

1984

## Session Law 84-297

Florida Senate & House of Representatives

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LEGISLATIVE SUPPLEMENT "B" - SESSION LAW ABSTRACT

Sess. Law # 84-297	Sec. # 8	LOF cite
Prime Bill # HB 36	Comp./Sim. Bills HB 1069	
JLMC Hist. Cites	Senate House 12-13, 353	Comms. of Ref. Senate House (see bill code) - 2-27

COMMITTEE RECORDS

H/S	Committee	Year	Record Series: Folder title, etc.	Loc. Cite	✓
H	Crain J.	1984	Bill files: HB 36	19/1345	
"	"	"	" " HB 1069		
"	"	"	Meeting series: HB and HB 1069	19/1346	✓
S	Judicium	1984	Bill files: HB 36	18/1371	✓
"	"	"	" " HB 1069	18/1392	1
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Senate/House Journals

Page #	?	Date	Page #	?	Date

Committee/Floor Tapes

H/S	c/f	Committee/subcommittee name	Date	#	Location Cite

Other Documentation

Record Series Title, folder title, etc.	Location Cite



By Representative Shelley

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A bill to be entitled

An act relating to fraudulent practices; adding subsection (3) to s. 817.36, Florida Statutes, prohibiting the fraudulent creation of admission tickets and tokens; providing a penalty; amending s. 817.58(2), Florida Statutes, and adding subsection (7) thereto, redefining the term "credit card" and defining the term "counterfeit credit card" for the purposes of the State Credit Card Crime Act; amending s. 817.60(6)(a) and (b), Florida Statutes, prohibiting persons from falsely altering a purported credit card; providing that possession of one or more items defined as "counterfeit credit cards" is prima facie evidence of intent to fraudulently use or counterfeit a credit card; providing a penalty; providing an exception; amending ss. 817.60(1), (2), (3), (4), and (7), 817.61, 817.62(2), 817.64, and 817.645, Florida Statutes, increasing to a third degree felony the penalty for certain crimes relating to credit cards; creating s. 817.646, Florida Statutes, providing that it is unlawful for certain persons to make credit card account lists or portions thereof available to third parties; providing exceptions; providing a penalty; providing an effective date.

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

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1 Section 1. Subsection (3) is added to section 817.36, 1.19  
2 Florida Statutes, to read: 1.20  
3 817.36 Resale of tickets of common carriers, places of 1.20  
4 amusement, etc.-- 1.21  
5 (3) Whoever shall counterfeit, forge, alter, or 1:lus  
6 possess any ticket, token, or paper designed for admission to 1.22  
7 or the rendering of services by any sports, amusement, 1.23  
8 concert, or other facility offering services to the general 1.24  
9 public with the intent to defraud the same shall be guilty of 1.25  
10 a felony of the third degree, punishable as provided in s. 1.26  
11 775.082, s. 775.083, or s. 775.084.  
12 Section 2. Subsection (2) of section 817.58, Florida  
13 Statutes, is amended, and subsection (7) is added to said  
14 section, to read: 1.27  
15 817.58 Definitions.--As used in ss. 817.57-817.68: 1.29  
16 (2) "Credit card" means any instrument or device, 1:es  
17 whether known as a credit card, credit plate, bank service 1.32  
18 card, banking card, check guarantee card, debit card, or by 1.33  
19 any other name, issued with or without fee by an issuer for 1.34  
20 the use of the cardholder in obtaining money, goods, services,  
21 or anything else of value on credit, or for use in an 1.35  
22 automated banking device to obtain any of the services offered 1.36  
23 through the device.  
24 (7) "Counterfeit credit card" means any object which 1:lus  
25 is manufactured, without authorization, to resemble, 1.40  
26 duplicate, counterfeit, or replace a credit card, and which 1.41  
27 may or may not be embossed with account information, or a  
28 company logo.  
29 Section 3. Subsections (1), (2), (3), (4), and (7) and 1.4  
30 paragraphs (a) and (b) of subsection (6) of section 817.60, 1.44  
31 Florida Statutes, are amended to read:

1 817.60 Theft; obtaining credit card through fraudulent 1.45  
2 means.-- 1.46  
3 (1) THEFT BY TAKING OR RETAINING POSSESSION OF CARD 1.47  
4 TAKEN.--A person who takes a credit card from the person, 1.48  
5 possession, custody, or control of another without the 1.49  
6 cardholder's consent or who, with knowledge that it has been 1.50  
7 so taken, receives the credit card with intent to use it, to 1.51  
8 sell it or to transfer it to a person other than the issuer or 1.52  
9 the cardholder is guilty of credit card theft and is subject 1.53  
10 to the penalties set forth in s. 817.67(2) ~~(1)~~. Taking a 1.54  
11 credit card without consent includes obtaining it by conduct 1.55  
12 defined or known as statutory larceny, common law larceny by 1.56  
13 trespassory taking, common law larceny by trick or 1.57  
14 embezzlement or obtaining property by false pretense, false 1.58  
15 promise or extortion. 1.59  
16 (2) THEFT OF CREDIT CARD LOST, MISLAID OR DELIVERED BY 1.60  
17 MISTAKE.--A person who receives a credit card that he knows to 1.61  
18 have been lost, mislaid, or delivered under a mistake as to 1.62  
19 the identity or address of the cardholder and who retains 1.63  
20 possession with intent to use it, to sell it or to transfer it 1.64  
21 to a person other than the issuer or the cardholder is guilty 1.65  
22 of credit card theft and is subject to the penalties set forth 1.66  
23 in s. 817.67(2) ~~(1)~~. 1.67  
24 (3) PURCHASE OR SALE OF CREDIT CARD OF ANOTHER.--A 1.68  
25 person other than the issuer who sells a credit card or a 1.69  
26 person who buys a credit card from a person other than the 1.70  
27 issuer violates this subsection and is subject to the 1.71  
28 penalties set forth in s. 817.67(2) ~~(1)~~. 1.72  
29 (4) OBTAINING CONTROL OF CREDIT CARD AS SECURITY FOR 1.73  
30 DEBT.--A person who, with intent to defraud the issuer, a 1.74  
31 person or organization providing money, goods, services, or 1.75

1 anything else of value or any other person, obtains control 1.70  
 2 over a credit card as security for debt violates this 1.71  
 3 subsection and is subject to the penalties set forth in s. 1.72  
 4 817.67(2) ~~††~~.  
 5 (6) FORGERY OF CREDIT CARD.-- 1.73  
 6 (a) A person who, with intent to defraud a purported 1.73  
 7 issuer or a person or organization providing money, goods, 1.74  
 8 services, or anything else of value or any other person, 1.75  
 9 falsely makes, or falsely embosses, or falsely alters in any 1.76  
 10 manner a purported credit card or utters such a credit card is 1.77  
 11 guilty of credit card forgery and is subject to the penalties 1.78  
 12 set forth in s. 817.67(2). 1.79  
 13 (b) Possession of one or more items defined as 1.80  
 14 "counterfeit credit cards" by persons other than authorized 1.82  
 15 manufacturers or issuers shall be prima facie evidence of  
 16 intent to fraudulently use or counterfeit a credit card and 1.84  
 17 shall be subject to the penalties set forth in s. 817.67(2). 2.1  
 18 ~~A person other than the purported issuer who possesses two or~~ 2.3  
 19 ~~more credit cards which are falsely made or falsely embossed~~  
 20 ~~is presumed to have violated this subsection.~~ 2.5  
 21 (7) SIGNING CREDIT CARD OF ANOTHER.--A person other 2.6  
 22 than the cardholder or a person authorized by him who, with 2.7  
 23 intent to defraud the issuer or a person or organization 2.8  
 24 providing money, goods, services, or anything else of value or 2.8  
 25 any other person, signs a credit card violates this subsection 2.9  
 26 and is subject to the penalties set forth in s. 817.67(2) ~~††~~. 2.10  
 27 Section 4. Section 817.61, Florida Statutes, is 2.11  
 28 amended to read:  
 29 817.61 Fraudulent use of credit cards.--A person who, 2.1  
 30 with intent to defraud the issuer or a person or organization 2.13  
 31 providing money, goods, services or anything else of value or

1 any other person, uses, for the purpose of obtaining money, 2.1  
 2 goods, services, or anything else of value, a credit card 2.1  
 3 obtained or retained in violation of this part or a credit 2.1  
 4 card which he knows is forged, expired or revoked or who 2.1  
 5 obtains money, goods, services or anything else of value by 2.1  
 6 representing, without the consent of the cardholder, that he 2.1  
 7 is the holder of a specified card or by representing that he 2.1  
 8 is the holder of a card and such card has not in fact been 2.2  
 9 issued, violates this subsection and is subject to the 2.2  
 10 penalties set forth in s. 817.67(2). ~~††, if the value of all~~ 2.2  
 11 ~~money, goods, services, and other things of value obtained in~~ 2.2  
 12 ~~violation of this subsection does not exceed \$100 in any 6-~~ 2.2  
 13 ~~month period. The violator is subject to the penalties set~~ 2.2  
 14 ~~forth in s. 817.67(2), if such value does exceed \$100 in any~~ 2.2  
 15 ~~6-month period. Knowledge of revocation shall be presumed to~~ 2.2  
 16 ~~have been received by a cardholder 4 days after it has been~~ 2.2  
 17 ~~mailed to him at the address set forth on the credit card or~~ 2.2  
 18 ~~at his last known address by registered or certified mail,~~ 2.3  
 19 ~~return receipt requested, and, if the address is more than 500~~ 2.3  
 20 ~~miles from the place of mailing, by air mail. If the address~~ 2.3  
 21 ~~is located outside the United States, Puerto Rico, the Virgin~~ 2.3  
 22 ~~Islands, the Canal Zone or Canada, notice shall be presumed to~~ 2.3  
 23 ~~have been received 10 days after mailing by registered or~~  
 24 ~~certified mail.~~ 2.3  
 25 Section 5. Subsection (2) of section 817.62, Florida 2.2  
 26 Statutes, is amended to read: 2.3  
 27 817.62 Fraud by person authorized to provide goods or 2.3  
 28 services.--  
 29 (2) MISREPRESENTATION TO ISSUER.--A person who is 2.1  
 30 authorized by an issuer to furnish money, goods, services, or 2.2  
 31 anything else of value upon presentation of a credit card by 2.1

1 the cardholder or any agent or employee of such person who,  
 2 with intent to defraud the issuer or the cardholder, fails to 2.40  
 3 furnish money, goods, services, or anything else of value 2.41  
 4 which he represents in writing to the issuer that he has 2.42  
 5 furnished, violates this subsection and ~~is subject to the~~ 2.43  
 6 ~~penalties set forth in s. 817.67(1), if the difference between~~  
 7 ~~the value of all money, goods, services, and anything else of~~ 2.45  
 8 ~~value actually furnished and the value represented to the~~ 2.46  
 9 ~~issuer to have been furnished does not exceed \$500 in any 6-~~ 2.47  
 10 ~~month period. The violator is subject to the penalties set~~ 2.48  
 11 ~~forth in s. 817.67(2), if such difference does exceed \$500 in~~ 2.49  
 12 ~~any 6-month period.~~ 2.50

13 Section 6. Section 817.64, Florida Statutes, is 2.50  
 14 amended to read: 2.51

15 817.64 Receipt of money, etc., obtained by fraudulent 2.51  
 16 use of credit cards.--A person who receives money, goods, 2.52  
 17 services, or anything else of value obtained in violation of 2.53  
 18 s. 817.61, knowing or believing that it was so obtained, 2.54  
 19 violates this section and is subject to the penalties set  
 20 forth in s. 817.67(2)(~~1~~). A person who obtains at a discount 2.56  
 21 price a ticket issued by an airline, railroad, steamship, or 2.57  
 22 other transportation company which was acquired in violation 2.58  
 23 of s. 817.61 without reasonable inquiry to ascertain that the 2.59  
 24 person from whom it was obtained had a legal right to possess  
 25 it shall be presumed to know that such ticket was acquired 2.60  
 26 under circumstances constituting a violation of s. 817.61. 2.61

27 Section 7. Section 817.645, Florida Statutes, is 2.61  
 28 amended to read: 2.62

29 817.645 Alteration of credit card invoice; 2.62  
 30 penalties.--Whoever, with intent to defraud any person, 2.63  
 31 falsely alters any invoice for money, goods, services, or 2.64

1 anything else of value obtained by use of a credit card after 2.6  
 2 it has been signed by the cardholder or a person authorized by 2.6  
 3 him violates this section and is subject to the penalties set  
 4 forth in s. 817.67(2)(~~1~~). 2.6

5 Section 8. Section 817.646, Florida Statutes, is 2.6  
 6 created to read: 2.6

7 817.646 Credit card lists prohibited; penalty.--It 1:1  
 8 shall be unlawful for any person, business, corporation, 2:7  
 9 partnership, or other agency to make available, lend, donate, 2:7  
 10 or sell any list or portion of a list of any credit card 2:7  
 11 subscribers, their addresses, and their account numbers, to  
 12 any third party, without the express written permission of the 2:7  
 13 issuer and the subscriber, except that, without the permission 2:7  
 14 of the subscriber, a credit card issuer may make a list of its  
 15 own cardholders, including names, addresses, and account 2:7  
 16 numbers, available to a third party pursuant to a contract, if 2:7  
 17 such contract contains language requiring the third party to  
 18 bind through contract each of its subcontractors by including 2:7  
 19 language prohibiting the divulging of any part of the list for 2:7  
 20 any purpose by the subcontractors except to fulfill and  
 21 service orders pursuant to the contract between the credit 2:8  
 22 card issuer and the authorized third party. However, 2:8  
 23 notwithstanding any contrary provisions of this section, a  
 24 consumer reporting agency, as that term is defined by the 2:8  
 25 Federal Fair Credit Reporting Act, may provide lists of credit  
 26 account names, addresses, and account numbers to third parties 2:8  
 27 pursuant to the provisions of said act. Violations of this 2:8  
 28 section shall be subject to the penalties set forth in s. 3:--  
 29 817.67(2); provided, however, nothing herein shall make  
 30 unlawful or otherwise prohibit the transmittal of any such 3:  
 31 information to or from a consumer credit reporting agency as

1 that term is defined in the Federal Fair Credit Reporting Act, 3.3  
2 Pub. L. No. 91-508, or a debt collector as that term is 3.4  
3 defined in the Fair Debt Collection Practices Act, Pub. L. No.  
4 95-109.

5 Section 9. Section 817.67, Florida Statutes, reads: 3.5  
6 817.67 Penalties.-- 3.5

7 (1) A person who is subject to the penalties of this 1:es  
8 subsection shall be guilty of a misdemeanor of the first 3.7  
9 degree, punishable as provided in s. 775.082 or s. 775.083. 3.8

10 (2) A person who is subject to the penalties of this 3.9  
11 subsection shall be guilty of a felony of the third degree,  
12 punishable as provided in s. 775.082, s. 775.083, or s. 3.11  
13 775.084.

14 Section 10. This act shall take effect October 1, 3.12  
15 1984.

16 \*\*\*\*\*

17 HOUSE SUMMARY

18 Prohibits the fraudulent creation of admission tickets  
19 and tokens. For purposes of the State Credit Card Crime  
20 Act, redefines "credit card" and defines counterfeit  
21 credit card. Prohibits falsely altering a purported  
22 credit card and provides that possession of one or more  
23 counterfeit credit cards is prima facie evidence of  
24 intent to fraudulently use or counterfeit a credit card.  
25 Provides a third degree felony penalty for violations.

26 Increases from a first degree misdemeanor to a third  
27 degree felony the penalty for:

- 28 1. Theft by taking or retaining possession of a credit  
29 card illegally taken.
- 30 2. Theft of a credit card which is lost, mislaid, or  
31 delivered by mistake.
- 3. Purchase or sale of a credit card belonging to  
another.
- 4. Obtaining control of a credit card as security for  
a debt.
- 5. Signing the credit card of another.
- 6. Fraudulent use of a credit card.
- 7. Misrepresentation to the issuer.
- 8. Receipt of money, goods, or services obtained by  
fraudulent use of a credit card.
- 9. Alteration of a credit card invoice.

31 Provides that it is unlawful for certain persons to make  
credit card account lists, or portions thereof, available  
to third parties. Provides exceptions and provides a  
third degree felony penalty for violations.



Extract from:

Joint Legislative Management Committee, Legislative Information Division, *History of Legislation, 1984*, pp. 12-13 (H.B. 36):

H 0036 GENERAL BILL by Shelley (Similar Eng/H 1069, Compare CS/H 0007, S 0345, S 0720, S 1014)

Fraudulent Practices; prohibits fraudulent creation of admission tickets & tokens; redefines term "credit card" & defines term "counterfeit credit card" for purposes of State Credit Card Crime Act; prohibits persons from falsely altering a purported credit card, etc. Amends Ch. 817, 832 05. Effective Date: 10/01/84.

10/04/83 HOUSE Prefiled  
10/13/83 HOUSE Referred to Criminal Justice  
12/19/83 HOUSE On Committee agenda-- Subcomm, Crim. Justice, 314 HOB, 1:30pm, 01/09/84  
01/20/84 HOUSE On Committee agenda-- Criminal Justice, 314 HOB, 3:00 pm, 02/06/84  
02/08/84 HOUSE Comm. Report: Favorable with amend., placed on Calendar by Criminal Justice  
04/03/84 HOUSE Introduced, referred to Criminal Justice -HJ 00013; Comm. Report: Favorable with amend., placed on Calendar by Criminal Justice -HJ 00112  
04/05/84 HOUSE Placed on Special Order Calendar; Read second time; Amendments adopted -HJ 00130  
04/06/84 HOUSE Withdrawn from Calendar, referred to Appropriations -HJ 00135  
04/09/84 HOUSE On Committee agenda-- Appropriations, 21 HOB, 8:00 am, 04/11/84  
04/13/84 HOUSE Comm. Report: Favorable, placed on Calendar by Appropriations -HJ 00207  
04/16/84 HOUSE Read third time; Passed as amended; YEAS 109 NAYS 0 -HJ 00212  
04/17/84 SENATE In Messages  
04/19/84 SENATE Received, referred to Judiciary-Criminal, Appropriations -SJ 00157  
05/02/84 SENATE Extension of time granted Committee Judiciary-Criminal  
05/11/84 SENATE Extension of time granted Committee Judiciary-Criminal  
05/24/84 SENATE Extension of time granted Committee Judiciary-Criminal  
06/01/84 SENATE Withdrawn from Judiciary-Criminal, Appropriations; Substituted for SB 345 -SJ 00734; Passed as amended; YEAS 32 NAYS 0 -SJ 00735  
06/01/84 HOUSE In Messages; Concurred; Passed as further amended; YEAS 113 NAYS 0 -HJ 01160  
06/01/84 Ordered engrossed, then enrolled  
06/14/84 HOUSE Signed by Officers and presented to Governor  
06/20/84 Approved by Governor Chapter No. 84-297

# Bill Analysis



## FLORIDA HOUSE OF REPRESENTATIVES

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*Bill analyses, 1984*

HB 36 by Rep. Shelley  
relating to fraudulent  
practices

DATE: December 15, 1983

REVISED: \_\_\_\_\_

OTHER COMMITTEES OF REFERENCE:  
Appropriations

REVISED: \_\_\_\_\_

SENATE BILL: \_\_\_\_\_

### I. SUMMARY

#### A. PRESENT SITUATION:

Sections 817.57-817.68, Florida Statutes comprise the State Credit Card Crime Act. It defines and prohibits theft of credit cards and certain fraudulent actions involving credit cards. The act limits defenses available to persons accused of violating the act and sets forth presumptions to apply in prosecutions. Some infractions constitute misdemeanors of the first degree while others are felonies of the third degree.

Section 817.36 currently provides that the sale of certain admission tickets for over \$1.00 above the price charged by an original seller constitutes a misdemeanor of the second degree. Travel agencies are exempted from this provision.

#### B. EFFECT OF PROPOSED CHANGES:

The bill would amend s. 817.58(2) so as to include within the definition of "credit card" bank service cards, banking cards, check guarantee cards, debit cards, or any other card for use in an automatic banking device to obtain the services offered through the device.

The bill would add to s. 817.58 a subsection (7). This subsection would define "counterfeit credit card" to mean any object which is manufactured, without authorization, to resemble, duplicate, counterfeit, or replace a credit card, and which may or may not be embossed with account information, or a company logo. Under the bill, s. 817.60(6)(a) would be amended to make

the act of falsely altering a credit card in any manner a third degree felony. Section 817.60(6)(b) would be amended so that possession of one or more counterfeit credit cards by persons other than authorized manufacturers or issuers would be prima facie evidence of intent to fraudulently use or counterfeit a credit card. Such possession would be a felony of the third degree.

The bill would change several violations from first degree misdemeanors to third degree felonies. This would be true for the following crimes: (1) theft by taking or retaining possession of a credit card illegally taken [s. 817.60(1)]; (2) theft of a credit card which is lost, mislaid, or delivered by mistake [s. 817.60(2)]; (3) purchase or sale of a credit card belonging to another [s. 817.60(3)]; (4) obtaining control of a credit card as security for a debt [s. 817.60(4)]; (5) signing the credit card of another [s. 817.60(7)]; (6) fraudulent use of a credit card (s. 817.61)(7); misrepresentation to the issuer [s. 817.62(2)]; (8) receipt of money, goods, or services obtained by use of a credit card (s. 817.64); and (9) alteration of a credit card invoice (s. 817.645).

The bill would also create s. 817.646. That section would prohibit any person, business, corporation, partnership, or other agency from making available, lending, donating or selling a list (or portion thereof) of any credit card subscribers, their addresses, and account numbers to a third party without the subscriber's permission. Excepted from this section would be credit card issuers who make such information available to third parties pursuant to contract, if the contract has language requiring the third parties to prohibit their subcontractors from divulging any part of the list except for purposes of fulfilling service orders pursuant to the original contract. Moreover, consumer reporting agencies and debt collectors may provide such lists to third parties pursuant to the provisions of the Federal Fair Credit Reporting Act.

Finally, s. 317.36(3) would be created to make it a third degree felony for a person to counterfeit, alter, forge, or possess for fraudulent purposes certain tickets for admission into concerts, sporting events, etc.

## II. FISCAL IMPACT

The provisions contained herein will presumably result in an increase in admissions into the state correctional system as well as placements on probation and parole.

Based upon information prepared by the Department of Corrections, the following estimates were made:

1. There are approximately 9.4 million credit cards in use in the State of Florida including residents' and tourists' use.
2. The fraud rate is estimated at .35%, thus resulting in a potential of 32,900 reported credit card frauds annually. (This is the number of offenses reported and may not represent the actual number of offenders involved.)
3. By applying a 16% clearance rate, which is roughly equivalent to that for burglary, it may be estimated that there could be 5,264 credit card fraud cases in the

judicial system annually. Again, this is the number of anticipated offenses and may not represent the actual number of offenses. For the purposes of this analysis only, it is assumed that the figure represents the number of offenders involved.

4. Based upon analysis of recent court data relative to misdemeanor cases, excluding violations of county and municipal ordinances, the acquittal rate was 29%; thus, the percentage of offenders appearing before the court for sentencing was 71%. If the 71% is applied to the 5,264, it would follow that 3,737 offenders would receive some type of judicial disposition. In light of statewide case disposition rates for third degree felony cases, it is further estimated that 30% (n=1,121) of the 3,737 would be placed in county jails; 52% (n=1,943) would be placed on probation; and, 18% (n=673) would go into the state prison system.

Given this scenario, an estimate by the Department of Corrections indicates a total cost of \$5,976,817 per year. The total includes additional costs associated with Probation and Parole Services as well as new prison commitments.

Notwithstanding the above, statewide arrest figures compiled by the Florida Department of Law Enforcement indicate that 3,717 arrests were made in 1982 for some type of "fraud". Included in this category are violations of the State Credit Crime Act. The percentage of these offenses within the total number of fraud cases is unknown. It is estimated that there would be an increase in the number of persons arrested, prosecuted, and subsequently sentenced pursuant to the provisions of this bill by raising the offense from a first degree misdemeanor to a third degree felony.

There is currently a 16% to 22% clearance rate for all offenses statewide, which varies per offense. If 80% (n=2,973) of the 3,717 arrests for fraud in 1982 were for violations of the State Credit Card Crime Act, and applying a 20% clearance rate to the 2,973, the total number of offenders that could be handled judicially is 2,378. The acquittal and conviction rates given above could then be applied to this number to determine the actual number of persons placed in county jails, on probation or community control, or in the state prison system.

Under sentencing guidelines, persons acting independent of criminal organizations would not be subject to incarceration in the state correctional system, absent unusual circumstances. There would, however, be an increase in the number of persons placed on probation as a result of this bill (an unlikely occurrence), at a cost of \$1350 per person for a 30 month period, the total cost would be \$2,700,000. The offenders, however, are required to pay a monthly \$10 "cost of supervision" fee pursuant to chapter 948, F.S., while on probation. Statewide, approximately one-fifth of the funds for probation are paid through the collection of these fees. The total net cost for probation, minus the "cost of supervision" fees, would be \$2,100,000.

For those few persons for whom the sentencing guidelines would recommend a short period of incarceration in state facilities, an option of placement on community control is available to the court. As this is generally a nonviolent offense, it is likely that the option would be exercised.

Law enforcement investigators have predicted that the majority of the offenses are in fact committed by a small number of criminal organizations. As to those persons, it is likely that prosecution would proceed under the Racketeer Influenced and Corruption Organization Act (RICO) pursuant to s. 895.01, F.S., and those convictions would result in incarceration. However, RICO prosecutions are generally accompanied by civil proceedings also instituted under the RICO Act which could result in substantial monetary recovery by the state.

It should be noted that the foregoing does not include factors which may have a substantial impact upon other agencies and businesses. There may be increased costs to law enforcement agencies including county jails, the state attorneys' offices, the judicial system, and the credit card issuing centers in the investigation and prosecution of credit card offenders. Moreover, this analysis does not include those persons who would now be prosecuted that would not be under current law. Information pertaining to certain portions of this bill is not obtainable at this time.

III. COMMENTS

In making all violations of ss. 817.61 and 817.62(2) felonies of the third degree the bill would eliminate monetary limits above which the crimes are currently felonies and below which they are misdemeanors.

Section 817.646, which this bill would create, makes it a felony to transfer to a third party a list, or portion of a list, of credit card subscribers, their addresses, and their account numbers without permission. The language would seem to require that the subscribers, addresses and account numbers must all appear on the list for a violation of the section to occur. Thus, it would be a felony to transfer without permission a list containing all three types of information, but no violation at all if only one or two of the types of information are transferred.

IV. AMENDMENTS

Prepared by: Scott Ballard  
Scott Ballard

Fiscal Impact by: Marie Mattox-Shelfer  
Marie Mattox-Shelfer

Staff Director: J. Thomas Wright  
J. Thomas Wright

presumption of service connection for the occurrence of certain diseases among veterans who served in Vietnam, when such diseases are related to exposure to phenoxy herbicides or other environmental hazards or conditions encountered during the Vietnam conflict.

—was withdrawn from the Committee on Rules & Calendar, read the second time in full, adopted, and under the rule immediately certified to the Senate

**HB 75**—A bill to be entitled An act relating to crimes; creating s 784.08, F S., providing separate criminal penalties for injuries resulting from arson or the unlawful discharge of a destructive device or bomb, providing an effective date

—was read the second time by title and, under Rule 8 19, referred to the Engrossing Clerk

**HB 213**—A bill to be entitled An act relating to state property, amending s 287.025, F S., allowing insurance for loss of rental income on buildings when otherwise authorized by law, authorizing excess insurance to cover loss for physical damage on certain properties when the aggregate exposure or actual cash value exceeds a specified amount; providing an effective date

—was read the second time by title and, under Rule 8 19, referred to the Engrossing Clerk

By the Committee on Commerce and Representatives Gustafson and Thompson—

**CS/HB 319**—A bill to be entitled An act relating to insurance; amending s. 627.727, F S., providing that uninsured motorist coverage is over and above any motor vehicle liability coverage, prohibiting setoffs, limiting applicability to policies insuring specific vehicles, requiring coverage to be provided in renewal or replacement policies with different bodily injury liability limits, requiring rejections to be on forms approved by the Insurance Commission with certain disclosures, changing the maximum limits of coverage that must be offered, deleting the requirement that an insurer make available excess underinsured motor vehicle coverage; providing an effective date

—was read the first time by title. On motion by Rep Thompson, the rules were waived and the bill was read the second time by title. Under Rule 8 19, the bill was referred to the Engrossing Clerk

**HB 36**—A bill to be entitled An act relating to fraudulent practices; adding subsection (3) to s 817 36, Florida Statutes, prohibiting the fraudulent creation of admission tickets and tokens; providing a penalty; amending s. 817 58 (2), Florida Statutes, and adding subsection (7) thereto, redefining the term "credit card" and defining the term "counterfeit credit card" for the purposes of the State Credit Card Crime Act, amending s 817 60 (6) (a) and (b), Florida Statutes, prohibiting persons from falsely altering a purported credit card; providing that possession of one or more items defined as "counterfeit credit cards" is prima facie evidence of intent to fraudulently use or counterfeit a credit card, providing a penalty, providing an exception, amending ss 817 60 (1), (2), (3), (4), and (7), 817 61, 817 62 (2), 817 64, and 817 645, Florida Statutes, increasing to a third degree felony the penalty for certain crimes relating to credit cards, creating s 817 646, Florida Statutes, providing that it is unlawful for certain persons to make credit card account lists or portions thereof available to third parties, providing exceptions, providing a penalty, providing an effective date.

—was read the second time by title.

The committee on Criminal Justice offered the following amendment

**Amendment 1**—On page 8, line 4, insert Notwithstanding the provisions of this section, it shall be lawful for any corporation to make available, lend, donate, or sell any list or portion of a list of

any credit card subscribers, their addresses, and their account numbers, to any subsidiary or parent corporation of such corporation, or to any other subsidiary of the common parent corporation

Rep Shelley moved the adoption of the amendment, which was adopted without objection

The Committee on Criminal Justice offered the following amendment:

**Amendment 2**—On page 7, line 31, strike "credit"

Rep Shelley moved the adoption of the amendment, which was adopted without objection. Under Rule 8 19, the bill was referred to the Engrossing Clerk

On motions by Rep Gardner, without objection—

**HR 434**—A resolution commending the Titusville High School volleyball team for winning the 1983 Florida AAA State Volleyball Championship

WHEREAS, the Titusville High School Terriers compiled a record of 25 wins and 2 losses during the 1983-1984 season, and

WHEREAS, the Titusville High School volleyball team defeated the Fort Lauderdale Cardinal Gibbons volleyball team in the State AAA Championship Games, and

WHEREAS, The City of Titusville, Brevard County, and the Brevard County School District have been honored by the outstanding accomplishments of the Titusville Terriers, NOW, THEREFORE,

*Be It Resolved by the House of Representatives of the State of Florida.*

That the House of Representatives of the State of Florida hereby congratulates and commends the Titusville High School Terriers volleyball team for winning the 1983 State AAA Volleyball Championship.

BE IT FURTHER RESOLVED that Principal Kenneth Gaslin, Head Coach Laura Dixon, Junior Varsity Coach Lisa Biegler, and players Melanie Barna, Patricia Blum, Teresa Corbett, Kathryn Forbes, Kristen Goff, Alicia Harvey, Janet McCrary, Kimberly Nyul, Martha Ryans, Andrea Swartz, Carmellia Shivers, and Kelly Tobin are recognized and acclaimed as the 1983 Florida AAA State Volleyball Champions

BE IT FURTHER RESOLVED that a copy of this resolution be presented to each of the individuals named above as a tangible token of the sentiments expressed herein

—was withdrawn from the Committee on Rules & Calendar, read the second time in full and adopted

On motions by Rep Gardner, without objection—

**HR 407**—A resolution commending the Titusville High School football team for winning the 1983 Florida AAA State Championship

WHEREAS, the Titusville High School Terriers compiled a record of 12 wins and 2 losses during the 1983-1984 season, and

WHEREAS, the Titusville High School football team defeated the Palatka football team in the State AAA Championship Game, and

WHEREAS, the Titusville Terriers have now been Florida AAA State Champion for the second consecutive year, and

WHEREAS, the City of Titusville, Brevard County, and the Brevard County School District have been honored by the outstanding accomplishments of the Titusville Terriers, NOW, THEREFORE,

*Be It Resolved by the House of Representatives of the State of Florida.*

That Principal Kenneth Gaslin, Head Coach Al Werneke, Assistant Coaches Mike Dickey, Dan Diesel, Gerald Mulligan, McArthur Shivers, Dale Mays, and Norman Harris, and players Keith Annu-

Sansom	Smith	Tobiasen	Weinstock
Selph	Spaet	Tobin	Wetherell
Shelley	Stewart	Upchurch	Williams
Silver	Thomas	Wallace	Woodruff
Simon	Thompson	Watt	Young
Simone	Titone	Webster	

## Nays—None

So the bill passed, as amended, and was certified to the Senate.

**HB 36**—A bill to be entitled An act relating to fraudulent practices, adding subsection (3) to s 817.36, Florida Statutes, prohibiting the fraudulent creation of admission tickets and tokens, providing a penalty, amending s. 817.58 (2), Florida Statutes, and adding subsection (7) thereto, redefining the term "credit card" and defining the term "counterfeit credit card" for the purposes of the State Credit Card Crime Act, amending s 817.60 (6) (a) and (b), Florida Statutes, prohibiting persons from falsely altering a purported credit card, providing that possession of one or more items defined as "counterfeit credit cards" is prima facie evidence of intent to fraudulently use or counterfeit a credit card; providing a penalty, providing an exception; amending ss 817.60 (1), (2), (3), (4), and (7), 817.61, 817.62 (2), 817.64, and 817.645, Florida Statutes, increasing to a third degree felony the penalty for certain crimes relating to credit cards, creating s 817.646, Florida Statutes, providing that it is unlawful for certain persons to make credit card account lists or portions thereof available to third parties; providing exceptions; providing a penalty, providing an effective date

—was read the third time by title On passage, the vote was:

## Yeas—109

The Chair	Drage	Kutun	Sample
Abrams	Dudley	Lawson	Sanderson
Armstrong	Dunbar	Lewis	Sansom
Arnold	Easley	Libert	Selph
Bailey	Evans-Jones	Lippman	Shackelford
Bass	Figg	Locke	Shelley
Bell	Friedman	Mackenzie	Silver
Brantley	Gallagher	Martin	Simon
Bronson	Gardner	Martinez	Simone
Brown, C	Gordon	McEwan	Spaet
Brown, T C	Grant	Meffert	Stewart
Burke	Grindie	Messersmith	Thomas
Burnsed	Gustafson	Metcalf	Thompson
Burrall	Hargrett	Mills	Titone
Carlton	Harris	Mitchell	Tobiasen
Carpenter	Hawkins, L R.	Morgan	Tobin
Casas	Hazouri	Murphy	Upchurch
Clark	Healey	Nergard	Wallace
Clements	Hill	Pajcic	Watt
Combee	Hodges	Patchett	Webster
Cortina	Hollingsworth	Peeples	Weinstock
Cosgrove	Jamerson	Press	Wetherell
Crady	Johnson, B L	Ready	Williams
Crotty	Johnson, R C	Reaves	Woodruff
Danson	Johnson, R M	Reddick	Young
Dantzler	Jones, C F	Richmond	
Davis	Jones, D L	Robinson	
Deutsch	Kelly	Rochlin	

## Nays—None

So the bill passed, as amended, and was certified to the Senate

## Motions Relating to Committee References

On point of order by Rep. Morgan, Chairman, that they do not affect appropriations, the following bills were withdrawn from the Committee on Appropriations and placed on the Calendar. HBs 178, 317, 359, 87, 384, 857, CS/HB 56, CS/HB 727

On motion by Rep Bell, without objection, the rules were waived and CS/HB 727 was placed on the Special Order Calendar immediately following CS/HB 795

On motion by Rep Gustafson, Chairman, without objection, HB 1094 was withdrawn from the Committee on Transportation Subsequently, on motion by Rep Martinez, Chairman, and without objection, the bill was referred to the Committee on Criminal Justice and remains referred to the Committees on Finance & Taxation and Appropriations.

## Special Orders

**HB 1046**—A bill to be entitled An act relating to adult congregate living facilities; amending ss 400.402 and 400.441, F.S.; providing a definition; limiting the use of mechanical restraints in licensed facilities, providing an effective date

—was taken up, having been read the second time on April 13 and further consideration temporarily deferred with the bill remaining on second reading, by waiver of the rules

Representatives Gordon and Dunbar offered the following amendment

**Amendment 1**—On page 1, line 21, after "purpose." insert: *The term shall not include bandage material used for the purpose of binding a wound or injury*

Rep Gordon moved the adoption of the amendment, which was adopted

Representative Spaet offered the following amendment.

**Amendment 2**—On page 1, line 19, strike "*such as a linen material*"

Rep. Spaet moved the adoption of the amendment, which was adopted without objection Under Rule 8 19, the bill was referred to the Engrossing Clerk

By the Committee on Judiciary and Representatives Pajcic and Cosgrove—

**CS/HB 173**—A bill to be entitled An act relating to child support enforcement, amending s. 409.2571, F.S., and creating s. 409.2573, F.S., requiring service of certain process by the sheriff in certain actions under the child support enforcement program, authorizing certain reimbursement to the sheriff for such services, providing an effective date

—was read the first time by title. On motion by Rep Pajcic, the rules were waived and the bill was read the second time by title

Representative Dunbar offered the following amendment.

**Amendment 1**—On page 2, line 1, strike all of said line and insert: *this act, shall be bid and served by private process servers in the county where*

Rep. Dunbar moved the adoption of the amendment, which failed of adoption.

Representative Drage offered the following amendment:

**Amendment 2**—On page 2, line 1, after the word "*sheriff*" insert: *or by private process servers*

Rep Drage moved the adoption of the amendment Rep. Meffert moved to lay the amendment on the table, which was not agreed to The question recurred on the adoption of the amendment, which failed of adoption The vote was

## Yeas—35

Bankhead	Burrall	Combee	Crotty
Brantley	Casas	Cortina	Danson

SENATE STAFF ANALYSIS AND ECONOMIC IMPACT STATEMENT

<u>ANALYST</u>	<u>STAFF DIRECTOR</u>	<u>REFERENCE</u>	<u>ACTION</u>
1. <u>Duqger</u> <i>D.D.</i>	<u>Liepshutz</u> <i>MLL</i>	1. <u>JCR</u>	_____
2. _____	_____	2. <u>AP</u>	_____
3. _____	_____	3. _____	_____

SUBJECT:

Fraudulent Practices

BILL NO. AND SPONSOR:

HB 36 by  
Rep. Shelley

**COPY**

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DEPARTMENT OF STATE  
R A GRAY BUILDING  
Tallahassee, FL 32399-0250  
Series 10 Carton 1391

I. SUMMARY:

A. Present Situation:

Anyone, except travel agencies, who offers for sale or who sells certain admission tickets \$1 above the price charged by the original seller is guilty of a second degree misdemeanor. Section 817.36, Florida Statutes.

The "State Credit Card Crime Act," which is found in section 817.57 - 817.68, F.S., prohibits theft, forgery, and certain fraudulent uses of credit cards. Although it defines "credit card," it does not define "counterfeit credit card." The Act sets up a presumption that possession of 2 or more credit cards falsely made or embossed is credit card forgery. It also provides for 11 first degree misdemeanor credit card offenses and 6 third degree felony credit card offenses.

B. Effect of Proposed Changes:

HB 36 would make it a third degree felony offense for anyone to counterfeit, forge, alter, or possess, with intent to defraud, certain admission tickets into concerts, amusement facilities, sporting events, and other such activities.

The bill would include in the definition of "credit card" any bank service card, banking card, check guarantee card, or debit card for use in automatic banking devices to obtain any of the offered services.

The bill would also add "counterfeit credit card" to the existing definitions. It would mean any object manufactured, without authorization, to resemble, duplicate, counterfeit, or replace a credit card, and which may or may not be embossed with account information, or a company logo.

Forgery of credit cards, a third degree felony, would include falsely altering in any manner a purported credit card, if the requisite fraudulent intent existed. Possession of one or more counterfeit credit cards by unauthorized persons would be prima facie evidence of intent to fraudulently use or counterfeit a credit card and would be punished as a third degree felony.

The bill would increase 9 current first degree misdemeanor offenses to third degree felony offenses. These would include: theft by taking or retaining possession of a credit card illegally taken; theft of a credit card which is lost, mislaid, or delivered by mistake; purchase or sale of a credit card belonging to another; obtaining control of a credit card as security for a debt; signing the credit card of another; fraudulent use of a credit card; misrepresentation to the issuer; receipt of money, goods, services obtained by



fraudulent use of a credit card; and alteration of a credit card invoice.

Finally, HB 36 would make it a third degree felony for any person, business, corporation, partnership, or other agency to make available, lend, donate, or sell a list or any portion of a list of any credit card subscribers, their addresses, and their account numbers to third parties without the express written permission of the issuer and subscriber. This prohibition would exclude credit card issuers who make such information on its own card holders available to third parties pursuant to contract, if the contract requires the third parties to prohibit their subcontractors from revealing the list except if necessary to service orders according to the original contract. It would also allow a corporation to make available, lend, or sell any such lists to any subsidiary or parent corporation. In addition, consumer reporting agencies and debt collectors could provide such lists to third parties according to the provisions of the Federal Fair Credit Reporting Act.

II. ECONOMIC IMPACT AND FISCAL NOTE:

A. Public:

None.

B. Government:

The Department of Corrections made the following estimates based on information gathered from several banks, judicial circuits, credit card companies, and professional associations:

1. There are approximately 9.4 million credit cards in use in Florida.
2. The fraud rate is estimated at .35%, thus resulting in a potential of 32,900 reported credit card frauds annually.
3. By applying a clearance rate of 16%, which is about the equivalent for burglary, there could be an estimated 5,264 credit card fraud cases before the courts annually.
4. Based on analysis of court data relating to misdemeanor cases, it is estimated that 3,737 offenders could be disposed of by 1,121 going to county jail; 1,943 going to state supervised probation; and 673 going to state prison. Therefore, the Department estimates that the total fiscal impact of SB 345 through FY 1986 - 1987 would be \$49,634,583, which includes the costs associated with new prison admissions and with probation admissions. However, this figure does not include the costs that would be incurred by county jails, which is unknown.

However, recent fiscal information provided by the House Appropriations' staff indicates that the fiscal impact of this bill is as follows: (This language is taken verbatim from the House Appropriations' fiscal note.)

By increasing the penalties for credit card offenses and counterfeiting of admission tickets from first degree misdemeanors to third degree felonies, there could be significant fiscal impacts associated with this bill on the Department of Corrections.

The third degree felonies in this bill would result in sentences to probation or community control.

Previously, the penalties would have been fines or sentencing to a county jail. Data is generally not available on the number of misdemeanors which would become felonies under this legislation.

In the area of counterfeit credit cards, law enforcement officials estimate approximately 100 cases per year would be sentenced to probation. This would require three positions and associated costs as described below.

Due to the lack of information, the fiscal impacts on the remaining portions of the bill cannot be estimated.

<u>Non-Recurring or First Year Start-up Effects</u>	<u>1984-85</u>	<u>1985-86</u>
Operating Capital Outlay	\$ 3,871	
 <u>Recurring or Annualized Continuation Effects</u>		
Salaries & Benefits (3 FTE):	\$36,169	\$48,225
2 Probation & Parole Officers		
1 Clerk Typist III		
Expenses	<u>6,420</u>	<u>8,560</u>
Total	\$46,460	\$56,785
 <u>Long Run Effects other than Normal Growth</u>		
None		
 <u>Appropriations Consequences</u>		
General Revenue	\$46,460	\$56,785

III. COMMENTS:

The use of "and" instead of "or" in the sentence that prohibits certain persons from making available any list or portion of a list of any credit card subscribers, their addresses, and their account numbers to third parties without permission seems to require that all 3 items have to appear on a list before a violation would occur.

Staff recommends that a severability clause be added to this bill because of its fairly comprehensive nature. While appellate courts will sever provisions of an act without regard to the actual existence of such clause, it could prove helpful to the prosecution at the trial level.

SB 345 as amended is almost identical to HB 36. SB 345 was passed favorably with 4 amendments by the Judiciary-Criminal Committee on April 17, 1984.

IV. AMENDMENTS:

None.

By Representative Cosgrove

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A bill to be entitled

An act relating to fraudulent practices;  
creating s. 817.564, F.S., providing certain  
preconditions to the issuance or sale or offer  
for issuance or sale of identification cards;  
providing a penalty for violation; providing an  
effective date.

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

Section 1. Section 817.564, Florida Statutes, is  
created to read:

817.564 Production, sale, or distribution of false  
identification cards prohibited; penalty--

(1) It shall be unlawful for any person, except a  
governmental agency or instrumentality, to sell or issue or to  
offer to sell or issue in this state any identification card  
or document purporting to contain the age or date of birth of  
the person in whose name it was issued, unless:

(a) Prior to selling or issuing such card or document,  
the person has first obtained from the applicant and retains  
for a period of 3 years from the date of sale:

1. An authenticated or certified copy of proof of age  
as provided in s. 232.03; and

2. A notarized affidavit from the applicant attesting  
to his or her age and that the proof-of-age documents required  
by subparagraph (1)(a)1. are for such applicant.

(b) Prior to offering to sell such cards in this  
state, the person has included in any offer for sale of  
identification cards or documents that such cards cannot be

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1	sold or issued without the applicant first submitting the	1 19
2	documents required by paragraph (1)(a).	1.20
3	(c) The identification card or document contains the	1 20
4	business name and street address of the person selling or	1 21
5	issuing such card or document.	
6	(2) For purposes of this section, "offer to sell"	1 22
7	shall include every inducement, solicitation, attempt, or	1.23
8	printed or media advertisement to encourage a person to	
9	purchase an identification card.	1.24
10	(3) All records required to be maintained by this	1.25
11	section shall be available for inspection without warrant upon	1.26
12	reasonable demand by any law enforcement officer, including,	
13	but not limited to, state attorney investigators and Division	1 27
14	of Alcoholic Beverages and Tobacco investigators.	1.28
15	(4) Any person violating the provisions of this	1.28
16	section shall be guilty of a felony of the third degree,	1.29
17	punishable as provided in s. 775.082, s. 775.083, or s	
18	775.084. Failure to produce the documents required by	1.30
19	subsection (1), upon lawful request therefor, shall be prima	1.31
20	facie evidence of a violation of this section.	
21	(5) The state attorney for any county in which a	1 32
22	violation of this section occurs or the Attorney General may	1.33
23	enjoin any sale or offer for sale in violation of this section	
24	by temporary and permanent injunction by application to any	1.34
25	court of competent jurisdiction.	1.35
26	Section 2. This act shall take effect October 1, 1984.	1.35
27	HOUSE SUMMARY	
28	Prohibits issuance or sale, or offer of issuance or sale,	
29	of identification cards by any person other than a	
30	governmental agency or instrumentality unless certain	
31	documents are obtained pursuant to application, certain	
	records are maintained, and certain advertising	
	requirements are met. Violation is a third-degree	
	felony	

# Bill Analysis



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Tallahassee, FL 32399-0250

## FLORIDA HOUSE OF REPRESENTATIVES

H. Lee Moffitt, Speaker Steve Fajic, Speaker pro tempore  
Committee on Criminal Justice

Series 18 Carton 1322-  
19-1345

Elvin L. Martinez  
Chairman  
Harold W. Spant  
Vice Chairman

HB 1069 by Rep. Cosgrove  
relating to fraudulent practices;  
false identification cards

DATE: April 13, 1984

REVISED: \_\_\_\_\_

OTHER COMMITTEES OF REFERENCE:  
Appropriations

REVISED: \_\_\_\_\_

SENATE BILL: \_\_\_\_\_

### I. SUMMARY

#### A. PRESENT SITUATION:

There is no provision in current law relating to the production, sale, or distribution of false identification cards by persons other than governmental entities.

#### B. EFFECT OF PROPOSED CHANGES:

Section 817.564 is created to prohibit the sale or issuance of identification cards or documents within the state unless certain preconditions are satisfied. "Offer to sell" includes inducements, solicitations, attempts, or printed or media advertisements utilized to encourage a person to purchase an identification card. Records required to be maintained by this section would be available for inspection without warrant upon reasonable demand by any law enforcement officer. A violation of this section would be punishable as a felony of the third degree.

### II. FISCAL IMPACT

None apparent.

### III. COMMENTS

The provisions of this bill may be difficult to enforce due to the fact that many identification cards are issued by organizations or individuals located out of this state.

### IV. AMENDMENTS

Prepared by:

Marie A. Mattox  
Marie A. Mattox

Staff Director:

J. Thomas Wright  
J. Thomas Wright