in the information systems and shall develop strategies that address the protection of individual constitutional rights.

(5) Any law enforcement agency, or county which implements a juvenile offender information system and the multiagency task force which maintain the information system must annually provide any information gathered during the previous year to the delinquency and gang prevention council of the judicial circuit in which the county is located. This information shall include the number, types, and patterns of delinquency tracked by the juvenile offender information system.

Section 9. Section 39.022, Florida Statutes, is transferred, renumbered as section 985.201, Florida Statutes, and amended to read:

985.201 ~~39.022~~ Jurisdiction.—

(1) The circuit court has exclusive original jurisdiction of proceedings in which a child is alleged to have committed a delinquent act or violation of law.

(2) During the prosecution of any violation of law against any person who has been presumed to be an adult, if it is shown that the person was a child at the time the offense was committed and that the person does not meet the criteria for prosecution and sentencing as an adult, the court shall immediately transfer the case, together with the physical custody of the person and all physical evidence, papers, documents, and testimony, original and duplicate, connected therewith, to the appropriate court for proceedings under this chapter. The circuit court is exclusively authorized to assume jurisdiction over any juvenile offender who is arrested and charged with violating a federal law or a law of the District of Columbia, who is found or is living or domiciled in a county in which the circuit court is established, and who is surrendered to the circuit court as provided in 18 U.S.C. s. 5001.

(3)(a) Petitions filed under this part shall be filed in the county where the delinquent act or violation of law occurred, but the circuit court for that county may transfer the case to the circuit court of the circuit in which the child resides or will reside at the time of detention or placement for dispositional purposes. A child who has been detained shall be transferred to the appropriate detention center or facility or other placement directed by the receiving court.

(b) The jurisdiction to be exercised by the court when a child is taken into custody before the filing of a petition under s. *985.219(7)* ~~39.049(7)~~ shall be exercised by the circuit court for the county in which the child is taken into custody, which court shall have personal jurisdiction of the child and the child's parent or legal guardian. Upon the filing of a petition in the appropriate circuit court, the court that is exercising initial jurisdiction of the person of the child shall, if the child has been detained, immediately order the child to be transferred to the detention center or facility or other placement as ordered by the court having subject matter jurisdiction of the case.

(4)(a) Notwithstanding ss. *985.229*, *985.23*, *985.231*, ~~39.054(4)~~ and 743.07, and except as provided in ss. *985.31 and 985.313* ~~39.058 and 39.0581~~, when the jurisdiction of any child who is alleged to have committed a delinquent act or violation of law is obtained, the court shall retain jurisdiction, unless relinquished by its order, until the child reaches 19 years of age, with the same power over the child that the court had prior to the child becoming an adult.

(b) The court may retain jurisdiction over a child committed to the department for placement in an intensive residential treatment program for 10-year-old to 13-year-old offenders or in a program for serious or habitual juvenile offenders as provided in *s. 985.311 or s. 985.31* ~~s. 39.0582 or s. 39.058~~ until the child reaches the age of 21. If the court exercises this jurisdiction retention, it shall do so solely for the purpose of the child completing the intensive residential treatment program for 10-year-old to 13-year-old offenders or the program for serious or habitual juvenile offenders. Such jurisdiction retention does not apply for other programs, other purposes, or new offenses.

(c) The court may retain jurisdiction over a child and the child's parent or legal guardian whom the court has ordered to pay restitution until the restitution order is satisfied or until the court orders otherwise. If the court retains such jurisdiction after the date upon which the court's jurisdiction would cease under this section, it shall do so solely for the purpose of enforcing the restitution order. The terms of the restitution order are subject to the provisions of s. 775.089(6).

(d) This subsection does not prevent the exercise of jurisdiction by any court having jurisdiction of the child if the child, after becoming an adult, commits a violation of law.

Section 10. Section 39.014, Florida Statutes, is transferred, renumbered as section 985.202, Florida Statutes, and amended to read:

985.202 ~~39.014~~ Legal representation for *delinquency* cases ~~under this chapter~~.—For cases arising under ~~part II of~~ this chapter, the state attorney shall represent the state. ~~For cases arising under parts III, V, and VI of this chapter, an attorney for the Department of Health and Rehabilitative Services shall represent the state. For cases arising under part IV of this chapter, an attorney for the Department of Juvenile Justice shall represent the state. The Department of Health and Rehabilitative Services may contract with outside counsel or the state attorney, pursuant to s. 287.059, for legal representation for cases arising under parts III, V, and VI of this chapter, and the Department of Juvenile Justice may contract with outside counsel or the state attorney, pursuant to s. 287.059, for legal representation for cases arising under part IV of this chapter. The Attorney General shall exercise general oversight of legal services provided to the Department of Juvenile Justice and the Department of Health and Rehabilitative Services under this chapter. This oversight responsibility shall require the Attorney General to assess, on a periodic basis, the extent to which the Department of Juvenile Justice or the Department of Health and Rehabilitative Services, as appropriate, is complying with the mandates of the Florida Supreme Court in cases arising under parts III, IV, V, and VI of this chapter. If at any time the Attorney General determines that the Department of Juvenile Justice or the Department of Health and Rehabilitative Services is not complying with the mandates of the Supreme Court, the Attorney General shall notify the Legislature. Notwithstanding the provisions of this chapter or chapter 415 to the contrary, the Attorney General shall have access to confidential information necessary to carry out the oversight responsibility. However, public disclosure of information by the Attorney General may not contain information that identifies a client of the Department of Juvenile Justice or the Department of Health and Rehabilitative Services.~~

Section 11. Section 39.041, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.203, Florida Statutes, and amended to read:

985.203 ~~39.041~~ Right to counsel.—

(1) A child is entitled to representation by legal counsel at all stages of any proceedings under this part. If the child and the parents or other legal guardian are indigent and unable to employ counsel for the child, the court shall appoint counsel pursuant to s. 27.52. Determination of indigency and costs of representation shall be as provided by ss. 27.52 and 27.56. Legal counsel representing a child who exercises the right to counsel shall be allowed to provide advice and counsel to the child at any time subsequent to the child's arrest, including prior to a detention hearing while in secure detention care. A child shall be represented by legal counsel at all stages of all court proceedings unless the right to counsel is freely, knowingly, and intelligently waived by the child. If the child appears without counsel, the court shall advise the child of his or her rights with respect to representation of court-appointed counsel.

(2) If the parents or legal guardian of an indigent child are not indigent but refuse to employ counsel, the court shall appoint counsel pursuant to s. 27.52(2)*(e)*~~(d)~~ to represent the child at the detention hearing and until counsel is provided. Costs of representation shall be assessed as provided by ss. 27.52(2)*(e)*~~(d)~~ and 27.56. Thereafter, the court shall not appoint counsel for an indigent child with nonindigent parents or legal guardian but shall order the parents or legal guardian to obtain private counsel. A parent or legal guardian of an indigent child who has been ordered to obtain private counsel for the child and who willfully fails to follow the court order shall be punished by the court in civil contempt proceedings.

(3) An indigent child with nonindigent parents or legal guardian may have counsel appointed pursuant to s. 27.52(2)*(e)*~~(d)~~ if the parents or legal guardian have willfully refused to obey the court order to obtain counsel for the child and have been punished by civil contempt and then still have willfully refused to obey the court order. Costs of representation shall be assessed as provided by ss. 27.52(2)*(e)*~~(d)~~ and 27.56.

(4) Notwithstanding any provision of this section or any other law to the contrary, if a child is transferred for criminal prosecution pursuant to this chapter, a nonindigent or indigent-but-able-to-contribute parent or legal guardian of the child pursuant to s. 27.52 is liable for necessary legal fees and costs incident to the criminal prosecution of the child as an adult.

Section 12. Section 39.0476, Florida Statutes, is transferred and renumbered as section 985.204, Florida Statutes.

Section 13. Section 985.205, Florida Statutes, is created to read:

985.205 Opening hearings.—

(1) All hearings, except as provided in this section, must be open to the public, and no person may be excluded except on special order of the court. The court, in its discretion, may close any hearing to the public when the public interest and the welfare of the child are best served by so doing. Hearings involving more than one child may be held simultaneously when the children were involved in the same transactions.

(2) Except as provided in subsection (1), nothing in this section shall prohibit the publication of proceedings in a hearing.

Section 14. Section 39.0515, Florida Statutes, is transferred, renumbered as section 985.206, Florida Statutes, and amended to read:

985.206 ~~39.0515~~ Rights of victims; juvenile proceedings.—Nothing in this *chapter* ~~part~~ prohibits:

(1) The victim of the offense;

(2) The victim's parent or guardian if the victim is a minor;

(3) The lawful representative of the victim or of the victim's parent or guardian if the victim is a minor; or

(4) The next of kin if the victim is a homicide victim,

from the right to be informed of, to be present during, and to be heard when relevant at, all crucial stages of the proceedings involving the juvenile offender, to the extent that such rights do not interfere with the constitutional rights of the juvenile offender. A person enumerated in this section may not reveal to any outside party any confidential information obtained pursuant to this paragraph regarding a case involving a juvenile offense, except as is reasonably necessary to pursue legal remedies.

Section 15. Section 39.037, Florida Statutes, is transferred, renumbered as section 985.207, Florida Statutes, and amended to read:

985.207 ~~39.037~~ Taking a child into custody.—

(1) A child may be taken into custody under the following circumstances:

(a) Pursuant to an order of the circuit court issued under this part, based upon sworn testimony, either before or after a petition is filed.

(b) For a delinquent act or violation of law, pursuant to Florida law pertaining to a lawful arrest. If such delinquent act or violation of law would be a felony if committed by an adult or involves a crime of violence, the arresting authority shall immediately notify the district school superintendent, or the superintendent's designee, of the school district with educational jurisdiction of the child. Such notification shall include other education providers such as the Florida School for the Deaf and the Blind, university developmental research schools, and private elementary and secondary schools. The information obtained by the superintendent of schools pursuant to this section must be released within 48 hours after receipt to appropriate school personnel, including the principal of the child's school, or as otherwise provided by law. The principal must immediately notify the child's immediate classroom teachers. Information provided by an arresting authority pursuant to this paragraph may not be placed in the student's permanent record and shall be removed from all school records no later than 9 months after the date of the arrest.

(c) For failing to appear at a court hearing after being properly noticed.

(d) By a law enforcement officer who has probable cause to believe that the child is in violation of the conditions of the child's community control, furlough, or aftercare supervision.

Nothing in this subsection shall be construed to allow the detention of a child who does not meet the detention criteria in s. *985.215* ~~39.044~~.

(2) When a child is taken into custody as provided in this section, the person taking the child into custody shall attempt to notify the parent, guardian, or legal custodian of the child. The person taking the child into custody shall continue such attempt until the parent, guardian, or legal custodian of the child is notified or the child is delivered to an intake counselor pursuant to s. *985.21* ~~39.047~~, whichever occurs first. If the child is delivered to an intake counselor before the parent, guardian, or legal custodian is notified, the intake counselor or case manager shall continue the attempt to notify until the parent, guardian, or legal custodian of the child is notified.

(3) Taking a child into custody is not an arrest except for the purpose of determining whether the taking into custody or the obtaining of any evidence in conjunction therewith is lawful.

Section 16. Section 39.064, Florida Statutes, is transferred, renumbered as section 985.208, Florida Statutes, and amended to read:

985.208 ~~39.064~~ Detention of furloughed child or escapee on authority of the department.—

(1) If an authorized agent of the department has reasonable grounds to believe that any delinquent child committed to the department has escaped from a facility of the department or from being lawfully transported thereto or therefrom, the agent may take the child into active custody and may deliver the child to the facility or, if it is closer, to a detention center for return to the facility. However, a child may not be held in detention longer than 24 hours, excluding Saturdays, Sundays, and legal holidays, unless a special order so directing is made by the judge after a detention hearing resulting in a finding that detention is required based on the criteria in s. *985.215(2)* ~~39.044(2)~~. The order shall state the reasons for such finding. The reasons shall be reviewable by appeal or in habeas corpus proceedings in the district court of appeal.

(2) Any sheriff or other law enforcement officer, upon the request of the secretary of the department or duly authorized agent, shall take a child who has escaped or absconded from a department facility for committed delinquent children, or from being lawfully transported thereto

or therefrom, into custody and deliver the child to the appropriate intake counselor or case manager of the department.

Section 17. Section 39.0471, Florida Statutes, is transferred and renumbered as section 985.209, Florida Statutes.

Section 18. Section 39.047, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.21, Florida Statutes, and amended to read:

985.21 ~~39.047~~ Intake and case management.—

(1)(a) During the intake process, the intake counselor shall screen each child to determine:

1. Appropriateness for release, referral to a diversionary program including, but not limited to, a teen-court program, referral for community arbitration, or referral to some other program or agency for the purpose of nonofficial or nonjudicial handling.

2. The presence of medical, psychiatric, psychological, substance abuse, educational problems, or other conditions that may have caused the child to come to the attention of law enforcement or the Department of Juvenile Justice. In cases where such conditions are identified, and a nonjudicial handling of the case is chosen, the intake counselor shall attempt to refer the child to a program or agency, together with all available and relevant assessment information concerning the child's precipitating condition.

3. The Department of Juvenile Justice shall develop a case management system whereby a child brought into intake is assigned a case manager if the child was not released, referred to a diversionary program, referred for community arbitration, or referred to some other program or agency for the purpose of nonofficial or nonjudicial handling, and shall make every reasonable effort to provide continuity of case management for the child; provided, however, that case management for children committed to residential programs may be transferred as provided in s. *985.316* ~~39.067~~.

4. In addition to duties specified in other sections and through departmental rules, the assigned case manager shall be responsible for the following:

a. Ensuring that a risk assessment instrument establishing the child's eligibility for detention has been accurately completed and that the appropriate recommendation was made to the court.

b. Inquiring as to whether the child understands his or her rights to counsel and against self-incrimination.

c. Performing the preliminary screening and making referrals for comprehensive assessment regarding the child's need for substance abuse treatment services, mental health services, retardation services, literacy services, or other educational or treatment services.

d. Coordinating the multidisciplinary assessment when required, which includes the classification and placement process that determines the child's priority needs, risk classification, and treatment plan. When sufficient evidence exists to warrant a comprehensive assessment and the child fails to voluntarily participate in the assessment efforts, it is the responsibility of the case manager to inform the court of the need for the assessment and the refusal of the child to participate in such assessment. This assessment, classification, and placement process shall develop into the predisposition report.

e. Making recommendations for services and facilitating the delivery of those services to the child, including any mental health services, educational services, family counseling services, family assistance services, and substance abuse services. The delinquency case manager shall serve as the primary case manager for the purpose of managing, coordinating, and monitoring the services provided to the child. Each program administrator within the Department of *Children and Family* ~~Health and Rehabilitative~~ Services shall cooperate with the primary case manager in carrying out the duties and responsibilities described in this section.

The Department of Juvenile Justice shall annually advise the Legislature and the Executive Office of the Governor of the resources needed in order for the case management system to maintain a staff-to-client ratio that is consistent with accepted standards and allows the necessary supervision and services for each child. The intake process and case management system shall provide a comprehensive approach to assessing the child's needs, relative risks, and most appropriate handling, and shall be based on an individualized treatment plan.

(b) The intake and case management system shall facilitate consistency in the recommended placement of each child, and in the assessment, classification, and placement process, with the following purposes:

1. An individualized, multidisciplinary assessment process that identifies the priority needs of each individual child for rehabilitation and treatment and identifies any needs of the child's parents or guardians for services that would enhance their ability to provide adequate support, guidance, and supervision for the child. This process shall begin with the detention risk assessment instrument and decision, shall include the intake preliminary screening and comprehensive assessment for substance abuse treatment services, mental health services, retardation services, literacy services, and other educational and treatment services as components, additional assessment of the child's treatment needs, and classification regarding the child's risks to the community and, for a serious or habitual delinquent child, shall include the assessment for placement in a serious or habitual delinquent children program pursuant to s. *985.31* ~~39.058~~. The completed multidisciplinary assessment process shall result in the predisposition report.

2. A classification system that assigns a relative risk to the child and the community based upon assessments including the detention risk assessment results when available to classify the child's risk as it relates to placement and supervision alternatives.

3. An admissions process that facilitates for each child the utilization of the treatment plan and setting most appropriate to meet the child's programmatic needs and provide the minimum program security needed to ensure public safety.

(2) The intake process shall be performed by the department through a case management system. The purpose of the intake process is to assess the child's needs and risks and to determine the most appropriate treatment plan and setting for the child's programmatic needs and risks. The intake process shall result in choosing the most appropriate services through a balancing of the interests and needs of the child with those of the family and the public. The intake counselor or case manager is responsible for making informed decisions and recommendations to other agencies, the state attorney, and the courts so that the child and family may receive the least intrusive service alternative throughout the judicial process. The department shall establish uniform procedures for the intake counselor or case manager to provide, prior to the filing of a petition or as soon as possible thereafter and prior to a disposition hearing, a preliminary screening of the child and family for substance abuse and mental health services.

(3) A report, affidavit, or complaint alleging that a child has committed a delinquent act or violation of law shall be made to the intake office operating in the county in which the child is found or in which the delinquent act or violation of law occurred. Any person or agency having knowledge of the facts may make such a written report, affidavit, or complaint and shall furnish to the intake office facts sufficient to establish the jurisdiction of the court and to support a finding by the court that the child has committed a delinquent act or violation of law.

(4) The intake counselor or case manager shall make a preliminary determination as to whether the report, affidavit, or complaint is complete, consulting with the state attorney as may be necessary. In any case where the intake counselor or case manager or the state attorney finds that the report, affidavit, or complaint is insufficient by the standards for a probable cause affidavit, the intake counselor or case manager or state attorney shall return the report, affidavit, or complaint, without delay, to the person or agency originating the report, affidavit, or complaint or having knowledge of the facts or to the appropriate law enforcement agency having investigative jurisdiction of the offense, and shall request, and the person or agency shall promptly furnish, additional information in order to comply with the standards for a probable cause affidavit.

(a) The intake counselor or case manager, upon determining that the report, affidavit, or complaint is complete, may, in the case of a child who is alleged to have committed a delinquent act or violation of law, recommend that the state attorney file a petition of delinquency or an information or seek an indictment by the grand jury. However, such a recom-

mendation is not a prerequisite for any action taken by the state attorney.

(b) The intake counselor or case manager, upon determining that the report, affidavit, or complaint is complete, pursuant to uniform procedures established by the department, shall:

1. When indicated by the preliminary screening, provide for a comprehensive assessment of the child and family for substance abuse problems, using community-based licensed programs with clinical expertise and experience in the assessment of substance abuse problems.

2. When indicated by the preliminary screening, provide for a comprehensive assessment of the child and family for mental health problems, using community-based psychologists, psychiatrists, or other licensed mental health professionals with clinical expertise and experience in the assessment of mental health problems.

When indicated by the comprehensive assessment, the department is authorized to contract within appropriated funds for services with a local nonprofit community mental health or substance abuse agency licensed or authorized under chapter 394, or chapter 397, or other authorized nonprofit social service agency providing related services. The determination of mental health or substance abuse services shall be conducted in coordination with existing programs providing mental health or substance abuse services in conjunction with the intake office. Client information resulting from the screening and evaluation shall be documented pursuant to rules established by the department and shall serve to assist the intake counselor or case manager in providing the most appropriate services and recommendations in the least intrusive manner. Such client information shall be used in the multidisciplinary assessment and classification of the child, but such information, and any information obtained directly or indirectly through the assessment process, is inadmissible in court prior to the disposition hearing, unless the child's written consent is obtained. At the disposition hearing, documented client information shall serve to assist the court in making the most appropriate custody, adjudicatory, and dispositional decision. If the screening and assessment indicate that the interest of the child and the public will be best served thereby, the intake counselor or case manager, with the approval of the state attorney, may refer the child for care, diagnostic and evaluation services, substance abuse treatment services, mental health services, retardation services, a diversionary or arbitration or mediation program, community service work, or other programs or treatment services voluntarily accepted by the child and the child's parents or legal guardians. The victim, if any, and the law enforcement agency which investigated the offense shall be notified immediately by the state attorney of the action taken under this paragraph. Whenever a child volunteers to participate in any work program under this chapter or volunteers to work in a specified state, county, municipal, or community service organization supervised work program or to work for the victim, the child shall be considered an employee of the state for the purposes of liability. In determining the child's average weekly wage, unless otherwise determined by a specific funding program, all remuneration received from the employer is considered a gratuity, and the child is not entitled to any benefits otherwise payable under s. 440.15, regardless of whether the child may be receiving wages and remuneration from other employment with another employer and regardless of the child's future wage-earning capacity.

(c) The intake counselor or case manager, upon determining that the report, affidavit, or complaint complies with the standards of a probable cause affidavit and that the interest of the child and the public will be best served, may recommend that a delinquency petition not be filed. If such a recommendation is made, the intake counselor or case manager shall advise in writing the person or agency making the report, affidavit, or complaint, the victim, if any, and the law enforcement agency having investigative jurisdiction of the offense of the recommendation and the reasons therefor; and that the person or agency may submit, within 10 days after the receipt of such notice, the report, affidavit, or complaint to the state attorney for special review. The state attorney, upon receiving a request for special review, shall consider the facts presented by the report, affidavit, or complaint, and by the intake counselor or case manager who made the recommendation that no petition be filed, before making a final decision as to whether a petition or information should or should not be filed.

(d) In all cases in which the child is alleged to have committed a violation of law or delinquent act and is not detained, the intake counselor or case manager shall submit a written report to the state attorney, including the original report, complaint, or affidavit, or a copy thereof, including a copy of the child's prior juvenile record, within 20 days after the date the child is taken into custody. In cases in which the child is in detention, the intake office report must be submitted within 24 hours after the child is placed into detention. The intake office report must recommend either that a petition or information be filed or that no petition or information be filed, and must set forth reasons for the recommendation.

(e) The state attorney may in all cases take action independent of the action or lack of action of the intake counselor or case manager, and shall determine the action which is in the best interest of the public and the child. If the child meets the criteria requiring prosecution as an adult pursuant to s. *985.226* ~~39.052~~, the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request. In all other cases, the state attorney may:

1. File a petition for dependency;
2. File a petition pursuant to *chapter 984* ~~part IV~~;
3. File a petition for delinquency;
4. File a petition for delinquency with a motion to transfer and certify the child for prosecution as an adult;
5. File an information pursuant to s. *985.227* ~~39.052(3)~~;
6. Refer the case to a grand jury;
7. Refer the child to a diversionary, pretrial intervention, arbitration, or mediation program, or to some other treatment or care program if such program commitment is voluntarily accepted by the child or the child's parents or legal guardians; or
8. Decline to file.

(f) In cases in which a delinquency report, affidavit, or complaint is filed by a law enforcement agency and the state attorney determines not to file a petition, the state attorney shall advise the clerk of the circuit court in writing that no petition will be filed thereon.

(5) Prior to requesting that a delinquency petition be filed or prior to filing a dependency petition, the intake officer may request the parent or legal guardian of the child to attend a course of instruction in parenting skills, training in conflict resolution, and the practice of nonviolence; to accept counseling; or to receive other assistance from any agency in the community which notifies the clerk of the court of the availability of its services. Where appropriate, the intake officer shall request both parents or guardians to receive such parental assistance. The intake officer may, in determining whether to request that a delinquency petition be filed, take into consideration the willingness of the parent or legal guardian to comply with such request.

Section 19. Section 39.038, Florida Statutes, is transferred, renumbered as section 985.211, Florida Statutes, and amended to read:

985.211 ~~39.038~~ Release or delivery from custody.—

(1) A child taken into custody shall be released from custody as soon as is reasonably possible.

(2) Unless otherwise ordered by the court pursuant to s. *985.215* ~~39.044~~, and unless there is a need to hold the child, a person taking a child into custody shall attempt to release the child as follows:

(a) To the child's parent, guardian, or legal custodian or, if the child's parent, guardian, or legal custodian is unavailable, unwilling, or unable to provide supervision for the child, to any responsible adult. Prior to releasing the child to a responsible adult, other than the parent, guardian, or legal custodian, the person taking the child into custody may conduct a criminal history background check of the person to whom the child is to be released. If the person has a prior felony conviction, or a conviction for child abuse, drug trafficking, or prostitution, that person is not a responsible adult for the purposes of this section. The person to whom the child is released shall agree to inform the department or the person releasing the child of the child's subsequent change of address and to produce the child in court at such time as the court may direct, and the child shall join in the agreement.

(b) Contingent upon specific appropriation, to a shelter approved by the department or to *an authorized agent* ~~a protective investigator~~ pursuant to s. 39.401(2)(b).

(c) If the child is believed to be suffering from a serious physical condition which requires either prompt diagnosis or prompt treatment, to a law enforcement officer who shall deliver the child to a hospital for necessary evaluation and treatment.

(d) If the child is believed to be mentally ill as defined in s. 394.463(1), to a law enforcement officer who shall take the child to a designated public receiving facility as defined in s. 394.455 for examination pursuant to the provisions of s. 394.463.

(e) If the child appears to be intoxicated and has threatened, attempted, or inflicted physical harm on himself or herself or another, or is incapacitated by substance abuse, to a law enforcement officer who shall deliver the child to a hospital, addictions receiving facility, or treatment resource.

(f) If available, to a juvenile assessment center equipped and staffed to assume custody of the child for the purpose of assessing the needs of the child in custody. The center may then release or deliver the child pursuant to this section with a copy of the assessment.

(3) If the child is released, the person taking the child into custody shall make a written report or probable cause affidavit to the appropriate intake counselor or case manager within 3 days, stating the facts and the reason for taking the child into custody. Such written report or probable cause affidavit shall:

(a) Identify the child, the parents, guardian, or legal custodian, and the person to whom the child was released.

(b) Contain sufficient information to establish the jurisdiction of the court and to make a prima facie showing that the child has committed a violation of law or a delinquent act.

(4) A person taking a child into custody who determines, pursuant to s. *985.215* ~~39.044~~, that the child should be detained or released to a shelter designated by the department, shall make a reasonable effort to immediately notify the parent, guardian, or legal custodian of the child and shall, without unreasonable delay, deliver the child to the appropriate intake counselor or case manager or, if the court has so ordered pursuant to s. *985.215* ~~39.044~~, to a detention center or facility. Upon delivery of the child, the person taking the child into custody shall make a written report or probable cause affidavit to the appropriate intake counselor or case manager. Such written report or probable cause affidavit must:

(a) Identify the child and, if known, the parents, guardian, or legal custodian.

(b) Establish that the child was legally taken into custody, with sufficient information to establish the jurisdiction of the court and to make a prima facie showing that the child has committed a violation of law.

(5) Upon taking a child into custody, a law enforcement officer may deliver the child, for temporary custody not to exceed 6 hours, to a secure booking area of a jail or other facility intended or used for the detention of adults, for the purpose of fingerprinting or photographing the child or awaiting appropriate transport to the department or as provided in subsection (4), provided no regular sight and sound contact between the child and adult inmates or trustees is permitted and the receiving facility has adequate staff to supervise and monitor the child's activities at all times.

(6)(a) A copy of the probable cause affidavit or written report by a law enforcement agency shall be filed, by the law enforcement agency making such affidavit or written report, with the clerk of the circuit court for the county in which the child is taken into custody or in which the affidavit or report is made within 24 hours after the child is taken into custody and detained, within 1 week after the child is taken into custody and released, or within 1 week after the affidavit or report is made, excluding Saturdays, Sundays, and legal holidays. Such affidavit or report is a case for the purpose of assigning a uniform case number pursuant to this subsection.

(b) Upon the filing of a copy of a probable cause affidavit or written report by a law enforcement agency with the clerk of the circuit court, the clerk shall immediately assign a uniform case number to the affidavit or report, forward a copy to the state attorney, and forward a copy to the intake office of the department which serves the county in which the case arose.

(c) Each letter of recommendation, written notice, report, or other paper required by law pertaining to the case shall bear the uniform case number of the case, and a copy shall be filed with the clerk of the circuit court by the issuing agency. The issuing agency shall furnish copies to the intake counselor or case manager and the state attorney.

(d) Upon the filing of a petition based on the allegations of a previously filed probable cause affidavit or written report, the agency filing the petition shall include the appropriate uniform case number on the petition.

(7) Nothing in this section shall prohibit the proper use of law enforcement diversion programs. Law enforcement agencies may initiate and conduct diversion programs designed to divert a child from the need for department custody or judicial handling. Such programs may be cooperative projects with local community service agencies.

Section 20. Section 39.039, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.212, Florida Statutes, and amended to read:

985.212 ~~39.039~~ Fingerprinting and photographing.—

(1)(a) A child who is charged with or found to have committed an offense that would be a felony if committed by an adult shall be fingerprinted and the fingerprints must be submitted to the Department of Law Enforcement as provided in s. 943.051(3)(a).

(b) A child who is charged with or found to have committed one of the following misdemeanors shall be fingerprinted and the fingerprints shall be submitted to the Department of Law Enforcement as provided in s. 943.051(3)(b):

1. Assault, as defined in s. 784.011.
2. Battery, as defined in s. 784.03.
3. Carrying a concealed weapon, as defined in s. 790.01(1).
4. Unlawful use of destructive devices or bombs, as defined in s. 790.1615(1).
5. Negligent treatment of children, as defined in *former* s. 827.05.
6. Assault on a law enforcement officer, a firefighter, or other specified officers, as defined in s. 784.07(2)(a).
7. Open carrying of a weapon, as defined in s. 790.053.
8. Exposure of sexual organs, as defined in s. 800.03.
9. Unlawful possession of a firearm, as defined in s. 790.22(5).
10. Petit theft, as defined in s. 812.014.
11. Cruelty to animals, as defined in s. 828.12(1).
12. Arson, resulting in bodily harm to a firefighter, as defined in s. 806.031(1).

A law enforcement agency may fingerprint and photograph a child taken into custody upon probable cause that such child has committed any other violation of law, as the agency deems appropriate. Such fingerprint records and photographs shall be retained by the law enforcement agency in a separate file, and these records and all copies thereof must be marked "Juvenile Confidential." These records shall not be available for public disclosure and inspection under s. 119.07(1) except as provided in ss. ~~39.045(9) and~~ 943.053 *and 985.04(5),* but shall be available to other law enforcement agencies, criminal justice agencies, state attorneys, the courts, the child, the parents or legal custodians of the child, their attorneys, and any other person authorized by the court to have access to such records. These records may, in the discretion of the court, be open to inspection by anyone upon a showing of cause. The fingerprint and photograph records shall be produced in the court whenever directed by the court. Any photograph taken pursuant to this section may be shown by a law enforcement officer to any victim or witness of a crime for the purpose of identifying the person who committed such crime.

(c) The court shall be responsible for the fingerprinting of any child at the disposition hearing if the child has been adjudicated or had adjudication withheld for any felony in the case currently before the court.

(2) If the child is not referred to the court, or if the child is found not to have committed a violation of law, the court may, after notice to the law enforcement agency involved, order the originals and copies of the fingerprints and photographs destroyed. Unless otherwise ordered by the court, if the child is found to have committed an offense which would

be a felony if it had been committed by an adult, then the law enforcement agency having custody of the fingerprint and photograph records shall retain the originals and immediately thereafter forward adequate duplicate copies to the court along with the written offense report relating to the matter for which the child was taken into custody. Except as otherwise provided by this subsection, the clerk of the court, after the disposition hearing on the case, shall forward duplicate copies of the fingerprints and photographs, together with the child's name, address, date of birth, age, and sex, to:

(a) The sheriff of the county in which the child was taken into custody, in order to maintain a central child identification file in that county.

(b) The law enforcement agency of each municipality having a population in excess of 50,000 persons and located in the county of arrest, if so requested specifically or by a general request by that agency.

(3) This section does not prohibit the fingerprinting or photographing of child traffic violators. All records of such traffic violations shall be kept in the full name of the violator and shall be open to inspection and publication in the same manner as adult traffic violations. This section does not apply to the photographing of children by the Department of Juvenile Justice or the Department of *Children and Family* ~~Health and Rehabilitative~~ Services.

Section 21. Section 39.042, Florida Statutes, is transferred, renumbered as section 985.213, Florida Statutes, and amended to read:

985.213 ~~39.042~~ Use of detention.—

(1) All determinations and court orders regarding the use of secure, nonsecure, or home detention shall be based primarily upon findings that the child:

(a) Presents a substantial risk of not appearing at a subsequent hearing;

(b) Presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior;

(c) Presents a history of committing a property offense prior to adjudication, disposition, or placement;

(d) Has committed contempt of court by:

1. Intentionally disrupting the administration of the court;

2. Intentionally disobeying a court order; or

3. Engaging in a punishable act or speech in the court's presence which shows disrespect for the authority and dignity of the court; or

(e) Requests protection from imminent bodily harm.

(2)(a) All determinations and court orders regarding placement of a child into detention care shall comply with all requirements and criteria provided in this part and shall be based on a risk assessment of the child, unless the child is placed into detention care as provided in subparagraph (b)3.

(b)1. The risk assessment instrument for detention care placement determinations and orders shall be developed by the Department of Juvenile Justice in agreement with representatives appointed by the following associations: the Conference of Circuit Judges of Florida, the Prosecuting Attorneys Association, and the Public Defenders Association. Each association shall appoint two individuals, one representing an urban area and one representing a rural area. The parties involved shall evaluate and revise the risk assessment instrument as is considered necessary using the method for revision as agreed by the parties. The risk assessment instrument shall take into consideration, but need not be limited to, prior history of failure to appear, prior offenses, offenses committed pending adjudication, any unlawful possession of a firearm, theft of a motor vehicle or possession of a stolen motor vehicle, and community control status at the time the child is taken into custody. The risk assessment instrument shall also take into consideration appropriate aggravating and mitigating circumstances, and shall be designed to target a narrower population of children than s. *985.215(2)* ~~39.044(2)~~. The risk assessment instrument shall also include any information concerning the child's history of abuse and neglect. The risk assessment shall indicate whether detention care is warranted, and, if detention care is warranted, whether the child should be placed into secure, nonsecure, or home detention care.

2. If, at the detention hearing, the court finds a material error in the scoring of the risk assessment instrument, the court may amend the score to reflect factual accuracy.

3. A child who is charged with committing an offense of domestic violence as defined in s. 741.28(1) and who does not meet detention criteria may be held in secure detention *if the court makes specific written findings that:*

a. The offense of domestic violence which the child is charged with committing caused physical injury to the victim;

b. Respite care for the child is not available; and

c. It is necessary to place the child in secure detention in order to protect the victim from further injury. ~~for up to 48 hours if a respite home or similar authorized residential facility is not available. The court may order that the child continue to be held in secure detention provided that a hearing is held at the end of each 48-hour period, excluding Saturdays, Sundays, and legal holidays, in which the state attorney and the department may recommend to the court that the child continue to be held in secure detention.~~

The child may not be held in secure detention under this subparagraph for more than 48 hours unless ordered by the court. After 48 hours, the court shall hold a hearing if the state attorney or victim requests that secure detention be continued. The child may continue to be held in secure detention if the court makes a specific, written finding that secure detention is necessary to protect the victim from further injury. However, the child may not be held in secure detention beyond the time limits set forth in s. 39.044.

(3)(a) While a child who is currently enrolled in school is in nonsecure or home detention care, the child shall continue to attend school unless otherwise ordered by the court.

(b) While a child is in secure detention care, the child shall receive education commensurate with his or her grade level and educational ability.

(4) The Department of Juvenile Justice shall continue to identify alternatives to secure detention care and shall develop such alternatives and annually submit them to the Legislature for authorization and appropriation.

Section 22. Section 39.043, Florida Statutes, is transferred and renumbered as section 985.214, Florida Statutes.

Section 23. Section 39.044, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.215, Florida Statutes, and amended to read:

985.215 ~~39.044~~ Detention.—

(1) The intake counselor or case manager shall receive custody of a child who has been taken into custody from the law enforcement agency and shall review the facts in the law enforcement report or probable cause affidavit and make such further inquiry as may be necessary to determine whether detention care is required.

(a) During the period of time from the taking of the child into custody to the date of the detention hearing, the initial decision as to the child's placement into secure detention care, nonsecure detention care, or home detention care shall be made by the intake counselor or case manager pursuant to ss. *985.213 and 985.214* ~~39.042 and 39.043~~.

(b) The intake counselor or case manager shall base the decision whether or not to place the child into secure detention care, home detention care, or nonsecure detention care on an assessment of risk in accordance with the risk assessment instrument and procedures developed by the Department of Juvenile Justice under s. *985.213* ~~39.042~~.

(c) If the intake counselor or case manager determines that a child who is eligible for detention based upon the results of the risk assessment instrument should be released, the intake counselor or case manager shall contact the state attorney, who may authorize release. If

detention is not authorized, the child may be released by the intake counselor or case manager in accordance with s. *985.211* ~~39.038~~.

Under no circumstances shall the intake counselor or case manager or the state attorney or law enforcement officer authorize the detention of any child in a jail or other facility intended or used for the detention of adults, without an order of the court.

(2) Subject to the provisions of subsection (1), a child taken into custody and placed into nonsecure or home detention care or detained in secure detention care prior to a detention hearing may continue to be detained by the court if:

(a) The child is alleged to be an escapee or an absconder from a commitment program, a community control program, furlough, or aftercare supervision, or is alleged to have escaped while being lawfully transported to or from such program or supervision.~~;~~

(b) The child is wanted in another jurisdiction for an offense which, if committed by an adult, would be a felony.~~;~~

(c) The child is charged with a delinquent act or violation of law and requests in writing through legal counsel to be detained for protection from an imminent physical threat to his or her personal safety.~~;~~

(d) The child is charged with committing an offense of domestic violence as defined in s. 741.28(1) and is detained as provided in s. *985.213(2)(b)3.* ~~39.042(2)(b)3.;~~

(e) The child is charged with a capital felony, a life felony, a felony of the first degree, a felony of the second degree that does not involve a violation of chapter 893, or a felony of the third degree that is also a crime of violence, including any such offense involving the use or possession of a firearm.~~; or~~

(f) The child is charged with any second degree or third degree felony involving a violation of chapter 893 or any third degree felony that is not also a crime of violence, and the child:

1. Has a record of failure to appear at court hearings after being properly notified in accordance with the Rules of Juvenile Procedure;

2. Has a record of law violations prior to court hearings;

3. Has already been detained or has been released and is awaiting final disposition of the case;

4. Has a record of violent conduct resulting in physical injury to others; or

5. Is found to have been in possession of a firearm.

(g) The child is alleged to have violated the conditions of the child's community control or aftercare supervision. However, a child detained under this paragraph may be held only in a consequence unit as provided in s. 985.231(1)(a)1.c. If a consequence unit is not available, the child shall be placed on home detention with electronic monitoring.

A child who meets any of these criteria and who is ordered to be detained pursuant to this subsection shall be given a hearing within 24 hours after being taken into custody. The purpose of the detention hearing is to determine the existence of probable cause that the child has committed the delinquent act or violation of law with which he or she is charged and the need for continued detention. Unless a child is detained under paragraph (d), the court shall utilize the results of the risk assessment performed by the intake counselor or case manager and, based on the criteria in this subsection, shall determine the need for continued detention. A child placed into secure, nonsecure, or home detention care may continue to be so detained by the court pursuant to this subsection. If the court orders a placement more restrictive than indicated by the results of the risk assessment instrument, the court shall state, in writing, clear and convincing reasons for such placement. Except as provided in s. 790.22(8) or in subparagraph (10)(a)2., paragraph (10)(b), paragraph (10)(c), or paragraph (10)(d), when a child is placed into secure or nonsecure detention care, or into a respite home or other placement pursuant to a court order following a hearing, the court order must include specific instructions that direct the release of the child from such placement no later than 5 p.m. on the last day of the detention period specified in paragraph (5)(b) or paragraph (5)(c), or subparagraph (10)(a)1., whichever is applicable, unless the requirements of such applicable provision have been met or an order of continuance has been granted pursuant to paragraph (5)(d).

(3) Except in emergency situations, a child may not be placed into or transported in any police car or similar vehicle that at the same time contains an adult under arrest, unless the adult is alleged or believed to be involved in the same offense or transaction as the child.

(4) The court shall order the delivery of a child to a jail or other facility intended or used for the detention of adults:

(a) When the child has been transferred or indicted for criminal prosecution as an adult pursuant to this part, except that the court may not order or allow a child alleged to have committed a misdemeanor who is being transferred for criminal prosecution pursuant to *either s. 985.226 or s. 985.227* ~~s. 39.059~~ to be detained or held in a jail or other facility intended or used for the detention of adults; however, such child may be held temporarily in a detention facility; or

(b) When a child taken into custody in this state is wanted by another jurisdiction for prosecution as an adult.

The child shall be housed separately from adult inmates to prohibit a child from having regular contact with incarcerated adults, including trustees. "Regular contact" means sight and sound contact. Separation of children from adults shall permit no more than haphazard or accidental contact. The receiving jail or other facility shall contain a separate section for children and shall have an adequate staff to supervise and monitor the child's activities at all times. Supervision and monitoring of children includes physical observation and documented checks by jail or receiving facility supervisory personnel at intervals not to exceed 15 minutes. This paragraph does not prohibit placing two or more children in the same cell. Under no circumstances shall a child be placed in the same cell with an adult.

(5)(a) A child may not be placed into or held in secure, nonsecure, or home detention care for longer than 24 hours unless the court orders such detention care, and the order includes specific instructions that direct the release of the child from such detention care, in accordance with subsection (2). The order shall be a final order, reviewable by appeal pursuant to s. *985.234* ~~39.069~~ and the Florida Rules of Appellate Procedure. Appeals of such orders shall take precedence over other appeals and other pending matters.

(b) A child may not be held in secure, nonsecure, or home detention care under a special detention order for more than 21 days unless an adjudicatory hearing for the case has been commenced by the court.

(c) A child may not be held in secure, nonsecure, or home detention care for more than 15 days following the entry of an order of adjudication.

(d) The time limits in paragraphs (b) and (c) do not include periods of delay resulting from a continuance granted by the court for cause on motion of the child or his or her counsel or of the state. Upon the issuance of an order granting a continuance for cause on a motion by either the child, the child's counsel, or the state, the court shall conduct a hearing at the end of each 72-hour period, excluding Saturdays, Sundays, and legal holidays, to determine the need for continued detention of the child and the need for further continuance of proceedings for the child or the state.

(6) When any child is placed into secure, nonsecure, or home detention care or into other placement pursuant to a court order following a detention hearing, the court shall order the natural or adoptive parents of such child, the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay to the Department of Juvenile Justice, or institution having custody of the child, fees equal to the actual cost of the care, support, and maintenance of the child, as established by the Department of Juvenile Justice, unless the court determines that the parent or guardian of the child is indigent. The court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. In addition, the court may waive the fees if it finds that the child's parent or guardian was the victim of the child's delinquent act or violation of law or if the court finds that the parent or guardian has made a diligent and good faith effort to prevent the child

from engaging in the delinquent act or violation of law. With respect to a child who has been found to have committed a delinquent act or violation of law, whether or not adjudication is withheld, and whose parent or guardian receives public assistance for any portion of that child's care, the department must seek a federal waiver to garnish or otherwise order the payments of the portion of the public assistance relating to that child to offset the costs of providing care, custody, maintenance, rehabilitation, intervention, or corrective services to the child. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(7) If a child is detained and a petition for delinquency is filed, the child shall be arraigned in accordance with the Florida Rules of Juvenile Procedure within 48 hours after the filing of the petition for delinquency.

(8) If a child is detained pursuant to this section, the Department of Juvenile Justice may transfer the child from nonsecure or home detention care to secure detention care only if significantly changed circumstances warrant such transfer.

(9) If a child is on release status and not detained pursuant to this section, the child may be placed into secure, nonsecure, or home detention care only pursuant to a court hearing in which the original risk assessment instrument, rescored based on newly discovered evidence or changed circumstances with the results recommending detention, is introduced into evidence.

(10)(a)1. When a child is committed to the Department of Juvenile Justice awaiting dispositional placement, removal of the child from detention care shall occur within 5 days, excluding Saturdays, Sundays, and legal holidays. If the child is committed to a low-risk residential program or a moderate-risk residential program, the department may seek an order from the court authorizing continued detention for a specific period of time necessary for the appropriate residential placement of the child. However, such continued detention in secure detention care may not exceed 15 days after commitment, excluding Saturdays, Sundays, and legal holidays, and except as otherwise provided in this subsection.

2. The court must place all children who are adjudicated and awaiting placement in a residential commitment program in detention care. Children who are in home detention care or nonsecure detention care may be placed on electronic monitoring. A child committed to a moderate-risk residential program may be held in a juvenile assignment center pursuant to s. *985.307* ~~39.0551~~ until placement or commitment is accomplished.

(b) A child who is placed in home detention care, nonsecure detention care, or home or nonsecure detention care with electronic monitoring, while awaiting placement in a low-risk or moderate-risk program, may be held in secure detention care for 5 days, if the child violates the conditions of the home detention care, the nonsecure detention care, or the electronic monitoring agreement. For any subsequent violation, the court may impose an additional 5 days in secure detention care.

(c) If the child is committed to a high-risk residential program, the child must be held in detention care or in a juvenile assignment center pursuant to s. *985.307* ~~39.0551~~ until placement or commitment is accomplished.

(d) If the child is committed to a maximum-risk residential program, the child must be held in detention care or in an assignment center pursuant to s. *985.307* ~~39.0551~~ until placement or commitment is accomplished.

(e) Upon specific appropriation, the department may obtain comprehensive evaluations, including, but not limited to, medical, academic, psychological, behavioral, sociological, and vocational needs of a youth with multiple arrests for all level criminal acts or a youth committed to a minimum-risk or low-risk commitment program.

(11)(a) When a juvenile sexual offender is placed in detention, detention staff shall provide appropriate monitoring and supervision to ensure the safety of other children in the facility.

(b) When a juvenile sexual offender, pursuant to this subsection, is released from detention or transferred to home detention or nonsecure detention, detention staff shall immediately notify the appropriate law enforcement agency and school personnel.

Section 24. Section 39.0145, Florida Statutes, is transferred, renumbered as section 985.216, Florida Statutes, and amended to read:

985.216 ~~39.0145~~ Punishment for contempt of court; alternative sanctions.—

(1) CONTEMPT OF COURT; LEGISLATIVE INTENT.—The court may punish any child for contempt for interfering with the court or with court administration, or for violating any provision of this chapter or order of the court relative thereto. It is the intent of the Legislature that the court restrict and limit the use of contempt powers with respect to commitment of a child to a secure facility. A child who commits direct contempt of court or indirect contempt of a valid court order may be taken into custody and ordered to serve an alternative sanction or placed in a secure facility, as authorized in this section, by order of the court.

(2) PLACEMENT IN A SECURE FACILITY.—A child may be placed in a secure facility for purposes of punishment for contempt of court if alternative sanctions are unavailable or inappropriate, or if the child has already been ordered to serve an alternative sanction but failed to comply with the sanction.

(a) A delinquent child who has been held in direct or indirect contempt may be placed in a secure detention facility for 5 days for a first offense or 15 days for a second or subsequent offense, or in a secure residential commitment facility.

(b) A child in need of services who has been held in direct contempt or indirect contempt may be placed, for 5 days for a first offense or 15 days for a second or subsequent offense, in a staff-secure shelter or a staff-secure residential facility solely for children in need of services if such placement is available, or, if such placement is not available, the child may be placed in an appropriate mental health facility or substance abuse facility for assessment.

(3) ALTERNATIVE SANCTIONS.—Each judicial circuit shall have an alternative sanctions coordinator who shall serve under the chief administrative judge of the juvenile division of the circuit court, and who shall coordinate and maintain a spectrum of contempt sanction alternatives in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c). Upon determining that a child has committed direct contempt of court or indirect contempt of a valid court order, the court may immediately request the alternative sanctions coordinator to recommend the most appropriate available alternative sanction and shall order the child to perform up to 50 hours of community-service manual labor or a similar alternative sanction, unless an alternative sanction is unavailable or inappropriate, or unless the child has failed to comply with a prior alternative sanction. Alternative contempt sanctions may be provided by local industry or by any nonprofit organization or any public or private business or service entity that has entered into a contract with the Department of Juvenile Justice to act as an agent of the state to provide voluntary supervision of children on behalf of the state in exchange for the manual labor of children and limited immunity in accordance with s. 768.28(11).

(4) CONTEMPT OF COURT SANCTIONS; PROCEDURE AND DUE PROCESS.—

(a) If a child is charged with direct contempt of court, including traffic court, the court may impose an authorized sanction immediately.

(b) If a child is charged with indirect contempt of court, the court must hold a hearing within 24 hours to determine whether the child committed indirect contempt of a valid court order. At the hearing, the following due process rights must be provided to the child:

1. Right to a copy of the order to show cause alleging facts supporting the contempt charge.
2. Right to an explanation of the nature and the consequences of the proceedings.
3. Right to legal counsel and the right to have legal counsel appointed by the court if the juvenile is indigent, pursuant to s. *985.203* ~~39.041~~.
4. Right to confront witnesses.
5. Right to present witnesses.

6. Right to have a transcript or record of the proceeding.
7. Right to appeal to an appropriate court.

The child's parent or guardian may address the court regarding the due process rights of the child. The court shall review the placement of the child every 72 hours to determine whether it is appropriate for the child to remain in the facility.

(c) The court may not order that a child be placed in a secure facility for punishment for contempt unless the court determines that an alternative sanction is inappropriate or unavailable or that the child was initially ordered to an alternative sanction and did not comply with the alternative sanction. The court is encouraged to order a child to perform community service, up to the maximum number of hours, where appropriate before ordering that the child be placed in a secure facility as punishment for contempt of court.

(5) ALTERNATIVE SANCTIONS COORDINATOR.—Effective July 1, 1995, there is created the position of alternative sanctions coordinator within each judicial circuit, pursuant to subsection (3). Each alternative sanctions coordinator shall serve under the direction of the chief administrative judge of the juvenile division as directed by the chief judge of the circuit. The alternative sanctions coordinator shall act as the liaison between the judiciary and county juvenile justice councils, the local department officials, district school board employees, and local law enforcement agencies. The alternative sanctions coordinator shall coordinate within the circuit community-based alternative sanctions, including nonsecure detention programs, community service projects, and other juvenile sanctions, in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c).

Section 25. *Section 39.0445, Florida Statutes, is repealed.*

Section 26. Section 39.048, Florida Statutes, is transferred and renumbered as section 985.218, Florida Statutes.

Section 27. Section 39.049, Florida Statutes, is transferred, renumbered as section 985.219, Florida Statutes, and amended to read:

985.219 ~~39.049~~ Process and service.—

(1) Personal appearance of any person in a hearing before the court obviates the necessity of serving process on that person.

(2) Upon the filing of a petition containing allegations of facts which, if true, would establish that the child committed a delinquent act or violation of law, and upon the request of the petitioner, the clerk or deputy clerk shall issue a summons.

(3) The summons shall have a copy of the petition attached and shall require the person on whom it is served to appear for a hearing at a time and place specified. Except in cases of medical emergency, the time may not be less than 24 hours after service of the summons. If the child is not detained by an order of the court, the summons shall require the custodian of the child to produce the child at the said time and place.

(4) The summons shall be directed to, and shall be served upon, the following persons:

(a) The child, in the same manner as an adult;
(b) The parents of the child; and
(c) Any legal custodians, actual custodians, guardians, and guardians ad litem of the child.

(5) If the petition alleges that the child has committed a delinquent act or violation of law and the judge deems it advisable to do so, pursuant to the criteria of s. *985.215* ~~39.044~~, the judge may, by endorsement upon the summons and after the entry of an order in which valid reasons are specified, order the child to be taken into custody immediately, and in such case the person serving the summons shall immediately take the child into custody.

(6) If the identity or residence of the parents, custodians, or guardians of the child is unknown after a diligent search and inquiry, if the parents, custodians, or guardians are residents of a state other than Florida, or if the parents, custodians, or guardians evade service, the person who made the search and inquiry shall file in the case a certificate of those facts, and the court shall appoint a guardian ad litem for the child, if appropriate. If the parent, custodian, or guardian of the child fails to obey a summons, the court may, by endorsement upon the summons and after the entry of an order in which valid reasons are specified, order the parent, custodian, or guardian to be taken into custody immediately to show cause why the parent, guardian, or custodian should not be held in contempt for failing to obey the summons. The court may appoint a guardian ad litem for the child, if appropriate.

(7) The jurisdiction of the court shall attach to the child and the case when the summons is served upon the child and a parent or legal or actual custodian or guardian of the child, or when the child is taken into custody with or without service of summons and before or after the filing of a petition, whichever first occurs, and thereafter the court may control the child and the case in accordance with this part.

(8) Upon the application of the child or the state attorney, the clerk or deputy clerk shall issue, and the court on its own motion may issue, subpoenas requiring attendance and testimony of witnesses and production of records, documents, or other tangible objects at any hearing.

(9) All process and orders issued by the court shall be served or executed as other process and orders of the circuit court and, in addition, may be served or executed by authorized agents of the Department of Juvenile Justice at the department's discretion.

(10) Subpoenas may be served within the state by any person over 18 years of age who is not a party to the proceeding.

(11) No fee shall be paid for service of any process or other papers by an agent of the department. If any process, orders, or other papers are served or executed by any sheriff, the sheriff's fees shall be paid by the county.

Section 28. Section 39.0495, Florida Statutes, is transferred, renumbered as section 985.22, Florida Statutes, and amended to read:

985.22 ~~39.0495~~ Threatening or dismissing an employee prohibited.—

(1) An employer, or the employer's agent, may not dismiss from employment an employee who is summoned to appear before the court under s. *985.219* ~~39.049~~ solely because of the nature of the summons or because the employee complies with the summons.

(2) If an employer, or the employer's agent, threatens an employee with dismissal, or dismisses an employee, who is summoned to appear under s. *985.219* ~~39.049~~, the court may hold the employer in contempt.

Section 29. Section 39.073, Florida Statutes, is transferred and renumbered as section 985.221, Florida Statutes.

Section 30. Section 39.051, Florida Statutes, is transferred and renumbered as section 985.222, Florida Statutes.

Section 31. Section 39.0517, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.223, Florida Statutes, and amended to read:

985.223 ~~39.0517~~ Incompetency in juvenile delinquency cases.—

(1) If, at any time prior to or during a delinquency case involving a delinquent act or violation of law that would be a felony if committed by an adult, the court has reason to believe that the child named in the petition may be incompetent to proceed with the hearing, the court on its own motion may, or on the motion of the child's attorney or state attorney must, stay all proceedings and order an evaluation of the child's mental condition.

(a) All determinations of competency shall be made at a hearing, with findings of fact based on an evaluation of the child's mental condition by not less than two nor more than three experts appointed by the court. If the determination of incompetency is based on the presence of a mental illness or mental retardation, this must be stated in the evaluation. In addition, a recommendation as to whether residential or nonresidential treatment or training is required must be included in the evaluation. All court orders determining incompetency must include specific findings by the court as to the nature of the incompetency.

(b) For incompetency evaluations related to mental illness, the Department of *Children and Family* ~~Health and Rehabilitative~~ Services

shall annually provide the courts with a list of mental health professionals who have completed a training program approved by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services to perform the evaluations.

(c) For incompetency evaluations related to mental retardation, the court shall order the Developmental Services Program Office within the Department of *Children and Family* ~~Health and Rehabilitative~~ Services to examine the child to determine if the child meets the definition of "retardation" in s. 393.063 and, if so, whether the child is competent to proceed with delinquency proceedings.

(d) A child is competent to proceed if the child has sufficient present ability to consult with counsel with a reasonable degree of rational understanding and the child has a rational and factual understanding of the present proceedings. The report must address the child's capacity to:

1. Appreciate the charges or allegations against the child.
2. Appreciate the range and nature of possible penalties that may be imposed in the proceedings against the child, if applicable.
3. Understand the adversarial nature of the legal process.
4. Disclose to counsel facts pertinent to the proceedings at issue.
5. Display appropriate courtroom behavior.
6. Testify relevantly.

(2) Every child who is adjudicated incompetent to proceed may be involuntarily committed to the Department of *Children and Family* ~~Health and Rehabilitative~~ Services for treatment upon a finding by the court of clear and convincing evidence that:

(a) The child is mentally ill and because of the mental illness; or the child is mentally retarded and because of the mental retardation:

1. The child is manifestly incapable of surviving with the help of willing and responsible family or friends, including available alternative services, and without treatment the child is likely to either suffer from neglect or refuse to care for self, and such neglect or refusal poses a real and present threat of substantial harm to the child's well-being; or

2. There is a substantial likelihood that in the near future the child will inflict serious bodily harm on self or others, as evidenced by recent behavior causing, attempting, or threatening such harm; and

(b) All available less restrictive alternatives, including treatment in community residential facilities or community inpatient or outpatient settings which would offer an opportunity for improvement of the child's condition, are inappropriate.

(3) Each child who has been adjudicated incompetent to proceed and who meets the criteria for commitment in subsection (2), must be committed to the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, and that department may retain, and if it retains must treat, the child in the least restrictive alternative consistent with public safety. Any commitment of a child to a residential program must be separate from adult forensic programs. If the child attains competency, case management and supervision of the child will be transferred to the department in order to continue delinquency proceedings; however, the court retains authority to order the Department of *Children and Family* ~~Health and Rehabilitative~~ Services to provide continued treatment to maintain competency.

(a) A child adjudicated incompetent due to mental retardation may be ordered into a program designated by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services for retarded children.

(b) A child adjudicated incompetent due to mental illness may be ordered into a program designated by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services for mentally ill children.

(c) Not later than 6 months after the date of commitment, or at the end of any period of extended treatment or training, or at any time the service provider determines the child has attained competency or no longer meets the criteria for commitment, the service provider must file a report with the court pursuant to the applicable Rules of Juvenile Procedure.

(4) If a child is determined to be incompetent to proceed, the court shall retain jurisdiction of the child for up to 2 years after the date of the order of incompetency, with reviews at least every 6 months to determine competency. If the court determines at any time that the child will never become competent to proceed, the court may dismiss the delinquency petition. If, at the end of the 2-year period following the date of the order of incompetency, the child has not attained competency and there is no evidence that the child will attain competency within a year, the court must dismiss the delinquency petition. If necessary, the court may order that proceedings under chapter 393 or chapter 394 be instituted. Such proceedings must be instituted not less than 60 days prior to the dismissal of the delinquency petition.

(5) If a child who is found to be incompetent does not meet the commitment criteria of subsection (2), the court may order the Department of *Children and Family* ~~Health and Rehabilitative~~ Services to provide appropriate treatment and training in the community. All court-ordered treatment or training must be the least restrictive alternative that is consistent with public safety. Any commitment to a residential program must be separate from adult forensic programs. If a child is ordered to receive such services, the services shall be provided by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services. The department shall continue to provide case management services to the child and receive notice of the competency status of the child. The competency determination must be reviewed at least every 6 months by the service provider, and a copy of a written report evaluating the child's competency must be filed by the provider with the court and with the Department of *Children and Family* ~~Health and Rehabilitative~~ Services and the department.

(6) The provisions of this section shall be implemented only subject to specific appropriation.

~~(7) The Department of Health and Rehabilitative Services and the department must report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 15, 1996, on the issue of children who are incompetent for the purposes of juvenile delinquency proceedings. The report must contain the findings of a study group that includes five representatives, one each appointed by the President of the Senate, the Speaker of the House of Representatives, the Florida Conference of Circuit Court Judges, the Florida Prosecuting Attorneys Association, and the Florida Public Defenders Association. The report shall include recommendations concerning the implementation of this act and recommendations for changes to this act.~~

Section 32. Section 39.046, Florida Statutes, is transferred, renumbered as section 985.224, Florida Statutes, and amended to read:

985.224 ~~39.046~~ Medical, psychiatric, psychological, substance abuse, and educational examination and treatment.—

(1) After a detention petition or a petition for delinquency has been filed, the court may order the child named in the petition to be examined by a physician. The court may also order the child to be evaluated by a psychiatrist or a psychologist, by a district school board educational needs assessment team, or, if a developmental disability is suspected or alleged, by the developmental disabilities diagnostic and evaluation team of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services. If it is necessary to place a child in a residential facility for such evaluation, the criteria and procedures established in chapter 393, chapter 394, or chapter 397, whichever is applicable, shall be used.

(2) Whenever a child has been found to have committed a delinquent act, or before such finding with the consent of any parent or legal custodian of the child, the court may order the child to be treated by a physician. The court may also order the child to receive mental health, substance abuse, or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services, the procedures and criteria established in chapter 393, chapter 394, or chapter 397, whichever is applicable, shall be used. After a child has been adjudicated delinquent, if an educational needs assessment by the district school board or the Department of *Children and Family* ~~Health and Rehabilitative~~ Services has been previously conducted, the court shall order the report of such needs assessment included in the child's court record in lieu of a new assessment. For purposes of this section, an educational needs assessment includes, but is not limited to, reports of intelligence and achievement tests, screening for learning disabilities and other handicaps, and screening for the need for alternative education.

(3) When any child is detained pending a hearing, the person in charge of the detention center or facility or his or her designated representative may authorize a triage examination as a preliminary screening device to determine if the child is in need of medical care or isolation or provide or cause to be provided such medical or surgical services as may be deemed necessary by a physician.

(4) Whenever a child found to have committed a delinquent act is placed by order of the court within the care and custody or under the supervision of the Department of Juvenile Justice and it appears to the court that there is no parent, guardian, or person standing in loco parentis who is capable of authorizing or willing to authorize medical, surgical, dental, or other remedial care or treatment for the child, the court may, after due notice to the parent, guardian, or person standing in loco parentis, if any, order that a representative of the Department of Juvenile Justice may authorize such medical, surgical, dental, or other remedial care for the child by licensed practitioners as may from time to time appear necessary.

(5) A physician shall be immediately notified by the person taking the child into custody or the person having custody if there are indications of physical injury or illness, or the child shall be taken to the nearest available hospital for emergency care. A child may be provided mental health, substance abuse, or retardation services, in emergency situations, pursuant to chapter 393, chapter 394, or chapter 397, whichever is applicable. After a hearing, the court may order the custodial parent or parents, guardian, or other custodian, if found able to do so, to reimburse the county or state for the expense involved in such emergency treatment or care.

(6) Nothing in this section shall be deemed to eliminate the right of the parents or the child to consent to examination or treatment for the child, except that consent of a parent shall not be required if the physician determines there is an injury or illness requiring immediate treatment and the child consents to such treatment or an ex parte court order is obtained authorizing treatment.

(7) Nothing in this section shall be construed to authorize the permanent sterilization of any child unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child.

(8) Except as provided in this section, nothing in this section shall be deemed to preclude a court from ordering services or treatment to be provided to a child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization, when requested by the child.

Section 33. Section 985.225, Florida Statutes, is created to read:

985.225 Indictment of a juvenile.—

(1) A child of any age who is charged with a violation of state law punishable by death or by life imprisonment is subject to the jurisdiction of the court as set forth in s. 985.219(7) unless and until an indictment on the charge is returned by the grand jury. When such indictment is returned, the petition for delinquency, if any, must be dismissed and the child must be tried and handled in every respect as an adult:

(a) On the offense punishable by death or by life imprisonment; and

(b) On all other felonies or misdemeanors charged in the indictment which are based on the same act or transaction as the offense punishable by death or by life imprisonment or on one or more acts or transactions connected with the offense punishable by death or by life imprisonment.

(2) An adjudicatory hearing may not be held until 21 days after the child is taken into custody and charged with having committed an offense punishable by death or by life imprisonment, unless the state attorney advises the court in writing that he or she does not intend to present the case to the grand jury, or has presented the case to the grand jury and the grand jury has not returned an indictment. If the court receives such a notice from the state attorney, or if the grand jury fails to act within the 21-day period, the court may proceed as otherwise authorized under this part.

(3) If the child is found to have committed the offense punishable by death or by life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence pursuant to s. 985.233.

(4) Once a child has been indicted pursuant to this subsection and has been found to have committed any offense for which he or she was indicted as a part of the criminal episode, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.233.

Section 34. Section 985.226, Florida Statutes, is created to read:

985.226 Criteria for waiver of juvenile court jurisdiction; hearing on motion to transfer for prosecution as an adult.—

(1) VOLUNTARY WAIVER.—The court shall transfer and certify a child's criminal case for trial as an adult if the child is alleged to have committed a violation of law and, prior to the commencement of an adjudicatory hearing, the child, joined by a parent or, in the absence of a parent, by the guardian or guardian ad litem, demands in writing to be tried as an adult. Once a child has been transferred for criminal prosecution pursuant to a voluntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.233(4)(b).

(2) INVOLUNTARY WAIVER.—

(a) Discretionary involuntary waiver.—The state attorney may file a motion requesting the court to transfer the child for criminal prosecution if the child was 14 years of age or older at the time the alleged delinquent act or violation of law was committed. If the child has been previously adjudicated delinquent for murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and is currently charged with a second or subsequent violent crime against a person, the state attorney shall file a motion requesting the court to transfer and certify the juvenile for prosecution as an adult, or proceed pursuant to s. 985.227(1).

(b) Mandatory involuntary waiver.—If the child was 14 years of age or older at the time of commission of a fourth or subsequent alleged felony offense and the child was previously adjudicated delinquent or had adjudication withheld for or was found to have committed, or to have attempted or conspired to commit, three offenses that are felony offenses if committed by an adult, and one or more of such felony offenses involved the use or possession of a firearm or violence against a person, the state attorney shall request the court to transfer and certify the child for prosecution as an adult or shall provide written reasons to the court for not making such request, or proceed pursuant to s. 985.227(1). Upon the state attorney's request, the court shall either enter an order transferring the case and certifying the case for trial as if the child were an adult or provide written reasons for not issuing such an order.

(3) WAIVER HEARING.—

(a) Within 7 days, excluding Saturdays, Sundays, and legal holidays, after the date a petition alleging that a child has committed a delinquent act or violation of law has been filed, or later with the approval of the court, but before an adjudicatory hearing and after considering the recommendation of the intake counselor or case manager, the state attorney may file a motion requesting the court to transfer the child for criminal prosecution.

(b) After the filing of the motion of the state attorney, summonses must be issued and served in conformity with s. 985.219. A copy of the motion and a copy of the delinquency petition, if not already served, must be attached to each summons.

(c) The court shall conduct a hearing on all transfer request motions for the purpose of determining whether a child should be transferred. In making its determination, the court shall consider:

1. The seriousness of the alleged offense to the community and whether the protection of the community is best served by transferring the child for adult sanctions.

2. Whether the alleged offense was committed in an aggressive, violent, premeditated, or willful manner.

3. Whether the alleged offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.

4. The probable cause as found in the report, affidavit, or complaint.

5. The desirability of trial and disposition of the entire offense in one court when the child's associates in the alleged crime are adults or children who are to be tried as adults.

6. The sophistication and maturity of the child.

7. The record and previous history of the child, including:

a. Previous contacts with the department, the Department of Corrections, the former Department of Health and Rehabilitative Services, the Department of Children and Family Services, other law enforcement agencies, and courts;

b. Prior periods of probation or community control;

c. Prior adjudications that the child committed a delinquent act or violation of law, greater weight being given if the child has previously been found by a court to have committed a delinquent act or violation of law involving an offense classified as a felony or has twice previously been found to have committed a delinquent act or violation of law involving an offense classified as a misdemeanor; and

d. Prior commitments to institutions.

8. The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child, if the child is found to have committed the alleged offense, by the use of procedures, services, and facilities currently available to the court.

(d) Prior to a hearing on the transfer request motion by the state attorney, a study and report to the court relevant to the factors in paragraph (c) must be made in writing by an authorized agent of the department. The child and the child's parents or legal guardians and counsel and the state attorney shall have the right to examine these reports and to question the parties responsible for them at the hearing.

(e) Any decision to transfer a child for criminal prosecution must be in writing and include consideration of, and findings of fact with respect to, all criteria in paragraph (c). The court shall render an order including a specific finding of fact and the reasons for a decision to impose adult sanctions. The order shall be reviewable on appeal under s. 985.234 and the Florida Rules of Appellate Procedure.

(4) EFFECT OF ORDER WAIVING JURISDICTION.—If the court finds, after a waiver hearing under subsection (3), that a juvenile who was 14 years of age or older at the time the alleged violation of state law was committed should be charged and tried as an adult, the court shall enter an order transferring the case and certifying the case for trial as if the child were an adult. The child shall thereafter be subject to prosecution, trial, and sentencing as if the child were an adult but subject to the provisions of s. 985.233. Once a child has been transferred for criminal prosecution pursuant to an involuntary waiver hearing and has been found to have committed the presenting offense or a lesser included offense, the child shall thereafter be handled in every respect as an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.233.

Section 35. Section 985.227, Florida Statutes, is created to read:

985.227 Prosecution of juveniles as adults by the direct filing of an information in the criminal division of the circuit court; discretionary criteria; mandatory criteria.—

(1) DISCRETIONARY DIRECT FILE; CRITERIA.—

(a) With respect to any child who was 14 or 15 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed and when the offense charged is:

1. Arson;
2. Sexual battery;
3. Robbery;
4. Kidnapping;
5. Aggravated child abuse;
6. Aggravated assault;
7. Aggravated stalking;
8. Murder;
9. Manslaughter;
10. Unlawful throwing, placing, or discharging of a destructive device or bomb;
11. Armed burglary in violation of s. 810.02(2)(b) or specified burglary of a dwelling or structure in violation of s. 810.02(2)(c);
12. Aggravated battery;
13. Lewd or lascivious assault or act in the presence of a child;
14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony; or
15. Grand theft in violation of s. 812.014(2)(a).

(b) With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney may file an information when in the state attorney's judgment and discretion the public interest requires that adult sanctions be considered or imposed. However, the state attorney may not file an information on a child charged with a misdemeanor, unless the child has had at least two previous adjudications or adjudications withheld for delinquent acts, one of which involved an offense classified as a felony under state law.

(2) MANDATORY DIRECT FILE.—

(a) With respect to any child who was 16 or 17 years of age at the time the alleged offense was committed, the state attorney shall file an information if the child has been previously adjudicated delinquent for murder, sexual battery, armed or strong-armed robbery, carjacking, home-invasion robbery, aggravated battery, or aggravated assault, and is currently charged with a second or subsequent violent crime against a person.

(b) Notwithstanding subsection (1), regardless of the child's age at the time the alleged offense was committed, the state attorney must file an information with respect to any child who previously has been adjudicated for offenses which, if committed by an adult, would be felonies and such adjudications occurred at three or more separate delinquency adjudicatory hearings, and three of which resulted in residential commitments as defined in s. 985.03(45).

(c) The state attorney must file an information if a child, regardless of the child's age at the time the alleged offense was committed, is alleged to have committed an act that would be a violation of law if the child were an adult, that involves stealing a motor vehicle, including, but not limited to, a violation of s. 812.133, relating to carjacking, or s. 812.014(2)(c)6., relating to grand theft of a motor vehicle, and while the child was in possession of the stolen motor vehicle the child caused serious bodily injury to or the death of a person who was not involved in the underlying offense. For purposes of this section, the driver and all willing passengers in the stolen motor vehicle at the time such serious bodily injury or death is inflicted shall also be subject to mandatory transfer to adult court. "Stolen motor vehicle," for the purposes of this section, means a motor vehicle that has been the subject of any criminal wrongful taking. For purposes of this section, "willing passengers" means all willing passengers who have participated in the underlying offense.

(3) EFFECT OF DIRECT FILE.—

(a) Once a child has been transferred for criminal prosecution pursuant to information and has been found to have committed the presenting offense or a lesser included offense, the child shall be handled thereafter in every respect as if an adult for any subsequent violation of state law, unless the court imposes juvenile sanctions under s. 985.233.

(b) When a child is transferred for criminal prosecution as an adult, the court shall immediately transfer and certify to the appropriate court all preadjudicatory cases that pertain to that child which are pending in juvenile court, including, but not limited to, all cases involving offenses that occur or are referred between the date of transfer and sentencing in adult court and all outstanding juvenile disposition orders. The juvenile court shall make every effort to dispose of all predispositional cases and transfer those cases to the adult court prior to adult sentencing. It is the intent of the Legislature to require all cases occurring prior to the sentencing hearing in adult court to be handled by the adult court for final resolution with the original transfer case.

(c) When a child has been transferred for criminal prosecution as an adult and has been found to have committed a violation of state law, the disposition of the case may be made under s. 985.233 and may include the enforcement of any restitution ordered in any juvenile proceeding.

(4) DIRECT-FILE POLICIES AND GUIDELINES.—Each state attorney shall develop and annually update written policies and guidelines to govern determinations for filing an information on a juvenile, to be submitted to the Executive Office of the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Juvenile Justice Advisory Board not later than January 1 of each year.

Section 36. Section 985.228, Florida Statutes, is created to read:

985.228 Adjudicatory hearings; withheld adjudications; orders of adjudication.—

(1) The adjudicatory hearing must be held as soon as practicable after the petition alleging that a child has committed a delinquent act or violation of law is filed and in accordance with the Florida Rules of Juvenile Procedure; but reasonable delay for the purpose of investigation, discovery, or procuring counsel or witnesses shall be granted. If the child is being detained, the time limitations provided for in s. 985.215(5)(b) and (c) apply.

(2) Adjudicatory hearings shall be conducted without a jury by the court, applying in delinquency cases the rules of evidence in use in criminal cases; adjourning the hearings from time to time as necessary; and conducting a fundamentally fair hearing in language understandable, to the fullest extent practicable, to the child before the court.

(a) In a hearing on a petition alleging that a child has committed a delinquent act or violation of law, the evidence must establish the findings beyond a reasonable doubt.

(b) The child is entitled to the opportunity to introduce evidence and otherwise be heard in the child's own behalf and to cross-examine witnesses.

(c) A child charged with a delinquent act or violation of law must be afforded all rights against self-incrimination. Evidence illegally seized or obtained may not be received to establish the allegations against the child.

(3) If the court finds that the child named in a petition has not committed a delinquent act or violation of law, it shall enter an order so finding and dismissing the case.

(4) If the court finds that the child named in the petition has committed a delinquent act or violation of law, it may, in its discretion, enter an order stating the facts upon which its finding is based but withholding adjudication of delinquency and placing the child in a community control program under the supervision of the department or under the supervision of any other person or agency specifically authorized and appointed by the court. The court may, as a condition of the program, impose as a penalty component restitution in money or in kind, community service, a curfew, urine monitoring, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense, and may impose as a rehabilitative component a requirement of participation in substance abuse treatment, or school or other educational program attendance. If the court later finds that the child has not complied with the rules, restrictions, or conditions of the community-based program, the court may, after a hearing to establish the lack of compliance, but without further evidence of the state of delinquency, enter an adjudication of delinquency and shall thereafter have full authority under this chapter to deal with the child as adjudicated.

(5) If the court finds that the child named in a petition has committed a delinquent act or violation of law, but elects not to proceed under subsection (4), it shall incorporate that finding in an order of adjudication of delinquency entered in the case, briefly stating the facts upon which the finding is made, and the court shall thereafter have full authority under this chapter to deal with the child as adjudicated.

(6) Except as the term "conviction" is used in chapter 322, and except for use in a subsequent proceeding under this chapter, an adjudication of delinquency by a court with respect to any child who has committed a delinquent act or violation of law shall not be deemed a conviction; nor shall the child be deemed to have been found guilty or to be a criminal by reason of that adjudication; nor shall that adjudication operate to impose upon the child any of the civil disabilities ordinarily imposed by or resulting from conviction or to disqualify or prejudice the child in any civil service application or appointment, with the exception of the use of records of proceedings under this part as provided in s. 985.05(4).

Section 37. Section 985.229, Florida Statutes, is created to read:

985.229 Predisposition report; other evaluations.—

(1) At the disposition hearing, the court shall order a predisposition report regarding the eligibility of the child for disposition other than by adjudication and commitment to the department. The predisposition report shall be the result of the multidisciplinary assessment when such assessment is needed, and of the classification and placement process, and it shall indicate and report the child's priority needs, recommendations as to a classification of risk for the child in the context of his or her program and supervision needs, and a plan for treatment that recommends the most appropriate placement setting to meet the child's needs with the minimum program security that reasonably ensures public safety. The report shall be submitted to the court prior to the disposition hearing, but shall not be reviewed by the court without the consent of the child and his or her legal counsel until the child has been found to have committed a delinquent act.

(2) The court shall consider the child's entire assessment and predisposition report and shall review the records of earlier judicial proceedings prior to making a final disposition of the case. The court may, by order, require additional evaluations and studies to be performed by the department, by the county school system, or by any social, psychological, or psychiatric agencies of the state. The court shall order the educational needs assessment completed pursuant to s. 985.224(2) to be included in the assessment and predisposition report.

(3) The predisposition report shall be made available to the child's legal counsel and the state attorney upon completion of the report and at a reasonable time prior to the disposition hearing.

Section 38. Section 985.23, Florida Statutes, is created to read:

985.23 Disposition hearings in delinquency cases.—When a child has been found to have committed a delinquent act, the following procedures shall be applicable to the disposition of the case:

(1) Before the court determines and announces the disposition to be imposed, it shall:

(a) State clearly, using common terminology, the purpose of the hearing and the right of persons present as parties to comment at the appropriate time on the issues before the court;

(b) Discuss with the child his or her compliance with any home release plan or other plan imposed since the date of the offense;

(c) Discuss with the child his or her feelings about the offense committed, the harm caused to the victim or others, and what penalty he or she should be required to pay for such transgression; and

(d) Give all parties present at the hearing an opportunity to comment on the issue of disposition and any proposed rehabilitative plan. Parties to the case shall include the parents, legal custodians, or guardians of the child; the child's counsel; the state attorney; representatives of the department; the victim if any, or his or her representative; representatives of the school system; and the law enforcement officers involved in the case.

(2) The first determination to be made by the court is a determination of the suitability or nonsuitability for adjudication and commitment of the child to the department. This determination shall be based upon the predisposition report which shall include, whether as part of the child's multidisciplinary assessment, classification, and placement process components or separately, evaluation of the following criteria:

(a) The seriousness of the offense to the community. If the court determines that the child was a member of a criminal street gang at the time of the commission of the offense, which determination shall be made pursuant to chapter 874, the seriousness of the offense to the community shall be given great weight.

(b) Whether the protection of the community requires adjudication and commitment to the department.

(c) Whether the offense was committed in an aggressive, violent, premeditated, or willful manner.

(d) Whether the offense was against persons or against property, greater weight being given to offenses against persons, especially if personal injury resulted.

(e) The sophistication and maturity of the child.

(f) The record and previous criminal history of the child, including without limitations:

1. Previous contacts with the department, the former Department of Health and Rehabilitative Services, the Department of Children and Family Services, the Department of Corrections, other law enforcement agencies, and courts;

2. Prior periods of probation or community control;

3. Prior adjudications of delinquency; and

4. Prior commitments to institutions.

(g) The prospects for adequate protection of the public and the likelihood of reasonable rehabilitation of the child if committed to a community services program or facility.

(3)(a) If the court determines that the child should be adjudicated as having committed a delinquent act and should be committed to the department, such determination shall be in writing or on the record of the hearing. The determination shall include a specific finding of the reasons for the decision to adjudicate and to commit the child to the department, including any determination that the child was a member of a criminal street gang.

(b) If the court determines that commitment to the department is appropriate, the intake counselor or case manager shall recommend to the court the most appropriate placement and treatment plan, specifically identifying the restrictiveness level most appropriate for the child. If the court has determined that the child was a member of a criminal street gang, that determination shall be given great weight in identifying the most appropriate restrictiveness level for the child. The court shall consider the department's recommendation in making its commitment decision.

(c) The court shall commit the child to the department at the restrictiveness level identified or may order placement at a different restrictiveness level. The court shall state for the record the reasons which establish by a preponderance of the evidence why the court is disregarding the assessment of the child and the restrictiveness level recommended by the department. Any party may appeal the court's findings resulting in a modified level of restrictiveness pursuant to this paragraph.

(d) The court may also require that the child be placed in a community control program following the child's discharge from commitment. Community-based sanctions pursuant to subsection (4) may be imposed by the court at the disposition hearing or at any time prior to the child's release from commitment.

(e) The court shall be responsible for the fingerprinting of any child at the disposition hearing if the child has been adjudicated or had adjudication withheld for any felony in the case currently before the court.

(4) If the court determines not to adjudicate and commit to the department, then the court shall determine what community-based sanctions it will impose in a community control program for the child. Community-based sanctions may include, but are not limited to, participation in substance abuse treatment, restitution in money or in kind, a curfew, revocation or suspension of the driver's license of the child, community service, and appropriate educational programs as determined by the district school board.

(5) After appropriate sanctions for the offense are determined, the court shall develop, approve, and order a plan of community control which will contain rules, requirements, conditions, and rehabilitative programs that are designed to encourage responsible and acceptable behavior and to promote both the rehabilitation of the child and the protection of the community.

(6) The court may receive and consider any other relevant and material evidence, including other written or oral reports or statements, in its effort to determine the appropriate disposition to be made with regard to the child. The court may rely upon such evidence to the extent of its probative value, even though such evidence may not be technically competent in an adjudicatory hearing.

(7) The court shall notify any victim of the offense, if such person is known and within the jurisdiction of the court, of the hearing and shall notify and summon or subpoena, if necessary, the parents, legal custodians, or guardians of the child to attend the disposition hearing if they reside in the state.

It is the intent of the Legislature that the criteria set forth in subsection (2) are general guidelines to be followed at the discretion of the court and not mandatory requirements of procedure. It is not the intent of the Legislature to provide for the appeal of the disposition made pursuant to this subsection.

Section 39. Section 985.231, Florida Statutes, is created to read:

985.231 Powers of disposition in delinquency cases.—

(1)(a) The court that has jurisdiction of an adjudicated delinquent child may, by an order stating the facts upon which a determination of a sanction and rehabilitative program was made at the disposition hearing:

1. Place the child in a community control program or an aftercare program under the supervision of an authorized agent of the Department of Juvenile Justice or of any other person or agency specifically authorized and appointed by the court, whether in the child's own home, in the home of a relative of the child, or in some other suitable place under such reasonable conditions as the court may direct. A community control program for an adjudicated delinquent child must include a penalty component such as restitution in money or in kind, community service, a curfew, revocation or suspension of the driver's license of the child, or other nonresidential punishment appropriate to the offense and must also include a rehabilitative program component such as a requirement of participation in substance abuse treatment or in school or other educational program.

a. A restrictiveness level classification scale for levels of supervision shall be provided by the department, taking into account the child's needs and risks relative to community control supervision requirements to reasonably ensure the public safety. Community control programs for children shall be supervised by the department or by any other person or agency specifically authorized by the court. These programs must include, but are not limited to, structured or restricted activities as described in this subparagraph, and shall be designed to encourage the child toward acceptable and functional social behavior. If supervision or a program of community service is ordered by the court, the duration of such supervision or program must be consistent with any treatment and rehabilitation needs identified for the child and may not exceed the term for which sentence could be imposed if the child were committed for the offense, except that the duration of such supervision or program for an offense that is a misdemeanor of the second degree, or is equivalent to a misdemeanor of the second degree, may be for a period not to exceed 6 months. When restitution is ordered by the court, the amount of restitution may not exceed an amount the child and the parent or guardian could reasonably be expected to pay or make. A child who participates in any work program under this part is considered an employee of the state for purposes of liability, unless otherwise provided by law.

b. The court may conduct judicial review hearings for a child placed on community control for the purpose of fostering accountability to the judge and compliance with other requirements, such as restitution and community service. The court may allow early termination of community control for a child who has substantially complied with the terms and conditions of community control.

c. If the conditions of the community control program or the aftercare program are violated, the agent supervising the program as it relates to the child involved, or the state attorney, may bring the child before the court on a petition alleging a violation of the program. Any child who violates the conditions of community control or aftercare must be brought before the court if sanctions are sought. A child taken into custody under s. 39.037 for violating the conditions of community control or aftercare shall be held in a consequence unit if such a unit is available. The child shall be afforded a hearing within 24 hours after being taken into custody to determine the existence of probable cause that the child violated the conditions of community control or aftercare. A consequence unit is a secure facility specifically designated by the department for children who are taken into custody under s. 985.207 for violating community control or aftercare, or who have been found by the court to have violated the conditions of community control or aftercare. If the violation involves a

new charge of delinquency, the child may be detained under s. 985.215 in a facility other than a consequence unit. If the child is not eligible for detention for the new charge of delinquency, the child may be held in the consequence unit pending a hearing and is subject to the time limitations specified in s. 985.215. If the child denies violating the conditions of community control or aftercare, the court shall appoint counsel to represent the child at the child's request. Upon the child's admission, or if the court finds after a hearing that the child has violated the conditions of community control or aftercare, the court shall enter an order revoking, modifying, or continuing community control or aftercare. In each such case, the court shall enter a new disposition order and, in addition to the sanctions set forth in this paragraph, may impose any sanction the court could have imposed at the original disposition hearing. If the child is found to have violated the conditions of community control or aftercare, the court may:

(I) Place the child in a consequence unit in that judicial circuit, if available, for up to 5 days for a first violation, and up to 15 days for a second or subsequent violation.

(II) Place the child on home detention with electronic monitoring. However, this sanction may be used only if a consequence unit is not available.

(III) Modify or continue the child's community control program or aftercare program.

(IV) Revoke community control or aftercare and commit the child to the department.

d. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of any order placing a child in a community control program must be until the child's 19th birthday unless he or she is released by the court, on the motion of an interested party or on its own motion.

2. Commit the child to a licensed child-caring agency willing to receive the child, but the court may not commit the child to a jail or to a facility used primarily as a detention center or facility or shelter.

3. Commit the child to the Department of Juvenile Justice at a restrictiveness level defined in s. 985.03(45). Such commitment must be for the purpose of exercising active control over the child, including, but not limited to, custody, care, training, urine monitoring, and treatment of the child and furlough of the child into the community. Notwithstanding s. 743.07 and paragraph (d), and except as provided in s. 985.31, the term of the commitment must be until the child is discharged by the department or until he or she reaches the age of 21.

4. Revoke or suspend the driver's license of the child.

5. Require the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to render community service in a public service program.

6. As part of the community control program to be implemented by the Department of Juvenile Justice, or, in the case of a committed child, as part of the community-based sanctions ordered by the court at the disposition hearing or before the child's release from commitment, order the child to make restitution in money, through a promissory note cosigned by the child's parent or guardian, or in kind for any damage or loss caused by the child's offense in a reasonable amount or manner to be determined by the court. The clerk of the circuit court shall be the receiving and dispensing agent. In such case, the court shall order the child or the child's parent or guardian to pay to the office of the clerk of the circuit court an amount not to exceed the actual cost incurred by the clerk as a result of receiving and dispensing restitution payments. The clerk shall notify the court if restitution is not made and the court shall take any further action that is necessary against the child or the child's parent or guardian. A finding by the court, after a hearing, that the parent or guardian has made diligent and good faith efforts to prevent the child from engaging in delinquent acts absolves the parent or guardian of liability for restitution under this subparagraph.

7. Order the child and, if the court finds it appropriate, the child's parent or guardian together with the child, to participate in a community work project, either as an alternative to monetary restitution or as part of the rehabilitative or community control program.

8. Commit the child to the Department of Juvenile Justice for placement in a program or facility for serious or habitual juvenile offenders in accordance with s. 985.31. Any commitment of a child to a program or facility for serious or habitual juvenile offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over such child until the child reaches the age of 21, specifically for the purpose of the child completing the program.

9. In addition to the sanctions imposed on the child, order the parent or guardian of the child to perform community service if the court finds that the parent or guardian did not make a diligent and good-faith effort to prevent the child from engaging in delinquent acts. The court may also order the parent or guardian to make restitution in money or in kind for any damage or loss caused by the child's offense. The court shall determine a reasonable amount or manner of restitution, and payment shall be made to the clerk of the circuit court as provided in subparagraph 6.

10. Subject to specific appropriation, commit the juvenile sexual offender to the Department of Juvenile Justice for placement in a program or facility for juvenile sexual offenders in accordance with s. 985.308. Any commitment of a juvenile sexual offender to a program or facility for juvenile sexual offenders must be for an indeterminate period of time, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. The court may retain jurisdiction over a juvenile sexual offender until the juvenile sexual offender reaches the age of 21, specifically for the purpose of completing the program.

(b) When any child is adjudicated by the court to have committed a delinquent act and temporary legal custody of the child has been placed with a licensed child-caring agency or the Department of Juvenile Justice, the court shall order the natural or adoptive parents of such child, the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets that under law may be disbursed for the care, support, and maintenance of the child, to pay fees to the licensed child-caring agency or the Department of Juvenile Justice equal to the actual cost of the care, support, and maintenance of the child, unless the court determines that the parent or guardian of the child is indigent. The court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. In addition, the court may waive the fees if it finds that the child's parent or guardian was the victim of the child's delinquent act or violation of law or if the court finds that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(c) Any order made pursuant to paragraph (a) may thereafter be modified or set aside by the court.

(d) Any commitment of a delinquent child to the Department of Juvenile Justice must be for an indeterminate period of time, which may include periods of temporary release, but the time may not exceed the maximum term of imprisonment that an adult may serve for the same offense. Any temporary release for a period greater than 3 days must be approved by the court. Any child so committed may be discharged from institutional confinement or a program upon the direction of the department with the concurrence of the court. Notwithstanding s. 743.07 and this subsection, and except as provided in s. 985.31, a child may not be held under a commitment from a court pursuant to this section after becoming 21 years of age. The department shall give the court that committed the child to the department reasonable notice, in writing, of its desire to discharge the child from a commitment facility. The court that committed the child may thereafter accept or reject the request. If the court does not respond within 10 days after receipt of the notice, the request of the department shall be deemed granted. This section does not limit the department's authority to revoke a child's temporary release status and return the child to a commitment facility for any violation of the terms and conditions of the temporary release.

(e) In carrying out the provisions of this part, the court may order the natural parents or legal custodian or guardian of a child who is found to have committed a delinquent act to participate in family counseling and other professional counseling activities deemed necessary for the rehabilitation of the child or to enhance their ability to provide the child with adequate support, guidance, and supervision. The court may also

order that the parent, custodian, or guardian support the child and participate with the child in fulfilling a court-imposed sanction. In addition, the court may use its contempt powers to enforce a court-imposed sanction.

(f) The court may at any time enter an order ending its jurisdiction over any child.

(g) Whenever a child is required by the court to participate in any work program under this part or whenever a child volunteers to work in a specified state, county, municipal, or community service organization supervised work program or to work for the victim, either as an alternative to monetary restitution or as a part of the rehabilitative or community control program, the child is an employee of the state for the purposes of liability. In determining the child's average weekly wage unless otherwise determined by a specific funding program, all remuneration received from the employer is a gratuity, and the child is not entitled to any benefits otherwise payable under s. 440.15, regardless of whether the child may be receiving wages and remuneration from other employment with another employer and regardless of the child's future wage-earning capacity.

(h) The court may, upon motion of the child or upon its own motion, within 60 days after imposition of a disposition of commitment, suspend the further execution of the disposition and place the child on probation in a community control program upon such terms and conditions as the court may require. The department shall forward to the court all relevant material on the child's progress while in custody not later than 3 working days prior to the hearing on the motion to suspend the disposition.

(i) The nonconsent of the child to commitment or treatment in a substance abuse treatment program in no way precludes the court from ordering such commitment or treatment.

(j) If the offense committed by the child was grand theft of a motor vehicle, the court:

1. Upon a first adjudication for a grand theft of a motor vehicle, may place the youth in a boot camp, unless the child is ineligible pursuant to s. 985.309, and shall order the youth to complete a minimum of 50 hours of community service.

2. Upon a second adjudication for grand theft of a motor vehicle which is separate and unrelated to the previous adjudication, may place the youth in a boot camp, unless the child is ineligible pursuant to s. 985.309, and shall order the youth to complete a minimum of 100 hours of community service.

3. Upon a third adjudication for grand theft of a motor vehicle which is separate and unrelated to the previous adjudications, shall place the youth in a boot camp or other treatment program, unless the child is ineligible pursuant to s. 985.309, and shall order the youth to complete a minimum of 250 hours of community service.

(2) Following a delinquency adjudicatory hearing pursuant to s. 985.228 and a delinquency disposition hearing pursuant to section 985.23 which results in a commitment determination, the court shall, on its own or upon request by the state or the department, determine whether the protection of the public requires that the child be placed in a program for serious or habitual juvenile offenders and whether the particular needs of the child would be best served by a program for serious or habitual juvenile offenders as provided in s. 985.31. The determination shall be made pursuant to ss. 985.03(47) and 985.23(3).

(3) Following a delinquency adjudicatory hearing pursuant to s. 985.228, the court may on its own or upon request by the state or the department and subject to specific appropriation, determine whether a juvenile sexual offender placement is required for the protection of the public and what would be the best approach to address the treatment needs of the juvenile sexual offender. When the court determines that a juvenile has no history of a recent comprehensive assessment focused on sexually deviant behavior, the court may, subject to specific appropriation, order the department to conduct or arrange for an examination to determine whether the juvenile sexual offender is amenable to community-based treatment.

(a) The report of the examination shall include, at a minimum, the following:

1. The juvenile sexual offender's account of the incident and the official report of the investigation.

2. The juvenile sexual offender's offense history.

3. A multidisciplinary assessment of the sexually deviant behaviors, including an assessment by a certified psychologist, therapist, or psychiatrist.

4. An assessment of the juvenile sexual offender's family, social, educational, and employment situation. The report shall set forth the sources of the evaluator's information.

(b) The report shall assess the juvenile sexual offender's amenability to treatment and relative risk to the victim and the community.

(c) The department shall provide a proposed plan to the court that shall include, at a minimum:

1. The frequency and type of contact between the offender and therapist.

2. The specific issues and behaviors to be addressed in the treatment and description of planned treatment methods.

3. Monitoring plans, including any requirements regarding living conditions, school attendance and participation, lifestyle, and monitoring by family members, legal guardians, or others.

4. Anticipated length of treatment.

5. Recommended crime-related prohibitions and curfew.

6. Reasonable restrictions on the contact between the juvenile sexual offender and either the victim or alleged victim.

(d) After receipt of the report on the proposed plan of treatment, the court shall consider whether the community and the offender will benefit from use of juvenile sexual offender community-based treatment alternative disposition and consider the opinion of the victim or the victim's family as to whether the offender should receive a community-based treatment alternative disposition under this subsection.

(e) If the court determines that this juvenile sexual offender community-based treatment alternative is appropriate, the court may place the offender on community supervision for up to 3 years. As a condition of community treatment and supervision, the court may order the offender to:

1. Undergo available outpatient juvenile sexual offender treatment for up to 3 years. A program or provider may not be used for such treatment unless it has an appropriate program designed for sexual offender treatment. The department shall not change the treatment provider without first notifying the state attorney's office.

2. Remain within described geographical boundaries and notify the court or the department counselor prior to any change in the offender's address, educational program, or employment.

3. Comply with all requirements of the treatment plan.

(f) The juvenile sexual offender treatment provider shall submit quarterly reports on the respondent's progress in treatment to the court and the parties to the proceedings. The juvenile sexual offender reports shall reference the treatment plan and include, at a minimum, the following:

1. Dates of attendance.

2. The juvenile sexual offender's compliance with the requirements of treatment.

3. A description of the treatment activities.

4. The sexual offender's relative progress in treatment.

5. The offender's family support of the treatment objectives.

6. Any other material specified by the court at the time of the disposition.

(g) At the disposition hearing, the court may set case review hearings as the court considers appropriate.

(h) If the juvenile sexual offender violates any condition of the disposition or the court finds that the juvenile sexual offender is failing to make satisfactory progress in treatment, the court may revoke the community-

based treatment alternative and order commitment to the department pursuant to subsection (1).

(i) If the court determines that the juvenile sexual offender is not amenable to community-based treatment, the court shall proceed with a juvenile sexual offender disposition hearing pursuant to subsection (1).

Section 40. Section 39.078, Florida Statutes, is transferred and renumbered as section 985.232, Florida Statutes.

Section 41. Section 985.233, Florida Statutes, is created to read:

985.233 Sentencing powers; procedures; alternatives for juveniles prosecuted as adults.—

(1) POWERS OF DISPOSITION.—

(a) A child who is found to have committed a violation of law may, as an alternative to adult dispositions, be committed to the department for treatment in an appropriate program for children outside the adult correctional system or be placed in a community control program for juveniles.

(b) In determining whether to impose juvenile sanctions instead of adult sanctions, the court shall consider the following criteria:

1. The seriousness of the offense to the community and whether the community would best be protected by juvenile or adult sanctions.

2. Whether the offense was committed in an aggressive, violent, premeditated, or willful manner.

3. Whether the offense was against persons or against property, with greater weight being given to offenses against persons, especially if personal injury resulted.

4. The sophistication and maturity of the offender.

5. The record and previous history of the offender, including:

a. Previous contacts with the Department of Corrections, the Department of Juvenile Justice, the former Department of Health and Rehabilitative Services, the Department of Children and Family Services, law enforcement agencies, and the courts.

b. Prior periods of probation or community control.

c. Prior adjudications that the offender committed a delinquent act or violation of law as a child.

d. Prior commitments to the Department of Juvenile Justice, the former Department of Health and Rehabilitative Services, the Department of Children and Family Services, or other facilities or institutions.

6. The prospects for adequate protection of the public and the likelihood of deterrence and reasonable rehabilitation of the offender if assigned to services and facilities of the Department of Juvenile Justice.

7. Whether the Department of Juvenile Justice has appropriate programs, facilities, and services immediately available.

8. Whether adult sanctions would provide more appropriate punishment and deterrence to further violations of law than the imposition of juvenile sanctions.

(2) PRESENTENCE INVESTIGATION REPORT.—

(a) Upon a plea of guilty, the court may refer the case to the department for investigation and recommendation as to the suitability of its programs for the child.

(b) Upon completion of the presentence investigation report, it must be made available to the child's counsel and the state attorney by the department prior to the disposition hearing.

(3) SENTENCING HEARING.—

(a) At the sentencing hearing the court shall receive and consider a presentence investigation report by the Department of Corrections regarding the suitability of the offender for disposition as an adult or as a juvenile. The presentence investigation report must include a comments section prepared by the Department of Juvenile Justice, with its recommendations as to disposition. This report requirement may be waived by the offender.

(b) After considering the presentence investigation report, the court shall give all parties present at the hearing an opportunity to comment on the issue of sentence and any proposed rehabilitative plan. Parties to the case include the parent, guardian, or legal custodian of the offender; the offender's counsel; the state attorney; representatives of the Department of Corrections and the Department of Juvenile Justice; the victim or victim's representative; representatives of the school system; and the law enforcement officers involved in the case.

(c) The court may receive and consider any other relevant and material evidence, including other reports, written or oral, in its effort to determine the action to be taken with regard to the child, and may rely upon such evidence to the extent of its probative value even if the evidence would not be competent in an adjudicatory hearing.

(d) The court shall notify any victim of the offense of the hearing and shall notify, or subpoena if appropriate, the parents, guardians, or legal custodians of the child to attend the disposition hearing.

(4) SENTENCING ALTERNATIVES.—

(a) Sentencing to adult sanctions.—

1. Cases prosecuted on indictment.—If the child is found to have committed the offense punishable by death or life imprisonment, the child shall be sentenced as an adult. If the juvenile is not found to have committed the indictable offense but is found to have committed a lesser included offense or any other offense for which he or she was indicted as a part of the criminal episode, the court may sentence as follows:

a. As an adult pursuant to this section;
b. Pursuant to chapter 958, notwithstanding any other provision of that chapter to the contrary; or
c. As a juvenile pursuant to this section.

2. Other cases.—If a child who has been transferred for criminal prosecution pursuant to information or waiver of juvenile court jurisdiction is found to have committed a violation of state law or a lesser included offense for which he or she was charged as a part of the criminal episode, the court may sentence as follows:

a. As an adult pursuant to this section;
b. Pursuant to chapter 958, notwithstanding any other provision of that chapter to the contrary; or
c. As a juvenile pursuant to this section.

3. Any decision to impose adult sanctions must be in writing, but is presumed appropriate, and the court is not required to set forth specific findings or enumerate the criteria in this subsection as any basis for its decision to impose adult sanctions.

4. When a child has been transferred for criminal prosecution as an adult and has been found to have committed a violation of state law, the disposition of the case may include the enforcement of any restitution ordered in any juvenile proceeding.

(b) Sentencing to juvenile sanctions.—In order to use this paragraph, the court shall stay adjudication of guilt and instead shall adjudge the child to have committed a delinquent act. Adjudication of delinquency shall not be deemed a conviction, nor shall it operate to impose any of the civil disabilities ordinarily resulting from a conviction. The court shall impose an adult sanction or a juvenile sanction and may not sentence the child to a combination of adult and juvenile punishments. An adult sanction or a juvenile sanction may include enforcement of an order of restitution or community control previously ordered in any juvenile proceeding. However, if the court imposes a juvenile sanction and the department determines that the sanction is unsuitable for the child, the department shall return custody of the child to the sentencing court for further proceedings, including the imposition of adult sanctions. Upon adjudicating a child delinquent under subsection (1), the court may:

1. Place the child in a community control program under the supervision of the department for an indeterminate period of time until the child reaches the age of 19 years or sooner if discharged by order of the court.

2. Commit the child to the department for an indeterminate period of time until the child is 19 years of age, or 21 years of age if the child is committed to a maximum-risk program or a serious or habitual juvenile offender program, or until the child is discharged by the department. The department shall notify the court of its intent to discharge no later than 14 days prior to discharge. Failure of the court to timely respond to the department's notice shall be considered approval for discharge.

3. Order disposition pursuant to s. 985.231 as an alternative to youthful offender or adult sentencing if the court determines not to impose youthful offender or adult sanctions.

4. Develop, approve, and order a plan of community control after appropriate sanctions for the offense are determined. The community control plan shall contain rules, requirements, conditions, and programs designed to encourage responsible and acceptable behavior and to promote the rehabilitation of the child and the protection of the community.

(c) Imposition of adult sanctions upon failure of juvenile sanctions.—If a child proves not to be suitable to a community control program or for a treatment program under the provisions of subparagraph (b)2., the court may revoke the previous adjudication, impose an adjudication of guilt, classify the child as a youthful offender when appropriate, and impose any sentence which it may lawfully impose, giving credit for all time spent by the child in the department.

(d) Recoupment of cost of care in juvenile justice facilities.—When the court orders commitment of a child to the Department of Juvenile Justice for treatment in any of the department's programs for children, the court shall order the natural or adoptive parents of such child, the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay fees to the department equal to the actual cost of the care, support, and maintenance of the child, unless the court determines that the parent or legal guardian of the child is indigent. The court may reduce the fees or waive the fees upon a showing by the parent or guardian of an inability to pay the full cost of the care, support, and maintenance of the child. In addition, the court may waive the fees if it finds that the child's parent or guardian was the victim of the child's delinquent act or violation of law or if the court finds that the parent or guardian has made a diligent and good faith effort to prevent the child from engaging in the delinquent act or violation of law. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(e) Further proceedings heard in adult court.—When a child is sentenced to juvenile sanctions, further proceedings involving those sanctions shall continue to be heard in the adult court.

It is the intent of the Legislature that the criteria and guidelines in this subsection are mandatory and that a determination of disposition under this subsection is subject to the right of the child to appellate review under s. 985.234.

Section 42. Section 39.069, Florida Statutes, is transferred and renumbered as section 985.234, Florida Statutes.

Section 43. Section 39.0711, Florida Statutes, is transferred and renumbered as section 985.235, Florida Statutes.

Section 44. Section 39.072, Florida Statutes, is transferred and renumbered as section 985.236, Florida Statutes.

Section 45. Section 39.0255, Florida Statutes, is transferred, renumbered as section 985.301, Florida Statutes, and amended to read:

985.301 ~~39.0255~~ Civil citation.—

(1) There is established a juvenile civil citation process for the purpose of providing an efficient and innovative alternative to custody by the Department of Juvenile Justice of children who commit nonserious delinquent acts and to ensure swift and appropriate consequences. The civil citation program may be established at the local level with the concurrence of the chief judge of the circuit, state attorney, public defender, and the head of each local law enforcement agency involved. Under such a juvenile civil citation program, any law enforcement officer upon making contact with a juvenile who admits having committed a misdemeanor, may issue a civil citation assessing not more than 50 community service hours, and may require participation in intervention services appropriate to identified needs of the juvenile, including family counseling, urinalysis monitoring, and substance abuse and mental health treatment services. A copy of each citation issued under this section shall be provided to the department, and the department shall enter appropriate information into the juvenile offender information system.

(2) Upon issuing such citation, the law enforcement officer shall send a copy to the county sheriff, state attorney, the appropriate intake office of the department, the community service performance monitor designated by the department, the parent or guardian of the child, and the victim.

(3) The child shall report to the community service performance monitor within 7 working days after the date of issuance of the citation. The work assignment shall be accomplished at a rate of not less than 5 hours per week. The monitor shall advise the intake office immediately upon reporting by the child to the monitor, that the child has in fact reported and the expected date upon which completion of the work assignment will be accomplished.

(4) If the juvenile fails to report timely for a work assignment, complete a work assignment, or comply with assigned intervention services within the prescribed time, or if the juvenile commits a third or subsequent misdemeanor, the law enforcement officer shall issue a report alleging the child has committed a delinquent act, at which point an intake counselor or case manager shall perform a preliminary determination as provided under s. *985.21(4)* ~~39.047(4)~~.

(5) At the time of issuance of the citation by the law enforcement officer, such officer shall advise the child that the child has the option to refuse the citation and to be referred to the intake office of the department. That option may be exercised at any time prior to completion of the work assignment.

Section 46. Section 39.019, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 985.302, Florida Statutes.

Section 47. Section 39.0361, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.303, Florida Statutes, and amended to read:

985.303 ~~39.0361~~ Neighborhood Restorative Justice Act.—

~~(1) SHORT TITLE.—This section shall be known and may be cited as the "Neighborhood Restorative Justice Act."~~

(1)~~(2)~~ DEFINITIONS.—For purposes of this *section* ~~act~~, the term:

(a) "Board" means a Restorative Justice Board established by the state attorney pursuant to subsection *(3)* ~~(4)~~.

(b) "Center" means a Neighborhood Restorative Justice Center established by the state attorney pursuant to subsection *(2)* ~~(3)~~.

(c) "First-time, nonviolent juvenile offender" means a minor who allegedly has committed a delinquent act or violation of law that would not be a crime of violence providing grounds for detention or incarceration and who does not have a previous record of being found to have committed a criminal or delinquent act or other violation of law.

(2)~~(3)~~ NEIGHBORHOOD RESTORATIVE JUSTICE CENTER.—

(a) The state attorney may establish at least one Neighborhood Restorative Justice Center in designated geographical areas in the county for the purposes of operating a deferred prosecution program for first-time, nonviolent juvenile offenders.

(b) The state attorney may refer any first-time, nonviolent juvenile offender accused of committing a delinquent act to a Neighborhood Restorative Justice Center.

(3)~~(4)~~ RESTORATIVE JUSTICE BOARD.—

(a) The state attorney may establish Restorative Justice Boards consisting of five volunteer members, of which: two are appointed by the state attorney; two are appointed by the public defender; and one is

appointed by the chief judge of the circuit. The state attorney shall appoint a chairman for each board.

(b) The board has jurisdiction to hear all matters involving first-time, nonviolent juvenile offenders who are alleged to have committed a delinquent act within the geographical area covered by the board.

(4)~~(5)~~ DEFERRED PROSECUTION PROGRAM; PROCEDURES.—

(a) The participation by a juvenile in the deferred prosecution program through a Neighborhood Restorative Justice Center is voluntary. To participate in the deferred prosecution program, the juvenile who is referred to a Neighborhood Restorative Justice Center must take responsibility for the actions which led to the current accusation. The juvenile and the juvenile's parent or legal guardian must waive the juvenile's right to a speedy trial and the right to be represented by a public defender while in the Neighborhood Restorative Justice program. This waiver and acknowledgement of responsibility shall not be construed as an admission of guilt in future proceedings. The board or the board's representative must inform the juvenile and the parent or legal guardian of the juvenile's legal rights prior to the signing of the waiver.

(b) If the state attorney refers a juvenile matter to a Neighborhood Restorative Justice Center, the board shall convene a meeting within 15 days after receiving the referral.

(c) The board shall require the parent or legal guardian of the juvenile who is referred to a Neighborhood Restorative Justice Center to appear with the juvenile before the board at the time set by the board. In scheduling board meetings, the board shall be cognizant of a parent's or legal guardian's other obligations. The failure of a parent or legal guardian to appear at the scheduled board meeting with his or her child or ward may be considered by the juvenile court as an act of child neglect as defined by s. 415.503(3), and the board may refer the matter to the Department of *Children and Family* ~~Health and Rehabilitative~~ Services for investigation under the provisions of chapter 415.

(d) The board shall serve notice of a board meeting on the juvenile referred to the Neighborhood Restorative Justice Center, the juvenile's parent or guardian, and the victim or family of the victim of the alleged offense. These persons and their representatives have the right to appear and participate in any meeting conducted by the board relative to the alleged offense in which they were the alleged juvenile offender or parent or guardian of the alleged juvenile offender, or victim or family of the victim of the alleged juvenile offender. The victim or a person representing the victim may vote with the board.

(5)~~(6)~~ SANCTIONS.—After holding a meeting pursuant to paragraph *(4)(d)* ~~(5)(d)~~, the board may impose any of the following sanctions alone or in any combination:

(a) Require the juvenile to make restitution to the victim.

(b) Require the juvenile to perform work for the victim.

(c) Require the juvenile to make restitution to the community.

(d) Require the juvenile to perform work for the community.

(e) Recommend that the juvenile participate in counseling, education, or treatment services that are coordinated by the state attorney.

(f) Require the juvenile to surrender the juvenile's driver's license and forward a copy of the board's resolution to the Department of Highway Safety and Motor Vehicles. The department, upon receipt of the license, shall suspend the driving privileges of the juvenile, or the juvenile may be restricted to travel between the juvenile's home, school, and place of employment during specified periods of time according to the juvenile's school and employment schedule.

(g) Refer the matter to the state attorney for the filing of a petition with the juvenile court.

(h) Impose any other sanction except detention that the board determines is necessary to fully and fairly resolve the matter.

(6)~~(7)~~ WRITTEN CONTRACT.—

(a) The board, on behalf of the community, and the juvenile, the juvenile's parent or guardian, and the victim or representative of the victim, shall sign a written contract in which the parties agree to the board's resolution of the matter and in which the juvenile's parent or guardian agrees to ensure that the juvenile complies with the contract. The contract may provide that the parent or guardian shall post a bond payable to this state to secure the performance of any sanction imposed upon the juvenile pursuant to subsection *(5)* ~~(6)~~.

(b) A breach of the contract by any party may be sanctioned by the juvenile court as it deems appropriate upon motion by any party.

(c) If the juvenile disagrees with the resolution of the board, the juvenile may file a notice with the board within 3 working days after the board makes its resolution that the juvenile has rejected the board's resolution. After receiving notice of the juvenile's rejection, the state attorney shall file a petition in juvenile court.

(7)~~(8)~~ COMPLETION OF SANCTIONS.—

(a) If the juvenile accepts the resolution of the board and successfully completes the sanctions imposed by the board, the state attorney shall not file a petition in juvenile court and the board's resolution shall not be used against the juvenile in any further proceeding and is not an adjudication of delinquency. The resolution of the board is not a conviction of a crime, does not impose any civil disabilities ordinarily resulting from a conviction, and does not disqualify the juvenile in any civil service application or appointment.

(b) If the juvenile accepts the resolution reached by the board but fails to successfully complete the sanctions imposed by it, the state attorney may file the matter with the juvenile court.

(c) Upon successful completion of the sanctions imposed by the board, the juvenile shall submit to the board proof of completion. The board shall determine the form and manner in which a juvenile presents proof of completion.

(8)~~(9)~~ CONSTRUCTION.—This section shall not be construed to diminish, impair, or otherwise affect any rights conferred on victims of crimes under chapter 960, relating to victim assistance, or any other provisions of law.

(9)~~(10)~~ SEVERABILITY.—If any provision of this section or the application thereof to any person or circumstance is held invalid, the invalidity shall not affect other provisions or applications of the section which can be given effect without the invalid provision or application, and to this end the provisions of this section are declared severable.

Section 48. Section 39.026, Florida Statutes, is transferred, renumbered as section 985.304, Florida Statutes, and amended to read:

985.304 ~~39.026~~ Community arbitration~~; purpose~~.—

(1) PURPOSE.—The purpose of community arbitration is to provide a system by which children who commit delinquent acts may be dealt with in a speedy and informal manner at the community or neighborhood level, in an attempt to reduce the ever-increasing instances of delinquent acts and permit the judicial system to deal effectively with cases which are more serious in nature.

(2) PROGRAMS.—

(a) Each county may establish community arbitration programs designed to complement the department's intake process provided in this chapter. Community arbitration programs shall provide one or more community arbitrators or community arbitration panels to hear informally cases which involve alleged commissions of certain delinquent acts by children.

(b) Cases which may be referred to a community arbitrator or community arbitration panel are limited to those which involve violations of local ordinances, those which involve misdemeanors, and those which involve third degree felonies, exclusive of third degree felonies involving personal violence, grand theft auto, or the use of a weapon.

(c) A child who has been the subject of at least one prior adjudication or adjudication withheld for any first or second degree felony offense, any third degree felony offense involving personal violence, grand theft auto, or the use of a weapon, or any other offense not eligible for arbitration, shall not be eligible for resolution of any current offense through community arbitration.

(d) Cases resolved through community arbitration shall be limited pursuant to this subsection.

1. For each child referred to community arbitration, the primary offense shall be assigned a point value.

a. Misdemeanor offenses shall be assigned two points for a misdemeanor of the second degree, four points for a nonviolent misdemeanor of the first degree, and six points for a misdemeanor of the first degree involving violence.

b. Eligible third degree felony offenses shall be assigned eight points.

2. There is not a restriction on the limit of separate incidents for which a law enforcement officer may refer a child to community arbitration, but a child who has accrued a point value of 12 or more points through community arbitration prior to the current offense shall no longer be eligible for community arbitration.

3. The point values provided in this paragraph shall also be assigned to a child's prior adjudications or adjudications withheld on eligible offenses for cases not referred to community arbitration.

(3) COMMUNITY ARBITRATORS.—The chief judge of each judicial circuit shall maintain a list of qualified persons who have agreed to serve as community arbitrators for the purpose of carrying out the provisions of this part. Community arbitrators shall meet the qualification and training requirements adopted in rule by the Supreme Court. Whenever possible, qualified volunteers shall be used as community arbitrators.

(a) Each community arbitrator or member of a community arbitration panel shall be selected by the chief judge of the circuit, the senior circuit court judge assigned to juvenile cases in the circuit, and the state attorney. A community arbitrator or, in the case of a panel, the chief arbitrator shall have such powers as are necessary to conduct the proceedings in a fair and expeditious manner.

(b) A community arbitrator or member of a community arbitration panel shall be trained or experienced in juvenile causes and shall be:

1. Either a graduate of an accredited law school or of an accredited school with a degree in behavioral social work or trained in conflict resolution techniques; and

2. A person of the temperament necessary to deal properly with cases involving children and with the family crises likely to be presented to him or her.

(4) PROCEDURE FOR INITIATING CASES FOR COMMUNITY ARBITRATION.—

(a) Any law enforcement officer may issue a complaint, along with a recommendation for community arbitration, against any child who such officer has reason to believe has committed any offense that is eligible for community arbitration. The complaint shall specify the offense and the reasons why the law enforcement officer feels that the offense should be handled by community arbitration. Any intake counselor or case manager or, at the request of the child's parent or legal custodian or guardian, the state attorney or the court having jurisdiction, with the concurrence of the state attorney, may refer a complaint to be handled by community arbitration when appropriate. A copy of the complaint shall be forwarded to the appropriate intake counselor or case manager and the parent or legal custodian or guardian of the child within 48 hours after issuance of the complaint. In addition to the complaint, the child and the parent or legal custodian or guardian shall be informed of the objectives of the community arbitration process; the conditions, procedures, and timeframes under which it will be conducted; and the fact that it is not obligatory. The intake counselor shall contact the child and the parent or legal custodian or guardian within 2 days after the date on which the complaint was received. At this time, the child or the parent or legal custodian or guardian shall inform the intake counselor of the decision to approve or reject the handling of the complaint through community arbitration.

(b) The intake counselor shall verify accurate identification of the child and determine whether or not the child has any prior adjudications or adjudications withheld for an offense eligible for community arbitration for consideration in the point value structure. If the child has at least one prior adjudication or adjudication withheld for an offense which is not eligible for community arbitration, or if the child has already surpassed the accepted level of points on prior community arbitration resolutions, the intake counselor or case manager shall consult with the state attorney regarding the filing of formal juvenile proceedings.

(c) If the child or the parent or legal custodian or guardian rejects the handling of the complaint through community arbitration, the intake counselor shall consult with the state attorney for the filing of formal juvenile proceedings.

(d) If the child or the parent or legal custodian or guardian accepts the handling of the complaint through community arbitration, the intake counselor shall provide copies of the complaint to the arbitrator or panel within 24 hours.

(e) The community arbitrator or community arbitration panel shall, upon receipt of the complaint, set a time and date for a hearing within 7 days and shall inform the child's parent or legal custodian or guardian, the complaining witness, and any victims of the time, date, and place of the hearing.

(5) HEARINGS.—

(a) The law enforcement officer who issued the complaint need not appear at the scheduled hearing. However, prior to the hearing, the officer shall file with the community arbitrator or the community arbitration panel a comprehensive report setting forth the facts and circumstances surrounding the allegation.

(b) Records and reports submitted by interested agencies and parties, including, but not limited to, complaining witnesses and victims, may be received in evidence before the community arbitrator or the community arbitration panel without the necessity of formal proof.

(c) The testimony of the complaining witness and any alleged victim may be received when available.

(d) Any statement or admission made by the child appearing before the community arbitrator or the community arbitration panel relating to the offense for which he or she was cited is privileged and may not be used as evidence against the child either in a subsequent juvenile proceeding or in any subsequent civil or criminal action.

(e) If a child fails to appear on the original hearing date, the matter shall be referred back to the intake counselor who shall consult with the state attorney regarding the filing of formal juvenile proceedings.

(6) DISPOSITION OF CASES.—

(a) Subsequent to any hearing held as provided in subsection (5), the community arbitrator or community arbitration panel may:

1. Recommend that the state attorney decline to prosecute the child.

2. Issue a warning to the child or the child's family and recommend that the state attorney decline to prosecute the child.

3. Refer the child for placement in a community-based nonresidential program.

4. Refer the child or the family to community counseling.

5. Refer the child to a safety and education program related to delinquent children.

6. Refer the child to a work program related to delinquent children and require up to 100 hours of work by the child.

7. Refer the child to a nonprofit organization for volunteer work in the community and require up to 100 hours of work by the child.

8. Order restitution in money or in kind in a case involving property damage; however, the amount of restitution shall not exceed the amount of actual damage to property.

9. Continue the case for further investigation.

10. Require the child to undergo urinalysis monitoring.

11. Impose any other restrictions or sanctions that are designed to encourage responsible and acceptable behavior and are agreed upon by the participants of the community arbitration proceedings.

The community arbitrator or community arbitration panel shall determine an appropriate timeframe in which the disposition must be completed. The community arbitrator or community arbitration panel shall report the disposition of the case to the intake counselor or case manager.

(b) Any person or agency to whom a child is referred pursuant to this section shall periodically report the progress of the child to the referring community arbitrator or community arbitration panel in the manner prescribed by such arbitrator or panel.

(c) Any child who is referred by the community arbitrator or community arbitration panel to a work program related to delinquent children

or to a nonprofit organization for volunteer work in the community, and who is also ordered to pay restitution to the victim, may be paid a reasonable hourly wage for work, to the extent that funds are specifically appropriated or authorized for this purpose; provided, however, that such payments shall not, in total, exceed the amount of restitution ordered and that such payments shall be turned over by the child to the victim.

(d) If a child consents to an informal resolution and, in the presence of the parent or legal custodian or guardian and the community arbitrator or community arbitration panel, agrees to comply with any disposition suggested or ordered by such arbitrator or panel and subsequently fails to abide by the terms of such agreement, the community arbitrator or community arbitration panel may, after a careful review of the circumstances, forward the case back to the intake counselor, who shall consult with the state attorney regarding the filing of formal juvenile proceedings.

(7) REVIEW.—Any child or his or her parent or legal custodian or guardian who is dissatisfied with the disposition provided by the community arbitrator or the community arbitration panel may request a review of the disposition to the appropriate intake counselor within 15 days after the community arbitration hearing. Upon receipt of the request for review, the intake counselor shall consult with the state attorney who shall consider the request for review and may file formal juvenile proceedings or take such other action as may be warranted.

(8) FUNDING.—Funding for the provisions of community arbitration may be provided through appropriations from the state or from local governments, through federal or other public or private grants, through any appropriations as authorized by the county participating in the community arbitration program, and through donations.

Section 49. Section 39.055, Florida Statutes, is transferred, renumbered as section 985.305, Florida Statutes, and amended to read:

985.305 ~~39.055~~ Early delinquency intervention program*; criteria*.—

(1) The Department of Juvenile Justice shall, contingent upon specific appropriation and with the cooperation of local law enforcement agencies, the judiciary, district school board personnel, the office of the state attorney, the office of the public defender, the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, and community service agencies that work with children, establish an early delinquency intervention program, the components of which shall include, but not be limited to:

(a) Case management services.
(b) Treatment modalities, including substance abuse treatment services, mental health services, and retardation services.
(c) Prevocational education and career education services.
(d) Diagnostic evaluation services.
(e) Educational services.
(f) Self-sufficiency planning.
(g) Independent living skills.
(h) Parenting skills.
(i) Recreational and leisure time activities.
(j) Program evaluation.
(k) Medical screening.

(2) The early delinquency intervention program shall consist of intensive residential treatment in a secure facility for 7 days to 6 weeks, followed by 6 to 9 months of aftercare. An early delinquency intervention program facility shall be designed to accommodate the placement of a maximum of 10 children, except that the facility may accommodate up to 2 children in excess of that maximum if the additional children have previously been released from the residential portion of the program and are later found to need additional residential treatment.

(3) A copy of the arrest report of any child 15 years of age or younger who is taken into custody for committing a delinquent act or any violation of law shall be forwarded to the local service district office of the Department of Juvenile Justice. Upon receiving the second arrest report of any such child from the judicial circuit in which the program is located, the Department of Juvenile Justice shall initiate an intensive review of the child's social and educational history to determine the likelihood of further significant delinquent behavior. In making this determination, the Department of Juvenile Justice shall consider, without limitation, the following factors:

(a) Any prior allegation that the child is dependent or a child in need of services.

(b) The physical, emotional, and intellectual status and developmental level of the child.

(c) The child's academic history, including school attendance, school achievements, grade level, and involvement in school-sponsored activities.

(d) The nature and quality of the child's peer group relationships.

(e) The child's history of substance abuse or behavioral problems.

(f) The child's family status, including the capability of the child's family members to participate in a family-centered intervention program.

(g) The child's family history of substance abuse or criminal activity.

(h) The supervision that is available in the child's home.

(i) The nature of the relationship between the parents and the child and any siblings and the child.

(4) Upon determination that a child is likely to continue to exhibit significant delinquent behavior, the department may recommend to the court that the child be placed in an early delinquency intervention program, and the court may order the program as the dispositional placement for the child. At the discretion of the department or its designee, or upon order of the court, a child who is 11 years of age or younger may be excused from the residential portion of treatment.

(5) Not later than 18 months after the initiation of an early delinquency intervention program, the department shall prepare and submit a progress report to the chairs of the appropriate House and Senate fiscal committees and the appropriate House and Senate substantive committees on the development and implementation of the program, including:

(a) Factors determining placement of a child in the program.
(b) Services provided in each component of the program.
(c) Costs associated with each component of the program.
(d) Problems or difficulties encountered in the implementation and operation of the program.

Section 50. Section 39.0475, Florida Statutes, is transferred and renumbered as section 985.306, Florida Statutes.

Section 51. Section 39.0551, Florida Statutes, is transferred and renumbered as section 985.307, Florida Statutes.

Section 52. Section 39.0571, Florida Statutes, is transferred and renumbered as section 985.308, Florida Statutes.

Section 53. Section 39.057, Florida Statutes, is transferred, renumbered as section 985.309, Florida Statutes, and amended to read:

985.309 ~~39.057~~ Boot camp for children.—

(1) Contingent upon specific appropriation, the department shall implement and operate a boot camp program to provide an intensive educational and physical training and rehabilitative program for appropriate children.

(2) Contingent upon local funding, a county or municipal government may implement and operate a boot camp program to provide an intensive educational and physical training and rehabilitative program for appropriate children.

(3) A child may be placed in a boot camp program if he or she is at least 14 years of age but less than 18 years of age at the time of adjudication and has been committed to the department for any offense that, if committed by an adult, would be a felony, other than a capital felony, a life felony, or a violent felony of the first degree.

(4) The department, county, or municipality operating the boot camp program shall screen children sent to the boot camp program, so that only those children who have medical and psychological profiles conducive to successfully completing an intensive work, educational, and disciplinary program may be admitted to the program. The department shall

adopt rules for use by the department, county, or municipality operating the boot camp program for screening such admissions.

(5) The program shall include educational assignments, work assignments, and physical training exercises. Children shall be required to participate in educational, vocational, and substance abuse programs and to receive additional training in techniques of appropriate decision-making, as well as in life skills and job skills. The program shall include counseling that is directed at replacing the criminal thinking, beliefs, and values of the child with moral thinking, beliefs, and values.

(6) A boot camp operated by the department, a county, or a municipality must provide for the following minimum periods of participation:

(a) A participant in a low-risk residential program must spend *at least* 2 months in the boot camp component of the program and 2 months in aftercare.

(b) A participant in a moderate-risk residential program ~~or a high-risk residential program~~ must spend *at least* 4 months in the boot camp component of the program and 4 months in aftercare.

This subsection does not preclude the operation of a program that requires the participants to spend more than 4 months in the boot camp component of the program or that requires the participants to complete two sequential programs of 4 months each in the boot camp component of the program.

(7) The department shall adopt rules for use by the department, county, or municipality operating the boot camp program which provide for disciplinary sanctions and restrictions on the privileges of the general population of children in the program.

(8) The department shall conduct quarterly inspections and evaluations of each county or municipal government boot camp program to determine whether the program complies with department rules for continued operation of the program. The department shall charge, and the county or municipal government shall pay, a monitoring fee equal to 0.5 percent of the direct operating costs of the boot camp program. The operation of a boot camp program that fails to pass the department's quarterly inspection and evaluation, if the deficiency causing the failure is material, must be terminated if the deficiency is not corrected by the next quarterly inspection.

(9) The department shall keep records and monitor criminal activity, educational progress, and employment placement of all boot camp program participants in department, county, and municipal boot camp programs after their release from the program. The department must publish an outcome evaluation study of each boot camp program within 18 months after the *fourth platoon has graduated* ~~program becomes operational, which includes a comparison of criminal activity, educational progress, and employment placements of children completing the program with the criminal activity, educational progress, and employment records of children completing other types of programs~~.

(10) A child in any boot camp program who becomes unmanageable or medically or psychologically ineligible must be removed from the program.

(11)(a) The department may contract with private organizations for the operation of its boot camp program and aftercare.

(b) A county or municipality may contract with private organizations for the operation of its boot camp program and aftercare.

(12)(a) The Juvenile Justice Standards and Training Commission shall either establish criteria for training all contract staff or provide a special training program for department, county, and municipal boot camp program staff, which shall include appropriate methods of dealing with children who have been placed in such a stringent program.

(b) Administrative staff must successfully complete a minimum of 120 contact hours of commission-approved training. Staff who have direct contact with children must successfully complete a minimum of 200 contact hours of commission-approved training, which must include training in the counseling techniques that are used in the boot camp program, basic cardiopulmonary resuscitation and choke-relief, and the control of aggression.

(c) All training courses must be taught by persons who are certified as instructors by the Division of Criminal Justice Standards and Training of the Department of Law Enforcement and who have prior experience in a juvenile boot camp program. A training course in counseling techniques need not be taught by a certified instructor but must be taught by a person who has at least a bachelor's degree in social work, counseling, psychology, or a related field.

(d) A person may not have direct contact with a child in the boot camp program until he or she has successfully completed the training requirements specified in paragraph (b), unless he or she is under the direct supervision of a certified drill instructor or camp commander.

(13)(a) The department may institute injunctive proceedings in a court of competent jurisdiction against a county or a municipality to:

1. Enforce the provisions of this chapter or a minimum standard, rule, regulation, or order issued or entered pursuant thereto; or

2. Terminate the operation of a facility operated pursuant to this section.

(b) The department may institute proceedings against a county or a municipality to terminate the operation of a facility when any of the following conditions exist:

1. The facility fails to take preventive or corrective measures in accordance with any order of the department.

2. The facility fails to abide by any final order of the department once it has become effective and binding.

3. The facility commits any violation of this section constituting an emergency requiring immediate action as provided in this chapter.

4. The facility has willfully and knowingly refused to comply with the screening requirement for personnel pursuant to s. *985.01* ~~39.001~~ or has refused to dismiss personnel found to be in noncompliance with the requirements for good moral character.

(c) Injunctive relief may include temporary and permanent injunctions.

Section 54. Section 39.058, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.31, Florida Statutes, and amended to read:

985.31 ~~39.058~~ Serious or habitual juvenile offender.—

(1) ASSESSMENT AND TREATMENT SERVICES.—Pursuant to the provisions of this chapter and the establishment of appropriate program guidelines and standards, contractual instruments, which shall include safeguards of all constitutional rights, shall be developed as follows:

(a) The department shall provide for:

1. The oversight of implementation of assessment and treatment approaches.

2. The identification and prequalification of appropriate individuals or not-for-profit organizations, including minority individuals or organizations when possible, to provide assessment and treatment services to serious or habitual delinquent children.

3. The monitoring and evaluation of assessment and treatment services for compliance with the provisions of this chapter and all applicable rules and guidelines pursuant thereto.

4. The development of an annual report on the performance of assessment and treatment to be presented to the Governor, the Attorney General, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General no later than January 1 of each year.

(b) Assessment shall generally comprise the first 30 days of treatment and be provided by the same provider as treatment, but assessment and treatment services may be provided by separate providers, where warranted. Providers shall be selected who have the capacity to

assess and treat the unique problems presented by children with different racial and ethnic backgrounds. The department shall retain contractual authority to reject any assessment or treatment provider for lack of qualification.

(2) SERIOUS OR HABITUAL JUVENILE OFFENDER PROGRAM.—

(a) There is created the serious or habitual juvenile offender program. The program shall combine 9 to 12 months of intensive secure residential treatment followed by a minimum of 9 months of aftercare. The components of the program shall include, but not be limited to:

1. Diagnostic evaluation services.
2. Appropriate treatment modalities, including substance abuse intervention, mental health services, and sexual behavior dysfunction interventions and gang-related behavior interventions.
3. Prevocational and vocational services.
4. Job training, job placement, and employability-skills training.
5. Case management services.
6. Educational services, including special education and pre-GED literacy.
7. Self-sufficiency planning.
8. Independent living skills.
9. Parenting skills.
10. Recreational and leisure time activities.
11. Community involvement opportunities commencing, where appropriate, with the direct and timely payment of restitution to the victim.
12. Intensive aftercare.
13. Graduated reentry into the community.
14. A diversity of forms of individual and family treatment appropriate to and consistent with the child's needs.
15. Consistent and clear consequences for misconduct.

(b) The department is authorized to contract with private companies to provide some or all of the components indicated in paragraph (a).

(c) The department shall involve local law enforcement agencies, the judiciary, school board personnel, the office of the state attorney, the office of the public defender, and community service agencies interested in or currently working with juveniles, in planning and developing this program.

(d) The department is authorized to accept funds or in-kind contributions from public or private sources to be used for the purposes of this section.

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(a) Assessment and treatment shall be conducted by treatment professionals with expertise in specific treatment procedures, which professionals shall exercise all professional judgment independently of the department.

(b) Treatment provided to children in designated facilities shall be suited to the assessed needs of each individual child and shall be administered safely and humanely, with respect for human dignity.

(c) The department may promulgate rules for the implementation and operation of programs and facilities for serious or habitual juvenile offenders.

(d) Any provider who acts in good faith is immune from civil or criminal liability for his or her actions in connection with the assessment, treatment, or transportation of a serious or habitual juvenile offender under the provisions of this chapter.

(e) After a child has been adjudicated delinquent pursuant to s. *985.228* ~~39.053(3)~~, the court shall determine whether the child meets the criteria for a serious or habitual juvenile offender pursuant to s. *985.03(47)* ~~39.01(62)~~. If the court determines that the child does not meet such criteria, the provisions of s. *985.231(1)* ~~39.054~~ shall apply.

(f) After a child has been transferred for criminal prosecution, a circuit court judge may direct an intake counselor or case manager to consult with designated staff from an appropriate serious or habitual juvenile offender program for the purpose of making recommendations to the court regarding the child's placement in such program.

(g) Recommendations as to a child's placement in a serious or habitual juvenile offender program shall be presented to the court within 72 hours after the adjudication or conviction, and may be based on a preliminary screening of the child at appropriate sites, considering the child's location while court action is pending, which may include the nearest regional detention center or facility or jail.

(h) Based on the recommendations of the multidisciplinary assessment, the intake counselor or case manager shall make the following recommendations to the court:

1. For each child who has not been transferred for criminal prosecution, the intake counselor or case manager shall recommend whether placement in such program is appropriate and needed.

2. For each child who has been transferred for criminal prosecution, the intake counselor or case manager shall recommend whether the most appropriate placement for the child is a juvenile justice system program, including a serious or habitual juvenile offender program or facility, or placement in the adult correctional system.

If treatment provided by a serious or habitual juvenile offender program or facility is determined to be appropriate and needed and placement is available, the intake counselor or case manager and the court shall identify the appropriate serious or habitual juvenile offender program or facility best suited to the needs of the child.

(i) The treatment and placement recommendations shall be submitted to the court for further action pursuant to this paragraph:

1. If it is recommended that placement in a serious or habitual juvenile offender program or facility is inappropriate, the court shall make an alternative disposition pursuant to s. *985.309* ~~39.057~~ or other alternative sentencing as applicable, utilizing the recommendation as a guide.

2. If it is recommended that placement in a serious or habitual juvenile offender program or facility is appropriate, the court may commit the child to the department for placement in the restrictiveness level designated for serious or habitual delinquent children programs.

(j) The following provisions shall apply to children in serious or habitual juvenile offender programs and facilities:

1. A child shall begin participation in the reentry component of the program based upon a determination made by the treatment provider and approved by the department.

2. A child shall begin participation in the community supervision component of aftercare based upon a determination made by the treatment provider and approved by the department. The treatment provider shall give written notice of the determination to the circuit court having jurisdiction over the child. If the court does not respond with a written objection within 10 days, the child shall begin the aftercare component.

3. A child shall be discharged from the program based upon a determination made by the treatment provider with the approval of the department.

4. In situations where the department does not agree with the decision of the treatment provider, a reassessment shall be performed, and the department shall utilize the reassessment determination to resolve the disagreement and make a final decision.

(k) Any commitment of a child to the department for placement in a serious or habitual juvenile offender program or facility shall be for an indeterminate period of time, but the time shall not exceed the maximum term of imprisonment which an adult may serve for the same offense. Notwithstanding the provisions of ss. ~~39.054(4) and~~ 743.07 *and 985.231(1)(d)*, a serious or habitual juvenile offender shall not be held under commitment from a court pursuant to this section, s. *985.231* ~~39.054~~, or s. *985.233* ~~39.059~~ after becoming 21 years of age. This provision shall apply only for the purpose of completing the serious or habitual juvenile offender program pursuant to this chapter and shall be used solely for the purpose of treatment.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of serious or habitual juvenile offenders and for the assessment, which assessment shall include the criteria under s. *985.03(47)* ~~39.01(62)~~ and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.
2. Proclivity toward violence.
3. Tendency toward gang involvement.
4. Substance abuse or addiction and the level thereof.
5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.
6. Number and type of previous adjudications, findings of guilt, and convictions.
7. Potential for rehabilitation.

(b) The department shall contract with multiple individuals or not-for-profit organizations to perform the assessments and treatment, and shall ensure that the staff of each provider are appropriately trained.

(c) Assessment and treatment providers shall have a written procedure developed, in consultation with licensed treatment professionals, establishing conditions under which a child's blood and urine samples will be tested for substance abuse indications. It is not unlawful for the person receiving the test results to divulge the test results to the relevant facility staff and department personnel. However, such information is exempt from the provisions of ss. 119.01 and 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d) Serologic blood test and urinalysis results obtained pursuant to paragraph (c) are confidential, except that they may be shared with employees or officers of the department, the court, and any assessment or treatment provider and designated facility treating the child. No person to whom the results of a test have been disclosed under this section may disclose the test results to another person not authorized under this section.

(e) The results of any serologic blood or urine test on a serious or habitual juvenile offender shall become a part of that child's permanent medical file. Upon transfer of the child to any other designated treatment facility, such file shall be transferred in an envelope marked confidential. The results of any test designed to identify the human immunodeficiency virus, or its antigen or antibody, shall be accessible only to persons designated by rule of the department. The provisions of such rule shall be consistent with the guidelines established by the Centers for Disease Control.

(f) A record of the assessment and treatment of each serious or habitual juvenile offender shall be maintained by the provider, which shall include data pertaining to the child's treatment and such other information as may be required under rules of the department. Unless waived by express and informed consent by the child or the guardian or, if the child is deceased, by the child's personal representative or by the person who stands next in line of intestate succession, the privileged and confidential status of the clinical assessment and treatment record shall not be lost by either authorized or unauthorized disclosure to any person, organization, or agency.

(g) The assessment and treatment record shall not be a public record, and no part of it shall be released, except that:

1. The record shall be released to such persons and agencies as are designated by the child or the guardian.

2. The record shall be released to persons authorized by order of court, excluding matters privileged by other provisions of law.

3. The record or any part thereof shall be disclosed to a qualified researcher, as defined by rule; a staff member of the designated treatment facility; or an employee of the department when the administrator of the facility or the Secretary of Juvenile Justice deems it necessary for treatment of the child, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

4. Information from the assessment and treatment record may be used for statistical and research purposes if the information is abstracted in such a way as to protect the identity of individuals.

(h) Notwithstanding other provisions of this section, the department may request, receive, and provide assessment and treatment information to facilitate treatment, rehabilitation, and continuity of care of any serious or habitual juvenile offender from any of the following:

1. The Social Security Administration and the United States Department of Veterans Affairs.

2. Law enforcement agencies, state attorneys, defense attorneys, and judges in regard to the child's status.

3. Personnel in any facility in which the child may be placed.

4. Community agencies and others expected to provide services to the child upon his or her return to the community.

(i) Any law enforcement agency, designated treatment facility, governmental or community agency, or other entity that receives information pursuant to this section shall maintain such information as a nonpublic record as otherwise provided herein.

(j) Any agency, not-for-profit organization, or treatment professional who acts in good faith in releasing information pursuant to this subsection shall not be subject to civil or criminal liability for such release.

(k) Assessment and treatment records are confidential as described in this paragraph and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The department shall have full access to the assessment and treatment records to ensure coordination of services to the child.

2. The principles of confidentiality of records as provided in s. *985.04* ~~39.045~~ shall apply to the assessment and treatment records of serious or habitual juvenile offenders.

(l) For purposes of effective administration, accurate tracking and recordkeeping, and optimal treatment decisions, each assessment and treatment provider shall maintain a central identification file on the serious or habitual juvenile offenders it treats.

(m) The file of each serious or habitual juvenile offender shall contain, but is not limited to, pertinent children-in-need-of-services and delinquency record information maintained by the department; pertinent school records information on behavior, attendance, and achievement; and pertinent information on delinquency or children in need of services maintained by law enforcement agencies and the state attorney.

(n) All providers under this section shall, as part of their contractual duties, collect, maintain, and report to the department all information necessary to comply with mandatory reporting pursuant to the promulgation of rules by the department for the implementation of serious or habitual juvenile offender programs and the monitoring and evaluation thereof.

(o) The department is responsible for the development and maintenance of a statewide automated tracking system for serious or habitual juvenile offenders.

(5) DESIGNATED TREATMENT FACILITIES.—

(a) Designated facilities shall be sited and constructed by the department, directly or by contract, pursuant to departmental rules, to ensure that facility design is compatible with treatment. The department is authorized to contract for the construction of the facilities and may also lease facilities. The number of beds per facility shall not exceed 25. An assessment of need for additional facilities shall be conducted prior to the siting or construction of more than one facility in any judicial circuit.

(b) Designated facilities for serious or habitual juvenile offenders shall be separate and secure facilities established under the authority of the department for the treatment of such children.

(c) Security for designated facilities for serious or habitual juvenile offenders shall be determined by the department. The department is authorized to contract for the provision of security.

(d) With respect to the treatment of serious or habitual juvenile offenders under this section, designated facilities shall be immune from liability for civil damages except in instances when the failure to act in

good faith results in serious injury or death, in which case liability shall be governed by s. 768.28.

(e) Minimum standards and requirements for designated treatment facilities shall be contractually prescribed pursuant to subsection (1).

Section 55. Section 39.0582, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.311, Florida Statutes, and amended to read:

985.311 ~~39.0582~~ Intensive residential treatment program for offenders less than 13 years of age.—

(1) ASSESSMENT AND TREATMENT SERVICES.—Pursuant to the provisions of this chapter and the establishment of appropriate program guidelines and standards, contractual instruments, which shall include safeguards of all constitutional rights, shall be developed for intensive residential treatment programs for offenders less than 13 years of age as follows:

(a) The department shall provide for:

1. The oversight of implementation of assessment and treatment approaches.

2. The identification and prequalification of appropriate individuals or not-for-profit organizations, including minority individuals or organizations when possible, to provide assessment and treatment services to intensive offenders less than 13 years of age.

3. The monitoring and evaluation of assessment and treatment services for compliance with the provisions of this chapter and all applicable rules and guidelines pursuant thereto.

4. The development of an annual report on the performance of assessment and treatment to be presented to the Governor, the Attorney General, the President of the Senate, the Speaker of the House of Representatives, and the Auditor General no later than January 1 of each year.

(b) Assessment shall generally comprise the first 30 days of treatment and be provided by the same provider as treatment, but assessment and treatment services may be provided by separate providers, where warranted. Providers shall be selected who have the capacity to assess and treat the unique problems presented by children with different racial and ethnic backgrounds. The department shall retain contractual authority to reject any assessment or treatment provider for lack of qualification.

(2) INTENSIVE RESIDENTIAL TREATMENT PROGRAM FOR OFFENDERS LESS THAN 13 YEARS OF AGE.—

(a) There is created the intensive residential treatment program for offenders less than 13 years of age. The program shall combine 9 to 12 months of intensive secure residential treatment followed by a minimum of 9 months of aftercare. The components of the program shall include, but not be limited to:

1. Diagnostic evaluation services.
2. Appropriate treatment modalities, including substance abuse intervention, mental health services, and sexual behavior dysfunction interventions and gang-related behavior interventions.
3. Life skills.
4. Values clarification.
5. Case management services.
6. Educational services, including special and remedial education.
7. Recreational and leisure time activities.
8. Community involvement opportunities commencing, where appropriate, with the direct and timely payment of restitution to the victim.
9. Intensive aftercare.
10. Graduated reentry into the community.
11. A diversity of forms of individual and family treatment appropriate to and consistent with the child's needs.
12. Consistent and clear consequences for misconduct.

(b) The department is authorized to contract with private companies to provide some or all of the components indicated in paragraph (a).

(c) The department shall involve local law enforcement agencies, the judiciary, school board personnel, the office of the state attorney, the office of the public defender, and community service agencies interested in or currently working with juveniles, in planning and developing this program.

(d) The department is authorized to accept funds or in-kind contributions from public or private sources to be used for the purposes of this section.

(e) The department shall establish quality assurance standards to ensure the quality and substance of mental health services provided to children with mental, nervous, or emotional disorders who may be committed to intensive residential treatment programs. The quality assurance standards shall address the possession of credentials by the mental health service providers.

(3) PRINCIPLES AND RECOMMENDATIONS OF ASSESSMENT AND TREATMENT.—

(a) Assessment and treatment shall be conducted by treatment professionals with expertise in specific treatment procedures, which professionals shall exercise all professional judgment independently of the department.

(b) Treatment provided to children in designated facilities shall be suited to the assessed needs of each individual child and shall be administered safely and humanely, with respect for human dignity.

(c) The department may promulgate rules for the implementation and operation of programs and facilities for children who are eligible for an intensive residential treatment program for offenders less than 13 years of age. The department must involve the following groups in the promulgation of rules for services for this population: local law enforcement agencies, the judiciary, school board personnel, the office of the state attorney, the office of the public defender, and community service agencies interested in or currently working with juveniles. When promulgating these rules, the department must consider program principles, components, standards, procedures for intake, diagnostic and assessment activities, treatment modalities, and case management.

(d) Any provider who acts in good faith is immune from civil or criminal liability for his or her actions in connection with the assessment, treatment, or transportation of an intensive offender less than 13 years of age under the provisions of this chapter.

(e) After a child has been adjudicated delinquent pursuant to s. *985.228(5)* ~~39.053(3)~~, the court shall determine whether the child is eligible for an intensive residential treatment program for offenders less than 13 years of age pursuant to s. *985.03(7)* ~~39.01(11)~~. If the court determines that the child does not meet the criteria, the provisions of s. *985.231(1)* ~~39.054~~ shall apply.

(f) After a child has been transferred for criminal prosecution, a circuit court judge may direct an intake counselor or case manager to consult with designated staff from an appropriate intensive residential treatment program for offenders less than 13 years of age for the purpose of making recommendations to the court regarding the child's placement in such program.

(g) Recommendations as to a child's placement in an intensive residential treatment program for offenders less than 13 years of age may be based on a preliminary screening of the child at appropriate sites, considering the child's location while court action is pending, which may include the nearest regional detention center or facility or jail.

(h) Based on the recommendations of the multidisciplinary assessment, the intake counselor or case manager shall make the following recommendations to the court:

1. For each child who has not been transferred for criminal prosecution, the intake counselor or case manager shall recommend whether placement in such program is appropriate and needed.

2. For each child who has been transferred for criminal prosecution, the intake counselor or case manager shall recommend whether the most appropriate placement for the child is a juvenile justice system program, including a child who is eligible for an intensive residential treatment program for offenders less than 13 years of age, or placement in the adult correctional system.

If treatment provided by an intensive residential treatment program for offenders less than 13 years of age is determined to be appropriate and needed and placement is available, the intake counselor or case manager and the court shall identify the appropriate intensive residential treatment program for offenders less than 13 years of age best suited to the needs of the child.

(i) The treatment and placement recommendations shall be submitted to the court for further action pursuant to this paragraph:

1. If it is recommended that placement in an intensive residential treatment program for offenders less than 13 years of age is inappropriate, the court shall make an alternative disposition pursuant to s. *985.309* ~~39.057~~ or other alternative sentencing as applicable, utilizing the recommendation as a guide.

2. If it is recommended that placement in an intensive residential treatment program for offenders less than 13 years of age is appropriate, the court may commit the child to the department for placement in the restrictiveness level designated for intensive residential treatment program for offenders less than 13 years of age.

(j) The following provisions shall apply to children in an intensive residential treatment program for offenders less than 13 years of age:

1. A child shall begin participation in the reentry component of the program based upon a determination made by the treatment provider and approved by the department.

2. A child shall begin participation in the community supervision component of aftercare based upon a determination made by the treatment provider and approved by the department. The treatment provider shall give written notice of the determination to the circuit court having jurisdiction over the child. If the court does not respond with a written objection within 10 days, the child shall begin the aftercare component.

3. A child shall be discharged from the program based upon a determination made by the treatment provider with the approval of the department.

4. In situations where the department does not agree with the decision of the treatment provider, a reassessment shall be performed, and the department shall utilize the reassessment determination to resolve the disagreement and make a final decision.

(k) Any commitment of a child to the department for placement in an intensive residential treatment program for offenders less than 13 years of age shall be for an indeterminate period of time, but the time shall not exceed the maximum term of imprisonment which an adult may serve for the same offense. Any child who has not completed the residential portion of the intensive residential treatment program for offenders less than 13 years of age by his or her fourteenth birthday may be transferred to another program for committed delinquent offenders.

(4) ASSESSMENTS, TESTING, RECORDS, AND INFORMATION.—

(a) Pursuant to the provisions of this section, the department shall implement the comprehensive assessment instrument for the treatment needs of children who are eligible for an intensive residential treatment program for offenders less than 13 years of age and for the assessment, which assessment shall include the criteria under s. *985.03(7)* ~~39.01(11)~~ and shall also include, but not be limited to, evaluation of the child's:

1. Amenability to treatment.
2. Proclivity toward violence.
3. Tendency toward gang involvement.
4. Substance abuse or addiction and the level thereof.
5. History of being a victim of child abuse or sexual abuse, or indication of sexual behavior dysfunction.
6. Number and type of previous adjudications, findings of guilt, and convictions.
7. Potential for rehabilitation.

(b) The department shall contract with multiple individuals or not-for-profit organizations to perform the assessments and treatment, and shall ensure that the staff of each provider are appropriately trained.

(c) Assessment and treatment providers shall have a written procedure developed, in consultation with licensed treatment professionals, establishing conditions under which a child's blood and urine samples will be tested for substance abuse indications. It is not unlawful for the person receiving the test results to divulge the test results to the relevant facility staff and department personnel. However, such information is exempt from the provisions of ss. 119.01 and 119.07(1) and s. 24(a), Art. I of the State Constitution.

(d) Serologic blood test and urinalysis results obtained pursuant to paragraph (c) are confidential, except that they may be shared with employees or officers of the department, the court, and any assessment or treatment provider and designated facility treating the child. No person to whom the results of a test have been disclosed under this section may disclose the test results to another person not authorized under this section.

(e) The results of any serologic blood or urine test on a child who is eligible for an intensive residential treatment program for offenders less than 13 years of age shall become a part of that child's permanent medical file. Upon transfer of the child to any other designated treatment facility, such file shall be transferred in an envelope marked confidential. The results of any test designed to identify the human immunodeficiency virus, or its antigen or antibody, shall be accessible only to persons designated by rule of the department. The provisions of such rule shall be consistent with the guidelines established by the Centers for Disease Control.

(f) A record of the assessment and treatment of each child who is eligible for an intensive residential treatment program for offenders less than 13 years of age shall be maintained by the provider, which shall include data pertaining to the child's treatment and such other information as may be required under rules of the department. Unless waived by express and informed consent by the child or the guardian or, if the child is deceased, by the child's personal representative or by the person who stands next in line of intestate succession, the privileged and confidential status of the clinical assessment and treatment record shall not be lost by either authorized or unauthorized disclosure to any person, organization, or agency.

(g) The assessment and treatment record shall not be a public record, and no part of it shall be released, except that:

1. The record shall be released to such persons and agencies as are designated by the child or the guardian.

2. The record shall be released to persons authorized by order of court, excluding matters privileged by other provisions of law.

3. The record or any part thereof shall be disclosed to a qualified researcher, as defined by rule; a staff member of the designated treatment facility; or an employee of the department when the administrator of the facility or the Secretary of Juvenile Justice deems it necessary for treatment of the child, maintenance of adequate records, compilation of treatment data, or evaluation of programs.

4. Information from the assessment and treatment record may be used for statistical and research purposes if the information is abstracted in such a way as to protect the identity of individuals.

(h) Notwithstanding other provisions of this section, the department may request, receive, and provide assessment and treatment information to facilitate treatment, rehabilitation, and continuity of care of any child who is eligible for an intensive residential treatment program for offenders less than 13 years of age from any of the following:

1. The Social Security Administration and the United States Department of Veterans Affairs.

2. Law enforcement agencies, state attorneys, defense attorneys, and judges in regard to the child's status.

3. Personnel in any facility in which the child may be placed.

4. Community agencies and others expected to provide services to the child upon his or her return to the community.

(i) Any law enforcement agency, designated treatment facility, governmental or community agency, or other entity that receives informa-

tion pursuant to this section shall maintain such information as a nonpublic record as otherwise provided herein.

(j) Any agency, not-for-profit organization, or treatment professional who acts in good faith in releasing information pursuant to this subsection shall not be subject to civil or criminal liability for such release.

(k) Assessment and treatment records are confidential as described in this paragraph and exempt from the provisions of s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

1. The department shall have full access to the assessment and treatment records to ensure coordination of services to the child.

2. The principles of confidentiality of records as provided in s. *985.05* ~~39.045~~ shall apply to the assessment and treatment records of children who are eligible for an intensive residential treatment program for offenders less than 13 years of age.

(l) For purposes of effective administration, accurate tracking and recordkeeping, and optimal treatment decisions, each assessment and treatment provider shall maintain a central identification file on each child it treats in the intensive residential treatment program for offenders less than 13 years of age.

(m) The file of each child treated in the intensive residential treatment program for offenders less than 13 years of age shall contain, but is not limited to, pertinent children-in-need-of-services and delinquency record information maintained by the department; pertinent school records information on behavior, attendance, and achievement; and pertinent information on delinquency or children in need of services maintained by law enforcement agencies and the state attorney.

(n) All providers under this section shall, as part of their contractual duties, collect, maintain, and report to the department all information necessary to comply with mandatory reporting pursuant to the promulgation of rules by the department for the implementation of intensive residential treatment programs for offenders less than 13 years of age and the monitoring and evaluation thereof.

(o) The department is responsible for the development and maintenance of a statewide automated tracking system for children who are treated in an intensive residential treatment program for offenders less than 13 years of age.

(5) DESIGNATED TREATMENT FACILITIES.—

(a) Designated facilities shall be sited and constructed by the department, directly or by contract, pursuant to departmental rules, to ensure that facility design is compatible with treatment. The department is authorized to contract for the construction of the facilities and may also lease facilities. The number of beds per facility shall not exceed 25. An assessment of need for additional facilities shall be conducted prior to the siting or construction of more than one facility in any judicial circuit.

(b) Designated facilities for an intensive residential treatment program for offenders less than 13 years of age shall be separate and secure facilities established under the authority of the department for the treatment of such children.

(c) Security for designated facilities for children who are eligible for an intensive residential treatment program for offenders less than 13 years of age shall be determined by the department. The department is authorized to contract for the provision of security.

(d) With respect to the treatment of children who are eligible for an intensive residential treatment program for offenders less than 13 years of age under this section, designated facilities shall be immune from liability for civil damages except in instances when the failure to act in good faith results in serious injury or death, in which case liability shall be governed by s. 768.28.

(e) Minimum standards and requirements for designated treatment facilities shall be contractually prescribed pursuant to subsection (1).

Section 56. Section 39.0583, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.312, Florida Statutes, and amended to read:

985.312 ~~39.0583~~ Intensive residential treatment programs for offenders less than 13 years of age; prerequisite for commitment.—No child who is eligible for commitment to an intensive residential treatment program for offenders less than 13 years of age as established in s. *985.03(7)* ~~39.01(11)~~, may be committed to any intensive residential treatment program for offenders less than 13 years of age as established in s. *985.311* ~~39.0582~~, unless such program has been established by the department through existing resources or specific appropriation, for such program.

Section 57. Section 39.0581, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 985.313, Florida Statutes.

Section 58. Section 39.0584, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.314, Florida Statutes, and amended to read:

985.314 ~~39.0584~~ Commitment programs for juvenile felony offenders.—

(1) Notwithstanding any other law and regardless of the child's age, a child who is adjudicated delinquent, or for whom adjudication is withheld, for an act that would be a felony if committed by an adult, shall be committed to:

(a) A boot camp program under s. *985.309* ~~39.057~~ if the child has participated in an early delinquency intervention program as provided in s. *985.305* ~~39.055~~.

(b) A program for serious or habitual juvenile offenders under s. *985.31* ~~39.058~~ or an intensive residential treatment program for offenders less than 13 years of age under s. *985.311* ~~39.0582~~, if the child has participated in an early delinquency intervention program and has completed a boot camp program.

(c) A maximum-risk residential program, if the child has participated in an early delinquency intervention program, has completed a boot camp program, and has completed a program for serious or habitual juvenile offenders or an intensive residential treatment program for offenders less than 13 years of age. The commitment of a child to a maximum-risk residential program must be for an indeterminate period, but may not exceed the maximum term of imprisonment that an adult may serve for the same offense.

(2) In committing a child to the appropriate program, the court may consider an equivalent program of similar intensity as being comparable to a program required under subsection (1).

Section 59. Section 39.05841, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.315, Florida Statutes, and amended to read:

985.315 ~~39.05841 Findings of fact;~~ Vocational/work training programs.—

(1)*(a)* It is the finding of the Legislature that vocational work programs of the Department of Juvenile Justice are uniquely different from other programs operated or conducted by other departments in that it is essential to the state that the work programs provide juveniles with useful activities that can lead to meaningful employment after release in order to assist in reducing the return of juveniles to the system.

(b)~~(2)~~ It is further the finding of the Legislature that the mission of a juvenile vocational work program is, in order of priority:

1.~~(a)~~ To provide a joint effort between the department, the juvenile work programs, and other vocational training programs to reinforce relevant education, training, and postrelease job placement, and help reduce recommitment.

2.~~(b)~~ To serve the security goals of the state through the reduction of idleness of juveniles and the provision of an incentive for good behavior in residential commitment facilities.

(c)~~(3)~~ It is further the finding of the Legislature that a program which duplicates as closely as possible free-work production and service operations in order to aid juveniles in adjustment after release and to prepare juveniles for gainful employment is in the best interest of the state, juveniles, and the general public.

(2)(a) The department may require juveniles placed in a high-risk residential, maximum-risk residential, or a serious/habitual offender program to participate in a vocational work program. All policies developed by the department relating to this requirement must be consistent with applicable federal, state, and local labor laws and standards, including all laws relating to child labor.

(b) Nothing in this subsection is intended to restore, in whole or in part, the civil rights of any juvenile. No juvenile compensated under this subsection shall be considered as an employee of the state or the department, nor shall such juvenile come within any other provision of the Workers' Compensation Law.

(3) In adopting or modifying master plans for juvenile work programs, and in the administration of the Department of Juvenile Justice, it shall be the objective of the department to develop:

(a) Attitudes favorable to work, the work situation, and a law-abiding life in each juvenile employed in the juvenile work program.

(b) Training opportunities that are reasonably broad, but which develop specific work skills.

(c) Programs that motivate juveniles to use their abilities. Juveniles who do not adjust to these programs shall be reassigned.

(d) Training programs that will be of mutual benefit to all governmental jurisdictions of the state by reducing the costs of government to the taxpayers and which integrate all instructional programs into a unified curriculum suitable for all juveniles, but taking account of the different abilities of each juvenile.

(e) A logical sequence of vocational training, employment by the juvenile vocational work programs, and postrelease job placement for juveniles participating in juvenile work programs.

(4)(a) The Department of Juvenile Justice shall establish guidelines for the operation of juvenile vocational work programs, which shall include the following procedures:

1. The education, work experience, emotional and mental abilities, and physical capabilities of the juvenile and the duration of the term of placement imposed on the juvenile are to be analyzed before assignment of the inmate into the various processes best suited for training.

2. When feasible, the department shall attempt to obtain training credit for a juvenile seeking apprenticeship status or a high school diploma or its equivalent.

3. The juvenile may begin in a general work skills program and progress to a specific work skills training program, depending upon the ability, desire, and work record of the juvenile.

4. Modernization and upgrading of equipment and facilities should include greater automation and improved production techniques to expose juveniles to the latest technological procedures to facilitate their adjustment to real work situations.

(b) Evaluations of juvenile work programs shall be conducted according to the following guidelines:

1. Systematic evaluations and quality assurance monitoring shall be implemented, in accordance with ss. 985.401(4) and 985.412(1), to determine whether the juvenile vocational work programs are related to successful postrelease adjustments.

2. Operations and policies of work programs shall be reevaluated to determine if they are consistent with their primary objectives.

(c) The department shall seek the advice of private labor and management to:

1. Assist its work programs in the development of statewide policies aimed at innovation and organizational change.

2. Obtain technical and practical assistance, information, and guidance.

3. Encourage the cooperation and involvement of the private sector.

(5)(a) The Department of Juvenile Justice may adopt and put into effect an agricultural and industrial production and marketing program to provide training facilities for persons placed in serious/habitual offender, high-risk residential, and maximum-risk residential programs and facilities under the control and supervision of the department. The emphasis of this program shall be to provide juveniles with useful work experience and appropriate job skills that will facilitate their reentry into society and provide an economic benefit to the public and the department through effective utilization of juveniles.

(b) The department is authorized to contract with the private sector for substantial involvement in a juvenile industry program which includes the operation of a direct private sector business within a juvenile facility and the hiring of juvenile workers. The purposes and objectives of this program shall be to:

1. Increase benefits to the general public by reimbursement to the state for a portion of the costs of juvenile residential care.

2. Provide purposeful work for juveniles as a means of reducing tensions caused by confinement.

3. Increase job skills.

4. Provide additional opportunities for rehabilitation of juveniles who are otherwise ineligible to work outside the facilities, such as maximum security juveniles.

5. Develop and establish new models for juvenile facility-based businesses which create jobs approximating conditions of private sector employment.

6. Draw upon the economic base of operations for disposition to the Crimes Compensation Trust Fund.

7. Substantially involve the private sector with its capital, management skills, and expertise in the design, development, and operation of businesses.

(c) Notwithstanding any other law to the contrary, including s. 440.15(9), private sector employers shall provide juveniles participating in juvenile work programs under paragraph (b) with workers' compensation coverage, and juveniles shall be entitled to the benefits of such coverage. Nothing in this subsection shall be construed to allow juveniles to participate in unemployment compensation benefits.

Section 60. Section 39.067, Florida Statutes, is transferred and renumbered as section 985.316, Florida Statutes.

Section 61. Section 39.003, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.401, Florida Statutes, and amended to read:

985.401 ~~39.003~~ Juvenile Justice Advisory Board.—

(1) The Juvenile Justice Advisory Board shall be composed of nine members. Members of the board shall have direct experience and a strong interest in juvenile justice issues. The authority to appoint the board is allocated as follows:

(a) Three members appointed by the Governor.
(b) Three members appointed by the President of the Senate.
(c) Three members appointed by the Speaker of the House of Representatives.

(2)(a) A full term shall be 3 years, and the term for each seat on the board commences on October 1 and expires on September 30, without regard to the date of appointment. Each appointing authority shall appoint a member to fill one of the three vacancies that occurs with the expiration of terms on September 30 of each year. A member is not eligible for appointment to more than two full, consecutive terms. A vacancy on the board shall be filled within 60 days after the date on which the vacancy occurs. The appointing authority that made the original appointment shall make the appointment to fill a vacancy that occurs for any reason other than the expiration of a term, and the appointment shall be for the remainder of the unexpired term.

(b) The board shall annually select a chairperson from among its members.

(c) The board shall meet at least once each quarter. A member may not authorize a designee to attend a meeting of the board in place of the member. A member who fails to attend two consecutive regularly scheduled meetings of the board, unless the member is excused by the chairperson, shall be deemed to have abandoned the position, and the position shall be declared vacant by the board.

(3)(a) The board members shall serve without compensation, but are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061.

(b) The board shall appoint an executive director and other personnel who are exempt from part II of chapter 110, relating to the Career Service System.

(c) The board is assigned, for the purpose of general oversight, to the Joint Legislative Auditing Committee. The board shall develop a budget pursuant to procedures established by the Joint Legislative Auditing Committee.

(d) The composition of the board shall be broadly reflective of the public and shall include minorities and women. The term "minorities" as used in this paragraph means a member of a socially or economically disadvantaged group that includes African Americans, Hispanics, and American Indians. Members of the board shall have direct experience and a strong interest in juvenile justice issues.

(4) The board shall:

(a) Review and recommend programmatic and fiscal policies governing the operation of programs, services, and facilities for which the Department of Juvenile Justice is responsible.

(b) Monitor the development and implementation of long-range juvenile justice policies, including prevention, early intervention, diversion, adjudication, and commitment.

(c) Monitor all activities of the executive and judicial branch and their effectiveness in implementing policies pursuant to ~~parts II and IV of~~ this chapter.

(d) Establish and operate a comprehensive system to annually measure and report program outcome and effectiveness for each program operated by the Department of Juvenile Justice or operated by a provider under contract with the department. The board shall use its evaluation research to make advisory recommendations to the Legislature, the Governor, and the department concerning the effectiveness and future funding priorities of juvenile justice programs.

(e) Advise the President of the Senate, the Speaker of the House of Representatives, the Governor, and the department on matters relating to ~~parts II and IV of~~ this chapter.

(f) Serve as a clearinghouse to provide information and assistance to the district juvenile justice boards and county juvenile justice councils.

(g) Hold public hearings and inform the public of activities of the board and of the Department of Juvenile Justice, as appropriate.

(h) Monitor the delivery and use of services, programs, or facilities operated, funded, regulated, or licensed by the Department of Juvenile Justice for juvenile offenders or alleged juvenile offenders, and for prevention, diversion, or early intervention of delinquency, and to develop programs to educate the citizenry about such services, programs, and facilities and about the need and procedure for siting new facilities.

(i) Contract for consultants as necessary and appropriate. The board may apply for and receive grants for the purposes of conducting research and evaluation activities.

(j) Conduct such other activities as the board may determine are necessary and appropriate to monitor the effectiveness of the delivery of juvenile justice programs and services under ~~parts II and IV of~~ this chapter.

(k) The board shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Governor, and the secretary of the department not later than February 15 of each calendar year, summarizing the activities and reports of the board for the preceding year, and any recommendations of the board for the following year.

(5) Each state agency shall provide assistance when requested by the board. The board shall have access to all records, files, and reports that are material to its duties and that are in the custody of a school board, a law enforcement agency, a state attorney, a public defender, the court, the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, and the department.

Section 62. Section 39.085, Florida Statutes, is transferred and renumbered as section 985.402, Florida Statutes.

Section 63. Section 39.0572, Florida Statutes, is transferred and renumbered as section 985.403, Florida Statutes.

Section 64. Section 39.021, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.404, Florida Statutes, and amended to read:

985.404 ~~39.021~~ Administering the juvenile justice continuum.—

(1) The Department of Juvenile Justice shall plan, develop, and coordinate comprehensive services and programs statewide for the prevention, early intervention, control, and rehabilitative treatment of delinquent behavior.

(2) The department shall develop and implement an appropriate continuum of care that provides individualized, multidisciplinary assessments, objective evaluations of relative risks, and the matching of needs with placements for all children under its care, and that uses a system of case management to facilitate each child being appropriately assessed, provided with services, and placed in a program that meets the child's needs.

(3) The department shall develop or contract for diversified and innovative programs to provide rehabilitative treatment, including early intervention and prevention, diversion, comprehensive intake, case management, diagnostic and classification assessments, individual and family counseling, shelter care, diversified detention care emphasizing alternatives to secure detention, diversified community control, halfway houses, foster homes, community-based substance abuse treatment services, community-based mental health treatment services, community-based residential and nonresidential programs, environmental programs, and programs for serious or habitual juvenile offenders. Each program shall place particular emphasis on reintegration and aftercare for all children in the program.

(4) The department may transfer a child, when necessary to appropriately administer the child's commitment, from one facility or program to another facility or program operated, contracted, subcontracted, or designated by the department. The department shall notify the court that committed the child to the department, in writing, of its transfer of the child from a commitment facility or program to another facility or program of a higher or lower restrictiveness level. The court that committed the child may agree to the transfer or may set a hearing to review the transfer. If the court does not respond within 10 days after receipt of the notice, the transfer of the child shall be deemed granted.

(5) The department shall maintain continuing cooperation with the Department of Education, the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, the Department of Labor and Employment Security, and the Department of Corrections for the purpose of participating in agreements with respect to dropout prevention and the reduction of suspensions, expulsions, and truancy; increased access to and participation in GED, vocational, and alternative education programs; and employment training and placement assistance. The cooperative agreements between the departments shall include an interdepartmental plan to cooperate in accomplishing the reduction of inappropriate transfers of children into the adult criminal justice and correctional systems.

(6) The department may provide consulting services and technical assistance to courts, law enforcement agencies, and other state agencies, local governments, and public and private organizations, and may develop or assist in developing community interest and action programs relating to intervention against, diversion from, and prevention and treatment of, delinquent behavior.

(7) In view of the importance of the basic values of work, responsibility, and self-reliance to a child's return to his or her community, the department may pay a child a reasonable sum of money for work performed while employed in any of the department's work programs. The work programs shall be designed so that the work benefits the department or the state, their properties, or the child's community. Funds for payments shall be provided specifically for salaries pursuant to this subsection, and payments shall be made pursuant to a plan approved or rules adopted by the department.

(8) The department shall administer programs and services for children in need of services and families in need of services and shall coordinate its efforts with those of the Federal Government, state agencies, county and municipal governments, private agencies, and child advocacy groups. The department shall establish standards for, providing technical assistance to, and exercising the requisite supervision of, services and programs for children in all state-supported facilities and programs.

(9) The department shall ensure that personnel responsible for the care, supervision, and individualized treatment of children are appropriately apprised of the requirements of this part and trained in the specialized areas required to comply with standards established by rule.

~~(10)(a) It is the intent of the Legislature to:~~

~~1. Ensure that information be provided to decisionmakers so that resources are allocated to programs of the department which achieve desired performance levels.~~

~~2. Provide information about the cost of such programs and their differential effectiveness so that the quality of such programs can be compared and improvements made continually.~~

~~3. Provide information to aid in developing related policy issues and concerns.~~

~~4. Provide information to the public about the effectiveness of such programs in meeting established goals and objectives.~~

~~5. Provide a basis for a system of accountability so that each client is afforded the best programs to meet his or her needs.~~

~~6. Improve service delivery to clients.~~

~~7. Modify or eliminate activities that are not effective.~~

~~(b) As used in this subsection, the term:~~

~~1. "Client" means any person who is being provided treatment or services by the department or by a provider under contract with the department.~~

~~2. "Program component" means an aggregation of generally related objectives which, because of their special character, related workload, and interrelated output, can logically be considered an entity for purposes of organization, management, accounting, reporting, and budgeting.~~

~~3. "Program effectiveness" means the ability of the program to achieve desired client outcomes, goals, and objectives.~~

~~(c) The department shall:~~

~~1. Establish a comprehensive quality assurance system for each program operated by the department or operated by a provider under contract with the department. Each contract entered into by the department must provide for quality assurance.~~

~~2. Provide operational definitions of and criteria for quality assurance for each specific program component.~~

~~3. Establish quality assurance goals and objectives for each specific program component.~~

~~4. Establish the information and specific data elements required for the quality assurance program.~~

~~5. Develop a quality assurance manual of specific, standardized terminology and procedures to be followed by each program.~~

~~6. Evaluate each program operated by a provider under a contract with the department and establish minimum thresholds for each program component. If a provider fails to meet the established minimum thresholds, such failure shall cause the department to cancel the provider's contract unless the provider achieves compliance with minimum thresholds within 6 months or unless there are documented extenuating circumstances. In addition, the department may not contract with the same provider for the canceled service for a period of 12 months.~~

~~The department shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and appropriations committees of each house of the Legislature, and the Governor, no later than February 1 of each year. The annual report must contain, at a minimum, for each specific program component: a comprehensive description of the population served by the program; a specific description of the services provided by the program; cost; a comparison of expenditures to federal and state funding; immediate and long-range concerns; and recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality. The department's inspector general shall ensure the reliability and validity of the information contained in the report.~~

~~(11) The department shall collect and analyze available statistical data for the purpose of ongoing evaluation of all programs. The department shall provide the Legislature with necessary information and reports to enable the Legislature to make informed decisions regarding the effectiveness of, and any needed changes in, services, programs, policies, and laws.~~

(10)~~(12)~~ The department shall annually collect and report cost data for every program operated or contracted by the department. The cost data shall conform to a format approved by the department and the Legislature. Uniform cost data shall be reported and collected for state-operated and contracted programs so that comparisons can be made among programs. The department shall ensure that there is accurate cost accounting for state-operated services including market-equivalent rent and other shared cost. The cost of the educational program provided to a residential facility shall be reported and included in the cost of a program. The department shall submit an annual cost report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and appropriations committees of each house of the Legislature, and the Governor, no later than February 1 of each year. Cost-benefit analysis for educational programs will be developed and implemented in collaboration with the Department of Education and will use current data sources whenever possible.

(11)~~(13)~~ The Department of Juvenile Justice in consultation with the Juvenile Justice Advisory Board and providers shall develop a cost-benefit model and apply the model to each commitment program. Program recommitment rates shall be a component of the model. The cost-benefit model shall compare program costs to benefits ~~to produce a cost-benefit ratio~~. A report ranking commitment programs based on cost-benefit ~~ratios~~ shall be submitted to the appropriate substantive and appropriations committees of each house of the Legislature, no later than December 31 of each year. It is the intent of the Legislature that continual development efforts take place to improve the validity and reliability of the cost-benefit model.

(12)~~(14)~~(a) The department shall operate a statewide, regionally administered system of detention services for children, in accordance with a comprehensive plan for the regional administration of all detention services in the state. The plan must provide for the maintenance of adequate availability of detention services for all counties. The plan must cover the department's 15 service districts, with each service district having a secure facility and nonsecure and home detention programs, and the plan may be altered or modified by the Department of Juvenile Justice as necessary.

(b) The department shall adopt rules prescribing standards and requirements with reference to:

1. The construction, equipping, maintenance, staffing, programming, and operation of detention facilities;

2. The treatment, training, and education of children confined in detention facilities;

3. The cleanliness and sanitation of detention facilities;

4. The number of children who may be housed in detention facilities per specified unit of floor space;

5. The quality, quantity, and supply of bedding furnished to children housed in detention facilities;

6. The quality, quantity, and diversity of food served in detention facilities and the manner in which it is served;

7. The furnishing of medical attention and health and comfort items in detention facilities; and

8. The disciplinary treatment administered in detention facilities.

(c) The rules must provide that the time spent by a child in a detention facility must be devoted to educational training and other types of self-motivation and development. The use of televisions, radios, and audioplayers shall be restricted to educational programming. However, the manager of a detention facility may allow noneducational programs to be used as a reward for good behavior. Exercise must be structured and calisthenic and aerobic in nature and may include weight lifting.

(d) Each programmatic, residential, and service contract or agreement entered into by the department must include a cooperation clause for purposes of complying with the department's quality assurance requirements, cost-accounting requirements, and the program outcome-evaluation requirements.

Section 65. Section 985.405, Florida Statutes, is created to read:

985.405 Rules for implementation.—The Department of Juvenile Justice shall adopt rules for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing this chapter. Such rules may not conflict with the Florida Rules of Juvenile Procedure. All rules and policies must conform to accepted standards of care and treatment.

Section 66. Section 39.024, Florida Statutes, is transferred and renumbered as section 985.406, Florida Statutes.

Section 67. Section 39.076, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 985.407, Florida Statutes.

Section 68. Section 39.075, Florida Statutes, is transferred and renumbered as section 985.408, Florida Statutes.

Section 69. Section 985.409, Florida Statutes, is created to read:

985.409 Participation of certain programs in the Florida Casualty Insurance Risk Management Trust Fund.—Pursuant to s. 284.30, the Division of Risk Management of the Department of Insurance is authorized to insure a private agency, individual, or corporation operating a state-owned training school under a contract to carry out the purposes and responsibilities of any program of the department. The coverage authorized herein shall be under the same general terms and conditions as the department is insured for its responsibilities under chapter 284.

Section 70. Section 39.074, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 985.41, Florida Statutes.

Section 71. Section 39.0215, Florida Statutes, is transferred, renumbered as section 985.411, Florida Statutes, and amended to read:

985.411 ~~39.0215~~ Administering county and municipal delinquency programs and facilities.—

(1) A county or municipal government may plan, develop, and coordinate services and programs for the control and rehabilitative treatment of delinquent behavior.

(2) A county or municipal government may develop or contract for innovative programs which provide rehabilitative treatment with particular emphasis on reintegration and aftercare for all children in the program, including halfway houses and community-based substance abuse treatment services, mental health treatment services, residential and nonresidential programs, environmental programs, and programs for serious or habitual juvenile offenders.

(3) A county or municipal government developing or contracting for a local program pursuant to this section is responsible for all costs associated with the establishment, operation, and maintenance of the program.

(4) In accordance with rules adopted by the department, a county or municipal government may transfer a child, when necessary to appropriately administer the child's commitment, from one facility or program operated, contracted, or subcontracted by the county or municipal government to another such facility or program.

(5) In view of the importance of the basic value of work, responsibility, and self-reliance to a child's rehabilitation within his or her community, a county or municipal government may provide work programs for delinquent children and may pay a child a reasonable sum of money for work performed while employed in any such work program. The work involved in such work programs must be designed to benefit the county or municipal government, the local community, or the state.

(6) A county or municipal government developing or contracting for a local program pursuant to this section is responsible for following state law and department rules relating to children's delinquency services and for the coordination of its efforts with those of the Federal Government, state agencies, private agencies, and child advocacy groups providing such services.

(7) The department is required to conduct quarterly inspections and evaluations of each county or municipal government juvenile delinquency program to determine whether the program complies with department rules for continued operation of the program. The department shall charge, and the county or municipal government shall pay, a monitoring fee equal to 0.5 percent of the direct operating costs of the program. The operation of a program which fails to pass the department's quarterly inspection and evaluation, if the deficiency causing the failure is material, must be terminated if such deficiency is not corrected by the next quarterly inspection.

(8) A county or municipal government providing a local program pursuant to this section shall ensure that personnel responsible for the care, supervision, and treatment of children in the program are apprised of the requirements of this section and appropriately trained to comply with department rules.

(9) A county or municipal government may establish and operate a juvenile detention facility in compliance with this section, if such facility is certified by the department.

(a) The department shall evaluate the county or municipal government detention facility to determine whether the facility complies with the department's rules prescribing the standards and requirements for the operation of a juvenile detention facility. The rules for certification of secure juvenile detention facilities operated by county or municipal governments must be consistent with the rules for certification of secure juvenile detention facilities operated by the department.

(b) The department is required to conduct quarterly inspections and evaluations of each county or municipal government juvenile detention facility to determine whether the facility complies with the department's rules for continued operation. The department shall charge, and the county or municipal government shall pay, a monitoring fee equal to 0.5 percent of the direct operating costs of the program. The operation of a facility which fails to pass the department's quarterly inspection and evaluation, if the deficiency causing the failure is material, must be terminated if such deficiency is not corrected by the next quarterly inspection.

(c) A county or municipal government operating a local juvenile detention facility pursuant to this section is responsible for all costs associated with the establishment, operation, and maintenance of the facility.

(d) Only children who reside within the jurisdictional boundaries of the county or municipal government operating the juvenile detention facility and children who are detained for committing an offense within the jurisdictional boundaries of the county or municipal government operating the facility may be held in the facility.

(e) A child may be placed in a county or municipal government juvenile detention facility only when:

1. The department's regional juvenile detention facility is filled to capacity;

2. The safety of the child dictates; or

3. Otherwise ordered by a court.

(f) A child who is placed in a county or municipal government juvenile detention facility must meet the detention criteria as established in this chapter.

(10)(a) The department may institute injunctive proceedings in a court of competent jurisdiction against a county or municipality to:

1. Enforce the provisions of this chapter or a minimum standard, rule, regulation, or order issued or entered pursuant thereto; or

2. Terminate the operation of a facility operated pursuant to this section.

(b) The department may institute proceedings against a county or municipality to terminate the operation of a facility when any of the following conditions exist:

1. The facility fails to take preventive or corrective measures in accordance with any order of the department.

2. The facility fails to abide by any final order of the department once it has become effective and binding.

3. The facility commits any violation of this section constituting an emergency requiring immediate action as provided in this chapter.

4. The facility has willfully and knowingly refused to comply with the screening requirement for personnel pursuant to s. *985.01* ~~39.001~~ or has refused to dismiss personnel found to be in noncompliance with the requirements for good moral character.

(c) Injunctive relief may include temporary and permanent injunctions.

Section 72. Section 985.412, Florida Statutes, is created to read:

985.412 Quality assurance.—

(1)(a) It is the intent of the Legislature to:

1. Ensure that information be provided to decisionmakers so that resources are allocated to programs of the department which achieve desired performance levels.

2. Provide information about the cost of such programs and their differential effectiveness so that the quality of such programs can be compared and improvements made continually.

3. Provide information to aid in developing related policy issues and concerns.

4. Provide information to the public about the effectiveness of such programs in meeting established goals and objectives.

5. Provide a basis for a system of accountability so that each client is afforded the best programs to meet his or her needs.

6. Improve service delivery to clients.

7. Modify or eliminate activities that are not effective.

(b) As used in this subsection, the term:

1. "Client" means any person who is being provided treatment or services by the department or by a provider under contract with the department.

2. "Program component" means an aggregation of generally related objectives which, because of their special character, related workload, and interrelated output, can logically be considered an entity for purposes of organization, management, accounting, reporting, and budgeting.

3. "Program effectiveness" means the ability of the program to achieve desired client outcomes, goals, and objectives.

(c) The department shall:

1. Establish a comprehensive quality assurance system for each program operated by the department or operated by a provider under contract with the department. Each contract entered into by the department must provide for quality assurance.

2. Provide operational definitions of and criteria for quality assurance for each specific program component.

3. Establish quality assurance goals and objectives for each specific program component.

4. Establish the information and specific data elements required for the quality assurance program.

5. Develop a quality assurance manual of specific, standardized terminology and procedures to be followed by each program.

6. Evaluate each program operated by a provider under a contract with the department and establish minimum thresholds for each program component. If a provider fails to meet the established minimum thresholds, such failure shall cause the department to cancel the provider's contract unless the provider achieves compliance with minimum thresholds within 6 months or unless there are documented extenuating circumstances. In addition, the department may not contract with the same provider for the canceled service for a period of 12 months.

The department shall submit an annual report to the President of the Senate, the Speaker of the House of Representatives, the Minority Leader of each house of the Legislature, the appropriate substantive and fiscal committees of each house of the Legislature, and the Governor, no later than February 1 of each year. The annual report must contain, at a minimum, for each specific program component: a comprehensive description of the population served by the program; a specific description of the services provided by the program; cost; a comparison of expenditures to federal and state funding; immediate and long-range concerns; and recommendations to maintain, expand, improve, modify, or eliminate each program component so that changes in services lead to enhancement in program quality. The department's inspector general shall ensure the reliability and validity of the information contained in the report.

(2) The department shall collect and analyze available statistical data for the purpose of ongoing evaluation of all programs. The department shall provide the Legislature with necessary information and reports to enable the Legislature to make informed decisions regarding the effectiveness of, and any needed changes in, services, programs, policies, and laws.

Section 73. Section 39.025, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 985.413, Florida Statutes, and amended to read:

985.413 ~~39.025~~ District juvenile justice boards.—

~~(1) SHORT TITLE.—This section may be cited as the "Community Juvenile Justice System Act."~~

(1)~~(2)~~ FINDINGS.—The Legislature finds that the number of children suspended or expelled from school is growing at an alarming rate; that juvenile crime is growing at an alarming rate; and that there is a direct relationship between the increasing number of children suspended or expelled from school and the rising crime rate. The Legislature further finds that the problem of school safety cannot be solved solely by suspending or expelling students, nor can the public be protected from juvenile crime merely by incarcerating juvenile delinquents, but that school and law enforcement authorities must work in cooperation with the Department of Juvenile Justice, the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, and other community representatives in a partnership that coordinates goals, strategies, resources, and evaluation of outcomes. The Legislature finds that where such partnerships exist the participants believe that such efforts are beneficial to the community and should be encouraged elsewhere.

(2)~~(3)~~ INTENT.—The Legislature recognizes that, despite the large investment of resources committed to address the needs of the criminal justice system of this state, the crime rate continues to increase, overcrowding the state's juvenile detention centers, jails, and prisons and placing the state in jeopardy of being unable to effectively manage these facilities. The economic cost of crime to the state continues to drain existing resources, and the cost to victims, both economic and psychological, is traumatic and tragic. The Legislature further recognizes that many adults in the criminal justice system were once delinquents in the juvenile justice system. The Legislature also recognizes that the most effective juvenile delinquency programs are programs that not only prevent children from entering the juvenile justice system, but also meet local community needs and have substantial community involvement and support. Therefore, it is the belief of the Legislature that one of the best investments of the scarce resources available to combat crime is in the prevention of delinquency, including prevention of criminal activity by youth gangs, with special emphasis on structured and well-supervised alternative education programs for children suspended or expelled from school. It is the intent of the Legislature to authorize and

encourage each of the counties of the state to establish a comprehensive juvenile justice plan based upon the input of representatives of every affected public or private entity, organization, or group. It is the further intent of the Legislature that representatives of school systems, the judiciary, law enforcement, and the Department of Juvenile Justice acquire a thorough understanding of the role and responsibility that each has in addressing juvenile crime in the community, that the county juvenile justice plan reflect an understanding of the legal and fiscal limits within which the plan must be implemented, and that willingness of the parties to cooperate and collaborate in implementing the plan be explicitly stated. It is the further intent of the Legislature that county juvenile justice plans form the basis of and be integrated into district juvenile justice plans and that the prevention and treatment resources at the county, district, and regional levels be utilized to the maximum extent possible to implement and further the goals of their respective plans.

~~(4) DEFINITIONS.—As used in this section:~~

~~(a) "Juvenile justice continuum" includes, but is not limited to, delinquency prevention programs and services designed for the purpose of preventing or reducing delinquent acts, including criminal activity by youth gangs, and juvenile arrests, as well as programs and services targeted at children who have committed delinquent acts, and children who have previously been committed to residential treatment programs for delinquents. The term includes children-in-need-of-services and families-in-need-of-services programs; aftercare and reentry services; substance abuse and mental health programs; educational and vocational programs; recreational programs; community services programs; community service work programs; and alternative dispute resolution programs serving children at risk of delinquency and their families, whether offered or delivered by state or local governmental entities, public or private for-profit or not-for-profit organizations, or religious or charitable organizations.~~

~~(b) "Department" means the Department of Juvenile Justice.~~

~~(c) "District" means a service district of the Department of Juvenile Justice.~~

~~(d) "District administrator" means the chief operating officer of each service district of the Department of Health and Rehabilitative Services as defined in s. 20.19(6), and, where appropriate, includes each district administrator whose service district falls within the boundaries of a judicial circuit.~~

~~(e) "Circuit" means any of the twenty judicial circuits as set forth in s. 26.021.~~

~~(f) "Health and human services board" means the body created in each service district of the Department of Health and Rehabilitative Services pursuant to the provisions of s. 20.19(7).~~

~~(g) "District juvenile justice manager" means the person appointed by the Secretary of Juvenile Justice, responsible for planning, managing, and evaluating all juvenile justice continuum programs and services delivered or funded by the Department of Juvenile Justice within the district.~~

~~(h) "Authority" means the Florida Motor Vehicle Theft Prevention Authority established in s. 860.154.~~

~~(5) COUNTY JUVENILE JUSTICE COUNCILS.—~~

~~(a) A county juvenile justice council is authorized in each county for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime. A county juvenile justice council must include:~~

~~1. The district school superintendent, or the superintendent's designee.~~

~~2. The chair of the board of county commissioners, or the chair's designee.~~

~~3. An elected official of the governing body of a municipality within the county.~~

~~4. Representatives of the local school system including administrators, teachers, school counselors, and parents.~~

~~5. The district juvenile justice manager and the district administrator of the Department of Health and Rehabilitative Services, or their respective designees.~~

~~6. Representatives of local law enforcement agencies, including the sheriff or the sheriff's designee.~~

~~7. Representatives of the judicial system, including, but not limited to, the chief judge of the circuit, the state attorney, the public defender, the clerk of the circuit court, or their respective designees.~~

~~8. Representatives of the business community.~~

~~9. Representatives of any other interested officials, groups, or entities including, but not limited to, a children's services council, public or private providers of juvenile justice programs and services, students, and advocates.~~

~~A juvenile delinquency and gang prevention council or any other group or organization that currently exists in any county, and that is composed of and open to representatives of the classes of members described in this section, may notify the district juvenile justice manager of its desire to be designated as the county juvenile justice council.~~

~~(b) The purpose of a county juvenile justice council is to provide a forum for the development of a community-based interagency assessment of the local juvenile justice system, to develop a county juvenile justice plan for more effectively preventing juvenile delinquency, and to make recommendations for more effectively utilizing existing community resources in dealing with juveniles who are truant or have been suspended or expelled from school, or who are found to be involved in crime. The county juvenile justice plan shall include relevant portions of local crime prevention and public safety plans, school improvement and school safety plans, and the plans or initiatives of other public and private entities within the county that are concerned with dropout prevention, school safety, the prevention of juvenile crime and criminal activity by youth gangs, and alternatives to suspension, expulsion, and detention for children found in contempt of court.~~

~~(c) The duties and responsibilities of a county juvenile justice council include, but are not limited to:~~

~~1. Developing a county juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department of Health and Rehabilitative Services, and others in a cooperative and collaborative manner to prevent or discourage juvenile crime and develop meaningful alternatives to school suspensions and expulsions.~~

~~2. Entering into a written county interagency agreement specifying the nature and extent of contributions each signatory agency will make in achieving the goals of the county juvenile justice plan and their commitment to the sharing of information useful in carrying out the goals of the interagency agreement to the extent authorized by law.~~

~~3. Applying for and receiving public or private grants, to be administered by one of the community partners, that support one or more components of the county juvenile justice plan.~~

~~4. Designating the county representatives to the district juvenile justice board pursuant to subsection (6).~~

~~5. Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the county interagency agreement or the performance by the parties of their respective obligations under the agreement.~~

~~6. Assisting and directing the efforts of local community support organizations and volunteer groups in providing enrichment programs and other support services for clients of local juvenile detention centers.~~

~~7. Providing an annual report and recommendations to the district juvenile justice board, the Juvenile Justice Advisory Board, and the district juvenile justice manager.~~

(3)~~(6)~~ DISTRICT JUVENILE JUSTICE BOARDS.—

(a) There is created a district juvenile justice board within each district to be composed of representatives of county juvenile justice councils within the district.

(b)1.

a. The authority to appoint members to district juvenile justice boards, and the size of each board, is as follows:

(I) District 1 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Escambia County, 6 members; Okaloosa County, 3 members; Santa Rosa County, 2 members; and Walton County, 1 member.

(II) District 2 is to have a board composed of 18 members, to be appointed by the juvenile justice councils in the respective counties, as follows: Holmes County, 1 member; Washington County, 1 member; Bay County, 2 members; Jackson County, 1 member; Calhoun County, 1 member; Gulf County, 1 member; Gadsden County, 1 member; Franklin County, 1 member; Liberty County, 1 member; Leon County, 4 members; Wakulla County, 1 member; Jefferson County, 1 member; Madison County, 1 member; and Taylor County, 1 member.

(III) District 3 is to have a board composed of 15 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Hamilton County, 1 member; Suwannee County, 1 member; Lafayette County, 1 member; Dixie County, 1 member; Columbia County, 1 member; Gilchrist County, 1 member; Levy County, 1 member; Union County, 1 member; Bradford County, 1 member; Putnam County, 1 member; and Alachua County, 5 members.

(IV) District 4 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Baker County, 1 member; Nassau County, 1 member; Duval County, 7 members; Clay County, 2 members; and St. Johns County, 1 member.

(V) District 5 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Pasco County, 3 members; and Pinellas County, 9 members.

(VI) District 6 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Hillsborough County, 9 members; and Manatee County, 3 members.

(VII) District 7 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Seminole County, 3 members; Orange County, 5 members; Osceola County, 1 member; and Brevard County, 3 members.

(VIII) District 8 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Sarasota County, 3 members; DeSoto County, 1 member; Charlotte County, 1 member; Lee County, 3 members; Glades County, 1 member; Hendry County, 1 member; and Collier County, 2 members.

(IX) District 9 is to have a board composed of 12 members, to be appointed by the juvenile justice council of Palm Beach County.

(X) District 10 is to have a board composed of 12 members, to be appointed by the juvenile justice council of Broward County.

(XI) District 11 is to have a juvenile justice board composed of 12 members to be appointed by the juvenile justice council in the respective counties, as follows: Dade County, 6 members and Monroe County, 6 members.

(XII) District 12 is to have a board composed of 12 members, to be appointed by the juvenile justice council of the respective counties, as follows: Flagler County, 3 members; and Volusia County, 9 members.

(XIII) District 13 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Marion County, 4 members; Citrus County, 2 members; Hernando County, 2 members; Sumter County, 1 member; and Lake County, 3 members.

(XIV) District 14 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Polk County, 9 members; Highlands County, 2 members; and Hardee County, 1 member.

(XV) District 15 is to have a board composed of 12 members, to be appointed by the juvenile justice councils of the respective counties, as follows: Indian River County, 3 members; Okeechobee County, 1 member; St. Lucie County, 5 members; and Martin County, 3 members.

The district health and human services board in each district may appoint one of its members to serve as an ex officio member of the district juvenile justice board established under this sub-subparagraph.

b. In any judicial circuit where a juvenile delinquency and gang prevention council exists on the date this act becomes law, and where the circuit and district or subdistrict boundaries are identical, such council shall become the district juvenile justice board, and shall thereafter have the purposes and exercise the authority and responsibilities provided in this section.

2. At any time after the adoption of initial bylaws pursuant to paragraph (c), a district juvenile justice board may adopt a bylaw to enlarge the size, by no more than three members, and composition of the board to adequately reflect the diversity of the population and community organizations in the district.

3. ~~In order to create staggered terms, the initial terms of members of the district juvenile justice board appointed by the county juvenile justice council in the most populous county of the district shall expire on June 30, 1995. The initial terms of members appointed by other county councils shall expire on June 30, 1996. Thereafter,~~ All appointments shall be for 2-year terms. Appointments to fill vacancies created by death, resignation, or removal of a member are for the unexpired term. A member may not serve more than two full consecutive terms; however, this limitation does not apply in any district in which a juvenile delinquency and gang prevention council that existed on May 7, 1993, became the district juvenile justice board.

4. A member who is absent for three meetings within any 12-month period, without having been excused by the chair, is deemed to have resigned, and the board shall immediately declare the seat vacant. Members may be suspended or removed for cause by a majority vote of the board members or by the Governor.

5. Members are subject to the provisions of chapter 112, part III, Code of Ethics for Public Officers and Employees.

(c) Upon the completion of the appointment process, the district juvenile justice manager shall schedule an organizational meeting of the board. At the organizational meeting, or as soon thereafter as is practical, the board shall adopt bylaws and rules of procedure for the operation of the board, provided such bylaws and rules are not inconsistent with federal and state laws or county ordinances. The bylaws shall provide for such officers and committees as the board deems necessary, and shall specify the qualifications, method of selection, and term for each office created.

(d) A district juvenile justice board has the purpose, power, and duty to:

1. Advise the district juvenile justice manager and the district administrator on the need for and the availability of juvenile justice programs and services in the district.

2. Develop a district juvenile justice plan that is based upon the juvenile justice plans developed by each county within the district, and that addresses the needs of each county within the district.

3. Develop a district interagency cooperation and information-sharing agreement that supplements county agreements and expands the scope to include appropriate circuit and district officials and groups.

4. Coordinate the efforts of the district juvenile justice board with the activities of the Governor's Juvenile Justice and Delinquency Prevention Advisory Committee and other public and private entities.

5. Advise and assist the district juvenile justice manager in the provision of optional, innovative delinquency services in the district to meet the unique needs of delinquent children and their families.

6. Develop, in consultation with the district juvenile justice manager, funding sources external to the Department of Juvenile Justice for the provision and maintenance of additional delinquency programs and services. The board may, either independently or in partnership with

one or more county juvenile justice councils or other public or private entities, apply for and receive funds, under contract or other funding arrangement, from federal, state, county, city, and other public agencies, and from public and private foundations, agencies, and charities for the purpose of funding optional innovative prevention, diversion, or treatment services in the district for delinquent children and children at risk of delinquency, and their families. To aid in this process, the department shall provide fiscal agency services for the councils.

7. Educate the community about and assist in the community juvenile justice partnership grant program administered by the Department of Juvenile Justice.

8. Advise the district health and human services board, the district juvenile justice manager, and the Secretary of Juvenile Justice regarding the development of the legislative budget request for juvenile justice programs and services in the district and the commitment region, and, in coordination with the district health and human services board, make recommendations, develop programs, and provide funding for prevention and early intervention programs and services designed to serve children in need of services, families in need of services, and children who are at risk of delinquency within the district or region.

9. Assist the district juvenile justice manager in collecting information and statistical data useful in assessing the need for prevention programs and services within the juvenile justice continuum program in the district.

10. Make recommendations with respect to, and monitor the effectiveness of, the judicial administrative plan for each circuit pursuant to Rule 2.050, Florida Rules of Judicial Administration.

11. Provide periodic reports to the health and human services board in the appropriate district of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services. These reports must contain, at a minimum, data about the clients served by the juvenile justice programs and services in the district, as well as data concerning the unmet needs of juveniles within the district.

12. Provide a written annual report on the activities of the board to the district administrator, the Secretary of Juvenile Justice, and the Juvenile Justice Advisory Board. The report should include an assessment of the effectiveness of juvenile justice continuum programs and services within the district, recommendations for elimination, modification, or expansion of existing programs, and suggestions for new programs or services in the juvenile justice continuum that would meet identified needs of children and families in the district.

(e) Contingent upon legislative appropriation, the department shall provide funding for a minimum of one full-time position for a staff person to work with the district juvenile justice boards.

(f) The secretary shall hold quarterly meetings with chairpersons of the district juvenile justice board in order to:

1. Advise juvenile justice board chairs of statewide juvenile justice issues and activities.
2. Provide feedback on district budget priorities.
3. Obtain input into the strategic planning process.
4. Discuss program development, program implementation, and quality assurance.

(4)~~(7)~~ DISTRICT JUVENILE JUSTICE PLAN; PROGRAMS.—

(a) A district juvenile justice plan is authorized in each district or any subdivision of the district authorized by the district juvenile justice board for the purpose of reducing delinquent acts, juvenile arrests, and gang activity. Juvenile justice programs under such plan may be administered by the Department of Juvenile Justice; the district school board; a local law enforcement agency; or any other public or private entity, in cooperation with appropriate state or local governmental entities and public and private agencies. A juvenile justice program under this section may be planned, implemented, and conducted in any district pursuant to a proposal developed and approved as specified in *s. 985.415* ~~subsection (8)~~.

(b) District juvenile justice plans shall be developed by district juvenile justice boards in close cooperation with the schools, the courts, the state attorney, law enforcement, state agencies, and community organizations and groups. It is the intent of the Legislature that representatives of all elements of the community acquire a thorough understanding of the role and responsibility that each has in addressing juvenile crime in the community, and that the district juvenile justice plan reflect an understanding of the legal and fiscal limits within which the plan must be implemented.

(c) The district juvenile justice board may use public hearings and other appropriate processes to solicit input regarding the development and updating of the district juvenile justice plan. Input may be provided by parties which include, but are not limited to:

1. Local level public and private service providers, advocacy organizations, and other organizations working with delinquent children.
2. County and municipal governments.
3. State agencies that provide services to children and their families.
4. University youth centers.
5. Judges, state attorneys, public defenders, and The Florida Bar.
6. Victims of crimes committed by children.
7. Law enforcement.
8. Delinquent children and their families and caregivers.

The district juvenile justice board must develop its district juvenile justice plan in close cooperation with the appropriate health and human services board of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, local school districts, local law enforcement agencies, and other community groups and must update the plan annually. To aid the planning process, the Department of Juvenile Justice shall provide to district juvenile justice boards routinely collected ethnicity data. The Department of Law Enforcement shall include ethnicity as a field in the Florida Intelligence Center database, and shall collect the data routinely and make it available to district juvenile justice boards.

~~(8) COMMUNITY JUVENILE JUSTICE PARTNERSHIP GRANTS; CRITERIA.—~~

~~(a) In order to encourage the development of county and district juvenile justice plans and the development and implementation of county and district interagency agreements among representatives of the Department of Juvenile Justice, the Department of Health and Rehabilitative Services, law enforcement, and school authorities, the community juvenile justice partnership grant program is established, to be administered by the Department of Juvenile Justice.~~

~~(b) The department shall only consider applications which at a minimum provide for the following:~~

~~1. The participation of the local school authorities, local law enforcement, and local representatives of the Department of Juvenile Justice and the Department of Health and Rehabilitative Services pursuant to a written interagency partnership agreement. Such agreement must specify how community entities will cooperate, collaborate, and share information in furtherance of the goals of the district and county juvenile justice plan; and~~

~~2. The reduction of truancy and in-school and out-of-school suspensions and expulsions, and the enhancement of school safety.~~

~~(c) In addition, the department may consider the following criteria in awarding grants:~~

~~1. The district juvenile justice plan and any county juvenile justice plans that are referred to or incorporated into the district plan, including a list of individuals, groups, and public and private entities that participated in the development of the plan.~~

~~2. The diversity of community entities participating in the development of the district juvenile justice plan.~~

~~3. The number of community partners who will be actively involved in the operation of the grant program.~~

~~4. The number of students or youth to be served by the grant and the criteria by which they will be selected.~~

~~5. The criteria by which the grant program will be evaluated and, if deemed successful, the feasibility of implementation in other communities.~~

(9) GRANT APPLICATION PROCEDURES.—

(a) Each entity wishing to apply for an annual community juvenile justice partnership grant, which may be renewed for a maximum of 2 additional years for the same provision of services, shall submit a grant proposal for funding or continued funding to the department by March 1 of each year. The department shall establish the grant application procedures. In order to be considered for funding, the grant proposal shall include the following assurances and information:

1. A letter from the chair of the county juvenile justice council confirming that the grant application has been reviewed and found to support one or more purposes or goals of the juvenile justice plan as developed by the council.

2. A rationale and description of the program and the services to be provided, including goals and objectives.

3. A method for identification of the juveniles at risk of involvement in the juvenile justice system who will be the focus of the program.

4. Provisions for the participation of parents and guardians in the program.

5. Coordination with other community-based and social service prevention efforts, including, but not limited to, drug and alcohol abuse prevention and dropout prevention programs, that serve the target population or neighborhood.

6. An evaluation component to measure the effectiveness of the program in accordance with the provisions of s. 39.021.

7. A program budget, including the amount and sources of local cash and in-kind resources committed to the budget. The proposal must establish to the satisfaction of the department that the entity will make a cash or in-kind contribution to the program of a value that is at least equal to 20 percent of the amount of the grant.

8. The necessary program staff.

(b) The department shall consider the following in awarding such grants:

1. The number of youths from 10 through 17 years of age within the geographical area to be served by the program. Those geographical areas with the highest number of youths from 10 through 17 years of age shall have priority for selection.

2. The extent to which the program targets high juvenile crime neighborhoods and those public schools serving juveniles from high crime neighborhoods.

3. The validity and cost-effectiveness of the program.

4. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods.

5. The recommendations of the juvenile justice council as to the priority that should be given to proposals submitted by entities within a county.

6. The recommendations of the juvenile justice board as to the priority that should be given to proposals submitted by entities within a district.

(c) The department shall make available, to anyone wishing to apply for such a grant, information on all of the criteria to be used in the selection of the proposals for funding pursuant to the provisions of this subsection.

(d) The department shall review all program proposals submitted. Entities submitting proposals shall be notified of approval not later than June 30 of each year.

(e) Each entity that is awarded a grant as provided for in this section shall submit an annual evaluation report to the department, the district juvenile justice manager, the district juvenile justice board, and the county juvenile justice council, by a date subsequent to the end of the contract period established by the department, documenting the extent to which the program objectives have been met, the effect of the program on the juvenile arrest rate, and any other information required by the department. The department shall coordinate and incorporate all such annual evaluation reports with the provisions of s. 39.021. Each entity is also subject to a financial audit and a performance audit.

(f) The department may establish rules and policy provisions necessary to implement this section.

(10) RESTRICTIONS.—This section does not prevent a program initiated under a community juvenile justice partnership grant established pursuant to this section from continuing to operate beyond the 3-year maximum funding period if it can find other funding sources. Likewise, this section does not restrict the number of programs an entity may apply for or operate.

(11) INNOVATION ZONES.—The department shall encourage each of the district juvenile justice boards to propose at least one innovation zone within the district for the purpose of implementing any experimental, pilot, or demonstration project that furthers the legislatively established goals of the department. An innovation zone is a defined geographic area such as a district, commitment region, county, municipality, service delivery area, school campus, or neighborhood providing a laboratory for the research, development, and testing of the applicability and efficacy of model programs, policy options, and new technologies for the department.

(a)1. The district juvenile justice board shall submit a proposal for an innovation zone to the secretary. If the purpose of the proposed innovation zone is to demonstrate that specific statutory goals can be achieved more effectively by using procedures that require modification of existing rules, policies, or procedures, the proposal may request the secretary to waive such existing rules, policies, or procedures or to otherwise authorize use of alternative procedures or practices. Waivers of such existing rules, policies, or procedures must comply with applicable state or federal law.

2. For innovation zone proposals that the secretary determines require changes to state law, the secretary may submit a request for a waiver from such laws, together with any proposed changes to state law, to the chairs of the appropriate legislative committees for consideration.

3. For innovation zone proposals that the secretary determines require waiver of federal law, the secretary may submit a request for such waivers to the applicable federal agency.

(b) An innovation zone project may not have a duration of more than 2 years, but the secretary may grant an extension.

(c) Before implementing an innovation zone under this subsection, the secretary shall, in conjunction with the Auditor General, develop measurable and valid objectives for such zone within a negotiated reasonable period of time. Moneys designated for an innovation zone in one service district may not be used to fund an innovation zone in another district.

(d) Program models for innovation zone projects include, but are not limited to:

1. Forestry alternative work program that provides selected juvenile offenders an opportunity to serve in a forestry work program as an alternative to incarceration, in which offenders assist in wildland firefighting, enhancement of state land management, environmental enhancement, and land restoration.

2. Collaborative public/private dropout prevention partnership that trains personnel from both the public and private sectors of a target community who are identified and brought into the school system as an additional resource for addressing problems which inhibit and retard learning, including abuse, neglect, financial instability, pregnancy, and substance abuse.

3. Support services program that provides economically disadvantaged youth with support services, jobs, training, counseling, mentoring, and prepaid postsecondary tuition scholarships.

4. Juvenile offender job training program that offers an opportunity for juvenile offenders to develop educational and job skills in a 12-month to 18-month nonresidential training program, teaching the offenders

~~skills such as computer-aided design, modular panel construction, and heavy vehicle repair and maintenance which will readily transfer to the private sector, thereby promoting responsibility and productivity.~~

~~5. Infant mortality prevention program that is designed to discourage unhealthy behaviors such as smoking and alcohol or drug consumption, reduce the incidence of babies born prematurely or with low birth weight, reduce health care cost by enabling babies to be safely discharged earlier from the hospital, reduce the incidence of child abuse and neglect, and improve parenting and problem-solving skills.~~

~~6. Regional crime prevention and intervention program that serves as an umbrella agency to coordinate and replicate existing services to at-risk children, first-time juvenile offenders, youth crime victims, and school dropouts.~~

~~7. Alternative education outreach school program that serves delinquent repeat offenders between 14 and 18 years of age who have demonstrated failure in school and who are referred by the juvenile court.~~

~~8. Drug treatment and prevention program that provides early identification of children with alcohol or drug problems to facilitate treatment, comprehensive screening and assessment, family involvement, and placement options.~~

~~9. Community resource mother or father program that emphasizes parental responsibility for the behavior of children, and requires the availability of counseling services for children at high risk for delinquent behavior.~~

Section 74. Section 985.414, Florida Statutes, is created to read:

985.414 County juvenile justice councils.—

(1)(a) A county juvenile justice council is authorized in each county for the purpose of encouraging the initiation of, or supporting ongoing, interagency cooperation and collaboration in addressing juvenile crime.

(b) A county juvenile justice council must include:

1. The district school superintendent, or the superintendent's designee.

2. The chair of the board of county commissioners, or the chair's designee.

3. An elected official of the governing body of a municipality within the county.

4. Representatives of the local school system including administrators, teachers, school counselors, and parents.

5. The district juvenile justice manager and the district administrator of the Department of Children and Family Services, or their respective designees.

6. Representatives of local law enforcement agencies, including the sheriff or the sheriff's designee.

7. Representatives of the judicial system including, but not limited to, the chief judge of the circuit, the state attorney, the public defender, the clerk of the circuit court, or their respective designees.

8. Representatives of the business community.

9. Representatives of any other interested officials, groups, or entities including, but not limited to, a children's services council, public or private providers of juvenile justice programs and services, students, and advocates.

A juvenile delinquency and gang prevention council or any other group or organization that currently exists in any county, and that is composed of and open to representatives of the classes of members described in this section, may notify the district juvenile justice manager of its desire to be designated as the county juvenile justice council.

(2)(a) The purpose of a county juvenile justice council is to provide a forum for the development of a community-based interagency assessment of the local juvenile justice system, to develop a county juvenile justice plan for more effectively preventing juvenile delinquency, and to make recommendations for more effectively utilizing existing community resources in dealing with juveniles who are truant or have been suspended or expelled from school, or who are found to be involved in crime. The county juvenile justice plan shall include relevant portions of local crime prevention and public safety plans, school improvement and school safety plans, and the plans or initiatives of other public and private entities within the county that are concerned with dropout prevention, school safety, the prevention of juvenile crime and criminal activity by youth gangs, and alternatives to suspension, expulsion, and detention for children found in contempt of court.

(b) The duties and responsibilities of a county juvenile justice council include, but are not limited to:

1. Developing a county juvenile justice plan based upon utilization of the resources of law enforcement, the school system, the Department of Juvenile Justice, the Department of Children and Family Services, and others in a cooperative and collaborative manner to prevent or discourage juvenile crime and develop meaningful alternatives to school suspensions and expulsions.

2. Entering into a written county interagency agreement specifying the nature and extent of contributions each signatory agency will make in achieving the goals of the county juvenile justice plan and their commitment to the sharing of information useful in carrying out the goals of the interagency agreement to the extent authorized by law.

3. Applying for and receiving public or private grants, to be administered by one of the community partners, that support one or more components of the county juvenile justice plan.

4. Designating the county representatives to the district juvenile justice board pursuant to s. 985.413.

5. Providing a forum for the presentation of interagency recommendations and the resolution of disagreements relating to the contents of the county interagency agreement or the performance by the parties of their respective obligations under the agreement.

6. Assisting and directing the efforts of local community support organizations and volunteer groups in providing enrichment programs and other support services for clients of local juvenile detention centers.

7. Providing an annual report and recommendations to the district juvenile justice board, the Juvenile Justice Advisory Board, and the district juvenile justice manager.

Section 75. Section 985.415, Florida Statutes, is created to read:

985.415 Community Juvenile Justice Partnership Grants.—

(1) GRANTS; CRITERIA.—

(a) In order to encourage the development of county and district juvenile justice plans and the development and implementation of county and district interagency agreements among representatives of the Department of Juvenile Justice, the Department of Children and Family Services, law enforcement, and school authorities, the community juvenile justice partnership grant program is established, which program shall be administered by the Department of Juvenile Justice.

(b) The department shall only consider applications which at a minimum provide for the following:

1. The participation of the local school authorities, local law enforcement, and local representatives of the Department of Juvenile Justice and the Department of Children and Family Services pursuant to a written interagency partnership agreement. Such agreement must specify how community entities will cooperate, collaborate, and share information in furtherance of the goals of the district and county juvenile justice plan; and

2. The reduction of truancy and in-school and out-of-school suspensions and expulsions, and the enhancement of school safety.

(c) In addition, the department may consider the following criteria in awarding grants:

1. The district juvenile justice plan and any county juvenile justice plans that are referred to or incorporated into the district plan, including a list of individuals, groups, and public and private entities that participated in the development of the plan.

2. The diversity of community entities participating in the development of the district juvenile justice plan.

3. The number of community partners who will be actively involved in the operation of the grant program.

4. The number of students or youths to be served by the grant and the criteria by which they will be selected.

5. The criteria by which the grant program will be evaluated and, if deemed successful, the feasibility of implementation in other communities.

(2) GRANT APPLICATION PROCEDURES.—

(a) Each entity wishing to apply for an annual community juvenile justice partnership grant, which may be renewed for a maximum of 2 additional years for the same provision of services, shall submit a grant proposal for funding or continued funding to the department by March 1 of each year. The department shall establish the grant application procedures. In order to be considered for funding, the grant proposal shall include the following assurances and information:

1. A letter from the chair of the county juvenile justice council confirming that the grant application has been reviewed and found to support one or more purposes or goals of the juvenile justice plan as developed by the council.

2. A rationale and description of the program and the services to be provided, including goals and objectives.

3. A method for identification of the juveniles at risk of involvement in the juvenile justice system who will be the focus of the program.

4. Provisions for the participation of parents and guardians in the program.

5. Coordination with other community-based and social service prevention efforts, including, but not limited to, drug and alcohol abuse prevention and dropout prevention programs, that serve the target population or neighborhood.

6. An evaluation component to measure the effectiveness of the program in accordance with the provisions of s. 985.412.

7. A program budget, including the amount and sources of local cash and in-kind resources committed to the budget. The proposal must establish to the satisfaction of the department that the entity will make a cash or in-kind contribution to the program of a value that is at least equal to 20 percent of the amount of the grant.

8. The necessary program staff.

(b) The department shall consider the following in awarding such grants:

1. The number of youths from 10 through 17 years of age within the geographical area to be served by the program. Those geographical areas with the highest number of youths from 10 through 17 years of age shall have priority for selection.

2. The extent to which the program targets high juvenile crime neighborhoods and those public schools serving juveniles from high crime neighborhoods.

3. The validity and cost-effectiveness of the program.

4. The degree to which the program is located in and managed by local leaders of the target neighborhoods and public schools serving the target neighborhoods.

5. The recommendations of the juvenile justice council as to the priority that should be given to proposals submitted by entities within a county.

6. The recommendations of the juvenile justice board as to the priority that should be given to proposals submitted by entities within a district.

(c) The department shall make available, to anyone wishing to apply for such a grant, information on all of the criteria to be used in the selection of the proposals for funding pursuant to the provisions of this subsection.

(d) The department shall review all program proposals submitted. Entities submitting proposals shall be notified of approval not later than June 30 of each year.

(e) Each entity that is awarded a grant as provided for in this section shall submit an annual evaluation report to the department, the district juvenile justice manager, the district juvenile justice board, and the county juvenile justice council, by a date subsequent to the end of the contract period established by the department, documenting the extent to which the program objectives have been met, the effect of the program on the juvenile arrest rate, and any other information required by the department. The department shall coordinate and incorporate all such annual evaluation reports with the provisions of s. 985.412. Each entity is also subject to a financial audit and a performance audit.

(f) The department may establish rules and policy provisions necessary to implement this section.

(3) RESTRICTIONS.—This section does not prevent a program initiated under a community juvenile justice partnership grant established pursuant to this section from continuing to operate beyond the 3-year maximum funding period if it can find other funding sources. Likewise, this section does not restrict the number of programs an entity may apply for or operate.

Section 76. Section 985.416, Florida Statutes, is created to read:

985.416 Innovation zones.—The department shall encourage each of the district juvenile justice boards to propose at least one innovation zone within the district for the purpose of implementing any experimental, pilot, or demonstration project that furthers the legislatively established goals of the department. An innovation zone is a defined geographic area such as a district, commitment region, county, municipality, service delivery area, school campus, or neighborhood providing a laboratory for the research, development, and testing of the applicability and efficacy of model programs, policy options, and new technologies for the department.

(1)(a) The district juvenile justice board shall submit a proposal for an innovation zone to the secretary. If the purpose of the proposed innovation zone is to demonstrate that specific statutory goals can be achieved more effectively by using procedures that require modification of existing rules, policies, or procedures, the proposal may request the secretary to waive such existing rules, policies, or procedures or to otherwise authorize use of alternative procedures or practices. Waivers of such existing rules, policies, or procedures must comply with applicable state or federal law.

(b) For innovation zone proposals that the secretary determines require changes to state law, the secretary may submit a request for a waiver from such laws, together with any proposed changes to state law, to the chairs of the appropriate legislative committees for consideration.

(c) For innovation zone proposals that the secretary determines require waiver of federal law, the secretary may submit a request for such waivers to the applicable federal agency.

(2) An innovation zone project may not have a duration of more than 2 years, but the secretary may grant an extension.

(3) Before implementing an innovation zone under this subsection, the secretary shall, in conjunction with the Auditor General, develop measurable and valid objectives for such zone within a negotiated reasonable period of time. Moneys designated for an innovation zone in one service district may not be used to fund an innovation zone in another district.

(4) Program models for innovation zone projects include, but are not limited to:

(a) A forestry alternative work program that provides selected juvenile offenders an opportunity to serve in a forestry work program as an alternative to incarceration, in which offenders assist in wildland firefighting, enhancement of state land management, environmental enhancement, and land restoration.

(b) A collaborative public/private dropout prevention partnership that trains personnel from both the public and private sectors of a target community who are identified and brought into the school system as an additional resource for addressing problems which inhibit and retard

learning, including abuse, neglect, financial instability, pregnancy, and substance abuse.

(c) A support services program that provides economically disadvantaged youth with support services, jobs, training, counseling, mentoring, and prepaid postsecondary tuition scholarships.

(d) A juvenile offender job training program that offers an opportunity for juvenile offenders to develop educational and job skills in a 12-month to 18-month nonresidential training program, teaching the offenders skills such as computer-aided design, modular panel construction, and heavy vehicle repair and maintenance which will readily transfer to the private sector, thereby promoting responsibility and productivity.

(e) An infant mortality prevention program that is designed to discourage unhealthy behaviors such as smoking and alcohol or drug consumption, reduce the incidence of babies born prematurely or with low birth weight, reduce health care cost by enabling babies to be safely discharged earlier from the hospital, reduce the incidence of child abuse and neglect, and improve parenting and problem-solving skills.

(f) A regional crime prevention and intervention program that serves as an umbrella agency to coordinate and replicate existing services to at-risk children, first-time juvenile offenders, youth crime victims, and school dropouts.

(g) An alternative education outreach school program that serves delinquent repeat offenders between 14 and 18 years of age who have demonstrated failure in school and who are referred by the juvenile court.

(h) A drug treatment and prevention program that provides early identification of children with alcohol or drug problems to facilitate treatment, comprehensive screening and assessment, family involvement, and placement options.

(i) A community resource mother or father program that emphasizes parental responsibility for the behavior of children, and requires the availability of counseling services for children at high risk for delinquent behavior.

Section 77. Section 39.062, Florida Statutes, is transferred and renumbered as section 985.417, Florida Statutes.

Section 78. Section 39.063, Florida Statutes, is transferred and renumbered as section 985.418, Florida Statutes.

Section 79. Section 39.065, Florida Statutes, is transferred and renumbered as section 985.419, Florida Statutes.

Section 80. Section 39.51, Florida Statutes, is transferred and renumbered as section 985.501, Florida Statutes.

Section 81. Section 39.511, Florida Statutes, is transferred and renumbered as section 985.502, Florida Statutes.

Section 82. Section 39.512, Florida Statutes, is transferred and renumbered as section 985.503, Florida Statutes.

Section 83. Section 39.513, Florida Statutes, is transferred and renumbered as section 985.504, Florida Statutes.

Section 84. Section 39.514, Florida Statutes, is transferred and renumbered as section 985.505, Florida Statutes.

Section 85. Section 39.515, Florida Statutes, is transferred and renumbered as section 985.506, Florida Statutes.

Section 86. Section 39.516, Florida Statutes, is transferred and renumbered as section 985.507, Florida Statutes.

Section 87. Section 984.01, Florida Statutes, is created to read:

984.01 Purposes and intent; personnel standards and screening.—

(1) The purposes of this chapter are:

(a) To provide judicial and other procedures to assure due process through which children and other interested parties are assured fair hearings by a respectful and respected court or other tribunal and the recognition, protection, and enforcement of their constitutional and other legal rights, while ensuring that public safety interests and the authority and dignity of the courts are adequately protected.

(b) To provide for the care, safety, and protection of children in an environment that fosters healthy social, emotional, intellectual, and physical development; to ensure secure and safe custody; and to promote the health and well-being of all children under the state's care.

(c) To ensure the protection of society, by providing for a comprehensive standardized assessment of the child's needs so that the most appropriate control, discipline, punishment, and treatment can be administered consistent with the seriousness of the act committed, the community's long-term need for public safety, the prior record of the child, and the specific rehabilitation needs of the child, while also providing restitution, whenever possible, to the victim of the offense.

(d) To preserve and strengthen the child's family ties whenever possible, by providing for removal of the child from parental custody only when his or her welfare or the safety and protection of the public cannot be adequately safeguarded without such removal; and, when the child is removed from his or her own family, to secure custody, care, and discipline for the child as nearly as possible equivalent to that which should have been given by the parents; and to assure, in all cases in which a child must be permanently removed from parental custody, that the child be placed in an approved family home, adoptive home, independent living program, or other placement that provides the most stable and permanent living arrangement for the child, as determined by the court.

(e)1. To assure that the adjudication and disposition of a child alleged or found to have committed a violation of Florida law be exercised with appropriate discretion and in keeping with the seriousness of the offense and the need for treatment services, and that all findings made under this chapter be based upon facts presented at a hearing that meets the constitutional standards of fundamental fairness and due process.

2. To assure that the sentencing and placement of a child tried as an adult be appropriate and in keeping with the seriousness of the offense and the child's need for rehabilitative services, and that the proceedings and procedures applicable to such sentencing and placement be applied within the full framework of constitutional standards of fundamental fairness and due process.

(f) To provide children committed to the Department of Juvenile Justice with training in life skills, including career education.

(2) The Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, may contract with the Federal Government, other state departments and agencies, county and municipal governments and agencies, public and private agencies, and private individuals and corporations in carrying out the purposes of, and the responsibilities established in, this chapter.

(a) When the Department of Juvenile Justice or the Department of Children and Family Services contracts with a provider for any program for children, all personnel, including owners, operators, employees, and volunteers, in the facility must be of good moral character. A volunteer who assists on an intermittent basis for less than 40 hours per month need not be screened if the volunteer is under direct and constant supervision by persons who meet the screening requirements.

(b) The Department of Juvenile Justice and the Department of Children and Family Services shall require employment screening pursuant to chapter 435, using the level 2 standards set forth in that chapter for personnel in programs for children or youths.

(c) The Department of Juvenile Justice or the Department of Children and Family Services may grant exemptions from disqualification from working with children as provided in s. 435.07.

(3) It is the intent of the Legislature that this chapter be liberally interpreted and construed in conformity with its declared purposes.

Section 88. Section 984.02, Florida Statutes, is created to read:

984.02 Legislative intent for the juvenile justice system.—

(1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(a) Protection from abuse, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Equal opportunity and access to quality and effective education which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(g) Access to preventive services.

(h) An independent, trained advocate when intervention is necessary and a skilled guardian or caretaker in a safe environment when alternative placement is necessary.

(2) SUBSTANCE ABUSE SERVICES.—The Legislature finds that children in the care of the state's dependency and delinquency systems need appropriate health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency and delinquency systems must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related substance abuse problems. It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency and delinquency systems, which will be fully implemented and utilized as resources permit.

(3) JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—It is the policy of the state with respect to juvenile justice and delinquency prevention to first protect the public from acts of delinquency. In addition, it is the policy of the state to:

(a) Develop and implement effective methods of preventing and reducing acts of delinquency, with a focus on maintaining and strengthening the family as a whole so that children may remain in their homes or communities.

(b) Develop and implement effective programs to prevent delinquency, to divert children from the traditional juvenile justice system, to intervene at an early stage of delinquency, and to provide critically needed alternatives to institutionalization and deep-end commitment.

(c) Provide well-trained personnel, high-quality services, and cost-effective programs within the juvenile justice system.

(d) Increase the capacity of local governments and public and private agencies to conduct rehabilitative treatment programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention.

The Legislature intends that detention care, in addition to providing secure and safe custody, will promote the health and well-being of the children committed thereto and provide an environment that fosters their social, emotional, intellectual, and physical development.

(4) PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision to deter their participation in delinquent acts. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caretakers to fulfill their responsibilities are identified through the delinquency intake process and that appropriate recommendations to address those problems are considered in any judicial or nonjudicial proceeding.

Section 89. Section 984.03, Florida Statutes, is created to read:

984.03 Definitions.—When used in this chapter, the term:

(1) "Abandoned" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If the efforts of such parent or legal custodian, or person primarily responsible for the child's welfare to support and communicate with the child are, in the opinion of the court, only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. The term "abandoned" does not include a "child in need of services" as defined in subsection (9) or a "family in need of services" as defined in subsection (27). The incarceration of a parent, legal custodian, or person responsible for a child's welfare does not constitute a bar to a finding of abandonment.

(2) "Abuse" means any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Corporal discipline of a child by a parent or guardian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child as defined in s. 415.503.

(3) "Addictions receiving facility" means a substance abuse service provider as defined in chapter 397.

(4) "Adjudicatory hearing" means a hearing for the court to determine whether or not the facts support the allegations stated in the petition as is provided for under s. 984.20(2) in child-in-need-of-services cases.

(5) "Adult" means any natural person other than a child.

(6) "Authorized agent" or "designee" of the department means a person or agency assigned or designated by the Department of Juvenile Justice or the Department of Children and Family Services, as appropriate, to perform duties or exercise powers pursuant to this chapter and includes contract providers and their employees for purposes of providing services to and managing cases of children in need of services and families in need of services.

(7) "Caretaker/homemaker" means an authorized agent of the Department of Children and Family Services who shall remain in the child's home with the child until a parent, legal guardian, or relative of the child enters the home and is capable of assuming and agrees to assume charge of the child.

(8) "Child" or "juvenile" or "youth" means any unmarried person under the age of 18 who has not been emancipated by order of the court and who has been found or alleged to be dependent, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.

(9) "Child in need of services" means a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the Department of Juvenile Justice or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also, pursuant to this chapter, be found by the court:

(a) To have persistently run away from the child's parents or legal custodians despite reasonable efforts of the child, the parents or legal custodians, and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts shall include voluntary participation by the child's parents or legal custodians and the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Family Services;

(b) To be habitually truant from school, while subject to compulsory school attendance, despite reasonable efforts to remedy the situation pursuant to s. 232.19 and through voluntary participation by the child's parents or legal custodians and by the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Children and Family Services; or

(c) To have persistently disobeyed the reasonable and lawful demands of the child's parents or legal custodians, and to be beyond their control despite efforts by the child's parents or legal custodians and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts may include such things as good faith participation in family or individual counseling.

(10) "Child support" means a court-ordered obligation, enforced under chapter 61 and ss. 409.2551-409.2597, for monetary support for the care, maintenance, training, and education of a child.

(11) "Child who has been found to have committed a delinquent act" means a child who, pursuant to the provisions of chapter 985, is found by a court to have committed a violation of law or to be in direct or indirect contempt of court, except that this definition shall not include an act constituting contempt of court arising out of a dependency proceeding or a proceeding pursuant to this chapter.

(12) "Child who is found to be dependent" or "dependent child" means a child who, pursuant to this chapter, is found by the court:

(a) To have been abandoned, abused, or neglected by the child's parents or other custodians.

(b) To have been surrendered to the former Department of Health and Rehabilitative Services, the Department of Children and Family Services, or a licensed child-placing agency for purpose of adoption.

(c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, the former Department of Health and Rehabilitative Services, or the Department of Children and Family Services, after which placement, under the requirements of this chapter, a case plan has expired and the parent or parents have failed to substantially comply with the requirements of the plan.

(d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption and a natural parent or parents signed a consent pursuant to the Florida Rules of Juvenile Procedure.

(e) To have no parent, legal custodian, or responsible adult relative to provide supervision and care.

(f) To be at substantial risk of imminent abuse or neglect by the parent or parents or the custodian.

(13) "Circuit" means any of the 20 judicial circuits as set forth in s. 26.021.

(14) "Comprehensive assessment" or "assessment" means the gathering of information for the evaluation of a juvenile offender's or a child's physical, psychological, educational, vocational, and social condition and family environment as they relate to the child's need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.

(15) "Court," unless otherwise expressly stated, means the circuit court assigned to exercise jurisdiction under this chapter.

(16) "Delinquency program" means any intake, community control and furlough, or similar program; regional detention center or facility; or community-based program, whether owned and operated by or contracted by the Department of Juvenile Justice, or institution owned and operated by or contracted by the Department of Juvenile Justice, which provides intake, supervision, or custody and care of children who are alleged to be or who have been found to be delinquent pursuant to chapter 985.

(17) "Department" means the Department of Juvenile Justice.

(18) "Detention care" means the temporary care of a child in secure, nonsecure, or home detention, pending a court adjudication or disposition or execution of a court order. There are three types of detention care, as follows:

(a) "Secure detention" means temporary custody of the child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.

(b) "Nonsecure detention" means temporary custody of the child while the child is in a residential home in the community in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice pending adjudication, disposition, or placement.

(c) "Home detention" means temporary custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice staff pending adjudication, disposition, or placement.

(19) "Detention center or facility" means a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure or nonsecure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention center or facility.

(20) "Detention hearing" means a hearing for the court to determine if a child should be placed in temporary custody, as provided for under s. 39.402, in dependency cases.

(21) "Diligent efforts of social service agency" means reasonable efforts to provide social services or reunification services made by any social service agency as defined in this section that is a party to a case plan.

(22) "Diligent search" means the efforts of a social service agency in accordance with the requirements of s. 39.4051(6) to locate a parent or prospective parent whose identity or location is unknown, initiated as soon as the agency is made aware of the existence of such a parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.

(23) "Disposition hearing" means a hearing in which the court determines the most appropriate dispositional services in the least restrictive available setting provided for under s. 984.20(3), in child-in-need-of-services cases.

(24) "District" means a service district of the Department of Juvenile Justice.

(25) "District juvenile justice manager" means the person appointed by the Secretary of Juvenile Justice, responsible for planning, managing, and evaluating all juvenile justice continuum programs and services delivered or funded by the Department of Juvenile Justice within the district.

(26) "Family" means a collective body of persons, consisting of a child and a parent, guardian, adult custodian, or adult relative, in which:

(a) The persons reside in the same house or living unit; or

(b) The parent, guardian, adult custodian, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

(27) "Family in need of services" means a family that has a child for whom there is no pending investigation into an allegation of abuse, neglect, or abandonment or no current supervision by the Department of Juvenile Justice or the Department of Children and Family Services for an adjudication of dependency or delinquency. The child must also have been referred to a law enforcement agency or the Department of Juvenile Justice for:

(a) Running away from parents or legal custodians;

(b) Persistently disobeying reasonable and lawful demands of parents or legal custodians and being beyond their control; or

(c) Habitual truancy from school.

(28) "Foster care" means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.

(29) "Habitually truant" means that:

(a) The child has 15 unexcused absences within 90 days with or without the knowledge or justifiable consent of the child's parent or legal guardian and is not exempt from attendance by virtue of being over the age of compulsory school attendance or by meeting the criteria in s. 232.06, s. 232.09, or any other exemptions specified by law or the rules of the State Board of Education;

(b) In addition to the actions described in s. 232.17(2), the school administration has completed the following escalating activities to determine the cause, and to attempt the remediation, of the child's truant behavior:

1. After a minimum of 3 and prior to 15 unexcused absences within 90 days, one or more meetings have been held, either in person or by phone, between a school attendance assistant or school social worker, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the truancy problem. However, if the school attendance assistant or school social worker has documented the refusal of the parent or guardian to participate in the meetings, then this requirement has been met;

2. Educational counseling has been provided to determine whether curriculum changes would help solve the truancy problem, and, if any changes were indicated, such changes were instituted but proved unsuccessful in remedying the truant behavior. Such curriculum changes may include enrollment of the child in an alternative education program that meets the specific educational and behavioral needs of the child, including a second chance school, as provided for in s. 230.2316, designed to resolve truant behavior;

3. Educational evaluation, pursuant to the requirements of s. 232.19(3)(b)3., has been provided; and

4. The school social worker, the attendance assistant, or the school superintendent's designee if there is no school social worker or attendance assistant has referred the student and family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee, established pursuant to s. 984.12, as determined by the cooperative agreement required in s. 232.19(3). The case staffing committee may request the department or its designee to file a child-in-need-of-services petition based upon the report and efforts of the school district or other community agency or may seek to resolve the truancy behavior through the school or community-based organizations or agencies.

If a child within the compulsory school attendance age is responsive to the interventions described in this paragraph and has completed the necessary requirements to pass the current grade as indicated in the district pupil progression plan, the child shall not be determined to be habitually truant. If a child within the compulsory school attendance age has 15 unexcused absences or fails to enroll in school, the State Attorney may file a child-in-need-of-services petition. Prior to filing a petition, the child must be referred to the appropriate agency for evaluation. After consulting with the evaluating agency, the State Attorney may elect to file a child-in-need-of-services petition.

(c) A school social worker or other person designated by the school administration, if the school does not have a school social worker, and an intake counselor or case manager of the Department of Juvenile Justice have jointly investigated the truancy problem or, if that was not feasible, have performed separate investigations to identify conditions which may be contributing to the truant behavior; and if, after a joint staffing of the case to determine the necessity for services, such services were determined to be needed, the persons who performed the investigations met jointly with the family and child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truant behavior; and

(d) The failure or refusal of the parent or legal guardian or the child to participate, or make a good faith effort to participate, in the activities prescribed to remedy the truant behavior, or the failure or refusal of the child to return to school after participation in activities required by this subsection, or the failure of the child to stop the truant behavior after the school administration and the Department of Juvenile Justice have worked with the child as described in s. 232.19(3) shall be handled as prescribed in s. 232.19.

(30) "Intake" means the initial acceptance and screening by the Department of Juvenile Justice of a complaint or a law enforcement report or probable cause affidavit of delinquency, family in need of services, or child in need of services to determine the recommendation to be taken in the best interests of the child, the family, and the community. The emphasis of intake is on diversion and the least restrictive available services. Consequently, intake includes such alternatives as:

(a) The disposition of the complaint, report, or probable cause affidavit without court or public agency action or judicial handling when appropriate.

(b) The referral of the child to another public or private agency when appropriate.

(c) The recommendation by the intake counselor or case manager of judicial handling when appropriate and warranted.

(31) "Intake counselor" or "case manager" means the authorized agent of the Department of Juvenile Justice performing the intake or case management function for a child alleged to be delinquent or in need of services, or from a family in need of services.

(32) "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

(33) "Juvenile justice continuum" includes, but is not limited to, delinquency prevention programs and services designed for the purpose of preventing or reducing delinquent acts, including criminal activity by youth gangs and juvenile arrests, as well as programs and services targeted at children who have committed delinquent acts, and children who have previously been committed to residential treatment programs for delinquents. The term includes children-in-need-of-services and families-in-need-of-services programs; aftercare and reentry services; substance abuse and mental health programs; educational and vocational programs; recreational programs; community services programs; community service work programs; and alternative dispute resolution programs serving children at risk of delinquency and their families, whether offered or delivered by state or local governmental entities, public or private for-profit or not-for-profit organizations, or religious or charitable organizations.

(34) "Legal custody" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

(35) "Licensed child-caring agency" means a person, society, association, or agency licensed by the Department of Children and Family Services to care for, receive, and board children.

(36) "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under chapter 464, a physician assistant certified under chapter 458, or a dentist licensed under chapter 466.

(37) "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision-making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

(38) "Necessary medical treatment" means care that is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child's condition or to alleviate immediate pain of a child.

(39) "Neglect" occurs when the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person primarily responsible for the child's welfare deprives a child of, or allows a child to be deprived of, necessary food, clothing, shelter, or medical treatment or permits a child to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or guardian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child shall not, for that reason alone, be considered a negligent parent or guardian; however, such an exception does not preclude a court from ordering the following services to be provided, when the health of the child so requires:

(a) Medical services from a licensed physician, dentist, optometrist, podiatrist, or other qualified health care provider; or

(b) Treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

(40) "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. 39.4051(7) or s. 63.062(1)(b).

(41) "Participant," for purposes of a shelter proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including foster parents, identified prospective parents, grandparents entitled to priority for adoption consideration under s. 63.0425, actual custodians of the child, and any other person whose participation may be in the best interest of the child. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene.

(42) "Party," for purposes of a shelter proceeding, means the parent of the child, the petitioner, the department, the guardian ad litem when one has been appointed, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.

(43) "Preliminary screening" means the gathering of preliminary information to be used in determining a child's need for further evaluation or assessment or for referral for other substance abuse services through means such as psychosocial interviews; urine and breathalyzer screenings; and reviews of available educational, delinquency, and dependency records of the child.

(44) "Preventive services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's need for a safe, continuous, stable, living environment and shall promote family autonomy and shall strengthen family life as the first priority whenever possible.

(45) "Protective supervision" means a legal status in child-in-need-of-services cases or family-in-need-of-services cases which permits the child to remain in his or her own home or other placement under the supervision of an agent of the Department of Juvenile Justice or the Department of Children and Family Services, subject to being returned to the court during the period of supervision.

(46) "Relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

(47) "Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child, whichever is applicable; the child; and, where appropriate, the foster parents of the child for the purpose of enabling a child who has been placed in foster care to return to his or her family at the earliest possible time. Social services and other supportive and rehabilitative services shall promote the child's need for a safe, continuous, stable, living environment and shall promote family autonomy and strengthen family life as a first priority whenever possible.

(48) "Secure detention center or facility" means a physically restricting facility for the temporary care of children, pending adjudication, disposition, or placement.

(49) "Serious or habitual juvenile offender program" means the program established in s. 985.31.

(50) "Shelter" means a place for the temporary care of a child who is alleged to be or who has been found to be dependent, a child from a family in need of services, or a child in need of services, pending court disposition before or after adjudication or after execution of a court order. "Shelter" may include a facility which provides 24-hour continual supervision for the temporary care of a child who is placed pursuant to s. 984.14.

(51) "Shelter hearing" means a hearing provided for under s. 984.14 in family-in-need-of-services cases or child-in-need-of-services cases.

(52) "Staff-secure shelter" means a facility in which a child is supervised 24 hours a day by staff members who are awake while on duty. The facility is for the temporary care and assessment of a child who has been found to be dependent, who has violated a court order and been found in contempt of court, or whom the Department of Children and Family Services is unable to properly assess or place for assistance within the continuum of services provided for dependent children.

(53) "Substance abuse" means using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in such a manner as to induce impairment resulting in dysfunctional social behavior.

(54) "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child's release, detention, placement, or other disposition as authorized by law.

(55) "Temporary legal custody" means the relationship that a juvenile court creates between a child and an adult relative of the child, adult nonrelative approved by the court, or other person until a more permanent arrangement is ordered. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.

(56) "Violation of law" or "delinquent act" means a violation of any law of this state, the United States, or any other state which is a misdemeanor or a felony or a violation of a county or municipal ordinance which would be punishable by incarceration if the violation were committed by an adult.

Section 90. Section 39.42, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.04, Florida Statutes, and amended to read:

984.04 ~~39.42~~ Families in need of services and children in need of services; procedures and jurisdiction.—

(1) It is the intent of the Legislature to address the problems of families in need of services by providing them with an array of services designed to preserve the unity and integrity of the family and to emphasize parental responsibility for the behavior of their children. Services to families in need of services and children in need of services shall be provided on a continuum of increasing intensity and participation by the parent and child. Judicial intervention to resolve the problems and conflicts that exist within a family shall be limited to situations in which a resolution to the problem or conflict has not been achieved through service, treatment, and family intervention after all available less restrictive resources have been exhausted. In creating this part, the Legislature recognizes the need to distinguish the problems of truants, runaways, and children beyond the control of their parents, and the services provided to these children, from the problems and services designed to meet the needs of abandoned, abused, neglected, and delinquent children. In achieving this recognition, it shall be the policy of the state to develop short-term, temporary services and programs utilizing the least restrictive method for families in need of services and children in need of services.

(2) The Department of Juvenile Justice shall be responsible for all nonjudicial proceedings involving a family in need of services.

(3) All nonjudicial procedures in family-in-need-of-services cases shall be according to rules established by the Department of Juvenile Justice under chapter 120.

(4) The circuit court shall have exclusive original jurisdiction of judicial proceedings involving continued placement of a child from a family in need of services in shelter.

(5) The circuit court shall have exclusive original jurisdiction of proceedings in which a child is alleged to be a child in need of services. When the jurisdiction of any child who has been found to be a child in need of services or the parent, custodian, or legal guardian of such a child is obtained, the court shall retain jurisdiction, unless relinquished by its order or unless the department withdraws its petition because the child no longer meets the definition of a child in need of services as defined in s. *984.03* ~~39.01(12)~~, until the child reaches 18 years of age. This subsection shall not be construed to prevent the exercise of jurisdiction by any other court having jurisdiction of the child if the child commits a violation of law, is the subject of the dependency provisions under this chapter, or is the subject of a pending investigation into an allegation or suspicion of abuse, neglect, or abandonment.

(6) All procedures, including petitions, pleadings, subpoenas, summonses, and hearings, in family-in-need-of-services cases and child-in-need-of-services cases shall be according to the Florida Rules of Juvenile Procedure unless otherwise provided by law.

(7) The department may contract with a provider to provide services and programs for families in need of services and children in need of services.

Section 91. Section 39.015, Florida Statutes, is transferred, renumbered as section 984.05, Florida Statutes, and amended to read:

984.05 ~~39.015~~ Rules relating to habitual truants; adoption by Department of Education and Department of Juvenile Justice.—The Department of Juvenile Justice and the Department of Education shall work together on the development of, and shall adopt, rules for the implementation of ss. ~~39.01(73), 39.403(2),~~ 232.19(3) and (6)(a) and *984.03(29)*.

Section 92. Section 39.4451, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.06, Florida Statutes, and amended to read:

984.06 ~~39.4451~~ Oaths, records, and confidential information.—

(1) The judge, clerks or deputy clerks, or authorized agents of the department shall each have the power to administer oaths and affirmations ~~pursuant to s. 39.411~~.

(2) The court shall make and keep records of all cases brought before it pursuant to this chapter and shall preserve the records pertaining to a child in need of services until 10 years after the last entry was made or until the child is 18 years of age, whichever date is first reached, and may then destroy them. The court shall make official records, consisting of all petitions and orders filed in a case arising pursuant to this *chapter* ~~part~~ and any other pleadings, certificates, proofs of publication, summonses, warrants, and other writs which are filed in the case.

(3) The clerk shall keep all court records required by this *chapter* ~~part~~ separate from other records of the circuit court. Court records required by this *chapter* ~~part~~ are not open to inspection by the public. All such records may be inspected only upon order of the court by a person deemed by the court to have a proper interest therein, except that, subject to the provisions of s. 63.162, a child and the parents or legal custodians of the child and their attorneys, law enforcement agencies, and the department and its designees may inspect and copy any official record pertaining to the child. The court may permit authorized representatives of recognized organizations compiling statistics for proper purposes to inspect and make abstracts from official records, under whatever conditions upon their use and disposition the court deems proper, and may punish by contempt proceedings any violation of those conditions.

(4) Except as provided in subsection (3), all information obtained pursuant to this *chapter* ~~part~~ in the discharge of official duty by any judge, employee of the court, authorized agent of the department, or law enforcement agent is confidential and may not be disclosed to anyone other than the authorized personnel of the court, the department and its designees, law enforcement agencies, and others entitled under this chapter to receive that information, except upon order of the court.

(5) All orders of the court entered pursuant to this chapter must be in writing and signed by the judge, except that the clerk or a deputy clerk may sign a summons or notice to appear.

(6) A court record of proceedings under this chapter is not admissible in evidence in any other civil or criminal proceeding, except that:

(a) Records of proceedings under this *chapter* ~~part~~ forming a part of the record on appeal shall be used in the appellate court.

(b) Records that are necessary in any case in which a person is being tried upon a charge of having committed perjury are admissible in evidence in that case.

Section 93. Section 39.447, Florida Statutes, is transferred and renumbered as section 984.07, Florida Statutes.

Section 94. Section 39.017, Florida Statutes, is transferred, renumbered as section 984.08, Florida Statutes, and amended to read:

984.08 ~~39.017~~ Attorney's fees.—

(1) The court may appoint an attorney to represent a parent or legal guardian under *this chapter* ~~part III, part IV, part V, or part VI~~ only upon a finding that the parent or legal guardian is indigent.

(a) The finding of indigency of any parent or legal guardian may be made by the court at any stage of the proceedings. Any parent or legal guardian claiming indigency shall file with the court an affidavit containing the factual information required in paragraphs (c) and (d).

(b) A parent or legal guardian who is unable to pay for the services of an attorney without substantial hardship to self or family is indigent for the purposes of this *chapter* ~~part~~.

(c) Before finding that a parent or legal guardian is indigent, the court shall determine whether any of the following facts exist, and the existence of any such fact creates a presumption that the parent or legal guardian is not indigent:

1. The parent or legal guardian has no dependents and has a gross income exceeding $250 per week; or, the parent or legal guardian has dependents and has a gross income exceeding $250 per week plus $100 per week for each dependent.

2. The parent or legal guardian owns cash in excess of $1,000.

3. The parent or legal guardian has an interest exceeding $1,000 in value in a single motor vehicle as defined in s. 320.01.

(d) The court shall also consider the following circumstances before finding that a parent or legal guardian is indigent:

1. The probable expense of being represented in the case.

2. The parent's or legal guardian's ownership of, or equity in, any intangible or tangible personal property or real property or expectancy of an interest in any such property.

3. The amount of debts the parent or legal guardian owes or might incur because of illness or other misfortunes within the family.

(2) If, after the appointment of counsel for an indigent parent or legal guardian, it is determined that the parent or legal guardian is not indigent, the court has continuing jurisdiction to assess attorney's fees and costs against the parent or legal guardian, and order the payment thereof. When payment of attorney's fees or costs has been assessed and ordered by the court, there is hereby created a lien in the name of the county in which the legal assistance was rendered, enforceable as provided in subsection (3), upon all the property, both real and personal, of the parent or legal guardian who received the court-ordered appointed counsel under *this chapter* ~~part III, part IV, part V, or part VI~~. The lien constitutes a claim against the parent or legal guardian and the parent's or legal guardian's estate in an amount to be determined by the court in which the legal assistance was rendered.

(3)(a) The lien created for court-ordered payment of attorney's fees or costs under subsection (2) is enforceable upon all the property, both real and personal, of the parent or legal guardian who is being, or has been, represented by legal counsel appointed by the court in proceedings

under *this chapter* ~~part III, part IV, part V, or part VI~~. The lien constitutes a claim against the person and the estate of the parent or legal guardian, enforceable according to law, in an amount to be determined by the court in which the legal assistance was rendered.

(b) Immediately after the issuance of an order for the payment of attorney's fees or costs, a judgment showing the name, the residential address, the date of birth, and either a physical description or the social security number of the parent or legal guardian must be filed for record in the office of the clerk of the circuit court in the county where the parent or legal guardian resides and in each county in which the parent or legal guardian then owns or later acquires any property. The judgment is enforceable on behalf of the county by the board of county commissioners of the county in which the legal assistance was rendered.

(c) Instead of the procedure described in paragraphs (a) and (b), the court is authorized to require that the parent or legal guardian who has been represented by legal counsel appointed by the court in proceedings under *this chapter* ~~part III, part IV, part V, or part VI~~ execute a lien upon his or her real or personal property, presently owned or after-acquired, as security for the debt created by the court's order requiring payment of attorney's fees or costs. The lien must be recorded in the public records of the county at no charge by the clerk of the circuit court and is enforceable in the same manner as a mortgage.

(d) The board of county commissioners of the county where the parent received the services of an appointed private legal counsel is authorized to enforce, satisfy, compromise, settle, subordinate, release, or otherwise dispose of any debt or lien imposed under this section. A parent, who has been ordered to pay attorney's fees or costs and who is not in willful default in the payment thereof, may, at any time, petition the court which entered the order for remission of the payment of attorney's fees or costs or of any unpaid portion thereof. If the court determines that payment of the amount due will impose manifest hardship on the parent or immediate family, the court may remit all or part of the amount due in attorney's fees or costs or may modify the method of payment.

(e) The board of county commissioners of the county claiming the lien is authorized to contract with a collection agency for collection of such debts or liens, provided the fee for collection is on a contingent basis not to exceed 50 percent of the recovery. However, no fee may be paid to any collection agency by reason of foreclosure proceedings against real property or from the proceeds from the sale or other disposition of real property.

Section 95. Section 984.09, Florida Statutes, is created to read:

984.09 Punishment for contempt of court; alternative sanctions.—

(1) CONTEMPT OF COURT; LEGISLATIVE INTENT.—The court may punish any child for contempt for interfering with the court or with court administration, or for violating any provision of this chapter or order of the court relative thereto. It is the intent of the Legislature that the court restrict and limit the use of contempt powers with respect to commitment of a child to a secure facility. A child who commits direct contempt of court or indirect contempt of a valid court order may be taken into custody and ordered to serve an alternative sanction or placed in a secure facility, as authorized in this section, by order of the court.

(2) PLACEMENT IN A SECURE FACILITY.—A child may be placed in a secure facility for purposes of punishment for contempt of court if alternative sanctions are unavailable or inappropriate, or if the child has already been ordered to serve an alternative sanction but failed to comply with the sanction.

(a) A delinquent child who has been held in direct or indirect contempt may be placed in a secure detention facility for 5 days for a first offense or 15 days for a second or subsequent offense, or in a secure residential commitment facility.

(b) A child in need of services who has been held in direct contempt or indirect contempt may be placed, for 5 days for a first offense or 15 days for a second or subsequent offense, in a staff-secure shelter or a staff-secure residential facility solely for children in need of services if such placement is available, or, if such placement is not available, the child may be placed in an appropriate mental health facility or substance abuse facility for assessment.

(3) ALTERNATIVE SANCTIONS.—Each judicial circuit shall have an alternative sanctions coordinator who shall serve under the chief administrative judge of the juvenile division of the circuit court, and who shall coordinate and maintain a spectrum of contempt sanction alternatives in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c). Upon determining that a child has committed direct contempt of court or indirect contempt of a valid court order, the court may immediately request the alternative sanctions coordinator to recommend the most appropriate available alternative sanction and shall order the child to perform up to 50 hours of community-service manual labor or a similar alternative sanction, unless an alternative sanction is unavailable or inappropriate, or unless the child has failed to comply with a prior alternative sanction. Alternative contempt sanctions may be provided by local industry or by any nonprofit organization or any public or private business or service entity that has entered into a contract with the Department of Juvenile Justice to act as an agent of the state to provide voluntary supervision of children on behalf of the state in exchange for the manual labor of children and limited immunity in accordance with s. 768.28(11).

(4) CONTEMPT OF COURT SANCTIONS; PROCEDURE AND DUE PROCESS.—

(a) If a child is charged with direct contempt of court, including traffic court, the court may impose an authorized sanction immediately.

(b) If a child is charged with indirect contempt of court, the court must hold a hearing within 24 hours to determine whether the child committed indirect contempt of a valid court order. At the hearing, the following due process rights must be provided to the child:

1. Right to a copy of the order to show cause alleging facts supporting the contempt charge.
2. Right to an explanation of the nature and the consequences of the proceedings.
3. Right to legal counsel and the right to have legal counsel appointed by the court if the juvenile is indigent, pursuant to s. 985.203.
4. Right to confront witnesses.
5. Right to present witnesses.
6. Right to have a transcript or record of the proceeding.
7. Right to appeal to an appropriate court.

The child's parent or guardian may address the court regarding the due process rights of the child. The court shall review the placement of the child every 72 hours to determine whether it is appropriate for the child to remain in the facility.

(c) The court may not order that a child be placed in a secure facility for punishment for contempt unless the court determines that an alternative sanction is inappropriate or unavailable or that the child was initially ordered to an alternative sanction and did not comply with the alternative sanction. The court is encouraged to order a child to perform community service, up to the maximum number of hours, where appropriate before ordering that the child be placed in a secure facility as punishment for contempt of court.

(5) ALTERNATIVE SANCTIONS COORDINATOR.—There is created the position of alternative sanctions coordinator within each judicial circuit, pursuant to subsection (3). Each alternative sanctions coordinator shall serve under the direction of the chief administrative judge of the juvenile division as directed by the chief judge of the circuit. The alternative sanctions coordinator shall act as the liaison between the judiciary and county juvenile justice councils, the local department officials, district school board employees, and local law enforcement agencies. The alternative sanctions coordinator shall coordinate within the circuit community-based alternative sanctions, including nonsecure detention programs, community service projects, and other juvenile sanctions, in conjunction with the circuit plan implemented in accordance with s. 790.22(4)(c).

Section 96. Section 39.423, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.10, Florida Statutes, and amended to read:

984.10 ~~39.423~~ Intake.—

(1) Intake shall be performed by the department. A report or complaint alleging that a child is from a family in need of services shall be

made to the intake office operating in the county in which the child is found or in which the case arose. Any person or agency, including, but not limited to, the local school district, law enforcement agency, or Department of *Children and Family* ~~Health and Rehabilitative~~ Services, having knowledge of the facts may make a report or complaint.

(2) A representative of the department shall make a preliminary determination as to whether the report or complaint is complete. The criteria for the completeness of a report or complaint with respect to a child alleged to be from a family in need of services while subject to compulsory school attendance shall be governed by s. *984.03(29)* ~~39.01(73)~~. In any case in which the representative of the department finds that the report or complaint is incomplete, the representative of the department shall return the report or complaint without delay to the person or agency originating the report or complaint or having knowledge of the facts or to the appropriate law enforcement agency having investigative jurisdiction and request additional information in order to complete the report or complaint.

(3) If the representative of the department determines that in his or her judgment the interests of the family, the child, and the public will be best served by providing the family and child services and treatment voluntarily accepted by the child and the parents or legal custodians, the departmental representative may refer the family or child to an appropriate service and treatment provider.

(4) If the department has reasonable grounds to believe that the child has been abandoned, abused, or neglected, it shall proceed pursuant to the provisions of s. 415.505 and ~~part III of this~~ chapter *39*.

Section 97. Section 39.424, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.11, Florida Statutes, and amended to read:

984.11 ~~39.424~~ Services to families in need of services.—

(1) Services and treatment to families in need of services shall be by voluntary agreement of the parent or legal guardian and the child or as directed by a court order pursuant to s. *984.22* ~~39.442~~.

(2) These services may include, but need not be limited to:

(a) Homemaker or parent aide services.
(b) Intensive crisis counseling.
(c) Parent training.
(d) Individual, group, or family counseling.
(e) Community mental health services.
(f) Prevention and diversion services.
(g) Services provided by voluntary or community agencies.
(h) Runaway center services.
(i) Housekeeper services.
(j) Special educational, tutorial, or remedial services.
(k) Vocational, job training, or employment services.
(l) Recreational services.
(m) Assessment.

(3) The department shall advise the parents or legal guardian that they are responsible for contributing to the cost of the child or family services and treatment to the extent of their ability to pay. The department shall set and charge fees for services and treatment provided to clients.

(4) The department may file a petition with the circuit court to enforce the collection of fees for services and treatment rendered to the child or the parent and other legal custodians.

Section 98. Section 39.426, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 984.12, Florida Statutes.

Section 99. Section 39.421, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.13, Florida Statutes, and amended to read:

984.13 ~~39.421~~ Taking into custody a child alleged to be from a family in need of services or to be a child in need of services.—

(1) A child may be taken into custody:

(a) By a law enforcement officer when the officer has reasonable grounds to believe that the child has run away from his or her parents, guardian, or other legal custodian.

(b) By a law enforcement officer when the officer has reasonable grounds to believe that the child is absent from school without authorization, for the purpose of delivering the child without unreasonable delay to the school system. For the purpose of this paragraph, "school system" includes, but is not limited to, a center approved by the superintendent of schools for the purpose of counseling students and referring them back to the school system.

(c) Pursuant to an order of the circuit court based upon sworn testimony before or after a petition is filed under s. *984.15* ~~39.436~~.

(d) By a law enforcement officer when the child voluntarily agrees to or requests services pursuant to this *chapter* ~~part~~ or placement in a shelter.

(2) The person taking the child into custody shall:

(a) Release the child to a parent, guardian, legal custodian, or responsible adult relative or to a department-approved family-in-need-of-services and child-in-need-of-services provider if the person taking the child into custody has reasonable grounds to believe the child has run away from a parent, guardian, or legal custodian; is truant; or is beyond the control of the parent, guardian, or legal custodian; following such release, the person taking the child into custody shall make a full written report to the intake office of the department within 3 days; or

(b) Deliver the child to the department, stating the facts by reason of which the child was taken into custody and sufficient information to establish probable cause that the child is from a family in need of services.

(3) If the child is taken into custody by, or is delivered to, the department, the appropriate representative of the department shall review the facts and make such further inquiry as necessary to determine whether the child shall remain in custody or be released. Unless shelter is required as provided in s. *984.14(1)* ~~39.422(1)~~, the department shall:

(a) Release the child to his or her parent, guardian, or legal custodian, to a responsible adult relative, to a responsible adult approved by the department, or to a department-approved family-in-need-of-services and child-in-need-of-services provider; or

(b) Authorize temporary services and treatment that would allow the child alleged to be from a family in need of services to remain at home.

Section 100. Section 39.422, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.14, Florida Statutes, and amended to read:

984.14 ~~39.422~~ *Shelter* placement*; hearing* ~~of a child from a family in need of services or a child in need of services in a shelter.—~~

(1) Unless ordered by the court pursuant to the provisions of this *chapter* ~~part~~, or upon voluntary consent to placement by the child and the child's parent, legal guardian, or custodian, a child taken into custody shall not be placed in a shelter prior to a court hearing unless a determination has been made that the provision of appropriate and available services will not eliminate the need for placement and that such placement is required:

(a) To provide an opportunity for the child and family to agree upon conditions for the child's return home, when immediate placement in the home would result in a substantial likelihood that the child and family would not reach an agreement; or

(b) Because a parent, custodian, or guardian is unavailable to take immediate custody of the child.

(2) If the department determines that placement in a shelter is necessary according to the provisions of subsection (1), the departmental representative shall authorize placement of the child in a shelter provided by the community specifically for runaways and troubled youth who are children in need of services or members of families in need of services and shall immediately notify the parents or legal custodians that the child was taken into custody.

(3) A child who is involuntarily placed in a shelter shall be given a shelter hearing within 24 hours after being taken into custody to determine whether shelter placement is required. The shelter petition filed

with the court shall address each condition required to be determined in subsection (1).

(4) A child may not be held involuntarily in a shelter longer than 24 hours unless an order so directing is made by the court after a shelter hearing finding that placement in a shelter is necessary based on the criteria in subsection (1) and that the department has made reasonable efforts to prevent or eliminate the need for removal of the child from the home.

(5) Under the provisions of this *chapter* ~~part~~, placement in a shelter of a child in need of services or a child from a family in need of services shall be for no longer than 35 days.

(6) When any child is placed in a shelter pursuant to court order following a shelter hearing, the court shall order the natural or adoptive parents of such child, the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate, if possessed of assets which under law may be disbursed for the care, support, and maintenance of the child, to pay, to the department, fees as established by the department. When the order affects the guardianship estate, a certified copy of the order shall be delivered to the judge having jurisdiction of the guardianship estate.

(7) A child who is adjudicated a child in need of services or alleged to be from a family in need of services or a child in need of services may not be placed in a secure detention facility or jail or any other commitment program for delinquent children under any circumstances.

(8) The court may order the placement of a child in need of services into a staff-secure facility for no longer than 5 days for the purpose of evaluation and assessment.

Section 101. Section 39.436, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.15, Florida Statutes, and amended to read:

984.15 ~~39.436~~ Petition for a child in need of services.—

(1) All proceedings seeking an adjudication that a child is a child in need of services shall be initiated by the filing of a petition by an attorney representing the department. If a child in need of services has been placed in a shelter pursuant to s. *984.14* ~~39.422~~, the petition shall be filed immediately and contain notice of arraignment pursuant to s. *984.20* ~~39.44~~.

(2) The department shall file a petition for a child in need of services if the case manager or staffing committee requests that a petition be filed and:

(a) The family and child have in good faith, but unsuccessfully, used the services and process described in ss. *984.11 and 984.12* ~~39.424 and 39.426~~; or

(b) The family or child have refused all services described in ss. *984.11 and 984.12* ~~39.424 and 39.426~~ after reasonable efforts by the department to involve the family and child in services and treatment.

(3) Effective January 1, 1997, once the requirements in subsection (2) have been met, the department shall file a petition for a child in need of services within 45 days.

(4) The petition shall be in writing, shall state the specific grounds under s. *984.03(9)* ~~39.01(12)~~ by which the child is designated a child in need of services, and shall certify that the conditions prescribed in subsection (2) have been met. The petition shall be signed by the petitioner under oath stating good faith in filing the petition and shall be signed by an attorney for the department.

(5) The form of the petition and its contents shall be determined by rules of procedure adopted by the Supreme Court.

(6) The department may withdraw a petition at any time prior to the child being adjudicated a child in need of services.

Section 102. Section 39.437, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 984.16, Florida Statutes.

Section 103. Section 39.438, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 984.17, Florida Statutes.

Section 104. Section 39.4431, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 984.18, Florida Statutes.

Section 105. Section 39.446, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.19, Florida Statutes, and amended to read:

984.19 ~~39.446~~ Medical, psychiatric, and psychological examination and treatment of child; physical or mental examination of parent, guardian, or person requesting custody of child.—

(1) When any child is to be placed in shelter care, the department is authorized to have a medical screening performed on the child without authorization from the court and without consent from a parent or guardian. Such medical screening shall be performed by a licensed health care professional and shall be to examine the child for injury, illness, and communicable diseases. In no case does this subsection authorize the department to consent to medical treatment for such children.

(2) When the department has performed the medical screening authorized by subsection (1) or when it is otherwise determined by a licensed health care professional that a child is in need of medical treatment, consent for medical treatment shall be obtained in the following manner:

(a)1. Consent to medical treatment shall be obtained from a parent or guardian of the child; or

2. A court order for such treatment shall be obtained.

(b) If a parent or guardian of the child is unavailable and his or her whereabouts cannot be reasonably ascertained and it is after normal working hours so that a court order cannot reasonably be obtained, an authorized agent of the department or its provider has the authority to consent to necessary medical treatment for the child. The authority of the department to consent to medical treatment in this circumstance is limited to the time reasonably necessary to obtain court authorization.

(c) If a parent or guardian of the child is available but refuses to consent to the necessary treatment, a court order is required, unless the situation meets the definition of an emergency in s. 743.064 or the treatment needed is related to suspected abuse or neglect of the child by the parent or guardian. In such case, the department has the authority to consent to necessary medical treatment. This authority is limited to the time reasonably necessary to obtain court authorization.

In no case may the department consent to sterilization, abortion, or termination of life support.

(3) A judge may order that a child alleged to be or adjudicated a child in need of services be examined by a licensed health care professional. The judge may also order such child to be evaluated by a psychiatrist or a psychologist, by a district school board educational needs assessment team, or, if a developmental disability is suspected or alleged, by the developmental disability diagnostic and evaluation team of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services. The judge may order a family assessment if that assessment was not completed at an earlier time. If it is necessary to place a child in a residential facility for such evaluation, then the criteria and procedure established in s. 394.463(2) or chapter 393 shall be used, whichever is applicable. The educational needs assessment provided by the district school board educational needs assessment team shall include, but not be limited to, reports of intelligence and achievement tests, screening for learning disabilities and other handicaps, and screening for the need for alternative education pursuant to s. 230.2316.

(4) A judge may order that a child alleged to be or adjudicated a child in need of services be treated by a licensed health care professional. The judge may also order such child to receive mental health or retardation services from a psychiatrist, psychologist, or other appropriate service provider. If it is necessary to place the child in a residential facility for such services, then the procedures and criteria established in s. 394.467 or chapter 393 shall be used, whichever is applicable. A child may be provided mental health or retardation services in emergency situations, pursuant to the procedures and criteria contained in s. 394.463(1) or chapter 393, whichever is applicable.

(5) When there are indications of physical injury or illness, a licensed health care professional shall be immediately called or the child shall be taken to the nearest available hospital for emergency care.

(6) Except as otherwise provided herein, nothing in this section shall be deemed to eliminate the right of a parent, a guardian, or the child to consent to examination or treatment for the child.

(7) Except as otherwise provided herein, nothing in this section shall be deemed to alter the provisions of s. 743.064.

(8) A court shall not be precluded from ordering services or treatment to be provided to the child by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a church or religious organization, when required by the child's health and when requested by the child.

(9) Nothing in this section shall be construed to authorize the permanent sterilization of the child, unless such sterilization is the result of or incidental to medically necessary treatment to protect or preserve the life of the child.

(10) For the purpose of obtaining an evaluation or examination or receiving treatment as authorized pursuant to this section, no child alleged to be or found to be a child from a family in need of services or a child in need of services shall be placed in a detention facility or other program used primarily for the care and custody of children alleged or found to have committed delinquent acts.

(11) The parents or guardian of a child alleged to be or adjudicated a child in need of services remain financially responsible for the cost of medical treatment provided to the child even if one or both of the parents or if the guardian did not consent to the medical treatment. After a hearing, the court may order the parents or guardian, if found able to do so, to reimburse the department or other provider of medical services for treatment provided.

(12) Nothing in this section alters the authority of the department to consent to medical treatment for a child who has been committed to the department pursuant to s. *984.22(3) and (4)* ~~39.442(3) and (4)~~ and of whom the department has become the legal custodian.

(13) At any time after the filing of a petition for a child in need of services, when the mental or physical condition, including the blood group, of a parent, guardian, or other person requesting custody of a child is in controversy, the court may order the person to submit to a physical or mental examination by a qualified professional. The order may be made only upon good cause shown and pursuant to notice and procedures as set forth by the Florida Rules of Juvenile Procedure.

Section 106. Section 39.44, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 984.20, Florida Statutes.

Section 107. Section 39.441, Florida Statutes, is transferred and renumbered as section 984.21, Florida Statutes.

Section 108. Section 39.442, Florida Statutes, 1996 Supplement, is transferred, renumbered as section 984.22, Florida Statutes, and amended to read:

984.22 ~~39.442~~ Powers of disposition.—

(1) If the court finds that services and treatment have not been provided or utilized by a child or family, the court having jurisdiction of the child shall have the power to direct the least intrusive and least restrictive disposition, as follows:

(a) Order the parent, guardian, or custodian and the child to participate in treatment, services, and any other alternative identified as necessary.

(b) Order the parent, guardian, or custodian to pay a fine or fee based on the recommendations of the department.

(2) When any child is adjudicated by the court to be a child in need of services, the court having jurisdiction of the child and parent, guardian, or custodian shall have the power, by order, to:

(a) Place the child under the supervision of the department's contracted provider of programs and services for children in need of services and families in need of services. "Supervision," for the purposes of this section, means services as defined by the contract between the department and the provider.

(b) Place the child in the temporary legal custody of an adult willing to care for the child.

(c) Commit the child to a licensed child-caring agency willing to receive the child and to provide services without compensation from the department.

(d) Order the child, and, if the court finds it appropriate, the parent, guardian, or custodian of the child, to render community service in a public service program.

(3) When any child is adjudicated by the court to be a child in need of services and temporary legal custody of the child has been placed with an adult willing to care for the child, a licensed child-caring agency, the Department of Juvenile Justice, or the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, the court shall order the natural or adoptive parents of such child, including the natural father of such child born out of wedlock who has acknowledged his paternity in writing before the court, or the guardian of such child's estate if possessed of assets which under law may be disbursed for the care, support, and maintenance of such child, to pay child support to the adult relative caring for the child, the licensed child-caring agency, the Department of Juvenile Justice, or the Department of *Children and Family* ~~Health and Rehabilitative~~ Services. When such order affects the guardianship estate, a certified copy of such order shall be delivered to the judge having jurisdiction of such guardianship estate. If the court determines that the parent is unable to pay support, placement of the child shall not be contingent upon issuance of a support order.

(4) All payments of fees made to the department pursuant to this *chapter* ~~part~~, or child support payments made to the department pursuant to subsection *(3)* ~~(5)~~, shall be deposited in the General Revenue Fund. In cases in which the child is placed in foster care with the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, such child support payments shall be deposited in the Foster Care, Group Home, Developmental Training, and Supported Employment Programs Trust Fund.

(5) In carrying out the provisions of this *chapter* ~~part~~, the court shall order the child, family, parent, guardian, or custodian of a child who is found to be a child in need of services to participate in family counseling and other professional counseling activities or other alternatives deemed necessary for the rehabilitation of the child.

(6) The participation and cooperation of the family, parent, guardian, or custodian, and the child with court-ordered services, treatment, or community service are mandatory, not merely voluntary. The court may use its contempt powers to enforce its order.

Section 109. Section 39.4375, Florida Statutes, is transferred and renumbered as section 984.23, Florida Statutes.

Section 110. Section 39.4441, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 984.24, Florida Statutes.

Section 111. Section 39.01, Florida Statutes, 1996 Supplement, is amended to read:

39.01 Definitions.—When used in this chapter:

(1) "Abandoned" means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person responsible for the child's welfare, while being able, makes no provision for the child's support and makes no effort to communicate with the child, which situation is sufficient to evince a willful rejection of parental obligations. If the efforts of such parent or legal custodian, or person primarily responsible for the child's welfare to support and communicate with the child are, in the opinion of the court, only marginal efforts that do not evince a settled purpose to assume all parental duties, the court may declare the child to be abandoned. The term "abandoned" does not include a "child in need of services" as defined in *chapter 984* ~~subsection (12)~~ or a "family in need of services" as defined in *chapter 984* ~~subsection (30)~~. The incarceration of a parent, legal custodian, or person responsible for a child's welfare does not constitute a bar to a finding of abandonment.

(2) "Abuse" means any willful act that results in any physical, mental, or sexual injury that causes or is likely to cause the child's physical, mental, or emotional health to be significantly impaired. Corporal discipline of a child by a parent or guardian for disciplinary purposes does

not in itself constitute abuse when it does not result in harm to the child as defined in s. 415.503.

(3) "Addictions receiving facility" means a substance abuse service provider as defined in chapter 397.

(4) "Adjudicatory hearing" means a hearing for the court to determine whether or not the facts support the allegations stated in the petition as is provided for under ~~s. 39.052(1), in delinquency cases;~~ s. 39.408(2), in dependency cases,~~; s. 39.44(2), in child-in-need-of-services cases;~~ or s. 39.467, in termination of parental rights cases.

(5) "Adult" means any natural person other than a child.

(6) "Arbitration" means a process whereby a neutral third person or panel, called an arbitrator or an arbitration panel, considers the facts and arguments presented by the parties and renders a decision which may be binding or nonbinding.

(7) "Authorized agent" or "designee" of the department means a person or agency assigned or designated by the Department of Juvenile Justice or the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, as appropriate, to perform duties or exercise powers pursuant to this chapter and includes contract providers and their employees for purposes of providing services to and managing cases of children in need of services and families in need of services.

(8) "Caretaker/homemaker" means an authorized agent of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services who shall remain in the child's home with the child until a parent, legal guardian, or relative of the child enters the home and is capable of assuming and agrees to assume charge of the child.

(9) "Case plan" or "plan" means a document, as described in s. 39.4031, prepared by the department, that follows the child from the provision of voluntary services through any dependency, foster care, or termination of parental rights proceeding or related activity or process ~~under part III, part V, or part VI~~.

(10) "Child" or "juvenile" or "youth" means any unmarried person under the age of 18 who has not been emancipated by order of the court and who has been found or alleged to be dependent, in need of services, or from a family in need of services; or any married or unmarried person who is charged with a violation of law occurring prior to the time that person reached the age of 18 years.

~~(11) "Child eligible for an intensive residential treatment program for offenders less than 13 years of age" means a child who has been found to have committed a delinquent act or a violation of law in the case currently before the court and who meets at least one of the following criteria:~~

~~(a) The child is less than 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:~~

~~1. Arson;~~
~~2. Sexual battery;~~
~~3. Robbery;~~
~~4. Kidnapping;~~
~~5. Aggravated child abuse;~~
~~6. Aggravated assault;~~
~~7. Aggravated stalking;~~
~~8. Murder;~~
~~9. Manslaughter;~~
~~10. Unlawful throwing, placing, or discharging of a destructive device or bomb;~~
~~11. Armed burglary;~~
~~12. Aggravated battery;~~
~~13. Lewd or lascivious assault or act in the presence of a child; or~~
~~14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.~~

~~(b) The child is less than 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least once to a delinquency commitment program.~~

~~(c) The child is less than 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.~~

~~(12) "Child in need of services" means a child for whom there is no pending investigation into an allegation or suspicion of abuse, neglect, or abandonment; no pending referral alleging the child is delinquent; or no current supervision by the Department of Juvenile Justice or the Department of Health and Rehabilitative Services for an adjudication of dependency or delinquency. The child must also, pursuant to this chapter, be found by the court:~~

~~(a) To have persistently run away from the child's parents or legal custodians despite reasonable efforts of the child, the parents or legal custodians, and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts shall include voluntary participation by the child's parents or legal custodians and the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Health and Rehabilitative Services;~~

~~(b) To be habitually truant from school, while subject to compulsory school attendance, despite reasonable efforts to remedy the situation pursuant to s. 232.19 and through voluntary participation by the child's parents or legal custodians and by the child in family mediation, services, and treatment offered by the Department of Juvenile Justice or the Department of Health and Rehabilitative Services; or~~

~~(c) To have persistently disobeyed the reasonable and lawful demands of the child's parents or legal custodians, and to be beyond their control despite efforts by the child's parents or legal custodians and appropriate agencies to remedy the conditions contributing to the behavior. Reasonable efforts may include such things as good faith participation in family or individual counseling.~~

~~(13) "Child who has been found to have committed a delinquent act" means a child who, pursuant to the provisions of this chapter, is found by a court to have committed a violation of law or to be in direct or indirect contempt of court, except that this definition shall not include an act constituting contempt of court arising out of a dependency proceeding or a proceeding pursuant to part IV of this chapter.~~

(11)~~(14)~~ "Child who is found to be dependent" means a child who, pursuant to this chapter, is found by the court:

(a) To have been abandoned, abused, or neglected by the child's parents or other custodians.

(b) To have been surrendered to the *Department of Children and Family Services, the former* Department of Health and Rehabilitative Services, or a licensed child-placing agency for purpose of adoption.

(c) To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, *the Department of Children and Family Services*, or the *former* Department of Health and Rehabilitative Services, after which placement, under the requirements of part *II* ~~V~~ of this chapter, a case plan has expired and the parent or parents have failed to substantially comply with the requirements of the plan.

(d) To have been voluntarily placed with a licensed child-placing agency for the purposes of subsequent adoption and a natural parent or parents signed a consent pursuant to the Florida Rules of Juvenile Procedure.

(e) To have no parent, legal custodian, or responsible adult relative to provide supervision and care.

(f) To be at substantial risk of imminent abuse or neglect by the parent or parents or the custodian.

(12)~~(15)~~ "Child support" means a court-ordered obligation, enforced under chapter 61 and ss. 409.2551-409.2597, for monetary support for the care, maintenance, training, and education of a child.

~~(16) "Community control" means the legal status of probation created by law and court order in cases involving a child who has been found to have committed a delinquent act. Community control is an individualized program in which the freedom of the child is limited and the child is restricted to noninstitutional quarters or restricted to the child's home~~

~~in lieu of commitment to the custody of the Department of Juvenile Justice.~~

(13) "Circuit" means any of the 20 judicial circuits as set forth in s. 26.021.

(14)~~(17)~~ "Comprehensive assessment" or "assessment" means the gathering of information for the evaluation of a juvenile offender's or a child's physical, psychological, educational, vocational, and social condition and family environment as they relate to the child's need for rehabilitative and treatment services, including substance abuse treatment services, mental health services, developmental services, literacy services, medical services, family services, and other specialized services, as appropriate.

(15)~~(18)~~ "Court," unless otherwise expressly stated, means the circuit court assigned to exercise jurisdiction under this chapter.

~~(19)(a) "Delinquency program" means any intake, community control and furlough, or similar program; regional detention center or facility; or community-based program, whether owned and operated by or contracted by the Department of Juvenile Justice, or institution owned and operated by or contracted by the Department of Juvenile Justice, which provides intake, supervision, or custody and care of children who are alleged to be or who have been found to be delinquent pursuant to part II.~~

~~(b) "Delinquency program staff" means supervisory and direct care staff of a delinquency program as well as support staff who have direct contact with children in a delinquency program.~~

~~(c) "Delinquency prevention programs" means programs designed for the purpose of reducing the occurrence of delinquency, including youth and street gang activity, and juvenile arrests. The term excludes arbitration, diversionary or mediation programs, and community service work or other treatment available subsequent to a child committing a delinquent act.~~

(16)~~(20)~~ "Department," as used in *this chapter* ~~parts III, V, and VI~~, means the Department of *Children and Family* ~~Health and Rehabilitative~~ Services. ~~As used in parts II and IV, the term means the Department of Juvenile Justice.~~

~~(21) "Designated facility" or "designated treatment facility" means any facility designated by the Department of Juvenile Justice to provide treatment to juvenile offenders.~~

~~(22) "Detention care" means the temporary care of a child in secure, nonsecure, or home detention, pending a court adjudication or disposition or execution of a court order. There are three types of detention care, as follows:~~

~~(a) "Secure detention" means temporary custody of the child while the child is under the physical restriction of a detention center or facility pending adjudication, disposition, or placement.~~

~~(b) "Nonsecure detention" means temporary custody of the child while the child is in a residential home in the community in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice pending adjudication, disposition, or placement.~~

~~(c) "Home detention" means temporary custody of the child while the child is released to the custody of the parent, guardian, or custodian in a physically nonrestrictive environment under the supervision of the Department of Juvenile Justice staff pending adjudication, disposition, or placement.~~

~~(23) "Detention center or facility" means a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure or nonsecure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention center or facility.~~

~~(24) "Detention hearing" means a hearing for the court to determine if a child should be placed in temporary custody, as provided for under ss. 39.042 and 39.044, in delinquency cases, or s. 39.402, in dependency cases.~~

(17)~~(25)~~ "Diligent efforts by a parent" means a course of conduct which results in a reduction in risk to the child in the child's home that would allow the child to be safely placed permanently back in the home as set forth in the case plan.

(18)~~(26)~~ "Diligent efforts of social service agency" means reasonable efforts to provide social services or reunification services made by any social service agency as defined in this section that is a party to a case plan.

(19)~~(27)~~ "Diligent search" means the efforts of a social service agency in accordance with the requirements of s. 39.4051(6) to locate a parent or prospective parent whose identity or location is unknown, initiated as soon as the agency is made aware of the existence of such a parent, with the search progress reported at each court hearing until the parent is either identified and located or the court excuses further search.

(20)~~(28)~~ "Disposition hearing" means a hearing in which the court determines the most appropriate dispositional services in the least restrictive available setting provided for under ~~s. 39.052(4), in delinquency cases;~~ s. 39.408(3), in dependency cases,~~; s. 39.44(3), in child-in-need-of-services cases;~~ or s. 39.469, in termination of parental rights cases.

(21) "District administrator" means the chief operating officer of each service district of the Department of Children and Family Services as defined in s. 20.19(6) and, where appropriate, includes each district administrator whose service district falls within the boundaries of a judicial circuit.

(22)~~(29)~~ "Family" means a collective body of persons, consisting of a child and a parent, guardian, adult custodian, or adult relative, in which:

(a) The persons reside in the same house or living unit; or

(b) The parent, guardian, adult custodian, or adult relative has a legal responsibility by blood, marriage, or court order to support or care for the child.

~~(30) "Family in need of services" means a family that has a child for whom there is no pending investigation into an allegation of abuse, neglect, or abandonment or no current supervision by the Department of Juvenile Justice or the Department of Health and Rehabilitative Services for an adjudication of dependency or delinquency. The child must also have been referred to a law enforcement agency or the Department of Juvenile Justice for:~~

~~(a) Running away from parents or legal custodians;~~

~~(b) Persistently disobeying reasonable and lawful demands of parents or legal custodians, and being beyond their control; or~~

~~(c) Habitual truancy from school.~~

(23)~~(31)~~ "Foster care" means care provided a child in a foster family or boarding home, group home, agency boarding home, child care institution, or any combination thereof.

~~(32) "Halfway house" means a community-based residential program for 10 or more committed delinquents at the moderate-risk restrictiveness level that is operated or contracted by the Department of Juvenile Justice.~~

~~(33) "Intake" means the initial acceptance and screening by the Department of Juvenile Justice of a complaint or a law enforcement report or probable cause affidavit of delinquency, family in need of services, or child in need of services to determine the recommendation to be taken in the best interests of the child, the family, and the community. The emphasis of intake is on diversion and the least restrictive available services. Consequently, intake includes such alternatives as:~~

~~(a) The disposition of the complaint, report, or probable cause affidavit without court or public agency action or judicial handling when appropriate.~~

~~(b) The referral of the child to another public or private agency when appropriate.~~

~~(c) The recommendation by the intake counselor or case manager of judicial handling when appropriate and warranted.~~

~~(34) "Intake counselor" or "case manager" means the authorized agent of the Department of Juvenile Justice performing the intake or case management function for a child alleged to be delinquent or in need of services, or from a family in need of services.~~

(24) "Health and human services board" means the body created in each service district of the Department of Children and Family Services pursuant to the provisions of s. 20.19(7).

(25)~~(35)~~ "Judge" means the circuit judge exercising jurisdiction pursuant to this chapter.

~~(36) "Juvenile sexual offender" means:~~

~~(a) A juvenile who has been found by the court pursuant to s. 39.053 to have committed a violation of chapter 794, chapter 796, chapter 800, s. 827.071, or s. 847.0133;~~

~~(b) A juvenile found to have committed any violation of law or delinquent act involving juvenile sexual abuse. "Juvenile sexual abuse" means any sexual behavior which occurs without consent, without equality, or as a result of coercion. For purposes of this subsection, the following definitions apply:~~

~~1. "Coercion" means the exploitation of authority, use of bribes, threats of force, or intimidation to gain cooperation or compliance.~~

~~2. "Equality" means two participants operating with the same level of power in a relationship, neither being controlled nor coerced by the other.~~

~~3. "Consent" means an agreement including all of the following:~~

~~a. Understanding what is proposed based on age, maturity, developmental level, functioning, and experience.~~
~~b. Knowledge of societal standards for what is being proposed.~~
~~c. Awareness of potential consequences and alternatives.~~
~~d. Assumption that agreement or disagreement will be accepted equally.~~
~~e. Voluntary decision.~~
~~f. Mental competence.~~

~~Juvenile sexual offender behavior ranges from noncontact sexual behavior such as making obscene phone calls, exhibitionism, voyeurism, and the showing or taking of lewd photographs to varying degrees of direct sexual contact, such as frottage, fondling, digital penetration, rape, fellatio, sodomy, and various other sexually aggressive acts.~~

(26)~~(37)~~ "Legal custody" means a legal status created by court order or letter of guardianship which vests in a custodian of the person or guardian, whether an agency or an individual, the right to have physical custody of the child and the right and duty to protect, train, and discipline the child and to provide him or her with food, shelter, education, and ordinary medical, dental, psychiatric, and psychological care.

(27)~~(38)~~ "Licensed child-caring agency" means a person, society, association, or agency licensed by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services to care for, receive, and board children.

(28)~~(39)~~ "Licensed child-placing agency" means a person, society, association, or institution licensed by the Department of *Children and Family* ~~Health and Rehabilitative~~ Services to care for, receive, or board children and to place children in a licensed child-caring institution or a foster or adoptive home.

(29)~~(40)~~ "Licensed health care professional" means a physician licensed under chapter 458, an osteopathic physician licensed under chapter 459, a nurse licensed under chapter 464, a physician assistant certified under chapter 458, or a dentist licensed under chapter 466.

(30)~~(41)~~ "Likely to injure oneself" means that, as evidenced by violent or other actively self-destructive behavior, it is more likely than not that within a 24-hour period the child will attempt to commit suicide or inflict serious bodily harm on himself or herself.

(31)~~(42)~~ "Likely to injure others" means that it is more likely than not that within a 24-hour period the child will inflict serious and unjustified bodily harm on another person.

(32)~~(43)~~ "Long-term relative custodian" means an adult who is a party to a long-term custodial relationship created by a court order pursuant to s. *39.41(2)(a)5.* ~~39.41(1)(a)3.a.~~

(33)~~(44)~~ "Long-term relative custody" or "long-term custodial relationship" means the relationship that a juvenile court order creates between a child and an adult relative of the child or an adult nonrelative approved by the court when the child cannot be placed in the custody of a natural parent and termination of parental rights is not deemed to be in the best interest of the child. Long-term relative custody confers upon the long-term relative or nonrelative custodian the right to physical custody of the child, a right which will not be disturbed by the court except upon request of the custodian or upon a showing that a material change in circumstances necessitates a change of custody for the best interest of the child. A long-term relative or nonrelative custodian shall have all of the rights of a natural parent, including, but not limited to, the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the long-term custodial relationship.

(34)~~(45)~~ "Mediation" means a process whereby a neutral third person called a mediator acts to encourage and facilitate the resolution of a dispute between two or more parties. It is an informal and nonadversarial process with the objective of helping the disputing parties reach a mutually acceptable and voluntary agreement. In mediation, decision-making authority rests with the parties. The role of the mediator includes, but is not limited to, assisting the parties in identifying issues, fostering joint problem solving, and exploring settlement alternatives.

(35)~~(46)~~ "Necessary medical treatment" means care which is necessary within a reasonable degree of medical certainty to prevent the deterioration of a child's condition or to alleviate immediate pain of a child.

(36)~~(47)~~ "Neglect" occurs when the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the person primarily responsible for the child's welfare deprives a child of, or allows a child to be deprived of, necessary food, clothing, shelter, or medical treatment or permits a child to live in an environment when such deprivation or environment causes the child's physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or guardian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child shall not, for that reason alone, be considered a negligent parent or guardian; however, such an exception does not preclude a court from ordering the following services to be provided, when the health of the child so requires:

(a) Medical services from a licensed physician, dentist, optometrist, podiatrist, or other qualified health care provider; or

(b) Treatment by a duly accredited practitioner who relies solely on spiritual means for healing in accordance with the tenets and practices of a well-recognized church or religious organization.

(37)~~(48)~~ "Parent" means a woman who gives birth to a child and a man whose consent to the adoption of the child would be required under s. 63.062(1)(b). If a child has been legally adopted, the term "parent" means the adoptive mother or father of the child. The term does not include an individual whose parental relationship to the child has been legally terminated, or an alleged or prospective parent, unless the parental status falls within the terms of either s. 39.4051(7) or s. 63.062(1)(b).

(38)~~(49)~~ "Participant," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means any person who is not a party but who should receive notice of hearings involving the child, including foster parents, identified prospective parents, grandparents entitled to priority for adoption consideration under s. 63.0425, actual custodians of the child, and any other person whose participation may be in the best interest of the child. Participants may be granted leave by the court to be heard without the necessity of filing a motion to intervene.

(39)~~(50)~~ "Party," for purposes of a shelter proceeding, dependency proceeding, or termination of parental rights proceeding, means the parent of the child, the petitioner, the department, the guardian ad litem when one has been appointed, and the child. The presence of the child may be excused by order of the court when presence would not be in the child's best interest. Notice to the child may be excused by order of the court when the age, capacity, or other condition of the child is such that the notice would be meaningless or detrimental to the child.

(40)~~(51)~~ "Preliminary screening" means the gathering of preliminary information to be used in determining a child's need for further evaluation or assessment or for referral for other substance abuse services through means such as psychosocial interviews; urine and breathalyzer screenings; and reviews of available educational, delinquency, and dependency records of the child.

(41)~~(52)~~ "Preventive services" means social services and other supportive and rehabilitative services provided to the parent of the child, the legal guardian of the child, or the custodian of the child and to the child for the purpose of averting the removal of the child from the home or disruption of a family which will or could result in the placement of a child in foster care. Social services and other supportive and rehabilitative services shall promote the child's need for a safe, continuous, stable, living environment and shall promote family autonomy and shall strengthen family life as the first priority whenever possible.

(42)~~(53)~~ "Prospective parent" means a person who claims to be, or has been identified as, a person who may be a mother or a father of a child.

(43)~~(54)~~ "Protective investigation" means the acceptance of a report alleging child abuse or neglect, as defined in s. 415.503, by the central abuse *hotline* ~~registry and tracking system~~ or the acceptance of a report of other dependency by the local children, youth, and families office of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services; the investigation and classification of each report; the determination of whether action by the court is warranted; the determination of the disposition of each report without court or public agency action when appropriate; the referral of a child to another public or private agency when appropriate; and the recommendation by the protective investigator of court action when appropriate.

(44)~~(55)~~ "Protective investigator" means an authorized agent of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services who receives, investigates, and classifies reports of child abuse or neglect as defined in s. 415.503; who, as a result of the investigation, may recommend that a dependency petition be filed for the child under the criteria of paragraph *(11)(a)* ~~(14)(a)~~; and who performs other duties necessary to carry out the required actions of the protective investigation function.

(45)~~(56)~~ "Protective supervision" means a legal status in dependency cases, child-in-need-of-services cases, or family-in-need-of-services cases which permits the child to remain in his or her own home or other placement under the supervision of an agent of the Department of Juvenile Justice or the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, subject to being returned to the court during the period of supervision.

(46)~~(57)~~ "Protective supervision case plan" means a document that is prepared by the protective supervision counselor of the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, is based upon the voluntary protective supervision of a case pursuant to s. 39.403(2)(b), or a disposition order entered pursuant to s. *39.41(2)(a)3.* ~~39.41(1)(a)1.~~, and that:

(a) Is developed in conference with the parent, guardian, or custodian of the child and, if appropriate, the child and any court-appointed guardian ad litem.

(b) Is written simply and clearly in the principal language, to the extent possible, of the parent, guardian, or custodian of the child and in English.

(c) Is subject to modification based on changing circumstances and negotiations among the parties to the plan and includes, at a minimum:

1. All services and activities ordered by the court.

2. Goals and specific activities to be achieved by all parties to the plan.

3. Anticipated dates for achieving each goal and activity.

4. Signatures of all parties to the plan.

(d) Is submitted to the court in cases where a dispositional order has been entered pursuant to s. *39.41(2)(a)3.* ~~39.41(1)(a)1.~~

(47)~~(58)~~ "Relative" means a grandparent, great-grandparent, sibling, first cousin, aunt, uncle, great-aunt, great-uncle, niece, or nephew, whether related by the whole or half blood, by affinity, or by adoption. The term does not include a stepparent.

~~(59) "Restrictiveness level" means the level of custody provided by programs that service the custody and care needs of committed children. There shall be five restrictiveness levels:~~

~~(a) Minimum-risk nonresidential.—Youth assessed and classified for placement in programs at this restrictiveness level represent a minimum risk to themselves and public safety and do not require placement and services in residential settings. Programs or program models in this restrictiveness level include: community counselor supervision programs, special intensive group programs, nonresidential marine programs, nonresidential training and rehabilitation centers, and other local community nonresidential programs.~~

~~(b) Low-risk residential.—Youth assessed and classified for placement in programs at this level represent a low risk to themselves and public safety and do require placement and services in residential settings. Programs or program models in this restrictiveness level include: Short Term Offender Programs (STOP), group treatment homes, family group homes, proctor homes, and Short Term Environmental Programs (STEP).~~

~~(c) Moderate-risk residential.—Youth assessed and classified for placement in programs in this restrictiveness level represent a moderate risk to public safety. Programs are designed for children who require close supervision but do not need placement in facilities that are physically secure. Programs in the moderate-risk residential restrictiveness level provide 24-hour awake supervision, custody, care, and treatment. Upon specific appropriation, a facility at this restrictiveness level may have a security fence around the perimeter of the grounds of the facility and may be hardware-secure or staff-secure. The staff at a facility at this restrictiveness level may seclude a child who is a physical threat to himself or others. Mechanical restraint may also be used when necessary. Programs or program models in this restrictiveness level include: halfway houses, START Centers, the Dade Intensive Control Program, licensed substance abuse residential programs, and moderate-term wilderness programs designed for committed delinquent youth that are operated or contracted by the Department of Juvenile Justice. Section 39.061 applies to children in moderate-risk residential programs.~~

~~(d) High-risk residential.—Youth assessed and classified for this level of placement require close supervision in a structured residential setting that provides 24-hour-per-day secure custody, care, and supervision. Placement in programs in this level is prompted by a concern for public safety that outweighs placement in programs at lower restrictiveness levels. Programs or program models in this level are staff or physically secure residential commitment facilities and include: training schools, intensive halfway houses, residential sex offender programs, long-term wilderness programs designed exclusively for committed delinquent youth, boot camps, secure halfway house programs, and the Broward Control Treatment Center. Section 39.061 applies to children placed in programs in this restrictiveness level.~~

~~(e) Maximum-risk residential.—Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting that provides 24-hour-per-day secure custody, care, and supervision. Placement in a program in this level is prompted by a demonstrated need to protect the public. Programs or program models in this level are maximum-secure-custody, long-term residential commitment facilities that are intended to provide a moderate overlay of educational, vocational, and behavioral-modification services. Section 39.061 applies to children placed in programs in this restrictiveness level.~~

(48)~~(60)~~ "Reunification services" means social services and other supportive and rehabilitative services provided to the parent of the child,

the legal guardian of the child, or the custodian of the child, whichever is applicable, the child, and where appropriate the foster parents of the child for the purpose of enabling a child who has been placed in foster care to return to his or her family at the earliest possible time. Social services and other supportive and rehabilitative services shall promote the child's need for a safe, continuous, stable, living environment and shall promote family autonomy and strengthen family life as a first priority whenever possible.

~~(61) "Secure detention center or facility" means a physically restricting facility for the temporary care of children, pending adjudication, disposition, or placement.~~

~~(62) "Serious or habitual juvenile offender," for purposes of commitment to a residential facility and for purposes of records retention, means a child who has been found to have committed a delinquent act or a violation of law, in the case currently before the court, and who meets at least one of the following criteria:~~

~~(a) The youth is at least 13 years of age at the time of the disposition for the current offense and has been adjudicated on the current offense for:~~

~~1. Arson;~~
~~2. Sexual battery;~~
~~3. Robbery;~~
~~4. Kidnapping;~~
~~5. Aggravated child abuse;~~
~~6. Aggravated assault;~~
~~7. Aggravated stalking;~~
~~8. Murder;~~
~~9. Manslaughter;~~
~~10. Unlawful throwing, placing, or discharging of a destructive device or bomb;~~
~~11. Armed burglary;~~
~~12. Aggravated battery;~~
~~13. Lewd or lascivious assault or act in the presence of a child; or~~
~~14. Carrying, displaying, using, threatening, or attempting to use a weapon or firearm during the commission of a felony.~~

~~(b) The youth is at least 13 years of age at the time of the disposition, the current offense is a felony, and the child has previously been committed at least two times to a delinquency commitment program.~~

~~(c) The youth is at least 13 years of age and is currently committed for a felony offense and transferred from a moderate-risk or high-risk residential commitment placement.~~

~~(63) "Serious or habitual juvenile offender program" means the program established in s. 39.058.~~

(49)~~(64)~~ "Shelter" means a place for the temporary care of a child who is alleged to be or who has been found to be dependent, a child from a family in need of services, or a child in need of services, pending court disposition before or after adjudication or after execution of a court order. "Shelter" may include a facility which provides 24-hour continual supervision for the temporary care of a child who is placed pursuant to s. *984.14* ~~39.422~~.

(50)~~(65)~~ "Shelter hearing" means a hearing provided for under s. *984.14* ~~39.422~~ in family-in-need-of-services cases or child-in-need-of-services cases.

(51)~~(66)~~ "Social service agency" means the Department of *Children and Family* ~~Health and Rehabilitative~~ Services, a licensed child-caring agency, or a licensed child-placing agency.

(52)~~(67)~~ "Staff-secure shelter" means a facility in which a child is supervised 24 hours a day by staff members who are awake while on duty. The facility is for the temporary care and assessment of a child who has been found to be dependent, who has violated a court order and been found in contempt of court, or whom the Department of *Children and Family* ~~Health and Rehabilitative~~ Services is unable to properly assess or place for assistance within the continuum of services provided for dependent children.

(53)~~(68)~~ "Substance abuse" means using, without medical reason, any psychoactive or mood-altering drug, including alcohol, in such a manner as to induce impairment resulting in dysfunctional social behavior.

(54)~~(69)~~ "Substantial compliance" means that the circumstances which caused the placement in foster care have been significantly remedied to the extent that the well-being and safety of the child will not be endangered upon the child's being returned to the child's parent or guardian.

(55)~~(70)~~ "Taken into custody" means the status of a child immediately when temporary physical control over the child is attained by a person authorized by law, pending the child's release, detention, placement, or other disposition as authorized by law.

(56)~~(71)~~ "Temporary legal custody" means the relationship that a juvenile court creates between a child and an adult relative of the child, adult nonrelative approved by the court, or other person until a more permanent arrangement is ordered. Temporary legal custody confers upon the custodian the right to have temporary physical custody of the child and the right and duty to protect, train, and discipline the child and to provide the child with food, shelter, and education, and ordinary medical, dental, psychiatric, and psychological care, unless these rights and duties are otherwise enlarged or limited by the court order establishing the temporary legal custody relationship.

~~(72) "Temporary release" means the terms and conditions under which a child is temporarily released from a commitment facility or allowed home visits. If the temporary release is from a moderate-risk residential facility, a high-risk residential facility, or a maximum-risk residential facility, the terms and conditions of the temporary release must be approved by the child, the court, and the facility. The term includes periods during which the child is supervised pursuant to a reentry program or an aftercare program or a period during which the child is supervised by a case manager or other nonresidential staff of the department or staff employed by an entity under contract with the department. A child placed in a postcommitment community control program by order of the court is not considered to be on temporary release and is not subject to the terms and conditions of temporary release.~~

~~(73) "To be habitually truant" means that:~~

~~(a) The child has 15 unexcused absences within 90 days with or without the knowledge or justifiable consent of the child's parent or legal guardian and is not exempt from attendance by virtue of being over the age of compulsory school attendance or by meeting the criteria in s. 232.06, s. 232.09, or any other exemptions specified by law or the rules of the State Board of Education;~~

~~(b) In addition to the actions described in s. 232.17, the school administration has completed the following escalating activities to determine the cause, and to attempt the remediation, of the child's truant behavior:~~

~~1. After a minimum of 3 and prior to 15 unexcused absences within 90 days, one or more meetings have been held, either in person or by phone, between a school attendance assistant or school social worker, the child's parent or guardian, and the child, if necessary, to report and to attempt to solve the truancy problem. However, if the school attendance assistant or school social worker has documented the refusal of the parent or guardian to participate in the meetings, then this requirement has been met;~~

~~2. Educational counseling has been provided to determine whether curriculum changes would help solve the truancy problem, and, if any changes were indicated, such changes were instituted but proved unsuccessful in remedying the truant behavior. Such curriculum changes may include enrollment of the child in an alternative education program that meets the specific educational and behavioral needs of the child, including a second chance school, as provided for in s. 230.2316, designed to resolve truant behavior;~~

~~3. Educational evaluation, pursuant to the requirements of s. 232.19(3)(b)3., has been provided; and~~

~~4. The school social worker, the attendance assistant, or the school superintendent's designee if there is no school social worker or attendance assistant has referred the student and family to the children-in-need-of-services and families-in-need-of-services provider or the case staffing committee, established pursuant to s. 39.426, as determined by the cooperative agreement required in s. 232.19(3). The case staffing~~

~~committee may request the department or its designee to file a child-in-need-of-services petition based upon the report and efforts of the school district or other community agency or may seek to resolve the truancy behavior through the school or community-based organizations or agencies.~~

~~If a child within the compulsory school attendance age is responsive to the interventions described in this paragraph and has completed the necessary requirements to pass the current grade as indicated in the district pupil progression plan, the child shall not be determined to be habitually truant. If a child within the compulsory school attendance age has 15 unexcused absences or fails to enroll in school, the State Attorney may file a child-in-need-of-services petition. Prior to filing a petition, the child must be referred to the appropriate agency for evaluation. After consulting with the evaluating agency, the State Attorney may elect to file a child-in-need-of-services petition.~~

~~(c) A school social worker or other person designated by the school administration, if the school does not have a school social worker, and an intake counselor or case manager of the Department of Juvenile Justice have jointly investigated the truancy problem or, if that was not feasible, have performed separate investigations to identify conditions which may be contributing to the truant behavior; and if, after a joint staffing of the case to determine the necessity for services, such services were determined to be needed, the persons who performed the investigations met jointly with the family and child to discuss any referral to appropriate community agencies for economic services, family or individual counseling, or other services required to remedy the conditions that are contributing to the truant behavior; and~~

~~(d) The failure or refusal of the parent or legal guardian or the child to participate, or make a good faith effort to participate, in the activities prescribed to remedy the truant behavior, or the failure or refusal of the child to return to school after participation in activities required by this subsection, or the failure of the child to stop the truant behavior after the school administration and the Department of Juvenile Justice have worked with the child as described in s. 232.19(3) shall be handled as prescribed in s. 232.19.~~

~~(74) "Training school" means one of the following facilities: the Arthur G. Dozier School or the Eckerd Youth Development Center.~~

~~(75) "Violation of law" or "delinquent act" means a violation of any law of this state, the United States, or any other state which is a misdemeanor or a felony or a violation of a county or municipal ordinance which would be punishable by incarceration if the violation were committed by an adult.~~

~~(76) "Waiver hearing" means a hearing provided for under s. 39.052(2).~~

Section 112. *Sections 39.0205 and 39.0206, Florida Statutes, are repealed.*

Section 113. Section 39.061, Florida Statutes, 1996 Supplement, is transferred and renumbered as section 944.401, Florida Statutes.

Section 114. *Section 39.419, Florida Statutes, is repealed.*

Section 115. *Sections 39.027, 39.028, 39.029, 39.033, 39.034, 39.035, and 39.036, Florida Statutes, are repealed.*

Section 116. *Section 39.052, Florida Statutes, as amended by section 3 of chapter 96-232, Laws of Florida, section 1 of chapter 96-234, Laws of Florida, section 11 of chapter 96-260, Laws of Florida, section 33 of chapter 96-388, Laws of Florida, and sections 3 and 7 of chapter 96-398, Laws of Florida; and sections 39.053, 39.054, and 39.059, Florida Statutes, are repealed.*

Section 117. *Section 39.05842, Florida Statutes, as created by section 36 of chapter 96-398, Laws of Florida; section 39.05843, Florida Statutes, as created by section 37 of chapter 96-398, Laws of Florida; section 39.05844, Florida Statutes, as created by section 38 of chapter 96-398, Laws of Florida; and section 39.05845, Florida Statutes, as created by section 39 of chapter 96-398, Laws of Florida, are repealed.*

Section 118. *Section 39.056, Florida Statutes, is repealed.*

Section 119. Section 39.002, Florida Statutes, is amended to read:

39.002 Legislative intent for the juvenile justice system.—

(1) GENERAL PROTECTIONS FOR CHILDREN.—It is a purpose of the Legislature that the children of this state be provided with the following protections:

(a) Protection from abuse, neglect, and exploitation.

(b) A permanent and stable home.

(c) A safe and nurturing environment which will preserve a sense of personal dignity and integrity.

(d) Adequate nutrition, shelter, and clothing.

(e) Effective treatment to address physical, social, and emotional needs, regardless of geographical location.

(f) Equal opportunity and access to quality and effective education, which will meet the individual needs of each child, and to recreation and other community resources to develop individual abilities.

(g) Access to preventive services.

(h) An independent, trained advocate, when intervention is necessary and a skilled guardian or caretaker in a safe environment when alternative placement is necessary.

(2) SUBSTANCE ABUSE SERVICES.—The Legislature finds that children in the care of the state's dependency and delinquency systems need appropriate health care services, that the impact of substance abuse on health indicates the need for health care services to include substance abuse services where appropriate, and that it is in the state's best interest that such children be provided the services they need to enable them to become and remain independent of state care. In order to provide these services, the state's dependency and delinquency systems must have the ability to identify and provide appropriate intervention and treatment for children with personal or family-related substance abuse problems. It is therefore the purpose of the Legislature to provide authority for the state to contract with community substance abuse treatment providers for the development and operation of specialized support and overlay services for the dependency and delinquency systems, which will be fully implemented and utilized as resources permit.

~~(3) JUVENILE JUSTICE AND DELINQUENCY PREVENTION.—It is the policy of the state with respect to juvenile justice and delinquency prevention to first protect the public from acts of delinquency. In addition, it is the policy of the state to:~~

~~(a) Develop and implement effective methods of preventing and reducing acts of delinquency, with a focus on maintaining and strengthening the family as a whole so that children may remain in their homes or communities.~~

~~(b) Develop and implement effective programs to prevent delinquency, to divert children from the traditional juvenile justice system, to intervene at an early stage of delinquency, and to provide critically needed alternatives to institutionalization and deep-end commitment.~~

~~(c) Provide well-trained personnel, high-quality services, and cost-effective programs within the juvenile justice system.~~

~~(d) Increase the capacity of local governments and public and private agencies to conduct rehabilitative treatment programs and to provide research, evaluation, and training services in the field of juvenile delinquency prevention.~~

~~The Legislature intends that detention care, in addition to providing secure and safe custody, will promote the health and well-being of the children committed thereto and provide an environment that fosters their social, emotional, intellectual, and physical development.~~

~~(4) DETENTION.—~~

~~(a) The Legislature finds that there is a need for a secure placement for certain children alleged to have committed a delinquent act. The Legislature finds that detention under part II should be used only when less restrictive interim placement alternatives prior to adjudication and disposition are not appropriate. The Legislature further finds that decisions to detain should be based in part on a prudent assessment of risk~~

~~and be limited to situations where there is clear and convincing evidence that a child presents a risk of failing to appear or presents a substantial risk of inflicting bodily harm on others as evidenced by recent behavior; presents a history of committing a serious property offense prior to adjudication, disposition, or placement; has acted in direct or indirect contempt of court; or requests protection from imminent bodily harm.~~

~~(b) The Legislature intends that a juvenile found to have committed a delinquent act understands the consequences and the serious nature of such behavior. Therefore, the Legislature finds that secure detention is appropriate to provide punishment that discourages further delinquent behavior. The Legislature also finds that certain juveniles have committed a sufficient number of criminal acts, including acts involving violence to persons, to represent sufficient danger to the community to warrant sentencing and placement within the adult system. It is the intent of the Legislature to establish clear criteria in order to identify these juveniles and remove them from the juvenile system.~~

~~(5) SERIOUS OR HABITUAL JUVENILE OFFENDERS.—The Legislature finds that fighting crime effectively requires a multipronged effort focusing on particular classes of delinquent children and the development of particular programs. Florida's juvenile justice system has an inadequate number of beds for serious or habitual juvenile offenders and an inadequate number of community and residential programs for a significant number of children whose delinquent behavior is due to or connected with illicit substance abuse. In addition, a significant number of children have been adjudicated in adult criminal court and placed in Florida's prisons where programs are inadequate to meet their rehabilitative needs and where space is needed for adult offenders. Recidivism rates for each of these classes of offenders exceed those tolerated by the Legislature and by the citizens of this state.~~

~~(6) SITING OF FACILITIES.—~~

~~(a) The Legislature finds that timely siting and development of needed residential facilities for juvenile offenders is critical to the public safety of the citizens of this state and to the effective rehabilitation of juvenile offenders.~~

~~(b) It is the purpose of the Legislature to guarantee that such facilities are sited and developed within reasonable timeframes after they are legislatively authorized and appropriated.~~

~~(c) The Legislature further finds that such facilities must be located in areas of the state close to the home communities of the children they house in order to ensure the most effective rehabilitation efforts and the most intensive postrelease supervision and case management.~~

~~(d) It is the intent of the Legislature that all other departments and agencies of the state shall cooperate fully with the Department of Juvenile Justice to accomplish the siting of facilities for juvenile offenders.~~

~~The supervision, counseling, rehabilitative treatment, and punitive efforts of the juvenile justice system should avoid the inappropriate use of correctional programs and large institutions. The Legislature finds that detention services should exceed the primary goal of providing safe and secure custody pending adjudication and disposition.~~

(3)~~(7)~~ PARENTAL, CUSTODIAL, AND GUARDIAN RESPONSIBILITIES.—Parents, custodians, and guardians are deemed by the state to be responsible for providing their children with sufficient support, guidance, and supervision to deter their participation in delinquent acts. The state further recognizes that the ability of parents, custodians, and guardians to fulfill those responsibilities can be greatly impaired by economic, social, behavioral, emotional, and related problems. It is therefore the policy of the Legislature that it is the state's responsibility to ensure that factors impeding the ability of caretakers to fulfill their responsibilities are identified through the delinquency intake process and that appropriate recommendations to address those problems are considered in any judicial or nonjudicial proceeding.

Section 120. Section 39.012, Florida Statutes, is amended to read:

39.012 Rules for implementation.—The ~~Department of Juvenile Justice shall adopt rules for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing parts II and IV of this chapter, and the~~ Department of *Children and Family* ~~Health and Rehabilitative~~ Services shall adopt rules for the efficient and effective management of all programs, services, facilities, and functions necessary for implementing ~~parts III, V, and VI of~~ this chapter. ~~Such rules may not conflict with the Florida Rules of Juvenile Procedure. All rules and policies must conform to accepted standards of care and treatment.~~

Section 121. *Sections 985.01-985.08, Florida Statutes, are designated as part I of chapter 985, Florida Statutes, and entitled "General Provisions." Sections 985.201-985.236, Florida Statutes, are designated as part II of chapter 985, Florida Statutes, and entitled "Delinquency Case Processing." Sections 985.301-985.316, Florida Statutes, are designated as part III of chapter 985, Florida Statutes, and entitled "Juvenile Justice Continuum." Sections 985.401-985.419, Florida Statutes, are designated as part IV of chapter 985, Florida Statutes, and entitled "Juvenile Justice System Administration." Sections 985.501-985.507, Florida Statutes, are designated as part V of chapter 985, Florida Statutes, and entitled "Interstate Compact on Juveniles."*

Section 122. *(1) It is the intent of the Legislature that chapter 39, Florida Statutes, be reserved for sections of statute relating to dependency, children in foster care, and termination of parental rights; that chapter 985, Florida Statutes, be reserved for sections of statute relating to delinquency and the interstate compact on juveniles; and that chapter 984, Florida Statutes, be reserved for sections of statute relating to children in need of services and families in need of services.*

(2) It is further the intent of the Legislature that any legislation enacted during the 1997 Regular Session affecting chapter 39, Florida Statutes, either before or after the passage of this legislation, shall, upon becoming law either before or after this act becomes law, be given full force and effect substantively, but such new substantive provisions of law shall be integrated into the new statutory framework created in this act, and shall be assigned to the appropriate chapter of statute, as follows:

(a) Laws amending any provision of part I of chapter 39, Florida Statutes, shall receive duplicate assignment to appropriate parallel provisions in chapters 39, 984, and 985, Florida Statutes, unless a contrary intention is expressed;

(b) Laws amending any provision of part II of chapter 39, Florida Statutes, shall be deemed to amend appropriate parallel provisions in chapter 985, Florida Statutes, unless a contrary intention is expressed. Any statutes sections created within part II of chapter 39 in the 1997 Regular Session, shall be renumbered and placed in chapter 985, as appropriate, unless a contrary intention is expressed;

(c) Laws amending any provision of part III of chapter 39, Florida Statutes, shall be unaffected by this legislation unless a contrary intention is expressed;

(d) Laws amending any provision of part IV of chapter 39, Florida Statutes, shall be deemed to amend appropriate parallel provisions in chapter 984, Florida Statutes, unless a contrary intention is expressed. Any statutes sections created within part IV of chapter 39 in the 1997 Regular Session, shall be renumbered and placed in chapter 984, as appropriate, unless a contrary intention is expressed;

(e) Laws amending any provision of part V of chapter 39, Florida Statutes, shall be unaffected by this legislation unless a contrary intention is expressed;

(f) Laws amending any provision of part VI of chapter 39, Florida Statutes, shall be unaffected by this legislation unless a contrary intention is expressed; and

(g) Laws amending any provision of part VII of chapter 39, Florida Statutes, shall receive duplicate assignment to appropriate parallel provisions in chapters 39, 984, and 985, Florida Statutes, unless a contrary intention is expressed.

(3) In the preparation of the 1997 Florida Statutes, pursuant to section 11.242, Florida Statutes, the Division of Statutory Revision is directed to incorporate the reorganization of the content of chapter 39, Florida Statutes, into the three separate chapters of statute as provided in this act and in accordance with the legislative intent expressed in this section.

Section 123. *(1) The Juvenile Justice Advisory Board and the Department of Juvenile Justice shall develop, in cooperation with contract providers of aftercare services, an agreement for the purpose of conduct-*

ing research to determine which aftercare program models are most effective. The agreement shall, at a minimum, include:

(a) Which questions will be answered by the research;

(b) Which aftercare models will be tested;

(c) The research design;

(d) Responsibilities for carrying out the research, including data collection, among the board, the department, contract providers of aftercare services, and third party consultants;

(e) Procedures for selecting consultants; and

(f) The timetable for completing the project and reporting results to the Legislature.

(2) From funds allocated to the Department of Juvenile Justice for aftercare services for fiscal year 1997-1998, the sum of $125,000 is appropriated to the Juvenile Justice Advisory Board to support the aftercare research project described in this section, from which the cost of third-party consultants may be paid. From funds allocated to the Department of Juvenile Justice for aftercare service for fiscal year 1997-1998, an amount not to exceed $250,000 may be used by the department to support the aftercare research project described in this section.

(3) The Juvenile Justice Advisory Board and the Department of Juvenile Justice shall submit an interim report on the development of an agreement on an aftercare research project to the Legislature on or before November 1, 1997. The Juvenile Justice Advisory Board and the Department of Juvenile Justice shall submit a final report on the aftercare research project to the Legislature on or before December 31, 1998.

Section 124. This act shall take effect October 1, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to juvenile justice; creating chapter 985, F.S., relating to certain juvenile proceedings; creating s. 985.01, F.S.; providing purposes and intent; providing certain contracting authority of the Department of Juvenile Justice or Department of Children and Family Services; providing for both departments to require employment screening of personnel in programs for children or youths, including certain volunteers and other personnel of contracted-for programs; providing for both departments to grant exemptions from disqualification for working with children; creating s. 985.02, F.S.; providing legislative intent and findings for the juvenile justice system; creating s. 985.03, F.S.; providing definitions; renumbering and amending s. 39.045, F.S., relating to oaths, records, and confidential information; removing specified provisions; prohibiting release to outside party of certain information gained by victim regarding juvenile court case, except under specified circumstances; creating s. 985.05, F.S.; providing for court records; renumbering and amending s. 39.0573, F.S., relating to statewide information sharing; renumbering s. 39.0574, F.S., relating to school district and law enforcement information sharing; renumbering and amending s. 39.0585, F.S., relating to information systems; substituting reference to the Department of Children and Family Services for reference to the Department of Health and Rehabilitative Services to conform to departmental reorganization and renaming; renumbering and amending s. 39.022, F.S., relating to court jurisdiction; conforming references; renumbering and amending s. 39.014, F.S.; providing for legal representation for delinquency cases; renumbering and amending s. 39.041, F.S., relating to the right to counsel; providing for liability of nonindigent or indigent-but-able-to-contribute parent or legal guardian for certain legal fees and costs under specified circumstances when child is transferred for criminal prosecution; renumbering s. 39.0476, F.S., relating to powers with respect to certain children; creating s. 985.205, F.S.; providing that hearings are open to the public; providing for the court to close hearings under specified circumstances; renumbering and amending s. 39.0515, F.S., relating to rights of victims; conforming reference; renumbering and amending s. 39.037, F.S., relating to taking a child into custody; conforming references; renumbering and amending s. 39.064, F.S., relating to detention of furloughed children or escapees; conforming references; renumbering s. 39.0471, F.S., relating to juvenile justice assessment centers; renumbering and amending s. 39.047, F.S., relating to intake and case management; conforming references and departmental name; renumbering and amending s. 39.038, F.S., relating to release or delivery from custody; conforming references; renumbering and amending s. 39.039, F.S., relating to fingerprinting and photographing a minor; conforming departmental name; renumbering and amending s. 39.042, F.S., relating to the use of detention; conforming reference; renumbering s. 39.043, F.S., relating to prohibited uses of detention; renumbering and amending s. 39.044, F.S., relating to detention; conforming references; transferring and renumbering s. 39.0145, F.S., relating to punishment for contempt of court; conforming reference; repealing s. 39.0445, F.S., relating to juvenile domestic violence offender; conforming reference; renumbering s. 39.048, F.S., relating to petitions for delinquency; renumbering and amending s. 39.049, F.S., relating to process and service; conforming reference; renumbering and amending s. 39.0495, F.S., relating to threatening or dismissing employees; conforming references; renumbering s. 39.073, F.S., relating to court and witness fees; renumbering s. 39.051, F.S., relating to answers to petitions; renumbering and amending s. 39.0517, F.S., relating to incompetency in juvenile delinquency cases; conforming departmental name; renumbering and amending s. 39.046, F.S., relating to medical, psychiatric, psychological, substance abuse, and educational examinations and treatment; conforming departmental name; creating s. 985.225, F.S.; providing for indictment of a juvenile, including indictment of child of any age who is charged with a violation of state law punishable by death or life imprisonment; providing for adjudicatory hearing; providing for sentencing of child as adult under certain circumstances; providing for sentencing; creating s. 985.226, F.S.; providing criteria for waiver of juvenile court jurisdiction; providing guidelines and time limits with respect to waiver hearing; specifying effect of order waiving jurisdiction; creating s. 985.227, F.S.; providing for prosecution of juveniles as adults; requiring the state attorney to develop policies and guidelines with respect to determination for filing information on juvenile, and requiring annual report of same by the state attorney to the Legislature and Juvenile Justice Advisory Board; creating s. 985.228, F.S.; providing for adjudicatory hearings, withheld adjudications, and orders of adjudication; creating s. 985.229, F.S.; providing for predisposition reports and additional evaluations; providing for imposition of sanctions; providing for certain notification of victims; providing legislative intent; creating s. 985.23, F.S.; providing for disposition hearings in delinquency cases; creating s. 985.231, F.S.; providing powers of disposition in delinquency cases; providing for court-ordered payment of certain fees by parent or guardian, or participation in counseling by parent, custodian, or guardian, under specified circumstances; providing for enforcement through contempt powers; renumbering s. 39.078, F.S., relating to commitment forms; creating s. 985.233, F.S.; providing dispositional powers and procedures and alternatives for juveniles prosecuted as adults; providing for court-ordered payment of certain fees by parent or guardian for cost of care in juvenile justice facilities; providing legislative intent; renumbering s. 39.069, F.S., relating to appeals; renumbering s. 39.0711, F.S., relating to additional grounds for appeals by the state; renumbering s. 39.072, F.S., relating to orders or decisions when the state appeals; renumbering and amending s. 39.0255, F.S., relating to civil citations; conforming a reference; renumbering s. 39.019, F.S., relating to teen courts; renumbering and amending s. 39.0361, F.S., relating to the Neighborhood Restorative Justice Act; removing short title designation; conforming reference and departmental name; renumbering and amending s. 39.026, F.S., relating to community arbitration; providing for establishment of programs; selection of community arbitrators, procedures, hearings, disposition, review, and funding; renumbering and amending s. 39.055, F.S., relating to early delinquency intervention; conforming departmental name; providing procedures and criteria for determination by Department of Juvenile Justice of whether certain children are likely to exhibit further significant delinquent behavior, under specified circumstances; providing for program placement; providing for certain reports to the Legislature by the department on program development and implementation; renumbering s. 39.0475, F.S., relating to delinquency pretrial intervention; renumbering s. 39.0551, F.S., relating to juvenile assignment centers; renumbering s. 39.0571, F.S., relating to juvenile sexual offender commitment programs; renumbering and amending s. 39.057, F.S., relating to boot camps for children; conforming a reference; renumbering and amending s. 39.058, F.S., relating to serious or habitual juvenile offenders; conforming references; renumbering and amending s. 39.0582, F.S., relating to intensive residential treatment; conforming references; renumbering and amending s. 39.0583, F.S., relating to intensive residential treatment programs; conforming references; renumbering s. 39.0581, F.S., relating to maximum-risk residential programs; renumbering and amending s. 39.0584, F.S., relating to commitment programs for juvenile felony offenders; conforming references; renumbering and amending s. 39.05841, F.S., relating to vocational work training programs; providing that Department of Juvenile Justice may require participation by certain juveniles in vocational work programs; providing for establishment of guidelines and specifying procedures; providing for an agricultural and industrial production and marketing program; providing for contracts with respect to a juvenile

industry program including the operation of a direct private sector business within a juvenile facility; providing for workers' compensation coverage; renumbering s. 39.067, F.S., relating to furlough and intensive aftercare; renumbering and amending s. 39.003, F.S., relating to the Juvenile Justice Advisory Board; conforming references and departmental name; renumbering s. 39.085, F.S., relating to the Alternative Education Institute; renumbering s. 39.0572, F.S., relating to the Task Force on Juvenile Sexual Offenders and their Victims; renumbering and amending s. 39.021, F.S., relating to administering the juvenile justice continuum; conforming departmental name; removing specified provisions; creating s. 985.405, F.S.; requiring the Department of Juvenile Justice to adopt certain rules relating to program management; renumbering s. 39.024, F.S., relating to juvenile justice training academies, the Juvenile Justice Standards and Training Commission, and the Juvenile Justice Training Trust Fund; renumbering s. 39.076, F.S., relating to contracting and personnel; renumbering s. 39.075, F.S., relating to consultants; creating s. 985.409, F.S.; providing for participation in the Florida Casualty Insurance Risk Management Trust Fund; renumbering s. 39.074, F.S., relating to facilities siting; renumbering and amending s. 39.0215, F.S., relating to county and municipal delinquency programs and facilities; creating s. 985.412, F.S.; providing for quality assurance; providing for an annual report to the Legislature and Governor with respect to program quality; renumbering and amending s. 39.025, F.S., relating to district juvenile justice boards; removing short title designation; conforming references and departmental name; removing specified provisions; creating s. 985.414, F.S.; providing for county juvenile justice councils; providing purpose, duties, and responsibilities; providing for an annual report; creating s. 985.415, F.S.; providing for county juvenile justice partnership grants; creating s. 985.416, F.S.; providing for innovation zones; renumbering s. 39.062, F.S., relating to transferring children from the Department of Corrections to the Department of Juvenile Justice; renumbering s. 39.063, F.S., relating to transferring children to other treatment services; renumbering s. 39.065, F.S., relating to contracts for the transfer of children under federal custody; renumbering s. 39.51, F.S., relating to the Interstate Compact on Juveniles; renumbering s. 39.511, F.S., relating to execution of the compact; renumbering s. 39.512, F.S., relating to the juvenile compact administrator; renumbering s. 39.513, F.S., relating to supplementary agreements; renumbering s. 39.514, F.S., relating to financial arrangements; renumbering s. 39.515, F.S., relating to responsibility of state departments, agencies, and officers; renumbering s. 39.516, F.S., relating to additional procedures with respect to the compact; creating s. 984.01, F.S.; providing purposes and intent with respect to children and families in need of services; providing certain contracting authority of the Department of Juvenile Justice or Department of Children and Family Services; providing for both departments to require employment screening of personnel in programs for children or youths, including certain volunteers or other personnel of contracted-for programs; providing for both departments to grant exemptions from disqualification for working with children; creating s. 984.02, F.S.; providing legislative intent; creating s. 984.03, F.S.; providing definitions; renumbering and amending s. 39.42, F.S., relating to children in need of services and families in need of services; conforming reference; renumbering and amending s. 39.015, F.S., relating to rules relating to habitual truants; conforming references; renumbering and amending s. 39.4451, F.S., relating to oaths, records, and confidential information; removing a reference; renumbering s. 39.447, F.S., relating to appointed counsel; renumbering and amending s. 39.017, F.S., relating to attorney's fees; conforming references; creating s. 984.09, F.S.; providing for punishment for contempt of court; providing for an alternative sanctions coordinator position within each judicial circuit; renumbering and amending s. 39.423, F.S., relating to intake of children; conforming reference and departmental name; renumbering and amending s. 39.424, F.S., relating to services to families in need of services; conforming reference; renumbering s. 39.426, F.S., relating to staffing for treatment and services to families in need of services; renumbering and amending s. 39.421, F.S., relating to taking certain children into custody; conforming references; renumbering and amending s. 39.422, F.S., relating to shelter placement of certain children; revising catchline; renumbering and amending s. 39.436, F.S., relating to petitions for children in need of services; conforming references; renumbering s. 39.437, F.S., relating to process and service; renumbering s. 39.438, F.S., relating to response to petition and representation of parties; renumbering s. 39.4431, F.S., relating to referral of children-in-need-of-services cases to mediation; renumbering and amending s. 39.446, F.S., relating to examination and treatment of certain children; conforming references and departmental name; renumbering s. 39.44, F.S., relating to hearings for children-in-need-of-services cases; renumbering s. 39.441, F.S., relating to orders of adjudication; renumbering and amending s. 39.442, F.S., relating to powers of disposition; conforming departmental name; renumbering s. 39.4375, F.S., relating to court and witness fees; renumbering s. 39.4441, F.S., relating to appeals; amending s. 39.01, F.S.; conforming references, departmental name; removing specified provisions; defining "district administrator," "circuit," and "health and human services board"; revising definitions applicable to ch. 39, F.S.; repealing ss. 39.0205, 39.0206, F.S., relating to a short title and a definition; renumbering s. 39.061, F.S., relating to escapes from detention or residential commitment facilities; repealing s. 39.419, F.S., relating to a definition; repealing ss. 39.027, 39.028, 39.029, 39.033, 39.034, 39.035, 39.036, F.S., relating to community arbitration, which provisions are otherwise incorporated into this act; repealing ss. 39.052, 39.053, 39.054, 39.059, F.S., relating to adjudicatory hearings, adjudication, powers of disposition, and community control or commitment of children prosecuted as adults, which provisions are otherwise incorporated into this act; repealing ss. 39.05842, 39.05843, 39.05844, 39.05845, F.S., relating to vocational/work programs, which provisions are otherwise incorporated into this act; repealing s. 39.056, F.S., relating to early delinquency intervention, which provision is otherwise incorporated into this act; amending s. 39.002, F.S.; providing legislative intent for the juvenile justice system; removing specified provisions; amending s. 39.012, F.S.; providing for the Department of Children and Family Services to adopt certain rules relating to program management; removing specified provisions; designating and naming parts of ch. 985, F.S.; providing legislative intent with respect to reservation of certain statutory chapters for sections of statute relating to specified subjects and with respect to construction and statutory assignment of certain other acts; providing a directive to the Division of Statutory Revision; requiring the Juvenile Justice Advisory Board and the Department of Juvenile Justice to conduct research to determine effective aftercare program models; providing an appropriation; requiring reports to the Legislature; providing an effective date.

Senator Bankhead moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 321, line 26 through page 322, line 5, delete those lines and insert:

(2) The Juvenile Justice Advisory Board and the

Amendment 1 as amended was adopted.

On motion by Senator Cowin, by two-thirds vote **HB 1369** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—36

Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jenne	Ostalkiewicz
Brown-Waite	Dyer	Jones	Rossin
Burt	Forman	Kirkpatrick	Scott
Campbell	Grant	Klein	Silver
Casas	Gutman	Kurth	Sullivan
Childers	Hargrett	Lee	Thomas
Cowin	Harris	McKay	Turner
Crist	Holzendorf	Meadows	Williams

Nays—None

Vote after roll call:

Yea—Madam President

Consideration of **CS for SB 1920**, **CS for SB 564** and **SB 840** was deferred.

On motion by Senator Gutman, by two-thirds vote **HJR 969** was withdrawn from the Committees on Community Affairs; Ways and Means; and Rules and Calendar.

On motion by Senator Gutman—

HJR 969—A joint resolution proposing amendments to Sections 3 and 4 of Article VII and the creation of Section 22 of Article XII of the State

Constitution relating to local option ad valorem tax exemption for, and assessment of, certain historic properties.

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

That the amendments to Sections 3 and 4 of Article VII and the creation of Section 22 of Article XII of the State Constitution set forth below are agreed to and shall be submitted to the electors of Florida for approval or rejection at the general election to be held in November 1998:

ARTICLE VII
FINANCE AND TAXATION

SECTION 3. Taxes; exemptions.—

(a) All property owned by a municipality and used exclusively by it for municipal or public purposes shall be exempt from taxation. A municipality, owning property outside the municipality, may be required by general law to make payment to the taxing unit in which the property is located. Such portions of property as are used predominantly for educational, literary, scientific, religious or charitable purposes may be exempted by general law from taxation.

(b) There shall be exempt from taxation, cumulatively, to every head of a family residing in this state, household goods and personal effects to the value fixed by general law, not less than one thousand dollars, and to every widow or widower or person who is blind or totally and permanently disabled, property to the value fixed by general law not less than five hundred dollars.

(c) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant community and economic development ad valorem tax exemptions to new businesses and expansions of existing businesses, as defined by general law. Such an exemption may be granted only by ordinance of the county or municipality, and only after the electors of the county or municipality voting on such question in a referendum authorize the county or municipality to adopt such ordinances. An exemption so granted shall apply to improvements to real property made by or for the use of a new business and improvements to real property related to the expansion of an existing business and shall also apply to tangible personal property of such new business and tangible personal property related to the expansion of an existing business. The amount or limits of the amount of such exemption shall be specified by general law. The period of time for which such exemption may be granted to a new business or expansion of an existing business shall be determined by general law. The authority to grant such exemption shall expire ten years from the date of approval by the electors of the county or municipality, and may be renewable by referendum as provided by general law.

(d) By general law and subject to conditions specified therein, there may be granted an ad valorem tax exemption to a renewable energy source device and to real property on which such device is installed and operated, to the value fixed by general law not to exceed the original cost of the device, and for the period of time fixed by general law not to exceed ten years.

(e) Any county or municipality may, for the purpose of its respective tax levy and subject to the provisions of this subsection and general law, grant historic preservation ad valorem tax exemptions to owners of historic properties ~~engaging in the rehabilitation or renovation of these properties in accordance with approved historic preservation guidelines~~. This exemption may be granted only by ordinance of the county or municipality. The amount or limits of the amount of this exemption and the requirements for eligible properties must be specified by general law. The period of time for which this exemption may be granted to a property owner shall be determined by general law.

SECTION 4. Taxation; assessments.—By general law regulations shall be prescribed which shall secure a just valuation of all property for ad valorem taxation, provided:

(a) Agricultural land, land producing high water recharge to Florida's aquifers or land used exclusively for non-commercial recreational purposes may be classified by general law and assessed solely on the basis of character or use.

(b) Pursuant to general law tangible personal property held for sale as stock in trade and livestock may be valued for taxation at a specified percentage of its value, may be classified for tax *purposes* ~~pusposes~~, or may be exempted from taxation.

(c) All persons entitled to a homestead exemption under Section 6 of this Article shall have their homestead assessed at just value as of January 1 of the year following the effective date of this amendment. This assessment shall change only as provided herein.

1. Assessments subject to this provision shall be changed annually on January 1st of each year; but those changes in assessments shall not exceed the lower of the following:

(A) three percent (3%) of the assessment for the prior year.

(B) the percent change in the Consumer Price Index for all urban consumers, U.S. City Average, all items 1967=100, or successor reports for the preceding calendar year as initially reported by the United States Department of Labor, Bureau of Labor Statistics.

2. No assessment shall exceed just value.

3. After any change of ownership, as provided by general law, homestead property shall be assessed at just value as of January 1 of the following year. Thereafter, the homestead shall be assessed as provided herein.

4. New homestead property shall be assessed at just value as of January 1st of the year following the establishment of the homestead. That assessment shall only change as provided herein.

5. Changes, additions, reductions or improvements to homestead property shall be assessed as provided for by general law; provided, however, after the adjustment for any change, addition, reduction or improvement, the property shall be assessed as provided herein.

6. In the event of a termination of homestead status, the property shall be assessed as provided by general law.

7. The provisions of this amendment are severable. If any of the provisions of this amendment shall be held unconstitutional by any court of competent jurisdiction, the decision of such court shall not affect or impair any remaining provisions of this amendment.

(d) The legislature may, by general law, for assessment purposes and subject to the provisions of this subsection, allow counties and municipalities to authorize by ordinance that historic property may be assessed solely on the basis of character or use. Such character or use assessment shall apply only to the jurisdiction adopting the ordinance. The requirements for eligible properties must be specified by general law.

ARTICLE XII
SCHEDULE

SECTION 22. Historic property exemption and assessment.—The amendments to Sections 3 and 4 of Article VII relating to ad valorem tax exemption for, and assessment of, historic property shall take effect January 1, 1999.

BE IT FURTHER RESOLVED that in accordance with the requirements of section 101.161, Florida Statutes, the title and substance of the amendment proposed herein shall appear on the ballot as follows:

HISTORIC PROPERTY TAX EXEMPTION AND ASSESSMENT

With respect to historic property granted ad valorem tax exemption by a county or municipality, removes a requirement that the owner be engaged in renovating the property.

Authorizes the Legislature to allow counties or municipalities, by ordinance, to assess historic properties solely on the basis of character or use for ad valorem tax purposes, subject to eligibility requirements specified by general law.

—a companion measure, was substituted for **SJR 844** and read the second time in full. On motion by Senator Gutman, by two-thirds vote **HJR 969** was read the third time by title, passed by the required constitutional three-fifths vote of the membership and was certified to the House. The vote on passage was:

Yeas—36

Bankhead	Dantzler	Horne	Meadows
Bronson	Diaz-Balart	Jenne	Myers
Brown-Waite	Dudley	Jones	Ostalkiewicz
Burt	Dyer	Kirkpatrick	Rossin
Campbell	Forman	Klein	Scott
Casas	Grant	Kurth	Silver
Childers	Gutman	Latvala	Thomas
Cowin	Hargrett	Lee	Turner
Crist	Harris	McKay	Williams

Nays—None

Vote after roll call:

Yea—Madam President, Clary, Sullivan

Consideration of **CS for SB 2086**, **CS for SB 1760** and **CS for CS for SB 1412** was deferred.

On motion by Senator Jones—

CS for CS for SB 546—A bill to be entitled An act relating to tax credits for charitable contributions to state contract providers; creating s. 624.5104, F.S.; providing a credit against the insurance premium tax for charitable contributions to not-for-profit state contract provider organizations; providing for a reduction in state funding of recipient organizations; providing for contributions to be made through an intermediary organization; providing an effective date.

—was read the second time by title.

Pursuant to Rule 4.19, **CS for CS for SB 546** was placed on the calendar of Bills on Third Reading.

THE PRESIDENT PRESIDING

On motion by Senator Holzendorf—

SB 840—A bill to be entitled An act relating to workers' compensation and employer's liability insurance; amending s. 627.072, F.S.; prescribing a minimum value that may be placed on margin for profit and contingencies when determining and fixing rates for such insurance; providing an effective date.

—was read the second time by title.

The Committee on Banking and Insurance recommended the following amendment which was moved by Senator Holzendorf:

Amendment 1 (with title amendment)—On page 1, line 12 through page 2, line 3, delete those lines and insert:

Section 1. Subsection (8) of section 627.215, Florida Statutes, is amended to read:

627.215 Excessive profits for workers' compensation, employer's liability, commercial property, and commercial casualty insurance prohibited.—

(8) As used in this section with respect to any 3-year period, or with respect to any 10-year period in the case of commercial umbrella liability insurance, "anticipated underwriting profit" means the sum of the dollar amounts obtained by multiplying, for each rate filing of the insurer group in effect during such period, the earned premiums applicable to such rate filing during such period by the percentage factor included in such rate filing for profit and contingencies, such percentage factor having been determined with due recognition to investment income from funds generated by Florida business, *except that the anticipated underwriting profit for the purposes of this section shall be calculated using a profit and contingencies factor that is not less than zero.* Separate calculations need not be made for consecutive rate filings containing the same percentage factor for profits and contingencies.

Section 2. Subsection (14) of section 627.215, Florida Statutes, is amended to read:

627.215 Excessive profits for workers' compensation, employer's liability, commercial property, and commercial casualty insurance prohibited.—

(14) The application of this law to commercial property and commercial casualty insurance, *which includes commercial umbrella liability insurance,* ceases on January 1, 1997. The Department of Insurance shall, no later than October 1, 1995, provide a report on this law to the President of the Senate and the Speaker of the House of Representatives, which report includes a history of the excess profits law and a year-by-year listing of excess profits returned to policyholders as refunds or credits.

Section 3. This act shall take effect July 1, 1997.

And the title is amended as follows:

On page 1, lines 4-8, delete those lines and insert: 627.215, F.S.; prescribing a minimum value for profit and contingencies factor for the purpose of calculating the anticipated underwriting profit; providing clarification on the application of excess profits; providing an effective date.

Senator Holzendorf moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (with title amendment)—On page 2, delete line 23 and insert:

Section 3. *Risk based capital requirements for insurers.—*

(1) As used in this section, the term:

(a) "Adjusted risk based capital report" means a risk based capital report that has been adjusted by the department in accordance with this section.

(b) "Authorized control level risk based capital" means the number determined under the risk based capital formula in the risk based capital instructions.

(c) "Company action level risk based capital" means the product of 2.0 and an insurer's authorized control level risk based capital.

(d) "Corrective order" means an order issued by the department specifying corrective actions that the department has determined are required.

(e) "Department" means the Department of Insurance.

(f) "Domestic insurer" means any insurer domiciled in this state.

(g) "Foreign insurer" means any insurer that is authorized or eligible to do business in this state but that is not domiciled in this state.

(h) "Life and health insurer" means any insurer authorized or eligible under the Florida Insurance Code to underwrite life or health insurance. The term includes a property and casualty insurer that writes accident and health insurance only.

(i) "Mandatory control level risk based capital" means the product of 0.70 and the authorized control level risk based capital.

(j) "Negative trend" means, with respect to a life and health insurer, a negative trend over a period of time, as determined in accordance with the trend test calculation included in the risk based capital instructions.

(k) "Property and casualty insurer" means any insurer licensed under the Florida Insurance Code, but does not include a single-line mortgage guaranty insurer, financial guaranty insurer, or title insurer or a life and health insurer.

(l) "Regulatory action level risk based capital" means the product of 1.5 and an insurer's authorized control level risk based capital.

(m) "Revised risk based capital plan" means the revision of the risk based capital plan which is prepared by an insurer after the department rejects the original plan.

(n) "Risk based capital instructions" means the instructions for preparing a risk based capital report as adopted by the National Association of Insurance Commissioners.

(o) "Risk based capital level" means an insurer's company action level risk based capital, regulatory action level risk based capital, authorized control level risk based capital, or mandatory control level risk based capital.

(p) "Risk based capital plan" means a comprehensive financial plan specified in paragraph (4)(b).

(q) "Risk based capital report" means the report required in subsection (2).

(r) "Total adjusted capital" means the sum of:

1. An insurer's statutory capital and surplus; and

2. Any other item required by the risk based capital instructions.

(2)(a) Each domestic insurer that is subject to this section shall, on or before March 1 of each year, prepare and file with the National Association of Insurance Commissioners a report of its risk based capital levels as of the end of the calendar year just ended, in a form and containing the information required in the risk based capital instructions. In addition, each domestic insurer shall file a printed copy of its risk based capital report:

1. With the department on or before March 1 of each year.

2. With the insurance department in any other state in which the insurer is authorized to do business, if that department has notified the insurer of its request in writing, in which case the insurer shall file its risk based capital report not later than the later of:

a. Fifteen days after the receipt of notice to file its risk based capital report with that state; or

b. March 1.

(b) The comparison of an insurer's total adjusted capital to any of its risk based capital levels is a regulatory tool that may indicate the need for possible corrective action with respect to the insurer, and may not be used as a means to rank insurers generally. Therefore, except as otherwise required under this section, the making, publishing, disseminating, circulating, or placing before the public, or causing, directly or indirectly, to be made, published, disseminated, circulated, or placed before the public, in a newspaper, magazine, or other publication, or in the form of a notice, circular, pamphlet, letter, or poster, or over any radio or television station, or in any other way, an advertisement, announcement, or statement containing an assertion, representation, or statement with regard to the risk based capital levels of any insurer, or of any component derived in the calculation, by any insurer, agent, broker, or other person engaged in any manner in the insurance business would be misleading and is therefore prohibited; however, if any materially false statement with respect to the comparison regarding an insurer's total adjusted capital to its risk based capital levels (or any of them) or an inappropriate comparison of any other amount to the insurer's risk based capital levels is published in any written publication and the insurer is able to demonstrate to the commissioner with substantial proof the falsity or inappropriateness of the statement, the insurer may publish in a written publication an announcement the sole purpose of which is to rebut the materially false statement.

(c) The department shall use the risk based capital instructions, risk based capital reports, adjusted risk based capital reports, risk based capital plans, and revised risk based capital plans solely for monitoring the solvency of insurers and assessing the need for corrective action with respect to insurers. The department may not use that information for ratemaking, as evidence in any rate proceeding, or for calculating or deriving any elements of an appropriate premium level or rate of return for any line of insurance which an insurer or an affiliate of such insurer is authorized to write.

(d) A life and health insurer's risk based capital is determined in accordance with the formula set forth in the risk based capital instructions. The formula takes into account and may adjust for the covariance between:

1. The risk with respect to the insurer's assets;

2. The risk of adverse insurance experience with respect to the insurer's liabilities and obligations;

3. The interest rate risk with respect to the insurer's business; and

4. Any other business or other relevant risk set out in the risk based capital instructions,

determined in each case by applying the factors in the manner set forth in the risk based capital instructions.

(e) A property and casualty insurer's risk based capital is determined in accordance with the formula set forth in the risk based capital instructions. The formula takes into account and may adjust for the covariance between:

1. The asset risk;
2. The credit risk;
3. The underwriting risk; and
4. Any other business or other relevant risk set out in the risk based capital instructions,

determined in each case by applying the factors in the manner set forth in the risk based capital instructions.

(f) The Legislature finds that an excess of capital over the amount produced by the risk based capital requirements and the formulas, schedules, and instructions specified in this section is a desirable goal with respect to the business of insurance. Accordingly, insurers should seek to maintain capital above the risk based capital levels required by this section. Additional capital is used and useful in the insurance business and helps to secure an insurer against various risks inherent in, or affecting, the business of insurance and not accounted for or only partially measured by the risk based capital requirements contained in this section.

(g) If a domestic insurer files a risk based capital report that the department finds is inaccurate, the department shall adjust the risk based capital report to correct the inaccuracy and shall notify the insurer of the adjustment. The notice must state the reason for the adjustment. A risk based capital report that is so adjusted is referred to as the adjusted risk based capital report. The adjusted risk based capital report must also be filed by the insurer with the National Association of Insurance Commissioners.

(3)(a) A company action level event includes:

1. The filing of a risk based capital report by an insurer which indicates that:

a. The insurer's total adjusted capital is greater than or equal to its regulatory action level risk based capital but less than its company action level risk based capital; or

b. If a life and health insurer, the insurer has total adjusted capital that is greater than or equal to its company action level risk based capital, but is less than the product of its authorized control level risk based capital and 2.5, and has a negative trend;

2. The notification by the department to the insurer of an adjusted risk based capital report that indicates an event in subparagraph 1., unless the insurer challenges the adjusted risk based capital report under subsection (7); or

3. If, under subsection (7), an insurer challenges an adjusted risk based capital report that indicates an event in subparagraph 1., the notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge.

(b) If a company action level event occurs, the insurer shall prepare and submit to the department a risk based capital plan, which must:

1. Identify the conditions that contribute to the company action level event;

2. Contain proposals of corrective actions that the insurer intends to take and that are reasonably expected to result in the elimination of the company action level event;

3. Provide projections of the insurer's financial results in the current year and at least the 4 succeeding years, both in the absence of proposed corrective actions and giving effect to the proposed corrective actions, including projections of statutory operating income, net income, capital, and surplus. The projections for both new and renewal business may include separate projections for each major line of business and, if separate projections are provided, must separately identify each significant income, expense, and benefit component;

4. Identify the key assumptions affecting the insurer's projections and the sensitivity of the projections to the assumptions; and

5. Identify the quality of, and problems associated with, the insurer's business, including, but not limited to, its assets, anticipated business growth and associated surplus strain, extraordinary exposure to risk, mix of business, and any use of reinsurance.

(c) The risk based capital plan must be submitted:

1. Within 45 days after the company action level event; or

2. If the insurer challenges an adjusted risk based capital report under subsection (7), within 45 days after notification to the insurer that the department has, after a hearing, rejected the insurer's challenge.

(d) Within 60 days after the submission by an insurer of a risk based capital plan to the department, the department shall notify the insurer whether the risk based capital plan must be implemented or is, in the judgment of the department, unsatisfactory. If the department determines that the risk based capital plan is unsatisfactory, the notification to the insurer must set forth the reasons for the determination and may set forth proposed revisions. Upon notification from the department, the insurer shall prepare a revised risk based capital plan, which may incorporate by reference any revisions proposed by the department, and shall submit the revised risk based capital plan to the department:

1. Within 45 days after the notification from the department; or

2. If the insurer challenges the notification from the department under subsection (7), within 45 days after a notification to the insurer that the department has, after a hearing, rejected the insurer's challenge.

(e) If the department notifies an insurer that the insurer's risk based capital plan or revised risk based capital plan is unsatisfactory, the department may, at its discretion and subject to the insurer's right to a hearing under subsection (7), specify in the notification that the notification is a regulatory action level event.

(f) Each domestic insurer that files a risk based capital plan or a revised risk based capital plan with the department shall file a copy of the risk based capital plan or the revised risk based capital plan with the insurance department in any other state in which the insurer is authorized to do business if:

1. That state has a risk based capital law that is substantially similar to paragraph (8)(a); and

2. The insurance department of that state has notified the insurer of its request for the filing in writing, in which case the insurer shall file a copy of the risk based capital plan or the revised risk based capital plan in that state no later than the later of:

a. Fifteen days after the receipt of notice to file a copy of its risk based capital plan or revised risk based capital plan with the state; or

b. The date on which the risk based capital plan or the revised risk based capital plan is filed under paragraph (c) or paragraph (d).

(4)(a) A regulatory action level event includes:

1. The filing of a risk based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its authorized control level risk based capital but is less than its regulatory action level risk based capital;

2. The notification by the department to the insurer of an adjusted risk based capital report that indicates the event described in subparagraph 1., unless the insurer challenges the adjusted risk based capital report under subsection (7);

3. If, under subsection (7), the insurer challenges an adjusted risk based capital report that indicates the event described in subparagraph 1., the notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge;

4. The failure of the insurer to file a risk based capital report by the filing date, unless the insurer provides an explanation for such failure which is satisfactory to the department and cures the failure within 10 days after the filing date;

5. The failure of the insurer to submit a risk based capital plan to the department within the time period set forth in paragraph (3)(c);

6. Notification by the department to the insurer that:

a. The risk based capital plan or the revised risk based capital plan submitted by the insurer is, in the judgment of the department, unsatisfactory; and

b. This notification constitutes a regulatory action level event with respect to the insurer, unless the insurer challenges the determination under subsection (7);

7. If, under subsection (7), the insurer challenges a determination by the department under subparagraph 6., the notification by the department to the insurer that the department has, after a hearing, rejected the challenge;

8. Notification by the department to the insurer that the insurer has failed to adhere to its risk based capital plan or revised risk based capital plan, but only if this failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event in accordance with its risk based capital plan or revised risk based capital plan and the department has so stated in the notification, unless the insurer challenges the determination under subsection (7); or

9. If, under subsection (7), the insurer challenges a determination by the department under subparagraph 8., the notification by the department to the insurer that the department has, after a hearing, rejected the challenge.

(b) If a regulatory action level event occurs, the department shall:

1. Require the insurer to prepare and submit a risk based capital plan or, if applicable, a revised risk based capital plan;

2. Perform an examination pursuant to section 624.316, Florida Statutes, or an analysis, as the department considers necessary, of the assets, liabilities, and operations of the insurer, including a review of the risk based capital plan or the revised risk based capital plan; and

3. After the examination or analysis, issue a corrective order specifying such corrective actions as the department determines are required.

(c) In determining corrective actions, the department shall consider any factor relevant to the insurer based upon the department's examination or analysis of the assets, liabilities, and operations of the insurer, including, but not limited to, the results of any sensitivity tests undertaken as provided in the risk based capital instructions. The risk based capital plan or the revised risk based capital plan must be submitted:

1. Within 45 days after the occurrence of the regulatory action level event;

2. If the insurer challenges an adjusted risk based capital report under subsection (7), within 45 days after the notification to the insurer that the department has, after a hearing, rejected the insurer's challenge; or

3. If the insurer challenges a revised risk based capital plan under subsection (7), within 45 days after the notification to the insurer that the department has, after a hearing, rejected the insurer's challenge.

(d) The department may retain actuaries, investment experts, and other consultants to review an insurer's risk based capital plan or revised risk based capital plan, examine or analyze the assets, liabilities, and operations of an insurer, and formulate the corrective order with respect to the insurer. The fees, costs, and expenses relating to consultants must

be borne by the affected insurer or by any other party as directed by the department.

(5)(a) An authorized control level event includes:

1. The filing of a risk based capital report by the insurer which indicates that the insurer's total adjusted capital is greater than or equal to its mandatory control level risk based capital but is less than its authorized control level risk based capital;

2. The notification by the department to the insurer of an adjusted risk based capital report that indicates the event in subparagraph 1., unless the insurer challenges the adjusted risk based capital report under subsection (7);

3. If, under subsection (7), the insurer challenges an adjusted risk based capital report that indicates the event in subparagraph 1., notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge;

4. The failure of the insurer to respond, in a manner satisfactory to the department, to a corrective order, unless the insurer challenges the corrective order under subsection (7); or

5. If the insurer challenges a corrective order under subsection (7) and the department has, after a hearing, rejected the challenge or modified the corrective order, the failure of the insurer to respond, in a manner satisfactory to the department, to the corrective order after rejection or modification by the department.

(b) If an authorized control level event occurs, the department shall:

1. Take any action required under subsection (4) regarding the insurer with respect to which a regulatory action level event has occurred; or

2. If the department considers it to be in the best interests of the policyholders and creditors of the insurer and of the public, take any action as necessary to cause the insurer to be placed under regulatory control under chapter 631, Florida Statutes. An authorized control level event is sufficient ground for the department to be appointed as receiver as provided in chapter 631, Florida Statutes.

(6)(a) A mandatory control level event includes:

1. The filing of a risk based capital report that indicates that the insurer's total adjusted capital is less than its mandatory control level risk based capital;

2. Notification by the department to the insurer of an adjusted risk based capital report that indicates the event in subparagraph 1., unless the insurer challenges the adjusted risk based capital report under subsection (7); or

3. If, under subsection (7), the insurer challenges an adjusted risk based capital report that indicates the event in subparagraph 1., notification by the department to the insurer that the department has, after a hearing, rejected the insurer's challenge.

(b) If a mandatory control level event occurs:

1. With respect to a life and health insurer, the department shall, after due consideration of s. 624.408, Florida Statutes, take any action necessary to place the insurer under regulatory control, including any remedy available under chapter 631, Florida Statutes. A mandatory control level event is sufficient ground for the department to be appointed as receiver as provided in chapter 631, Florida Statutes. The department may forego taking action for up to 90 days after the mandatory control level event if the department finds there is a reasonable expectation that the mandatory control level event may be eliminated within the 90-day period.

2. With respect to a property and casualty insurer, the department shall, after due consideration of s. 624.408, Florida Statutes, take any action necessary to place the insurer under regulatory control, including any remedy available under chapter 631, Florida Statutes, or, in the case of an insurer that is not writing new business, may allow the insurer to continue to operate under the supervision of the department. In either case, the mandatory control level event is sufficient ground for the department to be appointed as receiver as provided in chapter 631, Florida Statutes. The department may forego taking action for up to 90 days after the mandatory control level event if the department finds there is a reasonable expectation that the mandatory control level event will be eliminated within the 90-day period.

(7)(a) An insurer has a right to a hearing before the department upon:

1. Notification to an insurer by the department of an adjusted risk based capital report;

2. Notification to an insurer by the department that the insurer's risk based capital plan or revised risk based capital plan is unsatisfactory, and that the notification constitutes a regulatory action level event with respect to such insurer;

3. Notification to any insurer by the department that the insurer has failed to adhere to its risk based capital plan or revised risk based capital plan and that the failure has a substantial adverse effect on the ability of the insurer to eliminate the company action level event in accordance with its risk based capital plan or its revised risk based capital plan; or

4. Notification to an insurer by the department of a corrective order with respect to the insurer.

(b) At such hearing the insurer may challenge any determination or action by the department. The insurer shall notify the department of its request for a hearing within 5 days after receipt of the notification by the department under this subsection. Upon receipt of the request for a hearing, the department shall set a date for the hearing, which date must be no fewer than 10 nor more than 30 days after the date the department receives the insurer's request. The hearing must be conducted as provided in section 624.324, Florida Statutes, with the right to appellate review under section 120.68, Florida Statutes.

(8)(a) Any foreign insurer shall, upon the written request of the department, submit to the department a risk based capital report, as of the end of the calendar year just ended, no later than the later of:

1. The date a risk based capital report is required to be filed by a domestic insurer under this section; or

2. Fifteen days after the request is received by the foreign insurer.

(b) Any foreign insurer shall, upon the written request of the department, promptly submit to the department a copy of any risk based capital plan that is filed with the insurance department of another state.

(c) The department may require a foreign insurer to file a risk based capital plan if:

1. A company action level event, regulatory action level event, or authorized control level event occurs with respect to any foreign insurer as determined under the risk based capital law of the state of domicile of the insurer, or, if there is no risk based capital law in that state, under this section.

2. The insurance department of the state of domicile of the foreign insurer fails to require the foreign insurer to file a risk based capital plan in the manner specified under the risk based capital law of that state, or, if there is no risk based capital law in that state, under subsection (3).

The failure of the foreign insurer to file a risk based capital plan with the department when required under this paragraph is a ground for the department to take any action under section 624.418, Florida Statutes, which it determines is necessary.

(d) If a mandatory control level event occurs with respect to any foreign insurer and a domiciliary receiver has not been appointed with respect to the foreign insurer under the rehabilitation and liquidation law of the state of domicile of the foreign insurer, the department may apply to the Circuit Court of Leon County and such event constitutes grounds for the department to be appointed as receiver as provided in chapter 631, Florida Statutes, with respect to the liquidation of property of foreign insurers found in this state. The occurrence of a mandatory control level event is a ground for such application.

(9) There shall be no liability on the part of, and no cause of action shall arise against, the commissioner, the department, or its employees or agents for any action taken by them in the performance of their powers and duties under this section.

(10) The department shall transmit any notice that may result in regulatory action by registered mail, certified mail, or any other method of transmission. Notice is effective when the insurer receives it.

(11) For the purposes of the risk based capital reports required to be filed by life and health insurers with respect to their 1997 annual statement data and the risk based capital reports required to be filed by property and casualty insurers with respect to their 1997 annual statement data, the following requirements apply in lieu of the provisions of subsections (3), (4), (5), and (6):

(a) If a company action level event occurs with respect to a domestic insurer, the department may not take any regulatory action.

(b) If a regulatory action level event occurs under subparagraph 1., subparagraph 2., or subparagraph 3. of paragraph (4)(a), the department shall take the actions required under subsection (3).

(c) If a regulatory action level event occurs under subparagraph 4., subparagraph 5., subparagraph 6., subparagraph 7., subparagraph 8., or subparagraph 9. of paragraph (4)(a), or an authorized control level event occurs, the department shall take the actions required under subsection (4).

(d) If a mandatory control level event occurs with respect to an insurer, the department shall take the actions required under subsection (5).

(12) This section is supplemental to the other laws of this state and does not preclude or limit any power or duty of the department under those laws or under the rules adopted under those laws.

(13) This section does not apply to a domestic property and casualty insurer that meets all of the following conditions:

(a) Writes direct business only in this state;

(b) Writes direct annual premiums of $2 million or less; and

(c) Assumes no reinsurance in excess of 5 percent of direct premiums written.

(14) The department may adopt rules to administer this section, including, but not limited to, those regarding risk based capital reports, adjusted risk based capital reports, risk based capital plans, corrective orders and procedures to be followed in the event of a triggering of a company action level event, a regulatory action level event, an authorized control level event, or a mandatory control level event.

Section 4. *Assets of insurers; reporting requirements.—*

(1) As used in this section, the term:

(a) "Material acquisition of assets" or "material disposition of assets" means one or more transactions occurring during any 30-day period which are nonrecurring and not in the ordinary course of business and involve more than 5 percent of the reporting insurer's total admitted assets as reported in its most recent statutory statement filed with the insurance department of the insurer's state of domicile.

(b) "Material nonrenewal, cancellation, or revision of a ceded reinsurance agreement" is one that affects:

1. With respect to property and casualty business, including accident and health business written by a property and casualty insurer:

a. More than 50 percent of the insurer's total ceded written premium; or

b. More than 50 percent of the insurer's total ceded indemnity and loss-adjustment reserves.

2. With respect to life, annuity, and accident and health business, more than 50 percent of the total reserve credit taken for business ceded, on an annualized basis, as indicated in the insurer's most recent annual statement.

3. With respect to property and casualty business or life, annuity, and accident and health business, a material revision includes:

a. The replacement of an authorized reinsurer representing more than 10 percent of a total cession by one or more unauthorized reinsurers; or

b. The reduction or waiver, with respect to one or more unauthorized insurers, of previously established collateral requirements representing more than 10 percent of a total cession.

(2) Each domestic insurer shall file a report with the Department of Insurance disclosing a material acquisition of assets, a material disposition of assets, or a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement, unless the material acquisition or disposition of assets or the material nonrenewal, cancellation, or revision of a ceded reinsurance agreement has been submitted to the department for review, approval, or informational purposes under another section of the Florida Insurance Code or a rule adopted thereunder. A copy of the report and each exhibit or other attachment must be filed by the insurer with the National Association of Insurance Commissioners. The report required in this section is due within 15 days after the end of the calendar month in which the transaction occurs.

(3) An immaterial acquisition or disposition of assets need not be reported under this section.

(4)(a) Acquisitions of assets which are subject to this section include each purchase, lease, exchange, merger, consolidation, succession, or other acquisition of assets. Asset acquisitions for the construction or development of real property by or for the reporting insurer and the acquisition of construction materials for this purpose are not subject to this section.

(b) Dispositions of assets which are subject to this section include each sale, lease, exchange, merger, consolidation, mortgage, hypothecation, assignment for the benefit of a creditor or otherwise, abandonment, destruction, or other disposition of assets.

(5)(a) The following information must be disclosed in any report of a material acquisition or disposition of assets:

1. The date of the transaction;
2. The manner of acquisition or disposition;
3. The description of the assets involved;
4. The nature and amount of the consideration given or received;
5. The purpose of, or reason for, the transaction;
6. The manner by which the amount of consideration was determined;
7. The gain or loss recognized or realized as a result of the transaction; and
8. The name of the person from whom the assets were acquired or to whom they were disposed.

(b) Insurers must report material acquisitions or dispositions on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which uses a pooling arrangement or a 100-percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer has ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than $1 million in total direct and assumed written premiums during a calendar year which are not subject to a pooling arrangement and if the net income of the business which is not subject to the pooling arrangement represents less than 5 percent of the insurer's capital and surplus.

(6) The nonrenewal, cancellation, or revision of a ceded reinsurance agreement need not be reported if the renewal or the revision is not material or if:

(a) With respect to property and casualty business, including accident and health business written by a property and casualty insurer, the insurer's total ceded written premium represents, on an annualized basis, less than 10 percent of its total written premium for direct and assumed business; or

(b) With respect to life, annuity, and accident and health business, the total reserve credit taken for business ceded represents, on an annualized basis, less than 10 percent of the statutory reserve requirement before the cession.

(7)(a) The following information must be disclosed in any report of a material nonrenewal, cancellation, or revision of a ceded reinsurance agreement:

1. The effective date of the nonrenewal, cancellation, or revision;

2. The description of the transaction and the identification of the initiator of the transaction;

3. The purpose of, or reason for, the transaction; and

4. If applicable, the identity of each replacement reinsurer.

(b) Insurers shall report the material nonrenewal, cancellation, or revision of a ceded reinsurance agreement on a nonconsolidated basis unless the insurer is part of a consolidated group of insurers which uses a pooling arrangement or a 100-percent reinsurance agreement that affects the solvency and integrity of the insurer's reserves and the insurer has ceded substantially all of its direct and assumed business to the pool. An insurer is deemed to have ceded substantially all of its direct and assumed business to a pool if the insurer has less than $1 million in total direct and assumed written premiums during a calendar year which are not subject to a pooling arrangement and if the net income of the business not subject to the pooling arrangement represents less than 5 percent of the insurer's capital and surplus.

Section 5. Section 624.3161, Florida Statutes, is amended to read:

624.3161 Market conduct examinations.—

(1) As often as it deems necessary, ~~and not less frequently than each 5 years,~~ the department shall examine each licensed rating organization, each advisory organization, each group, association, or other organization of insurers which engages in joint underwriting or joint reinsurance, and each authorized insurer transacting in this state any class of insurance to which the provisions of ~~part I of~~ chapter 627 are applicable. The examination shall be for the purpose of ascertaining compliance by the person examined with the applicable provisions of chapters 624, 626, 627, and 635.

(2) In lieu of any such examination, the department may accept the report of a similar examination made by the insurance supervisory official of another state.

(3) ~~Upon agreement between the department and the insurer, such~~ *The* examination may be conducted by an independent professional examiner under contract to the department, in which case payment shall be made directly to the contracted examiner by the insurer examined in accordance with the rates and terms agreed to by the department~~, the insurer,~~ and the examiner.

(4) The reasonable cost of the examination shall be paid by the person examined, and such person shall be subject, as though an insurer, to the provisions of s. 624.320.

(5) Such examinations shall also be subject to the applicable provisions of ss. 624.318, 624.319, 624.321, and 624.322.

Section 6. Paragraph (d) of subsection (8) of section 624.424, Florida Statutes, is amended to read:

624.424 Annual statement and other information.—

(8)

(d) An insurer may not use the same accountant or partner of an accounting firm responsible for preparing the report required by this subsection for more than *7* ~~5~~ consecutive years. Following this period, the insurer may not use such accountant or partner for a period of 2 years, but may use another accountant or partner of the same firm. An insurer may request the department to waive this prohibition based upon an unusual hardship to the insurer and a determination that the accountant is exercising independent judgment that is not unduly influenced by the insurer considering such factors as the number of partners, expertise of the partners or the number of insurance clients of the accounting firm; the premium volume of the insurer; and the number of jurisdictions in which the insurer transacts business.

Section 7. Section 624.5094, Florida Statutes, is created to read:

624.5094 Casualty insurance premiums.—Notwithstanding any statutory provision to the contrary, for the purposes of calculating the annual assessments for the Special Disability Trust Fund under s. 440.49 and expenses of administration under s. 440.51, any amount paid or credited as dividends or premium refunds in the same calendar year by the insurer to its policyholders must be deducted from "net premium," "net premiums written," "direct premium," and "net premium collected" for the calendar year. Such offset for dividends or premium refunds paid or credited for the current year must be applied against the current year's net premium for that year's assessment regardless of the policy year for which the dividends or premium refunds are being reimbursed.

Section 8. Paragraph (i) is added to subsection (5) of section 625.121, Florida Statutes, 1996 Supplement, to read:

625.121 Standard Valuation Law; life insurance.—

(5) MINIMUM STANDARD FOR VALUATION OF POLICIES AND CONTRACTS ISSUED ON OR AFTER OPERATIVE DATE OF STANDARD NONFORFEITURE LAW.—Except as otherwise provided in paragraph (h) and subsections (6), (11), and (14), the minimum standard for the valuation of all such policies and contracts issued on or after the operative date of s. 627.476 (Standard Nonforfeiture Law for Life Insurance) shall be the commissioners' reserve valuation method defined in subsections (7), (11), and (14); 5 percent interest for group annuity and pure endowment contracts and 3.5 percent interest for all other such policies and contracts, or in the case of life insurance policies and contracts, other than annuity and pure endowment contracts, issued on or after July 1, 1973, 4 percent interest for such policies issued prior to October 1, 1979, and 4.5 percent interest for such policies issued on or after October 1, 1979; and the following tables:

(i) In lieu of the mortality tables specified in this subsection, and subject to rules adopted by the department, the insurance company may, at its option:

1. Substitute the applicable 1958 CSO or CET Smoker and Nonsmoker Mortality Tables, in lieu of the 1980 CSO or CET mortality table standard, for policies issued on or after the operative date of s. 627.476(9) and before January 1, 1989.

2. Substitute the applicable 1980 CSO or CET Smoker and Nonsmoker Mortality Tables in lieu of the 1980 CSO or CET mortality table standard;

3. Use the Annuity 2000 Mortality Table for determining the minimum standard of valuation for individual annuity and pure endowment contracts issued on or after the operative date of this section until the department, on a date certain that is on or after January 1, 1998, adopts by rule that table for determining the minimum standard for valuation purposes.

4. Use the 1994 GAR Table for determining the minimum standard of valuation for annuities and pure endowments purchased on or after the operative date of this section under group annuity and pure endowment contracts until the department, on a date certain that is on or after January 1, 1998, adopts by rule that table for determining the minimum standard for valuation purposes.

Section 9. Paragraph (e) of subsection (1) of section 626.321, Florida Statutes, is amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified individual, or a qualified individual or entity under paragraphs (d) and (e), a license as agent authorized to transact a limited class of business in any of the following categories:

(e) Credit life or disability insurance.—License covering only credit life or disability insurance. The license may be issued only to an individual employed by a life or health insurer as an officer or other salaried or commissioned representative, or to an individual employed by or associated with a lending or financing institution or creditor, and may authorize the sale of such insurance only with respect to borrowers or debtors of such lending or financing institution or creditor. However, only the individual or entity whose tax identification number is used in receiving or is credited with receiving the commission from the sale of such insurance shall be the licensed agent of the insurer. No individual

while so licensed shall hold a license as an agent or solicitor as to any other or additional kind or class of life or health insurance coverage. *An entity other than a lending or financial institution defined in s. 626.988 holding a limited license under this subsection (1)(e) shall also be authorized to sell credit property insurance.*

Section 10. Paragraph (h) of subsection (9) of section 627.476, Florida Statutes, is amended to read:

627.476 Standard Nonforfeiture Law for Life Insurance.—

(9) CALCULATION OF ADJUSTED PREMIUMS AND PRESENT VALUES FOR POLICIES ISSUED AFTER OPERATIVE DATE OF THIS SUBSECTION.—

(h) All adjusted premiums and present values referred to in this section shall for all policies of ordinary insurance be calculated on the basis of the Commissioners' 1980 Standard Ordinary Mortality Table or, at the election of the insurer for any one or more specified plans of life insurance, the Commissioners' 1980 Standard Ordinary Mortality Table with Ten-Year Select Mortality Factors; shall for all policies of industrial insurance be calculated on the basis of the Commissioners' 1961 Standard Industrial Mortality Table; and shall for all policies issued in a particular calendar year be calculated on the basis of a rate of interest not exceeding the nonforfeiture interest rate as defined in this subsection for policies issued in that calendar year. However:

1. At the option of the insurer, calculations for all policies issued in a particular calendar year may be made on the basis of a rate of interest not exceeding the nonforfeiture interest rate, as defined in this subsection, for policies issued in the immediately preceding calendar year.

2. Under any paid-up nonforfeiture benefit, including any paid-up dividend additions, any cash surrender value available, whether or not required by subsection (2), shall be calculated on the basis of the mortality table and rate of interest used in determining the amount of such paid-up nonforfeiture benefit and paid-up dividend additions, if any.

3. An insurer may calculate the amount of any guaranteed paid-up nonforfeiture benefit, including any paid-up additions under the policy, on the basis of an interest rate no lower than that specified in the policy for calculating cash surrender values.

4. In calculating the present value of any paid-up term insurance with accompanying pure endowment, if any, offered as a nonforfeiture benefit, the rates of mortality assumed may be not more than those shown in the Commissioners' 1980 Extended Term Insurance Table for policies of ordinary insurance and not more than the Commissioners' 1961 Industrial Extended Term Insurance Table for policies of industrial insurance.

5. In lieu of the mortality tables specified in this section, at the option of the insurance company and subject to rules adopted by the department, the insurance company may substitute:

a. The 1958 CSO or CET Smoker and Nonsmoker Mortality Tables, whichever is applicable, for policies issued on or after the operative date of this subsection and before January 1, 1989;

b. The 1980 CSO or CET Smoker and Nonsmoker Mortality Tables, whichever is applicable, for policies issued on or after the operative date of this subsection;

c. A mortality table that is a blend of the sex-distinct 1980 CSO or CET mortality table standard, whichever is applicable, or a mortality table that is a blend of the sex-distinct 1980 CSO or CET smoker and nonsmoker mortality table standards, whichever is applicable, for policies that are subject to the United States Supreme Court decision in Arizona Governing Committee v. Norris to prevent unfair discrimination in employment situations.

6. ~~5.~~ For insurance issued on a substandard basis, the calculation of any such adjusted premiums and present values may be based on appropriate modifications of the aforementioned tables.

Section 11. Effective October 1, 1997, section 627.4555, Florida Statutes, is amended to read:

627.4555 Secondary notice.—*Except as provided in this section, a* ~~no~~ contract for life insurance *issued or issued for delivery in this state on or after October 1, 1997,* covering a natural person 64 years of age or older ~~or owned by a natural person 64 years of age or older~~, which has been in force for at least 1 year, *may not* ~~shall~~ be *lapsed* ~~canceled~~ for nonpayment of premium unless, after expiration of the grace period, and at least 21 days *before* ~~prior to~~ the effective date of *any* such *lapse* ~~cancellation~~, the insurer has mailed a notification of *the impending* ~~possible~~ lapse in coverage to the *policyowner* ~~owner of the policy~~ and to a specified secondary addressee if such addressee has been designated in writing by name and address by the policyowner. An insurer issuing a life insurance contract on or after October 1, *1997* ~~1995~~, shall notify the applicant of the right to designate a secondary addressee *at the time of application for the policy, on a form provided by the insurer, and at any time the policy is in force, by submitting a written notice to the insurer containing the name and address of the secondary addressee. For purposes of any life insurance policy that provides a grace period of more than 51 days for nonpayment of premiums, the notice of impending lapse in coverage required by this section must be mailed to the policyowner and the secondary addressee at least 21 days before the expiration of the grace period provided in the policy. This section does not apply to any life insurance contract under which premiums are payable monthly or more frequently and are regularly collected by a licensed agent or are paid by credit card or any preauthorized check processing or automatic debit service of a financial institution.* ~~For policies of life insurance issued or renewed on or after October 1, 1995, the insurer shall notify the owner, at least annually, of the right to designate a secondary addressee.~~

Section 12. Effective October 1, 1997, section 627.5045, Florida Statutes, is amended to read:

627.5045 Secondary notice.—*Except as provided in this section, a* ~~no~~ contract for an industrial life insurance policy *issued or issued for delivery in this state on or after October 1, 1997,* for which premiums are paid monthly, covering a natural person 64 years of age or older or owned by a natural person 64 years of age or older, which has been in force for at least 1 year, *may not* ~~shall~~ be *lapsed* ~~canceled~~ for nonpayment of premium unless, after expiration of the grace period, and at least 21 days *before* ~~prior to~~ the effective date of such *lapse* ~~cancellation~~, the insurer has mailed a notification of *the impending* ~~possible~~ lapse in coverage to the *policyowner* ~~owner of the policy~~ and to a specified secondary addressee if such addressee has been designated in writing by name and address by the policyowner. An insurer issuing an industrial life insurance contract on or after October 1, *1997* ~~1995~~, shall notify the applicant of the right to designate a secondary addressee *at the time of application for the policy on a form provided by the insurer and at any time the policy is in force by submitting a written notice to the insurer containing the name and address of the secondary addressee. This section does not apply to any life insurance contract under which premiums are payable monthly or more frequently and are regularly collected by a licensed agent.* ~~For policies of industrial life insurance issued or renewed on or after October 1, 1995, the insurer shall notify the owner, at least annually, of the right to designate a secondary addressee.~~

Section 13. Effective October 1, 1997, section 628.801, Florida Statutes, is amended to read:

628.801 Insurance holding companies; registration; regulation.—Every insurer which is authorized to do business in this state and which is a member of an insurance holding company shall register with the department and be subject to regulation with respect to its relationship to such holding company as provided by rule or statute. The department shall adopt rules establishing the information and form required for registration and the manner in which registered insurers and their affiliates shall be regulated. The rules shall apply to domestic insurers, foreign insurers, and commercially domiciled insurers, except a foreign insurer domiciled in states that are accredited by the National Association of Insurance Commissioners by December 31, 1995. Except to the extent of any conflict with this code, the rules must include all requirements and standards of ss. 4 and 5 of the Insurance Holding Company System Regulatory Act and the Insurance Holding Company System Model Regulation of the National Association of Insurance Commissioners, as the Regulatory Act and the Model Regulation existed on January 1, *1997* ~~1993~~, and may include a prohibition on oral contracts between affiliated entities. Upon request, the department may waive filing requirements under this section for a domestic insurer that is the subsidiary of an insurer that is in full compliance with the insurance holding company registration laws of its state of domicile, which state is accredited by the National Association of Insurance Commissioners.

Section 14. Except as otherwise expressly provided in this act, this act shall take effect July 1, 1997.

And the title is amended as follows:

On page 2, line 28 through page 3, line 5, delete those lines from the amendment and insert: On page 1, lines 2-8, delete those lines from the bill and insert: A bill to be entitled An act relating to insurance; amending s. 627.215, F.S.; prescribing a minimum value for profit and contingencies factor for the purpose of calculating the anticipated underwriting profit; providing clarification on the application of excess profits; requiring certain insurers to file reports concerning their risk based capital; requiring the Department of Insurance to request such reports under certain circumstances; providing for hearings; providing definitions and reporting requirements; requiring certain insurers to file reports of material transactions concerning their assets or their ceded reinsurance agreements; providing definitions and reporting requirements; prescribing authority of the Department of Insurance with respect to such reports; amending s. 624.3161, F.S.; deleting a limitation on frequency of certain market conduct examinations; deleting requirement for mutual agreement by department and insurer for an independent examination; amending s. 626.321, F.S.; authorizing persons who hold a limited license for credit insurance to hold certain additional licenses; amending s. 624.424, F.S.; increasing the time limitation on insurers using certain accounting services for certain purposes; creating s. 624.5094, F.S.; providing for offset of dividends or premium refunds in calculating the annual assessment for the Special Disability Trust Fund and expenses of administration; amending s. 625.121, F.S.; providing for the use of additional mortality tables; amending s. 627.476, F.S.; providing for the use of additional mortality tables; amending ss. 627.4555 and 627.5045, F.S.; revising provisions requiring notice to policyowners and secondary addressees of impending lapse of certain insurance policies under certain circumstances; providing procedures; providing application; amending s. 628.801, F.S.; updating a reference to the Insurance Holding Company System Regulatory Act; providing effective dates.

Amendment 1 as amended was adopted.

On motion by Senator Holzendorf, by two-thirds vote **SB 840** as amended was read the third time by title, passed, ordered engrossed and then certified to the House. The vote on passage was:

Yeas—36

Madam President	Dantzler	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jenne	Ostalkiewicz
Brown-Waite	Dyer	Jones	Rossin
Burt	Forman	Kirkpatrick	Silver
Campbell	Grant	Klein	Sullivan
Casas	Gutman	Kurth	Thomas
Childers	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

Vote after roll call:

Yea—Crist

The Senate resumed consideration of—

CS for SB 584—A bill to be entitled An act relating to mining; amending s. 378.601, F.S.; providing that certain heavy mineral mining operations are not required to undergo development-of-regional-impact review; amending s. 378.901, F.S.; providing conditions when a life-of-the-mine permit for sand mines may be issued; providing an effective date.

—which was previously considered and amended this day.

Pending further consideration of **CS for SB 584** as amended, on motion by Senator Kirkpatrick, by two-thirds vote **HB 1073** was withdrawn from the Committees on Natural Resources; and Ways and Means.

On motion by Senator Kirkpatrick—

HB 1073—A bill to be entitled An act relating to land reclamation; amending s. 378.601, F.S.; exempting certain heavy mineral mining operations from requirements for development of regional impact review; requiring certain permits or plan approvals; amending s. 378.035, F.S.; providing for use of Nonmandatory Land Reclamation Trust Fund moneys for reclamation and management of phosphate lands; providing for liens; requiring a report; amending s. 378.901, F.S.; providing conditions when a life-of-the-mine permit for sand mines may be issued; providing an effective date.

—a companion measure, was substituted for **CS for SB 584** as amended and read the second time by title.

Senator Kirkpatrick moved the following amendment:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Subsection (5) is added to section 378.601, Florida Statutes, to read:

378.601 Heavy minerals.—

(5) Any heavy mineral mining operation which annually mines less than 500 acres and whose proposed consumption of water is 3 million gallons per day or less shall not be required to undergo development of regional impact review pursuant to s. 380.06, provided permits and plan approvals pursuant to either this section and part IV of chapter 373, or s. 378.901, are issued. This subsection applies only in the following circumstances:

(a) Mining is conducted in counties where the operator has conducted heavy mineral mining activities prior to March 1, 1997; and

(b) The operator of the heavy mineral mining operation has executed a developer agreement pursuant to s. 380.032 as of March 1, 1997. Lands mined pursuant to this section need not be the subject of the developer agreement.

Section 2. Paragraph (b) of subsection (1) of section 373.414, Florida Statutes, 1996 Supplement, is amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(1) As part of an applicant's demonstration that an activity regulated under this part will not be harmful to the water resources or will not be inconsistent with the overall objectives of the district, the governing board or the department shall require the applicant to provide reasonable assurance that state water quality standards applicable to waters as defined in s. 403.031(13) will not be violated and reasonable assurance that such activity in, on, or over surface waters or wetlands, as delineated in s. 373.421(1), is not contrary to the public interest. However, if such an activity significantly degrades or is within an Outstanding Florida Water, as provided by department rule, the applicant must provide reasonable assurance that the proposed activity will be clearly in the public interest.

(b) If the applicant is unable to otherwise meet the criteria set forth in this subsection, the governing board or the department, in deciding to grant or deny a permit, shall consider measures proposed by or acceptable to the applicant to mitigate adverse effects that may be caused by the regulated activity. Such measures may include, but are not limited to, onsite mitigation, offsite mitigation, offsite regional mitigation, and the purchase of mitigation credits from mitigation banks permitted under s. 373.4136. It shall be the responsibility of the applicant to choose the form of mitigation. The mitigation must offset the adverse effects caused by the regulated activity.

1. The department or water management districts may accept the donation of money as mitigation only where the donation is specified for use in a *duly noticed* ~~department-or-water-management-district-endorsed~~ environmental creation, preservation, enhancement, or restoration project, *endorsed by the department or the governing board of the water management district, which* ~~that~~ offsets the impacts of the activity permitted under this part. However, the provisions of this subsection shall not apply to projects undertaken pursuant to s. 373.4137 *or chapter*

378. Where a permit is required under this part to implement any project endorsed by the department or a water management district, all necessary permits must have been issued prior to the acceptance of any cash donation. After the effective date of this act, when money is donated to either the department or a water management district to offset impacts authorized by a permit under this part, the department or the water management district shall accept only a donation that represents the full cost to the department or water management district of undertaking the project that is intended to mitigate the adverse impacts. The full cost shall include all direct and indirect costs, as applicable, such as those for land acquisition, land restoration or enhancement, perpetual land management, and general overhead consisting of costs such as staff time, building, and vehicles. The department or the water management district may use a multiplier or percentage to add to other direct or indirect costs to estimate general overhead. Mitigation credit for such a donation shall be given only to the extent that the donation covers the full cost to the agency of undertaking the project that is intended to mitigate the adverse impacts. However, nothing herein shall be construed to prevent the department or a water management district from accepting a donation representing a portion of a larger project, provided that the donation covers the full cost of that portion and mitigation credit is given only for that portion. The department or water management district may deviate from the full cost requirements of this subparagraph to resolve a proceeding brought pursuant to chapter 70 or a claim for inverse condemnation. Nothing in this section shall be construed to require the owner of a private mitigation bank, permitted under s. 373.4136, to include the full cost of a mitigation credit in the price of the credit to a purchaser of said credit.

2. The department and each water management district shall report to the Executive Office of the Governor by January 31 and July 31 of each year all cash donations accepted during the preceding 6 months for wetland mitigation purposes, which shall include a description of the endorsed mitigation projects.

3.~~2.~~ If the applicant is unable to meet water quality standards because existing ambient water quality does not meet standards, the governing board or the department shall consider mitigation measures proposed by or acceptable to the applicant that cause net improvement of the water quality in the receiving body of water for those parameters which do not meet standards.

4.~~3.~~ If mitigation requirements imposed by a local government for surface water and wetland impacts of an activity regulated under this part cannot be reconciled with mitigation requirements approved under a permit for the same activity issued under this part, the mitigation requirements for surface water and wetland impacts shall be controlled by the permit issued under this part.

Section 3. Section 373.4415, Florida Statutes, is created to read:

373.4415 Role of Dade County in processing permits for limerock mining in Dade County Lake Belt.—The department and Dade County shall cooperate to establish and fulfill reasonable requirements for the departmental delegation to the Dade County Department of Environmental Resource Management of authority to implement the permitting program under ss. 373.403-373.439 for limerock mining activities within the geographic area of the Dade County Lake Belt which was recommended for mining in the report submitted to the Legislature in February 1997 by the Dade County Lake Belt Plan Implementation Committee under s. 373.4149. The delegation of authority must be consistent with s. 373.441 and chapter 62-344, Florida Administrative Code. To further streamline permitting within the Dade County Lake Belt, the department and Dade County are encouraged to work with the United States Army Corps of Engineers to establish a general permit under s. 404 of the Clean Water Act for limerock mining activities within the geographic area of the Dade County Lake Belt consistent with the report submitted in February 1997. Dade County is further encouraged to seek delegation from the United States Army Corps of Engineers for the implementation of any such general permit. This section does not limit the authority of the department to delegate other responsibilities to Dade County under this part.

Section 4. Section 378.4115, Florida Statutes, is created to read:

378.4115 County certification for limerock mining in the Dade County Lake Belt.—The department and Dade County shall cooperate to establish and fulfill reasonable requirements for the departmental certification of the Dade County Department of Environmental Resource Management to implement the reclamation program under ss. 378.401-378.503 for limerock mining activities within the geographic area of the Dade County Lake Belt which was recommended for mining in the report submitted to the Legislature in February 1997 by the Dade County Lake Belt Plan Implementation Committee under s. 373.4149. The delegation of implementing authority must be consistent with s. 378.411 and chapter 62C-36, Florida Administrative Code. Further, the reclamation program shall maximize the efficient mining of limestone and the littoral area surrounding the lake excavations shall not be required to be greater than 100 feet average in width.

Section 5. Subsections (15) and (16) of section 373.414, Florida Statutes, 1996 Supplement, are amended to read:

373.414 Additional criteria for activities in surface waters and wetlands.—

(15) Activities associated with mining operations as defined by and subject to ss. 378.201-378.212 and 378.701-378.703 *and included in a conceptual reclamation plan or modification application submitted prior to July 1, 1996,* shall continue to be reviewed under the rules of the department adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, the rules of the water management districts under this part, and interagency agreements, in effect on January 1, 1993. Such activities shall be exempt from rules adopted pursuant to subsection (9) and the statewide methodology ratified pursuant to s. 373.4211. As of January 1, 1994, such activities may be issued permits authorizing construction for the life of the mine. ~~This subsection shall be in effect until January 1, 1998, and shall not apply to new mines. For purposes of this subsection, a "new mine" means a mine on which the owner or operator has neither commenced construction nor initiated the permitting process prior to June 1, 1994.~~

(16) Until October 1, *2000* ~~1997~~, regulation under rules adopted pursuant to this part of any sand, limerock, or limestone mining activity which is located in Township 52 South, Range 39 East, sections 1, 2, 3, 10, 11, 12, 13, 14, 15, 22, 23, 24, 25, 26, 27, 34, 35, and 36; in Township 52 South, Range 40 East, sections 6, 7, 8, 18, and 19; in Township 53 South, Range 39 East, sections 1, 2, 13, 21, 22, 23, 24, 25, 26, 33, 34, 35, and 36; and in Township 54 South, Range 38 East, sections 24, and 25, and 36, shall not include the rules adopted pursuant to subsection (9). In addition, until October 1, *2000* ~~1997~~, such activities shall continue to be regulated under the rules adopted pursuant to ss. 403.91-403.929, 1984 Supplement to the Florida Statutes 1983, as amended, as such rules existed prior to the effective date of the rules adopted pursuant to subsection (9) and such dredge and fill jurisdiction shall be that which existed prior to January 24, 1984. In addition, any such sand, limerock, or limestone mining activity shall be approved by Dade County and the United States Army Corps of Engineers. This section shall only apply to mining activities which are continuous and carried out on land contiguous to mining operations that were in existence on or before October 1, 1984.

Section 6. Subsections (5), (6), and (7) are added to section 378.035, Florida Statutes, to read:

378.035 Department responsibilities and duties with respect to Nonmandatory Land Reclamation Trust Fund.—

(5) On July 1, 1997, $30 million of the unencumbered funds within the Nonmandatory Land Reclamation Trust Fund are hereby reserved for use by the department. These reserved moneys are to be used to reclaim lands disturbed by the severance of phosphate rock on or after July 1, 1975, in the event that a mining company ceases mining and the associated reclamation prior to all lands disturbed by the operation being reclaimed. Moneys expended by the department to accomplish reclamation pursuant to this subsection shall become a lien upon the property enforceable pursuant to chapter 85. The moneys received as a result of a lien foreclosure or as repayment shall be deposited into the trust fund. In the event the money received as a result of lien foreclosure or repayment is less than the amount expended for reclamation, the department shall use all means available to recover, for the use of the fund, the difference from the affected parties. Paragraph (3)(b) shall apply to lands acquired as a result of a lien foreclosure.

(6)(a) Up to one-half of the interest income accruing to the funds reserved by subsection (5) shall be available to the department annually for the purpose of funding basic management or protection of reclaimed, restored, or preserved phosphate lands:

1. Which have wildlife habitat value as determined by the Bureau of Mine Reclamation;

2. Which have been transferred by the landowner to a public agency or a private, nonprofit land conservation and management entity in fee simple, or which have been made subject to a conservation easement pursuant to s. 704.06; and

3. For which other management funding options are not available.

These funds may, after the basic management or protection has been assured for all such lands, be combined with other available funds to provide a higher level of management for such lands.

(b) Up to one-half of the interest income accruing to the funds reserved by subsection (5) shall be available to the department annually for the sole purpose of funding the department's implementation of:

1. The NPDES permitting program authorized by s. 403.0885, as it applies to phosphate mining and beneficiation facilities, phosphate fertilizer production facilities, and phosphate loading and handling facilities;

2. The regulation of dams in accordance with department Rule 62-672, Florida Administrative Code; and

3. The phosphogypsum management program pursuant to s. 403.4154 and department Rule 62-673, Florida Administrative Code.

On or before August 1 of each fiscal year, the department shall prepare a report presenting the expenditures using the interest income allocated by this section made by the department during the immediately preceding fiscal year, which report shall be available to the public upon request.

(7) Should the nonmandatory land reclamation program encumber all the funds in the Nonmandatory Land Reclamation Trust Fund except those reserved by subsection (5) prior to funding all the reclamation applications for eligible parcels, the funds reserved by subsection (5) shall be available to the program to the extent required to complete the reclamation of all eligible parcels for which the department has received applications.

Section 7. Subsections (3) through (9) of section 378.901, Florida Statutes, 1996 Supplement, are renumbered as subsections (4) through (10), respectively, and a new subsection (3) is added to said section to read:

378.901 Life-of-the-mine permit.—

(3) The bureau may also issue life-of-the-mine permits to operators of sand mines as part of the consideration for conveyance to the Board of Trustees of the Internal Improvement Trust Fund of environmentally sensitive lands in an amount equal to or greater than the acreage included in the life-of-the-mine permit and provided such environmentally sensitive lands are contiguous to or within reasonable proximity to the lands included in the life-of-the-mine permit.

Section 8. Paragraph (a) of subsection (11) of section 403.0872, Florida Statutes, 1996 Supplement, is amended to read:

403.0872 Operation permits for major sources of air pollution; annual operation license fee.—Provided that program approval pursuant to 42 U.S.C. s. 7661a has been received from the United States Environmental Protection Agency, beginning January 2, 1995, each major source of air pollution, including electrical power plants certified under s. 403.511, must obtain from the department an operation permit for a major source of air pollution under this section, which is the only department operation permit for a major source of air pollution required for such source. Operation permits for major sources of air pollution, except general permits issued pursuant to s. 403.814, must be issued in accordance with the following procedures and in accordance with chapter 120; however, to the extent that chapter 120 is inconsistent with the provisions of this section, the procedures contained in this section prevail:

(11) Commencing in 1993, each major source of air pollution permitted to operate in this state must pay between January 15 and March 1 of each year, upon written notice from the department, an annual operation license fee in an amount determined by department rule. The annual operation license fee shall be terminated immediately in the event the United States Environmental Protection Agency imposes annual fees solely to implement and administer the major source air-operation permit program in Florida under 40 C.F.R. s. 70.10(d).

(a) The annual fee must be assessed based upon the source's previous year's emissions and must be calculated by multiplying the applicable annual operation license fee factor times the tons of each regulated air pollutant (except carbon monoxide) allowed to be emitted per hour by specific condition of the source's most recent construction or operation permit, times the annual hours of operation allowed by permit condition; provided, however, that:

1. For 1993 and 1994, the license fee factor is $10. For 1995, the license fee factor is $25. In succeeding years, the license fee factor is $25 or another amount determined by department rule which ensures that the revenue provided by each year's operation license fees is sufficient to cover all reasonable direct and indirect costs of the major stationary source air-operation permit program established by this section. The license fee factor may be increased beyond $25 only if the secretary of the department affirmatively finds that a shortage of revenue for support of the major stationary source air-operation permit program will occur in the absence of a fee factor adjustment. The annual license fee factor may never exceed $35. The department shall retain a nationally recognized accounting firm to conduct a study to determine the reasonable revenue requirements necessary to support the development and administration of the major source air-operation permit program as prescribed in paragraph (b). The results of that determination must be considered in assessing whether a $25-per-ton fee factor is sufficient to adequately fund the major source air-operation permit program. The results of the study must be presented to the Governor, the President of the Senate, the Speaker of the House of Representatives, and the Public Service Commission, including the Public Counsel's Office, by no later than October 31, 1994.

2. For any source that operates for fewer hours during the calendar year than allowed under its permit, the annual fee calculation must be based upon actual hours of operation rather than allowable hours if the owner or operator of the source documents the source's actual hours of operation for the calendar year. For any source that has an emissions limit that is dependent upon the type of fuel burned, the annual fee calculation must be based on the emissions limit applicable during actual hours of operation.

3. For any source whose allowable emission limitation is specified by permit per units of material input or heat input or product output, the applicable input or production amount may be used to calculate the allowable emissions if the owner or operator of the source documents the actual input or production amount. If the input or production amount is not documented, the maximum allowable input or production amount specified in the permit must be used to calculate the allowable emissions.

4. For any new source that does not receive its first operation permit until after the beginning of a calendar year, the annual fee for the year must be reduced pro rata to reflect the period during which the source was not allowed to operate.

5. For any source that emits less of any regulated air pollutant than allowed by permit condition, the annual fee calculation for such pollutant must be based upon actual emissions rather than allowable emissions if the owner or operator documents the source's actual emissions by means of data from a department-approved certified continuous emissions monitor or from an emissions monitoring method which has been approved by the United States Environmental Protection Agency under the regulations implementing 42 U.S.C. ss. 7651 et seq., or from a method approved by the department for purposes of this section.

6. The amount of each regulated air pollutant in excess of 4,000 tons per year allowed to be emitted by any source, or group of sources belonging to the same Major Group as described in the Standard Industrial Classification Manual, 1987, may not be included in the calculation of the fee. Any source, or group of sources, which does not emit any regulated air pollutant in excess of 4,000 tons per year, is allowed a one-time credit not to exceed 25 percent of the first annual licensing fee for the prorated portion of existing air-operation permit application fees remaining upon commencement of the annual licensing fees.

7. If the department has not received the fee by February 15 of the calendar year, the permittee must be sent a written warning of the consequences for failing to pay the fee by March 1. If ~~the department has not received~~ the fee *is not postmarked* by March 1 of the calendar year *commencing with calendar year 1997*, the department shall impose, in

addition to the fee, a penalty of 50 percent of the amount of the fee, plus interest on such amount computed in accordance with s. 220.807. The department may not impose such penalty or interest on any amount underpaid, provided that the permittee has timely remitted payment of at least 90 percent of the amount determined to be due and remits full payment within 60 days after receipt of notice of the amount underpaid. The department may waive the collection of underpayment and shall not be required to refund overpayment of the fee, if the amount due is less than 1 percent of the fee, up to $50. The department may revoke any major air pollution source operation permit if it finds that the permitholder has failed to timely pay any required annual operation license fee, penalty, or interest.

8. During the years 1993 through 1999, inclusive, no fee shall be required to be paid under this section with respect to emissions from any unit which is an affected unit under 42 U.S.C. s. 7651c.

9. Notwithstanding the computational provisions of this subsection, the annual operation license fee for any source subject to this section shall not be less than $250, except that the annual operation license fee for sources permitted solely through general permits issued under s. 403.814 shall not exceed $50 per year.

10. Notwithstanding the provisions of s. 403.087(5)(a)4.a., authorizing air pollution construction permit fees, the department may not require such fees for changes or additions to a major source of air pollution permitted pursuant to this section, unless the activity triggers permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a. Costs to issue and administer such permits shall be considered direct and indirect costs of the major stationary source air-operation permit program under s. 403.0873. The department shall, however, require fees pursuant to the provisions of s. 403.087(5)(a)4.a. for the construction of a new major source of air pollution that will be subject to the permitting requirements of this section once constructed and for activities triggering permitting requirements under Title I, Part C or Part D, of the federal Clean Air Act, 42 U.S.C. ss. 7470-7514a.

Section 9. Subsection (7) of section 403.182, Florida Statutes, is amended to read:

403.182 Local pollution control programs.—

(7) It shall be a violation of this chapter to violate, or fail to comply with, a rule, regulation, or order of a stricter or more stringent nature adopted by a local pollution control program, and the same shall be punishable as provided by s. 403.161. If any local program changes any rule, regulation, or order, whether or not of a stricter or more stringent nature, such change shall not apply to any installation or source *permitted, under construction, or* operating at the time of such change in conformance with a currently valid permit issued by the department.

Section 10. Section 373.4149, Florida Statutes, is amended to read:

373.4149 ~~Northwest~~ Dade County ~~Freshwater~~ Lake *Belt* Plan.—

(1) The Legislature hereby accepts and adopts the recommendations contained in the Phase I Lake Belt Report and Plan, known as the "Dade County Lake Plan," dated February 1997 and submitted by the Dade County Lake Belt Plan Implementation Committee.

(2)(a)~~(1)~~ The Legislature recognizes that deposits of limestone and sand suitable for production of construction aggregates, cement, and road base materials are located in limited areas of the state.

(b) The Legislature recognizes that the deposit of limestone available in South Florida is limited due to urbanization to the east and the Everglades to the west.

(3)~~(2)~~ The *Dade County Lake Belt Area is that area* ~~Legislature recognizes that the deposit of limestone available in South Florida is limited due to urbanization to the east and the Everglades to the west, and that the area generally~~ bounded by the Florida Turnpike to the east, the Dade-Broward County line to the north, Krome Avenue to the west and Tamiami Trail to the south *together with the land south of Tamiami Trail in sections 5, 6, 7, 8, 17, and 18, Township 54 South, Range 39 East, and in sections 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36, Township 54 South, Range 38 East* ~~is one of the few remaining high-quality deposits in the state available for recovery of limestone, and that the Dade County 1985 Northwest Wellfield Protection Plan encourages limestone quarrying activity in lieu of urban development in this area~~.

(4)~~(3)~~ The ~~Northwest~~ Dade County ~~Freshwater~~ Lake *Belt* Plan Implementation Committee shall be appointed by the governing board of the South Florida Water Management District to develop a strategy for the design and implementation of the ~~Northwest~~ Dade County ~~Freshwater~~ Lake *Belt* Plan. The committee shall *consist* ~~be comprised of 13 members and 2 ex officio members, consisting~~ of the chair of the governing board ~~or his or her designee~~ of the South Florida Water Management District, who shall serve as chair of the committee, the policy director of Environmental and Growth Management in the Office of the Governor, the secretary ~~or the secretary's designee~~ of the Department of Environmental Protection, the director of the Division of Resource Management or its successor division within the Department of Environmental Protection, *the director of the Office of Tourism, Trade, and Economic Development within the Office of the Governor,* ~~the secretary or the secretary's designee of the Department of Commerce,~~ the secretary ~~or the secretary's designee~~ of the Department of Community Affairs, *the executive director of the Game and Freshwater Fish Commission,* the director of the Department of Environmental Resource Management of Dade County, *the director of the Dade County Water and Sewer Department,* the Director of Planning in Dade County, a representative of the Friends of the Everglades, a representative of the Florida Audubon Society, a representative of the Florida chapter of the Sierra Club, *a representative of the nonmining private landowners within the Dade County Lake Belt area* and four representatives from the limestone mining industry to be appointed by the governing board of the South Florida Water Management District. ~~The~~ Two ex officio seats on the committee will be filled by one member of the Florida House of Representatives to be selected by the Speaker of the House of Representatives from among representatives whose districts, or some portion of whose districts, are included within the geographical scope of the committee as described in subsection *(3)* ~~(2)~~, and one member of the Florida Senate to be selected by the President of the Senate from among senators whose districts, or some portion of whose districts, are included within the geographical scope of the committee as described in subsection *(3)* ~~(2)~~. *The committee may appoint other ex officio members, as needed, by a majority vote of all committee members. A committee member may designate in writing an alternate member who, in the member's absence, may participate and vote in committee meetings.*

(5)~~(4)~~ The committee shall develop *Phase II of the Lake Belt* ~~a~~ Plan which *shall*:

(a) Include a detailed master plan to further implementation;

(b) Further address compatible land uses, opportunities, and potential conflicts;

(c) Provide for additional wellfield protection;

(d) Provide measures to prevent the reclassification of the Northwest Dade County wells as groundwater under the direct influence of surface water.

(e) Secure additional funding sources; and

(f) Consider the need to establish a land authority.

~~(a) Enhances the water supply for Dade County and the Everglades;~~

~~(b) Maximizes efficient recovery of limestone while promoting the social and economic welfare of the community and protecting the environment; and~~

~~(c) Educates various groups and the general public of the benefits of the plan.~~

(6)~~(5)~~ The committee shall remain in effect until January 1, *2001* ~~1999~~, and shall meet as deemed necessary by the chair. The committee shall monitor and direct progress toward developing and implementing the plan. The committee shall submit progress reports to the governing board of the South Florida Water Management District and the Legislature by December 31 *of each year*~~, 1994, and by December 31, 1995~~. These reports shall include a summary of the activities of the committee, updates on all ongoing studies, any other relevant information gathered during the calendar year, and the committee recommendations for legislative and regulatory revisions. The committee shall submit a *Phase II*

~~final~~ report and plan to the governing board of the South Florida Water Management District and the Legislature by December 31, *2000, to supplement the Phase I report submitted on February 28, 1997* ~~1996~~. *The Phase II* ~~This~~ report *must* ~~shall~~ include *the detailed master plan for the Dade County Lake Belt area together with* the final reports on all studies, the final recommendations of the committee, *the status of implementation of Phase I recommendations* and other relevant information, and the committee's recommendation for legislative and regulatory revisions.

(7)~~(6) After completion of the plan,~~ The committee ~~shall continue to assist in its implementation and~~ shall report to the governing board of the South Florida Water Management District semiannually.

(8)~~(7)~~ In carrying out its work, the committee shall solicit comments from scientific and economic advisors and governmental, public, and private interests. The committee shall provide meeting notes, reports, and the strategy document in a timely manner for public comment.

(9)~~(8)~~ The committee is authorized to seek from the agencies or entities represented on the committee any grants or funds necessary to enable it to carry out its charge.

~~(9) The study area shall be extended to include land south of Tamiami Trail in sections 5, 6, 7, 8, 17, and 18, Township 54 South, Range 39 East, and to section 11, 12, 13, 14, 23, 24, 25, 26, 35, and 36, Township 54 South, Range 38 East, all of which are located outside of Metro-Dade County's Current 2010 Urban Development Boundary Line. No additional biological studies will be required; however, computer hydrologic modeling, land use, and water quality studies may be necessary in the extended study area.~~

(10) *The Department of Environmental Protection, in conjunction with the South Florida Water Management District and the Dade County Department of Environmental Resources Management, is directed to develop a comprehensive mitigation plan for the Dade County Lake Belt Plan, subject to approval by the Legislature, which offsets the loss of wetland functions and values resulting from rock mining in mining-supported and allowable areas.* ~~The Legislature directs the committee and the Department of Environmental Protection to work with the United States Environmental Protection Agency and the Miami-Dade Water and Sewer Authority Department to ensure that the Northwest Wellfield will retain its groundwater source classification for drinking water treatment standards. This determination shall be made utilizing hydrologic modeling and water quality studies. The committee shall seek funding for this study.~~

~~(11) The Legislature directs the South Florida Water Management District to oversee or carry out studies to determine evapotranspiration rates for melaleuca forest and prairie in the lakebelt area. Upon completion of the evapotranspiration study, the South Florida Water Management District shall incorporate study results as part of its overall water supply planning process. The committee shall seek funding for this study.~~

(11)~~(12)~~ *The secretary of the Department of Environmental Protection, the secretary of the Department of Community Affairs, the secretary of the Department of Transportation, the Commissioner of Agriculture, the executive director of the Game and Freshwater Fish Commission, and the executive director of the South Florida Water Management District may enter into agreements with landowners, developers, businesses, industries, individuals, and governmental agencies as necessary to effectuate the provisions of this section.* ~~The Legislature directs the Department of Commerce to oversee or carry out studies of the economic impact associated with the implementation of the lakebelt plan or any of its alternatives.~~

(12)~~(13)~~*(a) All agencies of the state shall review the status of their land holdings within the boundaries of the Dade County Lake Belt. Those lands for which no present or future use is identified must be made available, together with other suitable lands, to the committee for its use in carrying out the objectives of this act.*

(b) It is the intent of the Legislature that lands provided to the committee be used for land exchanges to further the objectives of this act. ~~This section is repealed January 1, 1999.~~

Section 11. This act shall take effect October 1, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to pollution control; amending s. 378.601, F.S.; exempting certain heavy mineral mining operations from requirements for development of regional impact review; requiring certain permits or plan approvals; amending s. 373.414, F.S.; providing requirements for the Department of Environmental Protection and the water management districts with respect to the acceptance of donations for mitigation purposes; creating s. 373.4415, F.S.; providing for delegation by the Department of Environmental Protection to Dade County certain permit program functions and responsibilities for limerock mining in the Dade County Lake Belt Area; creating s. 378.4115, F.S.; providing for certification by the department for Dade County to implement certain reclamation program functions and responsibilities for the Dade County Lake Belt Area; amending s. 373.414, F.S.; revising certain criteria for activities associated with mining operations in surface waters and wetlands; amending s. 378.035, F.S.; providing for use of Nonmandatory Land Reclamation Trust Fund moneys for reclamation and management of phosphate lands; providing for liens; requiring a report; amending s. 378.901, F.S.; providing conditions when a life-of-the-mine permit for sand mines may be issued; amending s. 403.0872, F.S.; revising certain requirements for permits for major sources of air pollution; amending s. 403.182, F.S.; providing that a change in a program rule is not applicable to an installation or source permitted or under construction at the time of the change; amending s. 373.4149, F.S.; revising provisions relating to the Northwest Dade County Freshwater Lake Plan to apply to the Dade County Lake Belt Plan; providing legislative findings; defining the Dade County Lake Belt Area; providing for a Dade County Lake Belt Plan Implementation Committee; providing for membership; providing duties of the committee; requiring reports; requiring the Department of Environmental Protection, in conjunction with certain agencies, develop a comprehensive mitigation plan for certain areas for certain purposes; authorizing certain state agencies to enter into agreements to accomplish certain purposes; requiring state agencies to review certain land holdings for certain purposes; deleting a future repeal; providing an effective date.

Senator Latvala moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A—On page 15, line 29, after "permitted," insert: *and*

Amendment 1 as amended was adopted.

On motion by Senator Kirkpatrick, by two-thirds vote **HB 1073** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Horne	Myers
Bankhead	Dantzler	Jenne	Ostalkiewicz
Bronson	Diaz-Balart	Jones	Rossin
Brown-Waite	Dudley	Kirkpatrick	Silver
Burt	Dyer	Klein	Sullivan
Campbell	Forman	Kurth	Thomas
Casas	Gutman	Latvala	Turner
Childers	Hargrett	Lee	Williams
Clary	Harris	McKay	
Cowin	Holzendorf	Meadows	

Nays—None

Vote after roll call:

Yea to Nay—McKay

On motion by Senator Gutman, the Senate resumed consideration of—

CS for CS for SB 170—A bill to be entitled An act relating to offenses involving intent to defraud persons who hire or lease personal property or equipment; amending s. 812.155, F.S., relating to the offenses of obtaining personal property or equipment by trick or false representation, hiring or leasing with intent to defraud, and failure to redeliver hired or leased personal property; removing provisions relating to the inference of fraudulent intent for purposes of prosecution of such offenses; providing that certain acts involving obtaining equipment under false pretenses, absconding without payment, or removing or attempting

to remove property without express written consent constitute prima facie evidence of such fraudulent intent; specifying circumstances under which failure upon demand to redeliver property or equipment constitutes such fraudulent intent; specifying circumstances under which failure upon demand to pay amounts due for the full rental period constitutes such fraudulent intent; providing an effective date.

—with pending **Amendment 3** by Senator Gutman.

Senator Dudley moved the following substitute amendment which was adopted:

Amendment 4—On page 3, lines 18-28, delete those lines and insert:

(b) In prosecutions under subsection (3), failure to redeliver the property or equipment upon demand made in person or by certified mail with signed return receipt is prima facie evidence of such fraudulent intent.

(c) In prosecutions under subsection (3), failure to pay any amounts due for the full rental period, including reasonable costs for damage to the property or equipment, not to exceed the lesser of the cost of repair or replacement, upon demand made in person or by certified mail is prima facie evidence of such fraudulent intent.

Senator Meadows moved the following amendment which was adopted:

Amendment 5 (with title amendment)—On page 4, between lines 7 and 8, insert:

Section 2. Subsection (1) of section 68.065, Florida Statutes, 1996 Supplement, is amended to read:

68.065 Actions to collect worthless checks, drafts, or orders of payment; attorney's fees and collection costs.—

(1) In any civil action brought for the purpose of collecting a check, draft, or order of payment, the payment of which was refused by the drawee because of the lack of funds, credit, or an account, *or where the maker or drawer stops payment on the check, draft, or order of payment with intent to defraud,* and where the maker or drawer fails to pay the amount owing, in cash, to the payee within 30 days following a written demand therefor, as provided in subsection (3), the maker or drawer shall be liable to the payee, in addition to the amount owing upon such check, draft, or order, for damages of triple the amount so owing. However, in no case shall the liability for damages be less than $50. The maker or drawer shall also be liable for any court costs and reasonable attorney fees incurred by the payee in taking the action. Criminal sanctions, as provided in s. 832.07, may be applicable.

Section 3. Section 166.251, Florida Statutes, is amended to read:

166.251 Service fee for dishonored check.—The governing body of a municipality may adopt a service fee *not to exceed the service fees authorized under s. 832.08(5)* ~~$20~~ or 5 percent of the face amount of the check, draft, or order, whichever is greater, for the collection of a dishonored check, draft, or other order for the payment of money to a municipal official or agency. The service fee shall be in addition to all other penalties imposed by law. Proceeds from this fee, if imposed, shall be retained by the collector of the fee.

Section 4. Paragraph (b) of subsection (2) of section 832.07, Florida Statutes, 1996 Supplement, is amended to read:

832.07 Prima facie evidence of intent; identity.—

(2) IDENTITY.—

(a) In any prosecution or action under the provisions of this chapter, a check, draft, or order for which the information required in paragraph (b), paragraph (d), paragraph (e), or paragraph (f) is available at the time of issuance constitutes prima facie evidence of the identity of the person issuing the check, draft, or order and that such person is authorized to draw upon the named account.

(b) To establish this prima facie evidence:

1. The driver's license number or state identification number, specifying the state of issuance of the person presenting the check must be written on the check; or

2. The following information regarding the identity of the person presenting the check must be obtained by the person accepting such check: The presenter's full name, residence address, home phone number, business phone number, place of employment, sex, date of birth, *and* height~~, and race~~.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 23, after the semicolon (;) insert: amending s. 68.065, F.S.; providing for triple damages, court costs, and attorney's fees with respect to certain civil actions to recover fines due on stop payments on checks, drafts, or orders of payment; amending s. 166.251, F.S.; revising language with respect to service fee for dishonored checks; amending s. 832.07, F.S., relating to prima facie evidence of identity with regard to prosecution of bad check charges; removing "race" as a required element of establishing the identity of the person presenting the check;

Senator Gutman moved the following amendment which was adopted:

Amendment 6 (with title amendment)—On page 4, between lines 7 and 8, insert:

Section 2. Subsection (4) is added to section 316.1945, Florida Statutes, to read:

316.1945 Stopping, standing, or parking prohibited in specified places.—

(4) A parking enforcement specialist or other employee of a public parking authority which is contracted or otherwise engaged by a local government to enforce parking ordinances in downtown areas are not authorized to tow, impound or immobilize any motor vehicle. However, such employee may notify a law enforcement officer of the parking violation and the vehicle may be towed, impounded, or immobilized at the discretion of the law enforcement officer.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 23, after the semicolon (;) insert: amending s. 316.1945, F.S.; providing that employees of a parking authority are not authorized to have a vehicle towed, impounded or immobilized;

Pursuant to Rule 4.19, **CS for CS for SB 170** as amended was ordered engrossed and then placed on the calendar of Bills on Third Reading.

On motion by Senator Crist, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 258, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 258—A bill to be entitled An act relating to parole; amending ss. 947.16, 947.174, 947.1745, F.S., relating to eligibility for parole, parole interviews, and the establishment of a parole release date; providing for the Parole Commission to review an inmate's presumptive parole release date less frequently; providing an effective date.

House Amendment 1 (with title amendment)—Remove from the bill everything after the enacting clause and insert in lieu thereof:

Section 1. Paragraphs (c), (g), and (h) of subsection (4) of section 947.16, Florida Statutes, are amended to read:

947.16 Eligibility for parole; initial parole interviews; powers and duties of commission.—

(4) A person who has become eligible for an initial parole interview and who may, according to the objective parole guidelines of the commis-

sion, be granted parole shall be placed on parole in accordance with the provisions of this law; except that, in any case of a person convicted of murder, robbery, burglary of a dwelling or burglary of a structure or conveyance in which a human being is present, aggravated assault, aggravated battery, kidnapping, sexual battery or attempted sexual battery, incest or attempted incest, an unnatural and lascivious act or an attempted unnatural and lascivious act, lewd and lascivious behavior, assault or aggravated assault when a sexual act is completed or attempted, battery or aggravated battery when a sexual act is completed or attempted, arson, or any felony involving the use of a firearm or other deadly weapon or the use of intentional violence, at the time of sentencing the judge may enter an order retaining jurisdiction over the offender for review of a commission release order. This jurisdiction of the trial court judge is limited to the first one-third of the maximum sentence imposed. When any person is convicted of two or more felonies and concurrent sentences are imposed, then the jurisdiction of the trial court judge as provided herein applies to the first one-third of the maximum sentence imposed for the highest felony of which the person was convicted. When any person is convicted of two or more felonies and consecutive sentences are imposed, then the jurisdiction of the trial court judge as provided herein applies to one-third of the total consecutive sentences imposed.

(c) In such a case of retained jurisdiction, the commission, within 30 days after the entry of its release order, shall send notice of its release order to the original sentencing judge and to the appropriate state attorney. The release order shall be made contingent upon entry of an order by the appropriate circuit judge relinquishing jurisdiction as provided for in *paragraphs (d) and (f)* ~~paragraph 5(d) and (f)~~. If the original sentencing judge is no longer in service, such notice shall be sent to the chief judge of the circuit in which the offender was sentenced. The chief judge may designate any circuit judge within the circuit to act in the place of the original sentencing judge. Such notice shall stay the time requirements of s. 947.1745.

(g) The decision of the original sentencing judge or, in his absence, the chief judge of the circuit to vacate any parole release order as provided in this *section* ~~act~~ is not appealable. Each inmate whose parole release order has been vacated by the court shall be reinterviewed within 2 years after the date of receipt of the vacated release order and every 2 years thereafter, or earlier by order of the court retaining jurisdiction. *However, each inmate whose parole release order has been vacated by the court and who has been:*

1. Convicted of murder or attempted murder;

2. Convicted of sexual battery or attempted sexual battery; or

3. Sentenced to a 25 year minimum mandatory sentence previously provided in s. 775.082,

shall be reinterviewed once within 5 years after the date of receipt of the vacated release order and once every 5 years thereafter, if the commission finds that it is not reasonable to expect that parole would be granted during the following years and states the bases for the finding in writing. For any inmate who is within 7 years of his or her tentative release date, the commission may establish a reinterview date prior to the 5-year schedule.

(h) An inmate whose parole release order has been vacated by the court may not be given a presumptive parole release date during the period of retention of jurisdiction by the court. During such period, a new effective parole release date may be authorized at the discretion of the commission without further interview unless an interview is requested by no fewer than two commissioners. Any such new effective parole release date *must* ~~shall~~ be reviewed in accordance with the provisions of paragraphs (c), (d), (e), (f), and (g).

Section 2. Subsection (1) of section 947.174, Florida Statutes, is amended to read:

947.174 Subsequent interviews.—

(1)*(a)* For any inmate, *except an inmate convicted of an offense enumerated in paragraph (b),* whose presumptive parole release date falls more than 2 years after the date of the initial interview, a hearing examiner shall schedule an interview for review of the presumptive parole release date. Such interview shall take place within 2 years after the initial interview and every 2 years thereafter.

(b) For any inmate convicted of murder, attempted murder, sexual battery, attempted sexual battery, or who has been sentenced to a 25 year minimum mandatory sentence previously provided in s. 775.082, and whose presumptive parole release date is more than 5 years after the date of the initial interview, a hearing examiner shall schedule an interview for review of the presumptive parole release date. Such interview shall take place once within 5 years after the initial interview and once every 5 years thereafter if the commission finds that it is not reasonable to expect that parole will be granted at a hearing during the following years and states the bases for the finding in writing. For any inmate who is within 7 years of his or her tentative release date, the commission may establish an interview date prior to the 5-year schedule.

(c) Such interviews shall be limited to determining whether or not information has been gathered which might affect the presumptive parole release date. The provisions of this subsection shall not apply to an inmate serving a concurrent sentence in another jurisdiction pursuant to s. 921.16(2).

Section 3. Subsection (6) of section 947.1745, Florida Statutes, is amended to read:

947.1745 Establishment of effective parole release date.—If the inmate's institutional conduct has been satisfactory, the presumptive parole release date shall become the effective parole release date as follows:

(6) Within 90 days before the effective parole release date interview, the commission shall send written notice to the sentencing judge of any inmate who has been scheduled for an effective parole release date interview. If the sentencing judge is no longer serving, the notice must be sent to the chief judge of the circuit in which the offender was sentenced. The chief judge may designate any circuit judge within the circuit to act in the place of the sentencing judge. Within 30 days after receipt of the commission's notice, the sentencing judge, or the designee, shall send to the commission notice of objection to parole release, if the judge objects to such release. If there is objection by the judge, such objection may constitute good cause in exceptional circumstances as described in s. 947.173, and the commission may schedule a subsequent review within 2 years, extending the presumptive parole release date beyond that time. *However, for an inmate who has been:*

1. Convicted of murder or attempted murder;

2. Convicted of sexual battery or attempted sexual battery; or

3. Sentenced to a 25 year minimum mandatory sentence previously provided in s. 775.082,

the commission may schedule a subsequent review under this subsection once every 5 years, extending the presumptive parole release date beyond that time if the commission finds that it is not reasonable to expect that parole would be granted at a review during the following years and states the bases for the finding in writing. For any inmate who is within 7 years of his or her release date, the commission may schedule a subsequent review prior to the 5 year schedule. With any subsequent review the same procedure outlined above will be followed. If the judge remains silent with respect to parole release, the commission may authorize an effective parole release date. This subsection applies if the commission desires to consider the establishment of an effective release date without delivery of the effective parole release date interview. Notice of the effective release date must be sent to the sentencing judge, and either the judge's response to the notice must be received or the time period allowed for such response must elapse before the commission may authorize an effective release date.

Section 4. Section 947.1748, Florida Statutes, is created to read:

947.1748 Establishing parole interview dates; exceptions.—For any inmate serving a parole-eligible sentence whose reinterview date, as authorized under s. 947.16, interview date, as authorized under s. 947.174, or subsequent review date, as authorized under s. 947.1745, is scheduled once every 5 years, the commission may establish a reinterview, interview or subsequent review date prior to the 5-year schedule if:

(1) the inmate is permanently or irreversibly physically incapacitated or terminally ill due to injury, disease, or illness;

(2) the inmate performs an outstanding deed; or

(3) the inmate's circumstances are exceptional and significant.

Section 5. This act shall take effect October 1, 1997, and shall apply to the setting of subsequent interview dates as authorized by section 947.16(4)(g), Florida Statutes, and section 947.174(1), Florida Statutes, and the setting of subsequent review dates as authorized by section 947.1745(6), Florida Statutes, on or after such effective date.

And the title is amended as follows:

On page 1, lines 1-8, remove the entire title of the bill: and insert in lieu thereof: A bill to be entitled An act relating to parole; amending ss. 947.16, 947.174, 947.1745, F.S., relating to eligibility for parole, parole interviews, and the establishment of a parole release date; providing for the Parole Commission to review the presumptive release dates of certain inmates less frequently; requiring the commission to make certain written findings; allowing the commission to establish earlier review dates for certain inmates who are within a designated time of their tentative release dates; creating s. 947.1748, F.S.; allowing the commission to establish earlier review dates for certain inmates under certain circumstances; providing an effective date.

On motion by Senator Crist, the Senate refused to concur in the House amendment to **SB 258** and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB's 764 and 474, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB's 764 and 474—A bill to be entitled An act relating to civil damages against drug offenders; creating s. 772.12, F.S.; creating the "Hugh O'Connor Memorial Act"; providing that persons injured by a drug dealer may recover treble damages and reasonable attorney's fees and court costs; providing for minimum damages; providing for recovery of damages, court costs, and fees from the parents or legal guardian of an unemancipated minor under certain circumstances; providing conditions under which a defendant may recover attorney's fees and court costs; providing an effective date.

House Amendment 1 (with title amendment)—Remove from the bill everything after the enacting clause and insert in lieu thereof:

Section 1. *Sections 1-15 may be cited as the Drug Dealer Liability Act.*

Section 2. *Purpose.—The purpose of this act is to provide a civil remedy for damages to a person injured as a result of illegal drug use. These persons include parents, employers, insurers, governmental entities, and others who pay for drug treatment or employee assistance programs, as well as infants injured as a result of exposure to drugs in utero. The act will enable a person to recover damages from those persons who participate in the illegal drug market. Further purposes of the act are to shift the cost of the damage caused by the existence of the illegal drug market to those who illegally profit from that market, and to establish the prospect of substantial monetary loss as a deterrent to those who have not yet entered into the illegal drug market. An additional purpose is to establish an incentive for illegal drug users to identify and seek payment for their own drug treatment from those dealers who have sold drugs to the user in the past.*

Section 3. *Definitions.—As used in this act, the term:*

(1) "Illegal drug" means cocaine, heroin, methamphetamine, and any other drug whose distribution is prohibited by law.

(2) "Illegal drug market" means the support system of illegal drug-related operations, from production to retail sales, through which an illegal drug reaches the user.

(3) "Individual drug user" means an individual who uses illegal drugs.

(4) "Level 1 offense" means possession of 1/4 ounce or more but less than 4 ounces, or distribution of less than 1 ounce of an illegal drug, or possession of 1 pound or more than 25 plants or more but less than 4 pounds or 50 plants, or distribution of less than 1 pound of marijuana.

(5) "Level 2 offense" means possession of 4 ounces or more but less than 8 ounces, or distribution of 1 ounce or more but less than 2 ounces, of an illegal drug, or possession of 4 pounds or more or 50 plants or more, but less than 8 pounds or 75 plants, or distribution of more than 1 pound but less than 5 pounds, of marijuana.

(6) "Level 3 offense" means possession of 8 ounces or more but less than 16 ounces, or distribution of 2 ounces or more but less than 4 ounces, of an illegal drug, or possession of 8 pounds or more or 75 plants or more but less than 16 pounds or 100 plants, or distribution of more than 5 pounds, but less than 10 pounds, of marijuana.

(7) "Level 4 offense" means possession of 16 ounces or more or distribution of 4 ounces or more of an illegal drug, or possession of 16 pounds or more or 100 plants or more, or distribution of 10 pounds or more of marijuana.

(8) "Participate in the illegal drug market" means to distribute, possess with an intent to distribute, facilitate the marketing or distribution of, or agree to distribute, possess with an intent to distribute, or facilitate the marketing or distribution of an illegal drug. Participation in the illegal drug market does not include the purchase or receipt of an illegal drug for personal use only.

(9) "Period of illegal drug use" means the time period that begins with an individual's first use of an illegal drug to the time of the accrual of a cause of action. The period of illegal drug use is presumed to commence 2 years before the cause of action accrues unless the defendant proves otherwise by clear and convincing evidence.

(10) "Person" means an individual, governmental entity, corporation, firm, trust, partnership, or incorporated or unincorporated association authorized by the laws of this state, another state, or a foreign country.

Section 4. *Liability for participation in the illegal drug market.—*

(1) A person who knowingly participates in the illegal drug market is liable for civil damages as provided in this act. A person may recover damages for injury resulting from an individual's use of an illegal drug.

(2) A state or local agency, a state or local law enforcement officer, or a person acting at the direction of a law enforcement officer or agency is not liable for participating in the illegal drug market if the participation is in furtherance of an official investigation.

Section 5. *Recovery of damages.—*

(1) The following persons may bring an action for damages caused by an individual's use of an illegal drug:

(a) A parent, legal guardian, child, spouse, or sibling of the individual drug user.

(b) An individual who was exposed to an illegal drug in utero.

(c) An employer of the individual drug user.

(d) A medical facility, insurer, governmental entity, employer, or other entity that funds a drug treatment program or employee assistance program for the individual drug user or that otherwise has expended money on behalf of the individual drug user.

(e) A person injured as a result of the willful, reckless, or negligent actions of an individual drug user.

(2) A person entitled to bring an action under this section may seek damages from:

(a) A person who knowingly distributed, or knowingly participated in the chain of distribution of, an illegal drug that was actually used by the individual drug user.

(b) A person who knowingly participated in the illegal drug market if:

1. The place of illegal drug activity by the individual drug user is within the illegal drug market target community of the defendant;

2. The defendant's participation in the illegal drug market was connected with the same type of illegal drug used by the individual drug user; and

3. The defendant participated in the illegal drug market at any time during the individual drug user's period of illegal drug use.

(3) A person entitled to bring an action under this section may recover the following damages and costs:

(a) Economic damages, including, but not limited to, the cost of treatment and rehabilitation, medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, support expenses, accidents or injury, and any other pecuniary loss proximately caused by the illegal drug user.

(b) Noneconomic damages, including, but not limited to, physical and emotional pain; suffering; physical impairment; emotional distress; mental anguish; disfigurement; loss of enjoyment; loss of companionship, services, and consortium; and other nonpecuniary losses proximately caused by the illegal drug user.

(c) Exemplary damages.

(d) Reasonable attorney's fees.

(e) Costs of suit, including, but not limited to, reasonable expenses for expert testimony.

Section 6. *Limited recovery of damages; individual drug user.—*

(1) An individual drug user may bring an action for damages caused by the use of an illegal drug if:

(a) The individual drug user personally discloses to narcotics enforcement authorities, more than 6 months before filing the action, all of the information known to the individual drug user regarding that individual's sources of illegal drugs;

(b) The individual drug user has not used an illegal drug within the 6 months before filing the action; and

(c) The individual drug user continues to remain free of the use of an illegal drug throughout the pendency of the action.

(2) An individual drug user may seek damages only from a person who distributed, or is in the chain of distribution of, an illegal drug that was actually used by the individual drug user.

(3) An individual drug user may recover the following damages:

(a) Economic damages, including, but not limited to, the cost of treatment, rehabilitation, and medical expenses, loss of economic or educational potential, loss of productivity, absenteeism, accidents or injury, and any other pecuniary loss proximately caused by the person's illegal drug use.

(b) Reasonable attorney's fees.

(c) Costs of suit, including, but not limited to, reasonable expenses for expert testimony.

Section 7. *Third party liability.—A third party is not liable for damages awarded under this act and may not provide a defense or money for a defense on behalf of an insured under a contract of insurance or indemnification.*

Section 8. *Joinder of parties.—*

(1) Two or more persons may join in one action under this act as plaintiffs if their respective actions have at least one place of illegal drug activity in common and if any portion of the period of illegal drug use overlaps with the period of illegal drug use for every other plaintiff.

(2) Two or more persons may be joined in one action under this act as defendants if those persons are liable to at least one plaintiff.

(3) A plaintiff need not be interested in obtaining and a defendant need not be interested in defending against all the relief demanded. Judgment may be given for one or more plaintiffs according to their respective rights to relief and against one or more defendants according to their respective liabilities.

Section 9. *Comparative responsibility; individual drug user.—*

(1) An action by an individual drug user is governed by the principles of comparative responsibility. Comparative responsibility attributed to the plaintiff does not bar recovery but diminishes the award of compensatory damages proportionally, according to the measure of responsibility attributed to the plaintiff.

(2) The burden of proving the comparative responsibility of the plaintiff is on the defendant, which shall be shown by clear and convincing evidence.

(3) Comparative responsibility may not be attributed to a plaintiff who is not an individual drug user.

Section 10. *Contribution among and recovery from multiple defendants.—A person subject to liability under this act has a right of action for contribution against another person subject to liability under this act. Contribution may be enforced either in the original action or by a separate action brought for that purpose. A plaintiff may seek recovery in accordance with this act and existing law against a person whom a defendant has asserted a right of contribution.*

Section 11. *Standard of proof; effect of criminal drug conviction.—*

(1) A plaintiff must show by clear and convincing evidence that a defendant has participated in the illegal drug market in an action brought under this act. Except as otherwise provided, other elements of the cause of action must be shown by a preponderance of the evidence.

(2) A person against whom recovery is sought who has a criminal conviction pursuant to state drug laws or the Comprehensive Drug Abuse Prevention and Control Act of 1970, Public Law 91-513, 84 Stat. 1236, codified at 21 U.S.C., 801 et. seq., is estopped from denying participation in the illegal drug market. Such a conviction is also prima facie evidence of the person's participation in the illegal drug market during the 2 years preceding the date of an act giving rise to a conviction.

(3) The absence of a criminal drug conviction of a person against whom recovery is sought does not bar an action against that person.

Section 12. *Prejudgment attachment and execution on judgments.—*

(1) A plaintiff may request an ex parte prejudgment attachment order from the court against all assets of a defendant sufficient to satisfy a potential award. If attachment is instituted, a defendant is entitled to an immediate hearing. Attachment may be lifted if the defendant demonstrates that the assets will be available for a potential award or if the defendant posts a bond sufficient to cover a potential award.

(2) The property of a person against whom a judgment has been rendered is not exempt from process to levy or process to execute on the judgment.

(3) Any assets sought to satisfy a judgment that are named in a forfeiture action or have been seized for forfeiture by any state or federal agency may not be used to satisfy a judgment unless and until the assets have been released following the conclusion of the forfeiture action or released by the agency that seized the assets.

Section 13. *Statute of limitations.—*

(1) Except as otherwise provided in this section, a claim may not be brought more than 2 years after the cause of action accrues. A cause of action accrues when a person who may recover has reason to know of the harm from illegal drug use that is the basis for the cause of action and has reason to know that the illegal drug use is the cause of the harm.

(2) For a plaintiff, the statute of limitations under this section is tolled while the individual potential plaintiff is incapacitated by the use of an illegal drug to the extent that the individual cannot reasonably be expected to seek recovery. For a defendant, the statute of limitations under this section is tolled until 6 months after the individual potential defendant is convicted of a criminal drug offense.

(3) The statute of limitations for a claim based on a defendant's participation in the illegal drug market that occurred prior to the effective date of this act does not begin to run until the effective date of this act.

Section 14. *Representation of governmental entities; stay of action.—*

(1) The attorney general may represent the state, and a state attorney may represent a political subdivision of the state in an action brought under this act.

(2) On motion by a governmental agency involved in a drug investigation or prosecution, an action brought under this act must be stayed until the completion of the criminal investigation or prosecution that gave rise to the motion for a stay of the action.

Section 15. *Effect on existing laws.—The provisions of sections 1-14 are not intended to alter the law regarding intrafamily tort immunity.*

Section 16. Subsection (22) of section 90.803, Florida Statutes, 1996 Supplement, is amended to read:

90.803 Hearsay exceptions; availability of declarant immaterial.—The provision of s. 90.802 to the contrary notwithstanding, the following are not inadmissible as evidence, even though the declarant is available as a witness:

(22) FORMER TESTIMONY.—Former testimony given by the declarant*:*

(a) At a civil trial, when used in a retrial of *such* ~~said~~ trial involving identical parties and the same facts*; or*~~.~~

(b) As a witness at another hearing of the same or a different proceeding, or in a deposition taken in compliance with law in the course of the same or a different proceeding, if:

1. The testimony is the statement of a person whose fault is an issue in the action, in either an individual or a representative capacity; a statement of which he or she has manifested his or her adoption or belief in its truth; a statement by a person specifically authorized by him or her to make a statement concerning the subject; a statement by his or her agent or servant concerning a matter within the scope of the agency or employment thereof, made during the existence of the relationship; or a statement by a co-conspirator made during the course, and in furtherance, of the conspiracy;

2. The testimony is used in a civil trial to establish the degree of fault of such person, or to establish the authenticity of documentary evidence relevant to the degree of fault of such person;

3. The testimony is not inadmissible pursuant to the court's discretion under s. 90.402 or s. 90.403; and

4.a. The party against whom the testimony is now offered, or another person, had an opportunity and similar motive to develop the testimony by direct, cross, or redirect examination; or

b. The testimony, when given, was a statement against interest.

Section 17. This act shall take effect October 1, 1997.

And the title is amended as follows:

On page 1, lines 2-14, remove from the title of the bill all of said lines and insert in lieu thereof: An act relating to civil damages and procedures; creating the Drug Dealer Liability Act; providing a purpose; providing definitions; providing liability for participation in the illegal drug market; providing for recovery of damages; limiting recovery of damages under certain circumstances; providing third-party liability; providing for joinder of parties; providing for comparative responsibility of individual drug users; providing for contribution among defendants; providing a standard of proof; providing for prejudgment attachment and execution on judgments; providing a statute of limitations; providing for the representation of governmental agencies and for stays of actions; amending s. 90.803, F.S.; providing additional exceptions to the prohibition against hearsay evidence; amending s. 90.803, F.S.; providing additional exceptions to the prohibition against hearsay evidence; providing an effective date.

WHEREAS, every community in the country is impacted by the marketing and distribution of illegal drugs. A vast amount of state and local resources are expended in coping with the financial, physical, and emotional toll that results from the existence of the illegal drug market. Families, employers, insurers, and society in general bear the substantial costs of coping with the marketing of illegal drugs. Drug babies and their parents, and particularly the offspring of adolescent illegal drug users, suffer significant noneconomic injury as well, and

WHEREAS, although the criminal justice system is an important weapon against the illegal drug market, the civil justice system must also be used. The civil justice system can provide an avenue of compensation for those who have suffered harm as a result of the marketing and distribution of illegal drugs. The persons who have joined the illegal drug market should bear the cost of the harm caused by that market in the community, and

WHEREAS, the threat of civil liability serves as an additional deterrent to a recognizable segment of the illegal drug network. A person who has non-drug-related assets, who markets illegal drugs at the workplace, who encourages friends to become users, among others, is likely to decide that the added cost of entering the market is not worth the benefit. This is particularly true for a first-time casual dealer who has not yet made substantial profits. There is a state interest in placing the cost of the injury caused by illegal drug use on those who benefit from illegal drug dealing, and

WHEREAS, this act imposes liability against all participants in the illegal drug market, including small dealers, particularly those in the workplace, who are not usually the focus of criminal investigations. The small dealers increase the number of users and are the people who become large dealers. These small dealers are most likely to be deterred by the threat of liability, and

WHEREAS, a parent of an adolescent illegal drug user often expends considerable financial resources for the child's drug treatment. Local and state governments provide drug treatment and related medical services made necessary by the distribution of illegal drugs. The treatment of drug babies is a considerable cost to local and state governments. Insurers pay large sums for medical treatment relating to drug addiction and use. Employers suffer losses as a result of illegal drug use by employees due to lost productivity, employee drug-related workplace accidents, employer contributions to medical plans, and the need to establish and maintain employee assistance programs. Large employers, insurers, and local and state governments have existing legal staffs that can bring civil suits against those involved in the illegal drug market, in appropriate cases, if a clear legal mechanism for liability and recovery is established, and

WHEREAS, drug babies, who are clearly the most innocent and vulnerable of those affected by illegal drug use, are often the most physically and mentally damaged due to the existence of an illegal drug market in a community. For many of these babies, the only possible hope is extensive medical and psychological treatment, physical therapy, and special education. All of these potential remedies are expensive. These babies, through their legal guardians and through court-appointed guardians ad litem, should be able to recover damages from those in the community who have entered and participated in the marketing of the types of illegal drugs that have caused their injuries, and

WHEREAS, in theory, civil actions for damages for distribution of illegal drugs may be brought under existing law, but, in reality, they are not brought. Several barriers account for this. Under existing tort law, only those dealers in the actual chain of distribution to a particular user could be sued. Drug babies, parents of adolescent illegal drug users, and insurers are not likely to be able to identify the chain of distribution to a particular user. Furthermore, drug treatment experts largely agree that users are unlikely to identify and bring suit against their own dealers, even after they have recovered, given the present requirements for a civil action, and recovered users are similarly unlikely to bring suit against others in the chain of distribution, even if they are known to the user, and

WHEREAS, a user is unlikely to know other dealers in the chain of distribution. Unlike the chain of distribution for legal products, in which records identifying the parties to each transaction in the chain are made and shared among the parties, the distribution of illegal drugs is clandestine. Its participants expend considerable effort to keep the chain of distribution secret, and

WHEREAS, those involved in the illegal drug market in a community are necessarily interrelated and interdependent, even if their identities are unknown to one another. Each new dealer obtains the benefit of the existing illegal drug distribution system to make illegal drugs available to him or her. In addition, the existing market aids a new entrant by the

prior development of people as users. Many experts on the illegal drug market agree that each participant in a given community is likely to be indirectly related to the others. That is, beginning with any one dealer, given the theoretical ability to identify every person known by that dealer to be involved in illegal drug trafficking, and in turn each of such others known to them, and so on, the illegal drug market in a community could ultimately be fully revealed, and

WHEREAS, market liability has been created with respect to legitimate products by judicial decision in some states. Such liability provides for civil recovery by plaintiffs who are unable to identify the particular manufacturer of the product that is claimed to have caused them harm, allowing recovery from all manufacturers of the product who participated in that particular market. The market liability theory has been shown to be destructive of market initiative and product development when applied to legitimate markets. Because of its potential for undermining markets, this act expressly adopts a form of liability for those who intentionally join the illegal drug market. The liability established by this act grows out of but is distinct from existing judicially crafted market liability, and

WHEREAS, the prospect of a future suit for the costs of drug treatment may drive a wedge between prospective dealers and their customers by encouraging users to turn on their dealers. Therefore, liability for those costs, even to the user, is imposed under this act as long as the user identifies and brings suit against his or her own dealers, and

WHEREAS, allowing dealers who face a civil judgment for their illegal drug marketing to bring suit against their own sources for contribution may also drive a wedge into the relationships among some participants in the illegal drug distribution network, and

WHEREAS, while not all persons who have suffered losses as a result of the marketing of illegal drugs will pursue an action for damages, at least some individuals, guardians of drug babies, government agencies that provide treatment, insurance companies, and employers will find such an action worthwhile. These persons deserve the opportunity to recover their losses. And some new entrants to retail illegal drug dealing are likely to be deterred even if only a few of these suits are actually brought, NOW, THEREFORE,

On motion by Senator Crist, the Senate refused to concur in the House amendment to **CS for SB's 764 and 474** and the House was requested to recede. The action of the Senate was certified to the House.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has refused to concur in Senate Amendment(s) to CS for CS for HB 907 and requests the Senate to recede.

John B. Phelps, Clerk

CS for CS for HB 907—A bill to be entitled An act relating to the Department of Agriculture and Consumer Services; amending s. 581.011, F.S.; revising definition of the term "noxious weed"; amending s. 581.182, F.S.; renaming an advisory committee; repealing s. 3, ch. 92-153, Laws of Florida; amending s. 581.185, F.S.; creating the Endangered or Threatened Native Flora Conservation Grants Program in the Department of Agriculture and Consumer Services to provide grants for the protection, curation, propagation, reintroduction, and monitoring of endangered or threatened native flora; clarifying the scope of the Regulated Plant Index; abrogating the repeal of s. 581.186, F.S., relating to the Endangered Plant Advisory Council; amending s. 589.011, F.S.; authorizing the Division of Forestry to prohibit certain activities and providing penalties; authorizing leasing of property and structures to telecommunications providers; authorizing fees; creating s. 589.012, F.S.; creating the Friends of Florida State Forests Program; providing purpose; creating s. 589.013, F.S.; authorizing a direct-support organization for the Friends of Florida State Forests Program; amending s. 590.01, F.S.; providing Division of Forestry responsibility for forest and wild land fire protection; amending s. 590.02, F.S.; clarifying that a specific appropriation is not needed to build certain structures; amending s. 590.026, F.S.; clarifying requirements for prescribed burning; amending s. 601.58, F.S.; revising procedures relating to approval of a citrus fruit dealer's license application; amending s. 601.60, F.S.; authorizing the department to issue a provisional license; amending s. 601.67, F.S.; authorizing a fine against a person who operates as a citrus fruit dealer without a license; amending s. 602.065, F.S.; revising provisions relating to the deposit of certain funds for the eradication of citrus canker; amending s. 604.15, F.S.; revising definition of the term "agricultural products"; amending s. 500.03, F.S.; providing definitions relating to food products; reenacting s. 500.04(4) and (6), F.S., relating to prohibited acts, to incorporate amendments to ss. 500.12 and 500.147, F.S., in references; amending s. 500.11, F.S., relating to misbranded food; clarifying language; adding bottled water requirements; amending s. 500.12, F.S., relating to food and building permits; including existing fees for permits for operating bottled water plants or packaged ice plants; providing requirements; amending s. 500.121, F.S., relating to disciplinary procedures; providing for a fine for mislabeling; amending s. 500.147, F.S.; inserting inspection language for bottled water plants and packaged ice plants; authorizing a food safety inspection pilot program; providing criteria for the program; amending s. 500.171, F.S.; revising provisions authorizing an injunction; reenacting s. 500.177(1), F.S.; providing a penalty; amending s. 500.459, F.S.; providing definitions relating to water vending machines and conforming a requirement to the State Plumbing Code; amending s. 500.511, F.S., relating to fees, enforcement, and preemption; conforming cross references and deleting reference to certain water and ice operators and dealers; amending s. 526.3135, F.S.; clarifying compilation of a report; amending s. 531.44, F.S.; establishing authority to set procedures for verifying acceptable pricing practices; amending s. 531.50, F.S.; authorizing penalties for violation of provisions relating to weights and measures; providing for deposit of funds; amending s. 534.011, F.S.; providing for deposit of fees relating to the inspection and protection of livestock; amending s. 253.68, F.S.; modifying a requirement that precludes the Board of Trustees of the Internal Improvement Trust Fund from granting a lease for aquaculture activities in areas objected to by resolution of the county commission; repealing ss. 500.453, 500.455, 500.457, and 500.509, F.S., relating to bottled water and packaged ice regulation; providing for a state facility designation; providing an effective date.

On motion by Senator Bronson, the Senate receded from the Senate amendment.

CS for CS for HB 907 passed and the action of the Senate was certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Ostalkiewicz
Bronson	Diaz-Balart	Jenne	Rossin
Brown-Waite	Dudley	Jones	Scott
Burt	Dyer	Kirkpatrick	Silver
Campbell	Forman	Klein	Sullivan
Casas	Grant	Kurth	Thomas
Childers	Gutman	Latvala	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	McKay	

Nays—None

Vote after roll call:

Yea—Myers

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 164, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

SB 164—A bill to be entitled An act relating to false or perjured statements; amending s. 775.15, F.S.; providing that a person may be prosecuted at any time for the offense of committing perjury in an official proceeding that relates to the prosecution of a capital felony; amending s. 837.02, F.S.; providing that it is a second-degree felony to make a false statement under oath in an official proceeding that relates to the prosecution of a capital felony; providing that the defendant's belief that a statement was immaterial is not a defense; amending s. 837.021, F.S.; providing that it is a second-degree felony to make contradictory statements under oath in an official proceeding that relates to the prosecution

of a capital felony; providing that the materiality of a statement is a question of law; providing that it is unnecessary to prove which contradictory statement is untrue; providing that the defendant's belief in the truth of each statement is a defense; amending s. 837.05, F.S.; providing that it is a third-degree felony to knowingly give false information to a law enforcement officer concerning the alleged commission of a capital felony; amending s. 921.0012, F.S.; providing for the ranking under the sentencing guidelines of the offenses of giving false or perjured statements; providing an effective date.

House Amendment 1 (with title amendment)—On page 3, lines 1-14, remove from the bill all of said lines and insert in lieu thereof:

Section 1. Subsections (1), (5), and (6) of section 775.15, Florida Statutes, 1996 Supplement, are amended to to read:

775.15 Time limitations.—

(1)*(a)* A prosecution for a capital felony, a life felony, or a felony that resulted in a death may be commenced at any time. If the death penalty is held to be unconstitutional by the Florida Supreme Court or the United States Supreme Court, all crimes designated as capital felonies shall be considered life felonies for the purposes of this section, and prosecution for such crimes may be commenced at any time.

(b) A prosecution for perjury in an official proceeding that relates to the prosecution of a capital felony may be commenced at any time.

(5)*(a) Prosecution on a charge on which the defendant has previously been arrested or served with a summons is commenced by the filing of an indictment, information, or other charging document.*

(b) A prosecution *on a charge on which the defendant has not previously been arrested or served with a summons* is commenced when either an indictment or information is filed, provided the capias, summons, or other process issued on such indictment or information is executed without unreasonable delay. In determining what is reasonable, inability to locate the defendant after diligent search or the defendant's absence from the state shall be considered. *The failure to execute process on or extradite a defendant in another state who has been charged by information or indictment with a crime in this state shall not constitute an unreasonable delay.*

(c) If, however, an indictment or information has been filed within the time period prescribed in this section and the indictment or information is dismissed or set aside because of a defect in its content or form after the time period has elapsed, the period for commencing prosecution shall be extended 3 months from the time the indictment or information is dismissed or set aside.

(6) The period of limitation does not run during any time when the defendant is continuously absent from the state or has no reasonably ascertainable place of abode or work within the state.~~, but in no case shall~~ This provision *shall not* extend the period of limitation otherwise applicable by more than 3 years, *but shall not be construed to limit the prosecution of a defendant who has been timely charged by indictment or information or other charging document and who has not been arrested due to his or her absence from this state or has not been extradited for prosecution from another state.*

Section 2. For the purpose of incorporating the amendment to section 775.15, Florida Statutes, 1996 Supplement, in references thereto, the sections or subdivisions of Florida Statutes set forth below are reenacted to read:

119.011 Definitions.—For the purpose of this chapter:

(3)(a) "Criminal intelligence information" means information with respect to an identifiable person or group of persons collected by a criminal justice agency in an effort to anticipate, prevent, or monitor possible criminal activity.

(b) "Criminal investigative information" means information with respect to an identifiable person or group of persons compiled by a criminal justice agency in the course of conducting a criminal investigation of a specific act or omission, including, but not limited to, information derived from laboratory tests, reports of investigators or informants, or any type of surveillance.

(c) "Criminal intelligence information" and "criminal investigative information" shall not include:

1. The time, date, location, and nature of a reported crime.

2. The name, sex, age, and address of a person arrested or of the victim of a crime except as provided in s. 119.07(3)(f).

3. The time, date, and location of the incident and of the arrest.

4. The crime charged.

5. Documents given or required by law or agency rule to be given to the person arrested, except as provided in s. 119.07(3)(f), and, except that the court in a criminal case may order that certain information required by law or agency rule to be given to the person arrested be maintained in a confidential manner and exempt from the provisions of s. 119.07(1) until released at trial if it is found that the release of such information would:

a. Be defamatory to the good name of a victim or witness or would jeopardize the safety of such victim or witness; and

b. Impair the ability of a state attorney to locate or prosecute a codefendant.

6. Informations and indictments except as provided in s. 905.26.

(d) The word "active" shall have the following meaning:

1. Criminal intelligence information shall be considered "active" as long as it is related to intelligence gathering conducted with a reasonable, good faith belief that it will lead to detection of ongoing or reasonably anticipated criminal activities.

2. Criminal investigative information shall be considered "active" as long as it is related to an ongoing investigation which is continuing with a reasonable, good faith anticipation of securing an arrest or prosecution in the foreseeable future.

In addition, criminal intelligence and criminal investigative information shall be considered "active" while such information is directly related to pending prosecutions or appeals. The word "active" shall not apply to information in cases which are barred from prosecution under the provisions of s. 775.15 or other statute of limitation.

517.302 Criminal penalties; alternative fine; Anti-Fraud Trust Fund; time limitation for criminal prosecution.—

(4) Criminal prosecution for offenses under this chapter is subject to the time limitations of s. 775.15.

(Renumber subsequent section[s]).

And the title is amended as follows:

On page 1, line 7, after "felony;" insert: providing that prosecution is commenced upon filing of the charging document when the defendant has previously been arrested or served with summons on the charge; providing that, when the defendant charged by information or indictment with a crime in this state has not been so arrested or served, the failure to execute process or extradite the defendant in another state does not constitute unreasonable delay; providing for inapplicability of a limitation upon prosecution of a defendant who has been timely charged but not arrested due to absence from the state or not extradited, under specified circumstances; reenacting s. 119.011(3) and 517.302(4), F.S., relating to the definition of "criminal intelligence information" for purposes of public records, and criminal prosecution for offenses under chapter 517, the Florida Securities and Investor Protection Act, to incorporate said amendment in references;

On motion by Senator Gutman, the Senate refused to concur in the House amendment to **SB 164** and the House was requested to recede. The action of the Senate was certified to the House.

MOTION

On motion by Senator Sullivan, by two-thirds vote **CS for SB 746** was withdrawn from the Committee on Ways and Means and by two-thirds

vote returned to the original position on the Special Order Calendar.

On motion by Senator Horne, the rules were waived and the Senate reverted to—

CONSIDERATION OF BILLS ON THIRD READING

HB 2121—A bill to be entitled An act relating to educational facilities and funding; providing for a review over a 4-year period of the Florida Statutes that govern agency operations; requiring the Commissioner of Education to review rules relating to school facilities and recommend revision or repeal; authorizing the commissioner to recommend revision or repeal of statutes; establishing the School Infrastructure Thrift Program within the Department of Education; requiring the Department of Education to seek elimination or revision of certain laws, rules, and regulations; providing program purposes; providing for annual funding; providing that appropriations shall not revert; providing intent for continued program funding; authorizing school district participation in the program and providing requirements; requiring review of data and proposals and recommendation for awards; providing for awards and restricting the use thereof; providing penalties for noncompliance; creating s. 235.216, F.S.; providing for maximum square foot cost of educational facilities; providing frugal construction incentives; amending s. 236.25, F.S., relating to district school tax; limiting the use of nonvoted discretionary capital outlay millage proceeds; providing a penalty for violations of the expenditure restrictions; authorizing a waiver of the expenditure restrictions; amending s. 235.435, F.S., relating to funds for comprehensive educational plant needs; revising requirements and providing additional criteria for funding from the Special Facility Construction Account; amending s. 235.014, F.S.; revising functions of the Department of Education; amending s. 235.15, F.S.; requiring uniformity in surveys of educational facilities; providing additional survey requirements; requiring validation of use of standardized measures by the Department of Education; amending s. 236.083, F.S.; providing for a guaranteed allocation from student transportation funding for new schools meeting certain requirements; providing for calculation; authorizing transfer of such amount to the district capital improvement account for construction, financing, or lease-purchase of new schools; requiring the Department of Education to recommend certain incentives; authorizing the adoption of rules; providing an effective date.

—as amended April 30 was read the third time by title.

Senator Dyer moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 1 (with title amendment)—On page 19, line 16, after the period (.) insert: *Upon request by a district school board the Commissioner of Education may waive for a specific project the provisions of this paragraph which limit total contract cost and the provisions of subparagraph (c)2. which limit construction cost per student station if the commissioner is satisfied that the requested waiver is justified.*

And the title is amended as follows:

On page 29, line 13, after the semicolon (;) insert: providing for waivers;

Senator Lee moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 2 (with title amendment)—On page 27, between lines 23 and 24, insert:

Section 13. *In order to implement proviso language in Specific Appropriation 1628 of the 1997-1998 General Appropriations Act, which created the Public Schools Construction Study Commission to study school planning, siting and school concurrency, the Legislature deems it desirable to temporarily suspend the imposition of school concurrency pending the study of the issues arising thereunder. In furtherance thereof, the concurrency requirements of Chapter 163, Florida Statutes, shall not be applied by a local government to evaluate school concurrency before July 1, 1998, unless the county in which concurrency is to be applied has adopted, prior to May 1, 1997, a plan amendment establishing concurrency requirements for public schools, including any subsequent amendments to such public school element. Adoption by the county of the aforesaid shall further entitle any municipality located therein to implement school concurrency without regard to whether such adoption by the municipality occurs before or after May 1, 1997. Nothing herein shall prevent local governments that have not adopted a public school element prior to May 1, 1997, from continuing to work on agreements under Chapter 163, Florida Statutes.*

(Renumber subsequent sections.)

And the title is amended as follows:

On page 30, line 14, after the semicolon (;) insert: suspending certain concurrency requirements of chapter 163, F.S.; providing exceptions;

On motion by Senator Horne, **HB 2121** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Horne	Ostalkiewicz
Bankhead	Dantzler	Jenne	Rossin
Bronson	Diaz-Balart	Jones	Scott
Brown-Waite	Dudley	Klein	Silver
Burt	Dyer	Kurth	Sullivan
Campbell	Forman	Latvala	Thomas
Casas	Grant	Lee	Turner
Childers	Hargrett	McKay	Williams
Clary	Harris	Meadows	
Cowin	Holzendorf	Myers	

Nays—None

Vote after roll call:

Yea—Gutman, Kirkpatrick

Consideration of **HB 1545** was deferred.

HB 1663—A bill to be entitled An act relating to interscholastic extracurricular student activities; amending s. 232.425, F.S., relating to student standards for participation in interscholastic extracurricular student activities; defining the term "extracurricular"; providing for the accessibility of such activities to home education students; providing an effective date.

—was read the third time by title.

On motion by Senator Lee, **HB 1663** was passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Horne	Myers
Bankhead	Diaz-Balart	Jenne	Ostalkiewicz
Bronson	Dudley	Jones	Rossin
Brown-Waite	Dyer	Kirkpatrick	Scott
Burt	Forman	Klein	Silver
Campbell	Grant	Kurth	Thomas
Casas	Gutman	Latvala	Turner
Childers	Hargrett	Lee	Williams
Clary	Harris	McKay	
Cowin	Holzendorf	Meadows	

Nays—1

Dantzler

Vote after roll call:

Yea—Sullivan

CS for CS for SB 1660—A bill to be entitled An act relating to taxation; amending ss. 203.01, 203.63, F.S., relating to the tax on gross receipts for utility services and the tax on interstate and international telecommunication services; providing clarification with respect to the separate statement of such taxes on bills or invoices; amending s. 212.02, F.S., relating to sales, use, and other transactions; defining the terms

"self-propelled farm equipment," "power-drawn farm equipment," and "power-driven farm equipment" for purposes of ch. 212, F.S.; amending s. 212.04, F.S.; exempting admissions to postseason collegiate football games from the tax on admissions; amending ss. 212.04, 212.12, F.S.; increasing the maximum amount of sales and use tax remitted by a dealer to which the dealer's credit applies; amending s. 212.05, F.S.; providing clarification with respect to the imposition of the tax on sales, use, and other transactions on telecommunication service; exempting transactions in excess of a specified amount from the tax on the sale of coins or currency; amending s. 212.0598, F.S.; establishing a sales tax exemption for certain businesses that create a large number of new jobs; providing a limitation on the exemption; providing an expiration date; amending s. 212.06, F.S.; authorizing the establishment of cost price amounts for industry groups; clarifying taxation of improvements to real property; amending s. 212.08, F.S., relating to sales, use, and other transactions; revising the sales tax exemption provided for food and drinks; providing definitions; revising application of the partial exemption for self-propelled or power-drawn farm equipment; including power-driven farm equipment within such exemption; providing a tax exemption for industrial machinery and equipment purchased for use in expanding certain printing or publishing facilities; removing a provision that prevents an exemption for industrial machinery and equipment purchased for use in new or expanding businesses from applying to certain publishing firms; exempting the sale of steam energy used in manufacturing; providing an exception to the exemption for aircraft repair and maintenance labor charges; revising the activities that constitute a manufacturing function for purposes of the sales tax exemption on certain uses of electricity; providing a threshold for electricity use; deleting a requirement that the electricity be separately metered; providing a sales tax exemption for the sale of gold, silver, or platinum bullion in excess of a specified amount; providing a sales tax exemption for the sale or lease of certain aircraft used by a common carrier; providing a sales tax exemption for the repair and maintenance of certain commercial aircraft; providing for application of the sales tax when an advertising agency acts as an agent of its client; providing an exemption for the Gasparilla Distance Classic Association, Inc., in specified circumstances; providing an exemption for certain foods, drinks, and other items provided to customers on a complimentary basis by a dealer who sells food products at retail; providing an exemption for foods and beverages donated by such dealers to certain organizations; providing an exemption for the sale or purchase of tangible personal property or services sold to raise funds for support of a school; revising provisions relating to the technical assistance advisory committee established to provide advice in determining taxability of foods and medicines; providing membership requirements; directing the Department of Revenue to develop guidelines for such determination and providing requirements with respect thereto; providing for use of the guidelines by the committee; providing for determination of the taxability of specific products by the department; authorizing the department to develop a central database with respect thereto; amending s. 213.053, F.S.; authorizing the department to provide certain information to the Department of Labor and Employment Security; amending s. 212.08, F.S.; providing an exemption from the sales and use tax for certain machinery and equipment; amending s. 288.095, F.S.; revising provisions relating to tax refunds made from the Economic Development Trust Fund; amending s. 213.21, F.S.; revising provisions which authorize the department to delegate to the executive director authority to approve a settlement or compromise of tax liability, to increase the limit on the amount of tax reduction with respect to which such delegation may be made; specifying a time period for which the department may settle and compromise tax and interest due when a taxpayer voluntarily self-discloses a tax liability and authorizing further settlement and compromise under certain circumstances; creating s. 213.285, F.S.; authorizing the department to initiate a certified audits project under which taxpayers may hire qualified practitioners to review and report on their tax compliance; providing definitions; providing requirements for participation by such practitioners and taxpayers; providing requirements for the conduct of certified audits; providing status of the audit report; amending s. 220.03, F.S.; updating references to the Internal Revenue Code for corporate income tax purposes; amending s. 220.15, F.S., relating to the apportionment of adjusted federal income under the Florida Income Tax Code; providing that the property factor fraction may not include real or tangible personal property that is dedicated to research and development activities conducted in conjunction with a state university; providing that the payroll factor fraction does not include compensation paid to any employee who is dedicated to such research and development activities; requiring certification of such activities and providing intent with respect thereto; requiring the Department of Revenue to adopt rules; amending s. 221.02, F.S.; extending the time for utilizing emergency excise tax credits for purposes of Florida corporate income tax; providing for emergency rules; providing legislative intent; amending s. 196.198, F.S.; specifying conditions under which property is deemed owned by an educational institution for purposes of ad valorem tax exemption; providing effective dates.

—as amended April 30 was read the third time by title.

Senator Ostalkiewicz moved the following amendment which failed to receive the required two-thirds vote:

Amendment 1 (with title amendment)—On page 40, lines 18-24, delete those lines and redesignate subsequent paragraphs.

And the title is amended as follows:

On page 3, lines 2-4, delete those lines and insert: commercial aircraft; providing an

On motion by Senator Ostalkiewicz, **CS for CS for SB 1660** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Dantzler	Jenne	Ostalkiewicz
Bankhead	Diaz-Balart	Jones	Rossin
Bronson	Dudley	Kirkpatrick	Silver
Brown-Waite	Dyer	Klein	Sullivan
Campbell	Forman	Kurth	Thomas
Casas	Grant	Latvala	Turner
Childers	Gutman	Lee	Williams
Clary	Harris	McKay	
Cowin	Holzendorf	Meadows	
Crist	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Burt

CS for HB 1597—A bill to be entitled An act relating to evidence; amending s. 90.803, F.S.; providing additional exceptions to the prohibition against hearsay evidence; providing an effective date.

—as amended April 30 was read the third time by title.

On motion by Senator Horne, **CS for HB 1597** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Horne	Myers
Bankhead	Dantzler	Jenne	Ostalkiewicz
Bronson	Dudley	Jones	Silver
Brown-Waite	Dyer	Kirkpatrick	Sullivan
Burt	Forman	Klein	Thomas
Campbell	Grant	Kurth	Turner
Casas	Gutman	Latvala	Williams
Childers	Hargrett	Lee	
Clary	Harris	McKay	
Cowin	Holzendorf	Meadows	

Nays—None

Vote after roll call:

Yea—Diaz-Balart

Consideration of **CS for HB 703** was deferred.

On motion by Senator Horne, by two-thirds vote **CS for HB 241** was withdrawn from the Committees on Criminal Justice; Governmental Reform and Oversight; and Ways and Means.

On motions by Senator Horne, by two-thirds vote—

CS for HB 241—A bill to be entitled An act relating to sentencing; repealing ss. 921.001, Florida Statutes, subsections (1), (2), (3), (4), (5), (6), (7), (8), and (9) of section 921.0001, Florida Statutes, and sections 921.0011, 921.0012, 921.0013, 921.0014, 921.0015, 921.0016, 921.005, F.S., relating to the statewide sentencing guidelines; providing for application; creating the Florida Criminal Punishment Code; providing for the code to apply to felonies committed on or after a specified date; creating s. 921.002, F.S.; providing for the Legislature to develop, implement, and revise a sentencing policy; specifying the principles embodied by the Criminal Punishment Code; providing requirements for sentencing a defendant for more than one felony; authorizing a court to impose a sentence below the permissible sentencing range; specifying the level of proof required to justify such a sentence; authorizing a court to impose a sentence above 75 percent of the statutory maximum or 75 percent higher than the code; specifying the level of proof required to justify such a sentence; creating s. 921.0021, F.S.; providing definitions; creating s. 921.0022, F.S.; providing an offense severity ranking chart to be used in computing a sentence score for a felony offender; creating s. 921.0023, F.S.; providing for ranking felony offenses that are unlisted on the severity ranking chart; creating s. 921.0024, F.S.; providing a worksheet for computing sentence points under the Criminal Punishment Code; providing for points to be assessed based on the offender's legal status; providing for sentencing multipliers; providing requirements for the state attorney and the Department of Corrections in preparing scoresheets; requiring the clerk of the circuit court to distribute scoresheets and transmit copies to the Department of Corrections; creating s. 921.0026, F.S.; specifying circumstances that constitute mitigating circumstances for purposes of sentencing; amending s. 20.315, F.S.; deleting a requirement that the Florida Corrections Commission review proposed changes to the statewide sentencing guidelines; amending s. 39.0581, F.S.; providing for the criteria under which a juvenile is committed to a maximum-risk residential program to be based on the ranking of the offense under the Criminal Punishment Code; amending s. 775.0823, F.S.; providing for a person convicted of certain violent offenses against a law enforcement officer, correctional officer, state attorney, assistant state attorney, justice, or judge to be sentenced under the Criminal Punishment Code; amending s. 775.084, F.S.; deleting a requirement that the courts submit reports to the Sentencing Commission; conforming a reference to changes made by the act; amending ss. 775.0845, 775.087, 775.0875, F.S., relating to wearing a mask while committing an offense, possessing a weapon while committing a felony, and taking a law enforcement officer's firearm; requiring that such offenses be ranked under the Criminal Punishment Code; amending s. 777.03, F.S., relating to the offense of being an accessory to a crime; providing for ranking such offense; amending s. 777.04, F.S.; requiring that a person convicted of criminal attempt, criminal solicitation, or criminal conspiracy be sentenced under the Criminal Punishment Code; amending s. 782.051, F.S.; requiring that certain offenses that result in bodily injury be ranked under the Criminal Punishment Code; amending s. 784.08, F.S.; requiring that a person convicted of assault and battery against an elderly person be sentenced under the Criminal Punishment Code; amending ss. 794.023, 874.04, F.S., relating to sexual battery by multiple perpetrators and to criminal street-gang activity; requiring that such offenses be ranked under the offense severity ranking chart of the Criminal Punishment Code; amending s. 893.13, F.S., relating to the offense of selling, manufacturing, or possessing certain controlled substances; conforming provisions to changes made by the act; amending s. 893.135, F.S.; requiring that a person convicted of certain drug-trafficking offenses be sentenced under the Criminal Punishment Code; amending s. 893.20, F.S.; requiring that a person convicted of engaging in a continuing criminal enterprise be sentenced under the Criminal Punishment Code; amending s. 921.187, F.S., relating to disposition and sentencing; conforming provisions to changes made by the act; amending s. 921.188, F.S.; providing certain conditions based on the Criminal Punishment Code under which a felon may be placed in a local detention facility; amending ss. 924.06, 924.07, F.S., relating to appeals; amending a provision that allows a defendant to appeal a sentence imposed outside a range formerly permitted under chapter 921, F.S.; authorizing the state to appeal a sentence imposed below the range permitted by the Criminal Punishment Code; amending s. 944.17, F.S.; requiring that the sentencing scoresheet for a prisoner be submitted to the Department of Corrections; amending ss. 947.141, 947.146, 947.168, F.S., relating to violations of conditional release or control release and parole eligibility; conforming provisions to changes made by the act; amending s. 948.015, F.S., relating to presentence reports; conforming provisions to changes made by the act; amending s. 948.034, F.S., relating to terms and conditions of probation; conforming references; amending s. 948.51, F.S.; revising requirements for a county or county consortium in developing a public safety plan to conform to changes made by the act; amending s. 958.04, F.S., relating to judicial disposition of youthful offenders; providing certain limitations on sentences based on the Criminal Punishment Code; amending s. 921.0014, F.S.; providing requirements for the state attorney with respect to preparing sentencing scoresheets; amending s. 921.001, F.S.; providing for certain persons sentenced on or after a specified date whose maximum recommended sentence is under a specified period to be eligible for incarceration up to a specified period; amending s. 921.0016, F.S.; deleting a provision that allows and expressly prohibits addition or the use of alcohol or drugs as a mitigating circumstance for purposes of sentencing; providing that capital felonies are excluded from the punishment code; providing clarification for application of future code revisions; providing a directive to the Division of Statutory Revision to maintain certain repealed provisions in the Florida Statutes for 10 years; providing effective dates.

—a companion measure, was substituted for **CS for SB 716** as amended and read the second time by title.

Senator Horne moved the following amendment which was adopted:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. *Sections 921.0001, 921.001, 921.0011, 921.0012, 921.0013, 921.0014, 921.0015, 921.0016, and 921.005, Florida Statutes, as amended by this act, are repealed effective October 1, 1998, except that those sections shall remain in effect with respect to any crime committed before October 1, 1998.*

Section 2. *The Florida Criminal Punishment Code, consisting of sections 921.002-921.0026, Florida Statutes, is established effective October 1, 1998, and applies to any felony committed on or after that date.*

Section 3. Section 921.002, Florida Statutes, is created to read:

921.002 The Criminal Punishment Code.—

(1) The provision of criminal penalties and of limitations upon the application of such penalties is a matter of predominantly substantive law and, as such, is a matter properly addressed by the Legislature. The Legislature, in the exercise of its authority and responsibility to establish sentencing criteria, to provide for the imposition of criminal penalties, and to make the best use of state prisons so that violent criminal offenders are appropriately incarcerated, has determined that it is in the best interest of the state to develop, implement, and revise a sentencing policy.

(a) The Criminal Punishment Code embodies the principles that:

1. Sentencing is neutral with respect to race, gender, and social and economic status.

2. The primary purpose of sentencing is to punish the offender. Rehabilitation is a desired goal of the criminal justice system but is subordinate to the goal of punishment.

3. The penalty imposed is commensurate with the severity of the primary offense and the circumstances surrounding the primary offense.

4. The severity of the sentence increases with the length and nature of the offender's prior record.

5. The sentence imposed by the sentencing judge reflects the length of actual time to be served, shortened only by the application of incentive and meritorious gain-time. The provisions of chapter 947, relating to parole, shall not apply to persons sentenced under the Criminal Punishment Code.

6. Departures below the permissible sentencing range established in the code must be articulated in writing and made only when circumstances or factors reasonably justify the aggravation or mitigation of the sentence. The level of proof necessary to establish facts that support a departure from the permissible sentencing range is a preponderance of the evidence.

7. The trial judge may impose a sentence up to and including the statutory maximum for any offense, including an offense that is before the court due to a violation of probation.

8. A sentence may be appealed only if the sentence is below the permissible sentencing range.

9. Use of incarcerative sanctions is prioritized toward offenders convicted of serious offenses and certain offenders who have long prior records, in order to maximize the finite capacities of state and local correctional facilities.

(2) When a defendant is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision of the guidelines or the code, each felony shall be sentenced under the guidelines or the code in effect at the time the particular felony was committed. This subsection does not apply to sentencing for any capital felony.

(3) A court may impose a departure below the permissible sentencing range based upon circumstances or factors that reasonably justify the mitigation of the sentence in accordance with s. 921.0026. The level of proof necessary to establish facts supporting the mitigation of a sentence is a preponderance of the evidence. When multiple reasons exist to support the mitigation, the mitigation shall be upheld when at least one circumstance or factor justifies the mitigation regardless of the presence of other circumstances or factors found not to justify mitigation. Any sentence imposed below the permissible sentencing range must be explained in writing by the trial court judge.

Section 4. Section 921.0021, Florida Statutes, is created to read:

921.0021 Definitions.—As used in this chapter, the term:

(1) "Additional offense" means any offense other than the primary offense for which an offender is convicted and which is pending before the court for sentencing at the time of the primary offense.

(2) "Conviction" means a determination of guilt that is the result of a plea or a trial, regardless of whether adjudication is withheld.

(3) "Legal status" means an offender's status if the offender:

(a) Escapes from incarceration;
(b) Flees to avoid prosecution;
(c) Fails to appear for a criminal proceeding;
(d) Violates any condition of a supersedeas bond;
(e) Is incarcerated;
(f) Is under any form of a pretrial intervention or diversion program; or
(g) Is under any form of court-imposed or post-prison release community supervision.

(4) "Primary offense" means the offense at conviction pending before the court for sentencing for which the total sentence points recommend a sanction that is as severe as, or more severe than, the sanction recommended for any other offense committed by the offender and pending before the court at sentencing. Only one count of one offense before the court for sentencing shall be classified as the primary offense.

(5) "Prior record" means a conviction for a crime committed by the offender, as an adult or a juvenile, prior to the time of the primary offense. Convictions by federal, out-of-state, military, or foreign courts, and convictions for violations of county or municipal ordinances that incorporate by reference a penalty under state law, are included in the offender's prior record. Convictions for offenses committed by the offender more than 10 years before the primary offense are not included in the offender's prior record if the offender has not been convicted of any other crime for a period of 10 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of the primary offense. Juvenile dispositions of offenses committed by the offender within 3 years before the primary offense are included in the offender's prior record when the offense would have been a crime had the offender been an adult rather than a juvenile. Juvenile dispositions of sexual offenses committed by the offender which were committed 3 years or more before the primary offense are included in the offender's prior record if the offender has not maintained a conviction-free record, either as an adult or a juvenile, for a period of 3 consecutive years from the most recent date of release from confinement, supervision, or sanction, whichever is later, to the date of the primary offense.

(6) "Community sanction" includes:

(a) Probation.
(b) Community control.
(c) Pretrial intervention or diversion.

(7)(a) "Victim injury" means the physical injury or death suffered by a person as a direct result of the primary offense, or any additional offense, for which an offender is convicted and which is pending before the court for sentencing at the time of the primary offense.

(b) Except as provided in paragraph (c) or paragraph (d),

1. If the conviction is for an offense involving sexual contact that includes sexual penetration, the sexual penetration must be scored in accordance with the sentence points provided under s. 921.0024 for sexual penetration, regardless of whether there is evidence of any physical injury.

2. If the conviction is for an offense involving sexual contact that does not include sexual penetration, the sexual contact must be scored in accordance with the sentence points provided under s. 921.0024 for sexual contact, regardless of whether there is evidence of any physical injury.

If the victim of an offense involving sexual contact suffers any physical injury as a direct result of the primary offense or any additional offense committed by the offender resulting in conviction, such physical injury must be scored separately and in addition to the points scored for the sexual contact or the sexual penetration.

(c) The sentence points provided under s. 921.0024 for sexual contact or sexual penetration may not be assessed for a violation of s. 944.35(3)(b)2.

(d) If the conviction is for the offense described in s. 872.06, the sentence points provided under s. 921.0024 for sexual contact or sexual penetration may not be assessed.

Section 5. Section 921.0022, Florida Statutes, is created to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(1) The offense severity ranking chart must be used with the Criminal Punishment Code worksheet to compute a sentence score for each felony offender.

(2) The offense severity ranking chart has 10 offense levels, ranked from least severe to most severe, and each felony offense is assigned to a level according to the severity of the offense. For purposes of determining which felony offenses are specifically listed in the offense severity ranking chart and which severity level has been assigned to each of these offenses, the numerical statutory references in the left column of the chart and the felony degree designations in the middle column of the chart are controlling; the language in the right column of the chart is provided solely for descriptive purposes. Reclassification of the degree of the felony through the application of s. 775.0845, s. 775.087, s. 775.0875, or s. 794.023, to any offense listed in the offense severity ranking chart in this section shall not cause the offense to become unlisted and is not subject to the provisions of s. 921.0023.

(3) OFFENSE SEVERITY RANKING CHART

Florida Statute	*Felony Degree*	*Description*
		(a) LEVEL 1
24.118(3)(a)	*3rd*	*Counterfeit or altered state lottery ticket.*
212.054(2)(b)	*3rd*	*Discretionary sales surtax; limitations, administration, and collection.*
212.15(2)(b)	*3rd*	*Failure to remit sales taxes, amount greater than $300 but less than $20,000.*
319.30(5)	*3rd*	*Sell, exchange, give away certificate of title or identification number plate.*
319.35(1)(a)	*3rd*	*Tamper, adjust, change, etc., an odometer.*
320.26(1)(a)	*3rd*	*Counterfeit, manufacture, or sell registration license plates or validation stickers.*
322.212(1)	*3rd*	*Possession of forged, stolen, counterfeit, or unlawfully issued driver's license.*

Florida Statute	Felony Degree	Description
322.212(4)	3rd	Supply or aid in supplying unauthorized driver's license.
322.212(5)	3rd	False application for driver's license.
370.13(4)(a)	3rd	Molest any stone crab trap, line, or buoy which is property of licenseholder.
370.135(1)	3rd	Molest any blue crab trap, line, or buoy which is property of licenseholder.
372.663(1)	3rd	Poach any alligator or crocodilia.
414.39(2)	3rd	Unauthorized use, possession, forgery, or alteration of food stamps, Medicaid ID, value greater than $200.
414.39(3)(a)	3rd	Fraudulent misappropriation of public assistance funds by employee/official, value more than $200.
443.071(1)	3rd	False statement or representation to obtain or increase unemployment compensation benefits.
458.327(1)(a)	3rd	Unlicensed practice of medicine.
466.026(1)(a)	3rd	Unlicensed practice of dentistry or dental hygiene.
509.151(1)	3rd	Defraud an innkeeper, food or lodging value greater than $300.
517.302(1)	3rd	Violation of the Florida Securities and Investor Protection Act.
562.27(1)	3rd	Possess still or still apparatus.
713.69	3rd	Tenant removes property upon which lien has accrued, value more than $50.
812.014(3)(c)	3rd	Petit theft (3rd conviction); theft of any property not specified in subsection (2).
812.081(2)	3rd	Unlawfully makes or causes to be made a reproduction of a trade secret.
815.04(4)(a)	3rd	Offense against intellectual property (i.e., computer programs, data).
817.52(2)	3rd	Hiring with intent to defraud, motor vehicle services.
826.01	3rd	Bigamy.
828.122(3)	3rd	Fighting or baiting animals.
831.04(1)	3rd	Any erasure, alteration, etc., of any replacement deed, map, plat, or other document listed in s. 92.28.
831.31(1)(a)	3rd	Sell, deliver, or possess counterfeit controlled substances, all but s. 893.03(5) drugs.
832.041(1)	3rd	Stopping payment with intent to defraud $150 or more.
832.05 (2)(b) & (4)(c)	3rd	Knowing, making, issuing worthless checks $150 or more or obtaining property in return for worthless check $150 or more.
838.015(3)	3rd	Bribery.
838.016(1)	3rd	Public servant receiving unlawful compensation.
838.15(2)	3rd	Commercial bribe receiving.
838.16	3rd	Commercial bribery.
843.18	3rd	Fleeing by boat to elude a law enforcement officer.
847.011(1)(a)	3rd	Sell, distribute, etc., obscene, lewd, etc., material (2nd conviction).
849.01	3rd	Keeping gambling house.
849.09(1)(a)-(d)	3rd	Lottery; set up, promote, etc., or assist therein, conduct or advertise drawing for prizes, or dispose of property or money by means of lottery.
849.23	3rd	Gambling-related machines; "common offender" as to property rights.
849.25(2)	3rd	Engaging in bookmaking.
860.08	3rd	Interfere with a railroad signal.
860.13(1)(a)	3rd	Operate aircraft while under the influence.
893.13(2)(a)2.	3rd	Purchase of cannabis.
893.13(6)(a)	3rd	Possession of cannabis (more than 20 grams).
893.13(7)(a)10.	3rd	Affix false or forged label to package of controlled substance.
934.03(1)(a)	3rd	Intercepts, or procures any other person to intercept, any wire or oral communication.
		(b) LEVEL 2
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.
590.28(1)	3rd	Willful, malicious, or intentional burning.
784.05(3)	3rd	Storing or leaving a loaded firearm within reach of minor who uses it to inflict injury or death.
787.04(1)	3rd	In violation of court order, take, entice, etc., minor beyond state limits.
806.13(1)(b)3.	3rd	Criminal mischief; damage $1,000 or more to public communication or any other public service.
810.09(2)(e)	3rd	Trespassing on posted commerical horticulture property.
812.014(2)(c)1.	3rd	Grand theft, 3rd degree; $300 or more but less than $5,000.
812.014(2)(d)	3rd	Grand theft, 3rd degree; $100 or more but less than $300, taken from unenclosed curtilage of dwelling.
817.234(1)(a)2.	3rd	False statement in support of insurance claim.
817.481(3)(a)	3rd	Obtain credit or purchase with false, expired, counterfeit, etc., credit card, value over $300.
817.52(3)	3rd	Failure to redeliver hired vehicle.
817.54	3rd	With intent to defraud, obtain mortgage note, etc., by false representation.
817.60(5)	3rd	Dealing in credit cards of another.
817.60(6)(a)	3rd	Forgery; purchase goods, services with false card.
817.61	3rd	Fraudulent use of credit cards over $100 or more within 6 months.
826.04	3rd	Knowingly marries or has sexual intercourse with person to whom related.
831.01	3rd	Forgery.
831.02	3rd	Uttering forged instrument; utters or publishes alteration with intent to defraud.
831.07	3rd	Forging bank bills or promissory note.
831.08	3rd	Possession of 10 or more forged notes.
831.09	3rd	Uttering forged bills; passes as bank bill or promissory note.
832.05(3)(a)	3rd	Cashing or depositing item with intent to defraud.
843.08	3rd	Falsely impersonating an officer.
893.13(2)(a)2.	3rd	Purchase of any s. 893.03(1)(c), (2)(c), (3), or (4) drugs other than cannabis.

Florida Statute	Felony Degree	Description
893.147(2)	3rd	Manufacture or delivery of drug paraphernalia.
		(c) LEVEL 3
39.061	3rd	Escapes from juvenile facility (secure detention or residential commitment facility).
319.30(4)	3rd	Possession by junkyard of motor vehicle with identification number plate removed.
319.33(1)(a)	3rd	Alter or forge any certificate of title to a motor vehicle or mobile home.
319.33(1)(c)	3rd	Procure or pass title on stolen vehicle.
319.33(4)	3rd	With intent to defraud, possess, sell, etc., a blank, forged, or unlawfully obtained title or registration.
328.05(2)	3rd	Possess, sell, or counterfeit fictitious, stolen, or fraudulent titles or bills of sale of vessels.
328.07(4)	3rd	Manufacture, exchange, or possess vessel with counterfeit or wrong ID number.
376.302(5)	3rd	Fraud related to reimbursement for cleanup expenses under the Inland Protection Trust Fund.
501.001(2)(b)	2nd	Tampers with a consumer product or the container using materially false/misleading information.
697.08	3rd	Equity skimming.
790.15(3)	3rd	Person directs another to discharge firearm from a vehicle.
796.05(1)	3rd	Live on earnings of a prostitute.
806.10(1)	3rd	Maliciously injure, destroy, or interfere with vehicles or equipment used in firefighting.
806.10(2)	3rd	Interferes with or assaults firefighter in performance of duty.
810.09(2)(c)	3rd	Trespass on property other than structure or conveyance armed with firearm or dangerous weapon.
812.014(2)(c)2.	3rd	Grand theft; $5,000 or more but less than $10,000.
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 Communications Fraud Act), property valued at less than $20,000.
817.233	3rd	Burning to defraud insurer.
828.12(2)	3rd	Tortures any animal with intent to inflict intense pain, serious physical injury, or death.
831.29	2nd	Possession of instruments for counterfeiting drivers' licenses.
838.021(3)(b)	3rd	Threatens unlawful harm to public servant.
843.19	3rd	Injure, disable, or kill police dog or horse.
870.01(2)	3rd	Riot; inciting or encouraging.
893.13(1)(a)2.	3rd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).
893.13(1)(d)2.	2nd	Sell, manufacture, or deliver s. 893.03(1)(c), (2)(c), (3), or (4) drugs within 200 feet of university, public housing facility, or public park.
893.13(6)(a)	3rd	Possession of any controlled substance other than felony possession of cannabis.
893.13(7)(a)9.	3rd	Obtain or attempt to obtain controlled substance by fraud, forgery, misrepresentation, etc.
893.13(7)(a)11.	3rd	Furnish false or fraudulent material information on any document or record required by chapter 893.
918.13(1)(a)	3rd	Alter, destroy, or conceal investigation evidence.
944.47 (1)(a)1.-2.	3rd	Introduce contraband to correctional facility.
944.47(1)(c)	2nd	Possess contraband while upon the grounds of a correctional institution.
		(d) LEVEL 4
316.1935(2)	3rd	Fleeing or attempting to elude law enforcement officer resulting in high-speed pursuit.
784.07(2)(b)	3rd	Battery of law enforcement officer, firefighter, intake officer, etc.
784.075	3rd	Battery on detention or commitment facility staff.
784.08(2)(c)	3rd	Battery on a person 65 years of age or older.
784.081(3)	3rd	Battery on specified official or employee.
784.082(3)	3rd	Battery by detained person on visitor or other detainee.
787.03(1)	3rd	Interference with custody; wrongly takes child from appointed guardian.
787.04(2)	3rd	Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings.
787.04(3)	3rd	Carrying child beyond state lines with criminal intent to avoid producing child at custody hearing or delivering to designated person.
790.115(1)	3rd	Exhibiting firearm or weapon within 1,000 feet of a school.
790.115(2)(b)	3rd	Possessing electric weapon or device, destructive device, or other weapon on school property.
790.115(2)(c)	3rd	Possessing firearm on school property.
810.02(4)(a)	3rd	Burglary, or attempted burglary, of an unoccupied structure; unarmed; no assault or battery.
810.02(4)(b)	3rd	Burglary, or attempted burglary, of an unoccupied conveyance; unarmed; no assault or battery.
810.06	3rd	Burglary; possession of tools.
810.08(2)(c)	3rd	Trespass on property, armed with firearm or dangerous weapon.
812.014(2)(c)3.	3rd	Grand theft, 3rd degree $10,000 or more but less than $20,000.
812.014 (2)(c)4.-10.	3rd	Grand theft, 3rd degree, a will, firearm, motor vehicle, livestock, etc.
817.563(1)	3rd	Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs.
828.125(1)	2nd	Kill, maim, or cause great bodily harm or permanent breeding disability to any registered horse or cattle.
837.02(1)	3rd	Perjury in official proceedings.
837.021(1)	3rd	Make contradictory statements in official proceedings.
843.025	3rd	Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication.

Florida Statute	Felony Degree	Description
843.15(1)(a)	3rd	Failure to appear while on bail for felony (bond estreature or bond jumping).
874.05(1)	3rd	Encouraging or recruiting another to join a criminal street gang.
893.13(2)(a)1.	2nd	Purchase of cocaine (or other s. 893.03(1)(a), (b), or (d), or (2)(a) or (b) drugs).
914.14(2)	3rd	Witnesses accepting bribes.
914.22(1)	3rd	Force, threaten, etc., witness, victim, or informant.
914.23(2)	3rd	Retaliation against a witness, victim, or informant, no bodily injury.
918.12	3rd	Tampering with jurors.
		(e) LEVEL 5
316.027(1)(a)	3rd	Accidents involving personal injuries, failure to stop; leaving scene.
316.1935(3)	3rd	Aggravated fleeing or eluding.
322.34(3)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
327.30(5)	3rd	Vessel accidents involving personal injury; leaving scene.
381.0041(11)(b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
790.01(2)	3rd	Carrying a concealed firearm.
790.162	2nd	Threat to throw or discharge destructive device.
790.163	2nd	False report of deadly explosive.
790.165(2)	3rd	Manufacture, sell, possess, or deliver hoax bomb.
790.221(1)	2nd	Possession of short-barreled shotgun or machine gun.
790.23	2nd	Felons in possession of firearms or electronic weapons or devices.
806.111(1)	3rd	Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
812.019(1)	2nd	Stolen property; dealing in or trafficking in.
812.16(2)	3rd	Owning, operating, or conducting a chop shop.
817.034(4)(a)2.	2nd	Communications fraud, value $20,000 to $50,000.
825.1025(4)	3rd	Lewd or lascivious exhibition in the presence of an elderly person or disabled adult.
827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.
843.01	3rd	Resist officer with violence to person; resist arrest with violence.
874.05(2)	2nd	Encouraging or recruiting another to join a criminal street gang; second or subsequent offense.
893.13(1)(a)1.	2nd	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
893.13(1)(c)2.	2nd	Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs) within 1,000 feet of a school.
893.13(1)(d)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 200 feet of university, public housing facility, or public park.
893.13(4)(b)	2nd	Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c), (3), or (4) drugs).
		(f) LEVEL 6
316.027(1)(b)	2nd	Accident involving death, failure to stop; leaving scene.
316.193(2)(b)	3rd	Felony DUI, 4th or subsequent conviction.
775.0875(1)	3rd	Taking firearm from law enforcement officer.
784.021(1)(a)	3rd	Aggravated assault; deadly weapon without intent to kill.
784.021(1)(b)	3rd	Aggravated assault; intent to commit felony.
784.048(3)	3rd	Aggravated stalking; credible threat.
784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
784.081(2)	2nd	Aggravated assault on specified official or employee.
784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
790.164(1)	2nd	False report of deadly explosive or act of arson or violence to state property.
790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
794.011(8)(a)	3rd	Solicitation of minor to participate in sexual activity by custodial adult.
794.05(1)	2nd	Unlawful sexual activity with specified minor.
806.031(2)	2nd	Arson resulting in great bodily harm to firefighter or any other person.
810.02(3)(c)	2nd	Burglary of occupied structure; unarmed; no assault or battery.
812.014(2)(b)	2nd	Property stolen $20,000 or more, but less than $100,000, grand theft in 2nd degree.
812.13(2)(c)	2nd	Robbery, no firearm or other weapon (strong-arm robbery).
817.034(4)(a)1.	1st	Communications fraud, value greater than $50,000.
817.4821(5)	2nd	Possess cloning paraphernalia with intent to create cloned cellular telephones.
825.102(1)	3rd	Abuse of an elderly person or disabled adult.
825.102(3)(c)	3rd	Neglect of an elderly person or disabled adult.
825.1025(3)	3rd	Lewd or lascivious molestation of an elderly person or disabled adult.
825.103(2)(c)	3rd	Exploiting an elderly person or disabled adult and property is valued at $100 or more, but less than $20,000.
827.03(1)	3rd	Abuse of a child.
827.03(3)(c)	3rd	Neglect of a child.
827.071(2)&(3)	2nd	Use or induce a child in a sexual performance, or promote or direct such performance.

Florida Statute	Felony Degree	Description
836.05	2nd	Threats; extortion.
836.10	2nd	Written threats to kill or do bodily injury.
843.12	3rd	Aids or assists person to escape.
914.23	2nd	Retaliation against a witness, victim, or informant, with bodily injury.
944.35(3)(a)2.	3rd	Committing malicious battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
944.40	2nd	Escapes.
944.46	3rd	Harboring, concealing, aiding escaped prisoners.
944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
		(g) LEVEL 7
316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
409.920(2)	3rd	Medicaid provider fraud.
494.0018(2)	1st	Conviction of any violation of ss. 494.001-494.0077 in which the total money and property unlawfully obtained exceeded $50,000 and there were five or more victims.
782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
782.071	3rd	Killing of human being by the operation of a motor vehicle in a reckless manner (vehicular homicide).
782.072	3rd	Killing of a human being by the operation of a vessel in a reckless manner (vessel homicide).
784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
784.081(1)	1st	Aggravated battery on specified official or employee.
784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
790.16(1)	1st	Discharge of a machine gun under specified circumstances.
796.03	2nd	Procuring any person under 16 years for prostitution.
800.04	2nd	Handle, fondle, or assault child under 16 years in lewd, lascivious, or indecent manner.
806.01(2)	2nd	Maliciously damage structure by fire or explosive.
810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
812.014(2)(a)	1st	Property stolen, valued at $100,000 or more; property stolen while causing other property damage; 1st degree grand theft.
812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
825.102(3)(b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
825.1025(2)	2nd	Lewd or lascivious battery upon an elderly person or disabled adult.
825.103(2)(b)	2nd	Exploiting an elderly person or disabled adult and property is valued at $20,000 or more, but less than $100,000.
827.03(3)(b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
827.04(4)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
872.06	2nd	Abuse of a dead human body.
893.13(1)(c)1.	1st	Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs) within 1,000 feet of a school.
893.13(4)(a)	1st	Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), or (2)(b) drugs).
893.135(1)(a)1.	1st	Trafficking in cannabis, more than 50 lbs., less than 2,000 lbs.
893.135 (1)(b)1.a.	1st	Trafficking in cocaine, more than 28 grams, less than 200 grams.
893.135 (1)(c)1.a.	1st	Trafficking in illegal drugs, more than 4 grams, less than 14 grams.
893.135 (1)(d)1.	1st	Trafficking in phencyclidine, more than 28 grams, less than 200 grams.
893.135(1)(e)1.	1st	Trafficking in methaqualone, more than 200 grams, less than 5 kilograms.
893.135(1)(f)1.	1st	Trafficking in amphetamine, more than 14 grams, less than 28 grams.
		(h) LEVEL 8
316.193 (3)(c)3.a.	2nd	DUI manslaughter.
327.35(3)(c)3.	2nd	Vessel BUI manslaughter.
777.03(2)(a)	1st	Accessory after the fact, capital felony.
782.04(4)	2nd	Killing of human without design when engaged in act or attempt of any felony other than arson, sexual battery, robbery, burglary, kidnapping, aircraft piracy, or unlawfully discharging bomb.
782.071(2)	2nd	Committing vehicular homicide and failing to render aid or give information.
782.072(2)	2nd	Committing vessel homicide and failing to render aid or give information.
790.161(3)	1st	Discharging a destructive device which results in bodily harm or property damage.
794.011(5)	2nd	Sexual battery, victim 12 years or over, offender does not use physical force likely to cause serious injury.

Florida Statute	Felony Degree	Description
806.01(1)	1st	Maliciously damage dwelling or structure by fire or explosive, believing person in structure.
810.02(2)(a)	1st,PBL	Burglary with assault or battery.
810.02(2)(b)	1st,PBL	Burglary; armed with explosives or dangerous weapon.
810.02(2)(c)	1st	Burglary of a dwelling or structure causing structural damage or $1,000 or more property damage.
812.13(2)(b)	1st	Robbery with a weapon.
812.135(2)	1st	Home-invasion robbery.
825.102(2)	2nd	Aggravated abuse of an elderly person or disabled adult.
825.103(2)(a)	1st	Exploiting an elderly person or disabled adult and property is valued at $100,000 or more.
827.03(2)	2nd	Aggravated child abuse.
860.121(2)(c)	1st	Shooting at or throwing any object in path of railroad vehicle resulting in great bodily harm.
860.16	1st	Aircraft piracy.
893.13(1)(b)	1st	Sell or deliver in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(2)(b)	1st	Purchase in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.13(6)(c)	1st	Possess in excess of 10 grams of any substance specified in s. 893.03(1)(a) or (b).
893.135(1)(a)2.	1st	Trafficking in cannabis, more than 2,000 lbs., less than 10,000 lbs.
893.135 (1)(b)1.b.	1st	Trafficking in cocaine, more than 200 grams, less than 400 grams.
893.135 (1)(c)1.b.	1st	Trafficking in illegal drugs, more than 14 grams, less than 28 grams.
893.135(1)(d)1.b.	1st	Trafficking in phencyclidine, more than 200 grams, less than 400 grams.
893.135(1)(e)1.b.	1st	Trafficking in methaqualone, more than 5 kilograms, less than 25 kilograms.
893.135(1)(f)1.b.	1st	Trafficking in amphetamine, more than 28 grams, less than 200 grams.
895.03(1)	1st	Use or invest proceeds derived from pattern of racketeering activity.
895.03(2)	1st	Acquire or maintain through racketeering activity any interest in or control of any enterprise or real property.
895.03(3)	1st	Conduct or participate in any enterprise through pattern of racketeering activity.
		(i) LEVEL 9
316.193 (3)(c)3.b.	1st	DUI manslaughter; failing to render aid or give information.
782.04(1)	1st	Attempt, conspire, or solicit to commit premeditated murder.
782.04(3)	1st,PBL	Accomplice to murder in connection with arson, sexual battery, robbery, burglary, and other specified felonies.
782.07(2)	1st	Aggravated manslaughter of an elderly person or disabled adult.
782.07(3)	1st	Aggravated manslaughter of a child.
787.01(1)(a)1.	1st,PBL	Kidnapping; hold for ransom or reward or as a shield or hostage.
787.01(1)(a)2.	1st,PBL	Kidnapping with intent to commit or facilitate commission of any felony.
787.01(1)(a)4.	1st,PBL	Kidnapping with intent to interfere with performance of any governmental or political function.
787.02(3)(a)	1st	False imprisonment; child under age 13; perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
790.161	1st	Attempted capital destructive device offense.
794.011(2)	1st	Attempted sexual battery; victim less than 12 years of age.
794.011(2)	Life	Sexual battery; offender younger than 18 years and commits sexual battery on a person less than 12 years.
794.011(4)	1st	Sexual battery; victim 12 years or older, certain circumstances.
794.011(8)(b)	1st	Sexual battery; engage in sexual conduct with minor 12 to 18 years by person in familial or custodial authority.
812.13(2)(a)	1st,PBL	Robbery with firearm or other deadly weapon.
812.133(2)(a)	1st,PBL	Carjacking; firearm or other deadly weapon.
847.0145(1)	1st	Selling, or otherwise transferring custody or control, of a minor.
847.0145(2)	1st	Purchasing, or otherwise obtaining custody or control, of a minor.
859.01	1st	Poisoning food, drink, medicine, or water with intent to kill or injure another person.
893.135	1st	Attempted capital trafficking offense.
893.135(1)(a)3.	1st	Trafficking in cannabis, more than 10,000 lbs.
893.135 (1)(b)1.c.	1st	Trafficking in cocaine, more than 400 grams, less than 150 kilograms.
893.135 (1)(c)1.c.	1st	Trafficking in illegal drugs, more than 28 grams, less than 30 kilograms.
893.135(1)(d)1.c.	1st	Trafficking in phencyclidine, more than 400 grams.
893.135(1)(e)1.c.	1st	Trafficking in methaqualone, more than 25 kilograms.
893.135(1)(f)1.c.	1st	Trafficking in amphetamine, more than 200 grams.
		(j) LEVEL 10
782.04(2)	1st,PBL	Unlawful killing of human; act is homicide, unpremeditated.
787.01(1)(a)3.	1st,PBL	Kidnapping; inflict bodily harm upon or terrorize victim.
787.01(3)(a)	Life	Kidnapping; child under age 13, perpetrator also commits child abuse, sexual battery, lewd, or lascivious act, etc.
794.011(3)	Life	Sexual battery; victim 12 years or older, offender uses or threatens to use deadly weapon or physical force to cause serious injury.
876.32	1st	Treason against the state.

Section 6. Section 921.0023, Florida Statutes, is created to read:

921.0023 Criminal Punishment Code; ranking unlisted felony offenses.—A felony offense not listed in s. 921.0022 is ranked with respect to offense severity level by the Legislature, commensurate with the harm or potential harm that is caused by the offense to the community. Until the Legislature specifically assigns an offense to a severity level in the offense severity ranking chart, the severity level is within the following parameters:

(1) A felony of the third degree within offense level 1.

(2) A felony of the second degree within offense level 4.

(3) A felony of the first degree within offense level 7.

(4) A felony of the first degree punishable by life within offense level 9.

(5) A life felony within offense level 10.

For purposes of determining whether a felony offense has been specifically listed in the offense ranking chart provided in s. 921.0022(3), and the severity level that has been assigned to an offense listed in the chart, the numerical statutory reference in the left column of the chart, and the felony degree designation in the middle column of the chart, are controlling; the language in the right column of the chart is provided solely for descriptive purposes.

Section 7. Section 921.0024, Florida Statutes, is created to read:

921.0024 Criminal Punishment Code; worksheet computations; scoresheets.—

(1)

(a) The Criminal Punishment Code worksheet is used to compute the subtotal and total sentence points as follows:

FLORIDA CRIMINAL PUNISHMENT CODE WORKSHEET

OFFENSE SCORE

Primary Offense

Level	*Sentence Points*		*Total*
10	*116*	=	....
9	*92*	=	....
8	*74*	=	....
7	*56*	=	....
6	*36*	=	....
5	*28*	=	....
4	*22*	=	....
3	*16*	=	....
2	*10*	=	....
1	*4*	=	....

Total _____

Additional Offenses

Level	*Sentence Points*		*Counts*		*Total*
10	*58*	*x*	....	=	....
9	*46*	*x*	....	=	....
8	*37*	*x*	....	=	....
7	*28*	*x*	....	=	....
6	*18*	*x*	....	=	....
5	*5.4*	*x*	....	=	....
4	*3.6*	*x*	....	=	....
3	*2.4*	*x*	....	=	....
2	*1.2*	*x*	....	=	....
1	*0.7*	*x*	....	=	....
M	*0.2*	*x*	....	=	....

Total _____

Victim Injury

Level	*Sentence Points*		*Number*		*Total*
2nd degree murder-death	*240*	*x*	....	=	....
Death	*120*	*x*	....	=	....
Severe	*40*	*x*	....	=	....
Sexual penetration	*80*	*x*	....	=	....
Moderate	*18*	*x*	....	=	....
Sexual contact	*40*	*x*	....	=	....
Slight	*4*	*x*	....	=	....

Total _____

Primary Offense + Additional Offenses + Victim Injury =

TOTAL OFFENSE SCORE

PRIOR RECORD SCORE

Prior Record

Level	*Sentence Points*		*Number*		*Total*
10	*29*	*x*	....	=	....
9	*23*	*x*	....	=	....
8	*19*	*x*	....	=	....
7	*14*	*x*	....	=	....
6	*9*	*x*	....	=	....
5	*3.6*	*x*	....	=	....
4	*2.4*	*x*	....	=	....
3	*1.6*	*x*	....	=	....
2	*0.8*	*x*	....	=	....
1	*0.5*	*x*	....	=	....
M	*0.2*	*x*	....	=	....

Total _____

TOTAL OFFENSE SCORE .....
TOTAL PRIOR RECORD SCORE .....

LEGAL STATUS .....
COMMUNITY SANCTION VIOLATION .....
PRIOR SERIOUS FELONY .....
PRIOR CAPITAL FELONY .....
FIREARM OR SEMIAUTOMATIC WEAPON .....

SUBTOTAL .....

VIOLENT CAREER CRIMINAL (no)(yes) .....
VIOLENT HABITUAL OFFENDER (no)(yes) .....
HABITUAL OFFENDER (no)(yes) .....
DRUG TRAFFICKER (no)(yes) (x multiplier) .....
LAW ENF. PROTECT. (no)(yes) (x multiplier) .....
MOTOR VEHICLE THEFT (no)(yes) (x multiplier) .....
CRIMINAL STREET GANG MEMBER (no)(yes) (x multiplier) ...

TOTAL SENTENCE POINTS .....

(b) WORKSHEET KEY:

Legal status points are assessed when any form of legal status existed at the time the offender committed an offense before the court for sentencing. Four (4) sentence points are assessed for an offender's legal status.

Community sanction violation points are assessed when a community sanction violation is before the court for sentencing. Six (6) sentence points are assessed for each community sanction violation, and each successive community sanction violation; however, if the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for such violation, and for each successive community sanction violation involving a new felony conviction. Multiple counts of community sanction violations before the sentencing court shall not be a basis for multiplying the assessment of community sanction violation points.

Prior serious felony points: If the offender has a primary offense or any additional offense ranked in level 8, level 9, or level 10, and one or more prior serious felonies, a single assessment of 30 points shall be added. For purposes of this section, a prior serious felony is an offense in the offender's prior record that is ranked in level 8, level 9, or level 10 under s. 921.0022 or s. 921.0023 and for which the offender is serving a sentence of confinement, supervision, or other sanction or for which the offender's date of release from confinement, supervision, or other sanction, whichever is later, is within 3 years before the date the primary offense or any additional offense was committed.

Prior capital felony points: If the offender has one or more prior capital felonies, points shall be added to the subtotal sentence points of the offender equal to twice the number of points the offender receives for the primary offense and any additional offense. A prior capital felony is a capital felony offense for which the offender has been found guilty; or a

felony in another jurisdiction which is a capital felony in that jurisdiction, or would be a capital felony if the offense were committed in this state.

Possession of a firearm, semiautomatic firearm, or machine gun: If the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(2) while having in his possession: a firearm as defined in s. 790.001(6), an additional 18 sentence points are assessed; or if the offender is convicted of committing or attempting to commit any felony other than those enumerated in s. 775.087(3) while having in his possession a semiautomatic firearm as defined in s. 775.087(3) or a machine gun as defined in s. 790.001(9), an additional 25 sentence points are assessed.

Sentencing multipliers:

Drug trafficking: If the primary offense is drug trafficking under s. 893.135, the subtotal sentence points are multiplied, at the discretion of the court, for a level 7 or level 8 offense, by 1.5. The state attorney may move the sentencing court to reduce or suspend the sentence of a person convicted of a level 7 or level 8 offense, if the offender provides substantial assistance as described in s. 893.135(4).

Law enforcement protection: If the primary offense is a violation of the Law Enforcement Protection Act under s. 775.0823(2), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(3), (4), (5), (6), (7), or (8), the subtotal sentence points are multiplied by 2.0. If the primary offense is a violation of s. 784.07(3) or s. 775.0875(1), or of the Law Enforcement Protection Act under s. 775.0823(9) or (10), the subtotal sentence points are multiplied by 1.5.

Grand theft of a motor vehicle: If the primary offense is grand theft of the third degree involving a motor vehicle and in the offender's prior record, there are three or more grand thefts of the third degree involving a motor vehicle, the subtotal sentence points are multiplied by 1.5.

Criminal street gang member: If the offender is convicted of the primary offense and is found to have been a member of a criminal street gang at the time of the commission of the primary offense pursuant to s. 874.04, the subtotal sentence points are multiplied by 1.5.

(2) *The lowest permissible sentence in prison months that may be imposed by the court, absent a valid reason to depart, shall be calculated by subtracting 28 points from the total sentence points and decreasing the remaining total by 25 percent. If the lowest permissible sentence in prison months is less than or equal to 12, a nonstate prison sanction may be imposed. The total sentence points shall be calculated only as a means of determining the lowest permissible sentence. The permissible range for sentencing shall be the lowest permissible sentence up to and including the statutory maximum, as defined in s. 775.082, for the primary offense.*

(3) A single scoresheet shall be prepared for each defendant, except that if the defendant is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision of the guidelines or the code, separate scoresheets must be prepared. The scoresheet or scoresheets must cover all the defendant's offenses pending before the court for sentencing. Either the office of the state attorney or the Department of Corrections, or both where appropriate, shall prepare the scoresheet or scoresheets, which must be presented to the defense counsel for review for accuracy in all cases unless the judge directs otherwise. The defendant's scoresheet or scoresheets must be approved and signed by the sentencing judge.

(4) The clerks of the circuit courts for the individual counties shall distribute sufficient copies of the Criminal Punishment Code scoresheets to those persons charged with the responsibility for preparing scoresheets, either the office of the state attorney or the Department of Corrections, or both where appropriate.

(5) The clerk of the circuit court shall transmit a complete, accurate, and legible copy of the Criminal Punishment Code scoresheet used in each guidelines sentencing proceeding to the Department of Corrections. Scoresheets must be transmitted no less frequently than monthly, by the first of each month, and may be sent collectively.

(6) A copy of the individual offender's Criminal Punishment Code scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Florida Rules of Criminal Procedure, must be attached to the copy of the uniform judgment and sentence form provided to the Department of Corrections.

Section 8. Section 921.0026, Florida Statutes, is created to read:

921.0026 Mitigating circumstances.—

(1) A downward departure from the permissible sentence is discouraged unless there are circumstances or factors that reasonably justify the downward departure. Mitigating factors to be considered include, but are not limited to, those listed in subsection (2). The imposition of a sentence below the permissible sentencing range is subject to appellate review under chapter 924, but the extent of downward departure is not subject to appellate review.

(2) Mitigating circumstances under which a departure from the permissible sentencing range is reasonably justified include, but are not limited to:

(a) The departure results from a legitimate, uncoerced plea bargain.

(b) The defendant was an accomplice to the offense and was a relatively minor participant in the criminal conduct.

(c) 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.

(d) 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.

(e) The need for payment of restitution to the victim outweighs the need for a prison sentence.

(f) The victim was an initiator, willing participant, aggressor, or provoker of the incident.

(g) The defendant acted under extreme duress or under the domination of another person.

(h) Before the identity of the defendant was determined, the victim was substantially compensated.

(i) The defendant cooperated with the state to resolve the current offense or any other offense.

(j) The offense was committed in an unsophisticated manner and was an isolated incident for which the defendant has shown remorse.

(k) At the time of the offense the defendant was too young to appreciate the consequences of the offense.

(l) The defendant is to be sentenced as a youthful offender.

(3) The defendant's substance abuse or addiction, including intoxication at the time of the offense, is not a mitigating factor under subsection (2) and does not, under any circumstances, justify a downward departure from the permissible sentencing range.

Section 9. Paragraph (b) of subsection (6) of section 20.315, Florida Statutes, 1996 Supplement, is amended to read:

20.315 Department of Corrections.—There is created a Department of Corrections.

(6) FLORIDA CORRECTIONS COMMISSION.—

(b) The primary functions of the commission are to:

1. Recommend major correctional policies for the Governor's approval, and assure that approved policies and any revisions thereto are properly executed.

2. Periodically review the status of the state correctional system and recommend improvements therein to the Governor and the Legislature.

~~3. Perform an in-depth review of the recommendations of the Sentencing Guidelines Commission on the need for changes in the guidelines and of any alternative proposals submitted by the Division of Economic and Demographic Research of the Joint Legislative Management Committee to revise statewide sentencing guidelines.~~

3.~~4.~~ Annually perform an in-depth review of community-based intermediate sanctions and recommend to the Governor and the Legislature intergovernmental approaches through the Community Corrections

Partnership Act for planning and implementing such sanctions and programs.

4.~~5.~~ Perform an in-depth evaluation of the annual budget request of the Department of Corrections, the comprehensive correctional master plan, and the tentative construction program for compliance with all applicable laws and established departmental policies. The commission may not consider individual construction projects, but shall consider methods of accomplishing the department's goals in the most effective, efficient, and businesslike manner.

5.~~6.~~ Routinely monitor the financial status of the Department of Corrections to assure that the department is managing revenue and any applicable bond proceeds responsibly and in accordance with law and established policy.

6.~~7.~~ Evaluate, at least quarterly, the efficiency, productivity, and management of the Department of Corrections, using performance and production standards developed by the department under subsection (18).

7.~~8.~~ Provide public education on corrections and criminal justice issues.

8.~~9.~~ Report to the President of the Senate, the Speaker of the House of Representatives, and the Governor by November 1 of each year. ~~The first annual report of the commission shall be made by November 1, 1995.~~

Section 10. Subsection (4) of section 39.0581, Florida Statutes, 1996 Supplement, is amended to read:

39.0581 Maximum-risk residential program.—A maximum-risk residential program is a physically secure residential commitment program with a designated length of stay from 18 months to 36 months, primarily serving children 13 years of age to 19 years of age, or until the jurisdiction of the court expires. The court may retain jurisdiction over the child until the child reaches the age of 21, specifically for the purpose of the child completing the program. Each child committed to this level must meet one of the following criteria:

(4) The youth is at least 13 years of age at the time of the disposition for the current offense, the youth is eligible for prosecution as an adult for the current offense, and the current offense is ranked at level 7 or higher on the *Criminal Punishment Code* ~~sentencing guidelines~~ offense severity ranking chart pursuant to *s. 921.0022* ~~s. 921.0012~~.

Section 11. Section 775.0823, Florida Statutes, is amended to read:

775.0823 Violent offenses committed against law enforcement officers, correctional officers, state attorneys, assistant state attorneys, justices, or judges.—Any provision of law to the contrary notwithstanding, the Legislature does hereby provide for an increase and certainty of penalty for any person convicted of a violent offense against any law enforcement or correctional officer, as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against any state attorney elected pursuant to s. 27.01 or assistant state attorney appointed under s. 27.181; or against any justice or judge of a court described in Art. V of the State Constitution, which offense arises out of or in the scope of the officer's duty as a law enforcement or correctional officer, the state attorney's or assistant state attorney's duty as a prosecutor or investigator, or the justice's or judge's duty as a judicial officer, as follows:

(1) For murder in the first degree as described in s. 782.04(1), if the death sentence is not imposed, a sentence of imprisonment for life without eligibility for release.

(2) For attempted murder in the first degree as described in s. 782.04(1), a sentence pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~.

(3) For murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~.

(4) For attempted murder in the second degree as described in s. 782.04(2) and (3), a sentence pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~.

(5) For murder in the third degree as described in s. 782.04(4), a sentence pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~.

(6) For attempted murder in the third degree as described in s. 782.04(4), a sentence pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~.

(7) For manslaughter as described in s. 782.07 during the commission of a crime, a sentence pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~.

(8) For kidnapping as described in s. 787.01, a sentence pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~.

(9) For aggravated battery as described in s. 784.045, a sentence pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~.

(10) For aggravated assault as described in s. 784.021, a sentence pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~.

Notwithstanding the provisions of s. 948.01, with respect to any person who is found to have violated this section, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld.

Section 12. Paragraphs (a) and (b) of subsection (3) and paragraph (g) of subsection (4) of section 775.084, Florida Statutes, 1996 Supplement, are amended to read:

775.084 Violent career criminals; habitual felony offenders and habitual violent felony offenders; definitions; procedure; enhanced penalties.—

(3)(a) In a separate proceeding, the court shall determine if the defendant is a habitual felony offender or a habitual violent felony offender. The procedure shall be as follows:

1. The court shall obtain and consider a presentence investigation prior to the imposition of a sentence as a habitual felony offender or a habitual violent felony offender.

2. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

3. Except as provided in subparagraph 1., all evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

4. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable to the extent normally applicable to similar findings.

5. For the purpose of identification of a habitual felony offender or a habitual violent felony offender, the court shall fingerprint the defendant pursuant to s. 921.241.

6. For an offense committed on or after October 1, 1995, if the state attorney pursues a habitual felony offender sanction or a habitual violent felony offender sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a habitual felony offender or a habitual violent felony offender, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a habitual felony offender or a habitual violent felony offender, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. ~~Each month, the court shall submit to the Sentencing Commission the written reasons or transcripts in each case in which the court determines not to impose a habitual felony offender sanction or a habitual violent felony offender sanction.~~

(b) In a separate proceeding, the court shall determine whether the defendant is a violent career criminal with respect to a primary offense committed on or after October 1, 1995. The procedure shall be as follows:

1. Written notice shall be served on the defendant and the defendant's attorney a sufficient time prior to the entry of a plea or prior to the imposition of sentence in order to allow the preparation of a submission on behalf of the defendant.

2. All evidence presented shall be presented in open court with full rights of confrontation, cross-examination, and representation by counsel.

3. Each of the findings required as the basis for such sentence shall be found to exist by a preponderance of the evidence and shall be appealable only as provided in paragraph (c).

4. For the purpose of identification, the court shall fingerprint the defendant pursuant to s. 921.241.

5. For an offense committed on or after October 1, 1995, if the state attorney pursues a violent career criminal sanction against the defendant and the court, in a separate proceeding pursuant to this paragraph, determines that the defendant meets the criteria under subsection (1) for imposing such sanction, the court must sentence the defendant as a violent career criminal, subject to imprisonment pursuant to this section unless the court finds that such sentence is not necessary for the protection of the public. If the court finds that it is not necessary for the protection of the public to sentence the defendant as a violent career criminal, the court shall provide written reasons; a written transcript of orally stated reasons is permissible, if filed by the court within 7 days after the date of sentencing. ~~Each month, the court shall submit to the Sentencing Commission the written reasons or transcripts in each case in which the court determines not to impose a violent career criminal sanction.~~

(4)

(g) A sentence imposed under this section is not subject to *s. 921.002* ~~s. 921.001~~.

Section 13. Section 775.0845, Florida Statutes, is amended to read:

775.0845 Wearing mask while committing offense; *reclassification* ~~enhanced penalties~~.—The *felony or misdemeanor degree of* ~~penalty for~~ any criminal offense, other than a violation of ss. 876.12-876.15, shall be *reclassified to the next higher degree* ~~increased~~ as provided in this section if, while committing the offense, the offender was wearing a hood, mask, or other device that concealed his *or her* identity.

(1)(a) *In the case of* a misdemeanor of the second degree, *the offense is reclassified to* ~~shall be punishable as if it were~~ a misdemeanor of the first degree.

(b) *In the case of* a misdemeanor of the first degree, *the offense is reclassified to* ~~shall be punishable as if it were~~ a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.

(2)(a) *In the case of* a felony of the third degree, *the offense is reclassified to* ~~shall be punishable as if it were~~ a felony of the second degree.

(b) *In the case of* a felony of the second degree, *the offense is reclassified to* ~~shall be punishable as if it were~~ a felony of the first degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense *that* ~~which~~ is reclassified under this subsection is ranked one level above the ranking under s. 921.0012, ~~or~~ s. 921.0013*, s. 921.0022, or s. 921.0023* of the offense committed.

Section 14. Subsection (1) of section 775.087, Florida Statutes, 1996 Supplement, is amended to read:

775.087 Possession or use of weapon; aggravated battery; felony reclassification; minimum sentence.—

(1) Unless otherwise provided by law, whenever a person is charged with a felony, except a felony in which the use of a weapon or firearm is an essential element, and during the commission of such felony the defendant carries, displays, uses, threatens, or attempts to use any weapon or firearm, or during the commission of such felony the defendant commits an aggravated battery, the felony for which the person is charged shall be reclassified as follows:

(a) In the case of a felony of the first degree, to a life felony.

(b) In the case of a felony of the second degree, to a felony of the first degree.

(c) In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense which is reclassified under this section is ranked one level above the ranking under *s. 921.0022* ~~s. 921.0012~~ or *s. 921.0023* ~~s. 921.0013~~ of the felony offense committed.

Section 15. Section 775.0875, Florida Statutes, 1996 Supplement, is amended to read:

775.0875 Unlawful taking, possession, or use of law enforcement officer's firearm; crime reclassification; penalties.—

(1) A person who, without authorization, takes a firearm from a law enforcement officer lawfully engaged in law enforcement duties commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) If a person violates subsection (1) and commits any other crime involving the firearm taken from the law enforcement officer, such crime shall be reclassified as follows:

(a)1. In the case of a felony of the first degree, to a life felony.

2. In the case of a felony of the second degree, to a felony of the first degree.

3. In the case of a felony of the third degree, to a felony of the second degree.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense that is reclassified under this paragraph is ranked one level above the ranking under *s. 921.0022* ~~s. 921.0012~~ or *s. 921.0023* ~~s. 921.0013~~ of the felony offense committed.

(b) In the case of a misdemeanor, to a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 2 of the offense severity ranking chart.

(3) A person who possesses a firearm that he or she knows was unlawfully taken from a law enforcement officer commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 16. Section 777.03, Florida Statutes, is amended to read:

777.03 Accessory after the fact.—

(1) Any person not standing in the relation of husband or wife, parent or grandparent, child or grandchild, brother or sister, by consanguinity or affinity to the offender, who maintains or assists the principal or accessory before the fact, or gives the offender any other aid, knowing that the offender had committed a felony or been accessory thereto before the fact, with intent that the offender avoids or escapes detection, arrest, trial or punishment, is an accessory after the fact.

(2)(a) If the felony offense committed is a capital felony, the offense of accessory after the fact is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(b) If the felony offense committed is a life felony or a felony of the first degree, the offense of accessory after the fact is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) If the felony offense committed is a felony of the second degree or a felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under *s. 921.0022* ~~s. 921.0012~~ or *s. 921.0023* ~~s. 921.0013~~, the offense of acces-

sory after the fact is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) If the felony offense committed is a felony of the third degree ranked in level 1 or level 2 under *s. 921.0022* ~~s. 921.0012~~ or *s. 921.0023* ~~s. 921.0013~~, the offense of accessory after the fact is a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(3) Except as otherwise provided in *s. 921.0022* ~~s. 921.0012~~, for purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, the offense of accessory after the fact is ranked two levels below the ranking under *s. 921.0022* ~~s. 921.0012~~ or *s. 921.0023* ~~s. 921.0013~~ of the felony offense committed.

Section 17. Section 777.04, Florida Statutes, is amended to read:

777.04 Attempts, solicitation, and conspiracy.—

(1) A person who attempts to commit an offense prohibited by law and in such attempt does any act toward the commission of such offense, but fails in the perpetration or is intercepted or prevented in the execution thereof, commits the offense of criminal attempt, ranked for purposes of sentencing as provided in subsection (4). Criminal attempt includes the act of an adult who, with intent to commit an offense prohibited by law, allures, seduces, coaxes, or induces a child under the age of 12 to engage in an offense prohibited by law.

(2) A person who solicits another to commit an offense prohibited by law and in the course of such solicitation commands, encourages, hires, or requests another person to engage in specific conduct which would constitute such offense or an attempt to commit such offense commits the offense of criminal solicitation, ranked for purposes of sentencing as provided in subsection (4).

(3) A person who agrees, conspires, combines, or confederates with another person or persons to commit any offense commits the offense of criminal conspiracy, ranked for purposes of sentencing as provided in subsection (4).

(4)(a) Except as otherwise provided in ss. 828.125(2), 849.25(4), 893.135(5), and *921.0022* ~~921.0012~~, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is ranked for purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944 one level below the ranking under *s. 921.0022* ~~s. 921.0012~~ or *s. 921.0023* ~~s. 921.0013~~ of the offense attempted, solicited, or conspired to. If the criminal attempt, criminal solicitation, or criminal conspiracy is of an offense ranked in level 1 or level 2 under *s. 921.0022* ~~s. 921.0012~~ or *s. 921.0023* ~~s. 921.0013~~, such offense is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) If the offense attempted, solicited, or conspired to is a capital felony, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Except as otherwise provided in s. 893.135(5), if the offense attempted, solicited, or conspired to is a life felony or a felony of the first degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(d) Except as otherwise provided in s. 828.125(2) or s. 849.25(4), if the offense attempted, solicited, or conspired to is a:

1. Felony of the second degree;

2. Burglary that is a felony of the third degree; or

3. Felony of the third degree ranked in level 3, 4, 5, 6, 7, 8, 9, or 10 under *s. 921.0022* ~~s. 921.0012~~ or *s. 921.0023* ~~s. 921.0013~~,

the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(e) Except as otherwise provided in s. 849.25(4) or paragraph (d), if the offense attempted, solicited, or conspired to is a felony of the third degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(f) If the offense attempted, solicited, or conspired to is a misdemeanor of the first or second degree, the offense of criminal attempt, criminal solicitation, or criminal conspiracy is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(5) It is a defense to a charge of criminal attempt, criminal solicitation, or criminal conspiracy that, under circumstances manifesting a complete and voluntary renunciation of his criminal purpose, the defendant:

(a) Abandoned his attempt to commit the offense or otherwise prevented its commission;

(b) After soliciting another person to commit an offense, persuaded such other person not to do so or otherwise prevented commission of the offense; or

(c) After conspiring with one or more persons to commit an offense, persuaded such persons not to do so or otherwise prevented commission of the offense.

Section 18. Section 782.051, Florida Statutes, 1996 Supplement, is amended to read:

782.051 Felony causing bodily injury.—

(1) Any person who perpetrates or attempts to perpetrate any felony enumerated in s. 782.04(3) and who commits, aids, or abets an act that causes bodily injury to another commits a felony of the first degree, punishable by imprisonment for a term of years not exceeding life, or as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level 9 of the *Criminal Punishment Code* ~~sentencing guidelines~~. Victim injury points shall be scored under this subsection.

(2) Any person who perpetrates or attempts to perpetrate any felony other than a felony enumerated in s. 782.04(3) and who commits, aids, or abets an act that causes bodily injury to another commits a felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level 8 of the *Criminal Punishment Code* ~~sentencing guidelines~~. Victim injury points shall be scored under this subsection.

(3) When a person is injured during the perpetration of or the attempt to perpetrate any felony enumerated in s. 782.04(3) by a person other than the person engaged in the perpetration of or the attempt to perpetrate such felony, the person perpetrating or attempting to perpetrate such felony commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, which is an offense ranked in level 7 of the *Criminal Punishment Code* ~~sentencing guidelines~~. Victim injury points shall be scored under this subsection.

Section 19. Subsection (1) of section 784.08, Florida Statutes, is amended to read:

784.08 Assault or battery on persons 65 years of age or older; reclassification of offenses; minimum sentence.—

(1) A person who is convicted of an aggravated assault or aggravated battery upon a person 65 years of age or older shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and fined not more than $10,000 and shall also be ordered by the sentencing judge to make restitution to the victim of such offense and to perform up to 500 hours of community service work. Restitution and community service work shall be in addition to any fine or sentence which may be imposed and shall not be in lieu thereof.

Section 20. Subsection (2) of section 794.023, Florida Statutes, is amended to read:

794.023 Sexual battery by multiple perpetrators; enhanced penalties.—

(2) The penalty for a violation of s. 794.011 shall be increased as provided in this subsection if it is charged and proven by the prosecution that, during the same criminal transaction or episode, more than one person committed an act of sexual battery on the same victim.

(a) A felony of the second degree shall be punishable as if it were a felony of the first degree.

(b) A felony of the first degree shall be punishable as if it were a life felony.

This subsection does not apply to life felonies or capital felonies. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, a felony offense *that* ~~which~~ is reclassified under this subsection is ranked one level above the ranking under *s. 921.0022* ~~s. 921.0012~~ or *s. 921.0023* ~~s. 921.0013~~ of the offense committed.

Section 21. Section 874.04, Florida Statutes, 1996 Supplement, is amended to read:

874.04 Criminal street gang activity; enhanced penalties.—Upon a finding by the court at sentencing that the defendant is a member of a criminal street gang, the penalty for any felony or misdemeanor, or any delinquent act or violation of law which would be a felony or misdemeanor if committed by an adult, may be enhanced if the offender was a member of a criminal street gang at the time of the commission of such offense. Each of the findings required as a basis for such sentence shall be found by a preponderance of the evidence. The enhancement will be as follows:

(1)(a) A misdemeanor of the second degree may be punished as if it were a misdemeanor of the first degree.

(b) A misdemeanor of the first degree may be punished as if it were a felony of the third degree. For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such offense is ranked in level 1 of the offense severity ranking chart. The criminal street gang multiplier in *s. 921.0024* ~~s. 921.0014~~ does not apply to misdemeanors enhanced under this paragraph.

(2)(a) A felony of the third degree may be punished as if it were a felony of the second degree.

(b) A felony of the second degree may be punished as if it were a felony of the first degree.

(c) A felony of the first degree may be punished as if it were a life felony.

For purposes of sentencing under chapter 921 and determining incentive gain-time eligibility under chapter 944, such felony offense is ranked as provided in *s. 921.0022* ~~s. 921.0012~~ or *s. 921.0023* ~~s. 921.0013~~, and without regard to the penalty enhancement in this subsection. For purposes of this section, penalty enhancement affects the applicable statutory maximum penalty only.

Section 22. Subsections (10) and (11) of section 893.13, Florida Statutes, 1996 Supplement, are amended to read:

893.13 Prohibited acts; penalties.—

(10) Notwithstanding any provision of the sentencing guidelines *or the Criminal Punishment Code* to the contrary, on or after October 1, 1993, any defendant who:

(a) Violates subparagraph (1)(a)1., subparagraph (1)(c)2., subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph (5)(a); and

(b) Has not previously been convicted, regardless of whether adjudication was withheld, of any felony, other than a violation of subparagraph (1)(a)1., subparagraph (1)(c)2., subparagraph (1)(d)2., subparagraph (2)(a)1., or paragraph (5)(a),

may be required by the court to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(1), in lieu of serving a term of imprisonment.

(11) Notwithstanding any provision of the sentencing guidelines *or the Criminal Punishment Code* to the contrary, on or after January 1, 1994, any defendant who:

(a) Violates subparagraph (1)(a)2., subparagraph (2)(a)2., paragraph (5)(b), or paragraph (6)(a); and

(b) Has not previously been convicted, regardless of whether adjudication was withheld, of any felony, other than a violation of subparagraph (1)(a)2., subparagraph (2)(a)2., paragraph (5)(b), or paragraph (6)(a),

may be required by the court to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(2), in lieu of serving a term of imprisonment.

Section 23. Subsection (1) of section 893.135, Florida Statutes, 1996 Supplement, is amended to read:

893.135 Trafficking; mandatory sentences; suspension or reduction of sentences; conspiracy to engage in trafficking.—

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

(a) Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, in excess of 50 pounds of cannabis commits a felony of the first degree, which felony shall be known as "trafficking in cannabis." If the quantity of cannabis involved:

1. Is in excess of 50 pounds, but less than 2,000 pounds, such person shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and pay a fine of $25,000.

2. Is 2,000 pounds or more, but less than 10,000 pounds, such person shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and pay a fine of $50,000.

3. Is 10,000 pounds or more, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $200,000.

(b)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of cocaine, as described in s. 893.03(2)(a)4., or of any mixture containing cocaine, but less than 150 kilograms of cocaine or any such mixture, commits a felony of the first degree, which felony shall be known as "trafficking in cocaine." If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and pay a fine of $50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and pay a fine of $100,000.

c. Is 400 grams or more, but less than 150 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 150 kilograms or more, but less than 300 kilograms, of cocaine, as described in s. 893.03(2)(a)4., commits the first degree felony of trafficking in cocaine. A person who has been convicted of the first degree felony of trafficking in cocaine under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in cocaine, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

3. Any person who knowingly brings into this state 300 kilograms or more of cocaine, as described in s. 893.03(2)(a)4., and who knows that the probable result of such importation would be the death of any person, commits capital importation of cocaine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(c)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 4 grams or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 4 grams or more of any mixture containing any such substance, but less than 30 kilograms of such substance or mixture, commits a felony of the first degree, which felony shall be known as "trafficking in illegal drugs." If the quantity involved:

a. Is 4 grams or more, but less than 14 grams, such person shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and pay a fine of $50,000.

b. Is 14 grams or more, but less than 28 grams, such person shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and pay a fine of $100,000.

c. Is 28 grams or more, but less than 30 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 25 calendar years and pay a fine of $500,000.

2. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 30 kilograms or more, but less than 60 kilograms, of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 30 kilograms or more, but less than 60 kilograms, of any mixture containing any such substance, commits the first degree felony of trafficking in illegal drugs. A person who has been convicted of the first degree felony of trafficking in illegal drugs under this subparagraph shall be punished by life imprisonment and is ineligible for any form of discretionary early release except pardon or executive clemency or conditional medical release under s. 947.149. However, if the court determines that, in addition to committing any act specified in this paragraph:

a. The person intentionally killed an individual or counseled, commanded, induced, procured, or caused the intentional killing of an individual and such killing was the result; or

b. The person's conduct in committing that act led to a natural, though not inevitable, lethal result,

such person commits the capital felony of trafficking in illegal drugs, punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

3. Any person who knowingly brings into this state 60 kilograms or more of any morphine, opium, oxycodone, hydrocodone, hydromorphone, or any salt, derivative, isomer, or salt of an isomer thereof, including heroin, as described in s. 893.03(1)(b) or (2)(a), or 60 kilograms or more of any mixture containing any such substance, and who knows that the probable result of such importation would be the death of any person, commits capital importation of illegal drugs, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(d)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 28 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), commits a felony of the first degree, which felony shall be known as "trafficking in phencyclidine." If the quantity involved:

a. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and pay a fine of $50,000.

b. Is 200 grams or more, but less than 400 grams, such person shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and pay a fine of $100,000.

c. Is 400 grams or more, but less than 800 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly brings into this state 800 grams or more of phencyclidine or of any mixture containing phencyclidine, as described in s. 893.03(2)(b), and who knows that the probable result of such importation would be the death of any person commits capital importation of phencyclidine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(e)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 200 grams or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), commits a felony of the first degree, which felony shall be known as "trafficking in methaqualone." If the quantity involved:

a. Is 200 grams or more, but less than 5 kilograms, such person shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and pay a fine of $50,000.

b. Is 5 kilograms or more, but less than 25 kilograms, such person shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and pay a fine of $100,000.

c. Is 25 kilograms or more, but less than 50 kilograms, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly brings into this state 50 kilograms or more of methaqualone or of any mixture containing methaqualone, as described in s. 893.03(1)(d), and who knows that the probable result of such importation would be the death of any person commits capital importation of methaqualone, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

(f)1. Any person who knowingly sells, purchases, manufactures, delivers, or brings into this state, or who is knowingly in actual or constructive possession of, 14 grams or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, or ephedrine in conjunction with other chemicals and equipment utilized in the manufacture of amphetamine or methamphetamine, commits a felony of the first degree, which felony shall be known as "trafficking in amphetamine." If the quantity involved:

a. Is 14 grams or more, but less than 28 grams, such person shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and pay a fine of $50,000.

b. Is 28 grams or more, but less than 200 grams, such person shall be sentenced pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and pay a fine of $100,000.

c. Is 200 grams or more, but less than 400 grams, such person shall be sentenced to a mandatory minimum term of imprisonment of 15 calendar years and pay a fine of $250,000.

2. Any person who knowingly brings into this state 400 grams or more of amphetamine, as described in s. 893.03(2)(c)2., or methamphetamine, as described in s. 893.03(2)(c)4., or of any mixture containing amphetamine or methamphetamine, or phenylacetone, phenylacetic acid, or ephedrine in conjunction with other chemicals and equipment utilized in the manufacture of amphetamine or methamphetamine, and who knows that the probable result of such importation would be the death of any person commits capital importation of amphetamine, a capital felony punishable as provided in ss. 775.082 and 921.142. Any person sentenced for a capital felony under this paragraph shall also be sentenced to pay the maximum fine provided under subparagraph 1.

Section 24. Subsection (2) of section 893.20, Florida Statutes, is amended to read:

893.20 Continuing criminal enterprise.—

(2) A person who commits the offense of engaging in a continuing criminal enterprise is guilty of a life felony, punishable pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~ and by a fine of $500,000.

Section 25. Paragraph (b) of subsection (1) of section 921.187, Florida Statutes, 1996 Supplement, is amended to read:

921.187 Disposition and sentencing; alternatives; restitution.—

(1) The alternatives provided in this section for the disposition of criminal cases shall be used in a manner that will best serve the needs of society, punish criminal offenders, and provide the opportunity for rehabilitation.

(b)1. Notwithstanding any provision of *former* s. 921.001 *or s. 921.002* to the contrary, on or after October 1, 1993, the court may require any defendant who violates s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), and meets the criteria described in s. 893.13(10), to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(1), in lieu of serving a term of imprisonment.

2. Notwithstanding any provision of *former* s. 921.001 *or s. 921.002* to the contrary, on or after October 1, 1993, the court may require any defendant who violates s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), and meets the criteria described in s. 893.13(11), to successfully complete a term of probation pursuant to the terms and conditions set forth in s. 948.034(2), in lieu of serving a term of imprisonment.

Section 26. Section 921.188, Florida Statutes, is amended to read:

921.188 Placement of certain state inmates in local detention facilities.—Effective June 17, 1993, notwithstanding the provisions of ss. 775.08, *former* 921.001, *921.002*, 921.187, 944.02, and 951.23, or any other law to the contrary, a person whose presumptive sentence is 1 year and 1 day up to 22 months in a state correctional institution may be placed by the court into the custody of a local detention facility as a condition of probation or community control for a felony offense contained in sentencing guidelines categories five through nine contained in Rules 3.701 and 3.988, Florida Rules of Criminal Procedure, or similar levels described in *s. 921.0022* ~~s. 921.0012~~, except for such person whose total sentence points are greater than 52 or less than 40. The court may place such person for the duration of the presumptive sentence. The court may only place a person in a local detention facility pursuant to this section if there is a contractual agreement between the chief correctional officer of that county and the Department of Corrections. The contract may include all operational functions, or only housing wherein the department would provide staffing and medical costs. The agreement must provide for a per diem or partial per diem reimbursement for each person placed under this section, which is payable by the Department of Corrections for the duration of the offender's placement in the facility. The full per diem reimbursement may not exceed the per diem published in the Department of Corrections' most recent annual report for total department facilities. This section does not limit the court's ability to place a person in a local detention facility for less than 1 year.

Section 27. Subsection (1) of section 924.06, Florida Statutes, 1996 Supplement, is amended to read:

924.06 Appeal by defendant.—

(1) A defendant may appeal from:

(a) A final judgment of conviction when probation has not been granted under chapter 948, except as provided in subsection (3);

(b) An order granting probation under chapter 948;

(c) An order revoking probation under chapter 948; *or*

(d) A sentence, on the ground that it is illegal.~~; or~~

~~(e) A sentence imposed outside the range permitted by the guidelines authorized by chapter 921.~~

Section 28. Paragraph (i) of subsection (1) of section 924.07, Florida Statutes, 1996 Supplement, is amended to read:

924.07 Appeal by state.—

(1) The state may appeal from:

(i) A sentence imposed *below* ~~outside~~ the range permitted by the *Criminal Punishment Code under* ~~guidelines authorized by~~ chapter 921.

Section 29. Paragraph (e) of subsection (5) of section 944.17, Florida Statutes, is amended to read:

944.17 Commitments and classification; transfers.—

(5) The department shall also refuse to accept a person into the state correctional system unless the following documents are presented in a completed form by the sheriff or chief correctional officer, or a designated representative, to the officer in charge of the reception process:

(e) A copy of the *Criminal Punishment Code* ~~sentencing guidelines~~ scoresheet and any attachments thereto prepared pursuant to Rule 3.701, Florida Rules of Criminal Procedure.

Section 30. Subsection (5) of section 947.141, Florida Statutes, is amended to read:

947.141 Violations of conditional release, control release, or conditional medical release.—

(5) Effective for inmates whose offenses were committed on or after July 1, 1995, notwithstanding the provisions of ss. 775.08, *former* 921.001, *921.002*, 921.187, 921.188, 944.02, and 951.23, or any other law to the contrary, by such order as provided in subsection (4), the panel, upon a finding of guilt, may, as a condition of continued supervision, place the releasee in a local detention facility for a period of incarceration not to exceed 22 months. Prior to the expiration of the term of incarceration, or upon recommendation of the chief correctional officer of that county, the commission shall cause inquiry into the inmate's release plan and custody status in the detention facility and consider whether to restore the inmate to supervision, modify the conditions of supervision, or enter an order of revocation, thereby causing the return of the inmate to prison to serve the sentence imposed. The provisions of this section do not prohibit the panel from entering such other order or conducting any investigation that it deems proper. The commission may only place a person in a local detention facility pursuant to this section if there is a contractual agreement between the chief correctional officer of that county and the Department of Corrections. The agreement must provide for a per diem reimbursement for each person placed under this section, which is payable by the Department of Corrections for the duration of the offender's placement in the facility. This section does not limit the commission's ability to place a person in a local detention facility for less than 1 year.

Section 31. Subsection (3) of section 947.146, Florida Statutes, 1996 Supplement, is amended to read:

947.146 Control Release Authority.—

(3) Within 120 days prior to the date the state correctional system is projected pursuant to s. 216.136 to exceed 99 percent of total capacity, the authority shall determine eligibility for and establish a control release date for an appropriate number of parole ineligible inmates committed to the department and incarcerated within the state who have been determined by the authority to be eligible for discretionary early release pursuant to this section. In establishing control release dates, it is the intent of the Legislature that the authority prioritize consideration of eligible inmates closest to their tentative release date. The authority shall rely upon commitment data on the offender information system maintained by the department to initially identify inmates who are to be reviewed for control release consideration. The authority may use a method of objective risk assessment in determining if an eligible inmate should be released. Such assessment shall be a part of the department's management information system. However, the authority shall have sole responsibility for determining control release eligibility, establishing a control release date, and effectuating the release of a sufficient number of inmates to maintain the inmate population between 99 percent and 100 percent of total capacity. Inmates who are ineligible for control release are inmates who are parole eligible or inmates who:

(a) Are serving a sentence that includes a mandatory minimum provision for a capital offense or drug trafficking offense and have not served the number of days equal to the mandatory minimum term less any jail-time credit awarded by the court;

(b) Are serving the mandatory minimum portion of a sentence enhanced under s. 775.087(2) or (3), or s. 784.07(3);

(c) Are convicted, or have been previously convicted, of committing or attempting to commit sexual battery, incest, or any of the following lewd or indecent assaults or acts: masturbating in public; exposing the sexual organs in a perverted manner; or nonconsensual handling or fondling of the sexual organs of another person;

(d) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, or aggravated battery, and a sex act was attempted or completed during commission of such offense;

(e) Are convicted, or have been previously convicted, of committing or attempting to commit kidnapping, burglary, or murder, and the offense was committed with the intent to commit sexual battery or a sex act was attempted or completed during commission of the offense;

(f) Are convicted, or have been previously convicted, of committing or attempting to commit false imprisonment upon a child under the age of 13 and, in the course of committing the offense, the inmate committed aggravated child abuse, sexual battery against the child, or a lewd, lascivious, or indecent assault or act upon or in the presence of the child;

(g) Are sentenced, have previously been sentenced, or have been sentenced at any time under s. 775.084, or have been sentenced at any time in another jurisdiction as a habitual offender;

(h) Are convicted, or have been previously convicted, of committing or attempting to commit assault, aggravated assault, battery, aggravated battery, kidnapping, manslaughter, or murder against an officer as defined in s. 943.10(1), (2), (3), (6), (7), (8), or (9); against a state attorney or assistant state attorney; or against a justice or judge of a court described in Art. V of the State Constitution; or against an officer, judge, or state attorney employed in a comparable position by any other jurisdiction;

(i) Are convicted, or have been previously convicted, of committing or attempting to commit murder in the first, second, or third degree under s. 782.04(1), (2), (3), or (4), or have ever been convicted of any degree of murder or attempted murder in another jurisdiction;

(j) Are convicted, or have been previously convicted, of DUI manslaughter under s. 316.193(3)(c)3., and are sentenced, or have been sentenced at any time, as a habitual offender for such offense, or have been sentenced at any time in another jurisdiction as a habitual offender for such offense;

(k)1. Are serving a sentence for an offense committed on or after January 1, 1994, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), or (5), and the subtotal of the offender's sentence points is multiplied pursuant to *former* s. 921.0014 *or s. 921.0024*;

2. Are serving a sentence for an offense committed on or after October 1, 1995, for a violation of the Law Enforcement Protection Act under s. 775.0823(2), (3), (4), (5), (6), (7), or (8), and the subtotal of the offender's sentence points is multiplied pursuant to *former* s. 921.0014 *or s. 921.0024*;

(l) Are serving a sentence for an offense committed on or after January 1, 1994, for possession of a firearm, semiautomatic firearm, or machine gun in which additional points are added to the subtotal of the offender's sentence points pursuant to *former* s. 921.0014 *or s. 921.0024*; or

(m) Are convicted, or have been previously convicted, of committing or attempting to commit manslaughter, kidnapping, robbery, carjacking, home-invasion robbery, or a burglary under s. 810.02(2).

In making control release eligibility determinations under this subsection, the authority may rely on any document leading to or generated during the course of the criminal proceedings, including, but not limited to, any presentence or postsentence investigation or any information contained in arrest reports relating to circumstances of the offense.

Section 32. Subsection (1) of section 947.168, Florida Statutes, is amended to read:

947.168 Consideration for persons serving parole-eligible and parole-ineligible sentences.—

(1) A person serving a parole-eligible sentence who subsequently receives a parole-ineligible sentence ~~pursuant to s. 921.001(10)~~ shall be considered for parole on the parole-eligible sentence.

Section 33. Section 948.015, Florida Statutes, is amended to read:

948.015 Presentence investigation reports.—The circuit court, when the defendant in a criminal case has been found guilty or has entered a plea of nolo contendere or guilty and has a recommended sentence under the *Criminal Punishment Code* ~~sentencing guidelines~~ of any nonstate prison sanction, may refer the case to the department for investigation or recommendation. Upon such referral, the department shall make the following report in writing at a time specified by the court prior to sentencing. The full report shall include:

(1) A complete description of the situation surrounding the criminal activity with which the offender has been charged, including a synopsis of the trial transcript, if one has been made; nature of the plea agreement, including the number of counts waived, the pleas agreed upon, the sentence agreed upon, and any additional terms of agreement; and, at the offender's discretion, his version and explanation of the criminal activity.

(2) The offender's sentencing status, including whether the offender is a first offender, a habitual or violent offender, a youthful offender, or is currently on probation.

(3) The offender's prior record of arrests and convictions.

(4) The offender's educational background.

(5) The offender's employment background, including any military record, his present employment status, and his occupational capabilities.

(6) The offender's financial status, including total monthly income and estimated total debts.

(7) The social history of the offender, including his family relationships, marital status, interests, and activities.

(8) The residence history of the offender.

(9) The offender's medical history and, as appropriate, a psychological or psychiatric evaluation.

(10) Information about the environments to which the offender might return or to which he could be sent should a sentence of nonincarceration or community supervision be imposed by the court, and consideration of the offender's plan concerning employment supervision and treatment.

(11) Information about any resources available to assist the offender, such as:

(a) Treatment centers.
(b) Residential facilities.
(c) Vocational training programs.
(d) Special education programs.
(e) Services that may preclude or supplement commitment to the department.

(12) The views of the person preparing the report as to the offender's motivations and ambitions and an assessment of the offender's explanations for his criminal activity.

(13) An explanation of the offender's criminal record, if any, including his version and explanation of any previous offenses.

(14) A statement regarding the extent of any victim's loss or injury.

(15) A recommendation as to disposition by the court. The department shall make a written determination as to the reasons for its recommendation, and shall include an evaluation of the following factors:

(a) The appropriateness or inappropriateness of community facilities, programs, or services for treatment or supervision for the offender.

(b) The ability or inability of the department to provide an adequate level of supervision for the offender in the community and a statement of what constitutes an adequate level of supervision.

(c) The existence of other treatment modalities which the offender could use but which do not exist at present in the community.

Section 34. Subsections (1) and (2) of section 948.034, Florida Statutes, are amended to read:

948.034 Terms and conditions of probation; community residential drug punishment centers.—

(1) On or after October 1, 1993, any person who violates s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a) may, in the discretion of the trial court, be required to successfully complete a term of probation in lieu of serving a term of imprisonment as required or authorized by s. 775.084, *former* ~~or~~ s. 921.001, *or s. 921.002,* as follows:

(a) If the person has not previously been convicted of violating s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), adjudication may be withheld and the offender may be placed on probation for not less than 18 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 90 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than $500 nor more than $10,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a substance abuse education program of at least 40 hours or a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 100 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(b) If the person has been previously convicted of one felony violation of s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 24 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 180 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than $1,000 nor more than $10,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a substance abuse education program of at least 40 hours or a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 200 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(c) If the person has been previously convicted of two felony violations of s. 893.13(1)(a)1., (1)(c)2., (1)(d)2., (2)(a)1., or (5)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 36 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 360 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than $1,500 nor more than $10,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a substance abuse education program of at least 40 hours or a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 300 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(d) An offender who violates probation imposed pursuant to this section shall be sentenced in accordance with *s. 921.002* ~~s. 921.001~~.

(2) On or after October 1, 1993, any person who violates s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a) may, in the discretion of the trial court, be required to successfully complete a term of probation in lieu of serving a term of imprisonment as required or authorized by s. 775.084, *former* ~~or~~ s. 921.001, *or s. 921.002,* as follows:

(a) If the person has not previously been convicted of violating s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), adjudication may be withheld and the offender shall be placed on probation for not less than 12 months, as a condition of which the court may require the offender to comply with one or more of the following terms and conditions:

1. Pay a fine of not less than $250 nor more than $5,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a substance abuse education program of at least 40 hours or a prescribed substance

abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 50 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(b) If the person has been previously convicted of one felony violation of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 18 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 90 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than $500 nor more than $5,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a substance abuse intervention program of a least 80 hours provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 100 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(c) If the person has been previously convicted of two felony violations of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 24 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 120 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than $1,000 nor more than $5,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 150 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(d) If the person has been previously convicted of three felony violations of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 30 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 200 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than $1,500 nor more than $5,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 200 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(e) If the person has been previously convicted of four felony violations of s. 893.13(1)(a)2., (2)(a)2., (5)(b), or (6)(a), adjudication may not be withheld and the offender may be placed on probation for not less than 36 months, as a condition of which the court shall require the offender to reside at a community residential drug punishment center for 360 days. The offender must comply with all rules and regulations of the center and must pay a fee for the costs of room and board and residential supervision. Placement of an offender into a community residential drug punishment center is subject to budgetary considerations and availability of bed space. If the court requires the offender to reside at a community residential drug punishment center, the court shall also require the offender to comply with one or more of the other following terms and conditions:

1. Pay a fine of not less than $2,000 nor more than $5,000 pursuant to s. 775.083(1)(c).

2. Enter, regularly attend, and successfully complete a prescribed substance abuse treatment program provided by a treatment resource licensed pursuant to chapter 396 or chapter 397 or by a hospital licensed pursuant to chapter 395, as specified by the court. In addition, the court may refer the offender to a licensed agency for substance abuse evaluation and, if appropriate, substance abuse treatment subject to the ability of the offender to pay for such evaluation and treatment. If such referral is made, the offender must comply and must pay for the reasonable cost of the evaluation and treatment.

3. Perform at least 250 hours of public service.

4. Submit to routine and random drug testing which may be conducted during the probationary period, with the reasonable costs thereof borne by the offender.

5. Participate, at his own expense, in an appropriate self-help group, such as Narcotics Anonymous, Alcoholics Anonymous, or Cocaine Anonymous, if available.

(f) An offender who violates probation imposed pursuant to this section shall be sentenced in accordance with *s. 921.002* ~~s. 921.001~~.

Section 35. Paragraph (c) of subsection (2) of section 948.51, Florida Statutes, is amended to read:

948.51 Community corrections assistance to counties or county consortiums.—

(2) ELIGIBILITY OF COUNTIES AND COUNTY CONSORTIUMS.—A county, or a consortium of two or more counties, may contract with the Department of Corrections for community corrections funds as provided in this section. In order to enter into a community corrections partnership contract, a county or county consortium must have a public safety coordinating council established under s. 951.26 and must designate a county officer or agency to be responsible for administering community corrections funds received from the state. The public safety coordinating council shall prepare, develop, and implement a comprehensive public safety plan for the county, or the geographic area represented by the county consortium, and shall submit an annual report to the Department of Corrections concerning the status of the program. In preparing the comprehensive public safety plan, the public safety coordinating council shall cooperate with the district juvenile justice board and the county juvenile justice council, established under s. 39.025, in order to include programs and services for juveniles in the plan. To be eligible for community corrections funds under the contract, the initial public safety plan must be approved by the governing board of the county, or the governing board of each county within the consortium, and the Secretary of Corrections based on the requirements of this section. If one or more other counties develop a unified public safety plan, the public safety coordinating council shall submit a single application to the department for funding. Continued contract funding shall be pursuant to subsection (6). The plan for a county or county consortium must cover at least a 5-year period and must include:

(c) Specific goals and objectives for reducing the projected percentage of commitments to the state prison system of persons with sentencing scores of 40 to 52 points, inclusive, pursuant to the *Criminal Punishment Code* ~~sentencing guidelines~~.

Section 36. Subsection (3) of section 958.04, Florida Statutes, 1996 Supplement, is amended to read:

958.04 Judicial disposition of youthful offenders.—

(3) The provisions of this section shall not be used to impose a greater sentence than the maximum recommended range as established by *the Criminal Punishment Code* ~~statewide sentencing guidelines~~ pursuant to chapter 921 unless reasons are explained in writing by the trial court judge which reasonably justify departure. A sentence imposed outside of *the code is* ~~such guidelines shall be~~ subject to appeal pursuant to ~~s. 924.06 or~~ s. 924.07.

Section 37. Effective October 1, 1997, subsection (3) of section 921.0014, Florida Statutes, as amended by section 22 of chapter 96-388, Laws of Florida, is amended to read:

921.0014 Sentencing guidelines; worksheet computations; scoresheets.—

(3) A single guidelines scoresheet shall be prepared for each defendant, except that if the defendant is before the court for sentencing for more than one felony and the felonies were committed under more than one version or revision of the guidelines, separate scoresheets must be prepared pursuant to s. 921.001(4)(b). The scoresheet or scoresheets must cover all the defendant's offenses pending before the court for sentencing. *Either the office of the state attorney or* the Department of Corrections, *or both where appropriate,* shall prepare the scoresheet or scoresheets, which must be presented to ~~the state attorney and~~ the defense counsel for review for accuracy in all cases unless the judge directs otherwise. The defendant's scoresheet or scoresheets must be approved and signed by the sentencing judge.

Section 38. Subsection (1) of section 397.705, Florida Statutes, is amended to read:

397.705 Referral of substance abuse impaired offenders to service providers.—

(1) AUTHORITY TO REFER.—If any offender, including but not limited to any minor, is charged with or convicted of a crime, the court or criminal justice authority with jurisdiction over that offender may require the offender to receive services from a service provider licensed under this chapter. If referred by the court, the referral *shall* ~~may~~ be ~~instead of or~~ in addition to final adjudication, imposition of penalty or sentence, or other action. The court may consult with or seek the assistance of a service provider concerning such a referral. Assignment to a service provider is contingent upon availability of space, budgetary considerations, and manageability of the offender.

Section 39. Section 893.15, Florida Statutes, is amended to read:

893.15 Rehabilitation.—Any person who violates s. 893.13(6)(a) or (b) relating to possession may, in the discretion of the trial judge, be required to participate in a substance abuse services program approved or regulated by the Department of Health and Rehabilitative Services pursuant to the provisions of chapter 397, provided the director of such program approves the placement of the defendant in such program. Such required participation *shall* ~~may~~ be imposed in addition to~~, or in lieu of,~~ any penalty or probation otherwise prescribed by law. However, the total time of such penalty, probation, and program participation shall not exceed the maximum length of sentence possible for the offense.

Section 40. Subsection (5) of section 921.001, Florida Statutes, is amended to read:

921.001 Sentencing Commission and sentencing guidelines generally.—

(5) Sentences imposed by trial court judges under the 1994 revised sentencing guidelines on or after January 1, 1994, must be within the 1994 guidelines unless there is a departure sentence with written findings. *However, a person sentenced for a felony committed on or after July 1, 1997, who has at least one prior felony conviction and whose recommended sentence is any nonstate prison sanction may be sentenced to community control or a term of incarceration not to exceed 22 months. A person sentenced for a felony committed on or after July 1, 1997, who has at least one prior felony conviction and whose minimum recommended sentence is less than 22 months in state prison may be sentenced to a term of incarceration not to exceed 22 months. As used in this subsection, the term "conviction" means a determination of guilt which is the result of a plea or a trial, regardless of whether adjudication is withheld. Such sentence is not subject to appeal.* If a recommended sentence under the guidelines exceeds the maximum sentence otherwise authorized by s. 775.082, the sentence under the guidelines must be imposed, absent a departure. If a departure sentence, with written findings, is imposed, such sentence must be within any relevant maximum sentence limitations provided in s. 775.082. The failure of a trial court to impose a sentence within the sentencing guidelines is subject to appellate review pursuant to chapter 924, *except as otherwise provided in this subsection*. However, the extent of a departure from a guidelines sentence is not subject to appellate review.

Section 41. Paragraph (d) of subsection (4) of section 921.0016, Florida Statutes, 1996 Supplement, is amended, and subsection (5) is added to that section, to read:

921.0016 Recommended sentences; departure sentences; aggravating and mitigating circumstances.—

(4) Mitigating circumstances under which a departure from the sentencing guidelines is reasonably justified include, but are not limited to:

(d) The defendant requires specialized treatment for *a* ~~addiction,~~ mental disorder *that is unrelated to substance abuse or addiction*~~,~~ or *for a* physical disability, and the defendant is amenable to treatment.

(5) A defendant's substance abuse or addiction, including intoxication at the time of the offense, is not a mitigating factor under subsection (4) and does not, under any circumstances, justify a downward departure from the sentence recommended under the sentencing guidelines.

Section 42. *The Florida Criminal Punishment Code applies to all felonies, except capital felonies, committed on or after October 1, 1998. Any revision to the Criminal Punishment Code applies to sentencing for all felonies, except capital felonies, committed on or after the effective date of the revision. Felonies, except capital felonies, with continuing dates of enterprise shall be sentenced under the Criminal Punishment Code in effect on the beginning date of the criminal activity.*

Section 43. *The Division of Statutory Revision of the Joint Legislative Management Committee shall leave the repealed statutory provisions referenced herein in the Florida Statutes for 10 years from October 1, 1998.*

Section 44. Unless otherwise expressly provided in this act, sections 1 through 12, sections 14 through 36, and sections 42 and 43 shall take effect October 1, 1998; this section and section 13 shall take effect upon becoming a law; and the remaining sections of this act shall take effect July 1, 1997.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to criminal justice; repealing ss. 921.0001, 921.001, 921.0011, 921.0012, 921.0013, 921.0014, 921.0015, 921.0016, 921.005, F.S., relating to the statewide sentencing guidelines; providing for application; creating the Florida Criminal Punishment Code; providing for the code to apply to felonies committed on or after a specified date; creating s. 921.002, F.S.; providing for the Legislature to develop, implement, and revise a sentencing policy; specifying the principles embodied by the Criminal Punishment Code; providing requirements for sentencing a defendant for more than one felony; authorizing a court to impose a sentence below the permissible sentencing range; specifying the level of proof required to justify such a sentence; creating s. 921.0021, F.S.; providing definitions; creating s. 921.0022, F.S.; providing an offense severity ranking chart to be used in computing a sentence score for a felony offender; creating s. 921.0023, F.S.; providing for ranking felony offenses that are unlisted on the severity ranking chart; creating s. 921.0024, F.S.; providing a worksheet for computing sentence points under the Criminal Punishment Code; providing for points to be assessed based on the offender's legal status; providing for sentencing multipliers; providing requirements for the state attorney and the Department of Corrections in preparing scoresheets; requiring the clerk of the circuit court to distribute scoresheets and transmit copies to the Department of Corrections; creating s. 921.0026, F.S.; specifying circumstances that constitute mitigating circumstances for purposes of sentencing; amending s. 20.315, F.S.; deleting a requirement that the Florida Corrections Commission review proposed changes to the statewide sentencing guidelines; amending s. 39.0581, F.S.; providing for the criteria under which a juvenile is committed to a maximum-risk residential program to be based on the ranking of the offense under the Criminal Punishment Code; amending s. 775.0823, F.S.; providing for a person convicted of certain violent offenses against a law enforcement officer, correctional officer, state attorney, assistant state attorney, justice, or judge to be sentenced under the Criminal Punishment Code; amending s. 775.084, F.S.; deleting a requirement that the courts submit reports to the Sentencing Commission; conforming a reference to changes made by the act; amending ss. 775.0845, 775.087, 775.0875, F.S., relating to wearing a mask while committing an offense, possessing a weapon while committing a felony, and taking a law enforcement officer's firearm; requiring that such offenses be ranked under the Criminal Punishment Code; amending s. 777.03, F.S., relating to the offense of being an accessory to a crime; providing for ranking such offense; amending s. 777.04, F.S.; requiring that a person convicted of criminal attempt, criminal solicitation, or criminal conspiracy be sentenced under the Criminal Punishment Code; amending s. 782.051, F.S.; requiring that certain offenses that result in bodily injury be ranked under the Criminal Punishment Code; amending s. 784.08, F.S.; requiring that a person convicted of assault and battery against an elderly person be sentenced under the Criminal Punishment Code; amending ss. 794.023, 874.04, F.S., relating to sexual battery by multiple perpetrators and to criminal street-gang activity; requiring that such offenses be ranked under the offense severity ranking chart of the Criminal Punishment Code; amending s. 893.13, F.S., relating to the offense of selling, manufacturing, or possessing certain controlled substances; conforming provisions to changes made by the act; amending s. 893.135, F.S.; requiring that a person convicted of certain drug-trafficking offenses be sentenced under the Criminal Punishment Code; amending s. 893.20, F.S.; requiring that a person convicted of engaging in a continuing criminal enterprise be sentenced under the Criminal Punishment Code; amending s. 921.187, F.S., relating to disposition and sentencing; conforming provisions to changes made by the act; amending s. 921.188, F.S.; providing certain conditions based on the Criminal Punishment Code under which a felon may be placed in a local detention facility; amending ss. 924.06, 924.07, F.S., relating to appeals; deleting a provision that allows a defendant to appeal a sentence imposed outside a range formerly permitted under chapter 921, F.S.; authorizing the state to appeal a sentence imposed below the range permitted by the Criminal Punishment Code; amending s. 944.17, F.S.; requiring that the sentencing scoresheet for a prisoner be submitted to the Department of Corrections; amending ss. 947.141, 947.146, 947.168, F.S., relating to violations of conditional release or control release and parole eligibility; conforming provisions to changes made by the act; amending s. 948.015, F.S., relating to presentence reports; conforming provisions to changes made by the act; amending s. 948.034, F.S., relating to terms and conditions of probation; conforming references; amending s. 948.51, F.S.; revising requirements for a county or county consortium in developing a public safety plan to conform to changes made by the act; amending s. 958.04, F.S., relating to judicial disposition of youthful offenders; providing certain limitations on sentences based on the Criminal Punishment Code; amending s. 921.0014, F.S.; providing requirements for the state attorney with respect to preparing sentencing scoresheets; amending ss. 397.705, 893.15, F.S.; requiring that a referral of an offender to a treatment provider or to drug rehabilitation be in addition to adjudication or imposition of sentence rather than as an alternative to adjudication or imposition of sentence; amending s. 921.001, F.S.; providing for certain persons sentenced on or after a specified date whose recommended sentence is a nonstate prison sanction or less than 22 months to be eligible for incarceration up to a specified period; providing that capital felonies are excluded from the punishment code; providing clarification for application of future code revisions; amending s. 921.0016, F.S.; deleting a provision that allows and expressly prohibits addiction to be a mitigating circumstance for purposes of sentencing; providing a directive to the Division of Statutory Revision to maintain certain repealed provisions in the Florida Statutes for ten years; providing effective dates.

On motion by Senator Horne, by two-thirds vote **CS for HB 241** as amended was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—40

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Scott
Campbell	Forman	Klein	Silver
Casas	Grant	Kurth	Sullivan
Childers	Gutman	Latvala	Thomas
Clary	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams

Nays—None

CS for CS for HB 1371—A bill to be entitled An act relating to criminal justice; creating the "Prison Releasee Reoffender Punishment Act"; amending s. 775.082, F.S.; defining "prison releasee reoffender"; providing that certain reoffenders are ineligible for sentencing under the sentencing guidelines under specified circumstances when the reoffender has been released from correctional custody and, within 3 years of being released, commits treason, murder, manslaughter, sexual battery, carjacking, home-invasion robbery, robbery, arson, kidnapping, aggravated assault, aggravated battery, aggravated stalking, aircraft piracy, unlawful throwing, placing, or discharging of a destructive device or bomb, a felony involving the use or threat of physical force or violence against an individual, armed burglary, burglary of an occupied structure or dwelling, burglary when the person has two prior felony convictions, or a felony violation of s. 790.07, F.S., relating to having weapons while engaged in criminal offense, s. 800.04, F.S., relating to lewd, lascivious, or indecent assault or act upon or in presence of child, s. 827.03, F.S., relating to abuse, aggravated abuse, or neglect of child, or s. 827.071, F.S., relating to sexual performance by a child; providing for such reoffender to be sentenced to specified mandatory minimum sentences; making such reoffender ineligible for parole, probation, or early release;

providing for forfeiture by the reoffender of gain-time or other early release credits; providing legislative intent to prohibit plea bargaining in re-offender cases; requiring state attorneys to submit reports regarding any sentencing deviations; amending s. 944.705, F.S., relating to release orientation program; requiring notice to certain released offenders by the Department of Corrections with respect to the new minimum mandatory sentencing provisions; providing for inadmissibility of certain evidence regarding departmental failure to provide such notice; amending s. 947.141, F.S.; providing for mandatory forfeiture of previously granted early release credits under specified circumstances when conditional release, control release, or conditional medical release is revoked; amending s. 948.06, F.S.; permitting a law enforcement officer to arrest a probationer or offender in community control upon probable cause that the probationer or offender has materially violated probation or community control, under specified circumstances; providing for mandatory forfeiture of previously granted early release credits under specified circumstances when probation or community control is revoked; reenacting ss. 948.01(9) and (13)(b) and 958.14, F.S., to incorporate said amendment in references; providing an effective date.

—as amended April 30 was read the third time by title.

Senator Jones moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 1—On page 5, between lines 20 and 21, insert:

2. For every case in which the offender meets the criteria in paragraph (a) and does not receive the mandatory minimum prison sentence, the state attorney must explain the sentencing deviation in writing and place such explanation in the case file maintained by the state attorney. On a quarterly basis, each state attorney shall submit copies of deviation memoranda regarding offenses committed on or after the effective date of this subsection, to the President of the Florida Prosecuting Attorneys Association, Inc. The association must maintain such information, and make such information available to the public upon request, for at least a 10-year period.

On motion by Senator Ostalkiewicz, **CS for CS for HB 1371** as amended was passed and certified to the House. The vote on passage was:

Yeas—36

Madam President	Dantzler	Holzendorf	Meadows
Bankhead	Diaz-Balart	Horne	Myers
Bronson	Dudley	Jenne	Ostalkiewicz
Brown-Waite	Dyer	Jones	Rossin
Casas	Forman	Kirkpatrick	Scott
Childers	Grant	Klein	Silver
Clary	Gutman	Kurth	Sullivan
Cowin	Hargrett	Latvala	Turner
Crist	Harris	McKay	Williams

Nays—None

Vote after roll call:

Yea—Burt, Lee

Consideration of **CS for HB's 715, 1249, 1321 and 1339** was deferred.

HB 1323—A bill to be entitled An act relating to water protection; amending s. 403.8532, F.S.; authorizing the Department of Environmental Protection to make loans to certain public water systems; authorizing use of certain federal Safe Drinking Water Act funds for specified purposes; providing loan criteria, requirements, and limitations; providing for department rules; requiring an annual report; providing for audits; providing for loan service fees; providing for disposition of funds; providing for default; providing penalties for delinquent payments or noncompliance with loan terms and conditions; amending s. 403.860, F.S.; authorizing administrative penalties for failure of a public water system to comply with the Florida Safe Drinking Water Act; providing for rules and procedures; creating s. 403.8615, F.S.; requiring certain new water systems to demonstrate specified technical, managerial, and financial capabilities; creating s. 403.865, F.S.; providing legislative findings and intent relating to operation of water and wastewater treatment facilities by qualified personnel; creating s. 403.866, F.S.; providing definitions; creating s. 403.867, F.S.; requiring such operators to be licensed by the department; creating s. 403.868, F.S.; authorizing a utility to have more stringent requirements; creating s. 403.869, F.S.; authorizing department rules; creating s. 403.87, F.S.; authorizing appointment of a technical advisory council for water and domestic wastewater operator certification; creating s. 403.871, F.S.; providing for application and examination, reexamination, licensure, renewal, and recordmaking and recordkeeping fees; providing for disposition thereof; creating s. 403.872, F.S.; specifying requirements for licensure; creating s. 403.873, F.S.; providing for biennial license renewal; creating s. 403.874, F.S.; providing for inactive status and reactivation of inactive licenses; creating s. 403.875, F.S.; specifying prohibited acts; providing a penalty; creating s. 403.876, F.S.; requiring the department to establish grounds for disciplinary actions; providing for an administrative fine; providing for transfer of powers and duties relating to regulation of operators of water treatment plants and domestic wastewater treatment plants from the Department of Business and Professional Regulation to the Department of Environmental Protection; providing for continuation of certain rules; providing a grandfather provision for operators certified prior to the transfer; amending s. 403.087, F.S.; increasing the maximum term for issuance of permits for stationary water pollution sources; specifying conditions for renewing operation permits for domestic wastewater treatment facilities for an extended term at the same fee; requiring the department to keep certain records; amending s. 403.0871, F.S.; correcting cross references; amending s. 403.0872; clarifying air pollution fee deadline; repealing ss. 468.540, 468.541, 468.542, 468.543, 468.544, 468.545, 468.546, 468.547, 468.548, 468.549, 468.550, 468.551, and 468.552, F.S., relating to water and wastewater treatment plant operator certification by the Department of Business and Professional Regulation; providing an appropriation; amending s. 367.021, F.S.; defining "environmental compliance costs; amending s. 367.022, F.S.; providing regulatory exemptions for nonpotable irrigation water, under certain circumstances; amending s. 367.081, F.S.; providing for recovery of environmental compliance costs; amending s. 367.171, F.S.; providing application of the act; amending s. 367.022; deregulating bulk supplies of water for sale for resale; providing for a study of ozonation and other alternative processes for disinfecting water; requiring a report; amending s. 193.625, F.S. to allow high-water recharge assessments when lands will be used primarily for bona fide high-water recharge purposes for a period of at least 5 years; amending s. 403.1835, F.S.; expanding the sewage treatment facilities revolving loan program to provide loans to local governmental agencies for construction of stormwater management systems; defining "stormwater management system"; providing additional responsibilities of local governments under the program; providing priority for certain stormwater management system projects; providing for funding; providing an effective date.

—as amended April 30 was read the third time by title.

On motion by Senator Latvala, **HB 1323** as amended was passed and certified to the House. The vote on passage was:

Yeas—34

Madam President	Crist	Horne	Myers
Bankhead	Dantzler	Jenne	Ostalkiewicz
Bronson	Diaz-Balart	Jones	Rossin
Brown-Waite	Dudley	Kirkpatrick	Silver
Campbell	Dyer	Klein	Thomas
Casas	Forman	Kurth	Turner
Childers	Grant	Latvala	Williams
Clary	Gutman	McKay	
Cowin	Harris	Meadows	

Nays—None

Vote after roll call:

Yea—Burt, Holzendorf, Lee, Sullivan

HB 1271—A bill to be entitled An act relating to trust funds; creating s. 403.8533, F.S.; creating the Drinking Water Revolving Loan Trust Fund within the Department of Environmental Protection; specifying the purposes of the trust fund; providing source of moneys; providing for future review and termination or re-creation of the trust fund; providing an effective date.

—was read the third time by title.

On motion by Senator Latvala, **HB 1271** was passed by the required constitutional three-fifths vote of the membership and certified to the House. The vote on passage was:

Yeas—39

Madam President	Crist	Holzendorf	Meadows
Bankhead	Dantzler	Horne	Myers
Bronson	Diaz-Balart	Jenne	Ostalkiewicz
Brown-Waite	Dudley	Jones	Rossin
Burt	Dyer	Kirkpatrick	Silver
Campbell	Forman	Klein	Sullivan
Casas	Grant	Kurth	Thomas
Childers	Gutman	Latvala	Turner
Clary	Hargrett	Lee	Williams
Cowin	Harris	McKay	

Nays—None

CS for HB's 715, 1249, 1321 and 1339—A bill to be entitled An act relating to water resources; amending s. 373.016, F.S.; revising legislative policy; providing construction and application; amending s. 373.019, F.S.; revising definitions; defining "district water management plan," "Florida water plan," "regional water supply plan," "water resource development," "water resource implementation rule," and "water supply development;" amending s. 373.036, F.S.; eliminating the state water use plan; providing for development of the Florida water plan, to include the water resource implementation rule; providing procedure for rule amendment; requiring water management district governing boards to develop district water management plans; creating s. 373.0361, F.S.; providing requirements for regional water supply plans for regions identified in district water management plans; requiring an annual report; amending s. 373.042, F.S.; revising minimum flows and levels timing requirements; providing for independent scientific peer review; creating s. 373.0421, F.S.; requiring certain considerations in establishment and implementation of minimum flows and levels; providing for implementation of recovery or prevention strategies; amending s. 373.046, F.S.; providing for interdistrict agreements for implementation of certain regulatory responsibilities; amending s. 373.0693, F.S.; correcting a cross reference; amending s. 373.073, F.S.; revising procedure for appointment of members to the water management district governing boards; providing a timetable; amending s. 373.079, F.S.; requiring the Governor to select a governing board member as chair of the governing board; revising procedure for appointment of district executive directors; providing respective authority of the Governor and governing boards; authorizing employment of governing board ombudsmen; revising duties of governing board legal staff; creating s. 373.0831, F.S.; specifying governing board responsibilities for water resource development and responsibilities of other entities for water supply development; providing for priorities for funding; requiring a report; amending s. 373.223, F.S.; providing requirements in considering authorization to transport ground or surface water under a permit for consumptive use of water; providing restrictions; amending s. 373.236, F.S.; revising provisions relating to duration of consumptive use permits; requiring compliance reports and permit modification, under certain circumstances; requiring a proposal for reevaluation of certain areas with contaminated water supplies; amending s. 373.507, F.S.; revising provisions relating to district and basin audits, budgets, and expense reports; requiring districts to furnish copies of documents to specified entities and to respond to comments; amending s. 373.536, F.S.; providing requirements for notice and advertisement of district budget hearings and workshops; providing requirements for budget identification of administrative and operating expenses; providing for certain analysis of budgets; revising requirements for submittal of tentative budgets; amending s. 373.59, F.S.; deleting obsolete language; correcting a cross reference; authorizing use of interests in property acquired under the Water Management Lands Trust Fund for permittable water resource development and water supply development purposes; amending ss. 186.007, 186.009, 373.103, 373.114, 373.418, 373.456, 403.031, and 403.0891, F.S., to conform to the act; repealing ss. 373.026(10), 373.039, and 403.061(33), F.S., relating to state water policy and the Florida water plan; repealing s. 373.0735, F.S., relating to appointment of members to the governing board of the Southwest Florida Water Management District; providing for grandfathering-in of minimum flows and levels for priority waters in Pasco County and Hillsborough County pursuant to provisions of chapter 96-339, Laws of Florida; providing for application of act to Hillsborough River and the Palm River/Tampa By-Pass Canal; amending s. 373.1963, F.S.; providing for supplemental report from the West Coast Regional Water Supply Authority; providing an effective date.

—as amended April 30 was read the third time by title.

Senator Latvala moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 1—On page 16, lines 7-12, delete those lines

Senator McKay moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 2—On page 34, lines 17-28, delete those lines and insert:

Section 12. Subsection (5) of section 373.139, Florida Statutes, 1996 Supplement, is amended to read:

373.139 Acquisition of real property.—

(5) Lands acquired for the purposes enumerated in subsection (2) may also be used for recreational purposes, and whenever practicable such lands shall be open to the general public for recreational uses. *Except when prohibited by a covenant or condition described in s. 373.056(2), lands owned, managed, and controlled by the district may be used for multiple purposes, including, but not limited to, agriculture, silviculture, and water supply, as well as boating and other recreational uses.*

Senator Latvala moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 3—On page 54, line 10, delete section 31 and renumber subsequent sections.

Senator McKay moved the following amendments to **Engrossed Senate Amendment 1** which were adopted by two-thirds vote:

Amendment 4—On page 59, line 19 through page 60, line 16, delete those lines and insert: *4 weeks before or immediately following termination of employment. The term does not include:*

(a) Earned and accrued annual, sick, compensatory, and administrative leave.

(b) Early retirement provisions established in an actuarially funded pension plan subject to part VII of chapter 112, Florida Statutes.

(2) After July 1, 1997, a water management district, or any agency or subdivision thereof, may not pay to any of its officers or employees severance pay, except under any of the following conditions:

(a) The severance pay is authorized in an employment contract or collective bargaining agreement providing for it and in effect on July 1, 1997. Collective bargaining agreements or employment contracts extended or entered on or after July 1, 1997, may not contain any provision for severance pay. However, employees classified as managerial, executive, or exempt in the district's personnel plan who serve at the convenience of the district are subject to the provisions of this section beginning July 1, 1997.

(b) The severance pay is paid from wholly private funds available to the district in the ordinary course of business, the payment and receipt of which would not otherwise violate any provision of part III of chapter 112, Florida Statutes.

(c) The severance pay is administered under the auspices of part II of chapter 112, Florida Statutes, on behalf of an agency outside this state and would be permitted under that agency's personnel system.

(d) The severance pay represents the settlement of an employment dispute; however, such a settlement may not contain any provisions that limit the ability of any party to the settlement to discuss the dispute or settlement.

Amendment 5—On page 60, lines 20-28, delete those lines and insert:

Section 35. *(1) The Legislature finds that there currently exist actual or perceived differences in the salaries of certain water management district employees and the salaries of state or other general-purpose local government employees performing the same or similar job functions. The Legislature further finds that section 373.079(4) and (5), Florida Statutes, provide the governing boards of the water management districts significant discretion in determining the compensation of its employees.*

(2) The Legislature directs the Office of Program Policy Analysis and Government Accountability to prepare or cause to be prepared with consultants a study of water management district employee compensation plans and present its findings and recommendations in a report to remedy any actual or perceived discrepancies between the salaries of state or other general purpose local government employees and employees of the water management districts created pursuant to chapter 372. The report shall be presented to the Governor, the President of the Senate, and the Speaker of the House of Representatives by January 30, 1998.

(3) There is hereby appropriated $50,000 from the Water Management Lands Trust Fund for fiscal year 1997-98 to the Office of Program Policy Analysis and Government Accountability to implement the provisions relating to the employee compensation study.

Amendment 6—On page 62, line 2 through page 63, line 11, delete section 37 and renumber subsequent sections.

On motion by Senator Latvala, **CS for HB's 715, 1249, 1321 and 1339** as amended was passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Holzendorf	Myers
Bankhead	Dantzler	Horne	Ostalkiewicz
Bronson	Diaz-Balart	Jenne	Rossin
Brown-Waite	Dudley	Jones	Silver
Burt	Dyer	Klein	Sullivan
Campbell	Forman	Kurth	Thomas
Casas	Grant	Latvala	Turner
Childers	Gutman	Lee	Williams
Clary	Hargrett	McKay	
Cowin	Harris	Meadows	

Nays—None

Vote after roll call:

Yea—Kirkpatrick

SENATOR BURT PRESIDING

HB 1545—A bill to be entitled An act relating to education; amending ss. 239.117, 240.235, and 240.35, F.S.; allowing children adopted from the Department of Children and Family Services to be exempt from certain student fees; amending s. 240.334, F.S.; conforming provisions; amending s. 240.36, F.S.; renaming the Florida Academic Improvement Trust Fund for Community Colleges; providing the community college system with the opportunity to receive and match challenge grants; specifying the State Board of Community Colleges as an eligible community college entity; providing for matching funds by any community college entity; requiring transfer of state matching funds to foundations; requiring each community college entity to establish its own academic improvement trust fund for the deposit of funds; specifying the use of funds; deleting certain requirements restricting the use of money for specified scholarship purposes; creating s. 240.4041, F.S.; permitting part-time students with a disability to be eligible for state financial aid; amending s. 240.6045, F.S.; revising provisions relating to a limited access competitive grant program; amending s. 229.551, F.S.; including private postsecondary education institutions; providing an exception to the course leveling requirement; amending s. 240.107, F.S., and reenacting s. 239.213(3), F.S., relating to vocational-preparatory instruction, to incorporate said amendment in a reference; deleting an alternative to the College Level Academic Skills Test; deleting a testing requirement; amending s. 240.116, F.S., relating to dual enrollment; providing an exception to grade point average requirements under certain circumstances; amending s. 240.117, F.S.; revising provisions relating to common placement testing for dual enrollment students; amending s. 240.1163, F.S.; providing limitations for calculating dual enrollment grades; authorizing the approval of dual enrollment agreements for limited course offerings with statewide appeal; creating s. 240.65, F.S.; providing a short title; providing legislative intent; creating the Institute on Public Postsecondary Distance Learning; providing for a governing board of the institute; assigning the institute to the Florida Gulf Coast University for purposes of administration; specifying duties of the institute; providing review and approval by Florida Distance Learning Network; repealing s. 240.65, F.S., after a date certain; creating s. 240.66, F.S.; directing the State Board of Community Colleges to establish the Florida Community College Distance Learning Consortium; providing for consortium membership; providing duties of the consortium; providing review and approval by Florida Distance Learning Network; amending s. 120.542, F.S.; providing that public employees are not persons subject to regulation for the purposes of waiver and variance; amending s. 120.81, F.S.; providing for exceptions to notice requirements and filing requirements; providing for retroactive effect; amending s. 231.17, F.S.; providing specific authority to adopt rules related to the educational certification of speech pathologists; amending ss. 228.041, 231.1725, 232.246, 233.067 and 236.081, F.S.; renaming home economics courses as family and consumer sciences courses; amending s. 239.105, F.S.; revising definitions of the terms "adult secondary education," "basic literacy," and "functional literacy"; defining the terms "beginning literacy" and "family literacy"; amending s. 239.205, F.S.; deleting a rulemaking requirement regarding career education programs; amending s. 239.213, F.S.; revising provisions relating to standards of basic skills mastery; providing for the use of adult basic education to meet certain needs; amending s. 239.229, F.S.; requiring the identification of vocational standards related to work experience; requiring the development of additional program standards and benchmarks; amending s. 239.301, F.S., relating to adult general education; conforming language to revised definitions; amending s. 239.305, F.S., relating to adult literacy; conforming language to revised definitions; removing a State Board of Education rule requirement; removing specific annual reporting requirements; providing for status reports in lieu of annual reports; deleting a requirement for the submission of a plan to the Commissioner of Education; amending s. 240.313, F.S.; providing for an odd number of members on the Florida Community College at Jacksonville Board of Trustees; amending s. 240.319, F.S., relating to duties and powers of community college district boards of trustees; providing for specific authority; repealing ss. 240.3575(5), 240.3815(1), and 240.382(5), F.S., relating to annual reports of economic development centers, annual reports of community college campus crime statistics, and rules for the operation of child development training centers; amending s. 229.595, F.S.; requiring the inclusion of student postsecondary preparedness information in manuals and handbooks; amending s. 229.601, F.S.; providing for recommended high school coursework information; creating s. 232.2466, F.S.; providing requirements for a college-ready diploma program; requiring a task force to recommend incentives for pursuit of a college-ready diploma; amending s. 239.117, F.S.; requiring the payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception; amending s. 239.301, F.S.; deleting conflicting language; requiring the payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception; amending s. 240.1161, F.S.; requiring implementation strategies for reducing the incidence of postsecondary remediation; requiring an assessment of activities and the presentation of outcomes; providing for the promotion of "tech prep" activities; amending s. 240.117, F.S.; requiring the administration of the common placement test or an equivalent test during the tenth grade; requiring the administration of an institutionally developed test in lieu of the common placement test as an exit exam from remedial instruction; clarifying language regarding the offering of college-preparatory instruction; requiring payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception; creating s. 240.124, F.S.; providing for an increase in fees for undergraduate students who continually enroll in the same college credit courses; providing for exceptions; amending s. 240.321, F.S.; applying entrance requirements to all degree programs; permitting a demonstration of competency as an alternative degree program admission requirement; providing an exemption from the testing requirement under certain circumstances; requiring the establishment of institutional policies regarding alternatives to traditional college-preparatory instructional methods; amending s. 239.117, F.S., relating to postsecondary student fees; allowing payment for the cost of fee exemptions to be made through a contract with the local WAGES coalition; amending

s. 239.249, F.S.; providing an appeal process for school districts and community colleges to allow exemption from participation in performance-based incentive funding; amending s. 239.301, F.S.; providing for services for WAGES clients negotiated through the jobs and education regional board by school districts and community colleges to be funded by the local WAGES coalition; amending s. 240.35, F.S., relating to student fees; allowing payment for the cost of fee exemptions to be made through a contract with the local WAGES Coalition; amending s. 414.065, F.S., relating to work requirements for participation in the WAGES Program; including paid apprenticeship activities, the work component of cooperative education activities, and work-study activities in work activities; permitting educational institutions to provide training and receive subsidies to offset the cost of the training; providing reasons for placement in community service; defining work experience; clarifying the role of remedial or basic skills training; revising requirements for payment to a provider of vocational education or training; requiring the development of programs to address the needs of "hard-to-place" recipients; expanding the definition of job skills training; providing additional literacy or basic skills requirements related to work activity requirements; requiring the establishment of a task force to investigate issues associated with job training and workforce development; providing effective dates.

—as amended April 30 was read the third time by title.

Senator Grant moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 1 (with title amendment)—On page 22, line 23 through page 27, line 25, delete those lines and insert:

Section 47. *The Task Force on Postsecondary Student Fees.—*

(1) There is hereby created a task force to study and make recommendations on the issues related to postsecondary student fees. The task force members shall be as follows:

(a) The Chancellor of the State University System;

(b) The Executive Director of the State Community College System;

(c) The Executive Director of the Postsecondary Education Planning Commission;

(d) The President of the Florida Student Government Association;

(e) A representative of the Office of Program Policy Analysis and Government Accountability; and

(f) A representative of the Economic and Demographic Research Division of the Legislature.

(2) The chancellor shall convene the first meeting of the task force no later than June 15, 1997, at which time the members shall elect a permanent chairman from among their numbers. After the first meeting the task force shall meet at the call of the chair.

(3) The task force shall examine at least the following issues related to postsecondary student fees exclusive of tuition:

(a) The procedures for establishing fees;

(b) The purposes for which separate fees are charged;

(c) The budgeting, expenditure, and accountability procedures for the use of fee revenue;

(d) The growth rate of fee rates compared to the growth rate of tuition; and

(e) A comparison of fees and fee structures in Florida public community colleges and universities and college and university systems in other states.

The task force must report its findings and recommendations to the Legislature no later than December 1, 1997, and the task force shall be dissolved upon submission of the report.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 71, lines 20-23, delete those lines

Senator Campbell moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 2 (with title amendment)—On page 22, lines 11-22, delete those lines and insert:

(6) STATE BOARD RULES.~~—By January 1, 1991,~~ The State Board of Education shall *adopt* ~~promulgate~~ rules *as necessary to implement this section* ~~for initial certification specifically covering ages birth through 4 years and grade spans prekindergarten or age 3 through grade 3, grades 5 through 9, and others as designated by the State Board of Education~~.

And the title is amended as follows:

On page 71, lines 17-20, delete those lines and insert: amending s. 231.17, F.S.; authorizing rulemaking; amending s. 240.235, F.S.;

Senator Grant moved the following amendment to **Engrossed Senate Amendment 1** which was adopted by two-thirds vote:

Amendment 3 (with title amendment)—On page 52, line 23 through page 54, line 31, delete those lines

And the title is amended as follows:

On page 73, lines 6-9, delete those lines and insert: student fees;

Senator Horne offered the following amendment to **Engrossed Senate Amendment 1** which was moved by Senator Grant and adopted by two-thirds vote:

Amendment 4 (with title amendment)—On page 69, between lines 18 and 19, insert:

Section 46. Paragraph (b) of subsection (5) of section 239.117, Florida Statutes, 1996 Supplement, is amended to read:

239.117 Postsecondary student fees.—

(5)

(b) Students enrolled in college-preparatory instruction shall pay fees equal to the fees charged for college credit courses. Students enrolled in the same college-preparatory *class within a* skill area more than *one time* ~~two times~~ shall pay fees at 100 percent of the *full cost of instruction and shall not be included in calculations of full-time equivalent enrollments for state funding purposes* ~~direct instructional cost~~; however, *students who withdraw or fail a class due to extenuating circumstances may be granted an exception only once for each class, provided approval is granted according to policy established by the board of trustees.* Each community college shall have the authority to review and reduce ~~such~~ payment *for increased fees due to continued enrollment in a college-preparatory class* on an individual basis, contingent upon a student's financial hardship, pursuant to definitions and fee levels established by the State Board of Community Colleges. Fee-nonexempt students enrolled in vocational preparatory instruction shall be charged fees equal to the fees charged for certificate career education instruction. Each community college that conducts college-preparatory and vocational-preparatory instruction in the same class section may charge a single fee for both types of instruction.

Section 47. Paragraph (d) of subsection (5) of section 239.301, Florida Statutes, 1996 Supplement, is amended to read:

239.301 Adult general education.—

(5)

(d) Expenditures for college-preparatory and lifelong learning students shall be reported separately. Allocations for college-preparatory courses shall be based on proportional full-time equivalent enrollment. Program review results shall be included in the determination of subsequent allocations. A student shall be funded to enroll in the same college-preparatory *class within a* skill area only *once* ~~twice~~, after which time *the student shall pay 100 percent of the full cost of instruction* ~~no state funds shall be used~~ to support the continuous enrollment of that student in the same class; however, *students who withdraw or fail a class due*

to extenuating circumstances may be granted an exception only once for each class, provided approval is granted according to policy established by the board of trustees. Each community college shall have the authority to review and reduce ~~such~~ payment *for increased fees due to continued enrollment in a college-preparatory class* on an individual basis contingent upon the student's financial hardship, pursuant to definitions and fee levels established by the State Board of Community Colleges. College-preparatory and lifelong learning courses do not generate credit toward an associate or baccalaureate degree.

Section 48. Paragraph (a) of subsection (4) of section 240.117, Florida Statutes, is amended to read:

240.117 Common placement testing for public postsecondary education.—

(4)(a) Community college or state university students who have been identified as requiring additional preparation pursuant to subsection (1) shall enroll in college-preparatory adult education pursuant to s. 239.301 in community colleges to develop needed college-entry skills. These students shall be permitted to take courses within their degree program concurrently in other curriculum areas for which they are qualified while enrolled in college-preparatory instruction courses. A student enrolled in a college-preparatory course may concurrently enroll only in college credit courses that do not require the skills addressed in the college-preparatory course. The State Board of Community Colleges shall specify the college credit courses that are acceptable for students enrolled in each college-preparatory skill area, pursuant to s. 240.311(3)(q). A student who wishes to earn an associate in arts or a baccalaureate degree, but who is required to complete a college-preparatory course, must successfully complete the required college-preparatory studies by the time the student has accumulated 12 hours of lower-division college credit degree coursework; however, a student may continue enrollment in degree-earning coursework provided the student maintains enrollment in college-preparatory coursework for each subsequent semester until college-preparatory coursework requirements are completed, and the student demonstrates satisfactory performance in degree-earning coursework. A passing score on all subtests of the common placement test must be achieved before a student is considered to have met basic computation and communication skills requirements; however, no student shall be required to retake any subtest which was previously passed by said student. A student shall be funded to enroll in the same college-preparatory *class within a* skill area only *once* ~~twice~~, after which time *the student shall pay 100 percent of the full cost of instruction* ~~no state funds shall be used~~ to support continuous enrollment of that student in the same class *and such student shall not be included in calculations of full-time equivalent enrollments for state funding purposes*; however, *students who withdraw or fail a class due to extenuating circumstances may be granted an exception only once for each class, provided approval is granted according to policy established by the board of trustees.* Each community college shall have the authority to review and reduce fees paid by students *due to continued enrollment in a college-preparatory class* on an individual basis contingent upon the student's financial hardship, pursuant to definitions and fee levels established by the State Board of Community Colleges. Credit awarded for college-preparatory instruction may not be counted towards fulfilling the number of credits required for a degree.

Section 49. Section 240.124, Florida Statutes, is created to read:

240.124 Funding for continuous enrollment in college credit courses.—Beginning fall semester, 1997, a student enrolled in the same undergraduate college credit course more than two times shall pay matriculation at 100 percent of the full cost of instruction and shall not be included in calculations of full-time equivalent enrollments for state funding purposes. For purposes of this section, first-time enrollment in a class shall mean enrollment in a class beginning fall semester 1997, and calculations of the full cost of instruction shall be based on the systemwide average of the prior year's cost of undergraduate programs for the Community College System and the State University System. The Board of Regents and the State Board of Community Colleges may make exceptions to this section for individualized study, elective coursework, courses that are repeated as a requirement of a major, and courses that are intended as continuing over multiple semesters, excluding the repeat of coursework more than two times to increase grade point average or meet minimum course grade requirements.

(Renumber subsequent section.)

And the title is amended as follows:

On page 74, line 6, after the semicolon (;) insert: amending ss. 239.117, 239.301, and 240.117, F.S.; requiring the payment of fees for the continuous enrollment of students in college-preparatory instruction; providing an exception; creating s. 240.124, F.S.; providing for an increase in fees for undergraduate students who continually enroll in the same college credit courses; providing for exceptions;

Senators Holzendorf and Sullivan offered the following amendment to **Engrossed Senate Amendment 1** which was moved by Senator Holzendorf and adopted by two-thirds vote:

Amendment 5 (with title amendment)—On page 69, between lines 18 and 19, insert:

Section 47. *For the 1997-1998 fiscal year, the sum of $276,659 is appropriated from the General Revenue Fund and the sum of $223,341 is appropriated from the Educational and General Student and Other Fees Trust Fund for implementing the master's in Public Health Program at Florida Agricultural and Mechanical University.*

(Renumber subsequent section.)

And the title is amended as follows:

On page 74, line 6, after the semicolon (;) insert: providing appropriations to Florida A & M University for specified purposes;

On motion by Senator Grant, **HB 1545** as amended was passed and certified to the House. The vote on passage was:

Yeas—37

Bankhead	Dudley	Jones	Rossin
Bronson	Dyer	Kirkpatrick	Scott
Brown-Waite	Forman	Klein	Silver
Burt	Grant	Kurth	Sullivan
Campbell	Gutman	Latvala	Thomas
Childers	Hargrett	Lee	Turner
Cowin	Harris	McKay	Williams
Crist	Holzendorf	Meadows	
Dantzler	Horne	Myers	
Diaz-Balart	Jenne	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Madam President, Casas, Clary

THE PRESIDENT PRESIDING

SPECIAL ORDER CALENDAR, continued

CS for SB 564—A bill to be entitled An act relating to Environmental Resource Protection; creating s. 11.80, F.S.; creating the Joint Legislative Committee on Everglades Oversight; providing membership; providing responsibilities; requiring the South Florida Water Management District to provide notice to the committee of certain plans, permits, agreements, or land acquisitions; amending s. 253.034, F.S.; providing for transportation uses of certain recreational trails; amending s. 259.032, F.S.; providing for land management audits; requiring a district report of differences between a Clean Water Act permit received for completion of the Everglades Construction Project and the Everglades Program; providing definitions; providing requirements relating to district financing proposals for fixed or operating capital outlay; requiring publication of a truth-in-borrowing statement; providing legislative findings and intent; providing requirements for district administration of the Everglades Trust Fund; providing requirements for deposits and expenditures; requiring an annual status report; requiring quarterly distribution of trust fund expenditure information; amending s. 370.06, F.S.; authorizing the department to issue special activity licenses for aquacultural activities involving sturgeon; amending s. 370.092, F.S.; providing definitions; prohibiting the harvest of marine life with nets inconsistent with s. 16, Art. X of the State Constitution; prohibiting the use of nets not approved by the Marine Fisheries Commission; providing for forfeiture of nets illegally used; authorizing the Marine Fisheries

Commission to adopt rules implementing the constitutional net ban; amending s. 370.14, F.S.; requiring imported shipments of crawfish to be made available for inspection by the department; requiring that weight receipts be sent to a Florida Marine Patrol Office; revising permitholder report requirements; creating s. 370.1405, F.S.; requiring crawfish reports by dealers during closed season; providing penalties for violation; providing for a baitfish pilot program; providing requirements; providing effective dates.

—was read the second time by title.

Amendments were considered to conform **CS for SB 564** to **CS for HB 1775**.

Pending further consideration of **CS for SB 564** as amended, on motion by Senator Latvala, by two-thirds vote **CS for HB 1775** was withdrawn from the Committees on Natural Resources; Governmental Reform and Oversight; Rules and Calendar; and Ways and Means.

On motion by Senator Latvala, the rules were waived and—

CS for HB 1775—A bill to be entitled An act relating to oversight and accountability of the South Florida Water Management District; creating s. 11.80, F.S.; creating the Joint Legislative Committee on Everglades Oversight; providing membership; providing responsibilities; requiring the South Florida Water Management District to provide notice to the committee of certain plans, permits, agreements, or land acquisitions; requiring an annual status report; amending s. 338.26, F.S., relating to Alligator Alley toll road; providing for deposit of certain funds in the Everglades Trust Fund; requiring a district report of differences between a Clean Water Act permit received for completion of the Everglades Construction Project and the Everglades Program; providing definitions; providing requirements relating to district financing proposals for fixed or operating capital outlay; requiring publication of a truth-in-borrowing statement; providing legislative findings and intent; providing requirements for district administration of the Everglades Trust Fund; requiring quarterly distribution of trust fund expenditure information; providing for a postaudit; providing requirements for deposits and expenditures; requiring annual reporting; providing effective dates.

—a companion measure, was substituted for **CS for SB 564** as amended and read the second time by title. On motion by Senator Latvala, by two-thirds vote **CS for HB 1775** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—37

Madam President	Crist	Jenne	Rossin
Bankhead	Dantzler	Kirkpatrick	Scott
Bronson	Diaz-Balart	Klein	Silver
Brown-Waite	Dudley	Kurth	Sullivan
Burt	Forman	Latvala	Thomas
Campbell	Grant	Lee	Turner
Casas	Gutman	McKay	Williams
Childers	Harris	Meadows	
Clary	Holzendorf	Myers	
Cowin	Horne	Ostalkiewicz	

Nays—None

CS for SB 1760—A bill to be entitled An act relating to child welfare; amending s. 39.01, F.S., relating to definitions with respect to specified provisions relating to juvenile proceedings; redefining the term "diligent search"; defining the term "next of kin"; amending s. 39.401, F.S., relating to taking a child alleged to be dependent into custody; requiring the Department of Children and Family Services to request a child's parent or custodian to disclose certain information regarding parents, prospective parents, and next of kin; amending s. 39.402, F.S., relating to placement in a shelter; providing for the court to require parent or custodian present at emergency shelter hearing to provide certain information on the record regarding parents, prospective parents, or next of kin; amending s. 39.405, F.S.; revising certain guidelines relating to filing of affidavit of diligent search in dependency cases; removing requirement for appointment of guardian ad litem, under specified circumstances; amending s. 39.4051, F.S., relating to special procedures in dependency cases when identity or location of parent is unknown; revising duties of the Department of Children and Family Services with respect to diligent searches; reenacting s. 39.462(1)(a), F.S., relating to process and service in proceedings to terminate parental rights, to incorporate an amendment in references thereto; creating s. 39.4052, F.S.; requiring written notice to identified adult relatives of a child taken into care; creating s. 39.4053, F.S.; prescribing duties of the department and guidelines relating to due diligence in the identification and notification of parents, relatives, and custodians of a child in departmental custody; amending s. 39.41, F.S., relating to powers of disposition; providing for diligent search; conforming terminology; amending s. 39.4625, F.S., relating to special procedures in termination of parental rights cases when identity or location of parent is unknown; revising guidelines relating to court inquiry and diligent search; reenacting s. 39.462(1)(a), F.S., relating to elements of petition for termination of parental rights, to incorporate an amendment in references thereto; amending s. 39.464, F.S., relating to grounds for termination of parental rights; conforming provisions relating to diligent search; reenacting s. 39.4611(1)(a) and (b) and (2), to incorporate an amendment in references thereto; amending s. 415.5018, F.S.; providing for the sharing of certain criminal history information; amending s. 415.51, F.S.; providing for the release of certain confidential reports to law enforcement; amending s. 415.505, F.S., relating to child protective investigations and institutional child abuse or neglect investigations; requiring the agent of the department to request the parent or custodian to disclose certain information regarding parents, prospective parents, or next of kin when child is taken into custody; providing an effective date.

—was read the second time by title.

Senator Rossin moved the following amendment which was adopted:

Amendment 1 (with title amendment)—On page 7, line 14 through page 8, line 13, delete those lines and insert:

Section 7. Subsection (5) of section 39.469, Florida Statutes, is amended to read:

39.469 Powers of disposition; order of disposition.—

(5) If the court terminates parental rights, it may, *as appropriate,* order that the parents, *siblings,* or relatives of the parent whose rights are terminated be allowed to maintain some *communication or* contact with the child pending adoption if the best interests of the child support this continued *communication or* contact. If the court orders such continued *communication or* contact, *which may include but is not limited to, visits, letters, and cards or telephone calls* the nature and frequency of the *communication or* contact must be set forth in written order and may be reviewed upon motion of any party, including, *for purposes of this subsection, an identified* ~~a~~ prospective adoptive parent ~~if a child has been placed for adoption~~. If a child is placed for adoption, the nature and frequency of the *communication or* contact must be reviewed by the court at the time the child is adopted.

Section 8. Paragraph (m) is added to subsection (2) of section 63.022, Florida Statutes, 1996 Supplement, to read:

63.022 Legislative intent.—

(2) The basic safeguards intended to be provided by this act are that:

(m) In dependency cases initiated by the department, where termination of parental rights occurs, and siblings are separated despite diligent efforts of the department, continuing post-adoption communication or contact among the siblings may be ordered by the court if found to be in the best interests of the children.

Section 9. Section 63.0427, Florida Statutes, is created to read:

63.0427 Adopted minor's right to continued communication or contact with siblings.—

(1) A child whose parents have had their parental rights terminated and whose custody has been awarded to the department pursuant to s. 39.469, and who is the subject of a petition for adoption under this chapter, shall have the right to have the court consider the appropriateness of post-adoption communication or contact, including, but not limited to, visits, letters and cards, or telephone calls, with his or her siblings who are not included in the petition for adoption. The court shall determine if the best interests of the child support such continued communication or contact and shall consider the following in making such determination:

(a) Any orders of the court pursuant to s. 39.469(5).

(b) Recommendations of the department, the foster parents if other than the adoptive parents, and the guardian ad litem.

(c) Statements of prospective adoptive parents.

(d) Any other information deemed relevant and material by the court.

If the court determines that the child's best interests will be served by post-adoption communication or contact with any sibling, the court shall so order, stating the nature and frequency for the communication or contact. This order shall be made a part of the final adoption order, but in no event shall continuing validity of the adoption be contingent upon such post-adoption communication or contact, nor shall the ability of the adoptive parents and child to change residence within or outside the State of Florida be impaired by such communication or contact.

(2) Notwithstanding the provisions of s. 63.162, the adoptive parent may petition for review at any time of sibling communication or contact ordered pursuant to subsection (1), if the adoptive parent believes that the best interests of the adopted child are being compromised, and the court shall have authority to order the communication or contact to be terminated, or to order such conditions in regard to communication or contact as the court deems to be in the best interests of the adopted child. As part of the review process, the court may order the parties to engage in mediation. The department shall not be required to be a party to such review.

Section 10. Section 39.4052, Florida Statutes, is created to read:

39.4052 Affirmative duty of written notice to adult relatives.—

(1) When a child is taken into care pursuant to this part, adult relatives made known to the department by a parent or custodian of a child may be provided with written notice from the department which states:

(a) The nature, time, and place of the pending proceeding.

(b) The various possible outcomes both of the impending proceeding and of future proceedings including termination of parental rights, reunification, foster care placement, long-term foster care placement, and shelter care.

(c) That the adult relatives may be evaluated for temporary custody of the child.

(d) That the adult relatives may maintain or establish a relationship with a child in care through visitation or other contacts.

(e) That the adult relatives may choose not to receive further notice regarding future proceedings.

(2) Notice of future proceedings shall be provided to the adult relative, unless he or she requests in writing that such notice be discontinued or the court excuses further notice for good cause shown.

(3) The department shall make a good-faith attempt to provide the written notice required by this section as soon as prudent after the identity of the adult relative is made known to the department.

(Renumber subsequent sections.)

And the title is amended as follows:

On page 2, line 1, after the first semicolon (;) insert: amending s. 39.469, F.S.; allowing communication or contact with siblings after termination of parental rights; amending s. 63.022(2), F.S.; providing legislative intent for continuing sibling contact; creating s. 63.0427, F.S.; providing for an adopted minor's right to continued communication or contact with siblings;

RECONSIDERATION OF AMENDMENT

On motion by Senator Rossin, the Senate reconsidered the vote by which **Amendment 1** was adopted. **Amendment 1** was withdrawn.

On motion by Senator Harris, by two-thirds vote **CS for SB 1760** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—38

Madam President	Crist	Jenne	Ostalkiewicz
Bankhead	Dantzler	Jones	Rossin
Bronson	Diaz-Balart	Kirkpatrick	Scott
Brown-Waite	Dudley	Klein	Silver
Burt	Dyer	Kurth	Sullivan
Campbell	Grant	Latvala	Thomas
Casas	Hargrett	Lee	Turner
Childers	Harris	McKay	Williams
Clary	Holzendorf	Meadows	
Cowin	Horne	Myers	

Nays—None

Vote after roll call:

Yea—Gutman

CS for SB 1920—A bill to be entitled An act relating to corporations; amending s. 48.101, F.S.; providing for service on certain dissolved corporations; amending s. 607.032, F.S.; providing a condition for an agreement among shareholders of certain corporations; amending s. 607.1002, F.S.; providing a condition for amending articles of incorporation; defining the term "treasury shares"; amending s. 617.0808, F.S.; deleting provisions providing for the removal of directors of certain charitable organizations; amending s. 617.2103, F.S.; providing that such organizations are exempt from the provisions of s. 617.0808, F.S.; providing an effective date.

—was read the second time by title.

Amendments were considered to conform **CS for SB 1920** to **HB 1245**.

Pending further consideration of **CS for SB 1920** as amended, on motion by Senator Myers, by two-thirds vote **HB 1245** was withdrawn from the Committee on Commerce and Economic Opportunities.

On motions by Senator Myers, by two-thirds vote—

HB 1245—A bill to be entitled An act relating to corporations; amending ss. 617.0808 and 617.2103, F.S.; excluding charitable corporations from certain provisions relating to removal of a director from a board of directors; amending s. 48.101, F.S.; clarifying service of process on certain corporations; amending s. 607.01401, F.S.; providing a definition; amending s. 607.0732, F.S.; specifying an additional criterion for certain shareholder agreements; amending s. 607.0902, F.S.; clarifying a circumstance under which acquisition of certain shares does not constitute a control-share acquisition; amending s. 607.1002, F.S.; authorizing a corporation's board of directors to amend the corporation's articles of incorporation for an additional purpose; providing an effective date.

—a companion measure, was substituted for **CS for SB 1920** as amended and by two-thirds vote read the second time by title. On motion by Senator Myers, by two-thirds vote **HB 1245** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—27

Madam President	Dantzler	Jones	Rossin
Brown-Waite	Dyer	Kirkpatrick	Silver
Burt	Forman	Kurth	Sullivan
Campbell	Grant	Latvala	Thomas
Casas	Holzendorf	Meadows	Turner
Clary	Horne	Myers	Williams
Cowin	Jenne	Ostalkiewicz	

Nays—9

Bronson	Dudley	Klein	McKay
Crist	Hargrett	Lee	Scott
Diaz-Balart			

Vote after roll call:

Yea—Bankhead, Childers, Gutman, Harris

MOTION

On motion by Senator Bankhead, the rules were waived and time of recess was extended until 7:15 p.m.

The Senate resumed consideration of—

CS for SB 746—A bill to be entitled An act relating to informed consent; creating the "Woman's Right-To-Know Act"; amending and renumbering s. 390.001, F.S.; requiring the voluntary and informed consent of a woman upon whom a termination of pregnancy is to be performed or induced; providing requirements of informed consent; providing that a physician provide certain information; requiring written acknowledgment that the pregnant woman has been provided with certain information; providing requirements relating to an emergency procedure; providing for disciplinary action; amending and renumbering s. 390.002, F.S.; conforming references to the Department of Health; amending s. 390.011, F.S.; expanding scope and revising definitions; amending ss. 390.012, 390.014, 390.015, 390.016, 390.017, 390.018, 390.019, and 390.021, F.S.; conforming references to the department, the Agency for Health Care Administration, and the chapter; providing an effective date

—which was previously considered this day.

Pending further consideration of **CS for SB 746**, on motion by Senator Clary, by two-thirds vote **CS for HB 1205** was withdrawn from the Committees on Health Care and Judiciary.

On motion by Senator Clary—

CS for HB 1205—A bill to be entitled An act relating to informed consent; creating the "Woman's Right-To-Know-Act; amending and renumbering s. 390.001, F.S.; requiring the voluntary and informed consent of a woman upon whom a termination of pregnancy is to be performed or induced; providing requirements of informed consent; providing that a physician provide certain information; requiring written acknowledgment that the pregnant woman has been provided with certain information; providing requirements relating to an emergency procedure; providing for disciplinary actions; providing a defense; amending and renumbering s. 390.002, F.S.; conforming references to the Department of Health; amending s. 390.011, F.S.; expanding scope and revising definitions; amending ss. 390.012, 390.014, 390.015, 390.016, 390.017, 390.018, 390.019, and 390.021, F.S.; conforming references to the department, the Agency for Health Care Administration, and the chapter; providing an effective date.

—a companion measure, was substituted for **CS for SB 746** and read the second time by title. On motion by Senator Clary, by two-thirds vote **CS for HB 1205** was read the third time by title, passed and certified to the House. The vote on passage was:

Yeas—22

Madam President	Cowin	Harris	Ostalkiewicz
Bankhead	Crist	Horne	Scott
Bronson	Diaz-Balart	Jones	Sullivan
Brown-Waite	Dudley	Lee	Williams
Casas	Grant	McKay	
Clary	Gutman	Myers	

Nays—16

Burt	Forman	Klein	Rossin
Campbell	Hargrett	Kurth	Silver
Dantzler	Holzendorf	Latvala	Thomas
Dyer	Jenne	Meadows	Turner

Vote after roll call:

Yea—Childers

On motion by Senator Hargrett, the rules were waived and the Senate reverted to—

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for SB 1002, with amendment(s), and requests the concurrence of the Senate.

John B. Phelps, Clerk

CS for SB 1002—A bill to be entitled An act relating to the Department of Highway Safety and Motor Vehicles; amending s. 316.066, F.S.; deleting a penalty for failure to provide proof of insurance to a law enforcement officer under certain circumstances; amending s. 316.2065; providing that a violation is a pedestrian violation; amending s. 318.1451, F.S.; authorizing the clerks of the court to establish notification procedures in regards to DUI schools; amending s. 318.18, F.S.; providing a fine for pedestrian and bicycle violations; revising the date by which the clerks of the court must transmit required information; authorizing chief judges to set maximum court costs for civil traffic offenses; authorizing court costs for civil traffic offenses to be used to fund regional criminal justice assessment centers; amending s. 318.19, F.S.; revising provisions with respect to infractions requiring a mandatory hearing, to include a cross-reference; amending s. 319.24, F.S.; requiring motor vehicle dealers who purchase a motor vehicle to satisfy the outstanding lien within 10 days of purchase; requiring the lienholder to deliver the certificate of title indicating the lien satisfaction or notify the person satisfying the lien that the title is not available within 10 days of receipt of payment; creating ss. 320.95, 322.70, and 327.90, F.S.; authorizing the department to accept applications by electronic or telephonic means; amending s. 320.072, F.S.; providing an exemption to the additional fee imposed on certain motor vehicle registration transactions; creating s. 320.08048, F.S.; providing for sample license plates; providing a fee; amending s. 320.131, F.S.; revising provisions with respect to temporary tags; amending s. 321.24, F.S.; allowing an auxiliary of the Florida Highway Patrol to make arrests; amending s. 322.121, F.S.; conforming a cross-reference; amending s. 322.1615, F.S.; authorizing certain nighttime operation with respect to certain persons who have a learner's driver license; amending s. 322.32, F.S.; requiring certain knowledge for possession or display of certain invalid licenses to constitute a criminal violation; defining the term "knowledge"; providing for the use of other evidence to impute knowledge; providing for notification of certain cancellations, suspensions, or revocations of driving privileges; providing penalties; amending s. 322.34, F.S.; providing penalties for driving with certain invalid driver's licenses; defining the term "knowledge"; providing for the use of other evidence to impute knowledge; providing for notification of certain cancellations, suspensions, or revocations; providing penalties for habitual offenders; amending s. 328.16, F.S.; providing for the electronic transmission of certain lien information; amending 316.063, F.S.; providing maximum fine and term of imprisonment for damaging an unattended vehicle; amending s. 316.614, F.S., provides that the living quarters of a recreational vehicle is not included in the definition of a motor vehicle; providing that children under the age of 16 must wear a safety belt; amending s. 316.655, F.S., correcting a cross-reference; amending s. 318.14, F.S.; extending the timeframe for a person to show proof of insurance to 30 days; creating s. 320.091, F.S.; authorizing the issuance of speciality license plates to vehicles held in trust; amending s. 320.535, F.S.; exempting airport fuel trucks and equipment from the payment of license taxes and the display of license plates when transporting aviation fuel within the airport facility of any public use airport; authorizing the incidental operation of airport fuel tanks or equipment on roads of this state within the airport facility; amending s. 320.8232, F.S.; providing that used mobile homes may be moved as long as the mobile home meets federal safety codes which were in effect at the time the mobile home was constructed; providing that certain aesthetic and land use and zoning requirements are reserved for local jurisdiction; amending s. 322.38, F.S.; providing that persons who rent motor vehicles must fill the fuel tank before renting the vehicle; providing an effective date.

House Amendment 1 (with title amendment)—On page 6, lines 8-22, remove from the bill all of said lines and renumber subsequent section[s]

And the title is amended as follows:

On page 1, lines 8-11, remove from the title of the bill all of said lines and insert in lieu thereof: pedestrian violation; amending s. 318.18, F.S.;

House Amendment 2 (with title amendment)—On page 25, line 23, through page 26, line 25, remove from the bill all of said lines and insert in lieu thereof: flow of traffic. *Any person who fails to comply with this subsection commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.* ~~Any person failing to comply with the provisions of this section shall be cited for a nonmoving violation, punishable as provided in chapter 318.~~

Section 21. Subsection (4) of section 316.614, Florida Statutes, 1996 Supplement, is amended, and paragraphs (c) and (d) are added to subsection (6) of said section, to read:

316.614 Safety belt usage.—

(4) It is unlawful for any person:

(a) To operate a motor vehicle in this state unless each ~~front seat~~ passenger of the vehicle under the age of 16 years is restrained by a safety belt or by a child restraint device pursuant to s. 316.613, if applicable; or

(b) To operate a motor vehicle in this state unless the person is restrained by a safety belt.

(6)

(c) An employee of a solid waste or recyclable collection service is not required to be restrained by a safety belt while in the course of employment collecting solid waste or recyclables on designated routes.

(d) The requirements of this section shall not apply to the living quarters of a recreational vehicle or a space within a truck body primarily intended for merchandise or property.

And the title is amended as follows:

On page 3, lines 2-7, remove from the title of the bill all of said lines and insert in lieu thereof: information; amending s. 316.063, F.S.; providing second degree misdemeanor penalties for driver failure to perform specified duties upon damaging unattended vehicle or other property; amending s. 316.614, F.S.; excluding certain areas within specified trucks and recreational vehicles from safety belt use requirements;

Substitute House Amendment 3 (with title amendment)—On page 17, line 26, through page 24, line 15, remove from the bill all of said lines and insert in lieu thereof:

Section 15. Effective January 1, 1998, section 322.32, Florida Statutes, is amended to read:

322.32 Unlawful use of license.—It is a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083, for any person:

(1) To display, cause or permit to be displayed, or have in his or her possession any canceled, revoked, suspended, *or* disqualified~~, fictitious, or fraudulently altered~~ driver's license *knowing that such license has been canceled, revoked, suspended, or disqualified.*

(a) The element of knowledge is satisfied if:

1. The person has been cited as provided in s. 322.34(1), and any cancellation, revocation, or suspension in effect at that time remains in effect; or

2. The person admits to knowledge of the cancellation, suspension, or revocation; or

3. The person received notice as provided in paragraph (c).

(b) In any proceeding for a violation of this section, a court may consider evidence, other than that specified in paragraph (a), that a person knowingly possessed a canceled, suspended, or revoked driver's license.

(c) Any judgment or order rendered by a court or adjudicatory body or any uniform traffic citation that cancels, suspends, or revokes a person's driver's license must contain a provision notifying the person that his or her driver's license or driving privilege has been canceled, suspended, or revoked.

(2) To lend his or her driver's license to any other person or knowingly permit the use thereof by another.

(3) To display, or represent as his or her own, any driver's license not issued to him or her.

(4) To fail or refuse to surrender to the department *or to any law enforcement officer,* upon ~~its~~ lawful demand, any driver's license *in his or her possession* which has been suspended, revoked, disqualified, or canceled.

(5) To permit any unlawful use of a driver's license issued to him or her.

(6) To apply for, obtain, or cause to be issued to him or her two or more photographic driver's licenses which are in different names. The issuance of such licenses shall be prima facie evidence that the licensee has violated the provisions of this section unless the issuance was in compliance with the requirements of this chapter.

(7) To do any act forbidden, or fail to perform any act required, by this chapter.

Section 16. Section 322.34, Florida Statutes, is amended to read:

322.34 Driving while license suspended, revoked, canceled, or disqualified.—

(1) Except as provided in subsection (2), any person whose driver's license or driving privilege has been canceled, suspended, or revoked, except a "habitual traffic offender" as defined in s. 322.264, who drives a vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked is guilty of a moving violation, punishable as provided in chapter 318.

(2)~~(1)~~ Any person whose driver's license or driving privilege has been canceled, suspended, or revoked as provided by law, except persons defined in s. 322.264, ~~and~~ who, *knowing of such cancellation, suspension, or revocation,* drives any motor vehicle upon the highways of this state while such license or privilege is canceled, suspended, or revoked, upon:

(a) A first conviction is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A second conviction is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) A third or subsequent conviction is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

The element of knowledge is satisfied if the person has been previously cited as provided in subsection (1); or the person admits to knowledge of the cancellation, suspension, or revocation; or the person received notice as provided in subsection (4).

(3) In any proceeding for a violation of this section, a court may consider evidence, other than that specified in subsection (2), that the person knowingly violated this section.

(4) Any judgment or order rendered by a court or adjudicatory body or any uniform traffic citation that cancels, suspends, or revokes a person's driver's license must contain a provision notifying the person that his or her driver's license has been canceled, suspended, or revoked.

(5)~~(2)~~ Any person whose driver's license has been revoked pursuant to s. 322.264 (habitual offender) and who drives any motor vehicle upon the highways of this state while such license is revoked ~~upon:~~

~~(a) A first conviction is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

~~(b) A second or subsequent conviction~~ is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(6)~~(3)~~ Any person who operates a motor vehicle:

(a) Without having a driver's license as required under s. 322.03; or

(b) While his or her driver's license or driving privilege is canceled, suspended, or revoked pursuant to s. 316.655, s. 322.26(8), s. 322.27(2), or s. 322.28(2) or (5),

and who by careless or negligent operation of the motor vehicle causes the death of or serious bodily injury to another human being is guilty of a felony of the third degree, punishable as provided in s. 775.082 or s. 775.083.

(7)~~(4)~~ Any person whose driver's license or driving privilege has been canceled, suspended, revoked, or disqualified and who drives a commercial motor vehicle on the highways of this state while such license or privilege is canceled, suspended, revoked, or disqualified, upon:

(a) A first conviction is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A second or subsequent conviction is guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(8)~~(5)~~(a) Upon the arrest of a person for the offense of driving while the person's driver's license or driving privilege is suspended or revoked, the arresting officer shall determine:

1. Whether the person's driver's license is suspended or revoked.

2. Whether the person's driver's license has remained suspended or revoked since a conviction for the offense of driving with a suspended or revoked license.

3. Whether the suspension or revocation was made under s. 316.646 or s. 627.733, relating to failure to maintain required security, or under s. 322.264, relating to habitual traffic offenders.

4. Whether the driver is the registered owner or coowner of the vehicle.

(b) If the arresting officer finds in the affirmative as to all of the criteria in paragraph (a), the officer shall immediately impound or immobilize the vehicle.

(c) Within 7 business days after the date the arresting agency impounds or immobilizes the vehicle, either the arresting agency or the towing service, whichever is in possession of the vehicle, shall send notice by certified mail, return receipt requested, to any coregistered owners of the vehicle other than the person arrested and to each person of record claiming a lien against the vehicle. All costs and fees for the impoundment or immobilization, including the cost of notification, must be paid by the owner of the vehicle or, if the vehicle is leased, by the person leasing the vehicle.

(d) Either the arresting agency or the towing service, whichever is in possession of the vehicle, shall determine whether any vehicle impounded or immobilized under this section has been leased or if there are any persons of record with a lien upon the vehicle. Either the arresting agency or the towing service, whichever is in possession of the vehicle, shall notify by telephone any lessor or lienholder before 5 p.m. on the business day after the day that the vehicle has been impounded or immobilized. A lessor or lienholder may then obtain the vehicle, upon payment of any lawful towing or storage charges. If the storage facility fails to provide timely notice to a lessor or lienholder as required by this paragraph, the storage facility shall be responsible for payment of any towing or storage charges necessary to release the vehicle to a lessor or lienholder that accrue after the notice period, which charges may then be assessed against the driver of the vehicle if the vehicle was lawfully impounded or immobilized.

(e) Except as provided in paragraph (d), the vehicle shall remain impounded or immobilized for any period imposed by the court until:

1. The owner presents proof of insurance to the arresting agency; or

2. The owner presents proof of sale of the vehicle to the arresting agency and the buyer presents proof of insurance to the arresting agency.

If proof is not presented within 35 days after the impoundment or immobilization, a lien shall be placed upon such vehicle pursuant to s. 713.78.

(f) The owner of a vehicle that is impounded or immobilized under this subsection may, within 10 days after the date the owner has knowledge of the location of the vehicle, file a complaint in the county in which the owner resides to determine whether the vehicle was wrongfully taken or withheld. Upon the filing of a complaint, the owner may have the vehicle released by posting with the court a bond or other adequate security equal to the amount of the costs and fees for impoundment or immobilization, including towing or storage, to ensure the payment of such costs and fees if the owner does not prevail. When the bond is posted and the fee is paid as set forth in s. 28.24, the clerk of the court shall issue a certificate releasing the vehicle. At the time of release, after reasonable inspection, the owner must give a receipt to the towing or storage company indicating any loss or damage to the vehicle or to the contents of the vehicle.

(Renumber subsequent section[s])

And the title is amended as follows:

On page 2, line 15, after the semicolon (;) insert: creating s. 320.95, F.S.;

Substitute House Amendment 4 (with title amendment)—On page 16, lines 3-8, remove from the bill all of said lines and insert in lieu thereof:

Section 11. Subsection (4) of section 316.2397, Florida Statutes, 1996 Supplement, is amended to read:

316.2397 Certain lights prohibited; exceptions.—

(4) Road or street maintenance equipment, road or street maintenance vehicles, road service vehicles, refuse collection vehicles, *petroleum tankers,* and mail carrier vehicles may show or display amber lights when in operation or a hazard exists.

Section 12. Section 319.40, Florida Statutes, is created to read:

319.40 Transactions by electronic or telephonic means.—The department is authorized to accept any application provided for under this chapter by electronic or telephonic means.

Section 13. Subsection (16) is added to section 320.02, Florida Statutes, to read:

320.02 Registration required; application for registration; forms.—

(16) The application form for motor vehicle registration shall include language permitting the voluntary contribution of $1 per applicant, to be quarterly distributed by the department to Prevent Blindness Florida, a not-for-profit organization, to prevent blindness and preserve the sight of the residents of this state. A statement providing an explanation of the purpose of the funds shall be included with the application form. Prior to the department distributing the funds collected pursuant to this subsection, Prevent Blindness Florida must submit a report to the department that identifies how such funds were used during the preceding year.

Section 14. Paragraphs (a) and (c) of subsection (1) of section 320.06, Florida Statutes, 1996 Supplement, are amended to read:

320.06 Registration certificates, license plates, and validation stickers generally.—

(1)(a) Upon the receipt of an initial application for registration and payment of the appropriate license tax and other fees required by law, the department shall assign to the motor vehicle a registration license number consisting of letters and numerals or numerals and issue to the owner *or lessee* a certificate of registration and one registration license plate*, unless two plates are required for display by s. 320.0706,* for each vehicle so registered.

(c) Registration license plates equipped with validation stickers shall be valid for not more than 12 months and shall expire at midnight on the last day of the registration period. For each registration period after the one in which the metal registration license plate is issued, and until the license plate is required to be replaced, a validation sticker showing the year of expiration shall be issued upon payment of the proper license tax amount and fees and shall be valid for not more than 12 months. When license plates equipped with validation stickers are issued in any month other than the owner's birth month or the designated registration period for any other motor vehicle, the effective date shall reflect the birth month or month and the year of renewal. However, when a license plate or validation sticker is issued for a period of less than 12 months, the applicant shall pay the appropriate amount of license tax and the applicable fee under the provisions of s. 320.14 in

addition to all other fees. Validation stickers issued for vehicles taxed under the provisions of s. 320.08(6)(a), for any company which owns *250* ~~1,000~~ vehicles or more, or for semitrailers taxed under the provisions of s. 320.08(5)(a), for any company which owns 50 vehicles or more, may be placed on any vehicle in the fleet so long as the vehicle receiving the validation sticker has the same owner's name and address as the vehicle to which the validation sticker was originally assigned.

Section 15. Section 320.95, Florida Statutes, is created to read:

320.95 Transactions by electronic or telephonic means.—The department is authorized to accept any application provided for under this chapter by electronic or telephonic means.

Section 16. Subsections (2) and (3) of section 322.16, Florida Statutes, 1996 Supplement, are amended to read:

322.16 License restrictions.—

(2) A person who holds a driver's license and who is under 17 years of age, when operating a motor vehicle after 11 p.m. and before 6 a.m., must be accompanied by a driver who holds a valid license to operate the type of vehicle being operated and is at least 21 years of age unless that person is driving *directly* to or from work.

(3) A person who holds a driver's license who is 17 years of age, when operating a motor vehicle after 1 a.m. and before 5 a.m., must be accompanied by a driver who holds a valid license to operate the type of vehicle being operated, and is at least 21 years of age unless that person is driving *directly* to or from work.

Section 17. Section 322.70, Florida Statutes, is created to read:

322.70 Transactions by electronic or telephonic means.—The department is authorized to accept any application provided for under this chapter by electronic or telephonic means.

Section 18. Section 327.90, Florida Statutes, is created to read:

327.90 Transactions by electronic or telephonic means.—The department is authorized to accept any application provided for under this chapter by electronic or telephonic means.

Section 19. Section 328.30, Florida Statutes, is created to read:

328.30 Transactions by electronic or telephonic means.—The department is authorized to accept any application provided for under this chapter by electronic or telephonic means.

Section 20. Paragraph (b) of subsection (2) of section 316.1001, Florida Statutes, 1996 Supplement, is amended to read:

316.1001 Payment of toll on toll facilities required; penalties.—

(2)

(b) A citation issued under this subsection may be issued by mailing the citation by certified mail, return receipt requested, to the address of the registered owner of the motor vehicle involved in the violation. In the case of joint ownership of a motor vehicle, the traffic citation must be mailed to the first name appearing on the registration. A citation issued under this paragraph must be mailed to the registered owner of the motor vehicle involved in the violation within 14 days after the date of the violation. In addition to the citation, notification must be sent to the registered owner of the motor vehicle involved in the violation specifying the remedy available under *s. 318.18(7)* ~~subsection (3)~~.

Section 21. Subsection (3) of section 319.29, Florida Statutes, is amended to read:

319.29 Lost or destroyed certificates.—

(3) If, following the issuance of an original, duplicate, or corrected certificate of title by the department, the certificate is lost in transit and is not delivered to the addressee, the owner of the motor vehicle or mobile home, or the holder of a lien thereon, may, within *180* ~~90~~ days of the date of issuance of the title, apply to the department for reissuance of the certificate of title. No additional fee shall be charged for reissuance under this subsection.

Section 22. Paragraph (a) of subsection (3) and paragraph (a) of subsection (9) of section 320.08058, Florida Statutes, 1996 Supplement, are amended to read:

320.08058 Specialty license plates.—

(3) COLLEGIATE LICENSE PLATES.—

(a) The department shall develop a collegiate license plate as provided in this section for state and independent universities domiciled in this state. *However, any collegiate license plate created or established after January 1, 1997, must comply with the requirements of s. 320.08053 and be specifically authorized by an act of the Legislature.* Collegiate license plates must bear the colors and design approved by the department as appropriate for each state and independent university. The word “Florida” must be stamped across the bottom of the plate in small letters.

(9) FLORIDA PROFESSIONAL SPORTS TEAM LICENSE PLATES.—

(a) The Department of Highway Safety and Motor Vehicles shall develop a Florida Professional Sports Team license plate as provided in this section for Major League Baseball, National Basketball Association, National Football League, Arena Football Teams, and National Hockey League teams domiciled in this state. *However, any Florida Professional Sports Team license plate created or established after January 1, 1997, must comply with the requirements of s. 320.08053 and be specifically authorized by an act of the Legislature.* Florida Professional Sports Team license plates must bear the colors and design approved by the department and must include the official league or team logo, or both, as appropriate for each team. The word “Florida” must appear at the top of the plate.

Section 23. *Section 325.205, Florida Statutes, is repealed.*

Section 24. Paragraph (l) of subsection (8) of section 325.207, Florida Statutes, 1996 Supplement, is amended to read:

325.207 Inspection stations; department contracts; inspection requirements; recordkeeping.—

(8) Any contract authorized under this section shall contain:

(l) A provision requiring a performance bond of $1 million, *which the department may, after the second year of inspection operations under the contract, elect to waive entirely, reduce in amount, or waive in exchange for another appropriate means of security in a like or reduced amount.*

Section 25. Subsection (5) is added to section 316.215, Florida Statutes, to read:

316.215 Scope and effect of regulations.—

(5) The provisions of this chapter and 49 C.F.R. part 393, with respect to number, visibility, distribution of light, and mounting height requirements for headlamps, auxiliary lamps, and turn signals shall not apply to a front-end loading collection vehicle, when:

(a) The front-end loading mechanism and container or containers are in the lowered position;

(b) The vehicle is engaged in collecting solid waste or recyclable or recovered materials; and

(c) The vehicle is being operated at speeds less than 20 miles per hour with the vehicular hazard-warning lights activated.

Section 26. Paragraphs (b) and (c) of subsection (1) and paragraphs (b) and (f) of subsection (2) and subsection (4) of section 316.302, Florida Statutes, 1996 Supplement, are amended, and paragraph (k) is added to subsection (2) of said section, to read:

316.302 Commercial motor vehicles; safety regulations; transporters and shippers of hazardous materials; enforcement.—

(1)

(b) Except as otherwise provided in this section, all owners or drivers of commercial motor vehicles that are engaged in intrastate commerce

are subject to the rules and regulations contained in 49 C.F.R. parts 382, 385, and 390-397, with the exception of 49 C.F.R. s. 390.5 as it relates to the definition of bus, as such rules and regulations existed on March 1, *1997* ~~1995~~.

(c) *Except as provided in s. 316.215(5), and except as provided in s. 316.228 for rear overhang lighting and flagging requirements for intrastate operations,* the requirements of this section supersede all other safety requirements of this chapter for commercial motor vehicles.

(2)

(b) A person who operates a commercial motor vehicle solely in intrastate commerce not transporting any hazardous material is exempt from 49 C.F.R. s. 395.3(a) and (b) and may, after 8 hours' rest, and following the required initial motor vehicle inspection, be permitted to drive any part of the first 15 on-duty hours in any 24-hour period, but may not be permitted to operate a commercial motor vehicle after that until the requirement of another 8 hours' rest has been fulfilled. *The provisions of this paragraph do not apply to drivers of public utility vehicles or authorized emergency vehicles during periods of severe weather or other emergencies.*

(f) A person who operates a commercial motor vehicle having a declared gross vehicle weight of less than 26,000 pounds solely in intrastate commerce and who is not transporting hazardous materials, *or who is transporting petroleum products as defined in s. 376.301(27),* is exempt from subsection (1). However, such person must comply with 49 C.F.R. parts 382, 392, 393, and 49 C.F.R. s. 396.9.

(k) A person holding a commercial driver's license who is a regularly employed driver of a commercial motor vehicle and is subject to an alcohol and controlled substance testing program related to that employment shall not be required to be part of a separate testing program for operating any bus owned and operated by a church when the driver does not receive any form of compensation for operating the bus and when the bus is used to transport people to or from church-related activities at no charge. The provisions of this paragraph may not be implemented if the Federal Government notifies the department that implementation will adversely affect the allocation of federal funds to the state.

(4)*(a)* Except as provided in this subsection, all commercial motor vehicles transporting any hazardous material on any road, street, or highway open to the public, whether engaged in interstate or intrastate commerce, and any person who offers hazardous materials for such transportation, are subject to the regulations contained in 49 C.F.R. parts *107, subpart G,* 171, 172, 173, 177, 178, and 180. *Effective July 1, 1997, the exceptions for intrastate motor carriers provided in 49 C.F.R. 173.5 and 173.8 are hereby adopted.*

~~(a) A person who operates a commercial motor vehicle having a declared gross vehicle weight of less than 26,000 pounds transporting, solely within intrastate commerce, quantities of petroleum products as defined in s. 376.301(27) is exempt from the requirements of subsection (1) and from the requirements of 49 C.F.R. parts 171, 172, 173, 177, 178, and 180. However, such person must comply with 49 C.F.R. part 172, subpart F, 49 C.F.R. parts 392 and 393, and 49 C.F.R. s. 396.9.~~

~~(b) A person who operates a commercial motor vehicle with a declared gross vehicle weight of less than 26,000 pounds transporting Table 2 commodities, as specified in 49 C.F.R. s. 172.504, solely in intrastate commerce within a 150-air-mile radius of the location where the vehicle is based, is subject only to the following federal regulations while transporting these commodities to be used in a support role for agricultural, horticultural, or forestry production: 49 C.F.R. part 172, subpart F, 49 C.F.R. part 391, subpart H, and 49 C.F.R. parts 382, 392, 393, and 396.9.~~

(b)~~(c)~~ In addition to the penalties provided in s. 316.3025(3)(b), (c), (d), and (e), any motor carrier or any of its officers, drivers, agents, representatives, employees, or shippers of hazardous materials that do not comply with this *subsection* ~~paragraph~~ or any rule adopted by a state agency that is consistent with the federal rules and regulations regarding hazardous materials commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083. To ensure compliance with this subsection, enforcement officers of the Motor Carrier Compliance Office within the Department of Transportation and state highway patrol officers may inspect shipping documents and cargo of any vehicle known or suspected to be a transporter of hazardous materials.

Section 27. Subsections (3) and (4) and paragraph (b) of subsection (7) of section 316.515, Florida Statutes, are amended to read:

316.515 Maximum width, height, length.—

(3) LENGTH LIMITATION.—Except as otherwise provided in this section, length limitations apply solely to a semitrailer or trailer, and not to a truck tractor or to the overall length of a combination of vehicles. No combination of commercial motor vehicles coupled together and operating on the public roads may consist of more than one truck tractor and two trailing units. Unless otherwise specifically provided for in this section, a combination of vehicles not qualifying as commercial motor vehicles may consist of no more than two units coupled together; such nonqualifying combination of vehicles may not exceed a total length of 65 feet, inclusive of the load carried thereon, but exclusive of safety and energy conservation devices approved by the department for use on vehicles using public roads. Notwithstanding any other provision of this section, a truck tractor-semitrailer combination engaged in the transportation of automobiles or boats may transport motor vehicles or boats on part of the power unit; and, except as may otherwise be mandated under federal law, an automobile or boat transporter semitrailer may not exceed 50 feet in length, exclusive of the load; however, the load may extend up to an additional *6* 4 feet beyond the rear of the trailer. The 50-feet length limitation does not apply to non-stinger-steered automobile or boat transporters that are 65 feet or less in overall length, exclusive of the load carried thereon, or to stinger-steered automobile or boat transporters that are 75 feet or less in overall length, exclusive of the load carried thereon. For purposes of this subsection, a "stinger-steered automobile or boat transporter" is an automobile or boat transporter configured as a semitrailer combination wherein the fifth wheel is located on a drop frame located behind and below the rearmost axle of the power unit. Notwithstanding paragraphs (a) and (b), any straight truck or truck tractor-semitrailer combination engaged in the transportation of horticultural trees may allow the load to extend up to an additional 10 feet beyond the rear of the vehicle, provided said trees are resting against a retaining bar mounted above the truck bed so that the root balls of the trees rest on the floor and to the front of the truck bed and the tops of the trees extend up over and to the rear of the truck bed, and provided the overhanging portion of the load is covered with protective fabric.

(a) Straight trucks.—No straight truck may exceed a length of 40 feet in extreme overall dimension, exclusive of safety and energy conservation devices approved by the department for use on vehicles using public roads. ~~Any straight truck, excluding recreational vehicles, in excess of 35 feet in length may have no fewer than three load-bearing axles.~~ A straight truck may tow no more than one trailer, and such trailer may not exceed a length of 28 feet. However, such trailer limitation does not apply if the overall length of the truck-trailer combination is 65 feet or less, including the load thereon. Notwithstanding any other provisions of this section, a truck-trailer combination engaged in the transportation of boats shall not exceed the length limitations of this paragraph exclusive of the load; however, the load may extend up to an additional *6* 4 feet beyond the rear of the trailer.

(b) Semitrailers.—

1. A semitrailer operating in a truck tractor-semitrailer combination may not exceed 48 feet in extreme overall outside dimension, measured from the front of the unit to the rear of the unit and the load carried thereon, exclusive of safety and energy conservation devices approved by the department for use on vehicles using public roads, unless it complies with subparagraph 2. A semitrailer which exceeds 48 feet in length and is used to transport divisible loads may operate in this state only if issued a permit under s. 316.550 and if such trailer meets the requirements of this chapter relating to vehicle equipment and safety. Except for highways on the tandem trailer truck highway network, public roads deemed unsafe for longer semitrailer vehicles or those roads on which such longer vehicles are determined not to be in the interest of public convenience shall, in conformance with s. 316.006, be restricted by the Department of Transportation or by the local authority to use by semitrailers not exceeding a length of 48 feet, inclusive of the load carried thereon but exclusive of safety and energy conservation devices approved by the department for use on vehicles using public roads. Truck tractor-semitrailer combinations shall be afforded reasonable access to terminals; facilities for food, fuel, repairs, and rest; and points of loading and unloading.

2. A semitrailer which is more than 48 feet but not more than 53 feet in extreme overall outside dimension, as measured pursuant to subparagraph 1., may operate on public roads, except roads on the State Highway System which are restricted by the Department of Transportation or other roads restricted by local authorities, if:

a. The distance between the kingpin or other peg which locks into the fifth wheel of a truck tractor and the center of the rear axle or rear group of axles does not exceed 41 feet; and

b. It is equipped with a substantial rear-end underride protection device meeting the requirements of 49 C.F.R. s. 393.86, "Rear End Protection."

(c) Tandem trailer trucks.—

1. Except for semitrailers and trailers of up to 28½ feet in length which existed on December 1, 1982, and which were actually and lawfully operating on that date, no semitrailer or trailer operating in a truck tractor-semitrailer-trailer combination may exceed a length of 28 feet in extreme overall outside dimension, measured from the front of the unit to the rear of the unit and the load carried thereon, exclusive of safety and energy conservation devices approved by the Department of Transportation for use on vehicles using public roads.

2. Tandem trailer trucks conforming to the weight and size limitations of this chapter and in immediate transit to or from a terminal facility as defined in this chapter may operate on the public roads of this state except for residential neighborhood streets restricted by the Department of Transportation or local jurisdictions. In addition, the Department of Transportation or local jurisdictions may restrict these vehicles from using streets and roads under their maintenance responsibility on the basis of safety and engineering analyses, provided that the restrictions are consistent with the provisions of this chapter. The Department of Transportation shall develop safety and engineering standards to be used by all jurisdictions when identifying public roads and streets to be restricted from tandem trailer truck operations.

3. Except as otherwise provided in this section, within 5 miles of the Federal National Network for large trucks, tandem trailer trucks shall be afforded access to terminals; facilities for food, fuel, repairs, and rest; and points of loading and unloading.

4. Notwithstanding the provisions of any general or special law to the contrary, all local system tandem trailer truck route review procedures must be consistent with those adopted by the Department of Transportation.

5. Tandem trailer trucks employed as household goods carriers and conforming to the weight and size limitations of this chapter shall be afforded access to points of loading and unloading on the public streets and roads of this state, except for streets and roads that have been restricted from use by such vehicles on the basis of safety and engineering analyses by the jurisdiction responsible for maintenance of the streets and roads.

(d) Maxi-cube vehicles.—Maxi-cube vehicles shall be allowed to operate on routes open to tandem trailer trucks under the same conditions applicable to tandem trailer trucks as specified by this section.

(4) LOAD EXTENSION LIMITATION.—The load upon any vehicle operated alone, or the load upon the front vehicle of a combination of vehicles, may not extend more than 3 feet beyond the front wheels of the vehicle or the front bumper of the vehicle if it is equipped with a bumper.

(a) The limitations of this subsection do not apply to bicycle racks carrying bicycles on public sector transit vehicles.

(b) The provisions of this subsection shall not apply to a front-end loading collection vehicle, when:

1. The front-end loading mechanism and container or containers are in the lowered position;

2. The vehicle is engaged in collecting solid waste or recyclable or recovered materials;

3. The vehicle is being operated at speeds less than 20 miles per hour with the vehicular hazard-warning lights activated; and

4. The extension does not exceed 8 feet 6 inches.

(7) FIRE OR EMERGENCY VEHICLES, UTILITY VEHICLES, AND OTHER VEHICLES TRANSPORTING NONDIVISIBLE LOADS.—The length limitations imposed by this section do not apply to:

(b) Utility vehicles owned or operated by governmental entities or public utility corporations, or operated under contract with such entities or corporations:

1. When transporting poles during daytime, except on weekends and holidays, as defined in the rules of the Department of Transportation, and when the vehicle and load do not exceed 120 feet in overall length, provided proper flags are located at the rearmost end of the load. However, such movements with an overall length in excess of 75 feet:

a. Shall be equipped with a working warning light device.

b. Shall be accompanied by a company-provided flasher-equipped escort vehicle when making turns within corporate city limits.

2.*a.* When transporting poles during nighttime and when the vehicle and load do not exceed 120 feet in overall length. Such movements shall be equipped with a working warning light device and shall be accompanied by one leading and one trailing company-provided flasher-equipped escort vehicle.

b. The provisions of sub-subparagraph a. notwithstanding, for vehicle and loads with overall lengths not exceeding 85 feet and being transported under emergency conditions, only a single trailing company-owned flasher-equipped escort vehicle shall be required, provided that the pole being transported shall be equipped with active marker lights, visible from both sides, at a maximum of 6-foot intervals mounted along the pole or trailer extending the length of the trailer and at 36-inch intervals along the pole extending beyond the rear of the trailer.

3. When transporting poles during emergencies or required maintenance. Such movements may be made on all days and at all hours, provided the respective daytime or nighttime requirements are otherwise met.

4. When operating flasher-equipped straight truck utility vehicles that have permanently mounted equipment that extends up to 9 feet beyond the front bumper, provided:

a. Such equipment, when in the travel position, is supported in such a manner that it has a minimum of 80 inches clearance above the roadway;

b. Such equipment is illuminated on the forwardmost sides with high visibility reflective tape;

c. The respective daytime and nighttime requirements for operation are otherwise met;

d. Nighttime emergency or required maintenance operation of such utility vehicles with overall lengths in excess of 50 feet are led by a company-provided flasher-equipped escort vehicle; and

e. Trailers are not pulled by utility vehicles over 50 feet in length.

A flasher-equipped escort vehicle is defined as an automobile or truck that closely accompanies an over dimensional vehicle or load carried thereon to alert approaching traffic of that vehicle or load. Such escort vehicles shall be equipped with a working warning light device, as defined in this subsection, except that such device shall be located on top of the escort vehicle. Warning light devices required in this subsection shall be consistent with size, color, type, intensity, and mounting requirements developed by the Department of Transportation.

Section 28. Subsection (4) of section 316.516, Florida Statutes, 1996 Supplement, is amended to read:

316.516 Width, height, and length; inspection; penalties.—

(4) *Notwithstanding other provisions of this chapter, penalties for violation of the maximum limits for width, height, and length provided for in s. 316.515 are as follows:*

(a) Two hundred and fifty dollars per foot of violation or any portion thereof for width and height limit violations.

(b)1. Forty dollars for length limit violations not exceeding 2 feet over the length limit;

2. One hundred dollars for length limit violations of greater than 2 feet but not exceeding 10 feet over the length limit; or

3. Two hundred and fifty dollars for length limit violations of greater than 10 feet, plus $250 for every additional foot or any portion thereof that exceeds 11 feet over the length limit.

(c) No individual penalty issued under the provisions of this subsection shall exceed $1,000 for each width, height, or length violation. ~~Penalties for violation of the width, height, and length limits contained in this chapter shall be as provided in the rules of the Department of Transportation, except that no such individual penalty shall exceed $1,000 per width, height, or length violation.~~

Section 29. Paragraph (g) of subsection (2) and subsection (5) of section 322.53, Florida Statutes, 1996 Supplement, are amended to read:

322.53 License required; exemptions.—

(2) The following persons are exempt from the requirement to obtain a commercial driver's license:

~~(g) A driver operating any bus owned and operated by a church, when the driver does not receive any form of compensation for operating the bus, and when the bus is used to transport people to or from church-related activities at no charge.~~

(5) A resident who is exempt from obtaining a commercial driver's license pursuant to paragraph (2)(b), paragraph (2)(d), paragraph (2)(e), *or* paragraph (2)(f)~~, or paragraph (2)(g)~~ may drive a commercial motor vehicle pursuant to the exemption granted in paragraph (2)(b), paragraph (2)(d), paragraph (2)(e), *or* paragraph (2)(f)~~, or paragraph (2)(g)~~ if he or she possesses a valid Class D or Class E driver's license or a military license.

(Renumber subsequent section[s])

And the title is amended as follows:

On page 1, line(s) 30 through page 2, line 2, remove from the title of the bill all of said lines and insert in lieu thereof: 10 days of receipt of payment; creating ss. 319.40, 320.95, 322.70, 327.90, and 328.30, F.S.; authorizing the department to accept applications by electronic or telephonic means; amending s. 316.2397, F.S.; authorizing petroleum tankers to display amber lights; amending s. 320.02, F.S.; providing for voluntary contributions on the application for motor vehicle registration with respect to Prevent Blindness Florida; amending s. 320.06, F.S.; amending provisions relating to validation stickers on fleet license plates; including issuance of two plates under certain circumstances; amending s. 322.16, F.S.; revising language with respect to license restrictions; amending s. 316.1001, F.S.; providing a cross reference; amending s. 319.29, F.S.; increasing the time period for the reissuance of certain certificates of title; amending s. 320.08058, F.S.; providing that certain collegiate and professional sports team license plates must meet certain requirements and be authorized by act of the Legislature; repealing s. 325.205, F.S., relating to supplemental safety inspections; amending s. 325.207, F.S.; providing options with respect to certain performance bonds; amending s. 316.215, F.S.; providing an exemption to certain motor vehicle requirements for front-end loading vehicles; amending s. 316.302, F.S., relating to commercial motor vehicle safety regulations; updating reference to federal regulations; providing exception to specified provisions for public utility and authorized emergency vehicles; revising language with respect to requirements for intrastate transporting of hazardous materials; providing for applicability of alcohol and drug testing programs to certain volunteer drivers; providing an exemption to certain federal commercial motor vehicle requirements for certain vehicles operating intrastate; amending s. 316.515, F.S.; providing exception to length limitations for certain utility vehicles under specified conditions; providing exceptions to load extension limitation; amending s. 316.516, F.S.; providing statutory penalties for violation of maximum width, height, and length limitations; amending s. 322.53, F.S.; deleting an exemption to the requirement of having a commercial driver's license; amending s.

House Amendment 5 (with title amendment)—On page 28, line 29, through page 29, line 31, of the bill remove from the bill all of said lines and insert:

Section 26. Subsection (5) of section 320.8285, Florida Statutes, is amended to read:

320.8285 Onsite inspection.—

(5) The Department of Highway Safety and Motor Vehicles shall enforce every provision of this section and the regulations adopted pursuant hereto, except that local land use and zoning requirements, fire zones, building setback and side and rear yard requirements, site development and property line requirements, subdivision control, and onsite installation requirements, as well as review and regulation of architectural and aesthetic requirements, are hereby specifically and entirely reserved to local jurisdictions. However, any architectural or aesthetic requirement imposed on the mobile home structure itself may pertain only to roofing and siding materials. Such local requirements and regulations and others for manufactured homes must be reasonable, uniformly applied, and enforced without distinctions as to whether such housing is manufactured, located in a mobile home park or a mobile home subdivision, or built in a conventional manner. *No local jurisdiction shall prohibit siting or resiting of used mobile homes based solely on the date the unit was manufactured.*

(Renumber subsequent section[s])

And the title is amended as follows:

On page 3, line(s) 23, remove from the bill all of said line and insert: airport facility; amending s. 320.8285, F.S.; providing local jurisdictions shall not prohibit siting or resiting of used mobile homes based on date of manufacture; amending s. 322.38, F.S.;

House Amendment 6 (with title amendment)—On page 30, between lines 6 and 7, of the bill insert:

Section 28. Section 316.2025, Florida Statutes, is amended to read:

316.2025 Following *emergency vehicle* ~~fire apparatus~~ prohibited.—*Except for an authorized emergency vehicle, as defined in s. 322.01, on official business, no driver of any vehicle shall follow within 500 feet of an emergency vehicle that is en route to an existing emergency or drive into or park such vehicle within 500 feet of where the emergency vehicle has stopped in answer to an emergency.* ~~No driver of any vehicle other than an authorized emergency vehicle on official business shall follow any fire apparatus traveling in response to a fire alarm closer than 500 feet or drive into or park such vehicle within the block where fire apparatus has stopped in answer to a fire alarm.~~

(Renumber subsequent section[s])

And the title is amended as follows:

On page 4, line 2, after the semicolon insert: amending s. 316.2025, F.S.; providing that it is unlawful to follow or park a motor vehicle within 500 feet of an emergency vehicle that is responding to an emergency;

House Amendment 7 (with title amendment)—On page 30, between lines 6 and 7, of the bill insert:

Section 28. Subsection (1) of section 318.15, Florida Statutes, 1996 Supplement, is amended to read:

318.15 Failure to comply with civil penalty or to appear; penalty.—

(1)*(a)* If a person fails to comply with the civil penalties provided in s. 318.18 within the time period specified in s. 318.14(4), fails to attend driver improvement school, or fails to appear at a scheduled hearing, the clerk of the court shall notify the Division of Driver Licenses of the Department of Highway Safety and Motor Vehicles of such failure within 5 days after such failure. Upon receipt of such notice, the department shall immediately issue an order suspending the driver's license and privilege to drive of such person effective 20 days after the date the order of suspension is mailed in accordance with s. 322.251(1), (2), and (6). Any such suspension of the driving privilege which has not been reinstated, including a similar suspension imposed outside Florida, shall remain on the records of the department for a period of 7 years from the date imposed and shall be removed from the records after the expiration of 7 years from the date it is imposed.

(b) However, a person who elects to attend driver improvement school and has paid the civil penalty as provided in s. 318.14(9), but who subsequently fails to attend the driver improvement school within the

time specified by the court shall be deemed to have admitted the infraction and shall be adjudicated guilty. In such case the person must pay the clerk of the court the 18 percent deducted pursuant to s. 318.14(9), and a $10 processing fee, after which no additional penalties, court costs, or surcharges shall be imposed for the violation. The clerk of the court shall notify the department of the person's failure to attend driver improvement school and points shall be assessed pursuant to s. 322.27.

(Renumber subsequent section[s])

And the title is amended as follows:

On page 4, line 2, after the semicolon insert: amending s. 318.15, F.S.; providing that persons who elect to attend driver improvement school may subsequently elect not to attend such school;

Substitute House Amendment 8 (with title amendment)—On page 30, between lines 6 and 7, of the bill insert:

Section 28. Paragraph (b) of subsection (3) of section 320.086, Florida Statutes, 1996 Supplement, is amended to read:

320.086 Ancient, antique, or collectible motor vehicles; "horseless carriage," antique, collectible, or historical license plates.—

(3)

(b) Motor vehicles with a model year of *1928-1960* ~~1946-1960~~, registered as ancient prior to July 1, 1996, shall be grandfathered to maintain a permanent license plate unless the vehicle is transferred to a new owner. Upon transfer of a vehicle with a model year of 1946-1960, after July 1, 1996, the vehicle shall be registered as a collectible and required to renew annually as prescribed by s. 320.08.

(Renumber subsequent section[s])

And the title is amended as follows:

On page 4, line 2, after the semicolon insert: amending s. 320.086, F.S.; revising language with respect to certain ancient, antique, or collectible motor vehicles;

House Amendment 9 (with title amendment)—On page 24, between lines 15 and 16, insert:

Section 18. Subsections (2), (4), and (15) of section 327.25, Florida Statutes, 1996 Supplement, are amended to read:

327.25 Classification; registration; fees and charges; surcharge; disposition of fees; fines; marine turtle stickers.—

(2) ANTIQUE VESSEL REGISTRATION FEE.—

(a) A vessel that is at least 30 years old, used only for noncommercial purposes, and powered by the vessel's original-type power plant may be registered as an antique vessel. When applying for registration as an antique vessel, the owner of such a vessel shall submit certification, *as prescribed by the Department of Highway Safety and Motor Vehicles or* from a marine surveyor that the vessel meets the requirements of this paragraph.

~~(b) The registration fee for an antique vessel shall be based on length according to the classification schedule in subsection (1).~~

(b)~~(c)~~ The registration number for an antique vessel shall be affixed on the forward half of the hull or on the port side of the windshield according to ss. 327.11 and 327.14.

(c)~~(d)~~ The Department of Highway Safety and Motor Vehicles may issue a decal identifying the vessel as an antique vessel. The decal shall be placed within 3 inches of the registration number.

(4) TRANSFER OF OWNERSHIP.—

(a) When the ownership of a registered vessel changes, an application for transfer of registration shall be filed with the county tax collector by the new owner within 30 days with a fee of $3.25. The county tax collector shall retain $2.25 of the fee and shall remit $1 to the department. A refund may not be made for any unused portion of a registration period.

(b) If a vessel is an antique as defined in subsection (2), the application shall be accompanied by either a certificate of title, a notarized bill of sale and a registration, or a notarized bill of sale and an affidavit by the owner defending the title from all claims. The bill of sale must contain a complete vessel description to include the hull identification number and engine number, if appropriate; the year, make, and color of the vessel; the selling price; and the signatures of the seller and purchaser.

(15) EXEMPTIONS.—Vessels owned and operated by Sea Explorer or Sea Scout units of the Boy Scouts of America, the Girl Scouts of America, or the Associated Marine Institutes, Inc., and its affiliates, *or which are antique vessels as defined in paragraph (2)(a)* are exempt from the provisions of subsection (1). Such vessels shall be issued certificates of registration and numbers upon application and payment of the service fee provided in subsection (7).

(Renumber subsequent section[s])

And the title is amended as follows:

On page 2, line 31, after "offenders;" insert: amending s. 327.25, F.S.; revising language with respect to the registration of antique vessels; exempting such vessels from registration fees;

House Amendment 10 (with title amendment)—On page 12, line 11, of the bill insert:

Section 9. Paragraph (e) of subsection (1) of section 320.08, Florida Statutes, 1996 Supplement, is amended to read:

320.08 License taxes.—Except as otherwise provided herein, there are hereby levied and imposed annual license taxes for the operation of motor vehicles, mopeds, motorized bicycles as defined in s. 316.003(2), and mobile homes, as defined in s. 320.01, which shall be paid to and collected by the department or its agent upon the registration or renewal of registration of the following:

(1) MOTORCYCLES, MOPEDS, MOTORIZED BICYCLES.—

(e) An *ancient,* antique, *or collectible* motorcycle: $10 flat. ~~An "antique motorcycle" is any motorcycle manufactured more than 20 years prior to the date of application or equipped with an engine manufactured to the specifications of the original engine.~~

Section 10. Subsections (1) and (2) and paragraph (a) of subsection (3) of section 320.086, Florida Statutes, 1996 Supplement, are amended to read:

320.086 Ancient, antique, or collectible motor vehicles; "horseless carriage," antique, collectible, or historical license plates.—

(1) The owner of *a motor vehicle* ~~an automobile or truck~~ for private use manufactured in 1927 or earlier, equipped with an engine manufactured in 1927 or earlier or manufactured to the specifications of the original engine, and operated on the streets and highways of this state shall, upon application in the manner and at the time prescribed by the department and upon payment of the license tax for an ancient motor vehicle prescribed by s. 320.08*(1)(e)*, (2)(a), or (3)(e), be issued a special license plate for such motor vehicle. The license plate shall be permanent and valid for use without renewal so long as the vehicle is in existence. In addition to the payment of all other fees required by law, the applicant shall pay such fee for the issuance of the special license plate as may be prescribed by the department commensurate with the cost of its manufacture. The registration numbers and special license plates assigned to such motor vehicles shall run in a separate numerical series, commencing with "Horseless Carriage No. 1," and the plates shall be of a distinguishing color.

(2) The owner of *a motor vehicle* ~~an automobile or truck~~ for private use manufactured between 1928 and 1945, inclusive, with an engine manufactured between 1928 and 1945, inclusive, or manufactured to the specifications of the original engine and operated on the streets and highways of this state shall, upon application in the manner and at the time prescribed by the department and upon payment of the license tax prescribed by s. 320.08*(1)(e)*, (2)(a), or (3)(e), be issued a special license plate for such motor vehicle. In addition to the payment of all other fees required by law, the applicant shall pay such fee for the issuance of the special license plate as may be prescribed by the department commensurate with the cost of its manufacture. The registration numbers and special license plates assigned to such motor vehicles shall run in a

separate numerical series, commencing with "Antique Vehicle No. 1," and the plates shall be of a distinguishing color.

(3)(a) The owner of *a motor vehicle* ~~an automobile or truck~~ for private use of the age of 20 years or more from the date of manufacture, equipped with an engine of the age of 20 years or more from the date of manufacture, and operated on the streets and highways of this state shall, upon application in the manner and at the time prescribed by the department and upon payment of the license tax prescribed by s. 320.08*(1)(e),* (2)(a), or (3)(e), be issued a special license plate for such motor vehicle. In addition to the payment of all other fees required by law, the applicant shall pay such fee for the issuance of the special license plate as may be prescribed by the department commensurate with the cost of its manufacture. The registration numbers and special license plates assigned to such motor vehicles shall run in a separate numerical series, commencing with "Collectible No. 1," and the plates shall be of a distinguishing color.

(Renumber subsequent section[s])

And the title is amended as follows:

On page 2, line 5, after the semicolon, insert: amending ss. 320.08 and 320.086, F.S.; providing for ancient, antique, or collectible motorcycles; correcting cross-references;

House Amendment 11 (with title amendment)—On page 30, lines 1-6, remove from the bill all of said lines

(Renumber subsequent section[s])

And the title is amended as follows:

On page 3, lines 30 and 31, and on page 4, lines 1 and 2 remove from the title of the bill all of said lines and insert in lieu thereof: jurisdiction;

House Amendment 13 (with title amendment)—On page 10, line 29, through page 12, line 10, remove from the bill all of said lines and insert in lieu thereof:

Section 8. Paragraph (d) of subsection (2) of section 320.072, Florida Statutes, 1996 Supplement, is amended, and subsection (5) is added to said section, to read:

320.072 Additional fee imposed on certain motor vehicle registration transactions.—

(1) A fee of $100 is imposed upon the initial application for registration pursuant to s. 320.06 of every motor vehicle classified in s. 320.08(2), (3), and (9)(c) and (d).

(2) The fee imposed by subsection (1) shall not apply to:

(d) The registration of any motor vehicle owned by and operated exclusively for the personal use of:

1. Any member of the United States Armed Forces, or his or her spouse or dependent child, who is not a resident of this state and who is stationed in this state while in compliance with military orders.

2. Any former member of the United States Armed Forces, or his or her spouse or dependent child, who purchased such motor vehicle while stationed outside of Florida, who has separated from the Armed Forces and was not dishonorably discharged or discharged for bad conduct, who was a resident of this state at the time of enlistment and at the time of discharge, and who applies for registration of such motor vehicle within 6 months after discharge.

3. Any member of the United States Armed Forces, or his or her spouse or dependent child, who was a resident of this state at the time of enlistment, who purchased such motor vehicle while stationed outside of Florida, and who is now reassigned by military order to this state.

4. Any spouse or dependent child of a member of the United States Armed Forces who loses his or her life while on active duty or who is listed by the Armed Forces as "missing-in-action." Such spouse or child must be a resident of this state and the service member must have been a resident of this state at the time of enlistment. Registration of such motor vehicle must occur within 1 year of the notification of the service member's death or of his or her status as "missing-in-action."

5. Any member of the United States Armed Forces, or his or her spouse or dependent child, who was a resident of this state at the time of enlistment, who purchased a motor vehicle while stationed outside of Florida, and who continues to be stationed outside of Florida.

(5) The fee imposed in subsection (1) shall not apply if it is determined, pursuant to an affidavit submitted by the owner on a form approved by the department, that the registration being transferred is from a vehicle that is not operational, is in storage, or will not be operated on the streets and highways of this state.

And the title is amended as follows:

On page 2, line 3, remove from the title of the bill "an exemption" and insert in lieu thereof: exemptions

House Amendment 14 (with title amendment)—On page 30, line 7, insert:

Section 28. Paragraph (f) is added to subsection (3) of section 330.30, Florida Statutes, to read:

330.30 Approval of airport sites and licensing of airports; fees.—

(3) EXEMPTIONS.—The provisions of this section do not apply to:

(f) An airport which meets the criteria of s. 330.27(11) used exclusively for aerial application or spraying of crops on a seasonal basis, not to include any licensed airport where permanent crop aerial application or spraying facilities are installed, if the period of operation does not exceed 30 days per calendar year.

(Renumber subsequent section[s])

And the title is amended as follows:

On page 4, line 2, after the semicolon insert: amending s. 330.30, F.S.; providing an exemption from licensing requirements to described airports;

House Amendment 16 (with title amendment)—On page 12, between lines 26 and 27, insert:

Section 10. Paragraphs (a) and (c) of subsection (1), subsection (2), and paragraph (a) of subsection (3) of section 320.0848, Florida Statutes, 1996 Supplement, are amended to read:

320.0848 Persons who have disabilities; issuance of disabled parking permits; temporary permits; permits for certain providers of transportation services to persons who have disabilities.—

(1)(a) The Department of Highway Safety and Motor Vehicles or its authorized agents shall, upon application and receipt of the fee, issue a disabled parking permit for a period *of up to 4 years* that ends on the *applicant's birthday* ~~renewal date for that person's driver's license or identification card~~ to any person who has *long-term* ~~permanent~~ mobility problems, or a temporary disabled parking permit not to exceed 1 year to any person who has temporary mobility problems. ~~The application for a disabled parking permit must contain the name and motor vehicle policy number of the applicant's primary insurance carrier, whom the department may notify upon granting a disabled parking permit.~~ The person must be currently certified by a physician licensed under chapter 458, chapter 459, or chapter 460, or by a podiatrist licensed under chapter 461, by the Division of Blind Services of the Department of Labor and Employment Security, or by the Adjudication Office of the United States Department of Veterans Affairs or its predecessor as being legally blind or as having any of the following disabilities that limit or impair his or her ability to walk:

1. Inability to walk 200 feet without stopping to rest.

2. Inability to walk without the use of or assistance from a brace, cane, crutch, prosthetic device, or other assistive device, or without the assistance of another person. If the assistive device significantly restores the person's ability to walk to the extent that the person can walk without severe limitation, the person is not eligible for the exemption parking permit.

3. The need to permanently use a wheelchair.

4. Restriction by lung disease to the extent that the person's forced (respiratory) expiratory volume for 1 second, when measured by spirometry, is less than 1 liter, or the person's arterial oxygen is less than 60 mm/hg on room air at rest.

5. Use of portable oxygen.

6. Restriction by cardiac condition to the extent that the person's functional limitations are classified in severity as Class III or Class IV according to standards set by the American Heart Association.

7. Severe limitation in the person's ability to walk due to an arthritic, neurological, or orthopedic condition.

(c) The Department of Highway Safety and Motor Vehicles shall renew the disabled parking permit of any person who has a disability upon presentation of the certification required by paragraph (b)~~, for the period that coincides with the period of the person's driver's license or identification card~~.

(2) DISABLED PARKING PERMIT; PERSONS WITH *LONG-TERM* ~~PERMANENT~~ MOBILITY PROBLEMS.—

(a) The disabled parking permit is a placard that can be placed in a motor vehicle so as to be visible from the front and rear of the vehicle. Each side of the placard must have the international symbol of accessibility in a contrasting color in the center so as to be visible. One side of the placard must display the applicant's driver's license number or state identification card number along with a warning that the applicant must have such identification at all times while using the parking permit. A validation sticker must also be issued with each disabled parking permit, showing the *month and* year of expiration ~~and the holder's birth month~~ on each side of the placard. Validation stickers must be of the size specified by the Department of Highway Safety and Motor Vehicles and must be affixed to the disabled parking permits. The disabled parking permits must use the same colors as license plate validations.

(b) License plates issued under ss. 320.084, 320.0842, 320.0843, and 320.0845 are valid for the same parking privileges and other privileges provided under ss. 316.1955, 316.1964, and 526.141(5)(a).

(c)1. Except as provided in subparagraph 2., the fee for a disabled parking permit shall be:

~~a. Twenty-two dollars and fifty cents for the initial 6-year permit or renewal permit, of which the State Transportation Trust Fund shall receive $20.25 and the tax collector of the county in which the fee was collected shall receive $2.25.~~

~~b. One dollar and fifty cents for each additional or additional renewal 6-year permit, of which the State Transportation Trust Fund shall receive all funds collected.~~

a.~~c.~~ Fifteen dollars for each initial 4-year permit or renewal permit, of which the State Transportation Trust Fund shall receive $13.50 and the tax collector of the county in which the fee was collected shall receive $1.50.

b.~~d.~~ One dollar for each additional or additional renewal 4-year permit, of which the State Transportation Trust Fund shall receive all funds collected.

The department shall not issue an additional disabled parking permit unless the applicant states that they are a frequent traveler or a quadriplegic. *The department may not issue to any one eligible applicant more than two disabled parking permits except to an organization in accordance with paragraph (1)(d). Subsections (1), (5), (6), and (7) apply to this subsection.*

2. If an applicant who is a disabled veteran, is a resident of this state, has been honorably discharged, and either has been determined by the Department of Defense or the *United States Department of* Veterans *Affairs* ~~Administration of the Federal Government~~ to have a service-connected disability rating for compensation of 50 percent or greater or has been determined to have a service-connected disability rating of 50 percent or greater and is in receipt of both disability retirement pay from the *United States Department of* Veterans *Affairs* ~~Administration~~ and has a signed physician's statement of qualification for the disabled parking permits, the fee for a disabled parking permit shall be:

~~a. Two dollars and twenty-five cents for the initial 6-year permit or renewal permit.~~

~~b. One dollar and fifty cents for the additional or additional renewal 6-year permit.~~

a.~~c.~~ One dollar and fifty cents for the initial 4-year permit or renewal permit.

b.~~d.~~ One dollar for each additional or additional renewal 4-year permit.

The tax collector of the county in which the fee was collected shall retain all funds received pursuant to this subparagraph.

3. If an applicant presents to the department a statement from the Federal Government or the State of Florida indicating the applicant is a recipient of supplemental security income, the fee for the disabled parking permit shall be~~:~~

~~a. Twelve dollars and seventy-five cents for the initial 6-year permit or renewal permit, of which the State Transportation Trust Fund shall receive $10.15 and the tax collector of the county in which the fee was collected shall receive $2.60.~~

~~b.~~ nine dollars for the initial 4-year permit or renewal permit, of which the State Transportation Trust Fund shall receive $6.75 and the tax collector of the county in which the fee was collected shall receive $2.25.

~~The department may not issue to any one eligible applicant more than two disabled parking permits except to an organization in accordance with paragraph (1)(d). Subsections (1), (5), (6), and (7) apply to this subsection.~~

(3) DISABLED PARKING PERMIT; TEMPORARY.—

(a) The temporary disabled parking permit is a placard of a different color from the color of the *long-term* ~~permanent~~ disabled parking permit placard, and must clearly display the date of expiration, but is in all other respects identical to the *long-term* ~~permanent~~ disabled parking permit placard. The temporary disabled parking permit placard must be designed to conspicuously display the expiration date of the permit on the front and back of the placard.

(Renumber subsequent section[s])

And the title is amended as follows:

On page 2, line 9, insert, before the word "amending": amending s. 320.0848, F.S.; providing for issuing disabled parking permits to persons with long-term mobility problems; providing a time limit; providing requirments; providing limitations; revising the fee for a disabled parking permit; revising distribution of the fee;

House Amendment 17 (with title amendment)—On page 10, between lines 28 and 29, insert:

Section 8. Paragraphs (a) and (b) of subsection (3) of section 320.07, Florida Statutes, 1996 Supplement, are amended to read:

320.07 Expiration of registration; annual renewal required; penalties.—

(3) The operation of any motor vehicle without having attached thereto a registration license plate and validation stickers, or the use of any mobile home without having attached thereto a mobile home sticker, for the current registration period shall subject the owner thereof, if he or she is present, or, if the owner is not present, the operator thereof to the following penalty provisions:

(a) Any person whose motor vehicle or mobile home registration has been expired for a period of *6* **4** months or less shall be subject to the penalty provided in s. 318.14.

(b) Any person whose motor vehicle or mobile home registration has been expired for more than *6* **4** months is guilty of a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(Renumber subsequent section[s])

And the title is amended as follows:

On page 1, line 30, after the semicolon insert: amending s. 320.07, F.S.; increasing a time period with respect to the expiration of registration;

House Amendment 18 (with title amendment)—On page 30, line 7, remove from the bill all of said lines and insert in lieu thereof:

Section 28. Except as otherwise provided herein, this act shall take effect October 1,

And the title is amended as follows:

On page 4, line 2, remove from the title of the bill all of said lines and insert in lieu thereof: providing effective dates.

House Amendment 19—On page 15, line 25, after the word "department" insert: *, except that using a temporary tag that has been expired for a period of 7 days or less is a noncriminal infraction, and is a nonmoving violation punishable as provided for in chapter 318*

House Amendment 20 (with title amendment)—On page 4, line 5, insert:

Section 1. *(1) The Department of Insurance, in cooperation with the Department of Transportation, shall initiate a study for the purpose of developing a pilot program to establish an insurance pool to make available business interruption insurance to small business owners affected by business interruptions directly resulting from road construction projects on public roads adjacent to the affected small business. The study shall evaluate a variety of issues relative to making such insurance available to small business owners, including but not limited to determining:*

(a) Factors such as construction project duration and amount of project time overrun;

(b) The coverage limits of any such insurance;

(c) Factors which demonstrate business interruption as a direct result of the project;

(d) Funding methods for the insurance pool;

(e) Notice requirements to small business owners and the time frame for coverage application

(f) Premium payment periods and levels; and

(g) Generally, the rights and obligations of interested parties, such as the governmental entity responsible for construction, the road construction contractor, and the affected small business owner.

(2) The department shall initiate the study by July 1, 1997, and develop a proposed pilot program not later than February 1, 1998, for consideration by the Legislature.

And the title is amended as follows:

On page 1, line 3, after the semicolon and insert in lieu thereof: directing the Department of Insurance to conduct a study directing the department to develop a proposed pilot program for consideration by the Legislature;

House Amendment 21 (with title amendment)—On page 30, between lines 6 and 7, insert:

Section 28. Paragraph (b) of subsection (1) of section 125.0103, Florida Statutes, is amended to read:

125.0103 Ordinances and rules imposing price controls; findings required; procedures.—

(1)

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water, sewer, solid waste, public transportation, taxicab, towing of vehicles from *or immobilization of vehicles on* private property, removal and storage of wrecked or disabled vehicles from an accident scene or for the removal and storage of vehicles, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle, or port rates.

Section 29. Paragraph (b) of subsection (1) of section 166.043, Florida Statutes, is amended to read:

166.043 Ordinances and rules imposing price controls; findings required; procedures.—

(1)

(b) The provisions of this section shall not prevent the enactment by local governments of public service rates otherwise authorized by law, including water; sewer; solid waste; public transportation; taxicab; towing of vehicles from *or immobilization of vehicles on* private property; removal and storage of wrecked or disabled vehicles from an accident scene or for the removal and storage of vehicles, in the event the owner or operator is incapacitated, unavailable, leaves the procurement of wrecker service to the law enforcement officer at the scene, or otherwise does not consent to the removal of the vehicle; or port rates.

(Renumber subsequent section[s])

And the title is amended as follows:

On page 4, line 2, insert, after the semicolon: amending ss. 125.0103, 166.043, F.S.; authorizing counties and municipalities to regulate immobilization fees;

Senator Dyer moved the following amendment which was adopted:

Senate Amendment 1 (with title amendment) to Substitute House Amendment 4—On page 1, between lines 18 and 19, insert:

Section 11. Section 316.1974, Florida Statutes, is amended to read:

(Substantial rewording of section. See s. 316.1974, F.S., for present text.)

316.1974 Funeral procession right-of-way and liability.—

(1) DEFINITIONS.—

(a) "Funeral director" and "funeral establishment" shall have the same meaning as set forth in s. 470.002.

(b) "Funeral procession" means two or more vehicles accompanying the body of a deceased person, or traveling to the church, chapel, or other location at which the funeral service is to be held, in the daylight hours, including a funeral lead vehicle or a funeral escort vehicle.

(c) "Funeral lead vehicle" means any authorized law enforcement or non-law enforcement motor vehicle properly equipped pursuant to subsection (2) or a funeral escort vehicle being used to lead and facilitate the movement of a funeral procession. A funeral hearse may serve as a funeral lead vehicle.

(d) "Funeral escort" means a person or entity that provides escort services for funeral processions, including law enforcement personnel and agencies.

(e) "Funeral escort vehicle" means any motor vehicle that is properly equipped pursuant to subsection (2) and which escorts a funeral procession.

(2) EQUIPMENT.—

(a) All non-law enforcement funeral escort vehicles and funeral lead vehicles shall be equipped with at least one lighted circulation lamp exhibiting an amber light or lens visible under normal atmospheric conditions for a distance of 500 feet from the front of the vehicle. Flashing amber lights may be used only when such vehicles are used in a funeral procession.

(b) Any law enforcement funeral escort vehicle may be equipped with red, blue, or amber flashing lights which meet the criteria established in paragraph (a).

(3) FUNERAL PROCESSION RIGHT-OF-WAY; FUNERAL ESCORT VEHICLES; FUNERAL LEAD VEHICLES.—

(a) Regardless of any traffic control device or right-of-way provisions prescribed by state or local ordinance, pedestrians and operators of all vehicles, except as stated in paragraph (c), shall yield the right-of-way to any vehicle which is part of a funeral procession being led by a funeral escort vehicle or a funeral lead vehicle.

(b) When the funeral lead vehicle lawfully enters an intersection, either by reason of a traffic control device or at the direction of law enforcement personnel, the remaining vehicles in the funeral procession may follow through the intersection regardless of any traffic control devices or right-of-way provisions prescribed by state or local law.

(c) Funeral processions shall have the right-of-way at intersections regardless of traffic control devices, subject to the following conditions and exceptions:

1. Operators of vehicles in a funeral procession shall yield the right-of-way to an approaching emergency vehicle giving an audible or visible signal.

2. Operators of vehicles in a funeral procession shall yield the right-of-way when directed to do so by a police officer.

3. Operators of vehicles in a funeral procession must exercise due care when participating in a funeral procession.

(4) DRIVING IN PROCESSION.—

(a) All vehicles comprising a funeral procession shall follow the preceding vehicle in the funeral procession as closely as is practical and safe.

(b) Any ordinance, law, or regulation stating that motor vehicles shall be operated to allow sufficient space enabling any other vehicle to enter and occupy such space without danger shall not be applicable to vehicles in a funeral procession.

(c) Each vehicle which is part of a funeral procession shall have its headlights, either high or low beam, and tail lights lighted and may also use the flashing hazard lights if the vehicle is so equipped.

(5) LIABILITY.—

(a) Liability for any death, personal injury, or property damage suffered on or after October 1, 1997, by any person in a funeral procession shall not be imposed upon the funeral director or funeral establishment or their employees or agents unless such death, personal injury, or property damage is proximately caused by the negligent or intentional act of an employee or agent of the funeral director or funeral establishment.

(b) A funeral director, funeral establishment, funeral escort, or other participant that leads, organizes, or participates in a funeral procession in accordance with this section shall be presumed to have acted with reasonable care.

(c) Except for a grossly negligent or intentional act by a funeral director or funeral establishment there shall be no liability on the part of a funeral director or funeral establishment for failing, on or after October 1, 1997, to use reasonable care in the planning or selection of the route to be followed by the funeral procession.

Section 12. Paragraph (a) of subsection (5) of section 316.072, Florida Statutes, is amended to read:

316.072 Obedience to and effect of traffic laws.—

(5) AUTHORIZED EMERGENCY VEHICLES.—

(a)1. The driver of an authorized emergency vehicle, when responding to an emergency call, when in the pursuit of an actual or suspected violator of the law, or when responding to a fire alarm, but not upon returning from a fire*;* ~~, or~~

2. A medical staff physician or technician of a medical facility licensed by the state when responding to an emergency in the line of duty in his or her privately owned vehicle, using red lights as authorized in s. 316.2398*; or*~~,~~

3. The driver of an authorized law enforcement vehicle, when conducting a nonemergency escort, to warn the public of an approaching motorcade;

may exercise the privileges set forth in this section, but subject to the conditions herein stated.

Section 13. For purposes of incorporating the amendment to s. 316.072, Florida Statutes, in references thereto, paragraph (a) of subsection (6) of section 316.293, Florida Statutes, is reenacted to read:

316.293 Motor vehicle noise.—

(6) EXEMPT VEHICLES.—The following are exempt from the operation of this act:

(a) Emergency vehicles operating as specified in s. 316.072(5)(a).

(Renumber subsequent sections.)

And the title is amended as follows:

On page 20, line 6, after the semicolon (;) insert: amending s. 316.1974, F.S.; providing for funeral procession right-of-way and liability; providing definitions; providing for required equipment; providing for right-of-way; providing for driving in procession; providing for other vehicles; providing for liability; amending s. 316.072, F.S.; including certain law enforcement vehicles in a list of authorized emergency vehicles; reenacting s. 316.293(6)(a), F.S., relating to motor vehicle noise, to incorporate the amendment in a reference; amending s. 316.066;

Senator Hargrett moved the following amendment which was adopted:

Senate Amendment 1 to Substitute House Amendment 8—On page 1, delete line 28 and insert: *a* ~~the~~ vehicle *with a model year of 1946-1960* is transferred to a new owner. Upon transfer of a

On motion by Senator Hargrett, the Senate concurred in **Substitute House Amendments 4** and **8** as amended and requested the House to concur in the Senate amendments to the House amendments; concurred in **House Amendments 1, 2, Substitute House Amendment 3, House Amendments 5, 7, 9, 10, 11, 13, 16, 17, 18, 19** and **21**; and refused to concur in **House Amendments 6, 14** and **20** and the House was requested to recede.

CS for SB 1002 passed as amended and the action of the Senate was certified to the House. The vote on passage was:

Yeas—37

Madam President	Dantzler	Horne	Ostalkiewicz
Bankhead	Diaz-Balart	Jenne	Rossin
Bronson	Dudley	Jones	Silver
Brown-Waite	Dyer	Klein	Sullivan
Burt	Forman	Kurth	Thomas
Campbell	Grant	Latvala	Turner
Casas	Gutman	Lee	Williams
Childers	Hargrett	McKay	
Cowin	Harris	Meadows	
Crist	Holzendorf	Myers	

Nays—None

Vote after roll call:

Yea—Clary, Kirkpatrick, Scott

SPECIAL ORDER CALENDAR, continued

On motion by Senator McKay, by two-thirds vote **CS for CS for HB's 1119 and 1577** was withdrawn from the Committee on Natural Resources.

On motion by Senator McKay—

CS for CS for HB's 1119 and 1577—A bill to be entitled An act relating to public lands; amending s. 253.03, F.S.; extending the submerged lands lease for certain properties; amending s. 253.034, F.S.; specifying objectives of the management of the state's lands and natural resources; providing requirements for multiple-use land management strategies; providing references to the Land Acquisition and Management Council; revising land-management plan adoption processes; correcting a cross reference; amending s. 253.68, F.S.; modifying authority

of local government to object to state aquaculture leases; amending s. 253.7825, F.S.; correcting a cross reference; amending s. 259.032, F.S.; providing that a soil and water conservation district shall be considered first as the managing agency with respect to fee-simple acquisitions or acquisitions of less-than-fee interest in certain lands through the Conservation and Recreation Lands (CARL) Trust Fund; directing managing agencies to enter into certain contracts or agreements; requiring notice and public hearing on individual management plans; providing for withholding of CARL management funds to certain agencies; providing management objectives for lands acquired under ch. 259, F.S.; increasing the percentage of funds deposited in the Florida Preservation 2000 Trust Fund available for land management and capital improvements; allowing agencies to keep revenues generated from activities on lands they manage; revising provisions relating to payments in lieu of taxes; amending s. 259.035; creating the Land Acquisition and Management Advisory Council; providing responsibility for review of plans for state-owned lands; creating s. 259.036, F.S.; providing for management review teams for certain lands; amending s. 259.101, F.S.; adding historical or archeological sites to Preservation 2000 project criteria; commencing process to close out the Florida Preservation 2000 Program; amending s. 260.015, F.S.; changing certain land acquisition procedures for the Florida Greenways and Trails Program; creating s. 369.255, F.S.; authorizing certain counties and municipalities to create green utilities and adopt fees for certain purposes; amending s. 373.139, F.S.; providing that lands acquired for specified purposes by water management districts shall receive multiple-use management, except under certain conditions; directing the district governing boards to consult with or enter into a memorandum of agreement with specified state agencies with respect to such management; amending s. 373.59, F.S.; providing that a soil and water conservation district shall be considered first as the managing agency with respect to fee-simple acquisitions or acquisitions of less-than-fee interest in certain land through the Water Management Lands Trust Fund; providing for use of land management volunteers; creating s. 373.591, F.S.; creating management review teams for water management district lands; amending s. 704.06, F.S.; clarifying linear facilities ability to cross conservation easements; repealing s. 253.022, F.S., relating to the Land Management Advisory Council; amending s. 373.250, F.S.; revising a date with respect to certain reports by water management districts; providing an effective date.

—a companion measure, was substituted for **CS for CS for SB 1412** and read the second time by title.

Senator McKay moved the following amendment:

Amendment 1 (with title amendment)—Delete everything after the enacting clause and insert:

Section 1. Section 125.564, Florida Statutes, is created to read:

125.564 Limitation on soil or groundwater contamination liability.—When the board of county commissioners acquires property for conservation or environmental or other public purposes, it is not subject to any liability imposed by chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. This section does not affect the rights or liabilities of any past or future owners of the acquired property nor does it affect the liability of any governmental entity for the results of its actions which create or exacerbate a pollution source. The board of county commissioners must establish by a preponderance of the evidence that it undertook, at the time of acquisition, all appropriate inquiry into the previous ownership and use of the property consistent with good commercial or customary practice. Notwithstanding the results of such inquiry, if the board of county commissioners determines that it is in the public interest to acquire the property, the exemption provided in this section shall apply to the property acquired.

Section 2. Section 166.047, Florida Statutes, is created to read:

166.047 Limitation on soil or groundwater contamination liability.—When a municipality acquires property for conservation, environmental, or other public purposes, it is not subject to any liability imposed by chapter 376 or chapter 403 for preexisting soil or groundwater contamination due solely to its ownership. This section does not affect the rights or liabilities of any past or future owners of the acquired property nor does it affect the liability of any governmental entity for the results of its actions which create or exacerbate a pollution source. The municipality must establish by a preponderance of the evidence that it undertook, at the time of acquisition, all appropriate inquiry into the previous ownership and use of the property consistent with good commercial or customary practice. Notwithstanding the results of such inquiry, if it is determined by the municipality that it is in the public interest to acquire the property, the exemption provided in this section shall apply to the property acquired.

Section 3. *Acquisition of lands by the state.—Lands acquired or sought to be acquired by the state and its political subdivisions may contain cattle-dipping vats as defined in section 376.301, Florida Statutes. The Legislature determines that it is in the public interest for the state and its political subdivisions to acquire cattle-dipping vats from willing sellers, particularly where such vats are located on or within the boundaries of parcels or tracts acquired or being acquired by the state and its political subdivisions or on lands managed by a public interest organization for environmental mitigation purposes. Notwithstanding any other provision of law, the state and special taxing districts as defined in section 189.403(6), Florida Statutes, shall not exclude such cattle-dipping vats from any such individual acquisition or sequence of acquisitions using state funds in whole or in part or otherwise acquired pursuant to any permitting program under state law. Outparcels excluded from previous acquisitions which contain such cattle-dipping vats shall be given priority for acquisition under existing state acquisition programs. The state and its political subdivisions shall not become liable under state law solely as an incident of such acquisition for any costs, damages, or penalties associated with the discharge, evaluation, contamination, assessment, or remediation for any substances or derivatives thereof that were used in the vat for the eradication of the cattle fever tick.*

Section 4. Paragraph (c) is added to subsection (7) of section 253.03, Florida Statutes, 1996 Supplement, to read:

253.03 Board of trustees to administer state lands; lands enumerated.—

(7)

(c) Structures which are listed in or are eligible for the National Register of Historic Places or the State Inventory of Historic Places and which have a submerged land lease, or have been grandfathered-in to use sovereignty submerged lands until January 1, 1998, pursuant to chapter 18-21.00405, Florida Administrative Code, shall be allowed to apply for an extension of such lease, regardless of the fact that the present landholder is not an adjacent riparian landowner.

Section 5. Section 253.034, Florida Statutes, is amended to read:

253.034 State-owned lands; uses.—

(1) All lands acquired pursuant to chapter 259 shall be managed to serve the public interest by protecting and conserving land, air, water, and the state's natural resources, which contribute to the public health, welfare, and economy of the state. These lands shall be managed to provide for areas of natural-resource-based recreation, and to ensure the survival of plant and animal species and the conservation of finite and renewable natural resources. The state's lands and natural resources shall be managed using a stewardship ethic that assures these resources will be available for the benefit and enjoyment of all people of the state, both present and future. It is the intent of the Legislature that, where feasible and consistent with the goals of protection and conservation of natural resources associated with lands held in the public trust by the Board of Trustees of the Internal Improvement Trust Fund, public land not designated for single-use purposes pursuant to paragraph (2)(b) be managed for multiple-use purposes. All multiple-use land management strategies shall address public access and enjoyment, resource conservation and protection, ecosystem maintenance and protection, and protection of threatened and endangered species, and the degree to which public-private partnerships or endowments may allow the agency with management responsibility to enhance its ability to manage these lands.

(2)~~(1)~~ As used in this section, the following phrases have the following meanings:

(a) "Multiple use" means the harmonious and coordinated management of timber, recreation, *conservation of fish and* wildlife, forage, archaeological and historic sites, *habitat and other biological resources,* or water resources so that they are utilized in the combination that will best serve the people of the state, making the most judicious use of the land for some or all of these resources and giving consideration to the

relative values of the various resources. *Where necessary and appropriate for all state-owned lands that are larger than 1,000 acres in project size and are managed for multiple uses, buffers may be formed around any areas which require special protection or have special management needs. Such buffers shall not exceed more than one-half of the total acreage. Multiple uses within a buffer area may be restricted to provide the necessary buffering effect desired. Multiple use in this context includes both uses of land or resources by more than one state agency, or by one or more state agencies and private sector land managers. In any case, lands identified as multiple-use lands in the land-management plan shall be managed to enhance and conserve the lands and resources for the enjoyment of the people of the state.*

(b) "Single use" means management for one particular purpose to the exclusion of all other purposes, except that the using agency shall have the option of including in its management program compatible secondary purposes which will not detract from or interfere with the primary management purpose. Such single uses may include, but are not necessarily restricted to, the use of agricultural lands for production of food and livestock, the use of improved sites and grounds for institutional purposes, and the use of lands for parks, preserves, wildlife management, archaeological or historic sites, or wilderness areas where the maintenance of essentially natural conditions is important. All submerged lands shall be considered single-use lands and shall be managed primarily for the maintenance of essentially natural conditions, the propagation of fish and wildlife, and public recreation, including hunting and fishing where deemed appropriate by the managing agency.

~~(2) All lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall be managed in a manner that will provide the greatest combination of benefits to the people of the state. All such lands not designated in the land-management plan required by subsection (4) for a specific single use shall receive multiple-use management.~~

(3) No management agreement, lease, or other instrument authorizing the use of lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall be executed for a period greater than is necessary to provide for the reasonable use of the land for the existing or planned life cycle or amortization of the improvements, except that an easement in perpetuity may be granted by the Board of Trustees of the Internal Improvement Trust Fund if the improvement is a transportation facility. An agency managing or leasing state-owned lands from the Board of Trustees of the Internal Improvement Trust Fund may not sublease such lands without prior review by the division and by the Land *Acquisition and* Management Advisory Council created in s. *259.035* ~~253.022~~ and approval by the board. The Land *Acquisition and* Management Advisory Council is not required to review subleases of parcels which are less than 160 acres in size.

(4) Each state agency managing lands owned by the Board of Trustees of the Internal Improvement Trust Fund shall submit to the Division of State Lands a land-management plan at least every 5 years in a form and manner prescribed by rule by the board. All management plans, whether for single-use or multiple-use properties, shall specifically describe how the managing agency plans to identify, locate, protect and preserve, or otherwise use fragile nonrenewable resources, such as archaeological and historic sites, as well as other fragile resources, including endangered plant and animal species, *and provide for the conservation of soil and water resources and for the control and prevention of soil erosion*. Land-management plans submitted by an agency shall include reference to appropriate statutory authority for such use or uses and shall conform to the appropriate policies and guidelines of the state land-management plan. *All land management plans for parcels larger than 1,000 acres shall contain an analysis of the multiple-use potential of the parcel, which analysis shall include the potential of the parcel to generate revenues to enhance the management of the parcel. Additionally, the land management plan shall contain an analysis of the potential use of private land managers to facilitate the restoration or management of these lands. In those cases where a newly acquired property has a valid conservation plan, the plan shall be used to guide management of the property until a formal land management plan is completed.*

(a) The Division of State Lands shall *make available to the public* ~~submit~~ a copy of each land-management plan for parcels which exceed 160 acres in size ~~to each member of the Land Management Advisory Council~~. The council shall~~, within 60 days after receiving a plan from the division,~~ review each plan for compliance with the requirements of this subsection and with the requirements of the rules established by the board pursuant to this subsection. The council shall also consider the propriety of the recommendations of the managing agency with regard to the future use of the property, the protection of fragile or nonrenewable resources, the potential for alternative or multiple uses not recognized by the managing agency, and the possibility of disposal of the property by the board. After its review, the council shall submit the plan, along with its recommendations and comments, to the board. The council shall specifically recommend to the board whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(b) The Board of Trustees of the Internal Improvement Trust Fund shall consider the land-management plan submitted by each state agency and the recommendations of the ~~Land Management Advisory~~ council and the Division of State Lands and shall approve the plan with or without modification or reject such plan. The use or possession of any such lands which is not in accordance with an approved land-management plan is subject to termination by the board.

(5) The Board of Trustees of the Internal Improvement Trust Fund shall determine which lands, the title to which is vested in the board, are of no benefit to the public and shall dispose of such lands pursuant to law.

(a) At least every 5 years, in a form and manner prescribed by rule by the board, each state agency shall indicate to the board those lands which the agency manages which are not being used for the purpose for which they were originally leased. Such lands shall be reviewed by the ~~Land Management Advisory~~ council for its recommendation as to whether such lands should be disposed of by the board.

(b) Lands owned by the board which are not actively managed by any state agency or for which a land-management plan has not been completed pursuant to subsection (4) shall be reviewed by the ~~Land Management Advisory~~ council for its recommendation as to whether such lands should be disposed of by the board.

(c) In reviewing lands owned by the board pursuant to paragraphs (a) and (b), the ~~Land Management Advisory~~ council shall consider whether such lands would be more appropriately owned or managed by the county or other unit of local government in which the land is located. The council shall recommend to the board whether a sale, lease, or other conveyance to a local government would be in the best interests of the state and local government. The provisions of this paragraph in no way limit the provisions of ss. 253.111 and 253.115.

(d) After reviewing the recommendations of the ~~Land Management Advisory~~ council, the board shall determine whether lands identified in paragraphs (a) and (b) are to be held for other public purposes or whether such lands are of no benefit to the public. The board may require an agency to release its interest in such lands. Lands determined to be of no benefit to the public shall be disposed of pursuant to law. Each fiscal year, up to $500,000 of the proceeds from the disposal of such lands shall be placed in the Internal Improvement Trust Fund to be used to pay the costs of any administration, appraisal, management, conservation, protection, sales, or real estate sales services; any such proceeds in excess of $500,000 shall be placed in the Conservation and Recreation Lands Trust Fund.

(e) The sale of filled, formerly submerged land that does not exceed 5 acres in area is not subject to review by the ~~Land Management Advisory~~ council.

(6) This section shall not be construed so as to affect:

(a) Other provisions of this chapter relating to oil, gas, or mineral resources.

(b) The exclusive use of state-owned land subject to a lease by the Board of Trustees of the Internal Improvement Trust Fund of state-owned land for private uses and purposes.

(c) Sovereignty lands not leased for private uses and purposes.

(7) Land-management plans required to be submitted by the Department of Corrections or the Department of Education shall not be subject to the council review provisions described in subsection (4). Management plans filed by these agencies shall be made available to the public for a period of 90 days at the administrative offices of the parcel or project

affected by the management plan and at the Tallahassee offices of each agency. Any plans not objected to during the public comment period shall be deemed approved. Any plans for which an objection is filed shall be submitted to the Board of Trustees of the Internal Improvement Trust Fund for consideration. The Board of Trustees of the Internal Improvement Trust Fund shall approve the plan with or without modification, or reject the plan. The use or possession of any such lands which is not in accordance with an approved land-management plan is subject to termination by the board.

Section 6. Subsection (1) of section 253.68, Florida Statutes, 1996 Supplement, is amended to read:

253.68 Authority to lease submerged land and water column.—

(1) To the extent that it is not contrary to the public interest, and subject to limitations contained in ss. 253.67-253.75, the board of trustees may lease submerged lands to which it has title for the conduct of aquaculture activities and grant exclusive use of the bottom and the water column to the extent required by such activities. Such leases may authorize use of the submerged land and water column for either commercial or experimental purposes. However ~~no lease shall be granted by the board when there is filed with it~~ a resolution of objection adopted by a majority of the county commission of a county within whose boundaries *the proposed leased area would lie,* if the *boundaries* ~~same~~ were extended to the extent of the interest of the state, *may* ~~the proposed lease area would lie. Said resolution shall~~ be filed with the board of trustees within 30 days of the date of the first publication of notice as required by s. 253.70. Prior to the granting of any such leases, the board shall establish and publish a list of guidelines to be followed when considering applications for lease. Such guidelines shall be designed to protect the public's interest in submerged lands and the publicly owned water column.

Section 7. Subsection (1) of section 253.7825, Florida Statutes, is amended to read:

253.7825 Recreational uses.—

(1) The Cross Florida Greenways State Recreation and Conservation Area must be managed as a multiple-use area pursuant to s. 253.034*(2)*~~(1)~~(a), and as further provided herein. The University of Florida Management Plan provides a conceptual recreational plan that may ultimately be developed at various locations throughout the greenways corridor. The plan proposes to locate a number of the larger, more comprehensive and complex recreational facilities in sensitive, natural resource areas. Future site-specific studies and investigations must be conducted by the department to determine compatibility with, and potential for adverse impact to, existing natural resources, need for the facility, the availability of other alternative locations with reduced adverse impacts to existing natural resources, and the proper specific sites and locations for the more comprehensive and complex facilities. Furthermore, it is appropriate, with the approval of the department, to allow more fishing docks, boat launches, and other user-oriented facilities to be developed and maintained by local governments.

Section 8. Subsections (7), (9), (10), (11), and (12) of section 259.032, Florida Statutes, 1996 Supplement, are amended to read:

259.032 Conservation and Recreation Lands Trust Fund; purpose.—

(7) The board of trustees may enter into any contract necessary to accomplish the purposes of this section. *The lead land managing agencies also are directed by the Legislature to enter into contracts or interagency agreements with other governmental entities, including local soil and water conservation districts, or private land managers who have the expertise to perform specific management activities which a lead agency lacks, or which would cost more to provide in-house. Such activities shall include, but not be limited to, controlled burning, road and ditch maintenance, mowing, and wildlife assessments.*

(9)(a) All lands managed under this section shall be:

1. Managed in a manner that will provide the greatest combination of benefits to the public and to the resources.

2. Managed for public outdoor recreation which is compatible with the conservation and protection of public lands.

3. Managed for the purposes for which the lands were acquired, consistent with paragraph (11)(a).

Management may include the following public uses: fishing, hunting, camping, bicycling, hiking, nature study, swimming, boating, canoeing, horseback riding, diving, birding, sailing, jogging, and other related outdoor activities.

(b)1. Concurrent with its adoption of the annual Conservation and Recreational Lands list of acquisition projects pursuant to s. 259.035, the board of trustees shall adopt a management prospectus for each project. The management prospectus shall delineate: the management goals for the property; the conditions that will affect the intensity of management; an estimate of the revenue-generating potential of the property, if appropriate; a timetable for implementing the various stages of management and for providing access to the public, if applicable; provisions for protecting existing infrastructure and for ensuring the security of the project upon acquisition; the anticipated costs of management and projected sources of revenue, including legislative appropriations, to fund management needs; recommendations as to how many employees will be needed to manage the property; and recommendations as to whether local governments, volunteer groups, the former landowner, or other interested parties can be involved in the management.

2. Concurrent with the approval of the acquisition contract pursuant to s. 259.041(3)(c) for any interest in lands, the board of trustees shall designate an agency or agencies to manage such lands and shall evaluate and amend, as appropriate, the management policy statement for the project as provided by s. 259.035, consistent with the purposes for which the lands are acquired. *For any fee-simple acquisition of a parcel which is or will be leased back for agricultural purposes, or any acquisition of a less-than-fee interest in land that is or will be used for agricultural purposes, the Board of Trustees of the Internal Improvement Trust Fund shall first consider having a soil and water conservation district, created pursuant to chapter 582, manage and monitor such interests.*

3. State agencies designated to manage lands acquired under this chapter may contract with local governments and soil and water conservation districts to assist in management activities, including the responsibility of being the lead land manager. Such land-management contracts may include a provision for the transfer of management funding to the local government or soil and water conservation district from the Conservation and Recreation Lands Trust Fund in an amount adequate for the local government or soil and water conservation district to perform its contractual land-management responsibilities and proportionate to its responsibilities, and which otherwise would have been expended by the state agency to manage the property.

4.~~3.~~ Immediately following the acquisition of any interest in lands under this *chapter* ~~section~~, the Department of Environmental Protection, acting on behalf of the board of trustees, may issue to the lead managing entity an interim assignment letter to be effective until the execution of a formal lease.

(10) *State, regional, or local* governmental agencies or *private* ~~non-state~~ entities designated to manage lands under this section shall develop and adopt, with the approval of the board of trustees, an individual management plan for each project designed to conserve and protect such lands and their associated natural resources. *Private-sector involvement in management plan development may be used to expedite the planning process. Individual management plans required by s. 253.034(4) shall be developed with input from an advisory group. Members of this advisory group shall include, at a minimum, representatives of the lead land managing agency, co-managing entities, local private property owners, the appropriate soil and water conservation district, a local conservation organization, and a local elected official. The advisory group shall conduct at least one public hearing within the county in which the parcel or project is located. Notice of such public hearing shall be posted on the parcel or project designated for management, advertised in a paper of general circulation, and announced at a scheduled meeting of the local governing body before the actual public hearing. The management prospectus required pursuant to paragraph (9)(b) shall be available to the public for a period of 30 days prior to the public hearing.* Once a plan is adopted, the managing agency or entity shall update the plan at least every 5 years in a form and manner prescribed by rule of the board of trustees. Such plans may include transfers of leasehold interests to appropriate conservation organizations designated by the Land Management Advisory Council for uses consistent with the purposes of the organizations and the protection, preservation, and proper management

of the lands and their resources. Volunteer management assistance is encouraged, including, but not limited to, assistance by youths participating in programs sponsored by state or local agencies, by volunteers sponsored by environmental or civic organizations, and by individuals participating in programs for committed delinquents and adults. For each project for which lands are acquired after July 1, 1995, an individual management plan shall be adopted and in place no later than 1 year after the essential parcel or parcels identified in the annual Conservation and Recreation Lands report prepared pursuant to s. 259.035(2)(a) have been acquired. *Beginning in fiscal year 1998-1999, the Department of Environmental Protection shall distribute only 75 percent of the acquisition funds to which a budget entity or water management district would otherwise be entitled from the Preservation 2000 Trust Fund to any budget entity or any water management district that has more than one-third of its management plans overdue.*

(a) Individual management plans shall conform to the appropriate policies and guidelines of the state land management plan and shall include, but not be limited to:

1. A statement of the purpose for which the lands were acquired, the projected use or uses as defined in s. 253.034, and the statutory authority for such use or uses.

2. Key management activities necessary to preserve and protect natural resources and restore habitat, and for controlling the spread of nonnative plants and animals, and for prescribed fire and other appropriate resource management activities.

3. A specific description of how the managing agency plans to identify, locate, protect, and preserve, or otherwise use fragile, nonrenewable natural and cultural resources.

4. A priority schedule for conducting management activities, based on the purposes for which the lands were acquired.

5. A cost estimate for conducting priority management activities, to include recommendations for cost-effective methods of accomplishing those activities.

6. A cost estimate for conducting other management activities which would enhance the natural resource value or public recreation value for which the lands were acquired. The cost estimate shall include recommendations for cost-effective methods of accomplishing those activities.

7. A determination of the public uses that would be consistent with the purposes for which the lands were acquired.

(b) The Division of State Lands shall submit a copy of each individual management plan for parcels which exceed 160 acres in size to each member of the Land Management Advisory Council. The council shall, within 60 days after receiving a plan from the division, review each plan for compliance with the requirements of this subsection and with the requirements of the rules established by the board pursuant to this subsection. The council shall also consider the propriety of the recommendations of the managing agency with regard to the future use or protection of the property. After its review, the council shall submit the plan, along with its recommendations and comments, to the board of trustees. The council shall specifically recommend to the board of trustees whether to approve the plan as submitted, approve the plan with modifications, or reject the plan.

(c) The board of trustees shall consider the individual management plan submitted by each state agency and the recommendations of the Land Management Advisory Council and the Division of State Lands and shall approve the plan with or without modification or reject such plan. The use or possession of any lands owned by the board of trustees which is not in accordance with an approved individual management plan is subject to termination by the board of trustees.

By July 1 of each year, each governmental agency, *including the water management districts,* and each *private* ~~nonstate~~ entity designated to manage lands shall report to the Secretary of Environmental Protection on the progress of funding, staffing, and resource management of every project for which the agency or entity is responsible.

(11)(a) The Legislature recognizes that acquiring lands pursuant to this chapter serves the public interest by protecting land, air, and water resources which contribute to the public health and welfare, providing areas for natural resource based recreation, and ensuring the survival of unique and irreplaceable plant and animal species. The Legislature intends for these lands to be managed and maintained for the purposes for which they were acquired and for the public to have access to these lands where it is consistent with acquisition purposes and would not harm the resources the state is seeking to protect on the public's behalf.

(b) An amount *up* ~~equal~~ to *1.5* ~~1~~ percent of the cumulative total of funds ever deposited into the Florida Preservation 2000 Trust Fund shall be made available for the purposes of management, maintenance, and capital improvements, and for associated contractual services, for lands acquired pursuant to this section and s. 259.101 to which title is vested in the board of trustees. Each agency with management responsibilities shall annually request from the Legislature funds sufficient to fulfill such responsibilities. Capital improvements shall include, but need not be limited to, perimeter fencing, signs, firelanes, access roads and trails, and minimal public accommodations, such as primitive campsites, garbage receptacles, and toilets.

(c) In requesting funds provided for in paragraph (b) for long-term management of *all* acquisitions *pursuant to this chapter* and for associated contractual services, the managing agencies shall recognize the following categories of land management needs:

1. Lands which are low-need tracts, requiring basic resource management and protection, such as state reserves, state preserves, state forests, and wildlife management areas. These lands generally are open to the public but have no more than minimum facilities development.

2. Lands which are moderate-need tracts, requiring more than basic resource management and protection, such as state parks and state recreation areas. These lands generally have extra restoration or protection needs, higher concentrations of public use, or more highly developed facilities.

3. Lands which are high-need tracts, with identified needs requiring unique site-specific resource management and protection. These lands generally are sites with historic significance, unique natural features, or very high intensity public use, or sites that require extra funds to stabilize or protect resources.

In evaluating the management funding needs of lands based on the above categories, the lead land managing agencies shall include in their considerations the impacts of, and needs created or addressed by, multiple-use management strategies.

(d) All revenues generated through multiple-use management shall be returned to the agency responsible for such management and shall be used to pay for management activities on all conservation, preservation, and recreation lands under the agency's jurisdiction. In addition, such revenues shall be segregated in an agency trust fund and shall remain available to the agency in subsequent fiscal years to support land management appropriations.

(e)~~(d)1.~~ Up to one-fifth of the funds provided for in paragraph (b) shall be reserved by the board of trustees for interim management of acquisitions and for associated contractual services, to ensure the conservation and protection of natural resources on project sites and to allow limited public recreational use of lands. Interim management activities may include, but not be limited to, resource assessments, control of invasive exotic species, habitat restoration, fencing, law enforcement, controlled burning, and public access consistent with preliminary determinations made pursuant to paragraph (9)(b). The board of trustees shall make these interim funds available immediately upon purchase.

~~2. For the 1995-1996 fiscal year only, funds in the Conservation and Recreation Lands Trust Fund that are not specifically appropriated for the interim management of public lands pursuant to subparagraph 1. may be appropriated for the control and eradication of nuisance aquatic plants in public water bodies. This subparagraph is repealed on July 1, 1996.~~

(f)~~(e)~~ The department shall set long-range and annual goals for the control and removal of nonnative, upland, invasive plant species on public lands. Such goals shall differentiate between aquatic plant species and upland plant species. In setting such goals, the department may rank, in order of adverse impact, species which impede or destroy the functioning of natural systems. Notwithstanding paragraph (a), up to one-fourth of the funds provided for in paragraph (b) shall be reserved

for control and removal of nonnative, upland, invasive species on public lands.

(12)(a) Beginning in fiscal year 1994-1995, not more than 3.75 percent of the Conservation and Recreation Lands Trust Fund shall be made available annually to the department for payment in lieu of taxes to qualifying counties, cities, and local governments as defined in paragraph (b) for *all* actual tax losses incurred as a result of board of trustees acquisitions for state agencies under the Florida Preservation 2000 Program during any year. Reserved funds not used for payments in lieu of taxes in any year shall revert to the fund to be used for land acquisition in accordance with the provisions of this section.

(b) Payment in lieu of taxes shall be available:

1. To counties which levy an ad valorem tax of at least *8.25* ~~9~~ mills or the amount of the tax loss from all completed Preservation 2000 acquisitions in the county exceeds 0.01 percent of the county's total taxable value, and have a population of 75,000 or less*;* and

2. To counties with a population of less than 100,000 which contain all or a portion of an area of critical state concern designated pursuant to chapter 380 and to local governments within such counties.

For the purposes of this paragraph, "local government" includes municipalities, the county school board, mosquito control districts, and any other local government entity which levies ad valorem taxes, with the exception of a water management district.

(c) Payment in lieu of taxes shall be available to any city which has a population of 10,000 or less and which levies an ad valorem tax of at least *8.25* ~~9~~ mills or the amount of the tax loss from all completed Preservation 2000 acquisitions in the city exceeds 0.01 percent of the city's total taxable value.

(d) If insufficient funds are available in any year to make full payments to all qualifying counties, cities, and local governments, such counties, cities, and local governments shall receive a pro rata share of the moneys available.

(e) The payment amount shall be based on the average amount of actual taxes paid on the property for the 3 years preceding acquisition. Applications for payment in lieu of taxes shall be made no later than January 31 of the year following acquisition. No payment in lieu of taxes shall be made for properties which were exempt from ad valorem taxation for the year immediately preceding acquisition. If property which was subject to ad valorem taxation was acquired by a tax-exempt entity for ultimate conveyance to the state under this chapter, payment in lieu of taxes shall be made for such property based upon the average amount of taxes paid on the property for the 3 years prior to its being removed from the tax rolls. The department shall certify to the Department of Revenue those properties that may be eligible under this provision. Payment in lieu of taxes shall be limited to a total of 10 *consecutive* years of annual payments, *beginning the year a local government becomes eligible.*

(f) Payment in lieu of taxes pursuant to this paragraph shall be made annually to qualifying counties, cities, and local governments after certification by the Department of Revenue that the amounts applied for are reasonably appropriate, based on the amount of actual taxes paid on the eligible property, and after the Department of Environmental Protection has provided supporting documents to the Comptroller and has requested that payment be made in accordance with the requirements of this section.

(g) If the board of trustees conveys to a local government title to any land owned by the board, any payments in lieu of taxes on the land made to the local government shall be discontinued as of the date of the conveyance.

Section 9. Subsection (1) and (2) of section 259.035, Florida Statutes, 1996 Supplement, is amended to read:

259.035 Advisory council; powers and duties.—

(1) There is created a Land Acquisition *and Management* Advisory Council to be composed of the secretary and a designee of the department, the director of the Division of Forestry of the Department of Agriculture and Consumer Services, the executive director of the Game and Fresh Water Fish Commission, the director of the Division of Historical Resources of the Department of State, and the secretary of the Department of Community Affairs, or their respective designees. The chairmanship of the council shall rotate annually in the foregoing order. The council shall hold periodic meetings at the request of the chair. The department shall provide primary staff support to the council and shall ensure that council meetings are electronically recorded. Such recordings shall be preserved pursuant to chapters 119 and 257. The department may adopt any rule or form necessary to implement this section.

(2)(a) The council shall, by the time of the first board meeting in February of each year, establish or update a list of acquisition projects selected for purchase pursuant to this chapter. In scoring potential projects for inclusion on the acquisition list, the council shall give greater consideration to projects that can serve as corridors between lands already in public ownership or under management for conservation and recreational purposes. Acquisition projects shall be ranked, in order of priority, individually as a single group or individually within up to 10 separate groups. The council shall submit to the board of trustees, together with its list of acquisition projects, a Conservation and Recreation Lands report. For each project on an acquisition list, the council shall include in its report the stated purpose for acquiring the project, an identification of the essential parcel or parcels within the project without which the project cannot be properly managed, an identification of those projects or parcels within projects which should be acquired in fee simple or in other than fee simple, an explanation of the reasons why the council selected a particular acquisition technique, a management policy statement for the project, a management prospectus pursuant to s. 259.032(9)(b), an estimate of land value based on county tax assessed values, a map delineating project boundaries, a brief description of the important natural and cultural resources to be protected, preacquisition planning and budgeting, coordination with other public and nonprofit public-lands acquisition programs, a preliminary statement of the extent and nature of public use, an interim management budget, and designation of a management agency or agencies. The Department of Environmental Protection shall prepare the information required by this section for each acquisition project selected for purchase pursuant to this chapter. In addition, the department shall prepare, by July 1 of each year, an acquisition work plan for each project on the acquisition list for which funds will be available for acquisition during the fiscal year. The work plan need not disclose any information that is required by this chapter or chapter 253 to remain confidential.

(b) An affirmative vote of four members of the council shall be required in order to place a proposed project on a list. Each list shall contain at least twice the number of projects in terms of estimated cost as there are anticipated funds for purchase. The anticipated cost of each project shall include proposed costs for development of the lands necessary to meet the public purpose for which such lands are to be purchased.

(c) All proposals for acquisition projects pursuant to this chapter shall be developed and adopted by the council. The council shall consider and evaluate in writing the merits and demerits of each project that is proposed for acquisition and shall ensure that each proposed acquisition project will meet a stated public purpose for the preservation of environmentally endangered lands, for the development of outdoor recreation lands, or as provided in s. 259.032(3) and shall determine whether each acquisition project conforms with the comprehensive plan developed pursuant to s. 259.04(1)(a), the comprehensive outdoor recreation and conservation plan developed pursuant to s. 375.021, and the state lands management plan adopted pursuant to s. 253.03(7). Copies of a written report describing each project proposed for acquisition shall be submitted to the board of trustees. The council shall consider and include in each project description its assessment of a project's ecological value, vulnerability, endangerment, ownership pattern, utilization, location, and cost and other pertinent factors in determining whether to recommend a project for state purchase.

(d) Additionally, the council shall provide assistance to the Board of Trustees of the Internal Improvement Trust Fund in reviewing the recommendations and plans for state-owned lands required by s. 253.034. The council shall, in reviewing the recommendations and plans for state-owned lands required by s. 253.034, consider the optimization of multiple-use strategies to accomplish the provisions of s. 253.034.

Section 10. Section 259.036, Florida Statutes, is created to read:

259.036 Management review teams.—

(1) To determine whether conservation, preservation, and recreation lands titled in the name of the Board of Trustees of the Internal Improvement Trust Fund are being managed for the purposes for which they were acquired and in accordance with a land-management plan adopted pursuant to s. 259.032, the board of trustees, acting through the Department of Environmental Protection, shall cause periodic management reviews to be conducted, as follows:

(a) The department shall establish a regional land management review team composed of the following members:

1. One individual who is from the county or local community in which the parcel or project is located and who is selected by the county commission in the county which is most impacted by the acquisition.

2. One individual from the Division of Recreation and Parks of the department.

3. One individual from the Division of Forestry of the Department of Agriculture and Consumer Services.

4. One individual from the Game and Fresh Water Fish Commission.

5. One individual from the department's district office in which the parcel is located.

6. A private land manager mutually agreeable to the state agency representatives.

7. A member of the local soil and water conservation district board of supervisors.

8. A member of a conservation organization.

The staff of the Division of State Lands shall act as the review team coordinator for the purposes of establishing schedules for the reviews and other staff functions. The Legislature shall appropriate funds necessary to implement land management review team functions.

(2) The land management review team shall review select parcels of managed land prior to the date the managing agency is required to submit its 5-year land-management plan update. A copy of the review shall be provided to the managing agency, the Division of State Lands, and the Land Acquisition and Management Advisory Council. The managing agency shall consider the findings and recommendations of the land management review team in finalizing the required 5-year update of its management plan.

(3) In conducting a review, the land management review team shall evaluate the extent to which the existing management plan provides sufficient protection to threatened or endangered species, unique or important natural or physical features, geological or hydrological functions, or archaeological features. The review shall also evaluate the extent to which the land is being managed for the purposes for which it was acquired and the degree to which actual management practices, including public access, are in compliance with the adopted management plan.

(4) In the event a land-management plan has not been adopted within the timeframes specified in s. 259.032(10), the department may direct a management review of the property, to be conducted by the land management review team. The review shall consider the extent to which the land is being managed for the purposes for which it was acquired and the degree to which actual management practices are in compliance with the management policy statement and management prospectus for that property.

(5) If the land management review team determines that reviewed lands are not being managed for the purposes for which they were acquired or in compliance with the adopted land management plan, management policy statement, or management prospectus, or if the managing agency fails to address the review findings in the updated management plan, the department shall provide the review findings to the board, and the managing agency must report to the board its reasons for managing the lands as it has.

(6) No later than the second board meeting in October of each year, the department shall report the annual review findings of its land management review team.

Section 11. Subsection (4) of section 259.101, Florida Statutes, 1996 Supplement, is amended to read:

259.101 Florida Preservation 2000 Act.—

(4) PROJECT CRITERIA.—

(a) Proceeds of bonds issued pursuant to this act and distributed pursuant to paragraphs (3)(a) and (b) shall be spent only on projects which meet at least one of the following criteria, as determined pursuant to paragraphs (b) and (c):

1. A significant portion of the land in the project is in imminent danger of development, in imminent danger of loss of its significant natural attributes, or in imminent danger of subdivision which will result in multiple ownership and may make acquisition of the project more costly or less likely to be accomplished;

2. Compelling evidence exists that the land is likely to be developed during the next 12 months, or appraisals made during the past 5 years indicate an escalation in land value at an average rate that exceeds the average rate of interest likely to be paid on the bonds;

3. A significant portion of the land in the project serves to protect or recharge groundwater and to protect other valuable natural resources or provide space for natural resource based recreation;

4. The project can be purchased at 80 percent of appraised value or less; ~~or~~

5. A significant portion of the land in the project serves as habitat for endangered, threatened, or rare species or serves to protect natural communities which are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare, or as excellent quality occurrences of natural communities*; or*~~.~~

6. A significant portion of the land serves to preserve important archeological or historical sites.

(b) Each year that bonds are to be issued pursuant to this act, the Land Acquisition *and Management* Advisory Council shall review that year's approved Conservation and Recreation Lands priority list and shall, by the first board meeting in February, present to the Board of Trustees of the Internal Improvement Trust Fund for approval a listing of projects on the list which meet one or more of the criteria listed in paragraph (a). The board may remove projects from the list developed pursuant to this paragraph, but may not add projects.

(c) Each year that bonds are to be issued pursuant to this act, each water management district governing board shall review the lands on its current year's Save Our Rivers 5-year plan and shall, by January 15, adopt a listing of projects from the plan which meet one or more of the criteria listed in paragraph (a).

(d) In the acquisition of coastal lands pursuant to paragraph (3)(a), the following additional criteria shall also be considered:

1. The value of acquiring coastal high-hazard parcels, consistent with hazard mitigation and postdisaster redevelopment policies, in order to minimize the risk to life and property and to reduce the need for future disaster assistance.

2. The value of acquiring beachfront parcels, irrespective of size, to provide public access and recreational opportunities in highly developed urban areas.

3. The value of acquiring identified parcels the development of which would adversely affect coastal resources.

When a nonprofit environmental organization which is tax exempt pursuant to s. 501(c)(3) of the United States Internal Revenue Code sells land to the state, such land at the time of such sale shall be deemed to meet one or more of the criteria listed in paragraph (a) if such land meets one or more of the criteria at the time the organization purchases it. Listings of projects compiled pursuant to paragraphs (b) and (c) may be revised to include projects on the Conservation and Recreation Lands priority list or in a water management district's 5-year plan which come under the criteria in paragraph (a) after the dates specified in paragraph (b) or paragraph (c). The requirement of paragraph (3)(a) regarding coastal lands is met as long as an average of one-fifth of the cumulative

proceeds allocated through fiscal year 1999-2000 pursuant to that paragraph is used to purchase coastal lands.

(e) The Legislature finds that the Florida Preservation 2000 Program has provided financial resources that have enabled the acquisition of significant amounts of land for public ownership in the first 7 years of the program's existence. In the remaining years of the Florida Preservation 2000 Program, agencies that receive funds are encouraged to better coordinate their expenditures so that future acquisitions, when combined with previous acquisitions, will form more complete patterns of protection for natural areas and functioning ecosystems, to better accomplish the intent of paragraph (2)(c).

(f) The Legislature intends that, in the remaining years of the Florida Preservation 2000 Program, emphasis be given to the acquisition of lands containing ecological resources which are either not represented or underrepresented on lands currently in public ownership. The Legislature also intends that future acquisitions under the Florida Preservation 2000 Program be limited to projects on the current project lists, or any additions to the list as determined and prioritized by the study, or those projects that can reasonably be expected to be acquired by the end of the Florida Preservation 2000 Program.

(g) In determining the remaining needs and priorities for the Florida Preservation 2000 Program and to ensure that future acquisitions preserve those resources in the greatest need of protection, the Land Acquisition and Management Advisory Council and each water management district governing board shall commission a study to determine:

1. What ecological resources are inadequately represented in the state's and each district's public land inventory and which approved projects can best fill the needs identified.

2. Significant natural areas and watersheds which can be conserved by the use of conservation easements or other less-than-fee techniques.

3. For projects in which an acquisition has been completed, the minimal lands needed to be acquired for resource protection and effective management.

4. Projects with significant historical or archeological importance.

5. The best method of completing the Florida Preservation 2000 Program to ensure that the program achieves its mission, pursuant to subsection (2).

These studies shall be completed by October 1, 1997. No acquisition shall be initiated for any project on a current acquisition list which has not had an initial acquisition until the study is complete, unless a significant portion of the land in the project is in imminent danger of development and a significant portion of the land in the project serves as habitat for endangered, threatened or rare plant species and serves to protect natural plant communities which are listed by the Florida Natural Areas Inventory as critically imperiled, imperiled, or rare.

Section 12. Subsection (1) of section 260.015, Florida Statutes, 1996 Supplement, is amended to read:

260.015 Acquisition of land.—

(1) The department is authorized to acquire by gift or purchase the fee simple absolute title or any lesser interest in land, including easements, for the purposes of ss. 260.011-260.018 pursuant to the provisions of chapter 375, except that:

(a) The department's power of eminent domain shall be limited to curing defects in title accepted by the board pursuant to subsection (2).

(b) Lists of proposed acquisitions for the Florida Greenways and Trails Program shall be prepared according to procedures adopted by the department.

(c) Projects acquired under this chapter shall not be subject to the evaluation and selection procedures of s. 259.035, regardless of the estimated value of such projects. All projects shall be acquired in accordance with the acquisition procedures of chapter *259* ~~253~~, except that the department may use the appraisal procedure used by the Department of Transportation to acquire transportation rights-of-way. When a parcel is estimated to be valued at $100,000 or less and the department finds that the costs of obtaining an outside appraisal are not justified, an appraisal prepared by the department may be used.

Section 13. Section 369.255, Florida Statutes, is created to read:

369.255 Green utility ordinances for funding greenspace management and exotic plant control.—

(1) LEGISLATIVE FINDING.—The Legislature finds that the proper management of greenspace areas, including, without limitation, the urban forest, greenways, private and public forest preserves, wetlands, and aquatic zones, is essential to the state's environment and economy and to the health and safety of its residents and visitors. The Legislature also finds that the limitation and control of nonindigenous plants and tree replacement and maintenance are vital to achieving the natural systems and recreational lands goals and policies of the state pursuant to s. 187.201(10), the State Comprehensive Plan. It is the intent of this section to enable local governments to establish a mechanism to provide dedicated funding for the aforementioned activities, when deemed necessary by that county.

(2) In addition to any other funding mechanisms legally available to counties to control invasive, nonindigenous aquatic or upland plants, and manage urban forest resources, a county may create one or more green utilities or adopt fees sufficient to plan, restore, and manage urban forest resources, greenways, forest preserves, wetlands, and other aquatic zones, and create a stewardship grant program for private natural areas. Counties may create, alone or in cooperation with other counties pursuant to the Florida Interlocal Cooperation Act, s. 163.01, one or more greenspace management districts to fund the planning, management, operation, and administration of a greenspace management program. The fees shall be calculated to generate sufficient funds to plan, manage, operate, and administer a greenspace management program. Private natural areas assessed according to s. 193.501 would qualify for stewardship grants.

(3) This section shall only apply to counties with a population of 500,000 or more.

(4) Nothing in this section shall authorize counties to require any nongovernmental entity to collect the fee described in subsection (2) on their behalf.

Section 14. Subsection (5) of section 373.139, Florida Statutes, 1996 Supplement, is amended to read:

373.139 Acquisition of real property.—

(5) Lands acquired for the purposes enumerated in subsection (2) *shall receive multiple-use management and be open to the general public unless such management and public access is shown to be detrimental to the water resource or water management function for which the lands were purchased. The governing board of the district shall consult with the Division of Recreation and Parks of the Department of Environmental Protection, the Division of Forestry of the Department of Agriculture and Consumer Services, the Game and Fresh Water Fish Commission, the Division of Historical Resources of the Department of State, and the local soil and water conservation districts in their areas of expertise and management experience when developing multiple-use strategy on these lands. Alternatively, the governing board of the district may enter into a memorandum of agreement with one or more of those agencies to achieve the multiple-use management of said lands* ~~may also be used for recreational purposes, and whenever practicable such lands shall be open to the general public for recreational uses~~.

Section 15. Paragraph (c) of subsection (4) and subsection (11) of section 373.59, Florida Statutes, 1996 Supplement, are amended and new subsections (16) and (17) are added to read:

373.59 Water Management Lands Trust Fund.—

(4)

(c) The Secretary of Environmental Protection shall release acquisition moneys from the Water Management Lands Trust Fund to a district following receipt of a resolution adopted by the governing board identifying the lands being acquired and certifying that such acquisition is consistent with the plan of acquisition and other provisions of this act. The governing board shall also provide to the Secretary of Environmental Protection a copy of all certified appraisals used to determine the

value of the land to be purchased. *Each parcel to be acquired must have at least one appraisal. Two appraisals are required when the estimated value of the parcel exceeds $500,000. However, when both appraisals exceed $500,000 and differ significantly, a third appraisal may be obtained.* If the purchase price is greater than the appraisal price, the governing board shall submit written justification for the increased price. The Secretary of Environmental Protection may withhold moneys for any purchase that is not consistent with the 5-year plan or the intent of this act or that is in excess of appraised value. The governing board may appeal any denial to the Land and Water Adjudicatory Commission pursuant to s. 373.114.

(11) Lands acquired for the purposes enumerated in this section shall also be used for general public recreational purposes. General public recreational purposes shall include, but not be limited to, fishing, hunting, horseback riding, swimming, camping, hiking, canoeing, boating, diving, birding, sailing, jogging, and other related outdoor activities to the maximum extent possible considering the environmental sensitivity and suitability of those lands. These public lands shall be evaluated for their resource value for the purpose of establishing which parcels, in whole or in part, annually or seasonally, would be conducive to general public recreational purposes. Such findings shall be included in management plans which are developed for such public lands. These lands shall be made available to the public for these purposes, unless the district governing board can demonstrate that such activities would be incompatible with the purposes for which these lands were acquired. *For any fee simple acquisition of a parcel which is or will be leased back for agricultural purposes, or for any acquisition of a less-than-fee interest in land that is or will be used for agricultural purposes, the district governing board shall first consider having a soil and water conservation district, created pursuant to chapter 582, manage and monitor such interest.*

(16) Each district is encouraged to use volunteers to provide land management and other services. Volunteers shall be covered by liability protection and worker's compensation in the same manner as district employees, unless waived in writing by such volunteers or unless such volunteers otherwise provide equivalent insurance.

(17) Each water management district is authorized and encouraged to enter into cooperative land management agreements with state agencies or local governments to provide for the coordinated and cost-effective management of lands to which the water management districts, the Board of Trustees of the Internal Improvement Trust Fund, or local governments hold title. Any such cooperative land management agreement must be consistent with any applicable laws governing land use, management duties, and responsibilities and procedures of each cooperating entity. Each cooperating entity is authorized to expend such funds as are made available to it for land management on any such lands included in a cooperative land management agreement.

Section 16. Section 373.591, Florida Statutes, is created to read:

373.591 Management review teams.—

(1) To determine whether conservation, preservation, and recreation lands titled in the named of the water management districts are being managed for the purposes for which they were acquired and in accordance with land management objectives, the water management districts shall establish land management review teams to conduct periodic management reviews. The land management review teams shall be composed of the following members:

1. One individual from the county or local community in which the parcel is located.

2. One employee of the water management district.

3. A private land manager mutually agreeable to the governmental agency representatives.

4. A member of the local soil and water conservation district board of supervisors.

5. One individual from the Game and Fresh Water Fish Commission.

6. One individual from the Department of Environmental Protection.

7. One individual representing a conservation organization.

8. One individual from the Department of Agriculture and Consumer Services' Division of Forestry.

(2) The management review team shall use the criteria provided in s. 259.036 in conducting its reviews.

(3) In determining which lands shall be reviewed in any given year, the water management district may prioritize the properties to be reviewed.

(4) If the land management review team finds that the lands reviewed are not being managed in accordance with their land management plan, the land managing agency shall provide a written explanation to the management review team.

(5) Each water management district shall, by October 1 of each year, provide its governing board with a report indicating which properties have been reviewed and the review team's findings.

Section 17. *Section 253.022, Florida Statutes, is hereby repealed.*

Section 18. A new subsection (11) is added to section 704.06, Florida Statutes, to read:

704.06 Conservation easements; creation; acquisition; enforcement.—

(11) Nothing in this section or other provisions of law shall be construed to prohibit or limit the owner of land, or the owner of a conservation easement over land, to voluntarily negotiate the sale or utilization of such lands or easement for the construction and operation of linear facilities, including electric transmission and distribution facilities, telecommunications transmission and distribution facilities, pipeline transmission and distribution facilities, public transportation corridors, and related appurtenances, nor shall this section prohibit the use of eminent domain for said purposes as established by law. In any legal proceeding to condemn land for the purpose of construction and operation of a linear facility as described above, the court shall consider the public benefit provided by the conservation easement and linear facilities in determining which lands may be taken and the compensation paid.

Section 19. Subsection (6) of section 373.250, Florida Statutes, 1996 Supplement, is amended to read:

373.250 Reuse of reclaimed water.—

(6) Each water management district shall submit to the Legislature, by *June 1* ~~January 30~~ of each year, an annual report which describes the district's progress in promoting the reuse of reclaimed water. The report shall include, but not be limited to:

(a) The number of permits issued during the year which required reuse of reclaimed water and, by categories, the percentages of reuse required.

(b) The number of permits issued during the year which did not require the reuse of reclaimed water and, of those permits, the number which reasonably could have required reuse.

(c) In the second and subsequent annual reports, a statistical comparison of reuse required through consumptive use permitting between the current and preceding years.

(d) A comparison of the volume of reclaimed water available in the district to the volume of reclaimed water required to be reused through consumptive use permits.

(e) A comparison of the volume of reuse of reclaimed water required in water resource caution areas through consumptive use permitting to the volume required in other areas in the district through consumptive use permitting.

(f) An explanation of the factors the district considered when determining how much, if any, reuse of reclaimed water to require through consumptive use permitting.

(g) A description of the district's efforts to work in cooperation with local government and private domestic wastewater treatment facilities to increase the reuse of reclaimed water. The districts, in consultation with the department, shall devise a uniform format for the report re-

quired by this subsection and for presenting the information provided in the report.

Section 20. Paragraph (b) of subsection (4) of section 370.06, Florida Statutes, 1996 Supplement is added to read:

(4) SPECIAL ACTIVITY LICENSES.—

(a) Any person who seeks to use special gear or equipment in harvesting saltwater species must purchase a special activity license as specified by law to engage in such activities. The department may issue special activity licenses, in accordance with s. 370.071, to permit the cultivation of oysters, clams, mussels, and crabs when such aquaculture activities relate to quality control, sanitation, and public health regulations. The department may prescribe by rule special terms, conditions, and restrictions for any special activity license.

(b) The department is authorized to issue special activity licenses in accordance with s. 370.06 and s. 370.31, to permit the importation, possession, and aquaculture of anadromous sturgeon. The special activity license shall provide for best management practices to prevent the release and escape of cultured anadromous sturgeon and to protect indigenous populations of saltwater species from sturgeon-borne disease.

Section 21. Subsections (3) and (4) of section 370.092, Florida Statutes, 1996 Supplement, are amended to read:

370.092 Carriage of proscribed nets across Florida waters.—

(3)(a) It shall be a major violation pursuant to this section *and shall be punished as provided in subsection (4)* for any person, firm, or corporation to be simultaneously in possession of any species of mullet in excess of the recreational daily bag limit and any gill or other entangling net as defined in s. 16(c), Art. X of the State Constitution. Simultaneous possession under this provision shall include possession of mullet and gill or other entangling nets on separate vessels or vehicles where such vessels or vehicles are operated in coordination with one another including vessels towed behind a main vessel. *This subsection does not prohibit a resident of this state from transporting on land, from Alabama to this state, a commercial quantity of mullet together with a gill net if:*

1. The person possesses a valid commercial fishing license that is issued by the State of Alabama and that allows the person to use a gill net to legally harvest mullet in commercial quantities from Alabama waters.

2. The person possesses a trip ticket issued in Alabama and filled out to match the quantity of mullet being transported, and the person is able to present such trip ticket immediately upon entering this state.

3. The mullet are to be sold to a wholesale saltwater products dealer located in Escambia County or Santa Rosa County, which dealer also possesses a valid seafood dealer's license issued by the State of Alabama. The dealer's name must be clearly indicated on the trip ticket.

4. The mullet being transported are totally removed from any net also being transported.

(b) It shall be a major violation pursuant to this section for any person to be in possession of any species of trout, snook, or redfish which is three fish in excess of the recreational or commercial daily bag limit.

(4)(a) In addition to being subject to the other penalties provided in this chapter, any violation of s. 16, Art. X of the State Constitution, *paragraph (3)(a),* or any rules of the Marine Fisheries Commission which implement the gear prohibitions and restrictions specified therein shall be considered a major violation; and any person, firm, or corporation receiving any judicial disposition other than acquittal or dismissal of such violation shall be subject to the following additional penalties:

1. For a first major violation within a 7-year period, a civil penalty of $2,500 and suspension of all saltwater products license privileges for 90 calendar days following final disposition shall be imposed.

2. For a second major violation under this paragraph charged within 7 years of a previous judicial disposition, which results in a second judicial disposition other than acquittal or dismissal, a civil penalty of $5,000 and suspension of all saltwater products license privileges for 12 months shall be imposed.

3. For a third and subsequent major violation under this paragraph, charged within a 7-year period, resulting in a third or subsequent judicial disposition other than acquittal or dismissal, a civil penalty of $5,000, lifetime revocation of the saltwater products license, and forfeiture of all gear and equipment used in the violation shall be imposed.

A court may suspend, defer or withhold adjudication of guilt or imposition of sentence *only* for any first violation of s. 16, Art. X of the State Constitution, or any rule or statute implementing its restrictions, determined by a court only after consideration of competent evidence of mitigating circumstances to be a nonflagrant or minor violation of those restrictions upon the use of nets. Any violation of s. 16, Art. X of the State Constitution, or any rule or statute implementing its restrictions, occurring within a 7-year period commencing upon the conclusion of any judicial proceeding resulting in any outcome other than acquittal shall be punished as a second, third, or subsequent violation accordingly.

(b) During the period of suspension or revocation of saltwater license privileges under this section, the licensee may not participate in the taking or harvesting *or attempt the taking or harvesting* of saltwater products from any vessel within the waters of the state, or any other activity requiring a license, permit, or certificate issued pursuant to this chapter. *Any person who violates this paragraph is:*

1. Upon a first or second conviction, to be punished as provided by s. 370.021(2)(a) and (b).

2. Upon a third or subsequent conviction, guilty of a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(c) Upon reinstatement of saltwater license privileges suspended pursuant to a violation of this section, a licensee owning or operating a vessel containing or otherwise transporting in or on Florida waters any gill net or other entangling net, or containing or otherwise transporting in nearshore and inshore Florida waters any net containing more than 500 square feet of mesh area shall remain restricted for a period of 12 months following reinstatement, to operation under the following conditions:

1. Vessels subject to this reinstatement period shall be restricted to the corridors established by department rule.

2. A violation of the reinstatement period provisions shall be punishable pursuant to s. 370.021(2)(a) and (b).

(d) Rescission and revocation proceedings under this section shall be governed by chapter 120.

Section 22. Section 370.093, Florida Statutes, is created to read:

370.093 Illegal use of nets.—

(1) It is unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net that is not consistent with the provisions of s. 16, Art. X of the State Constitution.

(2)(a) Beginning July 1, 1998, it is also unlawful to take or harvest, or to attempt to take or harvest, any marine life in Florida waters with any net, as defined in subsection (3) and any attachments to such net, that combined are larger than 500 square feet and have not been expressly authorized for such use by rule of the Marine Fisheries Commission under s. 370.027. The use of currently legal shrimp trawls and purse seines outside nearshore and inshore Florida waters shall continue to be legal until the Commission implements rules regulating those types of gear.

(b) The use of gill or entangling nets of any size is prohibited, as such nets are defined in s. 16, Art. X of the State Constitution. Any net constructed wholly or partially of monofilament or multifilament material, other than a hand thrown cast net, or a hand-held landing or dip net, shall be considered to be an entangling net within the prohibition of S. 16, Art. X of the state constitution unless specifically authorized by rule of the commission.

(c) This subsection shall not be construed to apply to aquaculture activities licenses issued pursuant to s. 370.26.

(3) As used in s. 16, Art. X of the State Constitution and this subsection, the term "net" or "netting" must be broadly construed to include all

manner or combination of mesh or webbing or any other solid or semi-solid fabric or other material used to comprise a device that is used to take or harvest marine life.

(4) Upon the arrest of any person for violation of this subsection, the arresting officer shall seize the nets illegally used. Upon conviction of the offender, the arresting authority shall destroy the nets.

(5) Any person who violates this section shall be punished as provided in s. 370.092(4).

(6) The Marine Fisheries Commission is granted authority to adopt rules pursuant to ss. 370.025 and 370.027 implementing the prohibitions and restrictions of s. 16, Art. X of the State Constitution.

Section 23. Subsection (8) of section 370.14, Florida Statutes, 1996 Supplement, is amended to read:

370.14 Crawfish; regulation.—

(8)(a) By a special permit granted by the Division of Law Enforcement, a Florida-licensed seafood dealer may lawfully import, process, and package saltwater crawfish or uncooked tails of the species Panulirus argus during the closed season. However, crawfish landed under special permit shall not be sold in the state.

(b) The licensed seafood dealer importing any such crawfish under the permit shall, 12 hours prior to the time the seagoing vessel or airplane delivering such imported crawfish enters the state, notify the Division of Law Enforcement as to the seagoing vessel's name or the airplane's registration number and its captain, location, and point of destination.

(c) At the time the crawfish cargo is delivered to the permitholder's place of business, the crawfish cargo shall be weighed ~~in the presence of the marine patrol officer,~~ and *shall be available for inspection by the Department of Environmental Protection.* A signed receipt of such quantity in pounds shall be *forwarded* ~~furnished~~ to ~~said officer, which receipt shall be filed by the marine patrol officer with~~ the Division of Law *Enforcement's local Florida Marine Patrol office within 48 hours after shipment weigh-in completion. If requested by the department, the weigh-in process will be delayed up to 4 hours to allow for a department representative to be present during the process* ~~Enforcement~~.

(d) Within 48 hours *after shipment weigh-in completion* ~~from the time the receipt is given to the marine patrol officer~~, the permitholder shall submit to the Division of Law Enforcement, on forms provided by the division, a sworn report of the quantity in pounds of the saltwater crawfish received, which report shall include the location of said crawfish and a sworn statement that said crawfish were taken at least 50 miles from Florida's shoreline. The landing of crawfish or crawfish tails from which the eggs, swimmerettes, or pleopods have been removed; the falsification of information as to area from which crawfish were obtained; or the failure to file the report called for in this section shall be grounds to revoke the permit.

(e) Each permitholder shall keep throughout the period of the closed season copies of the bill of sale or invoices covering each transaction involving crawfish imported under this permit. Such invoices and bills shall be kept available at all times for inspection by the division.

Section 24. Effective October 1, 1997, section 370.1405, Florida Statutes, is created to read:

370.1405 Crawfish reports by dealers during closed season required.—

(1) Within 3 days after the commencement of the closed season for the taking of saltwater crawfish, each and every seafood dealer, either retail or wholesale, intending to possess crawfish, crawfish tails, or crawfish meat during closed season shall submit to the Department of Environmental Protection, on forms provided by the department, a sworn report of the quantity, in pounds, of saltwater whole crawfish, crawfish tails, and crawfish meat in the dealer's name or possession as of the date the season closed. This report shall state the location and number of pounds of whole crawfish, crawfish tails, and crawfish meat. The department shall not accept any reports not delivered or postmarked by midnight of the 3rd calendar day after the commencement of the closed season, and any stocks of crawfish reported therein are declared a nuisance and may be seized by the department.

(2) Failure to submit a report as described in subsection (1) or reporting a greater or lesser amount of whole crawfish, crawfish tails, or crawfish meat than is actually in the dealer's possession or name is a major violation of this chapter, punishable as provided in s. 370.021(2), s. 370.07(6)(b), or both. The department shall seize the entire supply of unreported or falsely reported whole crawfish, crawfish tails, or crawfish meat, and shall carry the same before the court for disposal. The dealer shall post a cash bond in the amount of the fair value of the entire quantity of unreported or falsely reported crawfish as determined by the judge. After posting the cash bond, the dealer shall have 24 hours to transport said products outside the limits of Florida for sale as provided by s. 370.061. Otherwise, the product shall be declared a nuisance and disposed of by the department according to law.

(3) All dealers having reported stocks of crawfish may sell or offer to sell such stocks of crawfish; however, such dealers shall submit an additional report on the last day of each month during the duration of the closed season. Reports shall be made on forms supplied by the department. Each dealer shall state on this report the number of pounds sold during the report period and the pounds remaining on hand. In every case, the amount of crawfish sold and the amount reported on hand shall equal the amount remaining on hand in the last submitted report. Reports postmarked later than midnight on the 3rd calendar day of each month during the duration of the closed season will not be accepted by the department. Dealers for which late supplementary reports are not accepted by the department, must show just cause why their entire stock of whole crawfish, crawfish tails, or crawfish meat should not be seized by the department. Whenever a dealer fails to make the monthly supplementary report as described in this subsection, the dealer may be subject to the following civil penalties as follows:

(a) For a first violation, the department shall assess a civil penalty of $500.

(b) For a second violation within the same crawfish closed season, the department shall assess a civil penalty of $1,000.

(c) For a third violation within the same crawfish closed season, the department shall assess a civil penalty of $2,500 and may seize said dealer's entire stock of whole crawfish, crawfish tails, or crawfish meat and carry the same before the court for disposal. The dealer shall post a cash bond in the amount of the fair value of the entire remaining quantity of crawfish as determined by the judge. After posting the cash bond, a dealer shall have 24 hours to transport said products outside the limits of Florida for sale as provided by s. 370.061. Otherwise, the product shall be declared a nuisance and disposed of by the department according to law.

(4) All seafood dealers shall at all times during the closed season make their stocks of whole crawfish, crawfish tails, or crawfish meat available for inspection by the department.

(5) Each dealer in whole crawfish, crawfish tails, or crawfish meat shall keep throughout the period of the crawfish closed season copies of the bill of sale or invoice covering each transaction involving whole crawfish, crawfish tails, or crawfish meat. Such invoices and bills shall be kept available at all times for inspection by the department.

Section 25. *(1) Notwithstanding the provisions of section 370.093(3), Florida Statutes, there is hereby established a 3-year pilot program that allows for participation by Saltwater Products License holders with purse seine endorsements during the years 1995 or 1996 located in the counties of Wakulla, Franklin, Gulf, Bay, Walton, and Okaloosa. Priority shall be given to such Saltwater Products License holders with landings in 1996 as recorded on Florida DEP trip tickets of one or more of the following baitfish species: Spanish sardines, cigar minnows, thread herring, chub mackerel, anchovy, little tunny, menhaden, blue runner, and ladyfish. No more than 7 such licenses shall be issued which allow for and shall be limited to the following:*

(a) These licenses shall be issued only for the use of baitfish purse seines, not exceeding 600 yards in length, to be used in the nearshore and inshore waters, modified to employ solid tarpaulin material in conjunction with 500 square feet of traditional seine mesh netting in the State of Florida in and south of the counties of Wakulla, Franklin, Gulf, Bay, Walton, and Okaloosa. Only one purse seine per license shall be allowed.

(b) Each licensee shall post a bond of $50,000 payable to the State of Florida as security to pay for any environmental damage or cleanup of material caused by this fishing gear of the licensee.

(2) The Marine Fisheries Commission shall establish limits on annual harvest levels for the area, for each of the baitfish species that are the subject of this section, based on maintaining healthy scientific and biological levels of stock abundance of those certain baitfish species by allowing annual harvest of the baitfish species in the program area limited by the Florida Marine Fisheries Commission not to exceed 50 percent of the annual average of reported landings which occurred over the 3 years prior to July 1, 1995.

Section 26. *Section 253.022, Florida Statutes, is repealed.*

Section 27. This act shall take effect upon becoming a law.

And the title is amended as follows:

Delete everything before the enacting clause and insert: A bill to be entitled An act relating to natural resource management; amending s. 125.564, F.S.; providing a limitation on liability for counties purchasing certain lands for certain purposes; providing that lands acquired by the state and its political subdivisions may contain cattle dipping vats; creating s. 166.047, F.S.; providing a limitation on liability for municipalities purchasing certain lands for certain purposes; amending s. 253.03, F.S.; extending the submerged lands lease for certain properties; amending s. 253.034, F.S.; specifying objectives of the management of the state's lands and natural resources; providing requirements for multiple-use land management strategies; providing references to the Land Acquisition and Management Council; revising land-management plan adoption processes; correcting a cross reference; amending s. 253.68, F.S.; modifying authority of local government to object to state aquaculture leases; amending s. 253.7825, F.S.; correcting a cross reference; amending s. 259.032, F.S.; providing that a soil and water conservation district shall be considered first as the managing agency with respect to fee-simple acquisitions or acquisitions of less-than-fee interest in certain lands through the Conservation and Recreation Lands (CARL) Trust Fund; directing managing agencies to enter into certain contracts or agreements; requiring notice and public hearing on individual management plans; providing for withholding of Preservation 2000 acquisition funds from certain agencies; providing management objectives for lands acquired under ch. 259, F.S.; increasing the percentage of funds deposited in the Florida Preservation 2000 Trust Fund available for land management and capital improvements; allowing agencies to keep revenues generated from activities on lands they manage; revising provisions relating to payments in lieu of taxes; amending s. 259.035; creating the Land Acquisition and Management Advisory Council; providing responsibility for review of plans for state-owned lands; creating s. 259.036, F.S.; providing for management review teams for certain lands; amending s. 259.101, F.S.; adding historical or archeological sites to Preservation 2000 project criteria; commencing process to close out the Florida Preservation 2000 Program; amending s. 260.015, F.S.; changing certain land acquisition procedures for the Florida Greenways and Trails Program; creating s. 369.255, F.S.; authorizing certain counties and municipalities to create green utilities and adopt fees for certain purposes; amending s. 373.139, F.S.; providing that lands acquired for specified purposes by water management districts shall receive multiple-use management, except under certain conditions; directing the district governing boards to consult with or enter into a memorandum of agreement with specified state agencies with respect to such management; amending s. 373.59, F.S.; providing that a soil and water conservation district shall be considered first as the managing agency with respect to fee-simple acquisitions or acquisitions of less-than-fee interest in certain land through the Water Management Lands Trust Fund; providing for use of land management volunteers; requiring appraisals in specified circumstances; authorizing land management agreements; creating s. 373.591, F.S.; creating management review teams for water management district lands; amending s. 704.06, F.S.; clarifying linear facilities ability to cross conservation easements; repealing s. 253.022, F.S., relating to the Land Management Advisory Council; amending s. 373.250, F.S.; revising a date with respect to certain reports by water management districts; amending s. 370.06, F.S.; authorizing the department to issue special activity licenses for aquacultural activities involving sturgeon; amending s. 370.092, F.S.; providing for the transport of mullet harvested in Alabama waters; providing for penalties for fishing during periods of license suspension or revocation; creating s. 370.093, F.S.; prohibiting the harvest of marine life with nets inconsistent with s. 16, Art. X of the State Constitution; providing for penalties; providing a definition of the terms "net" and "netting"; authorizing the Marine Fisheries Commission to adopt certain rules; amending s. 370.14, F.S.; providing the Marine Patrol discretion to be present at the closed-season weighing of crawfish; creating s. 370.1405, F.S.; providing for the sale of crawfish during a closed season under specified reporting requirements; providing penalties; establishing an experimental program to assess the utility and effects of using "tarp" nets to harvest baitfish; providing an effective date.

Senator McKay moved the following amendment to **Amendment 1** which was adopted:

Amendment 1A (with title amendment)—On page 1, line 17 through page 2, line 26, delete those lines and renumber subsequent sections.

And the title is amended as follows:

On page 52, lines 11-19, delete those lines and insert: providing that lands acquired by the state and its political subdivisions may contain cattle dipping vats; amending s. 253.03, F.S.;

Senator Latvala moved the following amendment to **Amendment 1** which was adopted:

Amendment 1B (with title amendment)—On page 6, between lines 9 and 10, insert:

(3) In recognition that recreational trails purchased with rails-to-trails funds pursuant to s. 259.101(3)(g) have had historic transportation uses and that their linear character may extend many miles, the Legislature intends that when the necessity arises to serve public needs, after balancing the need to protect trail users from collisions with automobiles and a preference for the use of overpasses and underpasses to the greatest extent feasible and practical, transportation uses shall be allowed to cross recreational trails purchased pursuant to s. 259.101(3)(g). When these crossings are needed, the location and design should consider and mitigate the impact on humans and environmental resources, and the value of the land shall be paid based on fair market value.

(Renumber subsequent subsections)

And the title is amended as follows:

On page 52, line 25, after the semicolon (;) insert: providing for transportation uses of certain recreational trails;

Senator McKay moved the following amendment to **Amendment 1** which was adopted:

Amendment 1C—On page 15, delete line 9 and insert: *planning process. Beginning fiscal year 1998-1999, individual management plans required by s.*

Senator Latvala moved the following amendment to **Amendment 1** which was adopted:

Amendment 1D—On page 28, lines 29 and 30, delete those lines and insert:

Section 11. Subsections (4) and (7) of section 259.101, Florida Statutes, 1996 Supplement, are amended to read:

Senator McKay moved the following amendments to **Amendment 1** which were adopted:

Amendment 1E—On page 31, line 28, after "*given*" insert: *to the completion of projects in which one or more parcels have already been acquired and*

Amendment 1F (with title amendment)—On page 33, between lines 6 and 7, insert:

Section 12. Paragraph (f) of subsection (9) of section 259.101, Florida Statutes, 1996 Supplement, is amended to read:

(f)1. Pursuant to subsection (3) and beginning in fiscal year *1998-1999* ~~1997-1998~~, that portion of the unencumbered balances of each program described in paragraphs (3)(c), (d), (e), (f), and (g) which has

been on deposit in such program's Preservation 2000 account for more than two fiscal years shall be redistributed equally to the Conservation and Recreation Lands Trust Fund and the Water Management Lands Trust Fund. For the purposes of this subsection, the term "unencumbered balances" means the portion of Preservation 2000 bond proceeds which is not obligated through the signing of a purchase contract between a public agency and a private landowner, except that the program described in paragraph (3)(c) may not lose any portion of its unencumbered funds which remain unobligated because of extraordinary circumstances that hampered the affected local governments' abilities to close on land acquisition projects approved through the Florida Communities Trust program. Extraordinary circumstances shall be determined by the Florida Communities Trust governing body and may include such things as death or bankruptcy of the owner of property; a change in the land use designation of the property; natural disasters that affected a local government's ability to consummate the sales contract on such property; or any other condition that the Florida Communities Trust governing board determined to be extraordinary. The portion of the funds deposited in the Water Management Lands Trust Fund shall be distributed to the water management districts as provided in s. 373.59(7).

2. The department and the water management districts may enter into joint acquisition agreements to jointly fund the purchase of lands using alternatives to fee simple techniques.

(Renumber subsequent sections)

And the title is amended as follows:

On page 53, line 30, after "Program;" insert: clarifying language pertaining to Preservation 2000 funds;

Senator Latvala moved the following amendment to **Amendment 1** which was adopted:

Amendment 1G (with title amendment)—On page 33, between lines 6 and 7, insert:

(7) ALTERNATE *USES* ~~GOVERNMENTAL USE~~ OF ACQUIRED LANDS.—

(a) The Board of Trustees of the Internal Improvement Trust Fund, or, in the case of water management district lands, the owning water management district, may authorize the granting of a lease, easement, or license for the use of any lands acquired pursuant to subsection (3), for any governmental use permitted by s. 17, Art. IX of the State Constitution of 1885, as adopted by s. 9(a), Art. XII of the State Constitution, and *any other incidental public or private use that* ~~which~~ is determined by the board or the owning water management district to be compatible with the purposes for which such lands were acquired.

(b) Any existing lease, easement, or license acquired for incidental public or private use on, under, or across any lands acquired pursuant to subsection (3) shall be presumed not to be incompatible with the purposes for which such lands were acquired.

(c)~~(b)~~ Notwithstanding the provisions of paragraph (a), no such lease, easement, or license shall be entered into by the Department of Environmental Protection or other appropriate state agency if the granting of such lease, easement, or license would adversely affect the exclusion of the interest on any revenue bonds issued to fund the acquisition of the affected lands from gross income for federal income tax purposes, as described in s. 375.045(4).

And the title is amended as follows:

On page 53, line 27, after the semicolon (;) insert: authorizing the Board of Trustees of the Internal Improvement Trust Fund to permit any incidental public or private use of lands acquired with Preservation 2000 funds if the use is compatible or will not interfere with the purposes for which the lands were acquired; providing for preexisting leases, easements, and licenses not to be considered as incompatible uses;

Senator McKay moved the following amendments to **Amendment 1** which were adopted:

Amendment 1H—On page 34, line 31, after "*be*" insert: *collected on a voluntary basis as set forth by the county and*

Amendment 1I—On page 35, lines 9-30, delete those lines and insert:

Section 14. Subsection (5) of section 373.139, Florida Statutes, 1996 Supplement, is amended to read:

373.139 Acquisition of real property.—

(5) Lands acquired for the purposes enumerated in subsection (2) may also be used for recreational purposes, and whenever practicable such lands shall be open to the general public for recreational uses. *Except when prohibited by a covenant or condition described in s. 373.056(2), lands owned, managed, and controlled by the district may be used for multiple purposes, including, but not limited to, agriculture, silviculture, and water supply, as well as boating and other recreational uses.*

Amendment 1J—On page 35, line 31 through page 36, line 3, delete those lines and insert:

Section 15. Paragraph (c) of subsection (4), subsection (11) and paragraphs (a) and (b) of subsection (14) of section 373.59, Florida Statutes, 1996 Supplement, are amended and new subsections (16) and (17) are added to that section to read:

Amendment 1K—On page 35, line 31, after the period (.) insert: Subsections (1) and (9)

Amendment 1L (with title amendment)—On page 36, between lines 4 and 5, insert:

(1) There is established within the Department of Environmental Protection the Water Management Lands Trust Fund to be used as a nonlapsing fund for the purposes of this section. The moneys in this fund are hereby continually appropriated for the purposes of land acquisition, management, maintenance, capital improvements, payments in lieu of taxes, and administration of the fund in accordance with the provisions of this section. ~~In addition, for fiscal year 1995-1996, moneys in the fund that are not revenues from the sale of any bonds and that are not required for debt service for any bond issue may be used to fund activities authorized under the Surface Water Improvement and Management Act, pursuant to ss. 373.451-373.4595, and for the control of aquatic weeds pursuant to part II of chapter 369. Up to 25 percent of the moneys in the fund may be allocated annually to the districts for management, maintenance, and capital improvements pursuant to subsection (7).~~

And the title is amended as follows:

On page 54, line 14, after the semicolon (;) insert: deleting a limitation on the use of funds for land management and capital improvements;

Amendment 1M—On page 37, between lines 19 and 20, insert:

(14)(a) Beginning in fiscal year 1992-1993, not more than one-fourth of the land management funds provided for in subsections (1) and *(9)* ~~(8)~~ in any year shall be reserved annually by a governing board, during the development of its annual operating budget, for payment in lieu of taxes to qualifying counties for actual ad valorem tax losses incurred as a result of lands purchased with funds allocated pursuant to s. 259.101(3)(b). In addition, the Northwest Florida Water Management District, the South Florida Water Management District, the Southwest Florida Water Management District, the St. Johns River Water Management District, and the Suwannee River Water Management District shall pay to qualifying counties payments in lieu of taxes for district lands acquired with funds allocated pursuant to subsection *(8)* ~~(7)~~. Reserved funds that are not used for payment in lieu of taxes in any year shall revert to the fund to be used for management purposes or land acquisition in accordance with this section.

(b) Payment in lieu of taxes shall be available to counties for each year in which the levy of ad valorem tax is at least *8.25* ~~9~~ mills or the amount of the tax loss from all completed Preservation 2000 acquisitions in the county exceeds 0.01 percent of the county's total taxable value, and the population is 75,000 or less and to counties with a population of less than 100,000 which contain all or a portion of an area of critical state concern designated pursuant to chapter 380.

Amendment 1N (with title amendment)—On page 36, between lines 26 and 27, insert:

(9) Each district may use ~~up to 15 percent of~~ its allocation under subsection *(8)* ~~(7)~~ for management, maintenance, and capital improvements. Capital improvements shall include, but need not be limited to, perimeter fencing, signs, firelanes, control of invasive exotic species, controlled burning, habitat inventory and restoration, law enforcement, access roads and trails, and minimal public accommodations, such as primitive campsites, garbage receptacles, and toilets.

And the title is amended as follows:

On page 54, line 14, after the semicolon (;) insert: deleting a limitation on the use of funds for land management and capital improvements;

Senator Latvala moved the following amendment to **Amendment 1** which was adopted:

Amendment 1O—On page 46, line 5, after the period (.) insert: *Multifilament material shall not be defined to include nets constructed of braided or twisted nylon, cotton, linen twine, or polypropylene twine.*

Senator Bronson moved the following amendment to **Amendment 1** which was adopted:

Amendment 1P—On page 2, line 27 through page 3, line 21, delete those lines and insert:

Section 3. *Acquisition of lands by the state.—Lands acquired or sought to be acquired by the state and its political subdivisions may contain cattle-dipping vats as defined in section 376.301, Florida Statutes. The Legislature determines that it is in the public interest for the state and its political subdivisions to acquire cattle-dipping vats from willing sellers, where such vats are located on or within the boundaries of parcels or tracts acquired or being acquired by the state and its political subdivisions or on lands managed by a public interest organization for environmental mitigation purposes. Notwithstanding any other provision of law, the state and special taxing districts as defined in section 189.403(6), Florida Statutes, shall not exclude such cattle-dipping vats from any such individual acquisition or sequence of acquisitions using state funds in whole or in part or otherwise acquired pursuant to any permitting program under state law; and outparcels excluded from previous acquisitions which contain such cattle-dipping vats shall be acquired under existing state acquisition programs. The state and its political subdivisions shall not become liable under state law solely as an incident of such acquisition for any costs, damages, or penalties associated with the discharge, evaluation, contamination, assessment, or remediation for any substances or derivatives thereof that were used in the vat for the eradication of the cattle fever tick.*

Amendment 1 as amended was adopted.

Pursuant to Rule 4.19, **CS for CS for HB's 1119 and 1577** as amended was placed on the calendar of Bills on Third Reading.

SB 1270—A bill to be entitled An act relating to hospital licensing and regulation; amending s. 395.0163, F.S.; requiring certain outpatient facilities to submit plans and specifications for agency review; exempting certain outpatient facilities that meet specified standards from certain construction reviews; providing exceptions; amending s. 395.1055, F.S.; requiring the Agency for Health Care Administration to adopt rules related to construction requirements for new facilities or additions to existing facilities; providing an effective date.

—was read the second time by title.

Senator Bronson moved the following amendment:

Amendment 1 (with title amendment)—On page 3, between lines 2 and 3, insert:

Section 3. Section 395.0164, Florida Statutes, is created to read:

395.0164 Mobile surgical facilities.—

(1) A mobile surgical facility is a semitrailer as defined in s. 316.003 in which licensed medical professionals provide surgical procedures. It is not an ambulatory surgical center.

(2) A mobile surgical facility that has a contract with the Department of Corrections to provide medical services is exempt from the licensing and construction requirements of chapter 395.

(Renumber subsequent section.)

And the title is amended as follows:

On page 1, line 13, after the semicolon (;) insert: creating s. 395.0164, F.S.; providing that licensing and construction requirements of ch. 395, F.S., do not apply to mobile surgical facilities;

On motion by Senator Bronson, further consideration of **SB 1270** with pending **Amendment 1** was deferred.

MOTION

On motion by Senator Bankhead, by two-thirds vote all bills remaining on the Special Order Calendar this day were established as the Special Order Calendar for Friday, May 2.

REPORTS OF COMMITTEES

The Committee on Rules and Calendar submits the following bills to be placed on the Consent Calendar for Thursday, May 1, 1997: SB 14, SB 162, SB 172, SB 190, SB 204, CS for SB's 234 and 456, CS for SB 250, SB 252, SB 388, SB 450, SB 468, CS for SB 748, SB 1008, SB 1028, CS for SB 1056, SB 1102, CS for SB 1214, CS for SB 1228, CS for SB 1248, CS for SB 1362, CS for SB 1432, CS for SB 1456, SB 1496, CS for CS for SB 1532, CS for SB 1592, CS for SB 1598, SB 1784, CS for SB's 1846 and 1876, CS for SB 2038, SB 2058, CS for CS for SB 2194, CS for SB 2310, SB 2342, SB 2346, CS for SB 2436, SB 2054

Respectfully submitted,
W. G. (Bill) Bankhead, Chairman

The Committee on Rules and Calendar submits the following bills to be placed on the Local Bill Calendar for Thursday, May 1, 1997: HB 1875, HB 1175, SB 2510, HB 977, SB 2530, HB 1543

Respectfully submitted,
W. G. (Bill) Bankhead, Chairman

EXECUTIVE BUSINESS

The Honorable Toni Jennings May 1, 1997
President, The Florida Senate

Dear Madam President:

The following executive appointments were referred to the Senate Committee on Executive Business, Ethics and Elections for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

Office and Appointment		*For Term Ending*
Board of Accountancy		
Appointee:	Spottswood, Andrea A.	10/31/1999
Board of Acupuncture		
Appointees:	Fraser, John Michael	10/31/2000
	Yen, Johanna Chu	10/31/2000
Board of Architecture and Interior Design		
Appointees:	Anderson, Gere Timberlake	10/31/2000
	Butt, Arnold Frederick	10/31/1998
	Laramore, Charlotte P.	10/31/2000
State Athletic Commission		
Appointee:	Goodman, Alvin	09/30/2000

Office and Appointment		For Term Ending
Florida Board of Auctioneers		
Appointees:	Cretul, Jimmy	10/31/2000
	Larrua, Herminia Martinez	10/31/1997
Greater Orlando Aviation Authority		
Appointees:	Hattaway, Robert T.	04/16/2000
	Miller, William, Jr.	04/16/2000
	Ritch, John Bunnette	04/16/2000
Barbers' Board		
Appointees:	Capostagno, Frank	10/31/2000
	McCanless, Walter C., Jr.	10/31/2000
Florida Black Business Investment Board		
Appointees:	Carswell, Keith A.	09/30/1997
	Nelson, Tony D.	08/30/1998
Florida Building Code Administrators and Inspectors Board		
Appointees:	Fuchs, Donald Lee, Jr.	10/31/2000
	Gregg, Ada Mijares	10/31/2000
	Rogers, George Arthur	10/31/2000
Board of Building Codes and Standards		
Appointees:	Harris, Peggy P.	05/01/1999
	Thorne, Karl Seymour	08/11/1999
Capitol Center Planning Commission		
Appointee:	Block, Charles Edward	09/30/2000
Board of Chiropractic		
Appointees:	Sheldon, Richard Alan	10/31/2000
	Wolfson, Wayne Curtis	10/31/2000
Florida Citrus Commission		
Appointees:	Evans, James Emmett III	05/31/2000
	Jackson, Raymond Alvin	05/31/2000
	Marshburn, Joseph D.	05/31/2000
	McPherson, Rex Vanburt II	05/31/1998
Board of Clinical Laboratory Personnel		
Appointees:	Barr, Norris Holland	10/31/2000
	Fergason, Kay Elizabeth	10/31/2000
Board of Clinical Social Work, Marriage and Family Therapy, and Mental Health Counseling		
Appointees:	Connor, Olga Arazoza	10/31/2000
	Waldo, John Stephen	10/31/1998
Regulatory Council of Community Association Managers		
Appointees:	Billups, Reginald D.	10/31/2000
	Creekmore, Thomas, Jr.	10/31/2000
	Grosskopf, John E.	10/31/1997
	Heller, Shirley	10/31/1999
	Hildebrandt, Harold R.	10/31/1999
State Board of Community Colleges		
Appointees:	Belohlavek, John Milan	09/30/2001
	Brice, Peggy J.	09/30/1997
	Lang, Joseph Hagedorn	09/30/1997
	Platt, George I. III	09/30/2001
Florida Commission on Community Service		
Appointee:	Bailey, Mark Lawrence	09/14/1998
Board of Trustees of Chipola Junior College		
Appointee:	Mason, Gerald V.	05/31/1999
Board of Trustees of Edison Community College		
Appointees:	Heber, Thomas C.	05/31/2000
	Warr, Katherine L.	05/31/2000
Board of Trustees of Florida Community College at Jacksonville		
Appointee:	Barrett, Martha Elizabeth	05/31/1999
Board of Trustees of Florida Keys Community College		
Appointee:	Cates, Emma Carrero	05/31/1998
Board of Trustees of Gulf Coast Community College		
Appointee:	Bloodworth, Leon Reed	05/31/2000
Board of Trustees of Manatee Community College		
Appointees:	Branic, Gladys	05/31/2000
	McGuire, Hugh Etheridge	05/31/1998
	Perkins, Robert Eugene	05/31/2000
Board of Trustees of Palm Beach Community College		
Appointee:	Johnston, Harry A.	05/31/1997
Board of Trustees of Pensacola Junior College		
Appointees:	Baker, Richard Robert	05/31/1997
	Goodman, Antoinette L.	05/31/1998
Board of Trustees of Polk Community College		
Appointee:	Ruthven, Joe P.	05/31/1997
Board of Trustees of St. Petersburg Junior College		
Appointees:	Harwell, Lacy Rankin	05/31/1998
	Megaloudis, Gary	05/31/1999
Board of Trustees of Tallahassee Community College		
Appointee:	May, Fountain Howard, Jr.	05/31/1997
Board of Trustees of Valencia Community College		
Appointee:	Lackey, Jan Duke	05/31/2000
Construction Industry Licensing Board		
Appointees:	Laird, Robert D.	10/31/1997
	Malia, Robert Joseph	10/31/2000
	Palacios, Rafael Raul	10/31/2000
	Stokes, Susan C.	10/31/1997
Florida Corrections Commission		
Appointees:	Bolte, John R.	06/30/2000
	Harvey, David Fulton	06/30/2000
	Revell, Ernest Guy, Jr.	06/30/2000
	Sansom, Ray	06/30/2000
State of Florida Correctional Medical Authority		
Appointees:	Baker, Jeannie Brinson	09/30/1999
	Clark, Nerevda Polo	07/01/2000
	Hicks, Thomas Lynn	07/01/1999
	Rushing, C. Winston	09/30/2000
	Russell, Barbara S.	07/01/2000
Board of Cosmetology		
Appointees:	Ortiz, Maria M.	10/31/1998
	Poole, David William	10/31/1999
	Reddick, Nesper LaKay	10/31/2000
	Roy, Emily D.	10/31/2000
	Stone, Ann E.	10/31/1998
Board of Trustees for the Florida School for the Deaf and the Blind		
Appointees:	Mauldin, Mary Inez	12/10/2000
	Turner, Edgar Malone	11/19/2000
Board of Dentistry		
Appointees:	Brotman, Solomon George	10/31/2000
	McDonald, Mary Lou Duffill	10/31/2000
	Stavros, Irene J.	10/31/2000
Florida Development Finance Corporation		
Appointees:	Brooks, Theodore H., Jr.	05/02/2000
	Hill, Joseph D., Jr.	05/02/1999
Education Practices Commission		
Appointees:	Burton, Robert E.	09/30/1999
	Coddington, Clarissa H.	09/30/1999
	Corbett, Jordon Jerome	09/30/1998
	Davis, James Edward	09/30/1998
	Kenney, Mary Hannigan	09/30/2000

Office and Appointment		*For Term Ending*
	Palmer, Jayne Ann Wayman	09/30/1999
	Sijan, Amy O'Brien	09/30/2000
	Wolfe, Margaret Ada	09/30/1999
	Wright, Ronald Stephen	09/30/1999
Education Standards Commission		
Appointees:	Coto, Norma E.	09/30/1998
	Farmer, Diane Albert	09/30/1998
	Hoag, Patrick John	09/30/1999
	Horn, Patricia Solomon	09/30/1997
	Huckabay, George Eugene	09/30/1999
	Johnson, Katherine McDonald	09/30/1998
	Lafferty, Gerald F.	09/30/1997
	Lisch, Eloise Turner	09/30/1998
	Lopez, Mary Morgan	09/30/1998
	Martin, Suzanne Owens	09/30/1999
	McBride, Rebecca Rigby	09/30/1999
	McDavis, Roderick John	09/30/1999
	Pippin, James Willard	09/30/1998
	Proctor, William Lee	09/30/1998
	Rodriquez-Walling, Matty Barcelo	09/30/1998
	Sailor, Susan Hardee	09/30/1999
	Sharpe, Barbara Jean	09/30/1999
Florida Elections Commission		
Appointees:	Buermann, Eric	12/10/1999
	Hardaway, Larry D.	12/10/1999
	McClure, Julie G.	12/27/1999
	Murrah, Kenneth F.	12/10/1999
	Ostrau, Norman M.	12/10/1997
Electrical Contractors' Licensing Board		
Appointees:	Abreu, Arnaldo Luis	10/31/2000
	Roberts, Lewis Christmas	10/31/2000
Board of Employee Leasing Companies		
Appointees:	Bloomer, Donna Mary	10/31/2000
	Byrd, Bernard Clinton, Jr.	10/31/2000
	Saladrigas, Carlos A.	10/31/1999
	Samuels, Robert J.	10/31/1997
Board of Professional Engineers		
Appointee:	Whitston, David Austin	10/31/1999
Board of Directors, Enterprise Florida, Inc.		
Appointees:	Blue, Barbara Ann	07/01/2000
	Hodor, Howard Irwin	07/01/1998
	Nunis, Richard A.	07/01/1999
Board of Directors, Capital Development Board		
Appointees:	Burton, Donald Williamson	03/09/2000
	Hill, Joseph D., Jr.	03/09/2000
	Lyons, Clayton Thaddeus	03/09/2000
	Masferrer, Eduardo A.	03/09/2000
	Mitchell, John Adam	03/09/1998
Board of Directors, Florida International Trade and Economic Development Board		
Appointees:	Dye, H. Michael	11/21/2000
	Hendry, Robert Ryon	11/21/2000
	Hsu, Paul S.	11/21/1999
	Jennings, Cleastor William	11/21/1999
	Maguire, Amelia Rea	11/21/2000
	Milton, Teala A.	11/21/2000
	O'Brien, James Joseph	11/21/2000
	Schirard, Joseph Brantley	11/21/2000
	Simionetta, Rocco Santo	11/21/2000
	Smith, John Edward	11/21/2000
	Steiner, Robert Newton	11/21/2000
	Villamil, Jose Antonio	11/21/1999
	Watermeier, Janet L.	11/21/1998
Board of Directors, Technology Development Board		
Appointees:	Crissey, Relf Seward	06/14/1997
	Gabremariam, Fassil	06/14/1998
Board of Directors, Workforce Development Board		
Appointees:	Alexis, Patricia Augustina	06/05/2000
	Brody, Sue Gourley	06/05/1999
	Daly, John Joseph	06/05/1999
	Habif, Josefina Bonet	06/05/2000
	Lenard, Marilyn P.	06/05/2000
	Neimeiser, Mark M.	06/05/1999
	Rhoads, Sharon Callen	06/05/2000
	Witte, Betty Jean	06/05/1999
Environmental Regulation Commission		
Appointees:	Krant, Elizabeth Howard	07/01/1999
	Rogers, Roy	07/01/1997
Commission on Ethics		
Appointee:	Prieto, Peter	06/30/1998
Tampa-Hillsborough County Expressway Authority		
Appointee:	Callahan, Frank Thomas	07/01/2000
Board of Funeral and Cemetery Services		
Appointee:	Ray, David Preston	09/08/1997
Board of Funeral Directors and Embalmers		
Appointees:	Benboe, Daniel Leslie	10/31/2000
	Cunningham, Albert Lee	10/31/1998
Game and Fresh Water Fish Commission		
Appointee:	Morris, Julie K.	01/06/2002
Board of Professional Geologists		
Appointees:	Enos, Gabrielle Mitzn	10/31/2000
	Greene, Collace Clinton	10/31/2000
Commission on Government Accountability to the People		
Appointees:	Cosio Carballo, Isabel Cristina	08/21/2000
	Heggestad, Arnold A.	08/21/2000
	Kelley, James Darrell	08/21/2000
	Lewis-Brent, Lana Jane	08/21/1997
	Tedder, Joseph G.	08/21/2000
Secretary of Department of Health		
Appointee:	Howell, James Thomas	Pleasure of Governor
Board of Hearing Aid Specialists		
Appointees:	Currow, Neal C.	10/31/1997
	Dingler, Denson Powell II	10/31/2000
	Telischi, Fred F.	10/31/1997
	Weber, Dora W.	10/31/2000
	Yordon, Leonard M.	10/31/2000
Board of Trustees of South Lake County Hospital District		
Appointee:	McGriff, Dorothy C.	07/05/1999
Florida Housing Finance Agency		
Appointees:	Baldwin, Stephanie Williams	11/13/2000
	Hernandez, Victoria	11/13/1998
	Lee, Edward, Jr.	11/13/2000
	Martin, Richard Charles	11/13/2000
Florida Commission on Human Relations		
Appointees:	Ellis, Larry Tyrone	09/30/1999
	Fenton, Jeanette LaRussa	09/30/1999
	Flom, Elena Marie Koch	09/30/2000
	Jenkins, Whitfield	09/30/2000
	Townsend, Ronald Paul	09/30/1999
	Walker, Chriss	09/30/2000
State Board of Independent Colleges and Universities		
Appointees:	Durst, Maribeth	09/30/1999
	Milton, Fredrick Timothy	09/30/1999
	Ullmann, Steven George	09/30/1999

Office and Appointment		For Term Ending
State Board of Independent Postsecondary Vocational, Technical, Trade, and Business Schools		
Appointees:	McCormick, Fenwick Donald	07/01/1997
	Peoples, David L.	07/01/1998
	Whibbs, Vincent John, Jr.	07/01/1999
Investment Advisory Council		
Appointees:	McBride, William H., Jr.	12/12/2000
	Nast, Donald Arden	12/12/2000
Board of Landscape Architecture		
Appointees:	Gilchrist, Hilda Gomez	10/31/2000
	Greene, Susan	10/31/1999
	Hemphill, David Keith	10/31/1999
Governor's Mansion Commission		
Appointee:	Douglass, William Dexter	09/30/2000
Gulf States Marine Fisheries Commission		
Appointee:	McFarland, Patrick Kelly	01/05/1998
Board of Massage		
Appointees:	Cressor, Candace	10/31/1999
	Keith, Thomasena Banks	10/31/2000
	Rosello, Gloria	10/31/2000
Board of Medicine		
Appointees:	El-Bahri, Georges A.	10/31/2000
	Murray, Louis Charles	10/31/2000
	Pardue, Carolyn Rennick	10/31/2000
	Scoon, Cecile M.	10/31/2000
	Woods, Abraham Lincoln III	10/31/2000
National Conference of Commissioners on Uniform State Laws		
Appointees:	Ehrhardt, Charles W.	06/05/1999
	Stagg, Clyde Lawrence	06/05/1999
Board of Nursing		
Appointees:	Curry-Baggett, Patricia	10/31/2000
	Edwards, Willie	10/31/2000
	Garner, Diane Jimenez	10/31/2000
	Leonard, Mary Kathryn	10/31/2000
	Woolfork, Betty Bacon	10/31/1999
Board of Nursing Home Administrators		
Appointees:	Conti, Mary Alice	10/31/1999
	Echevarria, Katherine Harris	10/31/1998
	Goodman, Terry Carl	10/31/2000
	Lockeby, Kyle Eustice, Jr.	10/31/1998
	Trachsel, Sandra Faye	10/31/2000
Board of Opticianry		
Appointees:	Chamberlain, Sonya A.	10/31/2000
	Jones, William Vernon	10/31/1999
	Mathews, Caroline Walton	10/31/1997
	Rowley, Harry Clayton	10/31/1997
	Whited, Edmund Andrew III	10/31/1999
Board of Optometry		
Appointee:	Schlofman, Arthur Leonard	10/31/2000
Board of Osteopathic Medicine		
Appointees:	Owen, Carol R.	10/31/1997
	Panzer, Robert George	10/31/2000
Parole Commission		
Appointees:	Crockett, Maurice G.	06/30/1998
	Spooner, Edward M.	06/30/2002
	Wolson, Judith A.	06/30/2000
Board of Pharmacy		
Appointees:	Inge, Leonard LeBaron	10/31/2000
	Mora, Juan Francisco	10/31/2000
Board of Physical Therapy Practice		
Appointees:	Bello, Barbara Wynne	10/31/1997
	Lindeblad, Susan Kenville	10/31/2000
	Menge, Jewell Emily	10/31/2000
Board of Pilot Commissioners		
Appointees:	Alonso-Poch, Manuel	10/31/2000
	Sisselman, Ludmila Saposhkov	10/31/2000
Pilotage Rate Review Board		
Appointees:	Howe, Helen R.	10/31/1998
	Rodriguez, Ramon A.	10/31/2000
	Scionti, Anthony J.	10/31/2000
Board of Podiatric Medicine		
Appointees:	Hickey, Jill Virginia	10/31/1997
	Simmonds, Warren L.	10/31/2000
Postsecondary Education Planning Commission		
Appointees:	Bryan, Robert A.	02/04/2000
	Kirk, James E., Jr.	02/04/2000
	LaFace, Ron C.	08/31/1997
	Shelton, Maria M.	02/04/2000
Prepaid Postsecondary Education Expense Board		
Appointees:	Starling, Bruce Cordell	06/30/1997
	Tate, Stanley G.	06/30/1999
Historic Palm Beach Preservation Board of Trustees		
Appointee:	Healy-Golembe, Patricia Ann	06/30/1999
Historic Pensacola Preservation Board of Trustees		
Appointee:	Currin, Beverly Madison (Matt)	06/30/1999
Historic Tallahassee Preservation Board of Trustees		
Appointee:	Dunlap, Janice Dickens	06/30/1999
Historic Tampa-Hillsborough County Preservation Board of Trustees		
Appointees:	Alvarez, Mary C.	06/30/1999
	Salaga, Vivian O.	06/30/1999
Board of Directors, Prison Rehabilitative Industries and Diversified Enterprises, Inc.		
Appointees:	Hoover, Robin C.	09/30/1998
	Humphries, Frederick S.	09/30/1999
	May, Randall Lee	09/30/2000
	Medlin, Kenneth Lewis	09/30/1999
Board of Psychology		
Appointees:	Perry, Nathan W.	10/31/2000
	Rivas-Vazquez, Ana Albarran	10/31/2000
	Weitz, William Alan	10/31/1999
Public Employees Relations Commission		
Appointee:	Gertz, Sally Caroline	01/01/2001
Chairman of Public Employees Relations Commission		
Appointee:	Mahon, Lacy, Jr.	01/01/2000
Florida Public Service Commission		
Appointee:	Johnson, Julia Louise	01/01/2001
Florida Real Estate Appraisal Board		
Appointee:	Callaway, Mary M.	10/31/2000
Florida Real Estate Commission		
Appointees:	Fisher, Herbert Roosevelt	10/31/2000
	Tangel-Rodriguez, Ana E.	10/31/2000
Board of Regents		
Appointees:	Harding, James Raymond	09/01/1997
	Heekin, James Freeman, Jr.	01/01/2003
	Lewis, Philip Daniel	01/01/2002
	Moyle, Jon Cameron	01/01/2003
West Florida Regional Planning Council, Region 1		
Appointees:	Barnard, Robert Franklin	Pleasure of Governor

Office and Appointment		*For Term Ending*
	Buchanan, Fred Allen	Pleasure of Governor
	Carlan, Charles Hampton	Pleasure of Governor
	Hood, Russell Glenn	Pleasure of Governor
	Robbins, Delores Jean	Pleasure of Governor
Apalachee Regional Planning Council, Region 2		
Appointee:	Bailar, Richard J.	10/01/1999
North Central Florida Regional Planning Council, Region 3		
Appointees:	Blakewood, Stephen Wyman	10/01/1997
	Hodges, Evon W.	10/01/1997
Northeast Florida Regional Planning Council, Region 4		
Appointees:	Burney, Betty Seabrook	10/01/1998
	Hawkinson, James Earl	10/01/1998
	McCullagh, Lenore N.	10/01/1998
Withlacoochee Regional Planning Council, Region 5		
Appointees:	Barnes, John T.	10/01/1997
	Bronson, Thomas Edward	10/01/1998
	Davis, Marjorie C.	10/01/1997
	Neville, Eunice M.	10/01/1997
	Poole, Eugene Alphonziea	10/01/1998
East Central Florida Regional Planning Council, Region 6		
Appointees:	Barice, Carole Joy	10/01/1998
	Chotas, Elias Nicholas	10/01/1999
	Clegg, Barbara A.	10/01/1998
	Ervin, Thomas Lee, Jr.	10/01/1997
	Grajales, Luis Enrique	10/01/1998
	Hattaway, James Allen	10/01/1997
	Lamar, Howell Arthur	10/01/1997
	Marbury, Howard William	10/01/1998
	Poe, Bob	10/01/1998
	Schneider, Mark Edward	10/01/1998
	Wellman, Labon Ernest	10/01/1997
Central Florida Regional Planning Council, Region 7		
Appointees:	Clemons, Susanne H.	10/01/1998
	Jones, Mary E.	10/01/1997
	Martz, John Claude	10/01/1997
	Whitlock, Paul Pate	10/01/1998
Tampa Bay Regional Planning Council, Region 8		
Appointees:	Bradley, Terrye Singletary	10/01/1998
	Davis, Albert	10/01/1998
	Horton, Sam James	10/01/1998
	Kelly, Otis	10/01/1998
	Kennedy, Thomas Francis	10/01/1998
	Nodine, William E.	10/01/1997
	Silverberg, Jane Esther	10/01/1997
	Young, Helen Wright	10/01/1997
Southwest Florida Regional Planning Council, Region 9		
Appointees:	Klaas, Richard Lee	10/01/1999
	Suarez, Israel	10/01/1998
Treasure Coast Regional Planning Council, Region 10		
Appointee:	Klein, Robert Neal	10/01/1999
South Florida Regional Planning Council, Region 11		
Appointee:	Echemendia, Santiago Dionisio	10/01/1998
Board of Trustees of the John and Mable Ringling Museum of Art		
Appointees:	Austin-Smith, Sheila A.	11/05/1999
	Barnett, James Samuel	11/05/2000
	Cook, Marlow Webster	11/05/2000
	Labasky, Beth K.	11/05/2000
Board of Speech-Language Pathology and Audiology		
Appointees:	Hough, Gerald Lawrence	10/31/2000
	Pellegrino, Mary M.	10/31/2000
Jacksonville Sports Development Authority		
Appointee:	Arnold, Charles Warner, Jr.	09/30/1999
Board of Professional Surveyors and Mappers		
Appointees:	Armstead, Ralph	10/31/1997
	Gibson, David Wylie	10/31/2000
	Woodward, Charles George	10/31/2000
Florida Commission on Tourism		
Appointees:	Benson, Hayward J., Jr.	06/30/2000
	Cherniavsky, Thomas W.	06/30/2000
	Garfield, Randy Alan	06/30/2000
	Halford, Nancy Stanton	06/30/1998
	Healan, Jack Bernard, Jr.	06/30/2000
	Litrenta, Edward J.	06/30/2000
	Racanelli, John Charles	06/30/2000
	Smith, Roxanna L.	06/30/2000
Florida Transportation Commission		
Appointees:	Asher, Don L.	09/30/1998
	Roepstorff, Robbie Briggs	09/30/1999
Unemployment Appeals Commission		
Appointee:	Harris, Charlie	06/30/2000
Florida Commission on Veterans' Affairs		
Appointees:	Ogilvie, Victor Nicholas	11/16/2000
	Reese, Frank	11/16/2000
	Thomas, John W.	11/16/2000
	Walker, Isabella Beggio	11/16/2000
Board of Veterinary Medicine		
Appointees:	Lewis, Cynthia N.	10/31/2000
	O'Neil, Robert Eugene	10/31/2000
Governing Board of the Northwest Florida Water Management District		
Appointees:	de Lorge, John Oldham	03/01/2001
	Middlemas, John Robert, Jr.	03/01/2001
	Riley, Judith Byrne	03/01/2001
	Roberts, Charles W.	03/01/2001
Governing Board of the St. Johns River Water Management District		
Appointees:	Hughes, Reid B.	03/01/2001
	Mason, Otis Alphonso	03/01/2001
	Roach, James Daniel	03/01/2001
	Segal, William Martin	03/01/2001
Governing Board of the South Florida Water Management District		
Appointees:	Berger, Mitchell Wayne	03/01/2001
	Carter, Vera M.	03/01/2001
	Minton, Michael David	03/01/2001
Big Cypress Basin Board of the South Florida Water Management District		
Appointees:	Davenport, Claudia Annette	03/01/1999
	Goetz, Ellin	03/01/1999
Governing Board of the Southwest Florida Water Management District		
Appointees:	Harllee, John Pope IV	03/01/2001
	Johnson, Ronald Craig	03/01/2001
	Thompson, Sarah Ann (Sally)	03/01/2001
Executive Director of Southwest Florida Water Management District		
Appointee:	Vergara, Emilio De	Pleasure of the Board
Alafia River Basin Board of the Southwest Florida Water Management District		

Office and Appointment		*For Term Ending*
Appointee:	Haugabook, Earl	03/01/1999
Hillsborough River Basin Board of the Southwest Florida Water Management District		
Appointees:	Gaston, Lois Hurston	03/01/1999
	Kuenzel, Calvin Arnold	03/01/1999
Manasota Basin Board of the Southwest Florida Water Management District		
Appointees:	Hamner, John Thomas	03/01/1998
	Jones, Judith Lynne	03/01/1998
	Longino, Berryman Thomas	03/01/1999
	Williams, Charles Erwin	03/01/1999
Northwest Hillsborough County Basin Board of the Southwest Florida Water Management District		
Appointees:	Tillotson, Gwendolyn Sue	03/01/1999
	Wester, Janette Meredith	03/01/1999
Peace River Basin Board of the Southwest Florida Water Management District		
Appointee:	Davis, William Keith	03/01/1999
Pinellas-Anclote River Basin Board of the Southwest Florida Water Management District		
Appointees:	Spigelman, Adelle Levin	03/01/1999
	Starkey, Jay B.	03/01/1999
Withlacoochee River Basin Board of the Southwest Florida Water Management District		
Appointees:	Dixon, Eleanor Patricia	03/01/1998
	Haile, Julia Hackley	03/01/1999
	Lee, Andrew Wayne	03/01/1999
Governing Board of the Suwannee River Water Management District		
Appointees:	Carver, John David, Jr.	03/01/2001
	Colson, Suzanne Kuszyna	03/01/2001
	Howell, Maceo, Jr.	03/01/2001
	Waring, Malachi Howell	03/01/2001

As required by Rule 12.7(a), the committee caused to be conducted an inquiry into the qualifications, experience, and general suitability of the above-named appointees for appointment to the offices indicated. In aid of such inquiry the committee held a public hearing at which members of the public were invited to attend and offer evidence concerning the qualifications, experience, and general suitability of each appointee.

After due consideration of the findings of such inquiry and the evidence adduced at the public hearings, the committee respectfully advises and recommends that:

1) the executive appointments of the above-named appointees, to the offices and for the terms indicated, be *confirmed* by the Senate.

2) Senate action on said appointments be taken prior to the adjournment of the 1997 Regular Session.

3) there is no necessity known to the committee for the deliberations on said appointments to be held in executive session.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the report was adopted and the Senate confirmed the appointments identified in the foregoing report of the committee to the offices and for the terms indicated in accordance with the recommendation of the committee.

The vote was:

Yeas—38

Madam President	Brown-Waite	Campbell	Childers
Bronson	Burt	Casas	Clary
Cowin	Gutman	Klein	Rossin
Crist	Hargrett	Kurth	Scott
Dantzler	Harris	Latvala	Silver
Diaz-Balart	Holzendorf	Lee	Thomas
Dudley	Horne	McKay	Turner
Dyer	Jenne	Meadows	Williams
Forman	Jones	Myers	
Grant	Kirkpatrick	Ostalkiewicz	

Nays—None

Vote after roll call:

Yea—Bankhead, Sullivan

DISCLOSURE UNDER RULE 1.39

The law firm in which I am a shareholder, provides legal services to the governing board of the St. Johns River Water Management District and to one of its members individually. Although I personally do not represent or provide legal services to either of these clients, I partake of legal fees paid generally to my law firm.

Four members of the governing board of the St. Johns Water Management District were up for confirmation today, as part of a list of 375 gubernatorial appointees to various boards and commissions recommended for confirmation by the Senate Executive Business, Ethics and Elections Committee.

Senate Rule 1.20 provides that no senator is permitted to vote on any question immediately concerning his or her private rights as distinct from the public interest, but Senate Rule 1.39 provides that a senator must disclose any personal, private, or professional interest [in a bill] that would inure to that senator's special private gain or the special gain of any principal to whom the senator is obligated.

It is in the public's interest and consequently my duty to vote on all confirmations before the Senate, so in an abundance of caution, I am making the above disclosure as provided by Senate Rule 1.39.

Buddy Dyer, 14th District

The Honorable Toni Jennings May 1, 1997
President, The Florida Senate

Dear Madam President:

The following executive appointments were referred to the Senate Committee on Executive Business, Ethics and Elections for action pursuant to Rule 12.7(a) of the Rules of the Florida Senate:

Office and Appointment		*For Term Ending*
Board of Architecture and Interior Design		
Appointee:	Hall, Berta S.	10/31/1999
Florida Communities Trust		
Appointee:	Perez, Julian Humberto	01/31/1997
Education Standards Commission		
Appointees:	D'Alessandro, Bobbie J.	09/30/1996
		09/30/1999
	Sharpe, Barbara Jean	09/30/1996
Board of Directors, Workforce Development Board		
Appointee:	Tornillo, Pat L.	06/05/1999
Environmental Regulation Commission		
Appointee:	Batchelor, Dick J.	07/01/1999
Florida Housing Finance Agency		
Appointee:	Martin, Richard Charles	11/13/1998
Board of Medicine		
Appointee:	Skinner, Margaret Sheppard	10/31/1997
Board of Opticianry		
Appointee:	Chamberlain, Sonya A.	10/31/1996

Office and Appointment	*For Term Ending*
Board of Osteopathic Medicine	
Appointee: Panzer, Robert George	10/31/1996
Board of Physical Therapy Practice	
Appointee: Prado, Antonio	10/31/1999
Board of Pilot Commissioners	
Appointee: Fuller, James Walden	10/31/1996
Historic Palm Beach Preservation Board of Trustees	
Appointee: Wescott, William Flynn	06/30/1999
Florida Real Estate Appraisal Board	
Appointee: Callaway, Mary M.	10/31/1996
Apalachee Regional Planning Council, Region 2	
Appointee: Bailar, Richard J.	10/01/1996
North Central Florida Regional Planning Council, Region 3	
Appointee: Harris, Oscar L., Jr.	10/01/1996
State Retirement Commission	
Appointee: Butler, Wilbert, Jr.	12/31/1999
Governing Board of the Southwest Florida Water Management District	
Appointee: Harllee, John Pope	03/01/1997
Peace River Basin Board of the Southwest Florida Water Management District	
Appointee: Barben, Robert H.	03/01/1997

The Senate Committee on Executive Business, Ethics and Elections has failed to consider these appointments because:

a) the terms of the following persons have expired: Richard J. Bailar, Robert H. Barben, Mary M. Callaway, Sonya A. Chamberlain, Bobbie J. D'Alessandro, John Pope Harllee, Oscar L. Harris, Jr., Robert George Panzer, Julian Humberto Perez and Barbara J. Sharpe.

b) the following persons have resigned: Dick J. Batchelor, Wilbert Butler, Jr., Bobbie J. D'Alessandro, James Walden Fuller, Berta S. Hall, Richard Charles Martin, Antonio Prado, Margaret Sheppard Skinner, Pat L. Tornillo and William Flynn Wescott.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the report was adopted and the Senate failed to consider the appointments identified in the foregoing report of the committee to the offices and for the terms indicated in accordance with the recommendation of the committee.

The Honorable Toni Jennings May 1, 1997
President, The Florida Senate

Re: Suspension of:

LENZY CORBIN
Member, Board of County Commissioners
Washington County, Florida

Dear Madam President:

The Committee on Executive Business, Ethics and Elections submits this final report on the matter of the suspension of Lenzy Corbin.

By Executive Order Number 96-326 filed with the Secretary of State on October 22, 1996, the Honorable Lawton Chiles, as Governor, suspended Lenzy Corbin as a member of the Board of County Commissioners of Washington County, Florida. On January 29, 1997, the Honorable Lawton Chiles entered an Order of Reinstatement, Executive Order Number 97-42, revoking the Executive Order of Suspension and reinstating the Honorable Lenzy Corbin to the aforesaid county office on that date.

In view of the foregoing, the Committee on Executive Business, Ethics and Elections advises that no further action by the Senate is authorized or required by the Florida Constitution. The Committee recommends, therefore, that the Senate take no further action on the above-referenced matter and that this suspension case be closed.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the foregoing report on the reinstatement of Lenzy Corbin, County Commissioner, Washington County, Florida was adopted and the Senate took no further action.

The Honorable Toni Jennings May 1, 1997
President, The Florida Senate

Re: Suspension of:

RICHARD ALLEN "AL" HARRISON
Sheriff
Gulf County, Florida

Dear Madam President:

The Committee on Executive Business, Ethics and Elections submits this final report on the matter of the suspension of Richard Allen "Al" Harrison.

By Executive Order Number 94-142, filed with the Secretary of State on June 8, 1994, the Honorable Lawton Chiles, as Governor, suspended Richard Allen "Al" Harrison, as Sheriff, Gulf County, Florida. The term of office for Mr. Harrison, as Sheriff, Gulf County, Florida, was from January 5, 1993 through January 6, 1997.

Executive Order Number 94-142, charged that Sheriff Harrison, while holding the aforesaid office, obstructed justice by interfering with a Florida Department of Law Enforcement investigation into charges against him, instructing potential witnesses to resist the efforts of law enforcement investigators to gather information. Executive Order Number 94-142 further alleged that such actions constituted the offenses of malfeasance and/or misfeasance, which are grounds for suspension under Article IV, Section 7, Florida Constitution.

By Executive Order Number 95-104, filed with the Secretary of State on March 21, 1995, with information attached, the Honorable Lawton Chiles, as Governor, amended Executive Order Number 94-142 to continue the suspension of Mr. Harrison and to include the following charges that Mr. Harrison, while holding the office of Sheriff, Gulf County, Florida, committed criminal violations of the laws of the United States and of the State of Florida, viz: (1) seven counts of violating the constitutional rights of inhabitants of Florida not to be deprived of liberty without due process of law, which includes the right to be free from willful sexual assault, to wit: that Mr. Harrison coerced female Gulf County Jail inmates to engage in a sexual act thereby depriving them of their liberty without due process of law, contrary to Title 28, United States Code, Section 242; (2) ten counts of sexual battery upon persons 12 years of age or older, without that person's consent, and in the process thereof did not use physical force or violence likely to cause serious personal injury, to wit: that the aforementioned acts of sexual assault in paragraph (1) also constituted sexual battery, and, that Mr. Harrison committed three additional acts constituting sexual battery upon Gulf County Jail inmates and a Gulf County Sheriff's Office Employee, contrary to Section 794.011(5), Florida Statutes; (3) two counts of witness tampering, to wit: that Mr. Harrison knowingly interfered with the investigation into allegations pending against him by instructing two potential witnesses to resist the efforts of law enforcement investigators to examine information, contrary to Section 914.22(1), Florida Statutes; (4) one count of tampering with physical evidence, to wit: that Mr. Harrison knowingly altered, destroyed, concealed or removed a thing with the purpose to impair its verity or availability in a pending criminal

investigation by a duly constituted prosecuting authority or law enforcement agent of this State, by having the carpet and upholstery in his office cleaned, contrary to Section 918.13, Florida Statutes; (5) one count of perjury by contradictory statement, to wit: that Mr. Harrison willfully made two or more material statements under oath in one or more official proceedings in Gulf County, Florida, when in fact two or more of the statements contracted each other, contrary to Section 837.021, Florida Statutes; (6) five counts of improper sexual acts in the presence of, and/or explicit sexually-oriented statements to, female Gulf County Jail inmates, state and county prisoners during transport, and a woman attempting to recover property which Mr. Harrison had recovered on her behalf from a pawnshop. Executive Order 95-104 further stated that the facts alleged constituted the offense of malfeasance, misfeasance, and/or the commission of a felony, which are grounds for suspension under Article IV, Section 7, Florida Constitution.

Criminal prosecution of Mr. Harrison was commenced in the United States District Court for the Northern District of Florida, Panama City Division, (Case No. 94-05034), where on November 15, 1994, the Grand Jury returned an indictment against Mr. Harrison, charging him with ten counts of misdemeanor civil rights violations pursuant to Title 18, United States Code, Section 242. On January 27, 1995, a jury returned a verdict of guilty on seven of the ten charges against Mr. Harrison. *United States v. Harrison*, No. 94-05034 (N.D. Fla.). On March 24, 1995, Mr. Harrison was committed to the custody of the United States Bureau of Prisons to be imprisoned for a term of 51 months. He is currently serving his sentence at a federal correctional facility in Atlanta, Georgia.

On March 29, 1995, Mr. Harrison, through counsel, filed a Notice of Appeal of his conviction with the United States District Court for the Northern District of Florida, Panama City Division. On December 20, 1996, the United States Court of Appeals for the Eleventh Circuit, without hearing oral argument, rejected Mr. Harrison's position on appeal and upheld the trial court verdicts. *United States v. Harrison*, No. 95-2504 (11th Cir., Dec. 20, 1996).

The Senate assumed jurisdiction of this matter on June 14, 1994, and this matter was referenced to the Senate Committee on Executive Business, Ethics and Elections on February 2, 1995. Proceedings by the Senate and this Committee were stayed through March 20, 1997, pursuant to Senate Rule 12.7(b), pending criminal prosecution in the trial court and exhaustion of all appellate remedies.

Based upon the investigation of this Committee, it is the finding of this Committee that:

(1) Richard Allen "Al" Harrison was suspended from the office of Sheriff, Gulf County, Florida, on June 8, 1994, by Executive Order Number 94-142;

(2) On March 21, 1995, the Honorable Lawton Chiles, as Governor, filed with the Secretary of State an Amended Order of Suspension (Executive Order Number 95-104) regarding Richard Allen "Al" Harrison. Pursuant to Senate Rule 12.7(i), the report of this Committee is directed solely to the amended suspension order;

(3) Richard Allen "Al" Harrison was found guilty by a jury, and such verdict was affirmed on appeal, of seven offenses of violating the constitutional rights of inhabitants of Florida not to be deprived of liberty without due process of law, which includes the right to be free from willful sexual assault, to wit: that Mr. Harrison coerced female Gulf County Jail inmates to engage in sexual acts thereby depriving them of their liberty without due process of law, contrary to Title 28, United States Code, Section 242, and that such acts constitute misfeasance and malfeasance as such terms are used in Article IV, Section 7, Florida Constitution;

(4) The Senate is authorized to remove from office any suspended official for malfeasance or misfeasance, pursuant to Article IV, Section 7, Florida Constitution;

(5) Based on the foregoing findings, it is not necessary for the Committee to address the remaining charges in Executive Order No. 95-104;

(6) Richard Allen "Al" Harrison has not contested his suspension on his own behalf, nor shown any cause why the Senate should not take further action to remove him from office.

In view of the foregoing, it is the recommendation of this Committee that Richard Allen "Al" Harrison be removed from the office of Sheriff, Gulf County, Florida, effective June 8, 1994.

Respectfully submitted,
Charlie Crist, Chairman

On motion by Senator Crist, the foregoing report on the suspension of Richard Allen "Al" Harrison, Sheriff, Gulf County, Florida was adopted and the Senate removed Richard Allen "Al" Harrison from said office effective June 8, 1994.

The vote was:

Yeas—38

Madam President	Crist	Holzendorf	Ostalkiewicz
Bankhead	Dantzler	Jenne	Rossin
Bronson	Diaz-Balart	Jones	Scott
Brown-Waite	Dudley	Kirkpatrick	Silver
Burt	Dyer	Klein	Sullivan
Campbell	Forman	Kurth	Thomas
Casas	Grant	Latvala	Turner
Childers	Gutman	McKay	Williams
Clary	Hargrett	Meadows	
Cowin	Harris	Myers	

Nays—None

Vote after roll call:

Yea—Horne, Lee

MESSAGES FROM THE HOUSE OF REPRESENTATIVES

FIRST READING

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed CS for HB 329, CS for HB 915, CS for HB 1631; has passed as amended HB 615, CS for HB's 719, 1223 and 1439, HB 1199, HB 1245, CS for HB 1263, HB 1411, HB 1421, HB 1495, HB 1561, HB 1649, HB 1943 and requests the concurrence of the Senate.

John B. Phelps, Clerk

By the Committee on Health Care Standards and Regulatory Reform; and Representative Morse—

CS for HB 329—A bill to be entitled An act relating to mental health services; amending s. 456.32, F.S.; including specified mental health professionals within the definition of "practitioner of the healing arts"; amending s. 490.003, F.S.; revising and providing definitions relating to the regulation of psychological services; amending s. 490.005, F.S.; conforming cross-references; creating s. 490.0051, F.S.; providing for provisional licensure; repealing s. 490.008, F.S., relating to inactive status; amending s. 490.009, F.S.; revising and providing grounds for disciplinary action; amending s. 490.012, F.S.; providing requirements for display of licenses and provisional licenses; eliminating a requirement relating to use of the license number on professional advertisements; providing requirements for promotional materials of provisional licensees; conforming cross-references; providing penalties; amending s. 490.014, F.S.; clarifying applicability of exemption provisions; removing an obsolete licensing exemption that required registration of certain trainees or interns; amending s. 491.003, F.S.; revising and providing definitions relating to the regulation of clinical, counseling, and psychotherapy services; creating s. 491.0045, F.S.; requiring registration of interns and providing requirements thereof; creating s. 491.0046, F.S.; providing for provisional licensure; amending s. 491.005, F.S.; revising requirements for licensure by examination; providing for additional educational requirements at a future date; creating s. 491.0057, F.S.; providing for dual licensure as a marriage and family therapist; amending s. 491.007, F.S.; providing for biennial renewal of registrations; providing for fees; amending s. 491.009, F.S.; revising and providing grounds for disciplinary action; amending s. 491.012, F.S.; prohibiting the use of certain titles

under certain circumstances; providing a penalty; amending s. 491.014, F.S.; revising and clarifying exemption provisions; removing an obsolete licensing exemption that required registration of certain trainees or interns; amending s. 491.0149, F.S.; requiring display of registrations and provisional licenses and use of applicable professional titles on promotional materials; amending ss. 232.02, 394.455, F.S.; conforming cross-references; providing effective dates.

—was referred to the Committees on Health Care; and Ways and Means.

By the Committee on General Government Appropriations and Representative Fuller and others—

CS for HB 915—A bill to be entitled An act relating to tax on sales, use, and other transactions; amending s. 212.06, F.S.; exempting certain vessels used by vessel manufacturers and dealers solely for demonstration, sales promotional, or testing purposes from said tax; providing a definition; providing for application; amending s. 212.11, F.S.; revising provisions which require dealers who paid $100,000 or more in tax in the prior year to make estimated tax payments; providing that certain dealers engaged in the sale of boats, motor vehicles, or aircraft may make estimated tax payments for a portion of sales, while remitting the tax for sales of $100,000 or more at the time of sale; providing an effective date.

—was referred to the Committees on Commerce and Economic Opportunities; and Ways and Means.

By the Committee on Transportation and Representative Ball—

CS for HB 1631—A bill to be entitled An act relating to Challenger license plates; amending s. 320.08058, F.S.; revising language with respect to the distribution of the Challenger license plate funds; providing for the use of such funds; providing for the expiration of authority for issuance of such license plates; amending s. 320.08056, F.S.; authorizing a reduction in the annual use fee for bulk purchasers of such license plates; providing an effective date.

—was referred to the Committees on Transportation; Rules and Calendar; and Ways and Means.

By Representative Argenziano and others—

HB 615—A bill to be entitled An act relating to community colleges; creating s. 240.383, F.S.; establishing the State Community College System Facility Enhancement Challenge Grant Program to aid community colleges in building high priority instructional and community-related capital facilities; providing for deposit of funds; requiring a capital facilities matching account within the direct-support organization of each community college to provide matching funds from private contributions; providing for matching appropriations; providing eligibility requirements; providing guidelines; providing for disbursement of unexpended funds; providing for naming of facilities; providing an effective date.

—was referred to the Committees on Education; and Ways and Means.

By the Committee on Real Property and Probate; and Representative Geller and others—

CS for HB's 719, 1223 and 1439—A bill to be entitled An act relating to guardians; creating s. 744.1085, F.S.; providing for the regulation of professional guardians; providing for a bond; providing educational requirements; authorizing issuance of a blanket fiduciary bond; amending s. 744.3135, F.S.; requiring criminal history and credit check; providing for waiver; amending s. 744.3145, F.S.; excluding professional guardians from certain educational requirements; amending s. 744.3675, F.S.; revising language with respect to the annual guardianship plan; amending s. 744.454, F.S.; forbidding professional guardian from purchasing property or borrowing money from his ward; providing an effective date.

—was referred to the Committee on Judiciary.

By the Committee on Tourism and Representative Barreiro and others—

HB 1199—A bill to be entitled An act relating to museums; providing legislative intent; providing definitions; providing obligations of museums to lenders; providing for notice to lenders by museums; providing for termination of loans; providing conditions under which a museum gains title to property; providing for conservation or disposal of loaned property by a museum; providing an effective date.

—was referred to the Committees on Governmental Reform and Oversight; and Judiciary.

By Representative Lacasa and others—

HB 1245—A bill to be entitled An act relating to corporations; amending ss. 617.0808 and 617.2103, F.S.; excluding charitable corporations from certain provisions relating to removal of a director from a board of directors; amending s. 48.101, F.S.; clarifying service of process on certain corporations; amending s. 607.01401, F.S.; providing a definition; amending s. 607.0732, F.S.; specifying an additional criterion for certain shareholder agreements; amending s. 607.0902, F.S.; clarifying a circumstance under which acquisition of certain shares does not constitute a control-share acquisition; amending s. 607.1002, F.S.; authorizing a corporation's board of directors to amend the corporation's articles of incorporation for an additional purpose; providing an effective date.

—was referred to the Committee on Commerce and Economic Opportunities.

By the Committee on Utilities and Communications; and Representative Dockery and others—

CS for HB 1263—A bill to be entitled An act relating to underground facilities damage prevention and safety; amending s. 556.106, F.S.; specifying liability for damage occurring in certain excavations; amending s. 556.108, F.S.; revising certain exemptions from notification requirements; providing an effective date.

—was referred to the Committee on Regulated Industries.

By Representative Bloom and others—

HB 1411—A bill to be entitled An act relating to the administration of trusts and estates; amending s. 689.225, F.S.; providing a statement of the rule against perpetuities; amending s. 709.08, F.S.; authorizing certain corporations to serve as an attorney in fact; amending s. 733.707, F.S.; increasing the ceiling on funeral expenses; defining the term "right of revocation" with respect to the order of payment of expenses and obligations of an estate; amending s. 737.111, F.S.; revising provisions with respect to execution requirements for express trusts; providing for the application of the section; amending s. 737.2041, F.S., relating to trustee's attorney's fee; revising procedures for determining attorney's fees; providing for determining fees for an attorney who is retained for limited services; revising the list of services that constitute ordinary services in an initial trust administration; deleting an exception from the applicability of presumptive fees for a corporate fiduciary that serves as a trustee or cotrustee; amending s. 737.303, F.S.; revising provisions with respect to the duty of the trustee to inform and account to beneficiaries to require information to the grantor with respect to certain trusts; amending s. 737.308, F.S.; providing for specified notice to the trustee and caveator; amending s. 518.112, F.S.; providing for delegation of investment functions; amending s. 733.817, F.S.; revising provisions of law with respect to the apportionment of estate taxes; amending s. 738.12, F.S.; providing conditions under which a trust beneficiary is considered an income beneficiary; amending s. 744.441, F.S.; increasing the ceiling on funeral expenses; amending ss. 655.936 and 733.604, F.S.; providing requirements on opening certain safe-deposit boxes; requiring an inventory; requiring filing of inventories with the court; providing an effective date.

—was referred to the Committee on Judiciary.

By Representative Frankel and others—

HB 1421—A bill to be entitled An act relating to child custody; amending s. 61.13, F.S.; providing that no presumption shall arise in favor of or against a relocation request when a primary residential parent seeks to move the child; providing factors for the court to consider; creating s. 61.121, F.S.; providing for rotating custody of a child under certain circumstances; amending s. 61.052, F.S.; providing for rotating custody during a period of continuance; providing an effective date.

—was referred to the Committee on Judiciary.

By Representative Carlton and others—

HB 1495—A bill to be entitled An act relating to the Motor Vehicle Warranty Enforcement Act; amending s. 681.101, F.S.; providing legislative intent; amending s. 681.102, F.S.; providing definitions; amending s. 681.103, F.S.; revising language with respect to the duty of the manufacturer to conform a motor vehicle to the warranty; amending s. 681.104, F.S.; including reference to recreational vehicles with respect to nonconformity of motor vehicles; providing additional timeframes with respect to recreational vehicles; amending s. 681.109, F.S., relating to the Florida New Motor Vehicle Arbitration Board and dispute eligibility; revising procedures for dispute; providing for rules; amending s. 681.1095, F.S.; increasing membership on the board; providing for hearings by panels of three board members; providing timeframes for hearings; creating s. 681.1096, F.S.; providing for a Pilot RV Mediation and Arbitration Program; providing for creation and qualifications; creating s. 681.1097, F.S.; providing for dispute eligibility and program functions; providing for mediation; providing for arbitration; amending s. 681.113, F.S.; revising language with respect to dealer liability; amending s. 681.114, F.S.; revising language with respect to resale of returned vehicles; amending s. 319.14, F.S.; redefining the term "settlement"; providing for the application of the act; providing an effective date.

—was referred to the Committees on Transportation and Judiciary.

By Representative Futch and others—

HB 1561—A bill to be entitled An act relating to chiropractic; amending s. 460.403, F.S.; revising and providing definitions applicable to the regulation of chiropractic; eliminating the requirement of certification to practice phlebotomy or physiotherapy or to administer proprietary drugs; amending ss. 460.406 and 460.413, F.S., relating to licensure by examination and grounds for disciplinary action, to conform; providing an effective date.

—was referred to the Committee on Health Care.

By Representative Gay—

HB 1649—A bill to be entitled An act relating to veterans' homes, including the Veterans' Domiciliary Home of Florida and the Veterans' Nursing Home of Florida; amending s. 296.02, F.S.; providing definitions; amending s. 296.03, F.S.; including extended congregate care in the types of care offered by the domiciliary home; amending s. 296.04, F.S.; replacing the term "member" with the term "resident"; amending s. 296.06, F.S.; amending prerequisites to eligibility for admission to the domiciliary home; amending s. 296.07, F.S.; replacing the term "member" with the term "resident"; amending s. 296.08, F.S.; amending a cross-reference; amending s. 296.09, F.S.; replacing the term "member" with the term "resident"; amending the list of information about each resident which is to be kept in the general register; amending ss. 296.10, 296.11, 296.12, 296.13, 296.14, 296.15, 296.16, 296.34, and 296.38, F.S.; replacing the term "member" with the term "resident"; amending s. 296.36, F.S.; amending the residency requirement for admission into the Veterans' Nursing Home of Florida; providing an effective date.

—was referred to the Committees on Community Affairs; and Ways and Means.

By Representative Mackenzie and others—

HB 1943—A bill to be entitled An act relating to insurance; requiring certain insurers to file reports concerning their risk based capital; requiring the Department of Insurance to request such reports under certain circumstances; providing for hearings; providing definitions and reporting requirements; requiring certain insurers to file reports of material transactions concerning their assets or their ceded reinsurance agreements; providing definitions and reporting requirements; prescribing authority of the Department of Insurance with respect to such reports; amending s. 624.3161, F.S.; deleting a limitation on frequency of certain market conduct examinations; revising contract specifications for independent examiners; amending s. 626.321, F.S.; authorizing persons who hold a limited license for credit insurance to hold certain additional licenses; amending s. 624.424, F.S.; increasing the time limitation on insurers using certain accounting services for certain purposes; creating s. 624.5094, F.S.; providing for offset of dividends or premium refunds in calculating the annual assessment for the Special Disability Trust Fund and expenses of administration; amending s. 625.121, F.S.; providing for the use of additional mortality tables; amending s. 627.476, F.S.; providing for the use of additional mortality tables; amending ss. 627.4555 and 627.5045, F.S.; revising provisions requiring notice to policyowners and secondary addressees of impending lapse of certain insurance policies under certain circumstances; providing procedures; providing application; amending s. 628.801, F.S.; updating a reference to the Insurance Holding Company System Regulatory Act; providing effective dates.

—was referred to the Committees on Banking and Insurance; and Ways and Means.

RETURNING MESSAGES ON HOUSE BILLS

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has requested the return of HB 255.

John B. Phelps, Clerk

HB 255—A bill to be entitled An act relating to the National Guard; amending s. 250.10, F.S.; revising language with respect to the appointment of the Adjutant General; providing for the performance of the duties of Adjutant General by certain assistants; providing an effective date.

RETURNING MESSAGES—FINAL ACTION

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has passed SB 72, SB 98, SB 162, SB 388, SB 416, SB 418, SB 420, SB 422, SB 424, SB 428, SB 430, SB 432, SB 434, SB 436, SB 438, SB 440, CS for SB 508, CS for SB 918, SB 1028, CS for SB 1056, CS for SB 1362, SB 1784 and CS for SB 1836; and has passed SB 2088, SB 2090, SB 2092, SB 2094, SB 2096, SB 2098, SB 2100, SB 2102, SB 2104, SB 2106, SB 2108, SB 2110, SB 2112, SB 2114, SB 2116, SB 2118, SB 2120, SB 2122, SB 2124, SB 2126, SB 2128, SB 2130, SB 2132, SB 2134 and SB 2136 by the required Constitutional three-fifths vote of the membership.

John B. Phelps, Clerk

The bills contained in the foregoing message were ordered enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has receded from House amendments and passed CS for SB's 764 and 474, as amended.

John B. Phelps, Clerk

The bill contained in the foregoing message was ordered enrolled.

The Honorable Toni Jennings, President

I am directed to inform the Senate that the House of Representatives has concurred in Senate amendments and passed CS for HB 95, CS for HB 97, CS for HB 113, CS for HB 129, HB 131, HB 153, CS for HB 137, HB 255, CS for HB 387, HB 395, CS for HB 419, CS for HB 487, HB 507, CS for CS for HB 725, HB 1077, CS for HB 1111, CS for HB 1413, CS for HB 1597 and HB 1965, as amended.

John B. Phelps, Clerk

CORRECTION AND APPROVAL OF JOURNAL

The Journal of April 30 was corrected and approved.

CO-SPONSORS

Senators Crist—CS for SB 1486; Silver—CS for SB 716

Senator Forman withdrew as a co-sponsor of CS for CS for SB 546 and CS for SB 1438.

VOTES RECORDED

Senator Diaz-Balart was recorded as voting "yea" on the following bills which were considered April 30: CS for CS for SB 64, CS for SB 918, CS for SB 1836, SB 2252, CS for CS for HB 725, CS for HB 1275, CS for HB 1319, HB 1619, HB 1965 and HB 2013.

RECESS

On motion by Senator Bankhead, the Senate recessed at 7:16 p.m. to reconvene at 9:00 a.m., Friday, May 2.