

Council Substitute for
Council Substitute for House Bill No. 43

An act relating to criminal activity; amending s. 775.13, F.S.; requiring certain felons whose offenses related to criminal gangs to register; providing penalties; amending s. 790.23, F.S.; providing penalties for certain persons possessing a firearm; amending s. 775.0846, F.S.; providing that a person commits a third degree felony if he or she possesses a bulletproof vest while committing or attempting to commit specified crimes; amending s. 823.05, F.S.; revising provisions relating to the enjoining of public nuisances to include certain nuisances related to criminal gangs and criminal gang activities; providing for enjoining such nuisances; providing for local laws; amending s. 874.01, F.S.; revising a short title; amending s. 874.02, F.S.; revising legislative findings and intent; amending s. 874.03, F.S.; creating and revising definitions; redefining "criminal street gangs" as "criminal gangs"; amending s. 874.04, F.S.; conforming provisions; revising an evidentiary standard; creating s. 874.045, F.S.; providing that chapter 874, F.S., does not preclude arrest and prosecution under other specified provisions; amending s. 874.05, F.S.; revising provisions relating to soliciting or causing another to join a criminal gang; amending s. 874.06, F.S.; authorizing the state to bring civil actions for certain violations; providing that a plaintiff has a superior claim to property or proceeds; providing penalties for knowing violation of certain orders; amending s. 874.08, F.S.; conforming provisions relating to forfeiture; amending s. 874.09, F.S.; providing additional powers for the Department of Law Enforcement and local law enforcement agencies relating to crime data information; creating s. 874.10, F.S.; prohibiting persons from knowingly initiating, organizing, planning, financing, directing, managing, or supervising criminal gang-related activity; providing penalties; creating s. 874.11, F.S.; prohibiting use of electronic communications to further the interests of a criminal gang; providing penalties; creating s. 874.12, F.S.; defining the term "identification document"; prohibiting possession of certain identification documents for specified purposes; providing penalties; amending s. 895.02, F.S.; adding certain offenses to the definition of "racketeering activity"; conforming terminology to changes made by this act; amending s. 903.046, F.S.; adding to the list of items a court may consider when determining whether to release a defendant on bail; amending s. 914.22, F.S.; revising the penalties for tampering with or harassing witnesses; amending s. 943.031, F.S.; revising provisions relating to the Florida Violent Crime and Drug Control Council; providing duties concerning criminal gangs; creating the Drug Control Strategy and Criminal Gangs Committee; providing for duties of the committee concerning funding of certain programs; providing for reports; creating s. 948.033, F.S.; prohibiting certain probationers or community controllees from communicating with criminal gang members; providing exceptions; amending s. 947.18, F.S.; prohibiting certain

parolees from communicating with criminal gang members; providing exceptions; amending s. 947.1405, F.S.; prohibiting certain conditional releasees from communicating with criminal gang members; providing exceptions; amending s. 893.138, F.S.; conforming terminology to changes made by this act; amending s. 921.0022, F.S.; adding offenses to the offense severity ranking chart of the Criminal Punishment Code; conforming terminology to changes made by this act; amending ss. 921.0024, 921.141, 943.325, 984.03, 985.03, 985.047, and 985.433, F.S.; conforming cross-references and terminology to changes made by this act; providing a directive to the Division of Statutory Revision; creating the Coordinating Council on Criminal Gang Reduction Strategies; providing membership of the council; providing duties of the council; providing for expiration of the council; providing effective dates.

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

Section 1. Subsections (2), (4), (5), (6), and (7) of section 775.13, Florida Statutes, are amended to read:

775.13 Registration of convicted felons, exemptions; penalties.—

(2) Any person who has been convicted of a felony in any court of this state shall, within 48 hours after entering any county in this state, register with the sheriff of said county, be fingerprinted and photographed, and list the crime for which convicted, place of conviction, sentence imposed, if any, name, aliases, if any, address, and occupation. If the felony conviction is for an offense that was found, pursuant to s. 874.04, to have been committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, the registrant shall identify himself or herself as such an offender. The Department of Law Enforcement, in consultation with appropriate local law enforcement agencies, may develop standardized practices for the inclusion of gang affiliation at the time of offender registration.

~~(4) In lieu of registering with the sheriff as required by this section, such registration may be made with the Department of Law Enforcement, and is subject to the same terms and conditions as required for registration with the sheriff.~~

~~(4)(5)~~ This section does not apply to an offender:

(a) Who has had his or her civil rights restored;

(b) Who has received a full pardon for the offense for which convicted;

(c) Who has been lawfully released from incarceration or other sentence or supervision for a felony conviction for more than 5 years prior to such time for registration, unless the offender is a fugitive from justice on a felony charge or has been convicted of any offense since release from such incarceration or other sentence or supervision;

(d) Who is a parolee or probationer under the supervision of the United States Parole Commission if the commission knows of and consents to the

presence of the offender in Florida or is a probationer under the supervision of any federal probation officer in the state or who has been lawfully discharged from such parole or probation;

(e) Who is a sexual predator and has registered as required under s. 775.21;

(f) Who is a sexual offender and has registered as required in s. 943.0435 or s. 944.607; or

(g) Who is a career offender who has registered as required in s. 775.261 or s. 944.609.

~~(5)~~(6) The failure of any such convicted felon to comply with this section;

(a) With regard to any felon not listed in paragraph (b), constitutes a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(b) With regard to any felon who has been found, pursuant to s. 874.04, to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, constitutes a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

~~(6)~~(7) All laws and parts of laws in conflict herewith are hereby repealed, provided that Nothing in this section shall be construed to affect any law of this state relating to registration of criminals where the penalties for registration, notification, or reporting obligations are in addition to, or in excess of, those imposed by this section.

Section 2. Section 790.23, Florida Statutes, is amended to read:

790.23 Felons and delinquents; possession of firearms, ammunition, or electric weapons or devices unlawful.—

(1) It is unlawful for any person to own or to have in his or her care, custody, possession, or control any firearm, ammunition, or electric weapon or device, or to carry a concealed weapon, including a tear gas gun or chemical weapon or device, if that person has been:

(a) Convicted of a felony in the courts of this state;

(b) Found, in the courts of this state, to have committed a delinquent act that would be a felony if committed by an adult and such person is under 24 years of age;

(c) Convicted of or found to have committed a crime against the United States which is designated as a felony;

(d) Found to have committed a delinquent act in another state, territory, or country that would be a felony if committed by an adult and which was punishable by imprisonment for a term exceeding 1 year and such person is under 24 years of age; or

(e) Found guilty of an offense that is a felony in another state, territory, or country and which was punishable by imprisonment for a term exceeding 1 year.

(2) This section shall not apply to a person convicted of a felony whose civil rights and firearm authority have been restored.

(3) Except as otherwise provided in subsection (4), any person who violates this section commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) Notwithstanding the provisions of s. 874.04, if the offense described in subsection (1) has been committed by a person who has previously qualified or currently qualifies for the penalty enhancements provided for in s. 874.04, the offense is a felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 3. Section 775.0846, Florida Statutes, is amended to read:

775.0846 Possession of Wearing bulletproof vest while committing certain offenses.—

(1) As used in ~~For the purposes of~~ this section, the term “bulletproof vest” means a bullet-resistant soft body armor providing, as a minimum standard, the level of protection known as “threat level I,” which shall mean at least seven layers of bullet-resistant material providing protection from three shots of 158-grain lead ammunition fired from a .38 caliber handgun at a velocity of 850 feet per second.

(2) ~~No A person may possess is guilty of the unlawful wearing of a bulletproof vest while when,~~ acting alone or with one or more other persons ~~and while possessing a firearm,~~ he or she commits or attempts to commit any murder, sexual battery, robbery, burglary, arson, aggravated assault, aggravated battery, kidnapping, escape, breaking and entering with intent to commit a felony, criminal gang-related offense under chapter 874, controlled substance offense under chapter 893, or aircraft piracy and such possession is, in the course of and in furtherance of any such crime, ~~he or she wears a bulletproof vest.~~

(3) Any person who violates ~~is convicted of a violation of~~ this section commits ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 4. Section 823.05, Florida Statutes, is amended to read:

823.05 Places and groups engaged in criminal gang-related activity declared a nuisance; may be abated and enjoined.—

(1) Whoever shall erect, establish, continue, or maintain, own or lease any building, booth, tent or place which tends to annoy the community or injure the health of the community, or become manifestly injurious to the morals or manners of the people as described in s. 823.01, ~~or shall be frequented by the class of persons mentioned in s. 856.02,~~ or any house or place

of prostitution, assignation, lewdness or place or building where games of chance are engaged in violation of law or any place where any law of the state is violated, shall be deemed guilty of maintaining a nuisance, and the building, erection, place, tent or booth and the furniture, fixtures, and contents are declared a nuisance. All such places or persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(2)(a) As used in this subsection, the terms “criminal gang,” “criminal gang member,” “criminal gang associate,” and “criminal gang-related activity” have the same meanings as provided in s. 874.03.

(b) A criminal gang, criminal gang member, or criminal gang associate who engages in the commission of criminal gang-related activity is a public nuisance. Any and all such persons shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(c) The use of a location on two or more occasions by a criminal gang, criminal gang members, or criminal gang associates for the purpose of engaging in criminal gang-related activity is a public nuisance. Such use of a location as a public nuisance shall be abated or enjoined as provided in ss. 60.05 and 60.06.

(d) Nothing in this subsection shall prevent a local governing body from adopting and enforcing laws consistent with this chapter relating to criminal gangs and gang violence. Where local laws duplicate or supplement this chapter, this chapter shall be construed as providing alternative remedies and not as preempting the field.

(e) The state, through the Department of Legal Affairs or any state attorney, or any of the state’s agencies, instrumentalities, subdivisions, or municipalities having jurisdiction over conduct in violation of a provision of this chapter may institute civil proceedings under this subsection. In any action brought under this subsection, the circuit court shall proceed as soon as practicable to the hearing and determination. Pending final determination, the circuit court may at any time enter such injunctions, prohibitions, or restraining orders, or take such actions, including the acceptance of satisfactory performance bonds, as the court may deem proper.

Section 5. Section 874.01, Florida Statutes, is amended to read:

874.01 Short title.—This chapter may be cited as the “Criminal Street Gang Prevention Act of 1996.”

Section 6. Section 874.02, Florida Statutes, is amended to read:

874.02 Legislative findings and intent.—

(1) The Legislature finds that it is the right of every person, regardless of race, color, creed, religion, national origin, sex, age, sexual orientation, or handicap, to be secure and protected from fear, intimidation, and physical harm caused by the activities of criminal street gangs and their members. It is not the intent of this chapter to interfere with the exercise of the constitutionally protected rights of freedom of expression and association.

The Legislature recognizes the constitutional right of every citizen to harbor and express beliefs on any lawful subject whatsoever, to lawfully associate with others who share similar beliefs, to petition lawfully constituted authority for a redress of perceived grievances, and to participate in the electoral process.

(2) The Legislature finds, however, that the state is facing a mounting crisis caused by criminal ~~street~~ gangs whose members threaten and terrorize peaceful citizens and commit a multitude of crimes. These criminal ~~street~~ gang activities, both individually and collectively, present a clear and present danger. Street gangs, terrorist organizations, and hate groups have evolved into increasingly sophisticated and complex organized crime groups in their criminal tactics, schemes, and brutality. The state has a compelling interest in preventing criminal ~~street~~ gang activity and halting the real and present danger posed by the proliferation of criminal gangs and the graduation from more primitive forms of criminal gangs to highly sophisticated criminal gangs. For these reasons, and the Legislature finds that the provisions of this chapter ~~aet~~ are essential necessary to maintain the public order and safety.

(3) It is the intent of the Legislature to outlaw certain conduct associated with the existence and proliferation of criminal gangs, provide eradicate the terror created by criminal street gangs and their members by providing enhanced criminal penalties, and eliminate and by eliminating the patterns, profits, proceeds, instrumentalities, and property facilitating criminal ~~street~~ gang activity, including criminal ~~street~~ gang recruitment.

(4) The Legislature finds that the timely reporting and exchange of criminal gang information facilitates the ability of law enforcement agencies to monitor and anticipate criminal activities of gangs and their members. Additionally, the timely and standardized reporting of such criminal gang information supports the identification of gang members via the criminal justice information system and directly contributes to law enforcement officers' safety. For these reasons, it is the intent of the Legislature to encourage state and local law enforcement agencies to facilitate the exchange of crime data information through the statewide criminal gang database as provided in s. 874.09.

Section 7. Section 874.03, Florida Statutes, is amended to read:

874.03 Definitions.—As used in this chapter:

(1) “Criminal ~~street~~ gang” means a formal or informal ongoing organization, association, or group that has as one of its primary activities the commission of criminal or delinquent acts, and that consists of three or more persons who have a common name or common identifying signs, colors, or symbols, including, but not limited to, terrorist organizations and hate groups and have two or more members who, individually or collectively, engage in or have engaged in a pattern of criminal street gang activity.

(a) As used in this subsection, “ongoing” means that the organization was in existence during the time period charged in a petition, information, indictment, or action for civil injunctive relief.

(b) As used in this subsection, “primary activities” means that a criminal gang spends a substantial amount of time engaged in such activity, although such activity need not be the only, or even the most important activity, in which the criminal gang engages.

(2) “Criminal gang associate” means a person who:

(a) Admits to criminal gang association; or

(b) Meets any single defining criterion for criminal gang membership described in subsection (3).

~~(3)(2) “Criminal street gang member” is a person who is a member of a criminal street gang as defined in subsection (1) and who meets two or more of the following criteria:~~

~~(a) Admits to criminal street gang membership.~~

~~(b) Is identified as a criminal street gang member by a parent or guardian.~~

~~(c) Is identified as a criminal street gang member by a documented reliable informant.~~

~~(d) Adopts the style of dress of a criminal gang. Resides in or frequents a particular criminal street gang’s area and adopts their style of dress, their use of hand signs, or their tattoos, and associates with known criminal street gang members.~~

(e) Adopts the use of a hand sign identified as used by a criminal gang.

(f) Has a tattoo identified as used by a criminal gang.

(g) Associates with one or more known criminal gang members.

~~(h)(e) Is identified as a criminal street gang member by an informant of previously untested reliability and such identification is corroborated by independent information.~~

~~(f) Has been arrested more than once in the company of identified criminal street gang members for offenses which are consistent with usual criminal street gang activity.~~

~~(i)(g) Is identified as a criminal street gang member by physical evidence such as photographs or other documentation.~~

(j)(h) Has been observed stopped in the company of one or more known criminal street gang members four or more times. Observation in a custodial setting requires a willful association. It is the intent of the legislature to allow this criterion to be used to identify gang members who recruit and organize in jails, prisons, and other detention settings.

(k) Has authored any communication indicating responsibility for the commission of any crime by the criminal gang.

Where a single act or factual transaction satisfies the requirements of more than one of the criteria in this subsection, each of those criteria has thereby been satisfied for the purposes of the statute.

~~(3) “Pattern of criminal street gang activity” means the commission or attempted commission of, or solicitation or conspiracy to commit, two or more felony or three or more misdemeanor offenses, or one felony and two misdemeanor offenses, or the comparable number of delinquent acts or violations of law which would be felonies or misdemeanors if committed by an adult, on separate occasions within a 3-year period.~~

~~(4) For purposes of law enforcement identification and tracking only:~~

~~(a) “criminal street gang associate” means a person who:~~

~~1. Admits to criminal street gang association; or~~

~~2. Meets any single defining criterion for criminal street gang membership described in subsection (2).~~

~~(b) “Gang-related incident” means an incident that, upon investigation, meets any of the following conditions:~~

~~1. The participants are identified as criminal street gang members or criminal street gang associates, acting, individually or collectively, to further any criminal purpose of the gang;~~

~~2. A reliable informant identifies an incident as criminal street gang activity; or~~

~~3. an informant of previously untested reliability identifies an incident as criminal street gang activity and it is corroborated by independent information.~~

~~(4) “Criminal gang-related activity” means:~~

~~(a) An activity committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purposes of increasing a person’s own standing or position within a criminal gang;~~

~~(b) An activity in which the participants are identified as criminal gang members or criminal gang associates acting individually or collectively to further any criminal purpose of a criminal gang;~~

~~(c) An activity that is identified as criminal gang activity by a documented reliable informant; or~~

~~(d) An activity that is identified as criminal gang activity by an informant of previously untested reliability and such identification is corroborated by independent information.~~

~~(5) “Electronic communication” has the meaning provided in s. 934.02 and includes, but is not limited to, photographs, video, telephone communications, text messages, facsimile, electronic mail messages as defined in s.~~

668.602, and instant message real-time communications with other individuals through the Internet or other means.

(6) “Hate group” means an organization whose primary purpose is to promote animosity, hostility, and malice against a person or persons or against the property of a person or persons because of race, religion, disability, sexual orientation, ethnicity, or national origin.

(7) “Terrorist organization” means any organized group engaged in or organized for the purpose of engaging in terrorism as defined in s. 775.30. This definition shall not be construed to prevent prosecution under this chapter of individuals acting alone.

Section 8. Section 874.04, Florida Statutes, is amended to read:

874.04 Gang-related offenses Criminal street gang activity; enhanced penalties.—Upon a finding by the factfinder court at sentencing that the defendant committed the charged offense for the purpose of benefiting, promoting, or furthering the interests 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. Penalty enhancement affects the applicable statutory maximum penalty only. Each of the findings required as a basis for such sentence shall be found beyond a reasonable doubt 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 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 or s. 921.0023, 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 9. Section 874.045, Florida Statutes, is created to read:

874.045 Arrest and prosecution under other provisions.—Nothing in this chapter shall prohibit the arrest and prosecution of a criminal gang member

under chapter 876, chapter 895, chapter 896, s. 893.20, or any other applicable provision of law except to the extent otherwise prohibited pursuant to a statutory or constitutional provision.

Section 10. Section 874.05, Florida Statutes, is amended to read:

874.05 Causing, encouraging, soliciting, or recruiting criminal street gang membership.—

(1) Except as provided in subsection (2), a person who intentionally causes, encourages, solicits, or recruits another person to become a criminal gang member where join a criminal street gang that requires as a condition of membership or continued membership is the commission of any crime commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2) A person who commits ~~Upon a second or subsequent violation offense,~~ the person commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 11. Section 874.06, Florida Statutes, is amended to read:

874.06 Civil cause of action.—

(1) A person or organization establishing, by clear and convincing evidence, coercion, intimidation, threats, or other harm to that person or organization in violation of this chapter has a civil cause of action for treble damages, an injunction, or any other appropriate relief in law or equity. Upon prevailing, the plaintiff may recover reasonable attorney's fees in the trial and appellate courts and the costs of investigation and litigation that are reasonably incurred and costs.

(2)(a) For purposes of this subsection, the term "state" includes any of the state's agencies, instrumentalities, subdivisions, or municipalities, and includes, but is not limited to, state attorneys and the Office of Statewide Prosecution of the Department of Legal Affairs.

(b) In addition to any remedies provided for by ss. 60.05 and 823.05, the state has a civil cause of action against any person or organization if it proves by clear and convincing evidence that it has been injured by reason of a violation of this chapter by the person or organization. The state has a civil cause of action for treble damages, injunctive relief, or any other relief in law or equity which the court deems appropriate. If the state prevails, it may also recover attorney's fees in the trial and appellate courts and the costs of investigation and litigation that are reasonably incurred. The state may not recover punitive damages. The defendant is entitled to recover reasonable attorney's fees and court costs if the court finds that the state raised a claim that was without factual or legal support and was vexatious, frivolous, or brought in bad faith.

(3) A prevailing plaintiff under subsection (1) has a right or claim that is superior to any right or claim that the state has in the same property or proceeds.

(4) A person who knowingly violates a temporary or permanent order issued under this section or s. 60.05 commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 12. Section 874.08, Florida Statutes, is amended to read:

~~874.08 Criminal gang activity and Profits, proceeds, and instrumentalities of criminal street gangs or criminal street gang recruitment; forfeiture.—All profits, proceeds, and instrumentalities of criminal street gang activity and all property used or intended or attempted to be used to facilitate the criminal activity of any criminal street gang or of any criminal street gang member; and all profits, proceeds, and instrumentalities of criminal street gang recruitment and all property used or intended or attempted to be used to facilitate criminal street gang recruitment are subject to seizure and forfeiture under the Florida Contraband Forfeiture Act, s. 932.704.~~

Section 13. Section 874.09, Florida Statutes, is amended to read:

874.09 Crime data information.—

(1) The Department of Law Enforcement may:

(a) Develop and manage a statewide criminal street gang database to facilitate the exchange of information pursuant to the intent and purpose of this chapter.

(b) Notify all law enforcement agencies that reports of criminal gang members or associates shall be entered into the database as soon as the minimum level of data specified by the department is available to the reporting agency and no waiting period for the entry of that data exists.

(c) Compile and retain information regarding criminal gangs and their members and associates in a manner that allows the information to be used by law enforcement and other agencies deemed appropriate for investigative purposes.

(d) Compile and maintain a data repository relating to criminal gangs and their members and associates in order to develop and improve techniques used by law enforcement agencies and prosecutors in the investigation, apprehension, and prosecution of members and affiliates of criminal gangs.

(2) Local law enforcement agencies may:

(a) After carrying out any arrest of any individual who they believe is a member or associate of a criminal gang, create or update that individual's electronic file within the database.

(b) Notify the prosecutor of the accused individual's suspected criminal gang membership or associate status.

Section 14. Section 874.10, Florida Statutes, is created to read:

874.10 Directing the activities of a criminal gang.—Any person who knowingly initiates, organizes, plans, finances, directs, manages, or super-

vises criminal gang-related activity 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.

Section 15. Section 874.11, Florida Statutes, is created to read:

874.11 Electronic communication.—Any person who, for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, uses electronic communication to intimidate or harass other persons, or to advertise his or her presence in the community, including, but not limited to, such activities as distributing, selling, transmitting, or posting on the Internet any audio, video, or still image of criminal activity, commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 16. Section 874.12, Florida Statutes, is created to read:

874.12 Identification documents; unlawful possession or creation.—

(1) For purposes of this section, the term “identification document” includes, but is not limited to, a social security card or number, a birth certificate, a driver’s license, an identification card issued pursuant to s. 322.051, a naturalization certificate, an alien registration number, a passport, and any access credentials for a publicly operated facility or an infrastructure facility covered under 18 U.S.C. s. 2332f.

(2) Any person possessing or manufacturing any blank, forged, stolen, fictitious, fraudulent, counterfeit, or otherwise unlawfully issued identification document for the purpose of benefiting, promoting, or furthering the interests of a criminal gang commits a felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 17. Paragraph (a) of subsection (1) and subsection (3) of section 895.02, Florida Statutes, are amended to read:

895.02 Definitions.—As used in ss. 895.01-895.08, the term:

(1) “Racketeering activity” means to commit, to attempt to commit, to conspire to commit, or to solicit, coerce, or intimidate another person to commit:

(a) Any crime that is chargeable by petition, indictment, or information under the following provisions of the Florida Statutes:

1. Section 210.18, relating to evasion of payment of cigarette taxes.

2. Section 316.1935, relating to fleeing or attempting to elude a law enforcement officer and aggravated fleeing or eluding.

3.2. Section 403.727(3)(b), relating to environmental control.

4.3. Section 409.920 or s. 409.9201, relating to Medicaid fraud.

5.4. Section 414.39, relating to public assistance fraud.

- ~~6.5.~~ Section 440.105 or s. 440.106, relating to workers' compensation.
- ~~7.6.~~ Section 443.071(4), relating to creation of a fictitious employer scheme to commit unemployment compensation fraud.
- ~~8.7.~~ Section 465.0161, relating to distribution of medicinal drugs without a permit as an Internet pharmacy.
- ~~9.8.~~ Sections 499.0051, 499.0052, 499.00535, 499.00545, and 499.0691, relating to crimes involving contraband and adulterated drugs.
- ~~10.9.~~ Part IV of chapter 501, relating to telemarketing.
- ~~11.10.~~ Chapter 517, relating to sale of securities and investor protection.
- ~~12.11.~~ Section 550.235, s. 550.3551, or s. 550.3605, relating to dogracing and horseracing.
- ~~13.12.~~ Chapter 550, relating to jai alai frontons.
- ~~14.13.~~ Section 551.109, relating to slot machine gaming.
- ~~15.14.~~ Chapter 552, relating to the manufacture, distribution, and use of explosives.
- ~~16.15.~~ Chapter 560, relating to money transmitters, if the violation is punishable as a felony.
- ~~17.16.~~ Chapter 562, relating to beverage law enforcement.
- ~~18.17.~~ Section 624.401, relating to transacting insurance without a certificate of authority, s. 624.437(4)(c)1., relating to operating an unauthorized multiple-employer welfare arrangement, or s. 626.902(1)(b), relating to representing or aiding an unauthorized insurer.
- ~~19.18.~~ Section 655.50, relating to reports of currency transactions, when such violation is punishable as a felony.
- ~~20.19.~~ Chapter 687, relating to interest and usurious practices.
- ~~21.20.~~ Section 721.08, s. 721.09, or s. 721.13, relating to real estate time-share plans.
22. Section 775.13(5)(b), relating to registration of persons found to have committed any offense for the purpose of benefiting, promoting, or furthering the interests of a criminal gang.
23. Section 777.03, relating to commission of crimes by accessories after the fact.
- ~~24.21.~~ Chapter 782, relating to homicide.
- ~~25.22.~~ Chapter 784, relating to assault and battery.
- ~~26.23.~~ Chapter 787, relating to kidnapping or human trafficking.

- ~~27.24.~~ Chapter 790, relating to weapons and firearms.
28. Chapter 794, relating to sexual battery, but only if such crime was committed with the intent to benefit, promote, or further the interests of a criminal gang, or for the purpose of increasing a criminal gang member's own standing or position within a criminal gang.
- ~~29.25.~~ Section 796.03, s. 796.035, s. 796.04, s. 796.045, s. 796.05, or s. 796.07, relating to prostitution and sex trafficking.
- ~~30.26.~~ Chapter 806, relating to arson and criminal mischief.
- 31.27. ~~Chapter 810~~ Section 810.02(2)(c), relating to specified burglary and trespass of a dwelling or structure.
- ~~32.28.~~ Chapter 812, relating to theft, robbery, and related crimes.
- ~~33.29.~~ Chapter 815, relating to computer-related crimes.
- ~~34.30.~~ Chapter 817, relating to fraudulent practices, false pretenses, fraud generally, and credit card crimes.
- ~~35.31.~~ Chapter 825, relating to abuse, neglect, or exploitation of an elderly person or disabled adult.
- ~~36.32.~~ Section 827.071, relating to commercial sexual exploitation of children.
- ~~37.33.~~ Chapter 831, relating to forgery and counterfeiting.
- ~~38.34.~~ Chapter 832, relating to issuance of worthless checks and drafts.
- ~~39.35.~~ Section 836.05, relating to extortion.
- ~~40.36.~~ Chapter 837, relating to perjury.
- ~~41.37.~~ Chapter 838, relating to bribery and misuse of public office.
- ~~42.38.~~ Chapter 843, relating to obstruction of justice.
- ~~43.39.~~ Section 847.011, s. 847.012, s. 847.013, s. 847.06, or s. 847.07, relating to obscene literature and profanity.
- ~~44.40.~~ Section 849.09, s. 849.14, s. 849.15, s. 849.23, or s. 849.25, relating to gambling.
- ~~45.41.~~ Chapter 874, relating to criminal ~~street~~ gangs.
- ~~46.42.~~ Chapter 893, relating to drug abuse prevention and control.
- ~~47.43.~~ Chapter 896, relating to offenses related to financial transactions.
- 48.44. Sections 914.22 and 914.23, relating to tampering with or harassing a witness, victim, or informant, and retaliation against a witness, victim, or informant.

~~49.45.~~ Sections 918.12 and 918.13, relating to tampering with jurors and evidence.

(3) “Enterprise” means any individual, sole proprietorship, partnership, corporation, business trust, union chartered under the laws of this state, or other legal entity, or any unchartered union, association, or group of individuals associated in fact although not a legal entity; and it includes illicit as well as licit enterprises and governmental, as well as other, entities. A criminal ~~street~~ gang, as defined in s. 874.03, constitutes an enterprise.

Section 18. Subsection (2) of section 903.046, Florida Statutes, is amended to read:

903.046 Purpose of and criteria for bail determination.—

(2) When determining whether to release a defendant on bail or other conditions, and what that bail or those conditions may be, the court shall consider:

- (a) The nature and circumstances of the offense charged.
- (b) The weight of the evidence against the defendant.
- (c) The defendant’s family ties, length of residence in the community, employment history, financial resources, and mental condition.
- (d) The defendant’s past and present conduct, including any record of convictions, previous flight to avoid prosecution, or failure to appear at court proceedings. However, any defendant who had failed to appear on the day of any required court proceeding in the case at issue, but who had later voluntarily appeared or surrendered, shall not be eligible for a recognizance bond; and any defendant who failed to appear on the day of any required court proceeding in the case at issue and who was later arrested shall not be eligible for a recognizance bond or for any form of bond which does not require a monetary undertaking or commitment equal to or greater than \$2,000 or twice the value of the monetary commitment or undertaking of the original bond, whichever is greater. Notwithstanding anything in this section, the court has discretion in determining conditions of release if the defendant proves circumstances beyond his or her control for the failure to appear. This section may not be construed as imposing additional duties or obligations on a governmental entity related to monetary bonds.
- (e) The nature and probability of danger which the defendant’s release poses to the community.

(f) The source of funds used to post bail or procure an appearance bond, particularly whether the proffered funds, real property, property, or any proposed collateral or bond premium may be linked to or derived from the crime alleged to have been committed or from any other criminal or illicit activities. The burden of establishing the noninvolvement in or nonderivation from criminal or other illicit activity of such proffered funds, real property, property, or any proposed collateral or bond premium falls upon the defendant or other person proffering them to obtain the defendant’s release.

(g) Whether the defendant is already on release pending resolution of another criminal proceeding or on probation, parole, or other release pending completion of a sentence.

(h) The street value of any drug or controlled substance connected to or involved in the criminal charge. It is the finding and intent of the Legislature that crimes involving drugs and other controlled substances are of serious social concern, that the flight of defendants to avoid prosecution is of similar serious social concern, and that frequently such defendants are able to post monetary bail using the proceeds of their unlawful enterprises to defeat the social utility of pretrial bail. Therefore, the courts should carefully consider the utility and necessity of substantial bail in relation to the street value of the drugs or controlled substances involved.

(i) The nature and probability of intimidation and danger to victims.

(j) Whether there is probable cause to believe that the defendant committed a new crime while on pretrial release.

(k) Any other facts that the court considers relevant.

(l) Whether the crime charged is a violation of chapter 874 or alleged to be subject to enhanced punishment under chapter 874. If any such violation is charged against a defendant or if the defendant is charged with a crime that is alleged to be subject to such enhancement, he or she shall not be eligible for release on bail or surety bond until the first appearance on the case in order to ensure the full participation of the prosecutor and the protection of the public.

Section 19. Section 914.22, Florida Statutes, is amended to read:

914.22 Tampering with or harassing a witness, victim, or informant; penalties.—

(1) A person who knowingly uses intimidation or physical force, or threatens another person, or attempts to do so, or engages in misleading conduct toward another person, or offers pecuniary benefit or gain to another person, with intent to cause or induce any person to:

(a) Withhold testimony, or withhold a record, document, or other object, from an official investigation or official proceeding;

(b) Alter, destroy, mutilate, or conceal an object with intent to impair the integrity or availability of the object for use in an official investigation or official proceeding;

(c) Evade legal process summoning that person to appear as a witness, or to produce a record, document, or other object, in an official investigation or an official proceeding;

(d) Be absent from an official proceeding to which such person has been summoned by legal process;

(e) Hinder, delay, or prevent the communication to a law enforcement officer or judge of information relating to the commission or possible commission of an offense or a violation of a condition of probation, parole, or release pending a judicial proceeding; or

(f) Testify untruthfully in an official investigation or an official proceeding,

~~commits the crime of tampering with a witness, victim, or informant a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.~~

(2) Tampering with a witness, victim, or informant is a:

(a) Felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, where the official investigation or official proceeding affected involves the investigation or prosecution of a misdemeanor.

(b) Felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, where the official investigation or official proceeding affected involves the investigation or prosecution of a third degree felony.

(c) Felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, where the official investigation or official proceeding affected involves the investigation or prosecution of a second degree felony.

(d) Felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084, where the official investigation or official proceeding affected involves the investigation or prosecution of a first degree felony or a first degree felony punishable by a term of years not exceeding life.

(e) Life felony, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, where the official investigation or official proceeding affected involves the investigation or prosecution of a life or capital felony.

(f) Felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, where the offense level of the affected official investigation or official proceeding is indeterminable or where the affected official investigation or official proceeding involves a noncriminal investigation or proceeding.

~~(3)~~(2) Whoever intentionally harasses another person and thereby hinders, delays, prevents, or dissuades any person from:

(a) Attending or testifying in an official proceeding or cooperating in an official investigation;

(b) Reporting to a law enforcement officer or judge the commission or possible commission of an offense or a violation of a condition of probation, parole, or release pending a judicial proceeding;

(c) Arresting or seeking the arrest of another person in connection with an offense; or

(d) Causing a criminal prosecution, or a parole or probation revocation proceeding, to be sought or instituted, or from assisting in such prosecution or proceeding;

or attempts to do so, ~~commits the crime of harassing a witness, victim, or informant is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.~~

(4) Harassing a witness, victim, or informant is a:

(a) Misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083, where the official investigation or official proceeding affected involves the investigation or prosecution of a misdemeanor.

(b) Felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, where the official investigation or official proceeding affected involves the investigation or prosecution of a third degree felony.

(c) Felony of the second degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, where the official investigation or official proceeding affected involves the investigation or prosecution of a second degree felony.

(d) Felony of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, where the official investigation or official proceeding affected involves the investigation or prosecution of a first degree felony.

(e) Felony of the first degree, punishable by a term of years not exceeding life or as provided in s. 775.082, s. 775.083, or s. 775.084, where the official investigation or official proceeding affected involves the investigation or prosecution of a felony of the first degree punishable by a term of years not exceeding life or a prosecution of a life or capital felony.

(f) Felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084, where the offense level of the affected official investigation or official proceeding is indeterminable or where the affected official investigation or official proceeding involves a noncriminal investigation or proceeding.

~~(5)~~(3) For the purposes of this section:

(a) An official proceeding need not be pending or about to be instituted at the time of the offense; and

(b) The testimony or the record, document, or other object need not be admissible in evidence or free of a claim of privilege.

~~(6)~~(4) In a prosecution for an offense under this section, no state of mind need be proved with respect to the circumstance:

(a) That the official proceeding before a judge, court, grand jury, or government agency is before a judge or court of the state, a state or local grand jury, or a state agency; or

(b) That the judge is a judge of the state or that the law enforcement officer is an officer or employee of the state or a person authorized to act for or on behalf of the state or serving the state as an adviser or consultant.

Section 20. Section 943.031, Florida Statutes, is amended to read:

943.031 Florida Violent Crime and Drug Control Council.—

(1) FINDINGS.—The Legislature finds that there is a need to develop and implement a statewide strategy to address violent criminal activity, including crimes committed by criminal gangs, and drug control efforts by state and local law enforcement agencies, including investigations of illicit money laundering. In recognition of this need, the Florida Violent Crime and Drug Control Council is created within the department. The council shall serve in an advisory capacity to the department.

(2)(1) MEMBERSHIP.—The council shall consist of 14 members, as follows:

- (a) The Attorney General or a designate.
- (b) A designate of the executive director of the Department of Law Enforcement.
- (c) The secretary of the Department of Corrections or a designate.
- (d) The Secretary of Juvenile Justice or a designate.
- (e) The Commissioner of Education or a designate.
- (f) The president of the Florida Network of Victim/Witness Services, Inc., or a designate.
- (g) The director of the Office of Drug Control within the Executive Office of the Governor, or a designate.
- (h) The Chief Financial Officer, or a designate.
- (i) Six members appointed by the Governor, consisting of two sheriffs, two chiefs of police, one medical examiner, and one state attorney or their designates.

The Governor, when making appointments under this subsection, must take into consideration representation by geography, population, ethnicity, and other relevant factors to ensure that the membership of the council is representative of the state at large. Designates appearing on behalf of a council member who is unable to attend a meeting of the council are empowered to vote on issues before the council to the same extent the designating council member is so empowered.

(3)(2) TERMS OF MEMBERSHIP; OFFICERS; COMPENSATION; STAFF.—

(a) Members appointed by the Governor shall be appointed for terms of 2 years. The other members are standing members of the council. In no event shall a member serve beyond the time he or she ceases to hold the office or employment which was the basis for appointment to the council. In the event of a vacancy, an appointment to fill the vacancy shall be only for the unexpired term.

(b) The Legislature finds that the council serves a legitimate state, county, and municipal purpose and that service on the council is consistent with a member's principal service in a public office or employment. Membership on the council does not disqualify a member from holding any other public office or being employed by a public entity, except that no member of the Legislature shall serve on the council.

(c) The members of the council shall elect a chair and a vice chair every 2 years, to serve for a 2-year term. As deemed appropriate, other officers may be elected by the members.

(d) Members of the council or their designates shall serve without compensation but are entitled to reimbursement for per diem and travel expenses pursuant to s. 112.061. Reimbursements made pursuant to this paragraph may be paid from either the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account within the Department of Law Enforcement Operating Trust Fund or from other appropriations provided to the department by the Legislature in the General Appropriations Act.

(e) The department shall provide the council with staff necessary to assist the council in the performance of its duties.

~~(4)~~(3) MEETINGS.—The council must meet at least semiannually. Additional meetings may be held when it is determined by the chair that extraordinary circumstances require an additional meeting of the council. A majority of the members of the council constitutes a quorum.

~~(5)~~(4) DUTIES OF COUNCIL.—The council shall provide advice and make recommendations, as necessary, to the executive director of the department.

(a) The council may advise the executive director on the feasibility of undertaking initiatives which include, but are not limited to, the following:

1. Establishing a program which provides grants to criminal justice agencies that develop and implement effective violent crime prevention and investigative programs and which provides grants to law enforcement agencies for the purpose of drug control, criminal gang, and illicit money laundering investigative efforts or task force efforts that are determined by the council to significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control, that represent significant criminal gang investigative efforts, that represent a significant illicit money laundering investigative effort, or that otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council established under s. 397.333, subject to the limitations

provided in this section. The grant program may include an innovations grant program to provide startup funding for new initiatives by local and state law enforcement agencies to combat violent crime or to implement drug control, criminal gang, or illicit money laundering investigative efforts or task force efforts by law enforcement agencies, including, but not limited to, initiatives such as:

- a. Providing enhanced community-oriented policing.
 - b. Providing additional undercover officers and other investigative officers to assist with violent crime investigations in emergency situations.
 - c. Providing funding for multiagency or statewide drug control, criminal gang, or illicit money laundering investigative efforts or task force efforts that cannot be reasonably funded completely by alternative sources and that significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control, that represent significant criminal gang investigative efforts, that represent a significant illicit money laundering investigative effort, or that otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council established under s. 397.333.
2. Expanding the use of automated fingerprint identification systems at the state and local level.
 3. Identifying methods to prevent violent crime.
 4. Identifying methods to enhance multiagency or statewide drug control, criminal gang, or illicit money laundering investigative efforts or task force efforts that significantly contribute to achieving the state's goal of reducing drug-related crime as articulated by the Office of Drug Control, that represent significant criminal gang investigative efforts, that represent a significant illicit money laundering investigative effort, or that otherwise significantly support statewide strategies developed by the Statewide Drug Policy Advisory Council established under s. 397.333.
 5. Enhancing criminal justice training programs which address violent crime, drug control, ~~or~~ illicit money laundering investigative techniques, or efforts to control and eliminate criminal gangs.
 6. Developing and promoting crime prevention services and educational programs that serve the public, including, but not limited to:
 - a. Enhanced victim and witness counseling services that also provide crisis intervention, information referral, transportation, and emergency financial assistance.
 - b. A well-publicized rewards program for the apprehension and conviction of criminals who perpetrate violent crimes.
 7. Enhancing information sharing and assistance in the criminal justice community by expanding the use of community partnerships and community policing programs. Such expansion may include the use of civilian

employees or volunteers to relieve law enforcement officers of clerical work in order to enable the officers to concentrate on street visibility within the community.

(b) The full council shall:

1. Receive periodic reports from regional violent crime investigation and statewide drug control strategy implementation coordinating teams which relate to violent crime trends or the investigative needs or successes in the regions, including discussions regarding the activity of significant criminal gangs in the region, factors, and trends relevant to the implementation of the statewide drug strategy, and the results of drug control and illicit money laundering investigative efforts funded in part by the council.

2. Maintain and ~~use~~ utilize criteria for the disbursement of funds from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account or any other account from which the council may disburse proactive investigative funds as may be established within the Department of Law Enforcement Operating Trust Fund or other appropriations provided to the Department of Law Enforcement by the Legislature in the General Appropriations Act. The criteria shall allow for the advancement of funds to reimburse agencies regarding violent crime investigations as approved by the full council and the advancement of funds to implement proactive drug control strategies or significant criminal gang investigative efforts as authorized by the Drug Control Strategy and Criminal Gang Committee or the Victim and Witness Protection Review Committee. Regarding violent crime investigation reimbursement, an expedited approval procedure shall be established for rapid disbursement of funds in violent crime emergency situations.

(c) As used in this section, "significant criminal gang investigative efforts" eligible for proactive funding must involve at a minimum an effort against a known criminal gang that:

1. Involves multiple law enforcement agencies.

2. Reflects a dedicated significant investigative effort on the part of each participating agency in personnel, time devoted to the investigation, and agency resources dedicated to the effort.

3. Reflects a dedicated commitment by a prosecuting authority to ensure that cases developed by the investigation will be timely and effectively prosecuted.

4. Demonstrates a strategy and commitment to dismantling the criminal gang via seizures of assets, significant money laundering and organized crime investigations and prosecutions, or similar efforts.

The council may require satisfaction of additional elements, to include reporting criminal investigative and criminal intelligence information related to criminal gang activity and members in a manner required by the department, as a prerequisite for receiving proactive criminal gang funding.

(6) DRUG CONTROL STRATEGY AND CRIMINAL GANG COMMITTEE.—

(a) The Drug Control Strategy and Criminal Gang Committee is created within the Florida Violent Crime and Drug Control Council, consisting of the following council members:

1. The Attorney General or a designate.
2. The designate of the executive director of the Department of Law Enforcement.
3. The secretary of the Department of Corrections or a designate.
4. The director of the Office of Drug Control within the Executive Office of the Governor or a designate.
5. The state attorney, the two sheriffs, and the two chiefs of police, or their designates.

(b) The committee shall

3. review and approve all requests for disbursement of funds from the Violent Crime Investigative Emergency and Drug Control Strategy Implementation Account within the Department of Law Enforcement Operating Trust Fund and from other appropriations provided to the department by the Legislature in the General Appropriations Act. An expedited approval procedure shall be established for rapid disbursement of funds in violent crime emergency situations.

(c) Those receiving any proactive funding provided by the council through the committee shall be required to report the results of the investigations to the council once the investigation has been completed. The committee shall also require ongoing status reports on ongoing investigations using such findings in its closed sessions.

~~(7)~~(5) REPORTS.—The council shall report annually on its activities, on or before December 30 of each calendar year, to the executive director, the President of the Senate, the Speaker of the House of Representatives, and the chairs of the Senate and House committees having principal jurisdiction over criminal law. Comments and responses of the executive director to the report are to be included.

(8)~~(6)~~ VICTIM AND WITNESS PROTECTION REVIEW COMMITTEE.—

(a) The Victim and Witness Protection Review Committee is created within the Florida Violent Crime and Drug Control Council, consisting of the statewide prosecutor or a state attorney, a sheriff, a chief of police, and the designee of the executive director of the Department of Law Enforcement. The committee shall be appointed from the membership of the council by the chair of the council after the chair has consulted with the executive director of the Department of Law Enforcement. Committee members shall meet in conjunction with the meetings of the council.

(b) The committee shall:

1. Maintain and use ~~utilize~~ criteria for disbursing funds to reimburse law enforcement agencies for costs associated with providing victim and witness protective or temporary relocation services.

2. Review and approve or deny, in whole or in part, all reimbursement requests submitted by law enforcement agencies.

(c) The lead law enforcement agency providing victim or witness protective or temporary relocation services pursuant to the provisions of s. 914.25 may submit a request for reimbursement to the Victim and Witness Protection Review Committee in a format approved by the committee. The lead law enforcement agency shall submit such reimbursement request on behalf of all law enforcement agencies that cooperated in providing protective or temporary relocation services related to a particular criminal investigation or prosecution. As part of the reimbursement request, the lead law enforcement agency must indicate how any reimbursement proceeds will be distributed among the agencies that provided protective or temporary relocation services.

(d) The committee, in its discretion, may use funds available to the committee to provide all or partial reimbursement to the lead law enforcement agency for such costs, or may decline to provide any reimbursement.

(e) The committee may conduct its meeting by teleconference or conference phone calls when the chair of the committee finds that the need for reimbursement is such that delaying until the next scheduled council meeting will adversely affect the requesting agency's ability to provide the protection services.

~~(9)(7)~~ CONFIDENTIALITY; EXEMPTED PORTIONS OF COUNCIL MEETINGS AND RECORDS.—

(a) The Legislature finds that during limited portions of the meetings of the Florida Violent Crime and Drug Control Council it is necessary that the council be presented with and discuss details, information, and documents related to active criminal investigations or matters constituting active criminal intelligence, as those concepts are defined by s. 119.011. These presentations and discussions are necessary for the council to make its funding decisions as required by the Legislature. The Legislature finds that to reveal the contents of documents containing active criminal investigative or intelligence information or to allow active criminal investigative or active criminal intelligence matters to be discussed in a meeting open to the public negatively impacts the ability of law enforcement agencies to efficiently continue their investigative or intelligence gathering activities. The Legislature finds that information coming before the council that pertains to active criminal investigations or intelligence should remain confidential and exempt from public disclosure. The Legislature finds that the Florida Violent Crime and Drug Control Council may, by declaring only those portions of council meetings in which active criminal investigative or active criminal intelligence information is to be presented or discussed closed to the public, assure an

appropriate balance between the policy of this state that meetings be public and the policy of this state to facilitate efficient law enforcement efforts.

(b) The Florida Violent Crime and Drug Control Council shall be considered a “criminal justice agency” within the definition of s. 119.011(4).

(c)1. The Florida Violent Crime and Drug Control Council may close portions of meetings during which the council will hear or discuss active criminal investigative information or active criminal intelligence information, and such portions of meetings shall be exempt from the provisions of s. 286.011 and s. 24(b), Art. I of the State Constitution, provided that the following conditions are met:

a. The chair of the council shall advise the council at a public meeting that, in connection with the performance of a council duty, it is necessary that the council hear or discuss active criminal investigative information or active criminal intelligence information.

b. The chair’s declaration of necessity for closure and the specific reasons for such necessity shall be stated in writing in a document that shall be a public record and shall be filed with the official records of the council.

c. The entire closed session shall be recorded. The recording shall include the times of commencement and termination of the closed session, all discussion and proceedings, and the names of all persons present. No portion of the session shall be off the record. Such recording shall be maintained by the council.

2. Only members of the council, Department of Law Enforcement staff supporting the council’s function, and other persons whose presence has been authorized by the chair of the council shall be allowed to attend the exempted portions of the council meetings. The council shall assure that any closure of its meetings as authorized by this section is limited so that the general policy of this state in favor of public meetings is maintained.

(d) A tape recording of, and any minutes and notes generated during, that portion of a Florida Violent Crime and Drug Control Council meeting which is closed to the public pursuant to this section are confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution until such time as the criminal investigative information or criminal intelligence information ceases to be active.

Section 21. Section 948.033, Florida Statutes, is created to read:

948.033 Condition of probation or community control; criminal gang.—
Effective for a probationer or community controllee whose crime was committed on or after October 1, 2008, and who has been found to have committed the crime for the purpose of benefiting, promoting, or furthering the interests of criminal gang, the court shall, in addition to any other conditions imposed, impose a condition prohibiting the probationer or community controllee from knowingly associating with other criminal gang members or associates, except as authorized by law enforcement officials, prosecutorial authorities, or the court, for the purpose of aiding in the investigation of criminal activity.

Section 22. Section 947.18, Florida Statutes, 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 the person is placed on parole, he or she will live and conduct himself or herself as a respectable and law-abiding person and that the person's release will be compatible with his or her own welfare and the welfare of society. No person shall be placed on parole unless and until the commission is satisfied that he or she will be suitably employed in self-sustaining employment or that he or she 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 the state under s. 938.29 a condition of parole subject to modification based on change of circumstances. If the person's conviction was for a crime that was found to have been committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, one of the conditions must be that the person be prohibited from knowingly associating with other criminal gang members or associates, except as authorized by law enforcement officials, prosecutorial authorities, or the court, for the purpose of aiding in the investigation of criminal activity.

Section 23. Subsection (11) is added to section 947.1405, Florida Statutes, to read:

947.1405 Conditional release program.—

(11) Effective for a releasee whose crime was committed on or after October 1, 2008, and who has been found to have committed the crime for the purpose of benefiting, promoting, or furthering the interests of a criminal gang, the commission shall, in addition to any other conditions imposed, impose a condition prohibiting the releasee from knowingly associating with other criminal gang members or associates, except as authorized by law enforcement officials, prosecutorial authorities, or the court, for the purpose of aiding in the investigation of criminal activity.

Section 24. Paragraph (d) of subsection (2) of section 893.138, Florida Statutes, is amended to read:

893.138 Local administrative action to abate drug-related, prostitution-related, or stolen-property-related public nuisances and criminal ~~street~~ gang activity.—

(2) Any place or premises that has been used:

(d) By a criminal ~~street~~ gang for the purpose of conducting a ~~pattern of~~ criminal ~~street~~ gang activity as defined by s. 874.03; or

may be declared to be a public nuisance, and such nuisance may be abated pursuant to the procedures provided in this section.

Section 25. Paragraphs (d), (e), and (g) of subsection (3) of section 921.0022, Florida Statutes, are amended to read:

921.0022 Criminal Punishment Code; offense severity ranking chart.—

(3) OFFENSE SEVERITY RANKING CHART

(d) LEVEL 4

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 316.1935(3)(a) | 2nd | Driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated. |
| 499.0051(1) | 3rd | Failure to maintain or deliver pedigree papers. |
| 499.0051(2) | 3rd | Failure to authenticate pedigree papers. |
| 499.0051(6) | 2nd | Sale or delivery, or possession with intent to sell, contraband legend drugs. |
| 784.07(2)(b) | 3rd | Battery of law enforcement officer, fire-fighter, intake officer, etc. |
| 784.074(1)(c) | 3rd | Battery of sexually violent predators facility staff. |
| 784.075 | 3rd | Battery on detention or commitment facility staff. |
| 784.078 | 3rd | Battery of facility employee by throwing, tossing, or expelling certain fluids or materials. |
| 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. |
| 784.083(3) | 3rd | Battery on code inspector. |
| 784.085 | 3rd | Battery of child by throwing, tossing, projecting, or expelling certain fluids or materials. |
| 787.03(1) | 3rd | Interference with custody; wrongly takes minor from appointed guardian. |
| 787.04(2) | 3rd | Take, entice, or remove child beyond state limits with criminal intent pending custody proceedings. |

| Florida Statute | Felony Degree | Description |
|---------------------|---------------|----------------------------------------------------------------------------------------------------------------------------------------|
| 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. |
| 800.04(7)(d) | 3rd | Lewd or lascivious exhibition; offender less than 18 years. |
| 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. |
| 812.0195(2) | 3rd | Dealing in stolen property by use of the Internet; property stolen \$300 or more. |
| 817.563(1) | 3rd | Sell or deliver substance other than controlled substance agreed upon, excluding s. 893.03(5) drugs. |
| 817.568(2)(a) | 3rd | Fraudulent use of personal identification information. |
| 817.625(2)(a) | 3rd | Fraudulent use of scanning device or re-encoder. |
| 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. |
| 838.022 | 3rd | Official misconduct. |
| 839.13(2)(a) | 3rd | Falsifying records of an individual in the care and custody of a state agency. |

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|-------------------------------------------------------------------------------------------------------------------|
| 839.13(2)(c) | 3rd | Falsifying records of the Department of Children and Family Services. |
| 843.021 | 3rd | Possession of a concealed handcuff key by a person in custody. |
| 843.025 | 3rd | Deprive law enforcement, correctional, or correctional probation officer of means of protection or communication. |
| 843.15(1)(a) | 3rd | Failure to appear while on bail for felony (bond estreatment 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), (2)(a), (2)(b), or (2)(c)4. 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. |
| 934.215 | 3rd | Use of two-way communications device to facilitate commission of a crime. |

(e) LEVEL 5

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|----------------------------------------------------------------------------------------------------------|
| 316.027(1)(a) | 3rd | Accidents involving personal injuries, failure to stop; leaving scene. |
| 316.1935(4)(a) | 2nd | Aggravated fleeing or eluding. |
| 322.34(6) | 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. |
| 440.10(1)(g) | 2nd | Failure to obtain workers' compensation coverage. |
| 440.105(5) | 2nd | Unlawful solicitation for the purpose of making workers' compensation claims. |

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|-------------------------------------------------------------------------------------------------------------------------------------|
| 440.381(2) | 2nd | Submission of false, misleading, or incomplete information with the purpose of avoiding or reducing workers' compensation premiums. |
| 624.401(4)(b)2. | 2nd | Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000. |
| 626.902(1)(c) | 2nd | Representing an unauthorized insurer; repeat offender. |
| 790.01(2) | 3rd | Carrying a concealed firearm. |
| 790.162 | 2nd | Threat to throw or discharge destructive device. |
| 790.163(1) | 2nd | False report of deadly explosive or weapon of mass destruction. |
| 790.221(1) | 2nd | Possession of short-barreled shotgun or machine gun. |
| 790.23 | 2nd | Felons in possession of firearms, ammunition, or electronic weapons or devices. |
| 800.04(6)(c) | 3rd | Lewd or lascivious conduct; offender less than 18 years. |
| 800.04(7)(c) | 2nd | Lewd or lascivious exhibition; offender 18 years or older. |
| 806.111(1) | 3rd | Possess, manufacture, or dispense fire bomb with intent to damage any structure or property. |
| 812.0145(2)(b) | 2nd | Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000. |
| 812.015(8) | 3rd | Retail theft; property stolen is valued at \$300 or more and one or more specified acts. |
| 812.019(1) | 2nd | Stolen property; dealing in or trafficking in. |
| 812.131(2)(b) | 3rd | Robbery by sudden snatching. |
| 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. |
| 817.234(11)(b) | 2nd | Insurance fraud; property value \$20,000 or more but less than \$100,000. |

| Florida Statute | Felony Degree | Description |
|---------------------------|---------------|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 817.2341(1),(2)(a)&(3)(a) | 3rd | Filing false financial statements, making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity. |
| 817.568(2)(b) | 2nd | Fraudulent use of personal identification information; value of benefit, services received, payment avoided, or amount of injury or fraud, \$5,000 or more or use of personal identification information of 10 or more individuals. |
| 817.625(2)(b) | 2nd | Second or subsequent fraudulent use of scanning device or reencoder. |
| 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. |
| 827.071(5) | 3rd | Possess any photographic material, motion picture, etc., which includes sexual conduct by a child. |
| 839.13(2)(b) | 2nd | Falsifying records of an individual in the care and custody of a state agency involving great bodily harm or death. |
| 843.01 | 3rd | Resist officer with violence to person; resist arrest with violence. |
| 847.0137(2)&(3) | 3rd | Transmission of pornography by electronic device or equipment. |
| 847.0138(2)&(3) | 3rd | Transmission of material harmful to minors to a minor by electronic device or equipment. |
| 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), (2)(b), or (2)(c)4. drugs). |

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 893.13(1)(c)2. | 2nd | Sell, manufacture, or deliver cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center. |
| 893.13(1)(d)1. | 1st | Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of university. |
| 893.13(1)(e)2. | 2nd | Sell, manufacture, or deliver cannabis or other drug prohibited under s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) within 1,000 feet of property used for religious services or a specified business site. |
| 893.13(1)(f)1. | 1st | Sell, manufacture, or deliver cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), or (2)(a), (2)(b), or (2)(c)4. drugs) within 1,000 feet of public housing facility. |
| 893.13(4)(b) | 2nd | Deliver to minor cannabis (or other s. 893.03(1)(c), (2)(c)1., (2)(c)2., (2)(c)3., (2)(c)5., (2)(c)6., (2)(c)7., (2)(c)8., (2)(c)9., (3), or (4) drugs). |

(g) LEVEL 7

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 316.027(1)(b) | 1st | Accident involving death, failure to stop; leaving scene. |
| 316.193(3)(c)2. | 3rd | DUI resulting in serious bodily injury. |
| 316.1935(3)(b) | 1st | Causing serious bodily injury or death to another person; driving at high speed or with wanton disregard for safety while fleeing or attempting to elude law enforcement officer who is in a patrol vehicle with siren and lights activated. |
| 327.35(3)(c)2. | 3rd | Vessel BUI resulting in serious bodily injury. |

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 402.319(2) | 2nd | Misrepresentation and negligence or intentional act resulting in great bodily harm, permanent disfiguration, permanent disability, or death. |
| 409.920(2) | 3rd | Medicaid provider fraud. |
| 456.065(2) | 3rd | Practicing a health care profession without a license. |
| 456.065(2) | 2nd | Practicing a health care profession without a license which results in serious bodily injury. |
| 458.327(1) | 3rd | Practicing medicine without a license. |
| 459.013(1) | 3rd | Practicing osteopathic medicine without a license. |
| 460.411(1) | 3rd | Practicing chiropractic medicine without a license. |
| 461.012(1) | 3rd | Practicing podiatric medicine without a license. |
| 462.17 | 3rd | Practicing naturopathy without a license. |
| 463.015(1) | 3rd | Practicing optometry without a license. |
| 464.016(1) | 3rd | Practicing nursing without a license. |
| 465.015(2) | 3rd | Practicing pharmacy without a license. |
| 466.026(1) | 3rd | Practicing dentistry or dental hygiene without a license. |
| 467.201 | 3rd | Practicing midwifery without a license. |
| 468.366 | 3rd | Delivering respiratory care services without a license. |
| 483.828(1) | 3rd | Practicing as clinical laboratory personnel without a license. |
| 483.901(9) | 3rd | Practicing medical physics without a license. |
| 484.013(1)(c) | 3rd | Preparing or dispensing optical devices without a prescription. |
| 484.053 | 3rd | Dispensing hearing aids without a license. |
| 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. |
| 560.123(8)(b)1. | 3rd | Failure to report currency or payment instruments exceeding \$300 but less than \$20,000 by money transmitter. |

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|--------------------------------------------------------------------------------------------------------------------------------|
| 560.125(5)(a) | 3rd | Money transmitter business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000. |
| 655.50(10)(b)1. | 3rd | Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution. |
| 775.21(10)(a) | 3rd | Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations. |
| 775.21(10)(b) | 3rd | Sexual predator working where children regularly congregate. |
| 775.21(10)(g) | 3rd | Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator. |
| 782.051(3) | 2nd | Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony. |
| 782.07(1) | 2nd | Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter). |
| 782.071 | 2nd | Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide). |
| 782.072 | 2nd | 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. |
| 784.048(7) | 3rd | Aggravated stalking; violation of court order. |
| 784.07(2)(d) | 1st | Aggravated battery on law enforcement officer. |
| 784.074(1)(a) | 1st | Aggravated battery on sexually violent predators facility staff. |
| 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. |

| Florida Statute | Felony Degree | Description |
|-----------------|-----------------|----------------------------------------------------------------------------------------------------------------------------------------|
| 784.082(1) | 1st | Aggravated battery by detained person on visitor or other detainee. |
| 784.083(1) | 1st | Aggravated battery on code inspector. |
| 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. |
| 790.165(2) | 2nd | Manufacture, sell, possess, or deliver hoax bomb. |
| 790.165(3) | 2nd | Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony. |
| 790.166(3) | 2nd | Possessing, selling, using, or attempting to use a hoax weapon of mass destruction. |
| 790.166(4) | 2nd | Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony. |
| <u>790.23</u> | <u>1st, PBL</u> | <u>Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.</u> |
| 794.08(4) | 3rd | Female genital mutilation; consent by a parent, guardian, or a person in custodial authority to a victim younger than 18 years of age. |
| 796.03 | 2nd | Procuring any person under 16 years for prostitution. |
| 800.04(5)(c)1. | 2nd | Lewd or lascivious molestation; victim less than 12 years of age; offender less than 18 years. |
| 800.04(5)(c)2. | 2nd | Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years; offender 18 years or older. |
| 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. |
| 810.02(3)(e) | 2nd | Burglary of authorized emergency vehicle. |

| Florida Statute | Felony Degree | Description |
|-----------------------|---------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 812.014(2)(a)1. | 1st | Property stolen, valued at \$100,000 or more or a semitrailer deployed by a law enforcement officer; property stolen while causing other property damage; 1st degree grand theft. |
| 812.014(2)(b)2. | 2nd | Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree. |
| 812.014(2)(b)3. | 2nd | Property stolen, emergency medical equipment; 2nd degree grand theft. |
| 812.014(2)(b)4. | 2nd | Property stolen, law enforcement equipment from authorized emergency vehicle. |
| 812.0145(2)(a) | 1st | Theft from person 65 years of age or older; \$50,000 or more. |
| 812.019(2) | 1st | Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property. |
| 812.131(2)(a) | 2nd | Robbery by sudden snatching. |
| 812.133(2)(b) | 1st | Carjacking; no firearm, deadly weapon, or other weapon. |
| 817.234(8)(a) | 2nd | Solicitation of motor vehicle accident victims with intent to defraud. |
| 817.234(9) | 2nd | Organizing, planning, or participating in an intentional motor vehicle collision. |
| 817.234(11)(c) | 1st | Insurance fraud; property value \$100,000 or more. |
| 817.2341(2)(b)&(3)(b) | 1st | Making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity which are a significant cause of the insolvency of that entity. |
| 825.102(3)(b) | 2nd | Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement. |
| 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(3) | 3rd | Impregnation of a child under 16 years of age by person 21 years of age or older. |
| 837.05(2) | 3rd | Giving false information about alleged capital felony to a law enforcement officer. |

| Florida Statute | Felony Degree | Description |
|-------------------|-----------------|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| 838.015 | 2nd | Bribery. |
| 838.016 | 2nd | Unlawful compensation or reward for official behavior. |
| 838.021(3)(a) | 2nd | Unlawful harm to a public servant. |
| 838.22 | 2nd | Bid tampering. |
| 847.0135(3) | 3rd | Solicitation of a child, via a computer service, to commit an unlawful sex act. |
| 847.0135(4) | 2nd | Traveling to meet a minor to commit an unlawful sex act. |
| 872.06 | 2nd | Abuse of a dead human body. |
| <u>874.10</u> | <u>1st, PBL</u> | <u>Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.</u> |
| 893.13(1)(c)1. | 1st | Sell, manufacture, or deliver cocaine (or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4.) within 1,000 feet of a child care facility, school, or state, county, or municipal park or publicly owned recreational facility or community center. |
| 893.13(1)(e)1. | 1st | Sell, manufacture, or deliver cocaine or other drug prohibited under s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4., within 1,000 feet of property used for religious services or a specified business site. |
| 893.13(4)(a) | 1st | Deliver to minor cocaine (or other s. 893.03(1)(a), (1)(b), (1)(d), (2)(a), (2)(b), or (2)(c)4. drugs). |
| 893.135(1)(a)1. | 1st | Trafficking in cannabis, more than 25 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. |
| 893.135(1)(g)1.a. | 1st | Trafficking in flunitrazepam, 4 grams or more, less than 14 grams. |

| Florida Statute | Felony Degree | Description |
|-------------------|---------------|------------------------------------------------------------------------------------------------------------------------------------------|
| 893.135(1)(h)1.a. | 1st | Trafficking in gamma-hydroxybutyric acid (GHB), 1 kilogram or more, less than 5 kilograms. |
| 893.135(1)(j)1.a. | 1st | Trafficking in 1,4-Butanediol, 1 kilogram or more, less than 5 kilograms. |
| 893.135(1)(k)2.a. | 1st | Trafficking in Phenethylamines, 10 grams or more, less than 200 grams. |
| 896.101(5)(a) | 3rd | Money laundering, financial transactions exceeding \$300 but less than \$20,000. |
| 896.104(4)(a)1. | 3rd | Structuring transactions to evade reporting or registration requirements, financial transactions exceeding \$300 but less than \$20,000. |
| 943.0435(4)(c) | 2nd | Sexual offender vacating permanent residence; failure to comply with reporting requirements. |
| 943.0435(8) | 2nd | Sexual offender; remains in state after indicating intent to leave; failure to comply with reporting requirements. |
| 943.0435(9)(a) | 3rd | Sexual offender; failure to comply with reporting requirements. |
| 943.0435(13) | 3rd | Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender. |
| 943.0435(14) | 3rd | Sexual offender; failure to report and re-register; failure to respond to address verification. |
| 944.607(9) | 3rd | Sexual offender; failure to comply with reporting requirements. |
| 944.607(10)(a) | 3rd | Sexual offender; failure to submit to the taking of a digitized photograph. |
| 944.607(12) | 3rd | Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender. |
| 944.607(13) | 3rd | Sexual offender; failure to report and re-register; failure to respond to address verification. |
| 985.4815(10) | 3rd | Sexual offender; failure to submit to the taking of a digitized photograph. |
| 985.4815(12) | 3rd | Failure to report or providing false information about a sexual offender; harbor or conceal a sexual offender. |

| Florida Statute | Felony Degree | Description |
|-----------------|---------------|-------------------------------------------------------------------------------------------------|
| 985.4815(13) | 3rd | Sexual offender; failure to report and re-register; failure to respond to address verification. |

Section 26. Subsection (1) of section 921.0024, Florida Statutes, is amended 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 | .... | = | .... |
| Moderate | 18 | x | .... | = | .... |
| Slight | 4 | x | .... | = | .... |
| Sexual penetration | 80 | x | .... | = | .... |
| Sexual contact | 40 | 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_____

PRISON RELEASEE REOFFENDER (no)(yes)

VIOLENT CAREER CRIMINAL (no)(yes)

HABITUAL VIOLENT 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 OFFENSE (no)(yes) (x multiplier)

DOMESTIC VIOLENCE IN THE PRESENCE OF RELATED CHILD (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, unless any of the following apply:

1. If the community sanction violation includes a new felony conviction before the sentencing court, twelve (12) community sanction violation points are assessed for the violation, and for each successive community sanction violation involving a new felony conviction.

2. If the community sanction violation is committed by a violent felony offender of special concern as defined in s. 948.06:

a. Twelve (12) community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where:

(I) The violation does not include a new felony conviction; and

(II) The community sanction violation is not based solely on the probationer or offender’s failure to pay costs or fines or make restitution payments.

b. Twenty-four (24) community sanction violation points are assessed for the violation and for each successive violation of felony probation or community control where the violation includes 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 thirty (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 in the offender's criminal record, 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 in the offender's criminal record is a previous capital felony offense for which the offender has entered a plea of nolo contendere or guilty or 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 or her possession: a firearm as defined in s. 790.001(6), an additional eighteen (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 or her possession a semiautomatic firearm as defined in s. 775.087(3) or a machine gun as defined in s. 790.001(9), an additional twenty-five (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), (3), or (4), the subtotal sentence points are multiplied by 2.5. If the primary offense is a violation of s. 775.0823(5), (6), (7), (8), or (9), 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(10) or (11), 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.

Offense related to a criminal ~~street~~ gang: If the offender is convicted of the primary offense and committed that offense for the purpose of benefiting, promoting, or furthering the interests of a criminal ~~street~~ gang as prohibited under s. 874.04, the subtotal sentence points are multiplied by 1.5.

Domestic violence in the presence of a child: If the offender is convicted of the primary offense and the primary offense is a crime of domestic violence, as defined in s. 741.28, which was committed in the presence of a child under 16 years of age who is a family or household member as defined in s. 741.28(3) with the victim or perpetrator, the subtotal sentence points are multiplied by 1.5.

Section 27. Paragraph (n) of subsection (5) of section 921.141, Florida Statutes, is amended to read:

921.141 Sentence of death or life imprisonment for capital felonies; further proceedings to determine sentence.—

(5) AGGRAVATING CIRCUMSTANCES.—Aggravating circumstances shall be limited to the following:

(n) The capital felony was committed by a criminal ~~street~~ gang member, as defined in s. 874.03.

Section 28. Paragraph (c) of subsection (10) of section 943.325, Florida Statutes, is amended to read:

943.325 Blood or other biological specimen testing for DNA analysis.—

(10)

(c) Any person previously convicted of an offense specified in this section, or a crime which, if committed in this state, would be an offense specified in this section, and who is also subject to the registration requirement imposed by s. 775.13, shall be subject to the collection requirement of this section when the appropriate agency described in this section verifies the identification information of the person. The collection requirement of this section does not apply to a person as described in s. 775.13~~(4)~~(5).

Section 29. Subsection (30) of section 984.03, Florida Statutes, is amended to read:

984.03 Definitions.—When used in this chapter, the term:

(30) “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 criminal 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; conditional release; 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.

Section 30. Paragraph (c) of subsection (15) and subsection (29) of section 985.03, Florida Statutes, are amended to read:

985.03 Definitions.—As used in this chapter, the term:

(15)

(c) “Delinquency prevention programs” means programs designed for the purpose of reducing the occurrence of delinquency, including criminal 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.

(29) “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 criminal 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; conditional release; substance abuse and mental health programs; educational and career 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.

Section 31. Paragraph (c) of subsection (1) of section 985.047, Florida Statutes, is amended to read:

985.047 Information systems.—

(1)

(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 criminal youth and street gang membership.

Section 32. Paragraph (a) of subsection (6) and subsection (7) of section 985.433, Florida Statutes, are amended to read:

985.433 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:

(6) 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 include consideration of the recommendations of the department, which may include a predisposition report. The predisposition report 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 under chapter 874 that the child was a member of a criminal ~~street~~ gang at the time of the commission of the offense, the seriousness of the offense to the community shall be given great weight.

It is the intent of the Legislature that the criteria set forth in this subsection 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 under this section.

(7) 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.

(a) The juvenile probation officer 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.

(b) 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 that 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 under this paragraph.

(c) The court may also require that the child be placed in a probation program following the child's discharge from commitment. Community-based sanctions under subsection (8) may be imposed by the court at the disposition hearing or at any time prior to the child's release from commitment.

Section 33. The Division of Statutory Revision is directed to redesignate the title of chapter 874, Florida Statutes, as "Criminal Gang Enforcement and Prevention."

Section 34. (1) This section shall take effect July 1, 2008.

(2) Coordinating Council on Criminal Gang Reduction Strategies.—

(a) The Coordinating Council on Criminal Gang Reduction Strategies is established within the Department of Legal Affairs and may consist of the following 11 members:

1. The Attorney General or his or her designee.
2. The executive director of the Department of law Enforcement or his or her designee.
3. The Commissioner of Education or his or her designee.
4. The Secretary of Children and Family Services or his or her designee.
5. The Secretary of Corrections or his or her designee.
6. The Secretary of Juvenile Justice or his or her designee.
7. The Director of the Office of Drug Control or his or her designee.

8. The Director of the Division of the Florida Highway Patrol or his or her designee.

9. The President of the Florida Sheriffs Association or his or her designee.

10. The President of the Florida Police Chiefs Association or his or her designee.

11. The President of the Florida Prosecuting Attorneys Association or his or her designee.

(b) The Attorney General shall serve as chair of the council, and the executive director of the Department of Law Enforcement shall serve as vice chair of the council. In the absence of the chair, the vice chair shall serve as chair.

(c) The council shall meet at the call of the chair. A majority of the members of the council constitutes a quorum, and action by a majority of the council shall be official.

(d) Members of the council may leave the council at any time upon notification to chair.

(e) The council shall:

1. Gather, compile, assimilate, and facilitate the distribution to government agencies and community organizations information on criminal gangs and at-risk youth prevention and intervention programs in this state.

2. Develop a statewide strategy to stop the growth of, reduce the number of, and render ineffectual criminal gangs in this state.

3. Coordinate and give guidance and support to efforts by federal, state, and local government agencies; federal, state and local law enforcement agencies; at-risk youth prevention and intervention organizations; elected officials and community leaders to combat criminal gangs and reduce criminal gang-related crime and violence in this state.

4. Coordinate with any state agency, any political subdivision, or any school district of the state in the performance of its duties.

5. Request from any department, division, board, bureau, commission, or other agency of the state or of any political subdivision thereof, cooperation and assistance in the performance of its duties.

(f)1. The business of the council shall be presented to the council in the form of an agenda. The agenda shall be set by the chair and shall include items of business requested by the council members.

2. The minutes for each meeting shall be submitted to the chair within 14 days after each meeting.

(g) The Office of the Attorney General shall provide staff and administrative support to the council.

(h) Members of the council or their designees shall serve without compensation. Notwithstanding s. 20.052, Florida Statutes, members are not entitled to reimbursement for per diem and travel expenses.

(i) The council shall be subject to the provisions of chapter 119, Florida Statutes, related to public records, and the provisions of chapter 286, Florida Statutes, related to public meetings.

(j) The council shall cease to exist on June 30, 2009.

Section 35. Except as otherwise expressly provided in this act, this act shall take effect October 1, 2008.

Approved by the Governor June 30, 2008.

Filed in Office Secretary of State June 30, 2008.