

CS/SB 102 by **TR, Diaz de la Portilla (CO-INTRODUCERS) Garcia, Evers;** (Similar to H 0055) Drivers Leaving the Scene of a Crash

SB 298 by **Soto;** (Compare to H 0265) Booking Photographs

179128	D	S	RCS	CJ, Smith	Delete everything after	02/03 05:28 PM
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SB 424 by **Lee (CO-INTRODUCERS) Latvala;** (Similar to H 0255) Discriminatory Insurance Practices

554246	A	S	FAV	BI, Lee	btw L.77 - 78:	01/14 04:20 PM
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SB 544 by **Simpson (CO-INTRODUCERS) Latvala, Bean, Benacquisto, Hays, Brandes, Bradley;** (Similar to H 0523) Licensure to Carry a Concealed Weapon or Firearm

SB 546 by **Simpson (CO-INTRODUCERS) Bean, Bradley;** (Similar to H 0525) Public Records/Personal Identifying Information/License to Carry a Concealed Weapon or Firearm

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

CRIMINAL JUSTICE
Senator Evers, Chair
Senator Smith, Vice Chair

MEETING DATE: Monday, February 3, 2014
TIME: 4:00 —4:45 p.m.
PLACE: Mallory Horne Committee Room, 37 Senate Office Building

MEMBERS: Senator Evers, Chair; Senator Smith, Vice Chair; Senators Altman, Bradley, Dean, Gibson, and Simmons

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 102 Transportation / Diaz de la Portilla (Similar H 55, H 183)	Drivers Leaving the Scene of a Crash; Creating the "Aaron Cohen Life Protection Act"; requiring the driver of a vehicle involved in a crash that results in serious bodily injury to a person to immediately stop the vehicle and remain at the scene of the crash; providing that a person commits a felony of the second degree if he or she fails to stop the vehicle and remain at the scene of the crash until specified requirements are fulfilled; requiring the court to revoke for at least 3 years the driver license of a person convicted of leaving the scene of a crash involving injury, serious bodily injury, or death, etc. TR 01/09/2014 Fav/CS CJ 02/03/2014 Favorable ATD AP	Favorable Yeas 6 Nays 0
2	SB 298 Soto (Compare H 265)	Booking Photographs; Prohibiting an individual or business entity from soliciting, charging, or collecting compensation for the removal of a booking photograph or other information related to a criminal charge or conviction from the Internet or other public medium; requiring an individual or business entity that publishes booking photographs or criminal record information on an Internet website or other public medium to provide certain contact information, etc. CJ 02/03/2014 Fav/CS CM RC	Fav/CS Yeas 6 Nays 0
3	SB 424 Lee (Similar H 255)	Discriminatory Insurance Practices; Providing that unfair discrimination on the basis of gun ownership in the provision of personal lines property or personal lines automobile insurance is a discriminatory insurance practice, etc. BI 01/14/2014 Fav/2 Amendments CJ 02/03/2014 Fav/CS AP	Fav/CS Yeas 5 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Criminal Justice

Monday, February 3, 2014, 4:00 —4:45 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 544 Simpson (Similar H 523, Compare H 525, Link S 546)	Licensure to Carry a Concealed Weapon or Firearm; Authorizing an applicant for a license to carry a concealed weapon or firearm to submit the application to an appointed tax collector; authorizing the Department of Agriculture and Consumer Services to appoint tax collectors to accept applications for new or renewal licenses to carry a concealed weapon or firearm on behalf of the Division of Licensing of the Department of Agriculture and Consumer Services, etc. CJ 02/03/2014 Favorable AG CA	Favorable Yeas 6 Nays 0
5	SB 546 Simpson (Similar H 525, Compare H 523, Link S 544)	Public Records/Personal Identifying Information/License to Carry a Concealed Weapon or Firearm; Creating an exemption from public records requirements for certain personal identifying information held by the tax collector when an individual applies for a license to carry a concealed weapon or firearm pursuant to specified provisions; providing for retroactive application of the exemption; providing for disclosure of such information under specified conditions; providing for review and repeal of the exemption; providing a statement of public necessity, etc. CJ 02/03/2014 Favorable GO RC	Favorable Yeas 6 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 102

INTRODUCER: Transportation Committee and Senator Diaz de la Portilla and others

SUBJECT: Drivers Leaving the Scene of a Crash

DATE: January 17, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Price	Eichin	TR	Fav/CS
2.	Dugger	Cannon	CJ	Favorable
3.			ATD	
4.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 102 creates the “Aaron Cohen Life Protection Act.” The bill addresses a perceived or potential incentive in current law to leave the scene of a crash by:

- Punishing leaving the scene of a crash resulting in serious bodily injury to a person as a second degree felony, rather than a third degree felony;
- Imposing a mandatory minimum term of imprisonment of four years for a driver convicted of leaving the scene of a crash resulting in the death of a person;
- Increasing the mandatory minimum term of imprisonment from two to four years for a person convicted of leaving the scene of a crash resulting in the death of a person while driving under the influence (DUI);
- Imposing a minimum driver license revocation period of at least three years and driver education requirements for leaving the scene of a crash;
- Ranking offenses for leaving the scene of a crash one level higher than specified in the Criminal Punishment Code if the victim of the offense was a “vulnerable road user” (if no serious injury occurs, a Level 5 offense becomes a Level 6 offense; if there is serious injury, a Level 6 offense becomes a Level 7 offense; and if death occurs, a Level 7 offense becomes a Level 8 offense);
- Authorizing a defendant to move to depart from the mandatory minimum term of imprisonment for leaving the scene of a crash resulting in death, unless the violation was committed while the defendant was DUI; authorizing the state to object; and authorizing a

court to grant the motion, the basis for which must be stated in open court, upon a finding that imposition of the mandatory minimum would constitute or result in an injustice.

II. Present Situation:

Aaron Cohen was an experienced cyclist and avid runner who was 36 years old when, on February 15, 2012, he was struck and killed in a hit-and-run accident on the Rickenbacker Causeway, which leads to Key Biscayne in Miami-Dade County.¹

The driver of the vehicle that struck Aaron Cohen, Michel Traverso, fled the scene of the accident and eventually turned himself in the following day. Aaron eventually died as a result of his injuries, leaving behind a wife and two young children.

Evidence in Traverso's prosecution later showed that he'd been at a local bar before getting behind the wheel of his car that morning ... However prosecutors had no direct evidence that Traverso was actually intoxicated at the time his vehicle struck Aaron Cohen, which would have been necessary for a DUI manslaughter prosecution.

Traverso eventually pled guilty to violating Florida's leaving the scene of an accident (LSA) law, and was sentenced to 21 months in jail.²

Leaving the Scene of a Crash

Section 316.027, F.S., requires the driver of a vehicle involved in a crash occurring on public or private property and resulting in injury to or death of a person to immediately stop the vehicle at the scene of the crash, or as close thereto as possible, and remain at the scene until the driver fulfills the requirements of s. 316.062, F.S.

Section 316.062, F.S., requires the driver of any vehicle involved in a crash resulting in injury to or death of any person or damage to any vehicle or other property driven or attended by any person to:

- Give his or her name, address, and vehicle registration number;
- Provide a driver's license, upon request and if available, to any person injured in the crash or to the driver or occupant of or person attending any vehicle or other property damaged in the crash;
- Provide a driver's license, upon request, to any police officer at the scene or who is investigating the crash;
- Render to any injured person reasonable assistance, including the carrying, or the making of arrangements for the carrying, of such person to a physician, surgeon, or hospital for medical or surgical treatment if it is apparent that treatment is necessary, or if such carrying is requested by the injured person; and

¹ SR 932 (2013 Reg. Session).

² <http://aaroncohenlaw.org/?page/114045/read-this---the-lsa-gap-in-florida>; Last visited December 17, 2013.

- Having stopped and remained at the scene to provide the required information, if none of the persons identified are able to receive the information, report the crash to the nearest police authority and submit the required information.

Injury

For crashes resulting in injury to a person, a driver found in willful violation of s. 316.027, F.S., commits a third degree felony punishable by a term of imprisonment not exceeding five years,³ a possible additional fine not exceeding \$5,000,⁴ or imposition under certain circumstances of an extended term of imprisonment for habitual felony offenders, habitual violent felony offenders, three-time felony offenders, and violent career criminals.⁵ Proof that the driver caused or contributed to causing injury to a person is not required for a conviction.⁶

Death

For crashes resulting in the death of a person, a driver found in willful violation commits a first degree felony punishable by a term of imprisonment up to 30 years,⁷ a possible additional fine up to \$10,000,⁸ or imposition of an extended term of imprisonment under certain circumstances for certain offenders.⁹ Again, proof that the driver caused or contributed to causing the death of a person is not required for a conviction, and current law reflects no mandatory minimum sentence for these violations.

However, a driver must be sentenced to a mandatory minimum term of imprisonment of two years if the violation occurs while driving under the influence of alcoholic beverages, certain chemical substances, or certain controlled substances when affected to the extent that the person's normal faculties are impaired, or when the person has a 0.08 blood- or breath-alcohol level.¹⁰

The Department of Highway Safety and Motor Vehicles (DHSMV) is required to revoke the driver's license of a person convicted of a violation of s. 316.027, F.S. Further, with respect to a crash involving death or a bodily injury requiring transport to a medical facility, a convicted driver must also attend a driver improvement course approved by the DHSMV to maintain driving privileges.¹¹ If a crash causes or results in the death of another person, the convicted person may also be required by the court to serve 120 community service hours in a trauma center or hospital that regularly receives victims of vehicle accidents.

³ Section 775.082, F.S.

⁴ Section 775.083, F.S.

⁵ Section 775.084, F.S.

⁶ See *Lawrence v. State*, 801 So.2d 293, 295 (Fla. 2d DCA 2001) and *Kelly v. State*, 987 So.2d 1237, 1239 (Fla. 2d DCA 2008).

⁷ Section 775.082, F.S.

⁸ Section 775.083, F.S.

⁹ Section 775.084, F.S.

¹⁰ Section 316.193(1), F.S.

¹¹ Section 322.0261, F.S.

Fleeing or Attempting to Elude a Law Enforcement Officer

Under s. 316.1935, F.S., any person who

- In the course of unlawfully leaving or attempting to leave the scene of a crash in violation of ss. 316.027 and 316.062, F.S.;
- Having knowledge of an order to stop by a law enforcement officer;
- Willfully refuses or fails to stop or, having stopped in knowing compliance, willfully flees in an attempt to elude the officer; and
- As a result of such fleeing or eluding:
 - *Causes injury to another person or damage to another's property* commits aggravated fleeing or eluding, a second degree felony, punishable by a term of imprisonment up to 15 years,¹² a possible additional fine up to \$10,000,¹³ or imposition of an extended term of imprisonment under certain circumstances for certain offenders;¹⁴ or
 - *Causes serious bodily injury or death to another person*, including any law enforcement officer involved in attempting to stop the person's vehicle, commits aggravated fleeing or eluding with serious bodily injury or death, a first degree felony, punishable by a term of imprisonment up to 30 years,¹⁵ a possible additional fine up to \$10,000,¹⁶ or imposition of an extended term of imprisonment under certain circumstances for certain offenders.¹⁷

In both cases, a person may also be charged with the offenses under ss. 316.027 and 316.062, F.S., relating to unlawfully leaving the scene of a crash. A court is required to sentence any person convicted of committing aggravated fleeing or eluding *with serious bodily injury or death* to a mandatory minimum sentence of 3 years imprisonment.

Driving Under the Influence

Section 316.193(1), F.S., provides a person is guilty of driving under the influence when that person is driving a vehicle under the influence of alcoholic beverages, certain chemical substances, or certain controlled substances when affected to the extent that the person's normal faculties are impaired, or when the person has a 0.08 blood- or breath-alcohol level.

Serious Bodily Injury

Any person under the influence as described above and who by reason of operating a vehicle *causes or contributes to causing serious bodily injury* to another,¹⁸ commits a third degree felony¹⁹ punishable by a term of imprisonment not exceeding five years,²⁰ a possible additional fine not exceeding \$5,000,²¹ or imposition under certain circumstances of an extended term of

¹² Section 775.082, F.S.

¹³ Section 775.083, F.S.

¹⁴ Section 775.084, F.S.

¹⁵ Section 775.082, F.S.

¹⁶ Section 775.083, F.S.

¹⁷ Section 775.084, F.S.

¹⁸ Defined to mean "an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ."

¹⁹ Section 316.193(3)(c)2., F.S.

²⁰ Section 775.082, F.S.

²¹ Section 775.083, F.S.

imprisonment for habitual felony offenders, habitual violent felony offenders, three-time felony offenders, and violent career criminals.²²

Death

Any person under the influence as described above and who by reason of operating a vehicle *causes or contributes to causing the death*²³ of any human being or unborn quick child commits a second degree felony and DUI manslaughter,²⁴ punishable by a term of imprisonment up to 15 years,²⁵ a possible additional fine up to \$10,000,²⁶ or imposition of an extended term of imprisonment under certain circumstances for certain offenders.²⁷

If, at the time of the crash, the person knew or should have known the crash occurred and the person failed to give information and render aid as required by s. 316.062, F.S., that person commits a first degree felony and DUI manslaughter, punishable by a term of imprisonment up to 30 years,²⁸ a possible additional fine up to \$10,000,²⁹ or imposition of an extended term of imprisonment under certain circumstances for certain offenders.³⁰

A person convicted of DUI manslaughter must serve a mandatory minimum term of imprisonment of four years.

Thus, in cases involving DUI and leaving the scene of a crash resulting in death, current law may provide an incentive to leave because the mandatory minimum sentence of four years for DUI manslaughter is avoided if a DUI charge is avoided by leaving the scene. A person driving DUI may also view an attempt to flee or elude in the process of leaving the scene as advantageous because, if successful in fleeing or eluding, a DUI charge is again avoided, and the mandatory minimum for fleeing and eluding is one year less than the mandatory minimum of four years for DUI manslaughter.

Driver License/Periods of Suspension or Revocation:

Section 322.28, F.S., provides for certain driver license suspension and revocation periods and, unless otherwise provided, subsection (1) limits the authority of the DHSMV to suspend or revoke a driver's license to one year. Thus, the revocation period for violations of s. 316.027, F.S., whether the crash resulted in injury or death (in the absence of DUI), is one year.

²² Section 775.084, F.S.

²³ See *Magaw v. State*, 537 So.2d 564, 567 (Fla. 1989): “[Under the DUI manslaughter statute,] the state is not required to prove that the operator’s drinking caused the accident. The statute requires only that the operation of the vehicle ... caused the accident.”

²⁴ Section 316.193(3)(c)3., F.S.

²⁵ Section 775.082, F.S.

²⁶ Section 775.083, F.S.

²⁷ Section 775.084, F.S.

²⁸ Section 775.082, F.S.

²⁹ Section 775.083, F.S.

³⁰ Section 775.084, F.S.

The revocation period for aggravated fleeing and eluding resulting in injury to another person, damage to the property of another person, or serious bodily injury or death to another person is not less than one year nor more than five years.³¹

Section 322.28(4), F.S., currently requires a court to revoke for a minimum of three years the driver license of a person convicted of DUI under s. 316.193(3)(c)2., F.S., who by vehicle operation *caused or contributed to causing serious bodily injury to another*, as defined in s. 316.1933, F.S. That section defines “serious bodily injury” to mean “an injury to any person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of any bodily member or organ.” If a conviction under s. 316.193(3)(c)2., F.S., involving serious bodily injury, also constitutes a previous conviction,³² the period of suspension or revocation graduates based on whether the offender has prior convictions/suspensions.³³ A court is required to permanently revoke the driver license of any person convicted of DUI manslaughter in violation of s. 316.193, F.S.

Thus, under current law, in cases involving DUI and leaving the scene of a crash resulting in death, while revocation of the driver’s license for violations under s. 316.027, F.S., and s. 316.193, F.S., is permanent, a person driving DUI may similarly view an attempt to flee or elude in the process of leaving the scene as advantageous because, if successful in fleeing or eluding, a DUI charge is avoided. The period of license revocation in such event would be not less than one year nor more than five, as opposed to permanent.

Criminal Punishment Code/Offense Severity Ranking Chart

The Criminal Punishment Code (Code)³⁴ is Florida’s framework or mechanism for determining permissible sentencing ranges for noncapital felonies. Noncapital felonies sentenced under the Code receive an offense severity level ranking (Levels 1-10). Points are assigned and accrue based upon the level ranking (sentence points escalate as the level escalates) assigned to the primary offense, additional offenses, and prior offenses. Points may be added or multiplied for other factors.

Total sentence points are entered into a mathematical calculation (specified in statute) to determine the lowest permissible sentence. The permissible sentencing range is generally the lowest permissible sentence scored up to and including the maximum penalty provided under s. 775.082, F.S., for the primary offense and any additional offenses before the court for sentencing. The court is permitted to impose sentences concurrently or consecutively.

The Code includes a list of ‘mitigating’ factors. If a mitigating factor is found by the sentencing court, the court may decrease an offender’s sentence below the lowest permissible sentence (a “downward departure”). A mandatory minimum term is not subject to these mitigating factors.³⁵

³¹ Section 316.1935(5), F.S.

³² See s. 322.28(2)(a) and (d), F.S.

³³ Section 322.28(2)(d), F.S. See also s. 322.26, F.S.

³⁴ Sections 921.002 - 921.0027, F.S.

³⁵ See *State v. Vanderhoff*, 14 So.3d 1185 (Fla. 5th DCA 2009).

Mandatory minimum terms impact Code sentencing. If the lowest permissible sentence is less than the mandatory minimum sentence, the mandatory minimum sentence takes precedence.³⁶

III. Effect of Proposed Changes:

The bill generally addresses the incentive in current law to leave the scene of a crash by imposing mandatory minimum sentences where none currently exist and, particularly, with respect to cases involving DUI and death, by increasing the penalty for leaving the scene.

Section 1 provides that the act may be cited as the “Aaron Cohen Life Protection Act.”

Section 2 amends s. 316.027, F.S., as follows:

- Creates a new subsection (1) and defines “serious bodily injury” as the term is currently defined in s. 316.1933, F.S., to mean an injury to a person, including the driver, which consists of a physical condition that creates a substantial risk of death, serious personal disfigurement, or protracted loss or impairment of the function of a bodily member or organ; and
- Defines “vulnerable road user” to mean:
 - A pedestrian, including a person actually engaged in work upon a highway, or in work upon utility facilities along a highway, or engaged in the provision of emergency services within the right-of-way;
 - A person operating a bicycle, motorcycle, scooter, or moped lawfully on the roadway;
 - A person riding an animal; or
 - A person lawfully operating on a public right-of-way, crosswalk, or shoulder of the roadway:
 - A farm tractor or similar vehicle designed primarily for farm use;
 - A skateboard, roller skates, in-line skates;
 - A horse-drawn carriage;
 - An electric personal assistive mobility device; or
 - A wheelchair.
- Revises the existing provisions requiring a person to stop and remain at the scene of a crash to address separately crashes resulting in injury to a person *other than serious bodily injury*, crashes resulting in serious bodily injury to a person, and crashes resulting in death of a person; and to impose punishment as follows:
 - Leaving the scene of a crash resulting in injury to a person other than serious bodily injury continues to be punished as a third degree felony.

³⁶ Rule 3.704(26) (“The Criminal Punishment Code”), Florida Rules of Criminal Procedure. A trafficking mandatory minimum term is a minimum sentencing ‘floor’ for the court and there is no prohibition to gain-time. If the court only sentences the defendant to the mandatory term specified by statute, the Department of Corrections (DOC) establishes an 85% minimum service date on the term and the offender is subject to s. 944.275(4)(b)3., F.S., which does not allow release prior to serving a minimum of 85% of the sentence. If the court imposes a sentence that exceeds the mandatory term specified by statute, the DOC establishes an 85% minimum service date on the sentence. *See Mastay v. McDonough*, 928 So.2d 512 (Fla. 1st DCA 2006) (Section 893.135, F.S., does not preclude earning gain-time during the mandatory term as long as it does not result in the prisoner’s release prior to serving a minimum of 85% of the sentence).

- Leaving the scene of a crash resulting in serious bodily injury to a person is punished as a second degree felony, as opposed to the current third degree.
- Leaving the scene of a crash resulting in the death of a person continues to be punished as a first degree felony, but a mandatory minimum term of imprisonment of four years is imposed.
- If the violation occurs while the driver is also DUI, the current mandatory minimum sentence is increased from two years to four years, the same as for DUI manslaughter.
- Requires a driver found in violation of leaving the scene of a crash involving injury, serious bodily injury, or death to:
 - Have his or her driver license revoked for a minimum of three years as provided in s. 322.28(4), F.S.,
 - Participate in a victim's impact panel session in a judicial circuit if such panel exists, and
 - Participate in a driver education course relating to the rights of vulnerable road users relative to vehicles on the roadway.
- Ranks offenses for leaving the scene of a crash one level higher than specified in the Code if the victim of the offense was a "vulnerable road user," resulting in higher total sentence points and a higher lowest permissible sentence (if no serious injury occurs, a Level 5 offense becomes a Level 6 offense; if there is serious injury, a Level 6 offense becomes a Level 7 offense; and if death occurs, a Level 7 offense becomes a Level 8 offense); and
- Allows a defendant to move to depart from the four-year mandatory minimum sentence for leaving the scene of a crash with a death, unless the defendant was driving DUI at the time of the violation; authorizes the state to object to the departure; allows the court to depart only if it finds that a factor, consideration, or circumstance clearly demonstrates that imposing the mandatory minimum term would constitute or result in an injustice; and requires the court to state the basis for granting a departure in open court.

The bill also makes technical and conforming changes to s. 316.027, F.S.

Section 3 amends s. 322.0261(2), F.S., to require the DHSMV to include in its approved driver improvement course curriculum instruction specifically addressing the rights of vulnerable road users relative to vehicles on the roadway.

Section 4 amends s. 322.28(4), F.S., to require a court to revoke the driver license of a person convicted of leaving the scene of a crash for the same period of time, a minimum of three years; and to incorporate the minimum revocation period into provisions directing the DHSMV to revoke the driver license for such period in the event the period of revocation was not specified by the court at the time of imposing sentence or within 30 days thereafter.

Section 5 reenacts s. 322.34(6), F.S., relating to driving while a driver license is suspended, revoked, canceled, or disqualified, to incorporate the amendment to s. 322.28, F.S., in a reference thereto, and makes a technical change.

Section 6 amends s. 921.0022, F.S., to revise the offense severity ranking chart to correct the cross reference to the appropriate subsection, paragraph, and description of s. 316.027, F.S., for

leaving the scene of a crash with injury *other than serious bodily injury*, which remains a Level 5 third degree felony; to include the second degree felony for a violation of leaving the scene of a crash involving serious bodily injury as a Level 6 offense; and to revise the cross reference to the offense of leaving the scene of a crash resulting in death, which remains a Level 7 first degree felony. As noted, if the victim is a “vulnerable road user,” offenses for leaving the scene of a crash are ranked one level higher.

Section 7 provides the act takes effect on July 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Indeterminate, except that the DHSMV advises the bill will require approximately 30 non-recurring system programming hours, the cost of which will be absorbed within existing resources.

The Criminal Justice Impact Conference (CJIC) met on January 30, 2014 and found that the bill's impact upon prison beds is also indeterminate. The Office of Economic and Demographic Research (EDR) stated that the proposed changes to s. 316.027, F.S., will increase both the felony degree and the offense severity level for leaving the scene of an accident involving serious bodily injury, but the percentage of cases that currently involve “serious” bodily injury is indeterminable. According to the EDR, incarceration rates and average sentence lengths for the current and proposed offenses related to leaving the scene of an accident involving serious bodily injury are as follows:

Incarceration rate for all 3rd degree, level 5 offenses	22.8%
Average sentence length for all 3rd degree, level 5 offenses	33.0 months
Incarceration rate for all 2nd degree, level 6 offenses	48.2%
Average sentence length for all 2nd degree, level 6 offenses	57.8 months

The EDR states that the differences in these two measures suggest that the proposed changes involving serious injury may result in additional prison admissions and in longer sentences for some offenders currently being sentenced to prison, but the lack of data to estimate these changes is what results in an indeterminate impact.

In addition, offenders currently sentenced under s. 316.027(1)(b), F.S., leaving the scene of an accident involving death, will be subject to a 4-year mandatory minimum sentence under the bill. However, the EDR said it is not possible to determine the percentage of current offenders who receive the 2-year mandatory minimum sentence for leaving the scene while DUI. The current average sentence length for all of the offenders in this offense is 91.9 months. Nearly 75% of these sentences are 48 months or longer suggesting that the impact from the bill will be limited, but the lack of data to estimate these changes also results in an indeterminate impact.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 316.027, 322.0261, 322.28, 322.34, and 921.0022.

IX. Additional Information:

- A. Committee Substitute – Statement of Substantial Changes:
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Transportation on January 9, 2014:

The CS differs from the original bill primarily as follows:

- Removes the three-year and seven-year mandatory minimum sentences for leaving the scene of a crash with injury or with serious bodily injury, respectively;
- Imposes a mandatory minimum sentence of four years for leaving the scene of a crash with a death, rather than ten years;
- Increases the mandatory minimum sentence for leaving the scene with a death while DUI from two to four years, the same as for DUI manslaughter;
- Provides for ranking one level higher than specified in the Code offenses for leaving the scene of a crash if the victim of the offense was a “vulnerable road user”; and allows a defendant to move for departure from the four-year mandatory minimum

sentence for leaving the scene with a death in the absence of DUI; authorizes the state to object; requires the court to state in open court the basis for granting such motion, upon a finding that a factor, consideration, or circumstance clearly demonstrates that imposing a mandatory minimum term of imprisonment would constitute or result in an injustice.

B. Amendments:

None.

By the Committee on Transportation; and Senators Diaz de la Portilla, Garcia, and Evers

596-00986-14

2014102c1

1 A bill to be entitled
 2 An act relating to drivers leaving the scene of a
 3 crash; creating the "Aaron Cohen Life Protection Act";
 4 amending s. 316.027, F.S.; redefining the term
 5 "serious bodily injury" and defining the term
 6 "vulnerable road user"; requiring the driver of a
 7 vehicle involved in a crash that results in serious
 8 bodily injury to a person to immediately stop the
 9 vehicle and remain at the scene of the crash;
 10 providing that a person commits a felony of the second
 11 degree if he or she fails to stop the vehicle and
 12 remain at the scene of the crash until specified
 13 requirements are fulfilled; requiring the court to
 14 impose a mandatory minimum term of imprisonment under
 15 certain circumstances; requiring the revocation of the
 16 driver's driver license; requiring the driver to
 17 participate in specified programs; providing for
 18 ranking of an offense committed if the victim of the
 19 offense was a vulnerable road user; authorizing the
 20 defendant to move to depart from the mandatory minimum
 21 term of imprisonment under certain circumstances;
 22 providing requirements and procedures for such
 23 departure; amending s. 322.0261, F.S.; requiring the
 24 Department of Highway Safety and Motor Vehicles to
 25 include in the curriculum of a certain driver
 26 improvement course instruction addressing the rights
 27 of vulnerable road users; amending s. 322.28, F.S.;
 28 requiring the court to revoke for at least 3 years the
 29 driver license of a person convicted of leaving the

Page 1 of 50

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

596-00986-14

2014102c1

30 scene of a crash involving injury, serious bodily
 31 injury, or death; reenacting and amending s.
 32 322.34(6), F.S., relating to driving while a driver
 33 license is suspended, revoked, canceled, or
 34 disqualified, to incorporate the amendment to s.
 35 322.28, F.S., in a reference thereto; amending s.
 36 921.0022, F.S.; revising the offense severity ranking
 37 chart; conforming a cross-reference; providing an
 38 effective date.
 39
 40 Be It Enacted by the Legislature of the State of Florida:
 41
 42 Section 1. This act may be cited as the "Aaron Cohen Life
 43 Protection Act."
 44 Section 2. Section 316.027, Florida Statutes, is amended to
 45 read:
 46 316.027 Crash involving death or personal injuries.—
 47 (1) As used in this section, the term:
 48 (a) "Serious bodily injury" means an injury to a person,
 49 including the driver, which consists of a physical condition
 50 that creates a substantial risk of death, serious personal
 51 disfigurement, or protracted loss or impairment of the function
 52 of a bodily member or organ.
 53 (b) "Vulnerable road user" means:
 54 1. A pedestrian, including a person actually engaged in
 55 work upon a highway, or in work upon utility facilities along a
 56 highway, or engaged in the provision of emergency services
 57 within the right-of-way;
 58 2. A person operating a bicycle, motorcycle, scooter, or

Page 2 of 50

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596-00986-14

2014102c1

59 moped lawfully on the roadway;

60 3. A person riding an animal; or

61 4. A person lawfully operating on a public right-of-way,
62 crosswalk, or shoulder of the roadway:

63 a. A farm tractor or similar vehicle designed primarily for
64 farm use;

65 b. A skateboard, roller skates, or in-line skates;

66 c. A horse-drawn carriage;

67 d. An electric personal assistive mobility device; or

68 e. A wheelchair.

69 (2)(1)(a) The driver of a ~~any~~ vehicle involved in a crash
70 occurring on public or private property which ~~that~~ results in
71 injury to a ~~of any~~ person other than serious bodily injury shall
72 ~~must~~ immediately stop the vehicle at the scene of the crash, or
73 as close thereto as possible, and shall ~~must~~ remain at the scene
74 of the crash until he or she has fulfilled the requirements of
75 s. 316.062. A ~~Any~~ person who willfully violates this paragraph
76 commits a felony of the third degree, punishable as provided in
77 s. 775.082, s. 775.083, or s. 775.084.

78 (b) The driver of a vehicle involved in a crash occurring
79 on public or private property which results in serious bodily
80 injury to a person shall immediately stop the vehicle at the
81 scene of the crash, or as close thereto as possible, and shall
82 remain at the scene of the crash until he or she has fulfilled
83 the requirements of s. 316.062. A person who willfully violates
84 this paragraph commits a felony of the second degree, punishable
85 as provided in s. 775.082, s. 775.083, or s. 775.084.

86 (c)(b) The driver of a ~~any~~ vehicle involved in a crash
87 occurring on public or private property which ~~that~~ results in

Page 3 of 50

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596-00986-14

2014102c1

88 the death of a ~~any~~ person shall ~~must~~ immediately stop the
89 vehicle at the scene of the crash, or as close thereto as
90 possible, and shall ~~must~~ remain at the scene of the crash until
91 he or she has fulfilled the requirements of s. 316.062. A person
92 who is arrested for a violation of this paragraph and who has
93 previously been convicted of a violation of this section, s.
94 316.061, s. 316.191, or s. 316.193, or a felony violation of s.
95 322.34, shall be held in custody until brought before the court
96 for admittance to bail in accordance with chapter 903. A ~~Any~~
97 person who willfully violates this paragraph commits a felony of
98 the first degree, punishable as provided in s. 775.082, s.
99 775.083, or s. 775.084, and shall be sentenced to a mandatory
100 minimum term of imprisonment of 4 years. A ~~Any~~ person who
101 willfully commits such a violation while driving under the
102 influence as set forth in s. 316.193(1) shall be sentenced to a
103 mandatory minimum term of imprisonment of 4 ~~2~~ years.

104 (d)(e) Notwithstanding s. 775.089(1)(a), if the driver of a
105 vehicle violates paragraph (a), ~~or~~ paragraph (b), or paragraph
106 (c), the court shall order the driver to make restitution to the
107 victim for any damage or loss unless the court finds clear and
108 compelling reasons not to order the restitution. Restitution may
109 be monetary or nonmonetary restitution. The court shall make the
110 payment of restitution a condition of probation in accordance
111 with s. 948.03. An order requiring the defendant to make
112 restitution to a victim does not remove or diminish the
113 requirement that the court order payment to the Crimes
114 Compensation Trust Fund under chapter 960. Payment of an award
115 by the Crimes Compensation Trust Fund creates an order of
116 restitution to the Crimes Compensation Trust Fund unless

Page 4 of 50

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596-00986-14

2014102c1

117 specifically waived in accordance with s. 775.089(1)(b).

118 (e) A driver who violates paragraph (a), paragraph (b), or
 119 paragraph (c) shall:

120 1. Have his or her driver license revoked for at least 3
 121 years as provided in s. 322.28(4);

122 2. Participate in a victim's impact panel session in a
 123 judicial circuit if such a panel exists; or

124 3. Participate in a driver education course relating to the
 125 rights of vulnerable road users relative to vehicles on the
 126 roadway.

127 (f) For purposes of sentencing under chapter 921 and
 128 determining incentive gain-time eligibility under chapter 944,
 129 an offense listed in this subsection is ranked one level above
 130 the ranking specified in s. 921.0022 or s. 921.0023 for the
 131 offense committed if the victim of the offense was a vulnerable
 132 road user.

133 (g) The defendant may move to depart from the mandatory
 134 minimum term of imprisonment prescribed in paragraph (c) unless
 135 the violation was committed while the defendant was driving
 136 under the influence. The state may object to this departure. The
 137 court may grant the motion only if it finds that a factor,
 138 consideration, or circumstance clearly demonstrates that
 139 imposing a mandatory minimum term of imprisonment would
 140 constitute or result in an injustice. The court shall state in
 141 open court the basis for granting the motion.

142 ~~(2) The department shall revoke the driver's license of the~~
 143 ~~person so convicted.~~

144 (3) The stops shall ~~Every stop must~~ be made without
 145 unnecessarily obstructing traffic ~~more than is necessary,~~ and,

596-00986-14

2014102c1

146 if a damaged vehicle is obstructing traffic, the driver of the
 147 vehicle ~~shall~~ ~~must~~ make every reasonable effort to move the
 148 vehicle or have it moved so as not to obstruct the regular flow
 149 of traffic. ~~A~~ ~~Any~~ person who fails to comply with this
 150 subsection shall be cited for a nonmoving violation, punishable
 151 as provided in chapter 318.

152 (4) In addition to any other civil, criminal, or
 153 administrative penalty imposed, a person whose commission of a
 154 noncriminal traffic infraction or ~~a~~ ~~any~~ violation of this
 155 chapter or s. 1006.66 causes or results in the death of another
 156 person may, ~~in addition to any other civil, criminal, or~~
 157 ~~administrative penalty imposed,~~ be required by the court to
 158 serve 120 community service hours in a trauma center or hospital
 159 that regularly receives victims of vehicle accidents, under the
 160 supervision of a registered nurse, an emergency room physician,
 161 or an emergency medical technician pursuant to a voluntary
 162 community service program operated by the trauma center or
 163 hospital.

164 (5) This section does not apply to crashes occurring during
 165 a motorsports event, as defined in s. 549.10(1), or at a closed-
 166 course motorsport facility, as defined in s. 549.09(1).

167 Section 3. Subsection (2) of section 322.0261, Florida
 168 Statutes, is amended to read:

169 322.0261 Driver improvement course; requirement to maintain
 170 driving privileges; failure to complete; department approval of
 171 course.-

172 (2) With respect to an operator convicted of, or who
 173 pleaded nolo contendere to, a traffic offense giving rise to a
 174 crash identified in paragraph (1)(a) or paragraph (1)(b), the

596-00986-14

2014102c1

175 department shall require that the operator, in addition to other
 176 applicable penalties, attend a department-approved driver
 177 improvement course in order to maintain his or her driving
 178 privileges. The department shall include in the course
 179 curriculum instruction specifically addressing the rights of
 180 vulnerable road users as defined in s. 316.027 relative to
 181 vehicles on the roadway. If the operator fails to complete the
 182 course within 90 days after receiving notice from the
 183 department, the operator's driver ~~driver's~~ license shall be
 184 canceled by the department until the course is successfully
 185 completed.

186 Section 4. Subsection (4) of section 322.28, Florida
 187 Statutes, is amended to read:

188 322.28 Period of suspension or revocation.—

189 (4)(a) Upon a conviction for a violation of s.
 190 316.193(3)(c)2., involving serious bodily injury, a conviction
 191 of manslaughter resulting from the operation of a motor vehicle,
 192 or a conviction of vehicular homicide, the court shall revoke
 193 the driver license of the person convicted for a minimum period
 194 of 3 years. If a conviction under s. 316.193(3)(c)2., involving
 195 serious bodily injury, is also a subsequent conviction as
 196 described under paragraph (2)(a), the court shall revoke the
 197 driver license or driving privilege of the person convicted for
 198 the period applicable as provided in paragraph (2)(a) or
 199 paragraph (2)(d).

200 (b) Upon a conviction for a violation of s. 316.027(2)(a),
 201 s. 316.027(2)(b), or s. 316.027(2)(c) involving injury, serious
 202 bodily injury, or death, the court shall revoke the driver
 203 license of the person convicted for a minimum period of 3 years.

Page 7 of 50

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596-00986-14

2014102c1

204 ~~(c)(b)~~ If the period of revocation was not specified by the
 205 court at the time of imposing sentence or within 30 days
 206 thereafter, the department shall revoke the driver license for
 207 the minimum period applicable under paragraph (a) or paragraph
 208 (b) or, for a subsequent conviction, for the minimum period
 209 applicable under paragraph (2)(a) or paragraph (2)(d).

210 Section 5. For the purpose of incorporating the amendment
 211 made by this act to section 322.28, Florida Statutes, in a
 212 reference thereto, subsection (6) of section 322.34, Florida
 213 Statutes, is reenacted and amended to read:

214 322.34 Driving while license suspended, revoked, canceled,
 215 or disqualified.—

216 (6) Any person who operates a motor vehicle:

217 (a) Without having a driver's license as required under s.
 218 322.03; or

219 (b) While his or her driver's license or driving privilege
 220 is canceled, suspended, or revoked pursuant to s. 316.655, s.
 221 322.26(8), s. 322.27(2), or s. 322.28(2) or (4),

222 and who by careless or negligent operation of the motor vehicle
 223 causes the death of or serious bodily injury to another human
 224 being ~~commits is guilty of~~ a felony of the third degree,
 225 punishable as provided in s. 775.082 or s. 775.083.

226 Section 6. Paragraphs (e) through (g) of subsection (3) of
 227 section 921.0022, Florida Statutes, are amended to read:

228 921.0022 Criminal Punishment Code; offense severity ranking
 229 chart.—

230 (3) OFFENSE SEVERITY RANKING CHART

231 (e) LEVEL 5
 232

Page 8 of 50

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233	596-00986-14		2014102c1
234	Florida Statute	Felony Degree	Description
234	316.027 (2) (a) (1) (a)	3rd	Accidents involving personal injuries <u>other than serious bodily injury</u> , failure to stop; leaving scene.
235	316.1935 (4) (a)	2nd	Aggravated fleeing or eluding.
236	322.34 (6)	3rd	Careless operation of motor vehicle with suspended license, resulting in death or serious bodily injury.
237	327.30 (5)	3rd	Vessel accidents involving personal injury; leaving scene.
238	379.367 (4)	3rd	Willful molestation of a commercial harvester's spiny

	596-00986-14		2014102c1
			lobster trap, line, or buoy.
239	379.3671 (2) (c) 3.	3rd	Willful molestation, possession, or removal of a commercial harvester's trap contents or trap gear by another harvester.
240	381.0041 (11) (b)	3rd	Donate blood, plasma, or organs knowing HIV positive.
241	440.10 (1) (g)	2nd	Failure to obtain workers' compensation coverage.
242	440.105 (5)	2nd	Unlawful solicitation for the purpose of making workers' compensation claims.
243	440.381 (2)	2nd	Submission of false, misleading, or incomplete information with the purpose of avoiding

	596-00986-14		2014102c1	or reducing workers' compensation premiums.
244	624.401(4)(b)2.	2nd		Transacting insurance without a certificate or authority; premium collected \$20,000 or more but less than \$100,000.
245	626.902(1)(c)	2nd		Representing an unauthorized insurer; repeat offender.
246	790.01(2)	3rd		Carrying a concealed firearm.
247	790.162	2nd		Threat to throw or discharge destructive device.
248	790.163(1)	2nd		False report of deadly explosive or weapon of mass destruction.
249	790.221(1)	2nd		Possession of short-barreled shotgun or

	596-00986-14		2014102c1	machine gun.
250	790.23	2nd		Felons in possession of firearms, ammunition, or electronic weapons or devices.
251	800.04(6)(c)	3rd		Lewd or lascivious conduct; offender less than 18 years <u>of age</u> .
252	800.04(7)(b)	2nd		Lewd or lascivious exhibition; offender 18 years <u>of age</u> or older.
253	806.111(1)	3rd		Possess, manufacture, or dispense fire bomb with intent to damage any structure or property.
254	812.0145(2)(b)	2nd		Theft from person 65 years of age or older; \$10,000 or more but less than \$50,000.

	596-00986-14		2014102c1
255	812.015(8)	3rd	Retail theft; property stolen is valued at \$300 or more and one or more specified acts.
256	812.019(1)	2nd	Stolen property; dealing in or trafficking in.
257	812.131(2)(b)	3rd	Robbery by sudden snatching.
258	812.16(2)	3rd	Owning, operating, or conducting a chop shop.
259	817.034(4)(a)2.	2nd	Communications fraud, value \$20,000 to \$50,000.
260	817.234(11)(b)	2nd	Insurance fraud; property value \$20,000 or more but less than \$100,000.
261	817.2341(1), (2)(a) & (3)(a)	3rd	Filing false financial statements,

	596-00986-14		2014102c1
			making false entries of material fact or false statements regarding property values relating to the solvency of an insuring entity.
262	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.
263	817.625(2)(b)	2nd	Second or subsequent fraudulent use of scanning device or reencoder.
264	825.1025(4)	3rd	Lewd or lascivious exhibition in the

	596-00986-14		2014102c1	
			presence of an elderly person or disabled adult.	
265	827.071(4)	2nd	Possess with intent to promote any photographic material, motion picture, etc., which includes sexual conduct by a child.	
266	827.071(5)	3rd	Possess, control, or intentionally view any photographic material, motion picture, etc., which includes sexual conduct by a child.	
267	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.	
268	843.01	3rd	Resist officer with violence to person;	

	596-00986-14		2014102c1	
			resist arrest with violence.	
269	847.0135(5)(b)	2nd	Lewd or lascivious exhibition using computer; offender 18 years or older.	
270	847.0137 (2) & (3)	3rd	Transmission of pornography by electronic device or equipment.	
271	847.0138 (2) & (3)	3rd	Transmission of material harmful to minors to a minor by electronic device or equipment.	
272	874.05(1)(b)	2nd	Encouraging or recruiting another to join a criminal gang; second or subsequent offense.	
273	874.05(2)(a)	2nd	Encouraging or recruiting person under 13 <u>years of age</u> to join a criminal	

	596-00986-14		2014102c1	
			gang.	
274	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).	
275	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.	
276	893.13(1)(d)1.	1st	Sell, manufacture, or	

	596-00986-14		2014102c1	
			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.	
277	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.	
278	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),	

279	596-00986-14		2014102c1	(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).
280	893.1351(1)	3rd		Ownership, lease, or rental for trafficking in or manufacturing of controlled substance.
281				
282				
283	(f) LEVEL 6			
284				
	Florida Statute	Felony Degree		Description
285	<u>316.027(2) (b)</u>	<u>2nd</u>		<u>Leaving the scene of a crash involving serious bodily injury.</u>

286	596-00986-14		2014102c1	
	316.193(2) (b)	3rd		Felony DUI, 4th or subsequent conviction.
287	499.0051(3)	2nd		Knowing forgery of pedigree papers.
288	499.0051(4)	2nd		Knowing purchase or receipt of prescription drug from unauthorized person.
289	499.0051(5)	2nd		Knowing sale or transfer of prescription drug to unauthorized person.
290	775.0875(1)	3rd		Taking firearm from law enforcement officer.
291	784.021(1) (a)	3rd		Aggravated assault; deadly weapon without intent to kill.
292	784.021(1) (b)	3rd		Aggravated assault; intent to commit felony.
293	784.041	3rd		Felony battery; domestic battery by strangulation.

294	596-00986-14		2014102c1
	784.048(3)	3rd	Aggravated stalking; credible threat.
295	784.048(5)	3rd	Aggravated stalking of person under 16.
296	784.07(2)(c)	2nd	Aggravated assault on law enforcement officer.
297	784.074(1)(b)	2nd	Aggravated assault on sexually violent predators facility staff.
298	784.08(2)(b)	2nd	Aggravated assault on a person 65 years of age or older.
299	784.081(2)	2nd	Aggravated assault on specified official or employee.
300	784.082(2)	2nd	Aggravated assault by detained person on visitor or other detainee.
301	784.083(2)	2nd	Aggravated assault on

Page 21 of 50

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	596-00986-14		2014102c1
			code inspector.
302	787.02(2)	3rd	False imprisonment; restraining with purpose other than those in s. 787.01.
303	790.115(2)(d)	2nd	Discharging firearm or weapon on school property.
304	790.161(2)	2nd	Make, possess, or throw destructive device with intent to do bodily harm or damage property.
305	790.164(1)	2nd	False report of deadly explosive, weapon of mass destruction, or act of arson or violence to state property.
306	790.19	2nd	Shooting or throwing deadly missiles into dwellings, vessels, or vehicles.
307	794.011(8)(a)	3rd	Solicitation of minor to participate in sexual

Page 22 of 50

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	596-00986-14		2014102c1	
			activity by custodial	
			adult.	
308	794.05(1)	2nd	Unlawful sexual activity	
			with specified minor.	
309	800.04(5)(d)	3rd	Lewd or lascivious	
			molestation; victim 12	
			years of age or older	
			but less than 16 years	
			<u>of age</u> ; offender less	
310			than 18 years.	
	800.04(6)(b)	2nd	Lewd or lascivious	
			conduct; offender 18	
			years of age or older.	
311	806.031(2)	2nd	Arson resulting in great	
			bodily harm to	
			firefighter or any other	
			person.	
312	810.02(3)(c)	2nd	Burglary of occupied	
			structure; unarmed; no	
			assault or battery.	
313	810.145(8)(b)	2nd	Video voyeurism; certain	
			minor victims; 2nd or	
			subsequent offense.	

Page 23 of 50

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	596-00986-14		2014102c1	
314	812.014(2)(b)1.	2nd	Property stolen \$20,000	
			or more, but less than	
			\$100,000, grand theft in	
			2nd degree.	
315	812.014(6)	2nd	Theft; property stolen	
			\$3,000 or more;	
			coordination of others.	
316	812.015(9)(a)	2nd	Retail theft; property	
			stolen \$300 or more;	
			second or subsequent	
			conviction.	
317	812.015(9)(b)	2nd	Retail theft; property	
			stolen \$3,000 or more;	
			coordination of others.	
318	812.13(2)(c)	2nd	Robbery, no firearm or	
			other weapon (strong-arm	
			robbery).	
319	817.4821(5)	2nd	Possess cloning	
			paraphernalia with	
			intent to create cloned	
			cellular telephones.	
320	825.102(1)	3rd	Abuse of an elderly	

Page 24 of 50

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	596-00986-14		2014102c1	
			person or disabled	
			adult.	
321	825.102(3)(c)	3rd	Neglect of an elderly	
			person or disabled	
			adult.	
322	825.1025(3)	3rd	Lewd or lascivious	
			molestation of an	
			elderly person or	
			disabled adult.	
323	825.103(2)(c)	3rd	Exploiting an elderly	
			person or disabled adult	
			and property is valued	
			at less than \$20,000.	
324	827.03(2)(c)	3rd	Abuse of a child.	
325	827.03(2)(d)	3rd	Neglect of a child.	
326	827.071(2) & (3)	2nd	Use or induce a child in	
			a sexual performance, or	
			promote or direct such	
			performance.	
327	836.05	2nd	Threats; extortion.	
328	836.10	2nd	Written threats to kill	

Page 25 of 50

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	596-00986-14		2014102c1	
			or do bodily injury.	
329	843.12	3rd	Aids or assists person	
			to escape.	
330	847.011	3rd	Distributing, offering	
			to distribute, or	
			possessing with intent	
			to distribute obscene	
			materials depicting	
			minors.	
331	847.012	3rd	Knowingly using a minor	
			in the production of	
			materials harmful to	
			minors.	
332	847.0135(2)	3rd	Facilitates sexual	
			conduct of or with a	
			minor or the visual	
			depiction of such	
			conduct.	
333	914.23	2nd	Retaliation against a	
			witness, victim, or	
			informant, with bodily	
			injury.	
334	944.35(3)(a)2.	3rd	Committing malicious	

Page 26 of 50

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	596-00986-14		2014102c1
			battery upon or inflicting cruel or inhuman treatment on an inmate or offender on community supervision, resulting in great bodily harm.
335	944.40	2nd	Escapes.
336	944.46	3rd	Harboring, concealing, aiding escaped prisoners.
337	944.47(1)(a)5.	2nd	Introduction of contraband (firearm, weapon, or explosive) into correctional facility.
338	951.22(1)	3rd	Intoxicating drug, firearm, or weapon introduced into county facility.
339			
340			
341	(g) LEVEL 7		
342			

	596-00986-14		2014102c1
	Florida Statute	Felony Degree	Description
343	316.027 <u>(2)(c)</u> (1)(b)	1st	Accident involving death, failure to stop; leaving scene.
344	316.193(3)(c)2.	3rd	DUI resulting in serious bodily injury.
345	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.
346	327.35(3)(c)2.	3rd	Vessel BUI resulting in serious bodily injury.
347	402.319(2)	2nd	Misrepresentation and negligence or intentional act resulting in great

	596-00986-14		2014102c1	
			bodily harm, permanent	
			disfiguration,	
			permanent disability,	
			or death.	
348	409.920	3rd	Medicaid provider	
	(2) (b) 1.a.		fraud; \$10,000 or less.	
349	409.920	2nd	Medicaid provider	
	(2) (b) 1.b.		fraud; more than	
			\$10,000, but less than	
			\$50,000.	
350	456.065(2)	3rd	Practicing a health	
			care profession without	
			a license.	
351	456.065(2)	2nd	Practicing a health	
			care profession without	
			a license which results	
			in serious bodily	
			injury.	
352	458.327(1)	3rd	Practicing medicine	
			without a license.	
353	459.013(1)	3rd	Practicing osteopathic	
			medicine without a	
			license.	

	596-00986-14		2014102c1	
354	460.411(1)	3rd	Practicing chiropractic	
			medicine without a	
			license.	
355	461.012(1)	3rd	Practicing podiatric	
			medicine without a	
			license.	
356	462.17	3rd	Practicing naturopathy	
			without a license.	
357	463.015(1)	3rd	Practicing optometry	
			without a license.	
358	464.016(1)	3rd	Practicing nursing	
			without a license.	
359	465.015(2)	3rd	Practicing pharmacy	
			without a license.	
360	466.026(1)	3rd	Practicing dentistry or	
			dental hygiene without	
			a license.	
361	467.201	3rd	Practicing midwifery	
			without a license.	
362	468.366	3rd	Delivering respiratory	

	596-00986-14		2014102c1	care services without a license.
363				
	483.828(1)	3rd		Practicing as clinical laboratory personnel without a license.
364				
	483.901(9)	3rd		Practicing medical physics without a license.
365				
	484.013(1)(c)	3rd		Preparing or dispensing optical devices without a prescription.
366				
	484.053	3rd		Dispensing hearing aids without a license.
367				
	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.
368				
	560.123(8)(b)1.	3rd		Failure to report currency or payment

Page 31 of 50

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

	596-00986-14		2014102c1	instruments exceeding \$300 but less than \$20,000 by a money services business.
369				
	560.125(5)(a)	3rd		Money services business by unauthorized person, currency or payment instruments exceeding \$300 but less than \$20,000.
370				
	655.50(10)(b)1.	3rd		Failure to report financial transactions exceeding \$300 but less than \$20,000 by financial institution.
371				
	775.21(10)(a)	3rd		Sexual predator; failure to register; failure to renew driver's license or identification card; other registration violations.
372				
	775.21(10)(b)	3rd		Sexual predator working where children regularly congregate.

Page 32 of 50

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

373	596-00986-14		2014102c1
	775.21(10)(g)	3rd	Failure to report or providing false information about a sexual predator; harbor or conceal a sexual predator.
374	782.051(3)	2nd	Attempted felony murder of a person by a person other than the perpetrator or the perpetrator of an attempted felony.
375	782.07(1)	2nd	Killing of a human being by the act, procurement, or culpable negligence of another (manslaughter).
376	782.071	2nd	Killing of a human being or viable fetus by the operation of a motor vehicle in a reckless manner (vehicular homicide).
377	782.072	2nd	Killing of a human

Page 33 of 50

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	596-00986-14		2014102c1
			being by the operation of a vessel in a reckless manner (vessel homicide).
378	784.045(1)(a)1.	2nd	Aggravated battery; intentionally causing great bodily harm or disfigurement.
379	784.045(1)(a)2.	2nd	Aggravated battery; using deadly weapon.
380	784.045(1)(b)	2nd	Aggravated battery; perpetrator aware victim pregnant.
381	784.048(4)	3rd	Aggravated stalking; violation of injunction or court order.
382	784.048(7)	3rd	Aggravated stalking; violation of court order.
383	784.07(2)(d)	1st	Aggravated battery on law enforcement officer.
384			

Page 34 of 50

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

	596-00986-14		2014102c1
	784.074(1)(a)	1st	Aggravated battery on sexually violent predators facility staff.
385	784.08(2)(a)	1st	Aggravated battery on a person 65 years of age or older.
386	784.081(1)	1st	Aggravated battery on specified official or employee.
387	784.082(1)	1st	Aggravated battery by detained person on visitor or other detainee.
388	784.083(1)	1st	Aggravated battery on code inspector.
389	787.06(3)(a)	1st	Human trafficking using coercion for labor and services.
390	787.06(3)(e)	1st	Human trafficking using coercion for labor and services by the transfer or transport

	596-00986-14		2014102c1
			of any individual from outside Florida to within the state.
391	790.07(4)	1st	Specified weapons violation subsequent to previous conviction of s. 790.07(1) or (2).
392	790.16(1)	1st	Discharge of a machine gun under specified circumstances.
393	790.165(2)	2nd	Manufacture, sell, possess, or deliver hoax bomb.
394	790.165(3)	2nd	Possessing, displaying, or threatening to use any hoax bomb while committing or attempting to commit a felony.
395	790.166(3)	2nd	Possessing, selling, using, or attempting to use a hoax weapon of mass destruction.
396			

	596-00986-14		2014102c1
	790.166(4)	2nd	Possessing, displaying, or threatening to use a hoax weapon of mass destruction while committing or attempting to commit a felony.
397	790.23	1st,PBL	Possession of a firearm by a person who qualifies for the penalty enhancements provided for in s. 874.04.
398	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.
399	796.03	2nd	Procuring any person under 16 years <u>of age</u> for prostitution.
400	800.04(5)(c)1.	2nd	Lewd or lascivious molestation; victim

	596-00986-14		2014102c1
			less than 12 years of age; offender less than 18 years <u>of age</u> .
401	800.04(5)(c)2.	2nd	Lewd or lascivious molestation; victim 12 years of age or older but less than 16 years <u>of age</u> ; offender 18 years <u>of age</u> or older.
402	806.01(2)	2nd	Maliciously damage structure by fire or explosive.
403	810.02(3)(a)	2nd	Burglary of occupied dwelling; unarmed; no assault or battery.
404	810.02(3)(b)	2nd	Burglary of unoccupied dwelling; unarmed; no assault or battery.
405	810.02(3)(d)	2nd	Burglary of occupied conveyance; unarmed; no assault or battery.
406	810.02(3)(e)	2nd	Burglary of authorized emergency vehicle.

	596-00986-14		2014102c1
407	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.
408	812.014(2)(b)2.	2nd	Property stolen, cargo valued at less than \$50,000, grand theft in 2nd degree.
409	812.014(2)(b)3.	2nd	Property stolen, emergency medical equipment; 2nd degree grand theft.
410	812.014(2)(b)4.	2nd	Property stolen, law enforcement equipment from authorized emergency vehicle.
411	812.0145(2)(a)	1st	Theft from person 65 years of age or older; \$50,000 or more.
412			

	596-00986-14		2014102c1
	812.019(2)	1st	Stolen property; initiates, organizes, plans, etc., the theft of property and traffics in stolen property.
413	812.131(2)(a)	2nd	Robbery by sudden snatching.
414	812.133(2)(b)	1st	Carjacking; no firearm, deadly weapon, or other weapon.
415	817.034(4)(a)1.	1st	Communications fraud, value greater than \$50,000.
416	817.234(8)(a)	2nd	Solicitation of motor vehicle accident victims with intent to defraud.
417	817.234(9)	2nd	Organizing, planning, or participating in an intentional motor vehicle collision.
418	817.234(11)(c)	1st	Insurance fraud;

419	596-00986-14	2014102c1	property value \$100,000 or more.
420	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.
421	817.535 (2) (a)	3rd	Filing false lien or other unauthorized document.
422	825.102 (3) (b)	2nd	Neglecting an elderly person or disabled adult causing great bodily harm, disability, or disfigurement.
422	825.103 (2) (b)	2nd	Exploiting an elderly person or disabled adult and property is valued at \$20,000 or

423	596-00986-14	2014102c1	more, but less than \$100,000.
424	827.03 (2) (b)	2nd	Neglect of a child causing great bodily harm, disability, or disfigurement.
425	827.04 (3)	3rd	Impregnation of a child under 16 years of age by person 21 years of age or older.
426	837.05 (2)	3rd	Giving false information about alleged capital felony to a law enforcement officer.
427	838.015	2nd	Bribery.
428	838.016	2nd	Unlawful compensation or reward for official behavior.
429	838.021 (3) (a)	2nd	Unlawful harm to a public servant.
429	838.22	2nd	Bid tampering.

430	596-00986-14		2014102c1	
	843.0855 (2)	3rd	Impersonation of a public officer or employee.	
431				
	843.0855 (3)	3rd	Unlawful simulation of legal process.	
432				
	843.0855 (4)	3rd	Intimidation of a public officer or employee.	
433				
	847.0135 (3)	3rd	Solicitation of a child, via a computer service, to commit an unlawful sex act.	
434				
	847.0135 (4)	2nd	Traveling to meet a minor to commit an unlawful sex act.	
435				
	872.06	2nd	Abuse of a dead human body.	
436				
	874.05 (2) (b)	1st	Encouraging or recruiting person under 13 to join a criminal gang; second or subsequent offense.	

Page 43 of 50

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437	596-00986-14		2014102c1	
	874.10	1st,PBL	Knowingly initiates, organizes, plans, finances, directs, manages, or supervises criminal gang-related activity.	
438				
	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.	
439				
	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	

Page 44 of 50

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	596-00986-14		2014102c1	
			property used for	
			religious services or a	
			specified business	
			site.	
440	893.13(4)(a)	1st	Deliver to minor	
			cocaine (or other s.	
			893.03(1)(a), (1)(b),	
			(1)(d), (2)(a), (2)(b),	
441			or (2)(c)4. drugs).	
	893.135(1)(a)1.	1st	Trafficking in	
			cannabis, more than 25	
			lbs., less than 2,000	
442			lbs.	
	893.135	1st	Trafficking in cocaine,	
	(1)(b)1.a.		more than 28 grams,	
			less than 200 grams.	
443	893.135	1st	Trafficking in illegal	
	(1)(c)1.a.		drugs, more than 4	
			grams, less than 14	
			grams.	
444	893.135(1)(d)1.	1st	Trafficking in	
			phencyclidine, more	
			than 28 grams, less	
			than 200 grams.	

Page 45 of 50

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	596-00986-14		2014102c1	
445	893.135(1)(e)1.	1st	Trafficking in	
			methaqualone, more than	
			200 grams, less than 5	
446			kilograms.	
	893.135(1)(f)1.	1st	Trafficking in	
			amphetamine, more than	
			14 grams, less than 28	
447			grams.	
	893.135	1st	Trafficking in	
	(1)(g)1.a.		flunitrazepam, 4 grams	
			or more, less than 14	
448			grams.	
	893.135	1st	Trafficking in gamma-	
	(1)(h)1.a.		hydroxybutyric acid	
			(GHB), 1 kilogram or	
			more, less than 5	
449			kilograms.	
	893.135	1st	Trafficking in 1,4-	
	(1)(j)1.a.		Butanediol, 1 kilogram	
			or more, less than 5	
			kilograms.	
450	893.135	1st	Trafficking in	
	(1)(k)2.a.		Phenethylamines, 10	

Page 46 of 50

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	596-00986-14		2014102c1	
			grams or more, less	
			than 200 grams.	
451	893.1351 (2)	2nd	Possession of place for	
			trafficking in or	
			manufacturing of	
			controlled substance.	
452	896.101 (5) (a)	3rd	Money laundering,	
			financial transactions	
			exceeding \$300 but less	
			than \$20,000.	
453	896.104 (4) (a) 1.	3rd	Structuring	
			transactions to evade	
			reporting or	
			registration	
			requirements, financial	
			transactions exceeding	
			\$300 but less than	
			\$20,000.	
454	943.0435 (4) (c)	2nd	Sexual offender	
			vacating permanent	
			residence; failure to	
			comply with reporting	
			requirements.	
455	943.0435 (8)	2nd	Sexual offender;	

Page 47 of 50

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	596-00986-14		2014102c1	
			remains in state after	
			indicating intent to	
			leave; failure to	
			comply with reporting	
			requirements.	
456	943.0435 (9) (a)	3rd	Sexual offender;	
			failure to comply with	
			reporting requirements.	
457	943.0435 (13)	3rd	Failure to report or	
			providing false	
			information about a	
			sexual offender; harbor	
			or conceal a sexual	
			offender.	
458	943.0435 (14)	3rd	Sexual offender;	
			failure to report and	
			reregister; failure to	
			respond to address	
			verification.	
459	944.607 (9)	3rd	Sexual offender;	
			failure to comply with	
			reporting requirements.	
460	944.607 (10) (a)	3rd	Sexual offender;	
			failure to submit to	

Page 48 of 50

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	596-00986-14		2014102c1	
			the taking of a	
461			digitized photograph.	
	944.607(12)	3rd	Failure to report or	
			providing false	
			information about a	
			sexual offender; harbor	
			or conceal a sexual	
			offender.	
462				
	944.607(13)	3rd	Sexual offender;	
			failure to report and	
			reregister; failure to	
			respond to address	
			verification.	
463				
	985.4815(10)	3rd	Sexual offender;	
			failure to submit to	
			the taking of a	
			digitized photograph.	
464				
	985.4815(12)	3rd	Failure to report or	
			providing false	
			information about a	
			sexual offender; harbor	
			or conceal a sexual	
			offender.	
465				
	985.4815(13)	3rd	Sexual offender;	

	596-00986-14		2014102c1	
			failure to report and	
			reregister; failure to	
			respond to address	
			verification.	
466				
467			Section 7. This act shall take effect July 1, 2014.	



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on Finance and Tax
Banking and Insurance
Children, Families, and Elder Affairs
Ethics and Elections
Rules
Transportation

JOINT COMMITTEE:

Joint Committee on Administrative Procedures

SENATOR MIGUEL DIAZ de la PORTILLA

40th District

January 9, 2014

The Honorable Greg Evers
Chairman
Criminal Justice Committee

Via email

Re: C/S SB 102

Dear Chairman Evers:

The bill that you are co-sponsoring with me, SB 102, The Aaron Cohen Life Protection Act, passed unanimously out of the Transportation Committee today. The next committee of reference is Criminal Justice, and I would appreciate it if you would agenda the bill at your earliest opportunity.

Thank you for your consideration.

Personal regards,

Miguel Diaz de la Portilla
Senator, District 40

Cc: Ms. Amanda Cannon, Staff Director; Ms. Sue Arnold, Committee Administrative Assistant

REPLY TO:

- 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 643-7200
- 312 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/3/14
Meeting Date

Topic Leaving the Scene of an Accident

Bill Number 102
(if applicable)

Name Kelly Mallette

Amendment Barcode _____
(if applicable)

Job Title _____

Address 104 West Jefferson Street
Street

Phone 850-224-3427

Tallahassee, FL 32308
City State Zip

E-mail kelly@rtbodepc.com

Speaking: For Against Information

Representing Miami-Dade County

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2 / 3 / 2014

Meeting Date

Topic _____

Bill Number 102

Name BRIAN PITTS

(if applicable)

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG

City

FLORIDA

State

33705

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

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S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/3/19
Meeting Date

Topic Bicycle Safety

Bill Number ^{CS} SB 102

Name TIM BUSTOS

Amendment Barcode _____ (if applicable)

Job Title EX. DIRECTOR, FLORIDA BICYCLE ASSOCIATION

Amendment Barcode _____ (if applicable)

Address 110 S. ALASSER ST

Phone 850 238 5328

DELAND FL
City State Zip

E-mail TIM@FLBICYCLE.ORG

Speaking: For Against Information

Representing FLORIDA BICYCLE ASSOCIATION

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2-3-14

Meeting Date

Topic Drivers Leaving the Scene of a Crash

Bill Number SB102

Name Cody Schwarz

(if applicable)

Job Title Legislative Coordinator

Amendment Barcode _____
(if applicable)

Address 215 S Monroe St. #701

Phone 850-728-7583

Street

Tallahassee

FL

32301

City

State

Zip

E-mail CSchwarz@CFLaw.com

Speaking: For Against Information

Representing Florida Police Chiefs Ass.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/3/14
Meeting Date

SB102

Topic Aaron Cohen Life Protection Act

Bill Number HB 183
(if applicable)

Name Mickey Witte

Amendment Barcode _____
(if applicable)

Job Title Dr.

Address 950 Brickell Bay Dr. #5211
Street
Miami FL 33131
City *State* *Zip*

Phone 305-340-8277

E-mail me@mickeywitte.com

Speaking: For Against Information

Representing Aaron Cohen Law, Org

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/3/2014

Meeting Date

Topic Drivers Leaving the Scene of a Crash

Bill Number 102

Name Erin Hellkamp

Amendment Barcode (if applicable)

Job Title Associate Lobbyist

(if applicable)

Address 225 S. Adams Street, Suite 250

Phone 850-222-7718

Street

Tallahassee, FL 32301

City

State

Zip

E-mail guy@guyspearman.com

Speaking: [X] For [] Against [] Information

Representing Florida Sheriffs Association

Appearing at request of Chair: [] Yes [X] No

Lobbyist registered with Legislature: [X] Yes [] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

2011/10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2 | 3 | 14

Meeting Date

Topic ~~SB 102~~ Aaron Cohen Life Protection Act

Bill Number SB 102

Name Allison Christie

Amendment Barcode (if applicable)

Job Title FSU Student

Amendment Barcode (if applicable)

Address 75 ^{North} Woodward Ave.

Phone 941-266-6544

Street

Tallahassee

FL

32313

City

State

Zip

E-mail agc12c@my.fsu.edu

Speaking: For Against Information

Representing

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 298

INTRODUCER: Criminal Justice Committee and Senator Soto

SUBJECT: Booking Photographs

DATE: February 3, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Cannon	CJ	Fav/CS
2.			CM	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 298 prohibits a person engaged in publishing or otherwise disseminating arrest booking photographs through a publicly accessible print or electronic medium from soliciting or accepting a fee or other consideration to remove, correct, or modify an arrest booking photograph of an arrestee. This prohibition does not apply to state and local governments or government agencies.

An arrestee who is the subject of an arrest booking photograph that has been published may file a civil action enjoining publication of the photograph if the publisher solicits or accepts a fee or other consideration to remove, correct, or modify that photograph. If the court enjoins publication, the court shall order that the photograph be removed from publication no later than 14 days after the order is entered. The court shall impose a civil penalty of \$1,000 per day for each day of noncompliance with the order.

If the court enjoins publication, the arrestee is entitled to attorney fees and costs relating to issuance of the injunction and any appeal of the injunction in which the arrestee is the prevailing party.

If, subsequent to the 14-day period for removal, the publisher subject to the injunction demonstrates to the court that it has complied with statutory requirements, the court shall terminate the injunction.

II. Present Situation:

Public Disclosure of Criminal Record Information

Unless a specific exemption applies, all “materials made or received by an agency in connection with official business which are used to perpetuate, communicate formal knowledge” are public records and “open for public inspection.”¹

Criminal record information is obtained and published by non-governmental publishers. This information includes, but is not limited to, booking photographs, arrest reports, charging documents, sentencing orders, and criminal history information.² Like all other records prepared by Florida government agencies, criminal record information is subject to public disclosure unless specifically exempted. If the record contains exempt and non-exempt information, the record is provided with exempt information redacted.³ For example, if a law enforcement record contains non-exempt information but also contains active criminal intelligence information or active criminal investigative information, both of which are exempt from public disclosure,⁴ the law enforcement record must be provided upon request with exempt information excised.⁵

Arrest Record Information

The public record information that is perhaps most relevant to the bill is public record information pertaining to a person’s arrest for the alleged commission of a crime.⁶ This information includes, but is not limited to the arrest report and “booking” photograph (often referred to as a “mug shot”).⁷

With few exceptions, arrest record information (including booking photographs) is not exempt from public disclosure.⁸ An example of an exemption would be the name of an alleged victim of

¹ Public Records: A Guide for Law Enforcement Agencies (2012 Edition), Office of Attorney General (Florida), at p.1. and endnote 1, citing *Shevin v. Byron, Harless, Schaffer, Reid and Associates, Inc.*, 379 So.2d 633, 640 (Fla. 1980) and endnote 2, citing *Wait v. Florida Power & Light Company*, 372 So.2d 420 (Fla. 1979). This publication is available at [http://myfloridalegal.com/webfiles.nsf/WF/RMAS-935PV5/\\$file/2012LEGuide.pdf](http://myfloridalegal.com/webfiles.nsf/WF/RMAS-935PV5/$file/2012LEGuide.pdf) (last viewed on January 27, 2014).

² The Florida Department of Law Enforcement is the central repository of criminal history information for the State of Florida. For a fee, a search of Florida criminal history information regarding a person may be performed. Excluded from the search is sealed or expunged information. See <https://web.fdle.state.fl.us/search/app/default> (last viewed on January 27, 2014).

³ Public Records: A Guide for Law Enforcement Agencies (2012 Edition), Office of Attorney General (Florida), at p. 15 and endnote 67, citing *City of Riviera Beach v. Barfield*, 642 So.2d 1135, 1137 (Fla. 4th DCA 1994), *review denied*, 651 So.2d 1192 (Fla. 1995).

⁴ Section 119.071(2)(c)1., F.S.

⁵ Public Records: A Guide for Law Enforcement Agencies (2012 Edition), Office of Attorney General (Florida), at p. 5 and endnote 20, citing *Wooling v. Lamar*, 764 So.2d 76, 768 (Fla. 5th DCA 2000), *review denied*, 786 So.2d 1186 (Fla. 2001).

⁶ An arrest does not establish that a person committed the crime for which he or she is arrested. An arrestee is presumed innocent of committing the crime until such time as guilt has been determined in a court of law. However, if guilt is not determined, e.g., the prosecutor does not file a charge or the arrestee is acquitted, this does not necessarily mean that the arrest itself was invalid.

⁷ There is an intake process involved if an arrestee is to be jailed. Some law enforcement agencies refer to “booking” as one part of a multi-component intake process; others refer to the intake process as “booking.” Regardless of how the term is used, a photograph is taken of the arrestee prior to being jailed and that photograph is referred to as a “booking” photograph.

⁸ “This office has consistently stated that crime and arrest reports are public records that are generally open to inspection.... Thus, an arrest report, including the booking photograph, prepared by a law enforcement agency is subject to disclosure.”

sexual battery that appears in the arrest report.⁹ In providing the arrest report pursuant to a public record request, this name would be redacted from the copy of the report provided to the requestor.

Arrest record information is requested by many persons and entities, including members of the public, traditional news companies, companies that provide criminal history or criminal record information for a service or subscriber fee (e.g., so that a private employer may determine if a job applicant has a criminal history), and companies that are often referred to as “mug shot companies.” This information is often available to the public within hours of the booking process being completed.¹⁰ For this reason, an expungement of criminal records relevant to a particular crime would not capture arrest record information that was obtained by the public when access to that information was authorized.

A “mug shot company” may be described as a business that obtains publicly-available arrest record information (primarily booking photographs) and publishes that information, typically by posting it on a website. Generally, this information remains on the website until a fee is paid to the publisher or the publisher is compensated by a third-party that advertises that it will obtain removal of the information from the website upon payment of a fee to the third-party. Since few, if any, mug shot companies appear to provide sufficient information on their company structure, location of company offices, and company officers, it may be difficult to determine whether the mug shot publisher and the third-party offering publication removal services are under the same ownership or are affiliated.

Traditional news companies that publish arrest record information (like booking photographs) and private companies that provide arrest record information for a service or subscriber fee may also profit, directly or indirectly, from publication of arrest record information, but the removal of this information, if it occurs, is neither contingent upon nor results from payment of a fee or receipt of compensation. Further, unlike the mug shot companies, this information is often only available to subscribers, or if publicly available, often becomes less accessible after a certain period of time has elapsed.

The charge or fee for removal of the booking photograph and other arrest record information from publication on mug shot companies’ websites varies but is typically in the hundreds of dollars. Even if the mug shot company removes the arrest record information from its website upon payment of fee or receipt of compensation, there is no guarantee that this information will not appear on the website of another mug shot company that may or may not be affiliated with the mug shot company that previously removed the information from its website. Therefore, the

Advisory Legal Opinion 94-90 (October 25, 1994) (footnotes omitted), Office of the Attorney General (Florida), available at <http://www.myfloridalegal.com/ago.nsf/Opinions/83A1D5004064269D852562210063168E> (last viewed on January 27, 2014).

⁹ Section 119.071(2)(j)1., F.S.

¹⁰ Recent news articles have reported that mug shot companies often obtain booking photographs by “web scraping” the photographs from law enforcement websites that publish the photographs. *See, e.g.*, “Don’t want arrest mug shot online? ‘Pay us’” (June 23, 2013), *MSN News*, available at <http://news.msn.com/crime-justice/dont-want-arrest-mug-shot-online-pay-us-sites-say> (last viewed on January 27, 2014). Techopedia® defines “web scraping” as “a term for various methods used to collect information from across the Internet. Generally, this is done with software that simulates human Web surfing to collect specified bits of information from different websites.” This information is available at <http://www.techopedia.com/definition/5212/web-scraping> (last viewed on January 27, 2014).

person who paid to have his or her arrest record information removed from one website may find himself or herself subsequently engaged in what has been described as “an expensive game of Whac-A-Mole.”¹¹

Criminal Use of Public Records

Section 817.569, F.S., provides that a person who knowingly uses any public record, or who knowingly uses information obtainable only through such public record, to facilitate or further the commission of:

- A first degree misdemeanor, commits a first degree misdemeanor; or
- A felony, commits a third degree felony.

The fee-for-removal practice described in the bill is not a first degree misdemeanor or felony in Florida. The bill makes this practice unlawful, but does not make it a first degree misdemeanor or felony.

Right of Publicity

Section 540.08(1), F.S., prohibits a person from publishing, printing, displaying, or otherwise publicly using for purposes of trade or for any commercial or advertising purpose the name, portrait, photograph, or other likeness of any natural person without the person’s express written or oral consent to such use. There are exceptions to the statute for:

- Publication, printing, display, or use of the name or likeness of any person in any newspaper, magazine, book, news broadcast or telecast, or other news medium or publication as part of any bona fide news report or presentation having a current and legitimate public interest and where such name or likeness is not used for advertising purposes; and
- The use of such name, portrait, photograph, or other likeness in connection with the resale or other distribution of literary, musical, or artistic productions or other articles of merchandise or property where such person has consented to the use of her or his name, etc., on or in connection with the initial sale or distribution of the name, etc.

The statute also provides that, in the event the necessary consent is not obtained, the person whose name, portrait, photograph, or other likeness is so used may bring an action to enjoin such unauthorized publication, printing, display or other public use, and to recover damages for any loss or injury sustained by reason thereof, including an amount which would have been a reasonable royalty, and punitive or exemplary damages.

Recently, a Florida federal district court held that a person who claimed that the operator of two websites who published her booking photograph and advertised the service of removing booking photographs from a particular website in exchange for payment stated a cause of action for

¹¹ “South Carolina attorneys, lawmakers aim to disrupt business of publishing jail mug shots” (November 17, 2013), *The Post and Courier* (Charleston, S.C.), available at <http://www.postandcourier.com/article/20131117/PC1610/131119492> (last viewed on January 27, 2014).

violation of s. 540.08, F.S.¹² It remains to be determined whether the operator violated the statute, and if so determined, what impact the decision would have on any similar suits that might be filed in other federal district courts or in the state courts.

III. Effect of Proposed Changes:

The bill prohibits a person engaged in publishing or otherwise disseminating arrest booking photographs through a publicly accessible print or electronic medium from soliciting or accepting a fee or other consideration¹³ to remove, correct, or modify an arrest booking photograph¹⁴ of an arrestee.¹⁵ This prohibition does not apply to state and local governments or government agencies.¹⁶

The bill's prohibition is directed at this fee-for-removal practice and not at publication of an arrest booking photograph if the publisher is not engaged in the fee-for-removal practice. Nothing in the bill prohibits a publisher from profiting from publication of arrest booking photographs (such as through subscriber fees or advertising). What the bill prohibits is the publisher profiting from unpublishing the arrest booking photographs.

An arrestee who is the subject of an arrest booking photograph that has been published may file a civil action enjoining publication of the photograph if the publisher solicits or accepts a fee or other consideration to remove, correct, or modify that photograph. If the court enjoins publication, the court shall order that the photograph be removed from publication no later than 14 days after the order is entered. The court shall impose a civil penalty of \$1,000 per day for each day of noncompliance with the order.

If the court enjoins publication, the arrestee is entitled to attorney fees and costs relating to issuance of the injunction and any appeal of the injunction in which the arrestee is the prevailing party.

If, subsequent to the 14-day period for removal, the publisher subject to the injunction demonstrates to the court that it has complied with statutory requirements, the court shall terminate the injunction. Consistent with the bill's approach to prohibit the fee-for-removal practice, if the publisher demonstrates to the court that it has ceased to engage in this practice ("cured" the statutory violation), the injunction is terminated and the publisher is free to publish the photographs.

¹² Order (January 10, 2014), *Shannon L. Bilotta v. Citizen Information Associates, LLC, et al.*, Case No. 8:13-cv-2811-T-30GW, U.S. District Court (Middle District-Tampa Division) (on file with the Senate Committee on Criminal Justice). Information for this paragraph is from this order.

¹³ The term "fee or other consideration" does not include a fee or consideration, including attorney fees and costs, solicited or accepted in connection with the actual or attempted settlement or compromise of a lawsuit, threatened lawsuit, arbitration claim, threatened arbitration claim, or other judicial or quasi-judicial proceeding.

¹⁴ The bill defines "arrest booking photograph" as a photograph of an arrestee taken for the purpose of recording the arrestee's image as part of the arrest and booking process

¹⁵ The bill defines an "arrestee" as an individual who has been arrested for a violation of law in this state.

¹⁶ Specifically, the bill provides that s. 119.17, F.S., the new section created by the bill, does not apply to any state, regional, county, local, or municipal governmental entity of this state, whether executive, judicial, or legislative, or any department, division, bureau, commission, authority, or political subdivision of this state.

The bill takes effect on October 1, 2014.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. Other Constitutional Issues:

An arrestee who is the subject of an arrest booking photograph that has been published may file a civil action enjoining publication of the photograph if the publisher solicits or accepts a fee or other consideration to remove, correct, or modify that photograph. The bill's prohibition is directed at this fee-for-removal practice. The bill does not authorize a civil action for simply publishing the photograph or information.¹⁷ Staff did not find any case in which a civil action for engaging in a similar fee-for-removal practice was held to be unconstitutional.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Private publishers of arrest booking photographs who engage in the prohibited fee-for-removal practice may be subject to a civil action enjoining publication of an arrest booking photograph. Publishers subject to an order enjoining publication who fail to comply with that order incur civil penalties.

¹⁷ See e.g., *Florida Star v. B.J.F.*, 491 U.S. 524 (1989) (imposing damages on a Florida newspaper that lawfully obtained and published the name of a rape victim violated the First Amendment). In *Florida Star*, the Court opined: "We do not hold that truthful publication is automatically constitutionally protected, or that there is no zone of personal privacy within which the State may protect the individual from intrusion by the press, or even that a State may never punish publication of the name of a victim of a sexual offense. We hold only that where a newspaper publishes truthful information which it has lawfully obtained, punishment may lawfully be imposed, if at all, only when narrowly tailored to a state interest of the highest order." 491 U.S. at 540. In regard to commercial speech (rather than "core" speech), "the Supreme Court held that '[c]ommercial free speech that is not false or deceptive and does not concern unlawful activities ... may be restricted only in the service of a substantial government interest, and only through means that directly advance that interest.' *Zauderer v. Office of Disciplinary Counsel of Supreme Court of Ohio*, 471 U.S. 626, 638, 105 S.Ct. 2265, 2275, 85 L.Ed.2d 652 (1985)." *Innovative Database Systems v. Morales*, 990 F.2d 217, 221 (5th Cir. 1993).

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:**Laws and Legislation of Other States**

The National Conference of State Legislatures (NCSL) has provided the following information¹⁸ relevant to laws and legislation addressing access to or publication of booking photographs or criminal record information:

Other states' public records laws specifically address booking/arrest photographs or mug shots, such as the following:

- Minnesota Stat. §13.82 (26) (e.g., provides that a booking photo is public data, but may be withheld if the agency determines that access will adversely affect an active investigation)
- Virginia Code § 2.2-3706 (e.g., adult arrestee photographs taken during the initial intake following the arrest and as part of the routine booking procedure must be released, except when necessary to avoid jeopardizing an investigation in felony cases)

Other state laws also address the release of mug shots by law enforcement agencies. For example:

- South Carolina Code § 17-1-40(A) (records, including photographs must be destroyed and not retained by law enforcement agencies if an arrest record is dismissed or expunged)
- Haw. Rev. Stat. § 831-3.2(e) (provides that any person entitled to an expungement order hereunder may by written application also request return of all fingerprints or photographs taken in connection with the person's arrest....)

The NCSL further states that “[s]ince 2012, several states have considered or passed legislation related to the release of booking photographs or mug shots, including legislation that requires removal of mug shots if criminal charges are dropped or prohibits charges for removing photographs.” According to the NCSL, Georgia, Illinois, Oregon, Texas, and Utah have passed legislation relevant to booking photographs.

¹⁸Unless otherwise indicated, information and quoted remarks in the “Related Issues” section of this analysis are from “Mug Shots and Booking Photo Websites” (December 4, 2013), National Conference of State Legislatures, available at <http://www.ncsl.org/research/telecommunications-and-information-technology/mug-shots-and-booking-photo-websites.aspx> (last viewed on January 27, 2014).

The Georgia bill (H.B. 150) “changes provisions relating to prohibited telemarketing and Internet activities” and “prohibits certain persons from collecting a fee for removing certain individuals’ arresting booking photographs from a website.”¹⁹

The Illinois bill (S.B. 115) amends Illinois’ Consumer Fraud and Deceptive Business Practices Act, State Records Act, and Local Records Act to provide “that it is an unlawful practice for any person engaged in publishing or otherwise disseminating criminal record information through a print or electronic medium to solicit or accept the payment of a fee or other consideration to remove, correct, or modify said criminal record information.”

The Oregon bill (H.B. 3467) “[r]equires [an] individual seeking disclosure of photographic records of [an] arrested person from [a] law enforcement agency to submit [a] written request to [the] agency, in person and with payment of fees,” “limits [the] scope of each request to photographic records of one arrested person,” and “prohibits law enforcement agencies from publishing photographic records of arrested persons on [the] Internet.”

The Texas bill (S.B. 1289) “[r]egulates business entities engaged in the publication or other dissemination of mug shots and other personal identifying information regarding the involvement of an individual in the criminal justice system” and “provides a civil penalty for violations.”

Finally, the Utah bill (H.B. 408) “prohibits county sheriffs from providing a copy of a booking photograph to a person if the photograph will be placed in a publication or posted on a website that requires a payment in order to remove the photograph.” The bill also “requires a person requesting a copy of a booking photograph to sign a statement that the photograph will not be placed in a publication or on a website that requires payment in order to remove the photograph.”

All of these bills were enacted into law in 2013. Therefore, it is too early to know if these bills will be challenged in court, and if so, whether they will pass constitutional scrutiny.

Private Sector Actions

According to recent news reports, the private sector is also taking steps to address the fee-for-removal practice. Google® has adjusted algorithms so that the mug shot companies will not appear on the first page of Google search results. Mastercard®, Visa®, Discover®, American Express®, PayPal®, and Wells Fargo® appear to be in the process of terminating or determining whether to terminate their relationship with mug shot companies.²⁰

VIII. Statutes Affected:

This bill creates section 119.172 of the Florida Statutes.

¹⁹ Legislative staff reviewed Georgia law. It appears that the legislation builds upon previously-existing public records exemptions that limit public access to arrest record information.

²⁰ Information for this paragraph is from “Mugged by a Mug Shot Online” (October 5, 2013), *New York Times*, available at http://www.nytimes.com/2013/10/06/business/mugged-by-a-mug-shot-online.html?pagewanted=all&_r=0 (last viewed on January 27, 2014) and “Mug shot extortion sites still up and running ... for now” (October 16, 2013), *CNN Money*, available at <http://money.cnn.com/2013/10/16/technology/mug-shot-websites/index.html> (last viewed on January 27, 2014).

IX. Additional Information:

- A. **Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)

CS by Criminal Justice on February 3, 2014:

- Provides that an arrestee who is the subject of an arrest booking photograph that has been published may file a civil action enjoining publication of the photograph if the publisher solicits or accepts a fee or other consideration to remove, correct, or modify that photograph.
- Provides that, if the court enjoins publication, the court shall order that the photograph be removed from publication no later than 14 days after the order is entered.
- Provides that the court shall impose a civil penalty of \$1,000 per day for each day of noncompliance with the order.
- Provides that if the court enjoins publication, the arrestee is entitled to attorney fees and costs relating to issuance of the injunction and any appeal of the injunction in which the arrestee is the prevailing party.
- Provides that, if, subsequent to the 14-day period for removal, the publisher subject to the injunction demonstrates to the court that it has complied with statutory requirements, the court shall terminate the injunction.

- B. **Amendments:**

None.



179128

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/03/2014	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Smith) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 119.17, Florida Statutes, is created to
read:

119.17 Arrest booking photographs.—

(1) As used in this section, the term:

(a) "Arrestee" means an individual who has been arrested
for a violation of law in this state.



179128

11 (b) "Arrest booking photograph" means a photograph of an
12 arrestee taken for the purpose of recording the arrestee's image
13 as part of the arrest and booking process.

14 (c) "Fee or other consideration" does not include a fee or
15 consideration, including attorney fees and costs, solicited or
16 accepted in connection with the actual or attempted settlement
17 or compromise of a lawsuit, threatened lawsuit, arbitration
18 claim, threatened arbitration claim, or other judicial or quasi-
19 judicial proceeding.

20 (2) A person engaged in publishing or otherwise
21 disseminating arrest booking photographs through a publicly
22 accessible print or electronic medium may not solicit or accept
23 a fee or other consideration to remove, correct, or modify an
24 arrest booking photograph of an arrestee.

25 (3) If a person engaged in publishing or otherwise
26 disseminating arrest booking photographs through a publicly
27 accessible print or electronic medium solicits or accepts a fee
28 or other consideration to remove, correct, or modify an arrest
29 booking photograph in violation of subsection (2), the arrestee
30 who is the subject of the arrest booking photograph may bring an
31 action to enjoin the publication or other dissemination of the
32 arrest booking photograph.

33 (a) If the court enjoins the publication or other
34 dissemination of the arrest booking photograph, the court shall
35 specify in its order that the arrest booking photograph must be
36 removed from publication or other dissemination not later than
37 14 days after the date the order is entered. The court shall
38 impose a civil penalty of \$1,000 per day for each day of
39 noncompliance with the order.



179128

40 (b) If the court enjoins publication or other dissemination
41 of an arrestee's arrest booking photograph, the arrestee is
42 entitled to reasonable attorney fees and costs relating to
43 issuance of the injunction and to any appeal of the order
44 issuing the injunction in which the arrestee is the prevailing
45 party.

46 (c) If, subsequent to the 14-day period for removal
47 pursuant to paragraph (a), the person subject to the injunction
48 demonstrates to the court that he or she is in compliance with
49 this section, the court shall terminate the injunction.

50 (4) This section does not apply to any state, regional,
51 county, local, or municipal governmental entity of this state,
52 whether executive, judicial, or legislative, or any department,
53 division, bureau, commission, authority, or political
54 subdivision of this state.

55 Section 2. This act shall take effect October 1, 2014.

56

57 ===== T I T L E A M E N D M E N T =====

58 And the title is amended as follows:

59 Delete everything before the enacting clause
60 and insert:

61 A bill to be entitled
62 An act relating to arrest booking photographs;
63 creating s. 119.17, F.S.; defining terms; prohibiting
64 a person who publishes or disseminates an arrest
65 booking photograph through a publicly accessible print
66 or electronic medium from soliciting or accepting
67 payment of a fee or other consideration to remove,
68 correct, or modify such photograph; authorizing an



179128

69 action to enjoin publication or dissemination of an
70 arrest booking photograph if the publisher or
71 disseminator unlawfully solicits or accepts a fee or
72 other consideration to remove, correct, or modify such
73 photograph; specifying the time period during which an
74 arrest booking photograph must be removed pursuant to
75 court order; providing a civil penalty; providing for
76 reasonable attorney fees and costs; requiring the
77 court to terminate an injunction under certain
78 circumstances; providing applicability; providing an
79 effective date.

By Senator Soto

14-00415-14

2014298__

A bill to be entitled

An act relating to booking photographs; creating s. 836.12, F.S.; providing definitions; prohibiting an individual or business entity from soliciting, charging, or collecting compensation for the removal of a booking photograph or other information related to a criminal charge or conviction from the Internet or other public medium; requiring an individual or business entity that publishes booking photographs or criminal record information on an Internet website or other public medium to provide certain contact information; providing for a civil action; providing for the award of actual damages and attorney fees; providing an effective date.

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

Section 1. Section 836.12, Florida Statutes, is created to read:

836.12 Removal of booking photographs from the Internet.-

(1) As used in this section, the term:

(a) "Booking photograph" means a photograph of an individual which was taken by an arresting law enforcement agency.

(b) "Criminal record information" means information about an individual's involvement in the criminal justice system. The term includes, but is not limited to:

1. A description or notation of any arrests, any formal charges, and the final disposition of those charges.

Page 1 of 2

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

14-00415-14

2014298__

2. Personal identifying information of an individual displayed in conjunction with any other record of his or her involvement in the criminal justice system.

(2) It is unlawful to solicit, charge, or collect compensation for the removal of a booking photograph or criminal record information from an Internet website or other public medium.

(3) An individual or business entity that publishes booking photographs or criminal record information on an Internet website or other public medium shall clearly and conspicuously publish an e-mail address, fax number, or mailing address to which an individual may submit a request that his or her photograph or information be removed from the Internet website or other public medium.

(4) An individual who has been the subject of solicitation, charge, or collection of compensation for the removal of his or her booking photograph or other information related to his or her criminal charge or conviction from the Internet or other public medium may file a civil action for actual damages and attorney fees against an individual or business entity that violates this section.

Section 2. This act shall take effect October 1, 2014.

Page 2 of 2

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



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Judiciary, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on General Government
Community Affairs
Environmental Preservation and Conservation
Ethics and Elections

SELECT COMMITTEE:

Select Committee on Patient Protection
and Affordable Care Act

SENATOR DARREN SOTO

Deputy Democratic Whip
14th District

November 4, 2013

The Honorable Greg Evers
Committee on Commerce & Tourism
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairman Evers,

I respectfully request that Senate Bill 298, Booking Photographs, be placed on the agenda as soon as possible.

Senate Bill 298 prohibits individuals and businesses from collecting compensation for the removal of a booking photograph or other information related to a criminal charge or conviction from the Internet or other public medium. This bill also requires individuals and businesses that publish booking photographs or criminal record information on an Internet website or other public medium to provide contact information.

Thank you for your consideration. Should you have any questions or concerns, please feel free to contact me at 850-487-5014.

Sincerely,

A handwritten signature in cursive script that reads "Darren M. Soto".

Darren M. Soto
State Senator, District 14

Cc: Amanda Cannon, Staff Director
Sue Arnold, Committee Administrative Assistant

REPLY TO:

□ 220 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2 / 3 / 2014

Meeting Date

Topic _____

Bill Number 298

(if applicable)

Name BRIAN PITTS

Amendment Barcode _____

(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Street

Phone 727-897-9291

SAINT PETERSBURG

FLORIDA

33705

City

State

Zip

E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/3/2014

Meeting Date

Topic Booking Photographs / Mugshots

Bill Number 298
(if applicable)

Name Jorge Chamizo

Amendment Barcode _____
(if applicable)

Job Title Attorney

Address 108 South Monroe Street

Phone (850) 681-0024

Street Tallahassee, FL 32301
City State Zip

E-mail _____

Speaking: For Against Information

Representing Fla. Association of Criminal Defense Lawyers

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

February 3, 2014

Meeting Date

Topic Booking Photographs

Bill Number 298

(if applicable)

Name Honorable Carlos Martinez

Amendment Barcode _____

(if applicable)

Job Title Public Defender, 11th Judicial Circuit

Address 1320 NW 14th Street

Phone 305-545-1600

Street

Miami

Florida

33125

City

State

Zip

E-mail cmartinez@pdmiami.com

Speaking: For Against Information

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: CS/SB 424

INTRODUCER: Criminal Justice Committee and Senators Lee and Latvala

SUBJECT: Discriminatory Insurance Practices

DATE: February 3, 2014 REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Johnson</u>	<u>Knudson</u>	<u>BI</u>	Fav/2 amendments
2.	<u>Cellon</u>	<u>Cannon</u>	<u>CJ</u>	Fav/CS
3.	_____	_____	<u>AP</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 424 provides that it is an unfair discriminatory practice for a personal lines property or automobile insurer to:

- Refuse to issue, renew, or cancel a policy or charge an unfairly discriminatory rate based on the lawful ownership, possession, or use of a firearm by the applicant, insured, or a household member of the applicant or insured.
- Disclose the lawful ownership or possession of firearms of an applicant, insured, or household member of the applicant or insured to a third party or an affiliated entity of the insurer unless the insurer discloses to the applicant the need for the disclosure, and the applicant or insured expressly consents or “opts in” to the disclosure. This provision would significantly expand a consumer’s ability to protect the privacy of information provided to an insurer. Under current law, a consumer may opt-out on disclosures to nonaffiliated third parties with some exceptions; however, no opt-out applies with respect to affiliates.

The bill provides limited exceptions to the general provision of the bill regarding sharing firearm-related information.

When a separate rider is voluntarily requested by a policyholder or prospective policyholder to insure a firearm or firearm collection the value of which exceeds standard policy coverage, the insurer is not prohibited from charging a supplemental premium so long as it is not unfairly discriminatory.

If an insurer engages in discriminatory practices prohibited under part IX, of ch. 626, F.S., the insurer would be subject to fines and other administrative actions by the Office of Insurance Regulation.

II. Present Situation:

Regulation of Property and Automobile Insurance in Florida

Personal residential property (homeowners) insurance generally provides coverage of a dwelling, other structures, contents, loss of use, personal liability (bodily injury or property damage for which the policyholder or others covered by the policy are deemed liable), and medical payments to others. Florida drivers are required to purchase both personal injury protection and property damage liability insurance.¹

The Office of Insurance Regulation (OIR)² is responsible for the regulation and oversight of insurers and other risk-bearing entities. These activities include licensing, rates, policy forms, market conduct examinations, and solvency.³ Upon receipt of a rate filing, the OIR reviews the filing to determine if a proposed rate is excessive, inadequate, or unfairly discriminatory, which is prohibited pursuant to s. 627.062, F.S. A rate is deemed “unfairly discriminatory” as to a risk or group of risks if the application of premium discounts, credits, or surcharges among such risks does not bear a reasonable relationship to the expected loss and expense experience among the various risks.

Part IX of ch. 626, F.S., entitled Unfair Insurance Trade Practices, defines and prohibits unfair methods of competition and unfair or deceptive acts or practices and provides penalties and enforcement authority to the respective regulator, the Department of Financial Services or the OIR.⁴ Section 626.9541, F.S., defines activities that are deemed as unfair methods of competition and unfair or deceptive acts or practices and are prohibited and are subject to penalties under s. 626.9521, F.S. Except as provided in s. 626.9521(3), F.S., any person violating any provision of part IX, is subject to a fine in an amount not greater than \$5,000 for each nonwillful violation and not greater than \$40,000 for each willful violation.⁵ Fines imposed against an insurer may not exceed \$20,000 for all nonwillful violations arising out of the same action or an aggregate amount of \$200,000 for all willful violations arising out of the same action.⁶

Professional staff of the Banking and Insurance Committee requested information from the OIR regarding the use of firearm ownership information as an underwriting factor by the top 5 writers

¹ See sections 324.022 F.S., and 627.733, F.S.

² Section 20.121(3), F.S. The Financial Services Commission, composed of the Governor, Attorney General, the Chief Financial Officer, and the Commissioner of Agriculture, oversees the OIR, and is the agency head for purposes of rulemaking.

³ Insurance agents and agencies are regulated by the Department of Financial Services. (Section 20.121, F.S.)

⁴ Section 626.9561, F.S. The department regulates insurance agents and agencies under part I, ch. 626, F.S., and are subject to part IX of ch. 626, F.S.

⁵ Section 626.9521(2), F.S.

⁶ Section 626.9521, F.S., also contains enhanced penalties for specified violations of s. 626.9541, F.S.

of homeowners' insurance.⁷ According to the OIR, only one of these companies addressed firearm ownership in the underwriting guidelines.⁸ Citizens does not use firearm ownership in the underwriting process⁹ and the Citizens Clearinghouse¹⁰ application does not contain questions about firearm ownership.

Florida Firearm Regulations

Chapter 790, F.S., governs the regulation of firearms and weapons. Section 790.25, F.S., prescribes the requirements for the lawful ownership, possession, and use of firearms and other weapons. Section 790.001, F.S., defines the term "firearm" to mean "any weapon (including a starter gun) which will, is designed to, or may readily be converted to expel a projectile by the action of an explosive; the frame or receiver of any such weapon; any firearm muffler or firearm silencer; any destructive device; or any machine gun. The term "firearm" does not include an antique firearm unless the antique firearm is used in the commission of a crime."

State and Federal Insurance Information Privacy Laws

The federal Gramm-Leach-Bliley Act¹¹ requires a financial institution to provide notice to its customers about its privacy policies and generally prohibits a financial institution from sharing nonpublic personal information¹² about individuals with nonaffiliated third parties without giving customers an opportunity to opt out.¹³ Such annual notices provided to consumers disclose the categories of information collected and how the institution shares information with affiliates as well as with nonaffiliated third parties. The Act broadly defines the term, "financial institution," to mean any institution in the business of engaging in financial activities.¹⁴ Examples of activities that are financial in nature include lending, investing, safeguarding money, insuring and acting as principal, agent, or broker. The Act requires insurers and others to comply with regulatory standards to protect the security and confidentiality of consumer information. These federal provisions do not supersede, alter, or affect any state law except to the extent such state law is inconsistent with these provisions. A state law is not considered inconsistent with the

⁷ According to the latest Quasar ranking dated 3rd quarter 2013, the top 5 writers of HO-3 (owners) policies are Citizens, State Farm Florida Insurance Company, Universal Property and Casualty Insurance Company, St. Johns Insurance Company, and United Property and Casualty Insurance Company.

⁸ E-mail from K. Kees, Office of Insurance Regulation (January 10, 2013) (on file with the Senate Committee on Banking and Insurance). The manual of the United Property and Casualty Company addresses "dangerous firearms including, but not limited to, assault-type and rapid-fire weapons, except for game hunting rifles or shotguns.

⁹ E-mail from C. Bunker of Citizens Property Insurance. (January 6, 2014) (on file with the Senate Committee on Banking and Insurance)

¹⁰ In 2013, the Florida Legislature created a clearinghouse for Citizens to divert insurance from Citizens to the private market. The law requires all new applications and all renewals for personal residential property insurance in Citizens to be submitted to the clearinghouse in order to determine if the policy can be written or renewed by an insurer in the private market within the premium eligibility restrictions. [Ch. 2013-60, L.O.F.]

¹¹ Pub. Law No. 106-102, H. Rept. 106-434.

¹² This term includes personally identifiable financial information provided by a consumer to a financial institution; resulting from any transaction with the consumer or any service performed for the consumer; or otherwise obtained by the financial institution.

¹³ 15 U.S.C. ss. 6801-6809.

¹⁴ 12 U.S.C. 1843(k).

federal provisions if the protection that such state law affords any consumer is greater than the protection provided under the federal Act.¹⁵

Two provisions of the insurance code address the Act's provisions relating to privacy and disclosure of information. Section 626.025, F.S, requires insurance agents to comply with specified insurance code provisions and any other licensing requirement, restriction, or prohibition designated as a consumer protection by the Chief Financial Officer, but not inconsistent with the requirements of Subtitle C of the federal Gramm-Leach-Bliley Act. Section 626.9651, F.S., requires the Department of Financial Services and the Financial Services Commission (as agency head of the OIR) to adopt rules governing the use of a consumer's nonpublic personal and financial health information.

III. Effect of Proposed Changes:

The bill amends s. 626.9541, F.S., by providing that it is unfair discriminatory practice, and therefore a prohibited act under part IX of chapter 626, F.S., for a personal lines property or personal lines automobile insurer to:

- Refuse to issue, renew, or cancel a policy or charge an unfairly discriminatory rate based on the lawful ownership, possession, or use of a firearm by the applicant, insured, or a household member of the applicant or insured. Under current law, the use of an unfairly discriminatory rate is prohibited.
- Disclose the lawful ownership or possession of firearms of an applicant, insured, or household member of the applicant or insured to a third party or an affiliated entity unless the insurer discloses to the applicant or insured the specific need to disclose the information and the applicant or insured expressly consents to the disclosure. Currently, insurers and other specified entities are allowed to share information with affiliates; however, consumers have the right to "opt-out" of disclosures to nonaffiliated third parties, subject to some exceptions.

The bill provides limited exceptions to the general provision of the bill regarding sharing firearm-related information. These exceptions occur only when it becomes necessary to disclose the information in order to quote or bind coverage, continue coverage, or adjust a claim.

The bill provides an exception when it becomes necessary for an insurer and its licensed insurance agent to share firearm information for purposes of underwriting or issuing coverage on a separate rider, voluntarily requested by a policyholder or prospective policyholder, in order to insure a firearm or firearm collection the value of which exceeds standard policy coverage. When a separate rider is voluntarily requested under these circumstances, the insurer is not prohibited from charging a supplemental premium so long as it is not unfairly discriminatory.

The bill is effective July 1, 2014.

¹⁵ The Federal Trade Commission on its own motion or upon the petition of any interested party would make this determination. (16 C.F.R. s. 313.17)

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

To the extent an applicant or insured who lawfully owns, possesses, or uses a firearm and has had his or her coverage previously denied, nonrenewed, or cancelled due to such lawful firearm ownership, possession, or use, this bill could provide additional coverage options. Information about lawful gun ownership collected by an insurer could not be shared with affiliates or third parties without the express consent or “opt-in” by the insured or applicant, or when the necessity arises under the limits of the bill.

The bill would prohibit insurers from denying, nonrenewing, or cancelling coverage or charging unfairly discriminatory rates based on the lawful ownership, possession, or use of a firearm and would authorize the OIR to impose penalties on insurers that engage in this practice.

To the extent an insurer collects and shares information regarding lawful gun ownership, an insurer may incur indeterminate administrative costs revising its notice and disclosure process to comply with the “opt-in” and notice requirements required by the bill. Currently, an insurer is required to provide a consumer with an opportunity to opt-out of disclosures with nonaffiliated third parties (with some exceptions); however, no opt-out applies with respect to disclosures to affiliates.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

It is unclear how the provisions of the bill would be interpreted or implemented with the existing requirements under s. 790.338(7), F.S., which prohibits an insurer that issues any type of coverage pursuant to ch. 627, F.S., from denying coverage, increasing premiums, or otherwise discriminating against any insured or applicant for insurance on the basis of or upon reliance upon the lawful ownership, possession or storage of a firearm or ammunition. An insurer is authorized to consider the fair market value of firearms or ammunitions in the setting of premiums for scheduled personal property coverage.

VIII. Statutes Affected:

This bill substantially amends section 626.9541 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Substantial Changes:**
(Summarizing differences between the Committee Substitute and the prior version of the bill.)**CS by Criminal Justice on February 3, 2014:**

- Specifies that the provisions of the bill do not prevent an insurer from charging a supplemental premium that is not unfairly discriminatory for a separate rider voluntarily requested by an insurance applicant to insure a firearm or firearm collection above the standard policy coverage.
- Expands the circumstances under which an insurer may disclose information regarding the lawful ownership or possession of firearms by an insurance applicant, insured, or household member, to include when such disclosure is necessary to:
 - quote coverage;
 - bind coverage;
 - continue coverage; or
 - adjust a claim.
- Specifies that the provisions of the bill do not prevent an insurer and its licensed agent from sharing the same information, for purposes of underwriting and issuing insurance coverage, when a separate rider has been voluntarily requested by the policyholder or prospective policyholder to insure a firearm or firearm collection the value of which exceeds the standard policy limit.

B. Amendments:

None.



252692

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/03/2014	.	
	.	
	.	
	.	

The Committee on Criminal Justice (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraph (g) of subsection (1) of section
626.9541, Florida Statutes, is amended to read:



252692

8 626.9541 Unfair methods of competition and unfair or
9 deceptive acts or practices defined.—

10 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
11 ACTS.—The following are defined as unfair methods of competition
12 and unfair or deceptive acts or practices:

13 (g) *Unfair discrimination.*—

14 1. Knowingly making or permitting ~~any~~ unfair discrimination
15 between individuals of the same actuarially supportable class
16 and equal expectation of life, in the rates charged for a ~~any~~
17 life insurance or annuity contract, in the dividends or other
18 benefits payable thereon, or in any other term or condition ~~of~~
19 ~~the terms and conditions~~ of such contract.

20 2. Knowingly making or permitting ~~any~~ unfair discrimination
21 between individuals of the same actuarially supportable class,
22 as determined at the ~~original~~ time of initial issuance of the
23 coverage, and essentially the same hazard, in the amount of
24 premium, policy fees, or rates charged for a ~~any~~ policy or
25 contract of accident, disability, or health insurance, in the
26 benefits payable thereunder, in ~~any~~ ~~of~~ the terms or conditions
27 of such contract, or in any other manner ~~whatever~~.

28 3. For a health insurer, life insurer, disability insurer,
29 property and casualty insurer, automobile insurer, or managed
30 care provider to underwrite a policy, or refuse to issue,
31 reissue, or renew a policy, refuse to pay a claim, cancel or
32 otherwise terminate a policy, or increase rates based upon the
33 fact that an insured or applicant who is also the proposed
34 insured has made a claim or sought or should have sought medical
35 or psychological treatment in the past for abuse, protection
36 from abuse, or shelter from abuse, or that a claim was caused in



252692

37 the past by, or might occur as a result of, any future assault,
38 battery, or sexual assault by a family or household member upon
39 another family or household member as defined in s. 741.28. A
40 health insurer, life insurer, disability insurer, or managed
41 care provider may refuse to underwrite, issue, or renew a policy
42 based on the applicant's medical condition, but may ~~shall~~ not
43 consider whether such condition was caused by an act of abuse.
44 For purposes of this section, the term "abuse" means the
45 occurrence of one or more of the following acts:

- 46 a. Attempting or committing assault, battery, sexual
47 assault, or sexual battery;
- 48 b. Placing another in fear of imminent serious bodily
49 injury by physical menace;
- 50 c. False imprisonment;
- 51 d. Physically or sexually abusing a minor child; or
- 52 e. An act of domestic violence as defined in s. 741.28.

53
54 This subparagraph does not prohibit a property and casualty
55 insurer or an automobile insurer from excluding coverage for
56 intentional acts by the insured if such exclusion is ~~does~~ not
57 ~~constitute~~ an act of unfair discrimination as defined in this
58 paragraph.

59 4. For a personal lines property or personal lines
60 automobile insurer to:

- 61 a. Refuse to issue, reissue, or renew a policy; cancel or
62 otherwise terminate a policy; or charge an unfairly
63 discriminatory rate in this state based on the lawful use,
64 possession, or ownership of a firearm by the insurance
65 applicant, insured, or a household member of the applicant or



252692

66 insured. This sub-subparagraph does not prevent an insurer from
67 charging a supplemental premium that is not unfairly
68 discriminatory for a separate rider voluntarily requested by the
69 insurance applicant to insure a firearm or a firearm collection
70 whose value exceeds the standard policy coverage.

71 b. Disclose the lawful ownership or possession of firearms
72 of an insurance applicant, insured, or household member of the
73 applicant or insured to a third party or an affiliated entity of
74 the insurer unless the insurer discloses to the applicant or
75 insured the specific need to disclose the information and the
76 applicant or insured expressly consents to the disclosure, or
77 the disclosure is necessary to quote or bind coverage, continue
78 coverage, or adjust a claim. For purposes of underwriting and
79 issuing insurance coverage, this sub-subparagraph does not
80 prevent the sharing of information between an insurance company
81 and its licensed insurance agent if a separate rider has been
82 voluntarily requested by the policyholder or prospective
83 policyholder to insure a firearm or a firearm collection whose
84 value exceeds the standard policy coverage.

85 Section 2. This act shall take effect July 1, 2014.

87 ===== T I T L E A M E N D M E N T =====

88 And the title is amended as follows:

89 Delete everything before the enacting clause
90 and insert:

91 A bill to be entitled
92 An act relating to discriminatory insurance practices;
93 amending s. 626.9541, F.S.; providing that unfair
94 discrimination on the basis of gun ownership in the



252692

95 provision of personal lines property or personal lines
96 automobile insurance is a discriminatory insurance
97 practice; clarifying that insurers are not prevented
98 from charging supplemental premiums or sharing
99 information between an insurer and its agent if a
100 separate rider has been requested; providing an
101 effective date.

By Senator Lee

24-00321A-14

2014424__

1 A bill to be entitled
 2 An act relating to discriminatory insurance practices;
 3 amending s. 626.9541, F.S.; providing that unfair
 4 discrimination on the basis of gun ownership in the
 5 provision of personal lines property or personal lines
 6 automobile insurance is a discriminatory insurance
 7 practice; providing an effective date.
 8
 9 Be It Enacted by the Legislature of the State of Florida:
 10
 11 Section 1. Paragraph (g) of subsection (1) of section
 12 626.9541, Florida Statutes, is amended to read:
 13 626.9541 Unfair methods of competition and unfair or
 14 deceptive acts or practices defined.—
 15 (1) UNFAIR METHODS OF COMPETITION AND UNFAIR OR DECEPTIVE
 16 ACTS.—The following are defined as unfair methods of competition
 17 and unfair or deceptive acts or practices:
 18 (g) *Unfair discrimination.*—
 19 1. Knowingly making or permitting ~~any~~ unfair discrimination
 20 between individuals of the same actuarially supportable class
 21 and equal expectation of life, in the rates charged for a any
 22 life insurance or annuity contract, in the dividends or other
 23 benefits payable thereon, or in any other term or condition of
 24 ~~the terms and conditions~~ of such contract.
 25 2. Knowingly making or permitting ~~any~~ unfair discrimination
 26 between individuals of the same actuarially supportable class,
 27 as determined at the ~~original~~ time of initial issuance of the
 28 coverage, and essentially the same hazard, in the amount of
 29 premium, policy fees, or rates charged for a any policy or

Page 1 of 3

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

24-00321A-14

2014424__

30 contract of accident, disability, or health insurance, in the
 31 benefits payable thereunder, in ~~any of~~ the terms or conditions
 32 of such contract, or in any other manner whatever.
 33 3. For a health insurer, life insurer, disability insurer,
 34 property and casualty insurer, automobile insurer, or managed
 35 care provider to underwrite a policy, or refuse to issue,
 36 reissue, or renew a policy, refuse to pay a claim, cancel or
 37 otherwise terminate a policy, or increase rates based upon the
 38 fact that an insured or applicant who is also the proposed
 39 insured has made a claim or sought or should have sought medical
 40 or psychological treatment in the past for abuse, protection
 41 from abuse, or shelter from abuse, or that a claim was caused in
 42 the past by, or might occur as a result of, any future assault,
 43 battery, or sexual assault by a family or household member upon
 44 another family or household member as defined in s. 741.28. A
 45 health insurer, life insurer, disability insurer, or managed
 46 care provider may refuse to underwrite, issue, or renew a policy
 47 based on the applicant's medical condition, but may ~~shall~~ not
 48 consider whether such condition was caused by an act of abuse.
 49 For purposes of this section, the term "abuse" means the
 50 occurrence of one or more of the following acts:
 51 a. Attempting or committing assault, battery, sexual
 52 assault, or sexual battery;
 53 b. Placing another in fear of imminent serious bodily
 54 injury by physical menace;
 55 c. False imprisonment;
 56 d. Physically or sexually abusing a minor child; or
 57 e. An act of domestic violence as defined in s. 741.28.
 58

Page 2 of 3

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

24-00321A-14

2014424__

59 This subparagraph does not prohibit a property and casualty
60 insurer or an automobile insurer from excluding coverage for
61 intentional acts by the insured if such exclusion ~~is does~~ not
62 constitute an act of unfair discrimination as defined in this
63 paragraph.

64 4. For a personal lines property or personal lines
65 automobile insurer to:

66 a. Refuse to issue, reissue, or renew a policy; cancel or
67 otherwise terminate a policy; or charge an unfairly
68 discriminatory rate in this state based on the lawful use,
69 possession, or ownership of a firearm by the insurance
70 applicant, insured, or a household member of the applicant or
71 insured.

72 b. Disclose the lawful ownership or possession of firearms
73 of an insurance applicant, insured, or household member of the
74 applicant or insured to a third party or an affiliated entity of
75 the insurer unless the insurer discloses to the applicant or
76 insured the specific need to disclose the information and the
77 applicant or insured expressly consents to the disclosure.

78 Section 2. This act shall take effect July 1, 2014.



965502

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/14/2014	.	
	.	
	.	
	.	

The Committee on Banking and Insurance (Lee) recommended the following:

Senate Amendment

Between lines 77 and 78
insert:

For purposes of underwriting and issuing insurance coverage,
this subparagraph does not prevent the sharing of information
between an insurance company and its licensed insurance agent
when a separate rider has been voluntarily requested by the
policyholder or prospective policyholder to insure a firearm or



965502

11 a firearm collection whose value exceeds the standard policy
12 coverage.



554246

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
01/14/2014	.	
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	.	
	.	

The Committee on Banking and Insurance (Lee) recommended the following:

Senate Amendment

Between lines 77 and 78
insert:

This subparagraph does not prevent an insurer from charging a supplemental premium that is not unfairly discriminatory for a separate rider voluntarily requested by the insurance applicant to insure a firearm or a firearm collection whose value exceeds the standard policy coverage.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2 / 3 / 2014

Meeting Date

Topic _____

Bill Number 424
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

THE FLORIDA SENATE
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

2/3/14
Date

SB-424
Bill Number

Name MARION HAMMER

Phone 222-9518

Address P.O. Box 1387

E-mail _____

Street

TALLAHASSEE

FL

State

32302

Zip

Job Title _____

City

Speaking: For Against Information

Appearing at request of Chair

Subject FIREARMS - Insurance Companies

Representing NRA & UNIFIED SPORTSMEN OF FLORIDA

Lobbyist registered with Legislature:

Yes

No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Chair*
Appropriations Subcommittee on Health
and Human Services
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Banking and Insurance
Ethics and Elections
Gaming
Rules
Transportation

SENATOR TOM LEE

Deputy Majority Leader
24th District

February 3, 2014

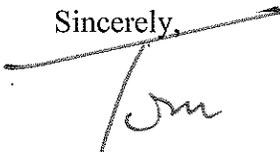
The Honorable Greg Evers
Senate Criminal Justice Committee, Chair
308 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399

Dear Chairman Evers,

I respectfully request that my aide, Doug Roberts, present SB 424, related to the *Discriminatory Insurance Practices*, at the Senate Criminal Justice committee meeting due to a scheduling conflict with the Ethic and Elections committee.

Thank you for your consideration.

Sincerely,


Tom Lee
Senator, District 24

Cc: Amanda Cannon, Staff Director

REPLY TO:

- 915 Oakfield Drive, Suite D, Brandon, Florida 33511 (813) 653-7061
- 418 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5024

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

(This document is based on the provisions contained in the legislation as of the latest date listed below.)

Prepared By: The Professional Staff of the Committee on Criminal Justice

BILL: SB 544

INTRODUCER: Senator Simpson and others

SUBJECT: Licensure to Carry a Concealed Weapon or Firearm

DATE: January 24, 2014

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Cannon	CJ	Favorable
2.	_____	_____	AG	_____
3.	_____	_____	CA	_____

I. Summary:

SB 544 creates a new section of law within Chapter 790, F.S., to allow the Department of Agriculture and Consumer Services to appoint county tax collectors for the purpose of accepting and forwarding to the Department applications for concealed weapon or firearm licenses or renewals. It is the Department's responsibility to issue concealed weapon and firearm licenses to qualified applicants.¹

County tax collectors who are interested in the appointment by the Department will submit a request for appointment. Upon approval of the tax collector's qualifications by the Department, the Division of Licensing then has the discretion to enter into a Memorandum of Understanding (MOU) with the tax collector. Both the Department and the Division have the authority to rescind the MOU.

All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is given confidential and exempt status by the linked bill, SB 546.

The bill makes no changes to eligibility criteria or license application requirements.

II. Present Situation:

Issuance of Concealed Weapons or Firearm Licenses

The Department of Agriculture and Consumer Services (DACS) is responsible for issuing concealed weapon and firearm licenses to those applicants who qualify.² During fiscal year 2012-2013, DACS received 96,840 new license applications and 2,153 applications for license

¹ s. 790.061(1), F.S.

² *Id.*

renewal.³ During the same time period, DACS issued 99,606 new concealed weapon licenses and 2,239 renewals.⁴ As of the end of FY 2012-2013, there were 1,098,458 valid Florida concealed weapon licenses.⁵

Concealed Weapon License Application Requirements

To obtain a concealed weapons license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearms safety and training course; and
- A nonrefundable license fee no greater than \$70 for a new license or no greater than \$60 for a renewal.⁶

There is an additional fee for processing the fingerprints, typically \$42. According to information provided by DACS, \$42 is the fee payable to the Florida Department of Law Enforcement (FDLE). A portion of the \$42 covers fees paid by FDLE to the FBI for assistance in completing the required background check.⁷ Sheriff's offices are statutorily authorized to collect \$5 for fingerprinting services.⁸

Section 790.06(6)(c), F.S., requires DACS to either issue the license or deny its issuance and notify the applicant within 90 days of receiving a completed application. DACS is typically meeting this requirement except under circumstances explained on the link to "Frequently Asked Questions on the DACS" webpage. The most common reasons for delay and the DACS response to those issues are explained as follows:

- if we find that your application is incomplete for some reason (a missing answer to a question; check made out for the wrong amount; no firearms training documentation; etc.), we will notify

³ Applications and Dispositions by County, July 1, 2012-June 30, 2013. Statistic found at www.freshfromflorida.com, last visited January 15, 2014.

⁴ Summary Report, October 1987-June 2014. www.freshfromflorida.com, last visited January 15, 2014.

⁵ Number of Valid Florida Concealed Licenses Since Program Inception. www.freshfromflorida.com, last visited January 15, 2014.

⁶ s. 790.06(1)-(5), F.S.

⁷ E-mail correspondence with DACS, January 16, 2014.

⁸ s. 790.06(6)(b), F.S.

you by letter of this problem and request that you provide us with the missing information or documentation;

- if law enforcement authorities determine that your fingerprints are insufficiently legible to complete a proper background check, we will send you a letter requesting a second fingerprint submission as required by law. If your second fingerprint submission is also deemed illegible, we can then ask the FBI to conduct a name-based background check.
- if the background check results we receive from law enforcement authorities reflect a potentially disqualifying crime without a final disposition, we will send you a letter requesting that you provide us with court documents indicating the final disposition.⁹

DACS has made a “Fast Track Processing” system available to applicants in 8 regional offices.¹⁰ During an appointment, the applicant can fill out and submit the application, have their fingerprints scanned electronically, have their picture taken and make their payment. Staff reviews the application for completeness at the regional office before it is submitted to the DACS Division of Licensing for final processing. Renewal CW licenses require far less documentation and therefore can be completed much faster either via a regional office or mail in. In fact, if a renewal is done in one of the eight regional offices, with few exceptions, the limited processing work can be done onsite and the renewal license is issued to the waiting applicant.¹¹

County Tax Collector Authority

Article VIII, Section 1(d) of the Florida Constitution provides that Tax Collectors are elected County Officers. The tax collector is the county officer charged with the collection of ad valorem taxes levied by the county, the school board, any special taxing districts within the county, and all municipalities within the county.¹² County tax collections are supervised by the state Department of Revenue.¹³ Tax collectors may appoint deputies to act on their behalf in carrying out the duties prescribed by law.¹⁴

Several state agencies and departments are currently authorized to enter into agreements with county tax collectors for various purposes. Some examples that are similar to the arrangement with DACS contemplated by the bill include:

- The Department of State may appoint a county tax collector as an agent to accept applications for licenses or license renewals or other similar registrations.¹⁵

⁹ Frequently Asked Questions, Concealed Weapon or Firearm License website, www.freshfromflorida.com; last visited January 16, 2014.

¹⁰ The regional offices are located in Fort Walton Beach, Jacksonville, Doral, Orlando, Punta Gorda, Tallahassee, Tampa, and West Palm Beach. Regional Office Locations, www.freshfromflorida.com; last Visited January 15, 2014.

¹¹ Fast Track Processing; www.freshfromflorida.com; last visited January 15, 2014; Senate Fiscal Note from Department of Agriculture, transmitted January 23, 2014.

¹² s. 192.001(4), F.S.

¹³ See generally Ch. 195, F.S.; s. 197.603, F.S.

¹⁴ s. 197.103, F.S.

¹⁵ s. 288.037, F.S.

- The Department of Highway Safety and Motor Vehicles (DHSMV) authorizes tax collectors to act as agents of the department in matters of motor vehicle registration. DHSMV has statutory authority to install The Florida Real Time Vehicle Information System in the tax collectors offices to facilitate the agency relationship.¹⁶
- DHSMV also has a statutory mandate to enter interagency agreements with county tax collectors to issue driver licenses, identification cards, and vessel registrations.¹⁷
- The county tax collectors may sell licenses for game hunting and fishing, as authorized by statute and the Fish and Wildlife Conservation Commission.¹⁸
- The Department of Business and Professional Regulation (DBPR) may enter into an agreement with county tax collectors to act as the department's agent to accept applications for licenses or renewals of licenses to practice professions that fall within DBPR jurisdiction.¹⁹

III. Effect of Proposed Changes:

SB 544 creates a new section of law within Chapter 790, F.S., to allow the Department of Agriculture and Consumer Services (DACS) to appoint elected county tax collectors for the purpose of accepting and forwarding to DACS applications for concealed weapon or firearm licenses or renewals on behalf of the Division of Licensing (the Division).

County tax collectors who are interested in the appointment by DACS will submit a request to the Division. The Division then has the discretion to enter into a Memorandum of Understanding (MOU) with the tax collector. Both the DACS and the Division have the authority to rescind the MOU.

All personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU is given confidential and exempt status by the linked bill, SB 546.

Appointed tax collectors may not maintain a list of persons who apply for or receive a new or renewal concealed weapon or firearm license. Maintaining such a list makes the person subject to the provisions of s. 790.335, F.S.²⁰

A tax collector appointed under the provisions of the bill is entitled to charge the applicant a convenience fee in the amount of \$22 for accepting new license applications and \$12 for accepting each renewal application. License fees collected by the tax collector are to be remitted to DACS weekly.

¹⁶ s. 320.03, F.S.

¹⁷ s. 322.135, F.S., s. 328.73, F.S.

¹⁸ s. 379.352, F.S.

¹⁹ s. 455.213, F.S.

²⁰ Section 790.335, F.S., states: "PROHIBITIONS.—No state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, public or private, shall knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms." Such conduct is subject to third degree felony penalties and a \$5 million dollar fine.

The bill authorizes tax collectors approved for appointment under newly-created s. 790.0625 to administer fingerprints for license applicants.

The bill prohibits persons who are not appointed by DACS from handling applications for any fee or compensation.

The bill creates a second degree misdemeanor for willful violations of newly-created s. 790.0625.

The bill makes no changes to eligibility criteria or license application requirements.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The citizen who chooses to avail him or herself of the concealed weapon or firearm license application service the tax collector provides will be charged a \$22 convenience fee for the service.

C. Government Sector Impact:

DACS estimates that an indeterminate amount of additional revenue will be generated and paid into the Division of Licensing Trust Fund from additional tax collector offices receiving and initially processing concealed weapon and firearm license applications.

Notwithstanding any additional license revenue generated from tax collector participation as contemplated in this bill, current and future concealed weapon and firearm license application revenue from DAC's existing license program received and deposited into the Division of Licensing Trust Fund is sufficient to cover the costs of administering the provisions of this bill.

DACS currently plans to provide one \$15,000 electronic fingerprint scanner to each tax collector appointed. The annual maintenance and future replacement of the scanner will be the responsibility of the tax collector. Additional equipment required for each tax collector office includes a minimum of two personal computers, a camera and document imaging scanner, among other equipment costing approximately \$3,000 for a minimum set up. This minimum equipment set up would be the tax collector's responsibility under the MOU.

Network connectivity to transmit applicant information will be provided via a standard connection available to all state agencies. This connection is currently in place in tax collector locations where driver licenses and motor vehicle tags are issued. No additional cost would be incurred and the data transmission would be encrypted via this secure network.²¹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 790.06 of the Florida Statutes.
This bill creates section 790.0625 of the Florida Statutes.

IX. Additional Information:

A. Committee Substitute – Statement of Changes:

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

This Senate Bill Analysis does not reflect the intent or official position of the bill's introducer or the Florida Senate.

²¹ The information appearing in the Government Sector Impact section of this Bill Analysis originated with the Department of Agriculture and Consumer Services, Division of Licensing; see Senate Fiscal Note, received January 23, 2014.

By Senator Simpson

18-00417B-14

2014544__

1 A bill to be entitled
 2 An act relating to licensure to carry a concealed
 3 weapon or firearm; amending s. 790.06, F.S.;
 4 authorizing an applicant for a license to carry a
 5 concealed weapon or firearm to submit the application
 6 to an appointed tax collector; creating s. 790.0625,
 7 F.S.; defining terms; authorizing the Department of
 8 Agriculture and Consumer Services to appoint tax
 9 collectors to accept applications for new or renewal
 10 licenses to carry a concealed weapon or firearm on
 11 behalf of the Division of Licensing of the Department
 12 of Agriculture and Consumer Services; requiring a tax
 13 collector seeking appointment to submit a written
 14 request to the division; providing requirements for
 15 the request; requiring the division and an appointed
 16 tax collector to enter into a memorandum of
 17 understanding; authorizing the department or the
 18 division to rescind a memorandum of understanding at
 19 any time; providing that certain personal identifying
 20 information of applicants for licensure is
 21 confidential and exempt; establishing license fees for
 22 new and renewal applications; requiring an appointed
 23 tax collector to remit fees to the department;
 24 prohibiting a tax collector from maintaining a list or
 25 record of concealed weapon or firearm licensees or
 26 applicants; prohibiting a person from processing a
 27 concealed weapon or firearm application for a fee or
 28 compensation unless he or she has been appointed by
 29 the department to do so; providing for criminal

Page 1 of 5

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

18-00417B-14

2014544__

30 penalties; providing an effective date.
 31
 32 Be It Enacted by the Legislature of the State of Florida:
 33
 34 Section 1. Subsection (5) of section 790.06, Florida
 35 Statutes, is amended to read:
 36 790.06 License to carry concealed weapon or firearm.—
 37 (5) The applicant shall submit to the Department of
 38 Agriculture and Consumer Services or an approved tax collector
 39 pursuant to s. 790.0625:
 40 (a) A completed application as described in subsection (4).
 41 (b) A nonrefundable license fee of up to ~~not to exceed~~ \$70, if
 42 he or she has not previously been issued a statewide license, or
 43 of up to a nonrefundable license fee not to exceed \$60 for renewal
 44 of a statewide license. The cost of ~~Costs for~~ processing the set
 45 of fingerprints as required in paragraph (c) is ~~shall be~~ borne
 46 by the applicant. However, an individual holding an active
 47 certification from the Criminal Justice Standards and Training
 48 Commission as a "law enforcement officer," "correctional
 49 officer," or "correctional probation officer" as defined in s.
 50 943.10(1), (2), (3), (6), (7), (8), or (9) is exempt from the
 51 licensing requirements of this section. If such any individual
 52 ~~holding an active certification from the Criminal Justice~~
 53 ~~Standards and Training Commission as a "law enforcement~~
 54 ~~officer," a "correctional officer," or a "correctional probation~~
 55 ~~officer" as defined in s. 943.10(1), (2), (3), (6), (7), (8), or~~
 56 ~~(9)~~ wishes to receive a concealed weapons or firearms license,
 57 he or she ~~such person~~ is exempt from the background
 58 investigation and all background investigation fees, but must

Page 2 of 5

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

18-00417B-14

2014544__

59 ~~shall~~ pay the current license fees regularly required to be paid
60 by nonexempt applicants. Further, a law enforcement officer, a
61 correctional officer, or a correctional probation officer as
62 defined in s. 943.10(1), (2), or (3) is exempt from the required
63 fees and background investigation for a period of 1 year after
64 his or her subsequent to the date of retirement of said officer
65 ~~as a law enforcement officer, a correctional officer, or a~~
66 ~~correctional probation officer.~~

67 (c) A full set of fingerprints of the applicant
68 administered by a law enforcement agency or the Division of
69 Licensing of the Department of Agriculture and Consumer Services
70 or an approved tax collector pursuant to s. 790.0625.

71 (d) A photocopy of a certificate, ~~or an affidavit,~~ or
72 document as described in paragraph (2)(h).

73 (e) A full frontal view color photograph of the applicant
74 taken within the preceding 30 days, in which the head, including
75 hair, measures 7/8 of an inch wide and 1 1/8 inches high.

76 Section 2. Section 790.0625, Florida Statutes, is created
77 to read:

78 790.0625 Appointment of tax collectors to accept
79 applications for a concealed weapon or firearm license; fees;
80 penalties.-

81 (1) As used in this section, the term:

82 (a) "Department" means the Department of Agriculture and
83 Consumer Services.

84 (b) "Division" means the Division of Licensing of the
85 Department of Agriculture and Consumer Services.

86 (2) The department, at its discretion, may appoint tax
87 collectors, as defined in s. 1(d) of Art. VIII of the State

18-00417B-14

2014544__

88 Constitution, to accept applications on behalf of the division
89 for concealed weapon or firearm licenses. Such appointment shall
90 be for specified locations that will best serve the public
91 interest and convenience in applying for these licenses.

92 (3) A tax collector seeking to be appointed to accept
93 applications for new or renewal concealed weapon or firearm
94 licenses must submit a written request to the division stating
95 his or her name, address, telephone number, each location within
96 the county at which the tax collector wishes to accept
97 applications, and other information as required by the division.

98 (a) Upon receipt of a written request, the division shall
99 review it and at its discretion may decline to enter into a
100 memorandum of understanding or, if approved, enter into a
101 memorandum of understanding with the tax collector to accept
102 applications for new or renewal concealed weapon or firearm
103 licenses on behalf of the department.

104 (b) The department or the division may rescind a memorandum
105 of understanding for any reason at any time.

106 (4) All personal identifying information that is provided
107 pursuant to s. 790.06 and contained in the records of a tax
108 collector appointed under this section is confidential and
109 exempt as provided in s. 790.0601.

110 (5) A tax collector appointed under this section may
111 collect and retain a convenience fee of \$22 for each new
112 application and \$12 for each renewal and shall remit weekly to
113 the department the license fees for deposit in the Division of
114 Licensing Trust Fund.

115 (6) (a) A tax collector appointed under this section may not
116 maintain a list or record of persons who apply for or are

18-00417B-14

2014544

117 granted a new or renewal license to carry a concealed weapon or
118 firearm. A violation of this paragraph is subject to s. 790.335.

119 (b) A person may not handle an application for a concealed
120 weapon or firearm for a fee or compensation of any kind unless
121 he or she has been appointed by the department to do so.

122 (7) A person who willfully violates this section commits a
123 misdemeanor of the second degree, punishable as provided in s.
124 775.082 or s. 775.083.

125 Section 3. This act shall take effect July 1, 2014.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Community Affairs, *Chair*
Appropriations Subcommittee on General
Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Commerce and Tourism
Communications, Energy, and Public Utilities
Environmental Preservation and Conservation

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR WILTON SIMPSON
18th District

December 20, 2013

Senator Greg Evers, Chairman
Senate Committee on Criminal Justice
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Senator Evers,

Please place Senate Bill 544 relating to concealed weapon or firearm licensing, and Senate Bill 546 relating to public records, on the next Committee on Criminal Justice agenda.

Please contact my office with any questions.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson
Senator, 18th District

REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: www.flisenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/3/14

Meeting Date

Topic Permit Processing Legislation

Bill Number 544 / 546

Name Larry Hart

(if applicable)

Job Title Tax Collector / Lee County

Amendment Barcode

(if applicable)

Address 2480 Thompson St, Ft. Myers, FL

Phone 239-533-6060

City

State

Zip

E-mail Larry.h@lee.tc.com

Speaking: For Against Information

Representing Lee County Tax Collectors Office

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE

COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

2/3/14

Date

SB-544

Bill Number

Name MARION HAMMER

Phone 222-9518

Address P.O. Box 1387

E-mail

Street

TALLAHASSEE

FL

32302

Job Title

City

State

Zip

Speaking: For Against Information

Appearing at request of Chair

Subject TAX COLLECTORS - CONCEALED WEAPONS LICENSES

Representing NRA & UNIFIED SPORTSMEN OF FLORIDA

Lobbyist registered with Legislature: Yes No

Pursuant to s. 11.061, Florida Statutes, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/3/14

Meeting Date

Topic Permit Processing Legislation

Bill Number 544 / 546
(if applicable)

Name John Drew

Amendment Barcode _____
(if applicable)

Job Title Tax Collector in Nassau County

Address 86130 License Road, Ste 7 Ferdinand Beach

Phone 904 - 491 - 7413

Street
City FL State Zip

E-mail JDrew@Nassautax.com

Speaking: For Against Information

Representing Nassau County Tax Collector

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date _____

Topic Permit Processing Application Legislation

Bill Number 544/546
(if applicable)

Name Tim Qualls

Amendment Barcode _____
(if applicable)

Job Title Executive Director

Address 215 South Monroe St, Ste 802

Phone 850-222-7206

Street
Tallahassee FL 32302
City *State* *Zip*

E-mail TQualls@YVLAW.NET

Speaking: For Against Information

Representing Florida Tax Collectors, Inc

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Feb 3, 2014
Meeting Date

Topic Tax Collector - CW Permits

Bill Number 544
(if applicable)

Name Grace Lovett

Amendment Barcode _____
(if applicable)

Job Title Dir Legislative Affairs

Address PL 10 The Capitol

Phone 850 617 7700

Tallahassee FL 32301
Street City State Zip

E-mail grace.lovette@freshfromflorida.com

Speaking: For Against Information

Representing FL Dept. of Agriculture + Consumer Services

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2 / 3 / 2014

Meeting Date

Topic _____

Bill Number 544
(if applicable)

Name BRIAN PITTS

Amendment Barcode _____
(if applicable)

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH

Phone 727-897-9291

Street

SAINT PETERSBURG FLORIDA 33705

E-mail JUSTICE2JESUS@YAHOO.COM

City

State

Zip

Speaking: For Against Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

II. Present Situation:

Public Records Laws

The Florida Constitution provides every person the right to inspect or copy any public record made or received in connection with the official business of any public body, officer, or employee of the state, or of persons acting on their behalf.¹ The records of the legislative, executive, and judicial branches are specifically included.²

The Florida Statutes also specify conditions under which public access must be provided to government records. The Public Records Act³ guarantees every person's right to inspect and copy any state or local government public record⁴ at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁵

Only the Legislature may create an exemption to public records requirements.⁶ Such an exemption must be created by general law and must specifically state the public necessity justifying the exemption.⁷ Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions⁸ and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.⁹

The Open Government Sunset Review Act¹⁰ requires a newly created or expanded public records exemption to be repealed on October 2nd of the fifth year after enactment, unless reviewed and reenacted by the Legislature.¹¹ It further provides that a public records exemption may be created

¹ FLA. CONST., art. I, s. 24(a).

² *Id.*

³ Chapter 119, F.S.

⁴ Section 119.011(12), F.S., defines "public records" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission, or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency." The Public Records Act does not apply to legislative or judicial records (*see Locke v. Hawkes*, 595 So.2d 32 (Fla. 1992)).

⁵ Section 119.07(1)(a), F.S.

⁶ FLA. CONST., art. I, s. 24(c). There is a difference between records the Legislature designates as exempt from public records requirements and those the Legislature designates *confidential and exempt*. A record classified as exempt from public disclosure may be disclosed under certain circumstances (*see WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004), review denied 892 So.2d 1015 (Fla. 2004); *City of Riviera Beach v. Barfield*, 642 So.2d 1135 (Fla. 4th DCA 2004); and *Williams v. City of Minneola*, 575 So.2d 687 (Fla. 5th DCA 1991)). If the Legislature designates a record as confidential and exempt from public disclosure, such record may not be released, by the custodian of public records, to anyone other than the persons or entities specifically designated in the statutory exemption (*see Attorney General Opinion 85-62*, August 1, 1985).

⁷ FLA. CONST., art. I, s. 24(c).

⁸ The bill may, however, contain multiple exemptions that relate to one subject.

⁹ FLA. CONST., art. I, s. 24(c).

¹⁰ Section 119.15, F.S.

¹¹ Section 119.15(3), F.S.

or maintained only if it serves an identifiable public purpose and is no broader than is necessary to meet the public purpose it serves.¹²

Concealed Weapon or Firearm Licensure

The Department of Agriculture and Consumer Services (DACS) is responsible for issuing concealed weapon licenses to those applicants who qualify.¹³ DACS has received 96,840 new license applications and 2,153 applications for license renewal since July 1, 2013.¹⁴ During the same time period, DACS issued 99,606 new concealed weapon licenses and 2,239 renewals.¹⁵ As of December 31, 2013, there were 1,215,708 valid Florida concealed weapon licenses.¹⁶

To obtain a concealed weapons license, a person must complete, under oath, an application that includes:

- The name, address, place and date of birth, race, and occupation of the applicant;
- A full frontal view color photograph of the applicant which must be taken within the preceding 30 days;
- A statement that the applicant has been furnished with a copy of ch. 790, F.S., relating to weapons and firearms and is knowledgeable of its provisions;
- A warning that the application is executed under oath with penalties for falsifying or substituting false documents;
- A statement that the applicant desires a concealed weapon or firearms license as a means of lawful self-defense;
- A full set of fingerprints;
- Documented proof of completion of a firearms safety and training course; and
- A nonrefundable license fee no greater than \$70 for a new license or no greater than \$60 for a renewal.¹⁷

Existing Exemption for Concealed Weapon Applicants' Personal Identifying Information

Current law provides that personal identifying information of an individual who has applied for or received a license to carry a concealed weapon or firearm pursuant to s. 790.06, F.S., held by the Division of Licensing of the Department of Agriculture and Consumer Services, is confidential and exempt from s. 119.071(1), F.S., and s. 24(a), Art. I of the State Constitution. The exemption applies to such information held by the division before, on, or after the effective date of the exemption.¹⁸ Such information shall be disclosed:

¹² Section 119.15(5)(b), F.S.

¹³ s. 790.06(1), F.S.

¹⁴ Applications and Dispositions by County, July 1, 2013-June 30, 2014. Statistic found at www.freshfromflorida.com, last visited January 15, 2014.

¹⁵ Summary Report, October 1987-June 2014. www.freshfromflorida.com, last visited January 15, 2014.

¹⁶ Number of Valid Florida Concealed Licenses as of December 31, 2013. www.freshfromflorida.com, last visited January 15, 2014.

¹⁷ s. 790.06(1)-(5), F.S.

¹⁸ s. 790.0601(1), F.S.

- With the express written consent of the applicant or licensee or his or her legally authorized representative;
- By court order upon a showing of good cause; or
- Upon request by a law enforcement agency in connection with the performance of lawful duties, which includes access to any automated database containing such information maintained by the Department of Agriculture and Consumer Services.¹⁹

In Chapter 2006-102, Laws of Florida, in which the exemption was created, the Legislature found that an identifiable public purpose existed for the creation of the exemption under review, and that it is no more broad than necessary to meet the public purpose it serves. Section 2 of the 2006 chapter law, the statement of public purpose, invokes personal safety issues tied to the Department of Agriculture and Consumer Services divulging the personal information of concealed weapons permit applicants and holders.

Specifically, the statement speaks of the contradiction between a person carrying a concealed firearm or weapon and making public that individual's personally identifying information. The inference that can be drawn from the statement of public purpose is that it is a matter of personal safety that an individual who carries a concealed firearm or weapon keep the weapon's presence out of the public view or scrutiny, and that public access to the individual's identity circumvents the "concealment" purpose of the concealed weapon permit.

The public records exemption created in s. 790.0601, F.S., was reenacted in 2011 pursuant to the Open Government Sunset Review Act.²⁰

Senate Bill 544 is linked to Senate Bill 546

Linked SB 544 creates a new section of law within Chapter 790, F.S., to allow DACS to appoint county tax collectors for the purpose of accepting applications for concealed weapon or firearm licenses or renewals on behalf of the Division of Licensing (the Division).

County tax collectors who are interested in the appointment by DACS will submit a request to the Division. The Division then has the discretion to enter into a Memorandum of Understanding (MOU) with the tax collector. Both the DACS and the Division have the authority to rescind the MOU.

Regardless of the passage of SB 544, appointed tax collectors may not maintain a list of persons who own firearms. Maintaining such a list makes the person subject to the provisions of s. 790.335, F.S.²¹

¹⁹ s. 790.0601(2), F.S.

²⁰ Ch. 2011-136, L.O.F.

²¹ Section 790.335, F.S. states: "PROHIBITIONS.—No state governmental agency or local government, special district, or other political subdivision or official, agent, or employee of such state or other governmental entity or any other person, public or private, shall knowingly and willfully keep or cause to be kept any list, record, or registry of privately owned firearms or any list, record, or registry of the owners of those firearms." Such conduct is subject to third degree felony penalties and a \$5 million dollar fine.

Any personal identifying information provided for the license or renewal that is contained in a tax collector's records as a result of the MOU arrangement with DACS does not currently have confidential and exempt status.

III. Effect of Proposed Changes:

Linked SB 544 authorizes DACS to enter into a Memorandum of Understanding with county tax collectors to provide the service of accepting concealed weapon or firearm license or license renewal applications and fees at the local level.

SB 546 amends s. 790.0601, F.S., to expand the current confidential and exempt status of the personal identifying information collected from a person applying for a license to carry a concealed weapon or firearm, or the renewal of a license, and held by DACS to the county tax collectors who will be collecting and holding the same information pursuant to the authorization in SB 544.

SB 546 provides for an Open Government Sunset Review of the exemption and repeal on October 2, 2019, if the exemption is not reenacted.

Section 2 of the bill includes a statement of public necessity which makes many of the same Legislative findings as those set forth in Chapter 2006-102, L.O.F., the law that created the exemption that is being expanded by this bill. The statement of public necessity in SB 546 finds that:

The knowledge that an individual has applied for a license to carry a concealed weapon or firearm may logically lead to the conclusion that he or she is carrying a concealed weapon or firearm. This defeats the purpose of carrying a concealed weapon or firearm. The Legislature has found in past legislative sessions and has expressed in s. 790.335(1)(a)3., Florida Statutes, that a record of legally owned firearms or law-abiding firearm owners is "an instrument that can be used as a means to profile innocent citizens and to harass and abuse American citizens based solely on their choice to own firearms and exercise their Second Amendment right to keep and bear arms as guaranteed under the United States Constitution." Release of personal identifying information of an individual who has applied for a license to carry a concealed weapon or firearm could be used to harass an innocent individual based solely on his or her exercised right to carry a concealed weapon or firearm.

The exemption expanded by this bill applies to personal identifying information held by a county tax collector appointed by DACS to receive that information from a person who is applying through the county tax collector to DACS for a concealed weapon or firearm license or renewal. It applies to such information held by the tax collector before, on, or after the effective date of the bill.

IV. Constitutional Issues:**A. Municipality/County Mandates Restrictions:**

None.

B. Public Records/Open Meetings Issues:**Vote Requirement**

Article I, s. 24(c) of the Florida Constitution requires a newly created or expanded public records or open meetings exemption to pass by a two-thirds vote of the members present and voting in each house of the Legislature. Because this bill expands a public records exemption, a two-thirds vote is required.

Public Necessity Statement

Article I, s. 24(c) of the Florida Constitution requires a bill creating or expanding a public records or open meetings exemption to contain a public necessity statement. Because this bill expands a public records exemption, it contains a public necessity statement.

Single Subject Requirement

Article I, s. 24(c) of the Florida Constitution requires a bill creating or expanding a public records or open meetings exemption to contain no other substantive provisions. Because this bill expands a public records exemption, it does not contain other substantive provisions.

Breadth of Exemption

Article I, s. 24(c) of the Florida Constitution requires a newly created or expanded public records or open meetings exemption to be no broader than necessary to accomplish the stated purpose of the law. This bill expands a public records exemption by including a concealed weapon or firearm license applicant's personal identifying information to that information which is held by a county tax collector who is acting under linked SB 544.

Currently this same personal identifying information has confidential and exempt status if the applicant files their application directly with DACS. This bill expands the confidential and exempt status not to a greater amount or different type of information, but rather to the same information held by a different agency (county tax collectors) pursuant to an agreement with DACS.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:**A. Tax/Fee Issues:**

None.

B. Private Sector Impact:

As set forth in the linked bill, SB 544, a convenience fee of \$22 may be charged by the county tax collector to perform the services agreed upon with DACS. This fee will only be incurred if a person chooses to avail him or herself of the tax collector's service.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 790.0601 of the Florida Statutes.

IX. Additional Information:**A. Committee Substitute – Statement of Changes:**

(Summarizing differences between the Committee Substitute and the prior version of the bill.)

None.

B. Amendments:

None.

By Senator Simpson

18-00435A-14

2014546__

1 A bill to be entitled
 2 An act relating to public records; amending s.
 3 790.0601, F.S.; creating an exemption from public
 4 records requirements for certain personal identifying
 5 information held by the tax collector when an
 6 individual applies for a license to carry a concealed
 7 weapon or firearm pursuant to s. 790.06, F.S.;

8 providing for retroactive application of the
 9 exemption; providing for disclosure of such
 10 information under specified conditions; providing for
 11 review and repeal of the exemption; providing a
 12 statement of public necessity; providing a conditional
 13 effective date.

14
 15 Be It Enacted by the Legislature of the State of Florida:

16
 17 Section 1. Section 790.0601, Florida Statutes, is amended
 18 to read:

19 790.0601 Public records exemption for concealed weapons.—

20 (1) Personal identifying information of an individual who
 21 has applied for or received a license to carry a concealed
 22 weapon or firearm pursuant to s. 790.06 held by the Division of
 23 Licensing of the Department of Agriculture and Consumer Services
 24 is confidential and exempt from s. 119.07(1) and s. 24(a), Art.
 25 I of the State Constitution. This exemption applies to such
 26 information held by the division before, on, or after the
 27 effective date of this section.

28 (2) Personal identifying information of an individual who
 29 has applied for a license to carry a concealed weapon or firearm

Page 1 of 4

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

18-00435A-14

2014546__

30 pursuant to s. 790.0625 which is held by a tax collector
 31 appointed by the Department of Agriculture and Consumer Services
 32 to receive applications and fees is confidential and exempt from
 33 s. 119.07(1) and s. 24(a), Art. I of the State Constitution.
 34 This exemption applies to such information held by the tax
 35 collector before, on, or after the effective date of this
 36 section.

37 ~~(3)(2)~~ Information made confidential and exempt by this
 38 section shall be disclosed:

39 (a) With the express written consent of the applicant or
 40 licensee or his or her legally authorized representative.

41 (b) By court order upon a showing of good cause.

42 (c) Upon request by a law enforcement agency in connection
 43 with the performance of lawful duties, which shall include
 44 access to any automated database containing such information
 45 maintained by the Department of Agriculture and Consumer
 46 Services.

47 (4) Subsection (2) is subject to the Open Government Sunset
 48 Review Act in accordance with s. 119.15 and shall stand repealed
 49 on October 2, 2019, unless reviewed and saved from repeal
 50 through reenactment by the Legislature.

51 Section 2. (1) The Legislature finds that, with certain
 52 exceptions, it is a public necessity that personal identifying
 53 information of an individual who has applied for a license to
 54 carry a concealed weapon or firearm which is held by a tax
 55 collector be made confidential and exempt from public records
 56 requirements. The carrying of a concealed weapon or firearm in
 57 this state by members of the general public requires an
 58 individual to file an application containing personal

Page 2 of 4

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18-00435A-14 2014546__

59 identifying information. The Legislature has made the Department
 60 of Agriculture and Consumer Services the responsible agency for
 61 collecting this information and issuing the concealed weapon or
 62 firearm license. The collected information must include a
 63 statement from the applicant that he or she seeks a concealed
 64 weapon or firearm license as a means of lawful self-defense.
 65 (2) There has been substantial demand for the concealed
 66 weapon or firearm license. The availability of additional
 67 licensure locations would benefit individuals who require self-
 68 protection.
 69 (3) The potential addition of licensure locations raises
 70 issues of confidentiality. The knowledge that an individual has
 71 applied for a license to carry a concealed weapon or firearm may
 72 logically lead to the conclusion that he or she is carrying a
 73 concealed weapon or firearm. This defeats the purpose of
 74 carrying a concealed weapon or firearm. The Legislature has
 75 found in past legislative sessions and has expressed in s.
 76 790.335(1)(a)3., Florida Statutes, that a record of legally
 77 owned firearms or law-abiding firearm owners is "an instrument
 78 that can be used as a means to profile innocent citizens and to
 79 harass and abuse American citizens based solely on their choice
 80 to own firearms and exercise their Second Amendment right to
 81 keep and bear arms as guaranteed under the United States
 82 Constitution." Release of personal identifying information of an
 83 individual who has applied for a license to carry a concealed
 84 weapon or firearm could be used to harass an innocent individual
 85 based solely on his or her exercised right to carry a concealed
 86 weapon or firearm. Therefore, the Legislature finds that the
 87 personal identifying information of an individual who has

Page 3 of 4

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18-00435A-14 2014546__

88 applied for a license to carry a concealed weapon or firearm
 89 pursuant to chapter 790, Florida Statutes, must be held
 90 confidential and exempt from public records requirements.
 91 Section 3. This act shall take effect on the same date that
 92 SB ___ or similar legislation takes effect, if such legislation
 93 is adopted in the same legislative session or an extension
 94 thereof and becomes a law.

Page 4 of 4

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR WILTON SIMPSON
18th District

COMMITTEES:
Community Affairs, *Chair*
Appropriations Subcommittee on General
Government
Appropriations Subcommittee on Transportation,
Tourism, and Economic Development
Commerce and Tourism
Communications, Energy, and Public Utilities
Environmental Preservation and Conservation

JOINT COMMITTEE:
Joint Legislative Auditing Committee

December 20, 2013

Senator Greg Evers, Chairman
Senate Committee on Criminal Justice
510 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399

Senator Evers,

Please place Senate Bill 544 relating to concealed weapon or firearm licensing, and Senate Bill 546 relating to public records, on the next Committee on Criminal Justice agenda.

Please contact my office with any questions.

A handwritten signature in black ink, appearing to read "Wilton Simpson".

Wilton Simpson
Senator, 18th District

REPLY TO:

- 322 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5018
- Post Office Box 938, Brooksville, Florida 34605
- Post Office Box 787, New Port Richey, Florida 34656-0787 (727) 816-1120 FAX: (888) 263-4821

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
COMMITTEE APPEARANCE RECORD

(Submit to Committee Chair or Administrative Assistant)

2/3/14
Date

SB-546
Bill Number

Name MARION HAMMER

Phone 222-9518

Address P.O. BOX 1387
Street

E-mail _____

TALLAHASSEE
City

FL
State

32302
Zip

Job Title _____

Speaking: For Against Information

Appearing at request of Chair

Subject PUBLIC RECORDS - CONCEALED WEAPONS LICENSES

Representing NRA & UNIFIED SPORTSMEN OF FLORIDA

Lobbyist registered with Legislature: Yes No

Pursuant to s. 11.061, *Florida Statutes*, state, state university, or community college employees are required to file the first copy of this form with the Committee, unless appearance has been requested by the Chair as a witness or for informational purposes.

If designated employee: Time: from _____ .m. to _____ .m.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

Topic Permit Processing Application Legislation Bill Number 544/546
Name Tim Qualls (if applicable)
Job Title Executive Director Amendment Barcode _____ (if applicable)
Address 215 South Monroe St, Ste 802 Phone 850-222-7206
Tallahassee FL 32302 E-mail TQualls@YULAW.NET
City State Zip

Speaking: For Against Information

Representing Florida Tax Collectors, Inc

Appearing at request of Chair: Yes No Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/3/14

Meeting Date

Topic Permit Processing Legislation

Bill Number 544 / 546

Name John Drew

Amendment Barcode _____
(if applicable)

Job Title Tax Collector in Nassau County

(if applicable)

Address 86130 License Road, Ste 7 Ferdinandina Beach

Street

Phone 904 - 491 - 7413

City

FL

State

Zip

E-mail JDrew@Nassautaxes.com

Speaking: For Against Information

Representing Nassau County Tax Collector

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

THE FLORIDA SENATE
APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

2/3/14
Meeting Date

Topic Permit Processing Legislation

Bill Number 544 / 546
(if applicable)

Name Larry Hart

Amendment Barcode _____
(if applicable)

Job Title Tax Collector / Lee County

Address 2480 Thompson St, Ft. Myers, FL
Street

Phone 239-533-6060

City

State

Zip

Speaking: For Against Information

E-mail Larryh@lee.tc.com

Representing Lee County Tax Collectors Office

Appearing at request of Chair: Yes No

Lobbyist registered with Legislature: Yes No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

CourtSmart Tag Report

Room: LL 37
Caption: Senate Criminal Justice

Case:
Judge:

Type:

Started: 2/3/2014 4:13:23 PM
Ends: 2/3/2014 4:41:25 PM **Length:** 00:28:03

4:13:25 PM Quorum present
4:14:29 PM Senator Dean and Senator Altman are excused
4:14:48 PM Senator Diaz de la Portilla CS/SB 102 Transportation
4:15:19 PM Life Protection Act-70,000 hit and run cases in 2012-Aaron Cohen was killed by a car while riding a bike, driver fled scene
4:16:24 PM By fleeing driver avoided possible DUI
4:16:39 PM Increase minimum mandatory, closes gap between DUI manslaughter and fleeing the scene
4:18:08 PM Bill raises criminal punishment code one level and increases the range of sentencing. Minimum suspension of 3 years for leaving the scene of the accident.
4:18:43 PM Allison Christie-FSU student speaking for the bill. She was involved in a hit and run and struck her.
4:20:16 PM Mickey Waite-triathlete from Miami. Speaking for the bill. Saw what happened to Aaron Cohen. Driver fled the scene
4:23:03 PM Kelly Mallette-Miami Dade County
4:26:21 PM Brian Pitts-Justice for Jesus
4:28:20 PM Senator DLP waves close
4:30:28 PM SB 102-passes
4:30:38 PM SB 424-Senator Lee presented by Doug-Delete all amendment
4:30:58 PM Amendment adopted, no questions
4:32:06 PM NRA waves in support
4:32:45 PM No debate
4:32:54 PM Wave close, Roll call on SB 424 - Passes
4:32:58 PM SB 544 - Senator Simpson-Licensure to Carry a Concealed Weapon License, no amendment, no questions
4:33:44 PM Speakers-wave in support
4:34:18 PM Sen. Simpson waves close - SB 544-passes
4:35:27 PM Senator Simpson SB 546, no questions, no amendments, wave close, SB 546-passes
4:36:10 PM SB 298-Senator Soto-Booking Photographs, explains amendment, amendment adopted, no questions, speakers-wave
4:37:58 PM in support. Brian Pitts-speaks on bill
4:39:02 PM Senator Soto waves close, Senator Bradley moves for a CS. SB 298-passes
4:40:30 PM Senator Gibson moves we rise.
4:41:05 PM



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR CHARLES S. DEAN, SR.
5th District

COMMITTEES:
Environmental Preservation and
Conservation, *Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Appropriations Subcommittee on General
Government
Children, Families, and Elder Affairs
Criminal Justice
Gaming
Military Affairs, Space, and Domestic Security

January 31, 2014

The Honorable Greg Evers
308 Senate Office Building
404 South Monroe St.
Tallahassee, FL 32399-1100

Dear Chairman Evers,

The purpose of this letter is to seek your permission to be excused from the scheduled Criminal Justice Committee meeting on February 3, 2014. Due to unforeseen circumstances, I will not be able to attend.

Should you have any questions concerning this matter, please do not hesitate to contact me personally.

Sincerely,

A handwritten signature in black ink that reads "Charles S. Dean".

Charles S. Dean
State Senator District 5

cc: Amanda Cannon, Staff Director
Chris Clark, President's Office

REPLY TO:

- 405 Tompkins Street, Inverness, Florida 34450 (352) 860-5175
- 311 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5005
- 315 SE 25th Avenue, Ocala, Florida 34471-2689 (352) 873-6513

Senate's Website: www.flsenate.gov

DON GAETZ
President of the Senate

GARRETT RICHTER
President Pro Tempore