

Tab 1	CS/SB 50 by GO, Wright ; (Similar to CS/H 00075) Public Records/Judicial Assistants					
Tab 2	CS/CS/SB 192 by EN, CA, Avila (CO-INTRODUCERS) Calatayud, Rodriguez, Gruters ; (Similar to H 00175) Everglades Protection Area					
Tab 3	CS/SB 308 by ED, Collins (CO-INTRODUCERS) Grall, Perry ; (Compare to CS/CS/H 00225) Interscholastic Activities					
830706	D	S	RCS	RC, Collins	Delete everything after	03/30 01:27 PM
Tab 4	CS/SB 664 by CF, Burgess ; (Similar to CS/H 00757) Contracts Entered into by the Department of Children and Families					
Tab 5	SB 678 by Powell ; (Identical to H 00763) Disposal of Property					
Tab 6	CS/SB 732 by HE, Wright (CO-INTRODUCERS) Collins ; (Identical to CS/H 00845) Collegiate Purple Star Campuses					
Tab 7	CS/SB 764 by CJ, Simon ; (Identical to CS/H 00319) Interference with Sporting or Entertainment Events					
Tab 8	CS/SB 774 by EE, Brodeur ; (Compare to CS/H 00037) Ethics Requirements for Public Officials					
643476	D	S	RCS	RC, Brodeur	Delete everything after	03/30 01:40 PM
846988	A	S	WD	RC, Brodeur	btw L.170 - 171:	03/30 01:40 PM
Tab 9	CS/CS/SB 1098 by CF, JU, Burton ; (Similar to CS/CS/H 01119) Withholding or Withdrawal of Life-prolonging Procedures					
Tab 10	SM 1382 by Collins (CO-INTRODUCERS) Hooper ; (Identical to H 01319) United States Department of Defense					
Tab 11	SB 1438 by Yarborough (CO-INTRODUCERS) Perry ; (Identical to H 01423) Protection of Children					
Tab 12	SB 1674 by Grall (CO-INTRODUCERS) Perry ; (Similar to CS/H 01521) Facility Requirements Based on Sex					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Mayfield, Chair
Senator Perry, Vice Chair

MEETING DATE: Thursday, March 30, 2023

TIME: 8:30—11:30 a.m.

PLACE: Pat Thomas Committee Room, 412 Knott Building

MEMBERS: Senator Mayfield, Chair; Senator Perry, Vice Chair; Senators Baxley, Book, Boyd, Brodeur, Broxson, Burgess, Burton, DiCeglie, Garcia, Hooper, Hutson, Jones, Osgood, Rodriguez, Rouson, Simon, Torres, and Yarborough

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	CS/SB 50 Governmental Oversight and Accountability / Wright (Similar CS/H 75)	Public Records/Judicial Assistants; Adding current judicial assistants and their spouses and children to the list of specified agency personnel and family members to whom an exemption from public records requirements for identification and location information applies; providing for future legislative review and repeal of the exemption; providing a statement of public necessity, etc. JU 01/17/2023 Favorable GO 03/15/2023 Fav/CS RC 03/30/2023 Favorable	Favorable Yeas 19 Nays 0
2	CS/CS/SB 192 Environment and Natural Resources / Community Affairs / Avila (Similar H 175)	Everglades Protection Area; Requiring that comprehensive plans and plan amendments that apply to certain lands within or near the Everglades Protection Area follow the state coordinated review process; requiring the Department of Environmental Protection, in consultation with specified entities, to make certain determinations for such plans and amendments, to provide written determinations to the local government and specified entities within a specified timeframe, and to coordinate with the local government and specified entities on certain planning strategies and mitigation measures; authorizing site-specific text changes for small-scale future land use map amendments; requiring local governments whose boundaries include any portion of the Everglades Protection Area to transmit copies of adopted small-scale development amendments to the state land planning agency within a specified timeframe, etc. CA 03/07/2023 Fav/CS EN 03/20/2023 Fav/CS RC 03/30/2023 Favorable	Favorable Yeas 18 Nays 2

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, March 30, 2023, 8:30—11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
3	CS/SB 308 Education Pre-K -12 / Collins (Compare CS/CS/H 225)	Interscholastic Activities; Authorizing charter school students to participate in interscholastic extracurricular activities at private schools under certain circumstances; requiring the Florida High School Athletic Association (FHSA) to allow any school joining the organization by sport to participate in the championship contest or series of contests for that sport; requiring that any changes to the FHSA bylaws be ratified by the State Board of Education; deleting a requirement that the appointing authority of members of the FHSA Board of Directors make appointments that reflect the demographic and population trends of this state; requiring each approved athletic association whose membership includes public schools to allow each participating school to make opening remarks at certain athletic contests, etc. ED 03/06/2023 Fav/CS RC 03/30/2023 Fav/CS	Fav/CS Yeas 15 Nays 5
4	CS/SB 664 Children, Families, and Elder Affairs / Burgess (Similar CS/H 757)	Contracts Entered into by the Department of Children and Families; Revising requirements for contracts between the department and lead agencies, etc. CF 03/06/2023 Fav/CS GO 03/22/2023 Favorable RC 03/30/2023 Favorable	Favorable Yeas 20 Nays 0
5	SB 678 Powell (Identical H 763)	Disposal of Property; Providing that the use of property as affordable housing qualifies as use for a public purpose in the context of the authorization of the Department of Transportation to convey property without consideration to a governmental entity, etc. CA 03/07/2023 Favorable TR 03/20/2023 Favorable RC 03/30/2023 Favorable	Favorable Yeas 20 Nays 0
6	CS/SB 732 Education Postsecondary / Wright (Identical CS/H 845)	Collegiate Purple Star Campuses; Defining the term "military student"; requiring the State Board of Education to adopt rules and the Board of Governors to adopt regulations to establish the Collegiate Purple Star Campuses program; specifying program criteria for participating Florida College System institutions, state universities, and career centers, etc. HE 03/07/2023 Fav/CS MS 03/21/2023 Favorable RC 03/30/2023 Favorable	Favorable Yeas 20 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, March 30, 2023, 8:30—11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	CS/SB 764 Criminal Justice / Simon (Identical CS/H 319)	Interference with Sporting or Entertainment Events; Prohibiting certain actions during covered sporting and entertainment events; providing criminal penalties; prohibiting profiting from violations; providing for seizure and forfeiture of specified assets, etc. CJ 03/20/2023 Fav/CS RC 03/30/2023 Favorable	Favorable Yeas 19 Nays 0
8	CS/SB 774 Ethics and Elections / Brodeur (Compare CS/H 37, S 2502)	Ethics Requirements for Public Officials; Requiring candidates for specified elective offices to file a full and public disclosure at the time of qualifying; requiring commissioners of community redevelopment agencies to complete annual ethics training; requiring specified local officers to file full and public disclosures; deleting a prohibition on including a federal income tax return or copy thereof in a financial disclosure; increasing the maximum civil penalty allowed for certain violations related to statements of financial disclosure, etc. EE 03/14/2023 Fav/CS RC 03/30/2023 Fav/CS	Fav/CS Yeas 16 Nays 4
9	CS/CS/SB 1098 Children, Families, and Elder Affairs / Judiciary / Burton (Similar CS/H 1119)	Withholding or Withdrawal of Life-prolonging Procedures; Authorizing a court to delegate the right to consent to the withholding or withdrawal of life- prolonging procedures of incapacitated persons in certain circumstances; requiring that initial and annual guardianship plans, respectively, state whether any power under the ward's preexisting order not to resuscitate or advance directive is revoked, modified, suspended, or transferred to the guardian; authorizing a guardian to petition a court for approval to consent to withhold or withdraw life-prolonging procedures under certain circumstances, etc. JU 03/07/2023 Fav/CS CF 03/14/2023 Fav/CS RC 03/30/2023 Favorable	Favorable Yeas 20 Nays 0
10	SM 1382 Collins (Identical HM 1319)	United States Department of Defense; Urging Congress to restore the United States Department of Defense's superior warfighting principles of recruiting, assigning, training, promoting, and retaining personnel solely based on merit and ensuring such personnel maintain and display a warrior ethos, etc. MS 03/21/2023 Favorable RC 03/30/2023 Favorable	Favorable Yeas 19 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Rules

Thursday, March 30, 2023, 8:30—11:30 a.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	SB 1438 Yarborough (Identical H 1423)	Protection of Children; Authorizing the Division of Hotels and Restaurants of the Department of Business and Professional Regulation to fine, suspend, or revoke the license of any public lodging establishment or public food service establishment if the establishment admits a child to an adult live performance; specifying that the Division of Alcoholic Beverages and Tobacco of the Department of Business and Professional Regulation is given full power and authority to revoke or suspend the license of any person issued under the Beverage Law when it is determined or found by the division upon sufficient cause appearing that he or she is maintaining a licensed premises that admits a child to an adult live performance; defining the terms "adult live performance" and "knowingly", etc. JU 03/21/2023 Favorable RC 03/30/2023 Favorable	Favorable Yeas 16 Nays 3
12	SB 1674 Grall (Identical CS/H 1521)	Facility Requirements Based on Sex; Creating the "Safety in Private Spaces Act"; providing requirements for exclusive use of restrooms by gender; providing requirements for exclusive use of changing facilities by gender; providing exceptions; prohibiting willfully entering a restroom or changing facility designated for the opposite sex and refusing to immediately depart when asked to do so by another person present there; providing criminal penalties, etc. RC 03/30/2023 Favorable FP	Favorable Yeas 15 Nays 4
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 Rules

BILL: CS/SB 50

INTRODUCER: Governmental Oversight and Accountability Committee and Senator Wright

SUBJECT: Public Records/Judicial Assistants

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
2.	<u>Limones-Borja</u>	<u>McVane</u>	<u>GO</u>	Fav/CS
3.	<u>Davis</u>	<u>Twogood</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 50 exempts from public records copying and inspection requirements certain identifying information of current judicial assistants and family members. The exemption restricts access to information in public records which may identify or locate current judicial assistants and their spouses and children. The bill provides a definition for the term “judicial assistant.”

Judicial assistants provide administrative, secretarial, organizational, and clerical support to an assigned judge’s office. As of December 2022, there were 1,022 judicial assistants employed in the county and circuit courts, district courts of appeal, and the Florida Supreme Court.

The bill exempts from public disclosure the following information that relates to a current judicial assistant:

- A judicial assistant’s home address, date of birth, and telephone number.
- The names, home addresses, telephone numbers, dates of birth, and places of employment of a judicial assistant’s spouse and children.
- The names and locations of schools and day care facilities attended by a judicial assistant’s children.

This exemption applies to information held by an agency before, on, or after July 1, 2023.

The bill provides a statement of public necessity as required by the State Constitution.

Because the bill creates a new public records exemption, it requires a two-thirds vote of the members present and voting in each house of the Legislature for final passage.

The bill takes effect July 1, 2023.

II. Present Situation:

Access to Public Records - Generally

The Florida Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.¹ The right to inspect or copy applies to the official business of any public body, officer, or employee of the state, including all three branches of state government, local governmental entities, and any person acting on behalf of the government.²

Additional requirements and exemptions related to public records are found in various statutes and rules, depending on the branch of government involved. For instance, section 11.0431, F.S., provides public access requirements for legislative records. Relevant exemptions are codified in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.³ Florida Rule of Judicial Administration 2.420 governs public access to judicial branch records.⁴ Lastly, ch. 119, F.S., known as the Public Records Act, provides requirements for public records held by executive branch and local government agencies.

Executive Agency Records – The Public Records Act

The Public Records Act provides that all state, county, and municipal records are open for personal inspection and copying by any person, and that providing access to public records is a duty of each agency.⁵

Section 119.011(12), F.S., defines “public records” to include:

[a] ll 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 connections with the transaction of official business by any agency.

¹ FLA. CONST. art. I, s. 24(a).

² *Id.*

³ See Rule 1.48, *Rules and Manual of the Florida Senate*, (2018-2020) and Rule 14.1, *Rules of the Florida House of Representatives*, Edition 2, (2018-2020)

⁴ *State v. Wooten*, 260 So. 3d 1060 (Fla. 4th DCA 2018).

⁵ Section 119.01(1), F.S. Section 119.011(2), F.S., defines “agency” as “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 Florida Supreme Court has interpreted this definition to encompass all materials made or received by an agency in connection with official business that are used to “perpetuate, communicate, or formalize knowledge of some type.”⁶

The Florida Statutes specify conditions under which public access to governmental records must be provided. The Public Records Act guarantees every person’s right to inspect and copy any public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.⁷ A violation of the Public Records Act may result in civil or criminal liability.⁸

The Legislature may exempt public records from public access requirements by passing a general law by a two-thirds vote of both the House and the Senate.⁹ The exemption must state with specificity the public necessity justifying the exemption and must be no broader than necessary to accomplish the stated purpose of the exemption.¹⁰

General exemptions from the public records requirements are contained in the Public Records Act.¹¹ Specific exemptions often are placed in the substantive statutes relating to a particular agency or program.¹²

When creating a public records exemption, the Legislature may provide that a record is “exempt” or “confidential and exempt.” There is a difference between records the Legislature has determined to be exempt from the Public Records Act and those which the Legislature has determined to be exempt from the Public Records Act *and confidential*.¹³ Records designated as “confidential and exempt” are not subject to inspection by the public and may only be released under the circumstances defined by statute.¹⁴ Records designated as “exempt” may be released at the discretion of the records custodian under certain circumstances.¹⁵

⁶ *Shevin v. Byron, Harless, Schaffer, Reid and Assoc., Inc.*, 379 So. 2d 633, 640 (Fla. 1980).

⁷ Section 119.07(1)(a), F.S.

⁸ Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.

⁹ FLA. CONST. art. I, s. 24(c).

¹⁰ *Id. See, e.g., Halifax Hosp. Medical Center v. News-Journal Corp.*, 724 So. 2d 567 (Fla. 1999) (holding that a public meetings exemption was unconstitutional because the statement of public necessity did not define important terms and did not justify the breadth of the exemption); *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004) (holding that a statutory provision written to bring another party within an existing public records exemption is unconstitutional without a public necessity statement).

¹¹ *See, e.g., s. 119.071(1)(a), F.S.* (exempting from public disclosure examination questions and answer sheets of examinations administered by a governmental agency for the purpose of licensure).

¹² *See, e.g., s. 213.053(2)(a), F.S.* (exempting from public disclosure information contained in tax returns received by the Department of Revenue).

¹³ *WFTV, Inc. v. The Sch. Bd. of Seminole County*, 874 So. 2d 48, 53 (Fla. 5th DCA 2004).

¹⁴ *Id.*

¹⁵ *Williams v. City of Minneola*, 575 So. 2d 683 (Fla. 5th DCA 1991).

Open Government Sunset Review Act

The provisions of s. 119.15, F.S., known as the Open Government Sunset Review Act¹⁶ (the Act), prescribe a legislative review process for newly created or substantially amended¹⁷ public records or open meetings exemptions, with specified exceptions.¹⁸ The Act requires the repeal of such exemption on October 2nd of the fifth year after creation or substantial amendment; in order to save an exemption from repeal, the Legislature must reenact the exemption or repeal the sunset date.¹⁹ In practice, many exemptions are continued by repealing the sunset date, rather than reenacting the exemption.

The Act provides that a public records or open meetings exemption may be created or maintained only if it serves an identifiable public purpose and is no broader than is necessary.²⁰ An exemption serves an identifiable purpose if the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption *and* it meets one of the following purposes:

- It allows the state or its political subdivisions to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;²¹
- It protects sensitive, personal information, the release of which would be defamatory, cause unwarranted damage to the good name or reputation of the individual, or would jeopardize the individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;²² or
- It protects information of a confidential nature concerning entities, such as trade or business secrets.²³

The Act also requires specified questions to be considered during the review process.²⁴ In examining an exemption, the Act directs the Legislature to question the purpose and necessity of reenacting the exemption.

If, in reenacting an exemption or repealing the sunset date, the exemption is expanded, then a public necessity statement and a two-thirds vote for passage are required.²⁵ If the exemption is

¹⁶ Section 119.15, F.S.

¹⁷ An exemption is considered to be substantially amended if it is expanded to include more records or information or to include meetings as well as records. Section 119.15(4)(b), F.S.

¹⁸ Section 119.15(2)(a) and (b), F.S., provides that exemptions required by federal law or applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.

¹⁹ Section 119.15(3), F.S.

²⁰ Section 119.15(6)(b), F.S.

²¹ Section 119.15(6)(b)1., F.S.

²² Section 119.15(6)(b)2., F.S.

²³ Section 119.15(6)(b)3., F.S.

²⁴ Section 119.15(6)(a), F.S. The specified questions are:

- What specific records or meetings are affected by the exemption?
- Whom does the exemption uniquely affect, as opposed to the general public?
- What is the identifiable public purpose or goal of the exemption?
- Can the information contained in the records or discussed in the meeting be readily obtained by alternative means? If so, how?
- Is the record or meeting protected by another exemption?
- Are there multiple exemptions for the same type of record or meeting that it would be appropriate to merge?

²⁵ See generally s. 119.15, F.S.

continued without substantive changes or if the exemption is continued and narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to expire, the previously exempt records will remain exempt unless otherwise provided by law.²⁶

Public Records Exemptions for Enumerated Personnel

Provisions in s. 119.071(4)(d), F.S., exempt from public disclosure the personal identification and location information of enumerated agency personnel, their spouses, and their children. The employing agency as well as the employee may assert the right to the exemption by submitting a written request to each agency which holds the employee's information.²⁷ Additionally, all of these exemptions have retroactive application.²⁸ In order to have the exemption applied to a court record or an official record held by a clerk of court, the party must make a request specifying the document name, type, identification number, and page number.²⁹ Any enumerated personnel who has his or her public records held exempt may file a written and notarized request to any record custodian to have the records released to an identified party.³⁰

Justices and Judges

The state judiciary, as established in Article V of the State Constitution, is composed of the justices of the Supreme Court and the judges in Florida's six District Courts of Appeal, 20 Circuit Courts, and 67 County Courts.³¹ When carrying out their official duties, the judges and justices often preside over matters that are emotionally charged, whether in a trial, appeal, criminal proceeding, dependency hearing, or domestic or family law matter.

In 1991, and in an effort to protect the members of the judiciary, the Legislature enacted a public records exemption for current justices and judges and their families. The exemption protected their home addresses and telephone numbers as well as the home addresses, telephone numbers, and places of employment of their spouses and children, and the names and locations of schools and day care facilities attended by their children.³² In 2012, the Legislature expanded this exemption to include the dates of birth of the enumerated personnel as well as their family members.³³ The public necessity statement provided that dates of birth can be used to perpetrate fraud and that releasing dates of birth can cause great financial harm to an individual. In addition, the Legislature expanded the exemption to include former justices and judges as well as their families. The public necessity statement for this expansion indicated that justices and judges as well as their family members can be targets of revenge and that risk continues after justices and judges complete their public service.³⁴

²⁶ Section 119.15(7), F.S.

²⁷ Section 119.071(4)(d)3., F.S.

²⁸ Section 119.071(4)(d)6., F.S.

²⁹ Section 119.0714(2)(f) and (3)(f), F.S.

³⁰ Section 119.071(4)(d)5., F.S.

³¹ FLA. CONST. art V. *See also* Florida Courts, <http://www.flcourts.org/florida-courts> (last visited Jan. 19, 2023).

³² Ch. 91-149, Laws of Fla. Because public necessity statements were not required for public records exemptions prior to the adoption of Article I, section 24, Florida Constitution, there is no public necessity statement explaining why the exemption was created.

³³ Ch. 2012-149, Laws of Fla.

³⁴ *Id.*

In 2017, the Legislature expanded this exemption to also exempt from disclosure the names of the justices' or judges' spouses and children.³⁵

Judicial Assistants

The Florida State Courts System has established four levels of judicial assistant positions:

- Judicial assistant to a county court judge;
- Judicial assistant to a circuit court judge;
- Appellate judicial assistant to a district court judge; or
- Appellate judicial assistant to a Supreme Court justice.

According to information supplied by the Office of the State Courts Administrator, as of December 2022, there were 335 judicial assistants positions (including employed and vacant positions) at the county court level, 606 judicial assistants positions (including employed and vacant positions) at the circuit court level, 71 judicial assistants positions (including employed and vacant positions) at the district court of appeals level, and 10 employed at the Supreme Court level.³⁶

Judicial assistants are assigned to individual judges or justices to provide administrative, secretarial, and clerical support. At the trial court level in particular, the judicial assistant is generally responsible for: preparing and maintaining the judge's professional and court calendar; coordinating with attorneys, to schedule hearings, conferences, and trials; and preparing orders, notices, and other correspondence. Most significantly, trial court level judicial assistants interact "with judges, clerks of court, litigants, attorneys, law enforcement personnel, bailiffs, social services, witnesses, and the general public to exchange information or to facilitate task completion."³⁷ They also interact "with attorneys and litigants and their family members to resolve problems such as scheduling conflicts or other case-related issues."³⁸ The appellate courts also employ judicial assistants in the district courts of appeal and the Florida Supreme Court.³⁹

Based on this type of interaction, several trial court judicial assistants have reported that attorneys, litigants, or a litigant's family members have held the judicial assistant responsible for an adverse decision made by the judge. These judicial assistants reported instances of a litigant or litigant's family members showing up at the judicial assistant's home, contacting the judicial assistant on his or her personal cell phone, making threats against the judicial assistant, or naming the judicial assistant in a civil law suit.⁴⁰

³⁵ Ch. 2017-66, Laws of Fla.

³⁶ Office of the State Courts Administrator, *Senate Bill 50 Judicial Impact Statement* (Jan. 9, 2023)

<http://abar.laspsbs.state.fl.us/ABAR/Attachment.aspx?ID=33831>.

³⁷ Florida State Courts System Classification Specification, Classification Title: Judicial Assistant – County Court <https://www.flcourts.gov/content/download/751310/file/Judicial-Assistant-County-Court.pdf>.

³⁸ Florida State Courts System Classification Specification, Classification Title: Judicial Assistant – Circuit Court <https://www.flcourts.gov/content/download/751317/file/Judicial-Assistant-Circuit-Court.pdf>.

³⁹ See also Florida State Courts System Classification Specification, Classification Title: Appellate Judicial Assistant – District Court, <https://www.flcourts.gov/content/download/751180/file/appellate-judicial-assistant-district-court.pdf> and Florida State Courts System Classification Specification, Classification Title: Appellate Judicial Assistant – Supreme Court <https://www.flcourts.gov/content/download/751181/file/appellate-judicial-assistant-supreme-court.pdf>.

⁴⁰ See Judicial Assistants Association of Florida, *JA Threats* (2023) (on file with the Senate Committee on Judiciary).

III. Effect of Proposed Changes:

Section 1 amends s. 119.071(4)(d)2.e., F.S., to exempt certain information relating to judicial assistants from the public disclosure requirements. The following information for a current judicial assistant will be exempt:

- A judicial assistant's address, date of birth, and telephone numbers.
- The names, home addresses, telephone numbers, dates of birth, and places of employment of a judicial assistant's spouse and children.
- The names and locations of schools and day care facilities attended by a judicial assistant's children.

Section 1 defines the term "judicial assistant" to mean a court employee assigned to the following class codes: 8140, 8150, 8310, and 8320.

The exemption applies to information held by an agency before, on, or after July 1, 2023.

The information exempted under the bill may be held by the Clerk of the Circuit Court, Tax Collector, Property Appraiser, Sheriff, police departments, and other governmental entities.

Section 2 provides the public necessity statement, as required by the State Constitution. The public necessity statement provides that, because judicial assistants may possibly engender ill will with litigants, the accused, the convicted, and their associates and families, judicial assistants and their families are at risk. Judicial assistants can become targets of fraud or revenge by disgruntled litigants who know the judicial assistants' names, their personal information, and location. For these reasons, the identifying information of current judicial assistants and their family members should be exempt from public disclosure.

Section 3 provides that the bill takes effect July 1, 2023.

Please see section "VII. Related Issues" for a discussion of the shortened review and repeal date of this bill.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article I, s. 24(c) of the State Constitution requires a two-thirds vote of the members present and voting for final passage of a bill creating or expanding an exemption to the

public records requirements. This bill enacts a new exemption for records pertaining to judicial assistants; therefore, the bill requires a two-thirds vote of each chamber for enactment.

Public Necessity Statement

Article I, s. 24(c) of the State Constitution requires a bill creating or expanding an exemption to the public records requirements to state with specificity the public necessity justifying the exemption. Section 2 of the bill contains a statement of public necessity for the exemption.

Breadth of Exemption

Article I, s. 24(c), of the State Constitution requires an exemption to the public records requirements to be no broader than necessary to accomplish the stated purpose of the law. The purpose of the law is to protect judicial assistants. This bill exempts only records pertaining to current judicial assistants and their families from the public records requirements. The exemption does not appear to be broader than necessary to accomplish the purpose of the law.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Any individual or business that currently obtains location information that is covered by the definition of “home addresses” in the bill will not be able to obtain that information from the records custodian without a signed waiver if the employee or the employee’s agency requests that the home address information be exempted.

C. Government Sector Impact:

This bill may have a minimal negative fiscal impact on agencies holding records that contain personal identifying information of judicial assistants because staff responsible

for complying with public record requests may require training related to the new public record exemption. Additionally, agencies may incur costs associated with redacting the exempt information prior to releasing a record. However, the costs should be absorbed as part of the day-to-day agency responsibilities.

The Office of the State Courts Administrator (OSCA) submitted a 2023 Judicial Impact Statement for this bill and said that it does not anticipate any judicial or court workload to be created by the bill. Additionally, OSCA does not anticipate any impact to court rules or jury instructions or any fiscal impact on the judiciary.⁴¹

The Florida Court Clerks and Comptrollers also submitted an analysis that addresses the fiscal impact of the bill. They stated that they do not anticipate the bill creating “any significant operational, policy, or fiscal impact” because the burden remains on the qualifying person to request as well as identify any documents that will need to be redacted. While it might create some additional workload, the amount is not anticipated to be significant.⁴²

VI. Technical Deficiencies:

None.

VII. Related Issues:

According to s. 119.15(3), F.S., the Open Government Sunset Review Act, a newly enacted or substantially amended exemption is scheduled for review and repeal by the Legislature in the 5th year after creation, unless the Legislature acts to reenact the exemption. The bill inserts the newly created exemption into an existing paragraph with other exemptions that are scheduled for review and repeal in 2024, which is the first year after enactment instead of the fifth year. However, the deviation from the schedule set forth in the Open Government Sunset Review Act is supported by the reasoning that a previous legislature cannot bind a future legislature.

VIII. Statutes Affected:

This bill substantially amends section 119.071 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 Governmental Oversight and Accountability on March 15, 2023:

The committee substitute provides a definition for the term “judicial assistant.” It also clarifies that the public records exemption applies only to current judicial assistants.

⁴¹ Office of the State Courts Administrator, *Senate Bill 50 Judicial Impact Statement* (Jan. 9, 2023) <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=33831>.

⁴² Florida Court Clerks and Comptrollers, *Senate Bill 50 Bill Analysis* (Jan 11, 2023) <http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=33833>.

B. Amendments:

None.

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

By the Committee on Governmental Oversight and Accountability;
and Senator Wright

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A bill to be entitled

An act relating to public records; amending s. 119.071, F.S.; providing a definition; adding current judicial assistants and their spouses and children to the list of specified agency personnel and family members to whom an exemption from public records requirements for identification and location information applies; providing for future legislative review and repeal of the exemption; providing for retroactive application of the exemption; providing a statement of public necessity; providing an effective date.

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

Section 1. Paragraph (d) of subsection (4) of section 119.071, Florida Statutes, is amended to read
119.071 General exemptions from inspection or copying of public records.—

(4) AGENCY PERSONNEL INFORMATION.—

(d)1. For purposes of this paragraph, the term:

a. "Home addresses" means the dwelling location at which an individual resides and includes the physical address, mailing address, street address, parcel identification number, plot identification number, legal property description, neighborhood name and lot number, GPS coordinates, and any other descriptive property information that may reveal the home address.

b. "Judicial assistant" means a court employee assigned to the following class codes: 8140, 8150, 8310, and 8320.

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~~C.B.~~ "Telephone numbers" includes home telephone numbers, personal cellular telephone numbers, personal pager telephone numbers, and telephone numbers associated with personal communications devices.

2.a. The home addresses, telephone numbers, dates of birth, and photographs of active or former sworn law enforcement personnel or of active or former civilian personnel employed by a law enforcement agency, including correctional and correctional probation officers, personnel of the Department of Children and Families whose duties include the investigation of abuse, neglect, exploitation, fraud, theft, or other criminal activities, personnel of the Department of Health whose duties are to support the investigation of child abuse or neglect, and personnel of the Department of Revenue or local governments whose responsibilities include revenue collection and enforcement or child support enforcement; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

b. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Department of Financial Services whose duties include the investigation of fraud, theft, workers' compensation coverage requirements and compliance, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and

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places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

c. The home addresses, telephone numbers, dates of birth, and photographs of current or former nonsworn investigative personnel of the Office of Financial Regulation's Bureau of Financial Investigations whose duties include the investigation of fraud, theft, other related criminal activities, or state regulatory requirement violations; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

d. The home addresses, telephone numbers, dates of birth, and photographs of current or former firefighters certified in compliance with s. 633.408; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such firefighters; and the names and locations of schools and day care facilities attended by the children of such firefighters are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

e. The home addresses, dates of birth, and telephone numbers of current or former justices of the Supreme Court, district court of appeal judges, circuit court judges, and county court judges, and of current judicial assistants; the names, home addresses, telephone numbers, dates of birth, and

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places of employment of the spouses and children of current or former justices and judges, and of current judicial assistants; and the names and locations of schools and day care facilities attended by the children of current or former justices and judges and of current judicial assistants are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. This sub-subparagraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2028, unless reviewed and saved from repeal through reenactment by the Legislature.

f. The home addresses, telephone numbers, dates of birth, and photographs of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors; and the names and locations of schools and day care facilities attended by the children of current or former state attorneys, assistant state attorneys, statewide prosecutors, or assistant statewide prosecutors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

g. The home addresses, dates of birth, and telephone numbers of general magistrates, special magistrates, judges of compensation claims, administrative law judges of the Division of Administrative Hearings, and child support enforcement hearing officers; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of general magistrates, special magistrates, judges of

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117 compensation claims, administrative law judges of the Division
 118 of Administrative Hearings, and child support enforcement
 119 hearing officers; and the names and locations of schools and day
 120 care facilities attended by the children of general magistrates,
 121 special magistrates, judges of compensation claims,
 122 administrative law judges of the Division of Administrative
 123 Hearings, and child support enforcement hearing officers are
 124 exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 125 Constitution.

126 h. The home addresses, telephone numbers, dates of birth,
 127 and photographs of current or former human resource, labor
 128 relations, or employee relations directors, assistant directors,
 129 managers, or assistant managers of any local government agency
 130 or water management district whose duties include hiring and
 131 firing employees, labor contract negotiation, administration, or
 132 other personnel-related duties; the names, home addresses,
 133 telephone numbers, dates of birth, and places of employment of
 134 the spouses and children of such personnel; and the names and
 135 locations of schools and day care facilities attended by the
 136 children of such personnel are exempt from s. 119.07(1) and s.
 137 24(a), Art. I of the State Constitution.

138 i. The home addresses, telephone numbers, dates of birth,
 139 and photographs of current or former code enforcement officers;
 140 the names, home addresses, telephone numbers, dates of birth,
 141 and places of employment of the spouses and children of such
 142 personnel; and the names and locations of schools and day care
 143 facilities attended by the children of such personnel are exempt
 144 from s. 119.07(1) and s. 24(a), Art. I of the State
 145 Constitution.

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146 j. The home addresses, telephone numbers, places of
 147 employment, dates of birth, and photographs of current or former
 148 guardians ad litem, as defined in s. 39.820; the names, home
 149 addresses, telephone numbers, dates of birth, and places of
 150 employment of the spouses and children of such persons; and the
 151 names and locations of schools and day care facilities attended
 152 by the children of such persons are exempt from s. 119.07(1) and
 153 s. 24(a), Art. I of the State Constitution.

154 k. The home addresses, telephone numbers, dates of birth,
 155 and photographs of current or former juvenile probation
 156 officers, juvenile probation supervisors, detention
 157 superintendents, assistant detention superintendents, juvenile
 158 justice detention officers I and II, juvenile justice detention
 159 officer supervisors, juvenile justice residential officers,
 160 juvenile justice residential officer supervisors I and II,
 161 juvenile justice counselors, juvenile justice counselor
 162 supervisors, human services counselor administrators, senior
 163 human services counselor administrators, rehabilitation
 164 therapists, and social services counselors of the Department of
 165 Juvenile Justice; the names, home addresses, telephone numbers,
 166 dates of birth, and places of employment of spouses and children
 167 of such personnel; and the names and locations of schools and
 168 day care facilities attended by the children of such personnel
 169 are exempt from s. 119.07(1) and s. 24(a), Art. I of the State
 170 Constitution.

171 l. The home addresses, telephone numbers, dates of birth,
 172 and photographs of current or former public defenders, assistant
 173 public defenders, criminal conflict and civil regional counsel,
 174 and assistant criminal conflict and civil regional counsel; the

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names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel; and the names and locations of schools and day care facilities attended by the children of current or former public defenders, assistant public defenders, criminal conflict and civil regional counsel, and assistant criminal conflict and civil regional counsel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

m. The home addresses, telephone numbers, dates of birth, and photographs of current or former investigators or inspectors of the Department of Business and Professional Regulation; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such current or former investigators and inspectors; and the names and locations of schools and day care facilities attended by the children of such current or former investigators and inspectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

n. The home addresses, telephone numbers, and dates of birth of county tax collectors; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such tax collectors; and the names and locations of schools and day care facilities attended by the children of such tax collectors are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

o. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel of the Department

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of Health whose duties include, or result in, the determination or adjudication of eligibility for social security disability benefits, the investigation or prosecution of complaints filed against health care practitioners, or the inspection of health care practitioners or health care facilities licensed by the Department of Health; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

p. The home addresses, telephone numbers, dates of birth, and photographs of current or former impaired practitioner consultants who are retained by an agency or current or former employees of an impaired practitioner consultant whose duties result in a determination of a person's skill and safety to practice a licensed profession; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such consultants or their employees; and the names and locations of schools and day care facilities attended by the children of such consultants or employees are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

q. The home addresses, telephone numbers, dates of birth, and photographs of current or former emergency medical technicians or paramedics certified under chapter 401; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such emergency medical technicians or paramedics; and the names and

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locations of schools and day care facilities attended by the children of such emergency medical technicians or paramedics are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

r. The home addresses, telephone numbers, dates of birth, and photographs of current or former personnel employed in an agency's office of inspector general or internal audit department whose duties include auditing or investigating waste, fraud, abuse, theft, exploitation, or other activities that could lead to criminal prosecution or administrative discipline; the names, home addresses, telephone numbers, dates of birth, and places of employment of spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

s. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, nurses, and clinical employees of an addiction treatment facility; the home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution. For purposes of this sub-subparagraph, the term "addiction treatment facility" means a county government, or agency thereof, that is licensed pursuant to s. 397.401 and provides substance abuse prevention, intervention, or clinical treatment, including any licensed

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service component described in s. 397.311(26).

t. The home addresses, telephone numbers, dates of birth, and photographs of current or former directors, managers, supervisors, and clinical employees of a child advocacy center that meets the standards of s. 39.3035(2) and fulfills the screening requirement of s. 39.3035(3), and the members of a Child Protection Team as described in s. 39.303 whose duties include supporting the investigation of child abuse or sexual abuse, child abandonment, child neglect, and child exploitation or to provide services as part of a multidisciplinary case review team; the names, home addresses, telephone numbers, photographs, dates of birth, and places of employment of the spouses and children of such personnel and members; and the names and locations of schools and day care facilities attended by the children of such personnel and members are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

u. The home addresses, telephone numbers, places of employment, dates of birth, and photographs of current or former staff and domestic violence advocates, as defined in s. 90.5036(1)(b), of domestic violence centers certified by the Department of Children and Families under chapter 39; the names, home addresses, telephone numbers, places of employment, dates of birth, and photographs of the spouses and children of such personnel; and the names and locations of schools and day care facilities attended by the children of such personnel are exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

3. An agency that is the custodian of the information specified in subparagraph 2. and that is not the employer of the

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291 officer, employee, justice, judge, or other person specified in
 292 subparagraph 2. must maintain the exempt status of that
 293 information only if the officer, employee, justice, judge, other
 294 person, or employing agency of the designated employee submits a
 295 written and notarized request for maintenance of the exemption
 296 to the custodial agency. The request must state under oath the
 297 statutory basis for the individual's exemption request and
 298 confirm the individual's status as a party eligible for exempt
 299 status.

300 4.a. A county property appraiser, as defined in s.
 301 192.001(3), or a county tax collector, as defined in s.
 302 192.001(4), who receives a written and notarized request for
 303 maintenance of the exemption pursuant to subparagraph 3. must
 304 comply by removing the name of the individual with exempt status
 305 and the instrument number or Official Records book and page
 306 number identifying the property with the exempt status from all
 307 publicly available records maintained by the property appraiser
 308 or tax collector. For written requests received on or before
 309 July 1, 2021, a county property appraiser or county tax
 310 collector must comply with this sub-subparagraph by October 1,
 311 2021. A county property appraiser or county tax collector may
 312 not remove the street address, legal description, or other
 313 information identifying real property within the agency's
 314 records so long as a name or personal information otherwise
 315 exempt from inspection and copying pursuant to this section are
 316 not associated with the property or otherwise displayed in the
 317 public records of the agency.

318 b. Any information restricted from public display,
 319 inspection, or copying under sub-subparagraph a. must be

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320 provided to the individual whose information was removed.

321 5. An officer, an employee, a justice, a judge, or other
 322 person specified in subparagraph 2. may submit a written request
 323 for the release of his or her exempt information to the
 324 custodial agency. The written request must be notarized and must
 325 specify the information to be released and the party authorized
 326 to receive the information. Upon receipt of the written request,
 327 the custodial agency must release the specified information to
 328 the party authorized to receive such information.

329 6. The exemptions in this paragraph apply to information
 330 held by an agency before, on, or after the effective date of the
 331 exemption.

332 7. Information made exempt under this paragraph may be
 333 disclosed pursuant to s. 28.2221 to a title insurer authorized
 334 pursuant to s. 624.401 and its affiliates as defined in s.
 335 624.10; a title insurance agent or title insurance agency as
 336 defined in s. 626.841(1) or (2), respectively; or an attorney
 337 duly admitted to practice law in this state and in good standing
 338 with The Florida Bar.

339 8. The exempt status of a home address contained in the
 340 Official Records is maintained only during the period when a
 341 protected party resides at the dwelling location. Upon
 342 conveyance of real property after October 1, 2021, and when such
 343 real property no longer constitutes a protected party's home
 344 address as defined in sub-subparagraph 1.a., the protected party
 345 must submit a written request to release the removed information
 346 to the county recorder. The written request to release the
 347 removed information must be notarized, must confirm that a
 348 protected party's request for release is pursuant to a

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conveyance of his or her dwelling location, and must specify the Official Records book and page, instrument number, or clerk's file number for each document containing the information to be released.

9. Upon the death of a protected party as verified by a certified copy of a death certificate or court order, any party can request the county recorder to release a protected decedent's removed information unless there is a related request on file with the county recorder for continued removal of the decedent's information or unless such removal is otherwise prohibited by statute or by court order. The written request to release the removed information upon the death of a protected party must attach the certified copy of a death certificate or court order and must be notarized, must confirm the request for release is due to the death of a protected party, and must specify the Official Records book and page number, instrument number, or clerk's file number for each document containing the information to be released. A fee may not be charged for the release of any document pursuant to such request.

10. Except as otherwise expressly provided in this paragraph, this paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2024, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Legislature finds that it is a public necessity that the home addresses, dates of birth, and telephone numbers of current judicial assistants; the names, home addresses, telephone numbers, dates of birth, and places of employment of the spouses and children of such judicial

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assistants; and the names and locations of schools and day care facilities attended by the children of such judicial assistants be made exempt from s. 119.07(1), Florida Statutes, and s. 24(a), Article I of the State Constitution. Such identifying and location information can be used as a tool to perpetrate fraud against an individual or to acquire sensitive personal, financial, medical, and familial information, the release of which could cause great financial harm to the individual. In the course of assisting in reviewing cases, maintaining the court docket, screening phone calls and visitors to a justice's or judge's chambers, preparing orders, and coordinating and problem solving with attorneys and litigants, judicial assistants may incur the ill will of litigants, the accused, the convicted, and their associates and families, thus making judicial assistants and their spouses and children targets for acts of revenge. If such identifying and location information is released, the safety of current judicial assistants and their spouses and children could be seriously jeopardized. For these reasons, the Legislature finds that it is a public necessity that such information be made exempt from public records requirements.

Section 3. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Bryan Avila, Chair
Committee on Governmental Oversight and Accountability

Subject: Committee Agenda Request

Date: January 18, 2023

I respectfully request that **Senate Bill 50**, relating to Public Records/Judicial Assistants, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

Thank you for your consideration.

A handwritten signature in black ink that reads "Tom A. Wright". The signature is written in a cursive, flowing style.

Senator Tom A. Wright
Florida Senate, District 8

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23

Meeting Date

50

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

Alison Dudley

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Tall

City

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State

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Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 Rules

BILL: CS/CS/SB 192

INTRODUCER: Environment and Natural Resources Committee; Community Affairs Committee; and Senator Avila and others

SUBJECT: Everglades Protection Area

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Hunter</u>	<u>Ryon</u>	<u>CA</u>	<u>Fav/CS</u>
2.	<u>Carroll</u>	<u>Rogers</u>	<u>EN</u>	<u>Fav/CS</u>
3.	<u>Hunter</u>	<u>Twogood</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 192 requires any proposed comprehensive plan or plan amendment by a county as defined in s. 125.011(1), F.S., or any municipality located therein, applying to land within, or within 2 miles of, the Everglades Protection Area to be reviewed pursuant to the state coordinated review process.

The Department of Environmental Protection (DEP) is tasked with determining whether the plan or plan amendment will adversely impact the Everglades Protection Area or the Everglades restoration and protection objectives in state law. It has 30 days after receipt of the plan or plan amendment to issue a written determination identifying any adverse impacts.

Before adoption, DEP must coordinate with the Department of Economic Opportunity (DEO), the local government, and the Indian tribes to identify any planning strategies or measures that the local government could include in the proposed plan or plan amendment to eliminate or mitigate any adverse impacts. If any portion of the proposed plan or plan amendment will result in adverse impacts, then the local government must either include planning strategies or measures to eliminate or mitigate the adverse impacts, or not adopt that portion of the proposed plan or plan amendment.

The bill also provides that DEO's compliance determination must be limited to not only the objections raised in the objections, recommendations, and comments report (consistent with

existing law), but also a review of planning strategies or measures adopted pursuant to DEP's review and coordination.

The bill takes effect July 1, 2023.

II. Present Situation:

The Everglades/Florida Bay Ecosystem

The Everglades/Florida Bay system covers approximately two million acres in South Florida and contains the largest subtropical wetland in the United States.¹ The area is generally described as a vast sawgrass marsh dotted with tree islands and interspersed with wet prairies and aquatic sloughs.²

Historically, the Everglades covered over seven million acres of South Florida, and water flowed down the Kissimmee River into Lake Okeechobee, then south through the vast Everglades to Florida Bay.³ The present Everglades system has been subdivided by the construction of canals, levees, roads, and other facilities as part of efforts to drain the system for agriculture, development, and flood control. As a result, the Everglades is less than half the size it was a century ago, and connections between the central Everglades and adjacent transitional wetlands have been lost. This separation and isolation can impair the Everglades' wildlife communities and the sustainability of the ecosystem.⁴ Over time, the construction of canals and water control structures along with urban and agricultural expansion contributed to unintended consequences.⁵

In 1994, to address these issues, the Legislature passed the Everglades Forever Act (Act).⁶ The Act established numerous long-term goals and environmental standards to restore and protect the Everglades ecosystem, addressing issues including water quantity, water quality, and excessive levels of phosphorus. The Act contains measures for constructing stormwater treatment areas for water entering the Everglades, sets standards for best management practices to address phosphorous pollution loading, and establishes numeric criteria for water quality in the Everglades.⁷ Generally, the Act outlines Florida's commitment to restoring the Everglades ecosystem, and it authorizes programs for achieving this restoration.⁸ These programs work in

¹ South Florida Water Management District (SFWMD), *Everglades*, <https://www.sfwmd.gov/our-work/everglades> (last visited March 1, 2023).

² *Id.*

³ *Id.*

⁴ *Id.*

⁵ SFWMD, *Everglades Restoration Progress*, 1 (2017), available at https://www.sfwmd.gov/sites/default/files/documents/spl_everglades_progress.pdf (last visited March 1, 2023).

⁶ Chapter 94-115, ss. 1-2, Laws of Fla.; Section 373.4592, F.S.

⁷ Section 373.4592, F.S.; University of Florida, Institute of Food and Agricultural Sciences (UF-IFAS), Michael T. Olexa et al., *2021 Handbook of Florida Water Regulation: Florida Everglades Forever Act*, 1-2 (2021), available at <https://edis.ifas.ufl.edu/pdf/FE/FE60900.pdf> (last visited March 1, 2023).

⁸ See SFWMD, *Long-Term Plan for Achieving Water Quality Goals*, <https://www.sfwmd.gov/our-work/wq-stas/long-term-plan> (last visited March 1, 2023); see SFWMD, *Restoration Strategies for Clean Water for the Everglades*, <https://www.sfwmd.gov/our-work/restoration-strategies> (last visited March 1, 2023).

cooperation with the multi-billion-dollar, multi-decade Comprehensive Everglades Restoration Plan that is a 50-50 partnership between the state and federal government.⁹



The Act establishes monitoring and protection for the “Everglades Protection Area,” defined as “Water Conservation Areas (WCAs) 1, 2A, 2B, 3A, and 3B, the Arthur R. Marshall Loxahatchee National Wildlife Refuge, and the Everglades National Park.”¹⁰ WCA 1 is the Arthur R. Marshall Loxahatchee National Wildlife Refuge, and it is managed by the U.S. Fish and Wildlife Service.¹¹ Water Conservation Areas 2 and 3 are managed by the Florida Fish and Wildlife Conservation Commission.¹² Everglades National Park is managed by the National Park Service.¹³

The WCAs are mainly large expanses of Everglades marsh habitat, which are closed off with control levees and canals.¹⁴ As part of the Central & Southern Florida Project first authorized by Congress in 1948, central portions of the Everglades were diked to create the

⁹ (UF-IFAS), Michael T. Olexa et. al., *2021 Handbook of Florida Water Regulation: Florida Everglades Forever Act*, 1 (2021), available at <https://edis.ifas.ufl.edu/pdf/files/FE/FE60900.pdf> (last visited March 1, 2023); The Water Resources Development Act of 2000 (P.L. 106-541, Dec. 11, 2000); SFWMD, *CERP Project Planning*, <https://www.sfwmd.gov/our-work/cerp-project-planning> (last visited March 1, 2023); DEP, *Comprehensive Everglades Restoration Plan (CERP)*, <https://floridadep.gov/eco-pro/eco-pro/content/comprehensive-everglades-restoration-plan-cerp> (last visited March 1, 2023).

¹⁰ Section 373.4592(2)(i), F.S.; see also FLA. CON. art. II, s. 7(b). Those in the Everglades Agricultural Area who cause water pollution within the Everglades Protection Area are primarily responsible for the abatement costs. *Id.*

¹¹ SFWMD, *Water Conservation Area 1 (Arthur R. Marshall Loxahatchee National Wildlife Refuge)*, <https://www.sfwmd.gov/recreation-site/water-conservation-area-1-arthur-r-marshall-loxahatchee-national-wildlife-refuge> (last visited March 1, 2023).

¹² Florida Fish and Wildlife Conservation Commission, *Everglades Water Conservation Areas*, <https://myfwc.com/fishing/freshwater/sites-forecasts/s/everglades-water-conservation-areas/> (last visited March 1, 2023).

¹³ National Park Service, *Everglades National Park*, <https://www.nps.gov/ever/index.htm> (last visited March 1, 2023); SFWMD, *2016 South Florida Environmental Report*, 3 (2016), available at https://issuu.com/southfloridawatermanagement/docs/2016_sfer_highlights_final?e=4207603/33817547 (last visited Mar. 14, 2023). This document contains the map found on this page.

¹⁴ SFWMD, *Water Conservation Areas 2 and 3 (Everglades & Francis S. Taylor Wildlife Management Area)*, <https://www.sfwmd.gov/recreation-site/water-conservation-areas-2-and-3-everglades-francis-s-taylor-wildlife-management-0> (last visited March 1, 2023).

WCAs.¹⁵ The WCAs have provided numerous benefits for the Everglades and South Florida, including: providing a detention reservoir for excess water from the agricultural area and parts of the lower east coast region, and for flood discharge from Lake Okeechobee; providing levees to prevent Everglades floodwaters from inundating the lower east coast and provide water for agriculture and Everglades National Park; recharging the Biscayne Aquifer for east coast communities; retarding salt water intrusion in coastal well fields; and benefitting fish and wildlife in the Everglades.¹⁶

The long-term water quality objective for the Everglades is to implement the optimal combination of source controls, stormwater treatment areas, advanced treatment technologies, and regulatory programs to ensure that all waters discharged to the Everglades Protection Area achieve water quality standards consistent with the Act.¹⁷ DEP implements a range of responsibilities under the Act, including coordinating programs on research, monitoring, and permitting activities.¹⁸ The Act requires the state of Florida to pursue certain objectives, including all of the following:

- Restore and protect the Everglades ecological system.
- Authorize the South Florida Water Management District to proceed expeditiously with implementation of the Everglades program.¹⁹
- Reduce excessive levels of phosphorus.
- Pursue comprehensive and innovative solutions to the issues of water quality, water quantity, hydroperiod, and invasions of non-native species that affect the Everglades ecosystem.
- Expedite plans and programs for improving water quantity reaching the Everglades.
- Pursue the Everglades Construction Project, while maximizing its benefits and using superior technology when available.
- Achieve the water quality goals of the Everglades program through implementation of stormwater treatment areas and best management practices.²⁰

Comprehensive Plans and Plan Amendments

In 1985, the Legislature passed the Growth Management Act, which required every city and county to create and implement a comprehensive plan to guide future development.²¹ A local government's comprehensive plan outlines the needs and locations for future public facilities, including roads, water and wastewater infrastructure, residential neighborhoods, parks, schools, and commercial and industrial developments.²²

¹⁵ United States Army Corps of Engineers and SFWMD, *Central and Southern Florida Project Comprehensive Review Study, Final Feasibility Report and Programmatic Environmental Impact Statement*, 1-1 (Apr. 1999), available at https://www.sfwmd.gov/sites/default/files/documents/CENTRAL_AND_SOUTHERN_FLORIDA_PROJECT_COMPREHENSIVE_REVIEW_STUDY.pdf (last visited March 1, 2023).

¹⁶ *Id.* at 1-15.

¹⁷ DEP, *Everglades Forever Act (EFA)*, <https://floridadep.gov/eco-pro/eco-pro/content/everglades-forever-act-efa> (last visited March 1, 2023).

¹⁸ *Id.*

¹⁹ Section 373.4592(2)(h), F.S. The “Everglades Program” is defined as the program of projects, regulations, and research provided by the Act. *Id.*

²⁰ *Id.*

²¹ Chapter 85-55, Laws of Fla.

²² Section 163.3177, F.S.

All development, both public and private, and all development orders²³ approved by local governments must be consistent with the local government's comprehensive plan.²⁴ Among the many components of a comprehensive plan is a land use element designating proposed future general distribution, location, and extent of the uses of land.²⁵ Specified use designations include those for residential, commercial, industry, agriculture, recreation, conservation, education, and public facilities.²⁶

In 2011, the Legislature bifurcated the process for approving comprehensive plan amendments.²⁷ Plan amendments are now placed into either the "Expedited State Review Process" or the "State Coordinated Review Process."²⁸ The two processes operate in much the same way; however, the State Coordinated Review Process provides a longer review period and requires all agency comments to be coordinated by the Department of Economic Opportunity (DEO), rather than communicated directly to the permitting local government by each individual reviewing agency. Most plan amendments are required to follow the expedited process. Plan amendments in any of the following categories are required to follow the state coordinated process:

- Located in an area of critical state concern, which contains or has a significant impact on certain resources of regional or statewide importance;²⁹
- Propose a rural land stewardship area, which is designed to establish a long-term incentive-based strategy to balance and guide the allocation of land to accommodate future uses for environmental and economic purposes;³⁰
- Propose a sector plan or an amendment to an adopted sector plan, which emphasizes urban form and protection of regionally significant resources and public facilities;³¹
- Updates to comprehensive plans based on periodic evaluations of compliance with current state requirements;³²
- Propose a development of regional impact, which would have a substantial effect upon the health, safety, or welfare of citizens of more than one county;³³ or
- New plans for newly incorporated municipalities.³⁴

Under both processes, a proposed comprehensive plan or plan amendment must receive a public hearing by the local governing body before it may be transmitted to the state for review. First, the local planning board must hold a public hearing at which it makes a recommendation to the local governing body on adoption of the plan or plan amendment.³⁵ Then, the local governing

²³ "Development order" means any order granting, denying, or granting with conditions an application for a development permit. See s. 163.3164(15), F.S. "Development permit" includes any building permit, zoning permit, subdivision approval, rezoning, certification, special exception, variance, or any other official action of local government having the effect of permitting the development of land. See s. 163.3164(16), F.S.

²⁴ Section 163.3194(3), F.S.

²⁵ Section 163.3177(6)(a), F.S.

²⁶ *Id.*

²⁷ Chapter 2011-139, s. 17, Laws of Fla.

²⁸ Section 163.3184(3) and (4), F.S.

²⁹ See s. 380.05, F.S.

³⁰ See s. 163.3248, F.S.

³¹ See s. 163.3245, F.S.

³² See s. 163.3191, F.S.

³³ See s. 380.06, F.S.

³⁴ Section 163.3184(2)(c), F.S.; see s. 163.3167, F.S.

³⁵ Sections 163.3174(4)(a), F.S.

body must hold a public hearing to consider transmittal of the proposed plan or plan amendment.³⁶ If a majority of the local governing body members present at the hearing approve such transmittal, the plan or amendment must be transmitted within 10 working days to the following state and local governmental entities, known as “reviewing agencies”:

- DEO, designated as the “state land planning agency”;³⁷
- The appropriate regional planning council;
- The appropriate water management district;
- DEP;
- The Department of State;
- The Department of Transportation;
- The Department of Education, if plan amendments relate to public schools;
- The commanding officer of an affected military installation;
- The Fish and Wildlife Conservation Commission and the Department of Agriculture and Consumer Services, in the case of county plans and plan amendments; and
- The county in which the municipality is located, in the case of municipal plans and plan amendments.³⁸

The reviewing agencies and certain other government entities may provide comments to the local government regarding a plan or plan amendment. State agencies may only comment on important state resources and facilities that will be adversely impacted by a plan amendment, if adopted.³⁹ Comments provided by state agencies must state with specificity how a plan amendment will adversely impact an important state resource or facility and must identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts.⁴⁰ Under the expedited process, these comments must be provided directly to the local government not later than 30 days after receipt of the plan amendment.⁴¹ Alternatively, the state coordinated review requires agencies to provide comments to DEO.⁴² DEO then has a total of 60 days from receipt to provide the local government with a report containing the state’s objections, recommendations, and comments.⁴³

In both processes, comments from each governmental entity must be limited to their statutory purview.⁴⁴ For example, DEP must limit its comments to the subjects of air and water pollution; wetlands and other surface waters of the state; federal and state-owned lands and interest in lands, including state parks, greenways and trails, and conservation easements; solid waste; water and wastewater treatment; and the Everglades ecosystem restoration.⁴⁵

³⁶ Sections 163.3184(11), F.S.

³⁷ Section 163.3164(44), F.S.

³⁸ Section 163.3184(1)(c) and (3)(b)1., F.S.

³⁹ Section 163.3184(3)(b)2. and (4)(c), F.S. DEO has special requirements for providing comments on plans or plan amendments following the state coordinated review process.

⁴⁰ *Id.*

⁴¹ Section 163.3184(3)(b)2.

⁴² Section 163.3184(4)(c)-(d), F.S.

⁴³ Section 163.3184(4)(d), F.S.; see DEO, *State Coordinated Review Amendment Process*, http://www.floridajobs.org/docs/default-source/2015-community-development/community-planning/comp-plan/statecoordinatedreviewprocessflowchart.pdf?sfvrsn=d6a766b0_2 (last visited March 1, 2023).

⁴⁴ Section 163.3184(3)(b)3.-4. and (4)(c), F.S.

⁴⁵ Section 163.3184(3)(b)4.a., F.S.

After the local government receives the comments made by the reviewing agencies, whether directly from the agencies or through the report issued by DEO, the local governing body must hold a second public hearing to approve or deny the plan or plan amendment.⁴⁶ The second public hearing must be conducted within 180 days after the agency comments are received. Generally, if a local government fails to hold the second public hearing within 180 days after receipt of agency comments, the plan amendment is deemed withdrawn.⁴⁷

Following adoption, the local government must transmit the plan or plan amendment to DEO within 10 days of the second public hearing, and DEO must notify the local government of any deficiencies with the plan amendment within five working days.⁴⁸ DEO must determine that a plan or plan amendment is complete before it can go into effect. A plan or plan amendment must be deemed complete if it contains:

- A full, executed copy of the adoption ordinance or ordinances;
- In the case of a text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined and words deleted stricken with hyphens;
- In the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and
- A copy of any data and analyses the local government deems appropriate.⁴⁹

Under the State Coordinated Review Process, following the determination of completeness, DEO has 45 days to determine whether the plan or plan amendment is in compliance with applicable law.⁵⁰ DEO must issue a notice of intent to find that the plan or plan amendment is either in compliance or not in compliance, and the notice must be published on DEO's website. A plan or plan amendment adopted under the State Coordinated Review Process goes into effect pursuant to DEO's notice of intent.⁵¹ Under the Expedited State Review Process, a plan amendment goes into effect 31 days after DEO notifies the local government that the plan amendment package is complete.⁵²

III. Effect of Proposed Changes:

Section 1 of the bill amends s. 163.3184, F.S., to require any proposed plan or plan amendment by a county as defined in s. 125.011(1), F.S., (i.e., Miami-Dade County)⁵³ or any municipality located therein, applying to land within, or within two miles of, the Everglades Protection Area

⁴⁶ Section 163.3184(11), F.S.

⁴⁷ Section 163.3184(3)(c)1. and (4)(e)1., F.S. This 180-day timeframe may be extended by agreement as long as notice is provided to DEO and any affected person that provided comments on the plan amendment. Also, an exception exists for developments of regional impact.

⁴⁸ Section 163.3184(3)(c) and (4)(e), F.S.

⁴⁹ *Id.*

⁵⁰ Section 163.3184(4)(e)4., F.S.

⁵¹ Section 163.3184(4)(e)4.-5., F.S.

⁵² Section 163.3184(3)(c)4., F.S.

⁵³ Section 125.011(1), F.S., defines county as “any county operating under a home rule charter adopted pursuant to ss. 10, 11, and 24, Art. VII of the Constitution of 1885, as preserved by Art. VIII, s. (6)(e) of the Constitution of 1968, which county, by resolution of its board of county commissioners, elects to exercise the powers herein conferred.” Counties authorized to operate under a home rule charter pursuant to the constitutional provisions are Monroe County, Miami-Dade and Hillsborough Counties. Of these, only Miami-Dade County currently operates under a home-rule charter and meets the definition of “county” in s. 125.011(1), F.S.

as defined in state law, to be reviewed pursuant to the state coordinated review process. The review must be performed by the Department of Environmental Protection (DEP) in consultation with all federally recognized Indian tribes in the state.

Under the bill, DEP must determine whether the proposed plan or plan amendment by a county as defined in s. 125.011(1), F.S., (i.e., Miami-Dade County) or any municipality located therein, or any portion thereof, will adversely impact the Everglades Protection Area or the Everglades restoration and protection objectives identified in s. 373.4592, F.S. DEP must issue a written determination to the Department of Economic Opportunity (DEO), the local government, and all federally recognized Indian tribes in the state within 30 days after receipt of the proposed plan or plan amendment. The determination must identify any adverse impacts and may be provided as part of DEP's reviewing comments.

Additionally, before adoption of the proposed plan or plan amendment, DEP must coordinate with DEO, the local government, and all federally recognized Indian tribes in the state to identify any planning strategies or measures that the local government could include in the proposed plan or plan amendment to eliminate or mitigate any adverse impacts to the Everglades Protection Area or the Everglades restoration and protection objectives identified in s. 373.4592, F.S.

If DEP determines that any portion of the proposed plan or plan amendment will adversely impact the Everglades Protection Area or the Everglades restoration and protection objectives identified in s. 373.4592, F.S., the local government must modify that portion of the proposed plan or plan amendment to include planning strategies or measures to eliminate or mitigate such adverse impacts before adopting the proposed plan or plan amendment, or that portion of the proposed plan or plan amendment may not be adopted.

During the review process for a plan amendment by a county as defined in s. 125.011(1), F.S., (i.e., Miami-Dade County) or any municipality located therein, a local government may consider an application for a development permit or development order that is contingent upon adoption of the plan amendment.

The bill provides that comprehensive plan amendments by a county as defined in s. 125.011(1), F.S., (i.e., Miami-Dade County) or any municipality located therein that apply to any land within, or within 2 miles of, the Everglades Protection Area must be transmitted within 10 working days after the second public hearing to DEP.

The bill also provides that DEO's compliance determination must be limited not only to the objections raised in the objections, recommendations, and comments report (consistent with existing law), but also a review of planning strategies or measures adopted pursuant to the new provision.

Section 2 of the bill amends s. 163.3187, F.S., to:

- Clarify that site-specific text changes relating directly to, and adopted simultaneously with, a small scale future land use map amendment are permissible under that section.
- Provide that a small scale development amendment by a county as defined in s. 125.011(1), F.S., (i.e., Miami-Dade County) or any municipality located therein may not be adopted for a

property that is located in whole or in part within, or within two miles of, the Everglades Protection Area as defined under state law.

- Provide that within 10 days after the adoption of a small scale development amendment by a county as defined in s. 125.011(1), F.S., (i.e., Miami-Dade County) or any municipality located therein, a county whose boundaries include any portion of the Everglades Protection Area as defined under state law, and the municipalities within the county, must transmit a copy of the amendment to DEO for recordkeeping purposes.

Section 3 of the bill amends s. 420.615(5), F.S., to implement a conforming change.

Section 4 of the bill provides an effective date of July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Landowners and private interests seeking to develop land within two miles of the Everglades Protection Area may see an increase in the time to approve such developments.

C. **Government Sector Impact:**

The Department of Environmental Protection – and to a lesser degree local governments, reviewing agencies, and the Department of Economic Opportunity – may incur an indeterminate increase in costs associated with reviewing plans and plan amendments for potential impacts to the Everglades Protection Area.

VI. **Technical Deficiencies:**

None.

VII. **Related Issues:**

None.

VIII. **Statutes Affected:**

This bill substantially amends the following sections of the Florida Statutes: 163.3184, 163.3187, and 420.615.

IX. **Additional Information:**

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

CS/CS by Environment and Natural Resources on March 20, 2023:

The committee substitute limits the scope of the bill to proposed plans and plan amendments located in Miami-Dade County and the municipalities therein. It also allows the time period for consideration of an application for a development permit or order to run concurrently with the review process for a plan amendment.

CS by Community Affairs on March 7, 2023:

The committee substitute limits proposed plans and plan amendments that must follow the state coordinated review process if land is within two miles of the Everglades Protection Area to a county as defined in s. 125.011(1), F.S., or any municipality located therein.

B. **Amendments:**

None.

By the Committees on Environment and Natural Resources; and
Community Affairs; and Senators Avila, Calatayud, Rodriguez, and
Gruters

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1 A bill to be entitled
2 An act relating to the Everglades Protection Area;
3 amending s. 163.3184, F.S.; requiring that
4 comprehensive plans and plan amendments that apply to
5 certain lands within or near the Everglades Protection
6 Area follow the state coordinated review process;
7 requiring the Department of Environmental Protection,
8 in consultation with specified entities, to make
9 certain determinations for such plans and amendments,
10 to provide written determinations to the local
11 government and specified entities within a specified
12 timeframe, and to coordinate with the local government
13 and specified entities on certain planning strategies
14 and mitigation measures; providing a condition for the
15 adoption of such plans and plan amendments upon
16 certain determinations by the department; authorizing
17 a local government to consider an application for a
18 development permit or development order contingent
19 upon adoption of such plans and amendments; specifying
20 a requirement for the transmittal of certain
21 comprehensive plan amendments to the department;
22 revising the scope of the state land planning agency's
23 compliance determination relating to plans and plan
24 amendments; making technical changes; amending s.
25 163.3187, F.S.; authorizing site-specific text changes
26 for small-scale future land use map amendments;
27 prohibiting the adoption of small-scale development
28 amendments for properties located within or near the
29 Everglades Protection Area; requiring local

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30 governments whose boundaries include any portion of
31 the Everglades Protection Area to transmit copies of
32 adopted small-scale development amendments to the
33 state land planning agency within a specified
34 timeframe; making technical changes; amending s.
35 420.615, F.S.; conforming a cross-reference; providing
36 an effective date.
37

38 Be It Enacted by the Legislature of the State of Florida:
39

40 Section 1. Paragraph (a) of subsection (2), paragraph (a)
41 of subsection (3), subsection (4), paragraph (b) of subsection
42 (5), and paragraph (a) of subsection (11) of section 163.3184,
43 Florida Statutes, are amended, and paragraph (d) is added to
44 subsection (2) of that section, to read:

45 163.3184 Process for adoption of comprehensive plan or plan
46 amendment.—

47 (2) COMPREHENSIVE PLANS AND PLAN AMENDMENTS.—

48 (a) Plan amendments adopted by local governments must ~~shall~~
49 follow the expedited state review process in subsection (3),
50 except as set forth in paragraphs (b), (c), and (d) ~~(b) and (c)~~.

51 (d) Proposed plans and plan amendments by a county as
52 defined in s. 125.011(1) or any municipality located therein
53 which apply to land within, or within 2 miles of, the Everglades
54 Protection Area as defined in s. 373.4592(2) must follow the
55 state coordinated review process as provided in subsection (4).

56 (3) EXPEDITED STATE REVIEW PROCESS FOR ADOPTION OF
57 COMPREHENSIVE PLAN AMENDMENTS.—

58 (a) The process for amending a comprehensive plan described

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in this subsection applies ~~shall apply~~ to all amendments except as provided in paragraphs (2)(b), (c), and (d) ~~(2)(b) and (c)~~ and is ~~shall be~~ applicable statewide.

(4) STATE COORDINATED REVIEW PROCESS.—

(a) *Coordination.*—The state land planning agency shall only use the state coordinated review process described in this subsection for review of comprehensive plans and plan amendments described in paragraphs (2)(c) and (d) ~~paragraph (2)(c)~~. Each comprehensive plan or plan amendment proposed to be adopted pursuant to this subsection must ~~shall~~ be transmitted, adopted, and reviewed in the manner prescribed in this subsection. The state land planning agency shall have responsibility for plan review, coordination, and the preparation and transmission of comments, pursuant to this subsection, to the local governing body responsible for the comprehensive plan or plan amendment.

(b) *Local government transmittal of proposed plan or amendment.*—Each local governing body proposing a plan or plan amendment specified in paragraph (2)(c) or paragraph (2)(d) ~~must~~ shall transmit the complete proposed comprehensive plan or plan amendment to the reviewing agencies within 10 working days after the first public hearing pursuant to subsection (11). The transmitted document must ~~shall~~ clearly indicate on the cover sheet that this plan amendment is subject to the state coordinated review process of this subsection. The local governing body must ~~shall~~ also transmit a copy of the complete proposed comprehensive plan or plan amendment to any other unit of local government or government agency in the state that has filed a written request with the governing body for the plan or plan amendment.

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(c) *Reviewing agency comments.*—~~Except as provided in paragraph (d),~~ the agencies specified in paragraph (b) may provide comments regarding the plan or plan amendments in accordance with subparagraphs (3)(b)2.-4. However, comments on plans or plan amendments required to be reviewed under the state coordinated review process must ~~shall~~ be sent to the state land planning agency within 30 days after receipt by the state land planning agency of the complete proposed plan or plan amendment from the local government. If the state land planning agency comments on a plan or plan amendment adopted under the state coordinated review process, it must ~~shall~~ provide comments according to paragraph (e) ~~(d)~~. Any other unit of local government or government agency specified in paragraph (b) may provide comments to the state land planning agency in accordance with subparagraphs (3)(b)2.-4. within 30 days after receipt by the state land planning agency of the complete proposed plan or plan amendment. Written comments submitted by the public must ~~shall~~ be sent directly to the local government.

(d) *Everglades Protection Area determinations.*—A proposed plan or plan amendment by a county as defined in s. 125.011(1) or any municipality located therein which applies to any land within, or within 2 miles of, the Everglades Protection Area as defined in s. 373.4592(2) must be reviewed pursuant to this paragraph by the Department of Environmental Protection in consultation with all federally recognized Indian tribes in this state. The department shall determine whether the proposed plan or plan amendment, or any portion thereof, adversely impacts the Everglades Protection Area or the Everglades restoration and protection objectives identified in s. 373.4592. The department

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shall issue a written determination to the state land planning agency, the local government, and all federally recognized Indian tribes in this state within 30 days after receipt of the proposed plan or plan amendment. The determination must identify any adverse impacts and may be provided as part of the agency's comments pursuant to paragraph (c). Before the adoption of the proposed plan or plan amendment, the department shall work in coordination with the state land planning agency, the local government, and all federally recognized Indian tribes in this state to identify any planning strategies or measures that the local government could include in the proposed plan or plan amendment to eliminate or mitigate any adverse impacts to the Everglades Protection Area or the Everglades restoration and protection objectives identified in s. 373.4592. If the department determines that any portion of the proposed plan or plan amendment will adversely impact the Everglades Protection Area or the Everglades restoration and protection objectives identified in s. 373.4592, the local government must modify that portion of the proposed plan or plan amendment to include planning strategies or measures to eliminate or mitigate such adverse impacts before adopting the proposed plan or plan amendment or that portion of the proposed plan or plan amendment may not be adopted. During the review process for a plan amendment pursuant to this paragraph, a local government may consider an application for a development permit or development order which is contingent upon adoption of such plan amendment.

(e) State land planning agency review.—

1. If the state land planning agency elects to review a plan or plan amendment specified in paragraph (2) (c) or

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paragraph (2) (d), the agency must ~~shall~~ issue a report giving its objections, recommendations, and comments regarding the proposed plan or plan amendment within 60 days after receipt of the proposed plan or plan amendment. Notwithstanding the limitation on comments in sub-subparagraph (3) (b) 4.g., the state land planning agency may make objections, recommendations, and comments in its report regarding whether the plan or plan amendment is in compliance and whether the plan or plan amendment will adversely impact important state resources and facilities. Any objection regarding an important state resource or facility that will be adversely impacted by the adopted plan or plan amendment must ~~shall~~ also state with specificity how the plan or plan amendment will adversely impact the important state resource or facility and must ~~shall~~ identify measures the local government may take to eliminate, reduce, or mitigate the adverse impacts. When a federal, state, or regional agency has implemented a permitting program, a local government is not required to duplicate or exceed that permitting program in its comprehensive plan or to implement such a permitting program in its land development regulations. This subparagraph does not prohibit the state land planning agency in conducting its review of local plans or plan amendments from making objections, recommendations, and comments regarding densities and intensities consistent with this part. In preparing its comments, the state land planning agency shall only base its considerations on written, and not oral, comments.

2. The state land planning agency review shall identify all written communications with the agency regarding the proposed plan amendment. The written identification must include a list

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of all documents received or generated by the agency, which list must be of sufficient specificity to enable the documents to be identified and copies requested, if desired, and the name of the person to be contacted to request copies of any identified document.

~~(f)(e)~~ Local government review of comments; adoption of plan or amendments and transmittal.—

1. The local government shall review the report submitted to it by the state land planning agency, if any, and written comments submitted to it by any other person, agency, or government. The local government, upon receipt of the report from the state land planning agency, shall hold a ~~its~~ second public hearing, ~~which shall be a hearing~~ to determine whether to adopt the comprehensive plan or one or more comprehensive plan amendments pursuant to subsection (11). If the local government fails to hold the second hearing within 180 days after receipt of the state land planning agency's report, the amendments are ~~shall be~~ deemed withdrawn unless extended by agreement with notice to the state land planning agency and any affected person who that provided comments on the amendment. The 180-day limitation does not apply to amendments processed pursuant to s. 380.06.

2. All comprehensive plan amendments adopted by the governing body, along with the supporting data and analysis, must ~~shall~~ be transmitted within 10 working days after the second public hearing to the state land planning agency and any other agency or local government that provided timely comments under paragraph (c). Comprehensive plan amendments by a county as defined in s. 125.011(1) or any municipality located therein

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which apply to any land within, or within 2 miles of, the Everglades Protection Area as defined in s. 373.4592(2) must be additionally transmitted within 10 working days after the second public hearing to the Department of Environmental Protection.

3. The state land planning agency shall notify the local government of any deficiencies within 5 working days after receipt of a plan or plan amendment package. For purposes of completeness, a plan or plan amendment is ~~shall be~~ deemed complete if it contains a full, executed copy of the adoption ordinance or ordinances; in the case of a text amendment, a full copy of the amended language in legislative format with new words inserted in the text underlined, and words deleted stricken with hyphens; in the case of a future land use map amendment, a copy of the future land use map clearly depicting the parcel, its existing future land use designation, and its adopted designation; and a copy of any data and analyses the local government deems appropriate.

4. After the state land planning agency makes a determination of completeness regarding the adopted plan or plan amendment, the state land planning agency has ~~shall have~~ 45 days to determine if the plan or plan amendment is in compliance with this act. Unless the plan or plan amendment is substantially changed from the one commented on, the state land planning agency's compliance determination is ~~shall be~~ limited to objections raised in the objections, recommendations, and comments report and the review of planning strategies or measures adopted pursuant to paragraph (d). During the period provided for in this subparagraph, the state land planning agency shall issue, through a senior administrator or the

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secretary, a notice of intent to find that the plan or plan amendment is in compliance or not in compliance. The state land planning agency shall post a copy of the notice of intent on the agency's ~~Internet~~ website. Publication by the state land planning agency of the notice of intent on the state land planning agency's website ~~is Internet site shall be~~ prima facie evidence of compliance with the publication requirements of this subparagraph.

5. A plan or plan amendment adopted under the state coordinated review process must ~~shall~~ go into effect pursuant to the state land planning agency's notice of intent. If timely challenged, an amendment does not become effective until the state land planning agency or the Administration Commission enters a final order determining the adopted amendment to be in compliance.

(5) ADMINISTRATIVE CHALLENGES TO PLANS AND PLAN AMENDMENTS.—

(b) The state land planning agency may file a petition with the Division of Administrative Hearings pursuant to ss. 120.569 and 120.57, with a copy served on the affected local government, to request a formal hearing to challenge whether the plan or plan amendment is in compliance as defined in paragraph (1)(b). The state land planning agency's petition must clearly state the reasons for the challenge. Under the expedited state review process, this petition must be filed with the division within 30 days after the state land planning agency notifies the local government that the plan amendment package is complete according to subparagraph (3)(c)3. Under the state coordinated review process, this petition must be filed with the division within 45

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days after the state land planning agency notifies the local government that the plan amendment package is complete according to subparagraph ~~(4)(f)3. (4)(e)3.~~

1. The state land planning agency's challenge to plan amendments adopted under the expedited state review process is ~~shall be~~ limited to the comments provided by the reviewing agencies pursuant to subparagraphs (3)(b)2.-4., upon a determination by the state land planning agency that an important state resource or facility will be adversely impacted by the adopted plan amendment. The state land planning agency's petition must ~~shall~~ state with specificity how the plan amendment will adversely impact the important state resource or facility. The state land planning agency may challenge a plan amendment that has substantially changed from the version on which the agencies provided comments but only upon a determination by the state land planning agency that an important state resource or facility will be adversely impacted.

2. If the state land planning agency issues a notice of intent to find the comprehensive plan or plan amendment not in compliance with this act, the notice of intent must ~~shall~~ be forwarded to the Division of Administrative Hearings of the Department of Management Services, which shall conduct a proceeding under ss. 120.569 and 120.57 in the county of and convenient to the affected local jurisdiction. The parties to the proceeding must ~~shall~~ be the state land planning agency, the affected local government, and any affected person who intervenes. A ~~No~~ new issue may not be alleged as a reason to find a plan or plan amendment not in compliance in an administrative pleading filed more than 21 days after

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publication of notice unless the party seeking that issue establishes good cause for not alleging the issue within that time period. Good cause does not include excusable neglect.

(11) PUBLIC HEARINGS.—

(a) The procedure for transmittal of a complete proposed comprehensive plan or plan amendment pursuant to subparagraph (3)(b)1. and paragraph (4)(b) and for adoption of a comprehensive plan or plan amendment pursuant to subparagraphs (3)(c)1. and (4)(f)1. is (4)(e)1. ~~shall be~~ by affirmative vote of not less than a majority of the members of the governing body present at the hearing. The adoption of a comprehensive plan or plan amendment ~~is shall be~~ by ordinance. For the purposes of transmitting or adopting a comprehensive plan or plan amendment, the notice requirements in chapters 125 and 166 are superseded by this subsection, except as provided in this part.

Section 2. Subsections (1) and (2) of section 163.3187, Florida Statutes, are amended to read:

163.3187 Process for adoption of small-scale ~~small-scale~~ comprehensive plan amendment.—

(1) A small-scale ~~small-scale~~ development amendment may be adopted ~~if all of under~~ the following conditions are met:

(a) The proposed amendment involves a use of 50 acres or fewer, ~~and:~~

(b) The proposed amendment does not involve a text change to the goals, policies, and objectives of the local government's comprehensive plan, but only proposes a land use change to the future land use map for a site-specific small-scale ~~small-scale~~ development activity. However, site-specific text changes that relate directly to, and are adopted simultaneously with, the

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small scale future land use map amendment are ~~shall be~~ permissible under this section.

(c) The property that is the subject of the proposed amendment is not located within an area of critical state concern, unless the project subject to the proposed amendment involves the construction of affordable housing units meeting the criteria of s. 420.0004(3), and is located within an area of critical state concern designated by s. 380.0552 or by the Administration Commission pursuant to s. 380.05(1).

(d) The property that is the subject of the proposed amendment by a county as defined in s. 125.011(1) or any municipality located therein is not located in whole or in part within, or within 2 miles of, the Everglades Protection Area as defined in s. 373.4592(2).

(2) Small-scale ~~Small-scale~~ development amendments adopted pursuant to this section require only one public hearing before the governing board, which must ~~shall~~ be an adoption hearing as described in s. 163.3184(11). Within 10 days after the adoption of a small-scale development amendment by a county as defined in s. 125.011(1) or any municipality located therein, a county whose boundaries include any portion of the Everglades Protection Area designated under s. 373.4592, and the municipalities within the county, shall transmit a copy of the amendment to the state land planning agency for recordkeeping purposes.

Section 3. Subsection (5) of section 420.615, Florida Statutes, is amended to read:

420.615 Affordable housing land donation density bonus incentives.—

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349 (5) The local government, as part of the approval process,
350 shall adopt a comprehensive plan amendment, pursuant to part II
351 of chapter 163, for the receiving land that incorporates the
352 density bonus. Such amendment ~~must~~ shall be adopted in the
353 manner as required for small-scale amendments pursuant to s.
354 163.3187 and is not subject to the requirements of s.
355 163.3184(4)(b), (c), or (e) ~~s. 163.3184(4)(b)-(d)~~.

356 Section 4. This act shall take effect July 1, 2023.



SENATOR Bryan Avila
39th District

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Government Oversight and Accountability, Chair
Appropriations
Appropriations Committee on Education
Appropriations Committee of Health and Human
Services
Education Pre-K 12
Ethics and Elections
Health Policy
Select Committee on Resiliency
Joint Select Committee on Collective Bargaining

March 22, 2023

Honorable Senator Debbie Mayfield
Committee on Rules

Honorable Chair Mayfield:

I respectfully request SB 192 An Act Relating to Everglades Protection Plan be placed on the next committee agenda.

SB 192 Requires that comprehensive plans and plan amendments that apply to certain lands within or near the Everglades Protection Area follow the state coordinated review process. It also requires the Department of Environmental Protection, in consultation with specified entities, to make certain determinations for such plans and amendments, to provide written determinations to the local government and specified entities within a specified timeframe, and to coordinate with the local government and specified entities on certain planning strategies and mitigation measures and authorizing site-specific text changes for small-scale future land use map amendments. Requiring local governments whose boundaries include any portion of the Everglades Protection Area to transmit copies of adopted small-scale development amendments to the state land planning agency within a specified timeframe.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bryan Avila".

Senator Bryan Avila
Florida Senate, District 39

CC: Philip Twogood, Staff Director
Cynthia Futch, Committee Administrative Assistant

REPLY TO:

☐ 10001 Northwest 87th Avenue, Hialeah Gardens, Florida 33016 (305) 364-3073
☐ 326 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5039

Senate's Website: www.flsenate.gov

Kathleen Passidomo
President of the Senate

Dennis Baxley
President Pro Tempore

3/30/23

Meeting Date

Rules

Committee

Name

Karl Rasmussen

Phone

8502059000

Address

119 South Monroe St

Email

kr@mhdfirm.com

Street

Tallahassee

City

FL

State

32301

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without compensation or sponsorship.



I am a registered lobbyist, representing:

Everglades Trust



I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

192

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

3/30/23

Meeting Date

Rules

Committee

Name

David Cullen

Phone

941-323-2404

Address

2838 Little Deal Rd

Email

cullenasea@gmail.com

Street

Tallahassee

FL

32308

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without compensation or sponsorship.

☒

I am a registered lobbyist, representing:

Sierra Club Florida

☐

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
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192

Bill Number or Topic

Amendment Barcode (if applicable)

3/30/23

Meeting Date

Rules

Committee

Name **Jane West**

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Street

Email **jwest@1000fof.org**

Tallahassee

FL

City

State

Zip

Amendment Barcode (if applicable)

Reset Form

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

1000 Friends of Florida

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 Rules

BILL: CS/CS/SB 308

INTRODUCER: Rules Committee; Education Pre-K - 12 Committee; and Senator Collins and others

SUBJECT: Interscholastic Activities

DATE: March 31, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	ED	Fav/CS
2.	Jahnke	Twogood	RC	Fav/CS

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 308 amends provisions regarding the Florida High School Athletic Association (FHSAA) and student participation in interscholastic and intrascholastic extracurricular activities. Specifically, the bill:

- Requires the Florida High School Athletic Association (FHSAA) to allow a school that joins the association by sport to participate in the FHSAA championship contest or series for that sport.
- Places the FHSAA bylaws under the authority of the State Board of Education (SBE).
- Revises the composition of the membership of the FHSAA board of directors from 16 to 9 members, 8 of whom are appointed by the Governor and confirmed by the Senate.
- Authorizes charter school and full-time Florida Virtual School students to develop an agreement with a private school to allow the student to participate in an interscholastic extracurricular activity at that private school.
- Authorizes traditional public school students to participate in an interscholastic extracurricular activity at any public school in the school district in which the student resides, or to develop an agreement to participate at a private school, unless the activity is provided by the student's traditional public school.
- Authorizes a student who transfers from a public school to continue to participate in an extracurricular activity at that school for the remainder of the school year, subject to conditions.

Additionally, the bill creates s. 1006.185, F.S., requiring approved athletic associations to adopt bylaws, policies, or procedures allowing opening remarks during high school championship series contests, with specified conditions for those remarks.

The bill has no impact on state revenues or expenditures.

The bill takes effect on July 1, 2023.

II. Present Situation:

Florida High School Athletic Association

The Florida High School Athletic Association (FHSAA) is statutorily designated as the governing nonprofit organization for interscholastic athletics for grades 6 through 12 in Florida public schools.¹ Any high school, middle school, or combination school,² including charter schools, virtual schools, private schools, and home education cooperatives,³ may become a member of the FHSAA, but membership in the FHSAA is not mandatory.⁴ The FHSAA may not deny or discourage a private school from simultaneously maintaining membership in another athletic association, and may allow a public school the option of applying for consideration to join another athletic association.⁵ The FHSAA is prohibited from denying or discouraging interscholastic competition between its member schools and non-FHSAA member schools in Florida and may not take discriminatory or retributory action against a member school that engages in interscholastic competition with non-FHSAA member schools.⁶

The FHSAA is required to adopt bylaws regulating student eligibility, recruiting, student safety and member schools' interscholastic competition in accordance with applicable law.⁷ If the FHSAA fails to meet its obligations and responsibilities, the Commissioner of Education (commissioner) is directed to designate a nonprofit organization to manage interscholastic athletics with the approval of the State Board of Education (SBE).⁸

FHSAA Governance

The FHSAA operates as a representative democracy in which its member schools hold authority, through their elected representatives, and the FHSAA is governed by its bylaws.⁹ Each member

¹ Section 1006.20(1), F.S.

² A “combination school” is any school that provides instruction to students in high school and the middle school grades; elementary, middle or high school grades combined; or elementary and middle grades combined (e.g. K-12; K-8; 6-12; or 7-12). Florida High School Athletic Association, *Bylaws of the Florida High School Athletic Association, Inc., 2022-23 Edition*, at Bylaw 3.2.2.3.

³ A “home education cooperative” is a parent-directed group of individual home education students that provides opportunities for interscholastic athletic competition to those students and may include students in grades 6-12. FHSAA, *supra*, note 2, at Bylaw 3.2.2.4.

⁴ Section 1006.20(1), F.S.

⁵ *Id.*

⁶ *Id.*

⁷ Section 1006.20(2), F.S.

⁸ Section 1006.20(1), F.S.

⁹ Section 1002.20(3)(a), F.S. See FHSAA, 2022-23 *FHSAA Handbook*, revised Dec. 13, 2022, https://fhsaa.com/documents/2022/12/7//2223_handbook_update_December.pdf?id=3768 (last visited Feb. 27, 2023). The

school must designate a representative that is either the school principal or athletic director. FHSAA membership is divided into four administrative regions, with roughly an equal number of member schools to ensure equitable representation.¹⁰

The executive authority of the FHSAA is vested in the board of directors (board).¹¹ The FHSAA board consists of 16 members, as follows:¹²

- Four public member school representatives, one elected from among its public school representative members within each of the four administrative regions.
- Four nonpublic member school representatives, one elected from among its nonpublic school representative members within each of the four administrative regions.
- Three representatives appointed by the commissioner, one appointed from the two northernmost administrative regions and one appointed from the two southernmost administrative regions. The third representative shall be appointed to balance the board for diversity or state population trends, or both.
- Two district school superintendents, one elected from the two northernmost administrative regions by the members in those regions and one elected from the two southernmost administrative regions by the members in those regions.
- Two district school board members, one elected from the two northernmost administrative regions by the members in those regions and one elected from the two southernmost administrative regions by the members in those regions.
- The commissioner or his or her designee from the department executive staff.

The legislative authority of the FHSAA is vested in its representative assembly.¹³ The membership of the representative assembly is similar to that of the board.¹⁴

School Membership in the FHSAA

An accredited school may become a member school of the FHSAA under its eligibility requirements, which include approval by the school's governing body and adoption of the FHSAA bylaws, paying all dues and other fees, maintaining insurance coverage, and election by the FHSAA board.¹⁵

Among other responsibilities, the FHSAA board approves schools or home education cooperatives for initial and continuing membership in the FHSAA, adopts and amends administrative regulations for its programs, and serves as the FHSAA's appellate authority.¹⁶

FHSAA Handbook contains the bylaws and administrative procedures, as adopted and amended by the board of directors, that govern the FHSAA.

¹⁰ Section 1006.20(3), F.S.

¹¹ Section 1006.20(4)(a), F.S.

¹² Section 1006.20(4)(a)1.-6., F.S.

¹³ Section 1006.20(5)(a), F.S.

¹⁴ Section 1006.20(5)(b), F.S. The specific number of representatives and the method of their selection must be established in the FHSAA bylaws. Section 1006.20(5)(c), F.S.

¹⁵ FHSAA, *supra* note 2, at Bylaw 3.3.1. Similar qualifications and conditions apply to home education cooperatives seeking to become members in the FHSAA. FHSAA, *supra* note 2, at Bylaw 3.3.2.

¹⁶ Section 1006.20(4)(e), F.S.; FHSAA, *supra* note 2, at Bylaws 3.7 and 4.3.2.

The FHSAA authorizes full membership schools to compete in FHSAA championships, vote in FHSAA elections, seek election to positions in FHSAA governance, and apply and serve as hosts of multi-school events.¹⁷ Participation in the Florida High School State Championship Series is limited to senior high schools, combination schools, and home education cooperatives with full membership in the FHSAA.¹⁸ Participation is voluntary in the Florida High School State Championship, however, the FHSAA board preference is that all eligible schools participate.¹⁹ The FHSAA does provide an option for member schools to exercise independent status for “legitimate reasons”²⁰ but expressly states that this status is not intended as a vehicle for schools to organize in protest of the FHSAA’s policies or establish a postseason championship separate from the Florida High School State Championship Series.²¹ The FHSAA requires any independent status member schools to receive the FHSAA board’s approval for any championship playoff occurring after the conclusion of the FHSAA-approved regular season.²²

Student Extracurricular Activities and Athletics

Florida law outlines numerous standards and requirements relating to student extracurricular activities and athletics.²³ Such extracurricular activities and athletics include a student participating in tryouts, off-season conditioning, summer workouts, preseason conditioning, in-season practice, or contests.²⁴ A student must satisfy eligibility requirements to be deemed eligible to participate, which specify a minimum grade point average and adherence to academic performance standards and standards of conduct.²⁵

Responsibilities of the FHSAA

Among the provisions relating to student extracurricular activities and athletics, there are student eligibility, governance, transparency, and student-athlete health requirements that apply specifically to the FHSAA. The FHSAA retains jurisdiction over school membership in the FHSAA; recruiting prohibitions and violations; student medical evaluations; investigations; sanctions for coaches; school eligibility and forfeiture of competitions; student concussions and head injuries; a sports medical advisory committee; and the general operational provisions of the FHSAA.²⁶ However, the FHSAA’s implementation of these provisions may not contradict statutory requirements regarding district school boards and charter schools’ responsibilities in determining student eligibility for extracurricular participation.²⁷

¹⁷ FHSAA, *supra* note 2, at Bylaw 3.9.1.

¹⁸ FHSAA, *supra* note 2, at Bylaws 8.7.1.1; FHSAA, *supra* note 2, at Policy 10.1.1.

¹⁹ FHSAA, *supra* note 2, at Policy 10.1.2.

²⁰ The FHSAA policies outline legitimate reasons as including, but not limited to, a newly opened school, consistent inability to compete in the assigned FHSAA classification, geographic isolation that creates financial burdens for participation, educational philosophies that prohibit extended athletic participation, and religious reasons preventing competition. FHSAA, *supra* note 2, at Policy 10.1.3.

²¹ FHSAA, *supra* note 2, at Policy 10.1.3.

²² *Id.*

²³ See Chapter 1006, Part 1, Section D, F.S.

²⁴ Section 1006.15(3)(a), F.S.

²⁵ *Id.*

²⁶ Section 1006.195(2)(a), F.S.

²⁷ *Id.*

Student Participation in Interscholastic Extracurricular Activities

The term “interscholastic extracurricular activities” is not specifically defined in the statutes. However, extracurricular is defined to mean “any school-authorized or education-related activity occurring during or outside the regular instructional school day.”²⁸ The same statute refers to interscholastic extracurricular student activities as being “an important complement to the academic curriculum” and notes that participation in those activities contributes to a student developing the social and intellectual skills that are needed “to become a well-rounded adult.”²⁹

To be eligible to participate in interscholastic extracurricular activities a student must:³⁰

- Maintain a grade point average of 2.0 or above on a 4.0 scale, or its equivalent.
- Execute and fulfill the requirements of an academic performance contract between the student, the district school board, the appropriate governing association, and the student’s parents if the student’s cumulative grade point average falls below 2.0, or its equivalent on a 4.0 scale.
- Have a cumulative grade point average of 2.0 or above on a 4.0 scale, or its equivalent, in the courses required during his or her junior or senior year.
- Maintain satisfactory conduct, including adherence to appropriate dress and other codes of student conduct policies.³¹

Charter School Student’s Participation in Interscholastic Extracurricular Activities

A charter school student may participate in interscholastic extracurricular activities at a public school to which the student would be assigned, unless the activity is also provided by the student’s charter school. However, the following conditions must also be met for participation at the public school:

- The charter school student must meet the requirements of the charter school education program as determined by the charter school governing board.
- During the period of participation at a school, the charter school student must demonstrate educational progress as required.
- The charter school student must meet the same residency requirements as other students in the school at which he or she participates.
- The charter school student must meet the same standards of acceptance, behavior, and performance that are required of other students in the extracurricular activities.
- The charter school student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation.
- A student who transfers from a charter school program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year.
- Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to

²⁸ Section 1006.15(2), F.S.

²⁹ Section 1006.15(2), F.S.

³⁰ Section 1006.15(3). Eligible to participate includes, but is not limited to, a student participating in tryouts, off-season conditioning, summer workouts, preseason conditioning, in-season practice, or contests.

³¹ Section 1006.15(3)(a)1.-4., F.S.

participate in such activities as a charter school student until the student has successfully completed one grading period in a charter school to become eligible to participate as a charter school student.³²

Additional Options for Participation in Interscholastic Extracurricular Activities

A student in a home education program may be eligible to participate in extracurricular activities at a Florida public school according to attendance area policies or controlled open enrollment, or at a private school.³³ A student in a home education program must meet specified conditions for participation specified in law.³⁴

A student of the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend pursuant to Florida's controlled open enrollment processes.³⁵

A student who transfers to a school during the school year may seek to immediately participate in an extracurricular activity if the roster for the activity has not reached its maximum size and if the coach or sponsor for the activity determines that the student has the requisite skill and ability to participate. However, a transfer student may not participate in a sport if he or she participated in that same sport at another school during that school year, with exceptions specified in law.³⁶

The FHSAA and member school districts are required to establish a program through which private school students may participate in interscholastic sports at public schools.³⁷ A private school student must be eligible to participate in interscholastic athletics at the public middle school, public high school, or public 6-12 school for which he or she would be assigned by the local school district or at any public school that the student could attend pursuant to Florida's controlled open enrollment processes, if the private school that he or she attends is not a member of the FHSAA and he or she meets the guidelines for such participation established by the FHSAA and the district school board.³⁸

Federal Law Regarding Opening Remarks at Interscholastic Athletic Events

Establishment Clause

The U.S. Constitution prevents the government from establishing a religion and protects privately initiated expression and activities from government interference and discrimination.³⁹ In order to determine whether a challenged state statute is permissible under the Establishment Clause, courts apply the *Lemon Test*, which requires that the challenged statute have a secular

³² Section 1006.15(3)(d), F.S. *See also* s. 1002.33(11), F.S.

³³ Section 1006.15(3)(c), F.S.

³⁴ *Id.*

³⁵ Section 1006.15(3)(e), F.S.

³⁶ Section 1006.15(9)(b), F.S.

³⁷ Section 1006.15(8), F.S.

³⁸ Section 1006.15(8)(a), F.S.

³⁹ *See* U.S. Const., Amend. 1.

legislative purpose, have a principal or primary effect that neither advances nor inhibits religion, and avoid excessive government entanglement with religion.⁴⁰

The Supreme Court's analysis in *Santa Fe Independent School District v. Doe* provides insight to how the Court applies the *Lemon Test* when evaluating opening remarks at athletics events on school premises.⁴¹ The Court held that the school district's policy permitting student-led, student-initiated prayer over the loudspeaker at high school football games on the school's property violated the Establishment Clause.⁴² The Court concluded that the pre-game invocations at issue were government speech because the invocations were specifically authorized by government policy and took place on government property at government-sponsored, school related events.⁴³ However, the Supreme Court cautioned that not all public speech becomes government speech simply because it is made using public facilities at government sponsored events.⁴⁴ Santa Fe school district's policy failed the *Lemon Test* because the Court found the policy did not have a secular purpose and advanced certain religion at the expense of other religions given the narrow speaker selection process and criteria; and entangled the government with religion given the school district's specific encouragement of prayer.⁴⁵

Free Speech Clause

Speech is protected by the First Amendment of the United States Constitution.⁴⁶ The government or a public actor may nevertheless regulate an individual's freedom of speech within constitutional limits.⁴⁷ The First Amendment's free speech clause restricts government regulation of private speech but does not regulate government speech.⁴⁸ To determine whether speech is government speech or private speech, courts consider three primary factors: the history and tradition of the speech; whether a reasonable observer could conclude that the government endorses the speech; and whether the government exercises direct control over the speech.⁴⁹

In 2015, the FHSA had a policy that prohibited teams from praying over the loudspeaker before a game. Cambridge Christian School, a private Christian school in Tampa, complained that the policy was a violation of Free Speech and Free Exercise Clauses of the United States and Florida Constitutions.⁵⁰ The district court held that all speech over the loudspeaker was government speech and dismissed the case. The Eleventh Circuit Court of Appeals held that:

[T]he question of whether all speech over the microphone was government speech is a heavily fact-intensive one that looks at the history of the government's use of the medium for communicative purposes, the implication of government

⁴⁰ *Lemon v. Kurtzman*, 403 U.S. 602, 612 (1971).

⁴¹ See *Santa Fe Independent Sch. District v. Doe*, 530 U.S. 290, 314 (2000).

⁴² *Id.* at 317.

⁴³ *Id.* at 302.

⁴⁴ *Id.* See *Rosenberger v. Rector*, 515 U.S.819 (1995) (holding that the University of Virginia must provide financial subsidy to a student religious organization on the same basis as other student publications).

⁴⁵ *Santa Fe Independent Sch. District*, 530 U.S. at 302-10.

⁴⁶ U.S. Const., Amend. 1.

⁴⁷ *Int'l Soc'y for Krishna Consciousness, Inc. v. Lee*, 505 U.S. 672, 678 (1992).

⁴⁸ See *Pleasant Grove City v. Summum*, 555 U.S. 460, 467 (2009).

⁴⁹ See *Pleasant Grove City*, 555 U.S. at 460; *Walker v. Texas Division, Sons of Confederate Veterans, Inc.*, 135 S. Ct. 2239 (2015); *Mech v. Sch. Bd. of Palm Beach Cnty.*, 806 F.3d 1070 (11th Cir. 2015).

⁵⁰ *Cambridge Christian Sch., Inc. v. Florida High Sch. Athletic Ass'n, Inc.*, 942 F.3d 1215 (11th Cir. 2019).

endorsement of messages carried over that medium, and the degree of government control over those messages.⁵¹

The appeals court returned the case to the district court to allow the case to proceed to determine whether “the multitude of messages delivered over the loudspeaker should be viewed as private, not government, speech,” and whether Cambridge Christian was “arbitrarily and haphazardly denied access to the forum in violation of the First Amendment.”⁵²

After hearing the merits of the case as presented by both parties, the district court ruled that the FHSA’s viewpoint neutral regulation of the speech over the loudspeaker was constitutional.⁵³ The case is now again before the Eleventh Circuit Court of Appeals and is tentatively scheduled to be heard the week of June 26, 2023.⁵⁴

Federal Guidance

According to updated guidance from the U.S. Department of Education on constitutionally protected prayer and religious expression in public elementary and secondary schools, student speakers at noncurricular activities such as sporting events may not be selected on a basis that either favors or disfavors religious perspectives. To avoid any mistaken perception that a school endorses student speech that is not in fact attributable to the school, school officials may make appropriate, neutral disclaimers to clarify that such speech, whether religious or nonreligious, is the speaker’s and not the school’s speech.⁵⁵

Florida Law Regarding Opening Remarks at Interscholastic Athletic Events

The Florida Constitution closely replicates the First Amendment’s protections against the establishment of religion.⁵⁶ The scope of the Florida Constitution’s protection of free speech is the same as required under the First Amendment.⁵⁷

Florida law establishes that the FHSA’s authority to organize and conduct statewide interscholastic competition includes the potential for state championships, and the FHSA also has authority to establish terms and conditions for those contests.⁵⁸

⁵¹ *Cambridge Christian Sch., Inc. v. Florida High Sch. Athletic Ass’n, Inc.*, 942 F.3d 1215 (11th Cir. 2019), at 1223.

⁵² *Id.*

⁵³ *Cambridge Christian Sch., Inc. v. Florida High Sch. Athletic Ass’n, Inc.*, 8:16-CV-2753-CEH-AAS, 2022 WL 971778 (M.D. Fla. Mar. 31, 2022).

⁵⁴ Notice of Tentative Calendar Assignment, *Cambridge Christian Sch., Inc. v. Florida High Sch. Athletic Ass’n, Inc.*, No. 22-11222 (11th Cir. Feb. 16, 2023).

⁵⁵ U.S. Department of Education, *Updated Guidance on Constitutionally Protected Prayer and Religious Expression in Public Elementary and Secondary Schools* (Jan. 21, 2020), 85 FR 3257, available at <https://www.federalregister.gov/documents/2020/01/21/2020-00876/updated-guidance-on-constitutionally-protected-prayer-and-religious-expression-in-public-elementary>, at 3268.

⁵⁶ Art. 1, s. 3, Fla. Const. See *Council for Secular Humanism, Inc. v. McNeil*, 44 So. 3d 112, 119 (Fla. 1st DCA 2010) (explaining that the Florida Constitution’s establishment clause is consistent with the First Amendment and imposes additional restrictions on state actors through the no-aid provision).

⁵⁷ Art. 1, s. 4, Fla. Const. See *Cafe Erotica v. Fla. Dep’t of Transp.*, 830 So. 2d 181, 183 (Fla. 1st DCA 2002) (stating that the scope of free speech protections in the Florida Constitution is the same as the First Amendment).

⁵⁸ Section 1006.20(4)(d)6., F.S.

FHSAA Florida High School State Championship Series

The FHSAA's Florida High School State Championship Series (State Championship Series) determines official state champions, among the Association's member schools, in sports sanctioned or recognized by the FHSAA Board of Directors.⁵⁹ The FHSAA limits participation in the State Championship Series to schools that are full members of the Association.⁶⁰ The FHSAA Board of Directors determines in which sports⁶¹ a State Championship Series will be offered and establishes the terms and conditions for the competition series.⁶²

Public Address Protocol

The FHSAA's Public Address Protocol applies to all State Championship Series. The public address announcer must maintain neutrality. The announcer is required to follow the FHSAA script for promotional announcements, player introductions, and awards ceremonies. The procedure limits other announcements to:⁶³

- Those of an emergency nature;
- Those of a "practical" nature (e.g. a vehicle with lights on);
- Teams' starting lineups or entire lineups';
- Messages provided by host school management;
- Announcements about the sale of FHSAA souvenir merchandise;
- Players attempting or making a play;
- Penalties as signaled by the referee; and
- Substitutions and timeouts.

In addition, public address announcers may not provide play-by-play commentary as if announcing a radio or television broadcast, make comments that offer an unfair advantage to one team, make comments critical of contest participants, schools, or officials.⁶⁴

For regular season events, the FHSAA's Public Address Protocol states that the public address announcer must maintain neutrality.⁶⁵ The FHSAA encourages schools to abide by the additional requirements of the Public Address Protocol for the State Championship Series but does not require compliance for regular season events.⁶⁶

⁵⁹ FHSAA, *supra* note 2, at Bylaw 2.10.

⁶⁰ FHSAA, *supra* note 2, at Bylaw 2.10. The FHSAA must allow private schools the option of maintaining full membership in the Association or membership by sport. The FHSAA may allow public schools the option of applying for consideration to join another athletic association. Section 1006.20(1), F.S.

⁶¹ The FHSAA currently conducts State Championship Series in the following sports: baseball, basketball, bowling, competitive cheerleading, cross country, flag football, football, golf, lacrosse, soccer, softball, swimming and diving, tennis, track and field, volleyball, water polo, weightlifting, and wrestling. FHSAA, 2022-2023 FHSAA Administrative Procedures, available at https://fhsaa.com/documents/2022/8/22//2223_admin_procedures.pdf?id=3362.

⁶² Section 1006.20(4)(e)6., F.S.; Bylaw 2.10, FHSAA.

⁶³ FHSAA, 2022-2023 FHSAA Administrative Procedures, Procedure 3.1.8, at 13, available at https://fhsaa.com/documents/2022/8/22//2223_admin_procedures.pdf?id=3362.

⁶⁴ *Id.*

⁶⁵ FHSAA, 2022-2023 FHSAA Administrative Procedures, Procedure 2.2.1, at 11, available at https://fhsaa.com/documents/2022/8/22//2223_admin_procedures.pdf?id=3362.

⁶⁶ *Id.*

III. Effect of Proposed Changes:

Florida High School Athletic Association

CS/CS/SB 308 amends s. 1006.20, F.S., to require the Florida High School Athletic Association (FHSAA) to allow a school that joins the association by sport to participate in the FHSAA championship contest or series for that sport.

The bill places the FHSAA bylaws under the authority of the State Board of Education (SBE), which must ratify a bylaw before it can take effect. The bill also authorizes the Commissioner of Education to direct the FHSAA to revise its bylaws at any time.

The bill revises the composition of the membership of the FHSAA board of directors (board) from 16 to 9 members, 8 of whom are appointed by the Governor and confirmed by the Senate. The bill removes the requirement that the appointing authority of members of the FHSAA board makes recommendations to reflect state demographic and population trends. The board is also given legislative authority for the FHSAA, and specifies that the representative assembly may make recommendations to the board, which must be approved by a majority vote of the board.

The bill requires the hiring of the executive director and the adopted budget to be ratified by the SBE.

Student Participation in Interscholastic and Intrascholastic Extracurricular Activities

The bill amends ss. 1002.20, 1002.33, and 1006.15, F.S., to authorize a charter school student who meets academic, conduct, and other specified requirements to participate in the interscholastic extracurricular activities of a private school, which are not offered at the charter school, if the student develops an agreement to participate with the private school. The bill authorizes a full-time Florida Virtual School student who meets academic, conduct, and other specified requirements to participate in interscholastic extracurricular activities of a private school if the student develops an agreement to participate with the private school.

The bill authorizes a traditional public school student who is otherwise eligible to participate in interscholastic extracurricular activities to participate at any public school in the district in which the student resides or develop an agreement to participate at a private school, if the public school does not offer the activity, subject to meeting standards at receiving school and registering with the school.

The bill authorizes a student who transfers from a public school to continue to participate in the interscholastic or intrascholastic activity at the former school for the remainder of the school year. The student must continue to meet the requirements to be eligible to participate; continue to meet the same standards of acceptance, behavior, and performance as others participating in the activity; and the student's parents must provide transportation for the student to and from the school at which the student participates. The bill provides that the school at which the student participates in the activity, and the district school board are exempt from civil liability arising from any injury that occurs to the student during such transportation.

Additionally, the bill modifies the FHSAA program for private school students to participate at public schools to clarify that participation is at an FHSAA member public or private school, and provides flexibility for the FHSAA board of directors to develop guidelines.

Opening Remarks

The bill creates s. 1006.185, F.S., which requires approved athletic associations, whose memberships include public schools, to adopt bylaws, policies, or procedures that provide schools participating in a high school championship contest or series of contests, under the direction and supervision of the association, an opportunity to make brief opening remarks at the event. If requested by the school, a speaker from the school may give remarks, no longer than two minutes, using the public address system at the event. Prior to the opening remarks from school speakers, the association must make an announcement that the school's opening remarks are not endorsed by the association nor do they reflect the views and opinions of the association.

The bill specifies that athletic associations may not control, monitor, or review the content of schools' opening remarks, nor may the associations control the schools' choice of speaker. The bill provides that member schools may not provide opening remarks that are derogatory, rude, or threatening.

The bill provides that the decision to allow opening remarks before regular season contests is at the discretion of each school.

This bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 1002.20, 1002.33, 1006.15, and 1006.20.

This bill creates section 1006.185 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/CS by Rules on March 30, 2023:

The committee substitute retains the provisions in the bill. The committee substitute also:

- Authorizes full-time Florida Virtual School students to develop an agreement with a private school to allow the student to participate in an interscholastic extracurricular activity at that private school.
- Authorizes traditional public school students to participate at a public school in the district or develop an agreement to participate at a private school, if the public school does not offer an activity, subject to meeting standards at the receiving school and registering with the school.
- Modifies the Florida High School Athletic Association (FHSA) program for private school students to participate at public schools to clarify that participation is at an FHSA member public or private school, and provides flexibility for the FHSA board of directors to develop guidelines.
- Authorizes a student who transfers from a public school to continue to participate in activities at the former school for the rest of the school year.

CS by Education Pre-K -12 on March 6, 2023:

The committee substitute retains the provisions in the bill regarding opening remarks prior to a championship contest. The committee substitute also:

- Adds the requirement that the Florida High School Athletic Association (FHSAA) must allow a school that joins the association by sport to participate in the FHSAA championship contest or series for that sport.
- Places the FHSAA bylaws under the authority of the State Board of Education (SBE), which must ratify a bylaw before it can take effect.
- Authorizes the Commissioner of Education to direct the FHSAA to revise its bylaws at any time.
- Removes the requirement that the appointing authority of members of the FHSAA board of directors makes recommendations to reflect state demographic and population trends.
- Revises the composition of the membership of the FHSAA board of directors (board) from 16 to 9 members, 8 of whom are appointed by the Governor and confirmed by the Senate.
- Specifies that the hiring of the executive director and adopted budget must be ratified by the SBE.
- Establishes legislative authority with the FHSAA board, and requires a majority vote of the board for the approval of legislative recommendations of the representative assembly.
- Adds to the provision regarding opening remarks direction that member schools may not provide opening remarks that are derogatory, rude, or threatening.
- Authorizes charter school students to develop an agreement with a private school to allow the student to participate in an interscholastic extracurricular activity at that private school.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/30/2023	.	
	.	
	.	
	.	

The Committee on Rules (Collins) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (c) and (d) of subsection (18) of
section 1002.20, Florida Statutes, are amended to read:

1002.20 K-12 student and parent rights.—Parents of public
school students must receive accurate and timely information
regarding their child's academic progress and must be informed
of ways they can help their child to succeed in school. K-12
students and their parents are afforded numerous statutory



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rights including, but not limited to, the following:

(18) EXTRACURRICULAR ACTIVITIES.—In accordance with the provisions of s. 1006.15:

(c) *Charter school students.*—Charter school students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies, or may develop an agreement to participate at a private school, unless such activity is provided by the student's charter school.

(d) *Florida Virtual School full-time students.*—Florida Virtual School full-time students who meet specified academic and conduct requirements are eligible to participate in extracurricular activities at the public school to which the student would be assigned or could choose to attend according to district school board policies, or may develop an agreement to participate at a private school.

Section 2. Subsection (11) of section 1002.33, Florida Statutes, is amended to read:

1002.33 Charter schools.—

(11) PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR ACTIVITIES.—A charter school student is eligible to participate in an interscholastic extracurricular activity at the public school to which the student would be otherwise assigned to attend, or may develop an agreement to participate at a private school, pursuant to s. 1006.15(3)(d).

Section 3. Present paragraph (h) of subsection (3) of section 1006.15, Florida Statutes, is redesignated as paragraph (i), and a new paragraph (h) is added to that subsection,



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subsection (10) is added to that section, and paragraphs (d) and (e) of subsection (3) and subsection (8) of that section are amended, to read:

1006.15 Student standards for participation in interscholastic and intrascholastic extracurricular student activities; regulation.—

(3)

(d) An individual charter school student pursuant to s. 1002.33 is eligible to participate at the public school to which the student would be assigned according to district school board attendance area policies or which the student could attend, or may develop an agreement to participate at a private school, in any interscholastic extracurricular activity of that school, unless such activity is provided by the student's charter school, if the following conditions are met:

1. The charter school student must meet the requirements of the charter school education program as determined by the charter school governing board.

2. During the period of participation at a school, the charter school student must demonstrate educational progress as required in paragraph (b).

3. The charter school student must meet the same residency requirements as other students in the school at which he or she participates.

4. The charter school student must meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.

5. The charter school student must register with the school his or her intent to participate in interscholastic



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extracurricular activities as a representative of the school before participation. A charter school student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

6. A student who transfers from a charter school program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year, pursuant to subparagraph 2.

7. Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to participate in such activities as a charter school student until the student has successfully completed one grading period in a charter school pursuant to subparagraph 2. to become eligible to participate as a charter school student.

(e) A student of the Florida Virtual School full-time program may participate in any interscholastic extracurricular activity at the public school to which the student would be assigned according to district school board attendance area policies or which the student could choose to attend pursuant to s. 1002.31, or may develop an agreement to participate at a private school, if the student:

1. During the period of participation in the interscholastic extracurricular activity, meets the requirements in paragraph (a).

2. Meets any additional requirements as determined by the



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board of trustees of the Florida Virtual School.

3. Meets the same residency requirements as other students in the school at which he or she participates.

4. Meets the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.

5. Registers his or her intent to participate in interscholastic extracurricular activities with the school before participation. A Florida Virtual school student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

(h) An individual traditional public school student who is otherwise eligible to participate in interscholastic extracurricular activities may either participate in any such activity at any public school in the school district in which the student resides or develop an agreement to participate in such activity at a private school, unless the activity is provided by the student's traditional public school. Such student must:

1. Meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities at the school at which the student wishes to participate.

2. Before participation, register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school. The student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

(8) (a) The Florida High School Athletic Association (FHSAA)



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shall, in cooperation with each district school board and its
member private schools, ~~shall~~ facilitate a program in which a
middle school or high school student who attends a private
school is ~~shall be~~ eligible to participate in an interscholastic
or intrascholastic sport at a member public high school, a
member public middle school, ~~or~~ a member 6-12 public school, or
a member private school, as appropriate for the private school
student's grade level to which the student would be assigned
~~according to district school board attendance area policies and~~
~~procedures or which the student could choose to attend pursuant~~
~~to s. 1002.31, provided the public school has not reached~~
~~capacity as determined by the district school board, if:~~

1. The private school in which the student is enrolled is
not a member of the FHSAA.

2. The private school student meets the guidelines for the
conduct of the program established by the FHSAA's board of
directors and the district school board or member private
school. At a minimum, such guidelines must ~~shall~~ provide:

~~a.~~ a deadline for each sport by which the private school
student's parents must register with the member ~~public~~ school in
writing their intent for their child to participate at that
school in the sport.

~~b. Requirements for a private school student to~~
~~participate, including, but not limited to, meeting the same~~
~~standards of eligibility, acceptance, behavior, educational~~
~~progress, and performance which apply to other students~~
~~participating in interscholastic or intrascholastic sports at a~~
~~public school or FHSAA member private school.~~

(b) The parents of a private school student participating



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in a member ~~public~~ school sport under this subsection are responsible for transporting their child to and from the member ~~public~~ school at which the student participates. The private school the student attends, the member ~~public~~ school at which the student participates in a sport, the district school board, and the FHSAA are exempt from civil liability arising from any injury that occurs to the student during such transportation.

(c) For each academic year, a private school student may only participate at the member ~~public~~ school in which the student is first registered under subparagraph (a)2. ~~sub-~~ ~~subparagraph (a)2.a.~~ or makes himself or herself a candidate for an athletic team by engaging in a practice.

(d) The athletic director of each participating FHSAA member ~~public~~ school shall maintain the student records necessary for eligibility, compliance, and participation in the program.

(e) Any non-FHSAA member private school that has a student who wishes to participate in this program must make all student records, including, but not limited to, academic, financial, disciplinary, and attendance records, available upon request of the FHSAA.

(f) A student must apply to participate in this program through the FHSAA program application process.

(g) Only students who are enrolled in non-FHSAA member private schools consisting of 125 students or fewer are eligible to participate in the program in any given academic year.

(10) A student who participates in an interscholastic or intrascholastic activity at a public school and who transfers from that school during the school year must be allowed to



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continue to participate in the activity at that school for the remainder of the school year if:

(a) During the period of participation in the activity, the student continues to meet the requirements specified in paragraph (3) (a).

(b) The student continues to meet the same standards of acceptance, behavior, and performance which are required of other students participating in the activity, except for enrollment requirements at the school at which the student participates.

(c) The parents of the student participating in the activity provide for the transportation of the student to and from the school at which the student participates. The school the student attends, the school at which the student participates in the activity, and the district school board are exempt from civil liability arising from any injury that occurs to the student during such transportation.

Section 4. Paragraph (a) of subsection (1) of section 1006.195, Florida Statutes, is amended to read:

1006.195 District school board, charter school authority and responsibility to establish student eligibility regarding participation in interscholastic and intrascholastic extracurricular activities.—Notwithstanding any provision to the contrary in ss. 1006.15, 1006.18, and 1006.20, regarding student eligibility to participate in interscholastic and intrascholastic extracurricular activities:

(1) (a) A district school board must establish, through its code of student conduct, student eligibility standards and related student disciplinary actions regarding student



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participation in interscholastic and intrascholastic extracurricular activities. The code of student conduct must provide that:

1. A student not currently suspended from interscholastic or intrascholastic extracurricular activities, or suspended or expelled from school, pursuant to a district school board's suspension or expulsion powers provided in law, including ss. 1006.07, 1006.08, and 1006.09, is eligible to participate in interscholastic and intrascholastic extracurricular activities.

2. A student may not participate in a sport if the student participated in that same sport at another school during that school year, unless the student meets the criteria in s. 1006.15(3)(i) ~~s. 1006.15(3)(h)~~.

3. A student's eligibility to participate in any interscholastic or intrascholastic extracurricular activity may not be affected by any alleged recruiting violation until final disposition of the allegation pursuant to s. 1006.20(2)(b).

Section 5. Subsection (1), paragraph (a) of subsection (2), paragraphs (a) and (e) of subsection (4), paragraphs (a) and (h) of subsection (5), paragraph (b) of subsection (6), and subsection (8) of section 1006.20, Florida Statutes, are amended to read:

1006.20 Athletics in public K-12 schools.—

(1) GOVERNING NONPROFIT ORGANIZATION.—The Florida High School Athletic Association (FHSAA) is designated as a ~~the~~ governing nonprofit organization of athletics in Florida public schools. If the FHSAA fails to comply with ~~meet the provisions of~~ this section, the commissioner must ~~shall~~ designate a nonprofit organization to govern athletics with the approval of



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the State Board of Education. The FHSAA is not a state agency as defined in s. 120.52. The FHSAA is ~~shall be~~ subject to ~~the provisions of~~ s. 1006.19. A private school that wishes to engage in high school athletic competition with a public high school may become a member of the FHSAA. Any high school in this ~~the~~ state, including charter schools, virtual schools, and home education cooperatives, may become a member of the FHSAA and participate in the activities of the FHSAA; ~~however,~~ membership in the FHSAA is not mandatory for any school. The FHSAA shall ~~must~~ allow a ~~private~~ school the option of maintaining full membership in the association or joining by sport and may not discourage a ~~private~~ school from simultaneously maintaining membership in another athletic association. The FHSAA shall allow any school joining by sport to participate in the championship contest or series of contests for that sport ~~may allow a public school the option to apply for consideration to join another athletic association.~~ The FHSAA may not deny or discourage interscholastic competition between its member schools and non-FHSAA member Florida schools, including members of another athletic governing organization, and may not take any retributory or discriminatory action against any of its member schools that participate in interscholastic competition with non-FHSAA member Florida schools. The FHSAA may not unreasonably withhold its approval of an application to become an affiliate member of the National Federation of State High School Associations submitted by any other organization that governs interscholastic athletic competition in this state. The bylaws of the FHSAA are the rules by which high school athletic programs in its member schools, and the students who participate



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in them, are governed, unless otherwise specifically provided by statute. For the purposes of this section, the term "high school" includes grades 6 through 12.

(2) ADOPTION OF BYLAWS, POLICIES, OR GUIDELINES.—

(a) The FHSAA shall adopt bylaws that, unless specifically provided otherwise by statute, establish eligibility requirements for all students who participate in high school athletic competition in its member schools. The bylaws governing residence and transfer must ~~shall~~ allow the student to be immediately eligible in the school in which he or she first enrolls each school year or the school in which the student makes himself or herself a candidate for an athletic team by engaging in a practice before ~~prior to~~ enrolling in the school. The bylaws must ~~shall~~ also allow the student to be immediately eligible in the school to which the student has transferred. The student remains ~~shall be~~ eligible in that school so long as he or she remains enrolled in that school. Subsequent eligibility must ~~shall~~ be determined and enforced through the FHSAA's bylaws. Requirements governing eligibility and transfer between member schools must ~~shall~~ be applied similarly to public school students and private school students. The commissioner may direct the FHSAA to revise its bylaws at any time.

1. Any changes to the FHSAA's bylaws must be ratified by the State Board of Education.

2. A bylaw adopted by the FHSAA board of directors may not take effect until it is ratified by the State Board of Education.

(4) BOARD OF DIRECTORS.—

(a) The executive and legislative authority of the FHSAA is



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~~shall be vested in its board of directors, which is. Any entity that appoints members to the board of directors shall examine the ethnic and demographic composition of the board when selecting candidates for appointment and shall, to the greatest extent possible, make appointments that reflect state demographic and population trends. The board of directors shall be composed of nine members, eight of whom are appointed by the Governor and confirmed by the Senate 16 persons, as follows:~~

1. ~~Two~~ Four public member school representatives appointed from different administrative regions, ~~one elected from among its public school representative members within each of the four administrative regions.~~

2. ~~Two~~ Four nonpublic member school representatives appointed from different administrative regions that are also different than those represented by the public member school representatives appointed under subparagraph 1., ~~one elected from among its nonpublic school representative members within each of the four administrative regions.~~

3. ~~Two~~ Three representatives ~~appointed by the commissioner,~~ one appointed from the two northernmost administrative regions and one appointed from the two southernmost administrative regions. ~~The third representative shall be appointed to balance the board for diversity or state population trends, or both.~~

4. ~~One~~ Two district school superintendent appointed superintendents, ~~one elected from the two northernmost administrative region regions by the members in those regions and one elected from the two southernmost administrative regions by the members in those regions.~~

5. ~~One~~ Two district school board member appointed members,



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~~one elected from the two northernmost administrative regions by the members in those regions and one elected from the two southernmost administrative region regions by the members in those regions.~~

6. The commissioner or his or her designee from the department executive staff.

(e) The authority and duties of the board of directors, acting as a body and in accordance with the FHSAA's bylaws, are as follows:

1. To act as the incorporated FHSAA's board of directors and to fulfill its obligations as required by the FHSAA's charter and articles of incorporation.

2. To establish such guidelines, regulations, policies, and procedures as are authorized by the bylaws.

3. To employ an FHSAA executive director, who has ~~shall have~~ the authority to waive the bylaws of the FHSAA in order to comply with statutory changes. The hiring of the executive director must be ratified by the State Board of Education.

4. To levy annual dues and other fees and to set the percentage of contest receipts to be collected by the FHSAA.

5. To approve the budget of the FHSAA. The budget adopted by the board of directors must be ratified by the State Board of Education.

6. To organize and conduct statewide interscholastic competitions, which may or may not lead to state championships, and to establish the terms and conditions for these competitions.

7. To act as an administrative board in the interpretation of, and final decision on, all questions and appeals arising



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from the directing of interscholastic athletics of member schools.

8. To approve, reject, or amend any legislative recommendations from the representative assembly. Approval of such recommendations requires a majority vote of the board.

(5) REPRESENTATIVE ASSEMBLY.—

(a) ~~The legislative authority of the FHSAA is vested in its~~ representative assembly may make legislative recommendations to the board of directors.

(h) Other than making legislative recommendations as authorized by paragraph (a), the authority of the representative assembly is limited to its sole duty, which is to consider, adopt, or reject any recommended proposed amendments to the FHSAA's bylaws.

(6) PUBLIC LIAISON ADVISORY COMMITTEE.—

(b) A ~~No~~ member of the board of directors or the ~~committee on appeals may not, or representative assembly is eligible to~~ serve on the public liaison advisory committee.

(8) AMENDMENT OF BYLAWS.—Each member school representative, the board of directors acting as a whole or ~~as~~ members acting individually, any advisory committee acting as a whole to be established by the FHSAA, the commissioner, and the FHSAA's executive director may ~~are empowered to~~ propose amendments to the bylaws. Any other individual may propose an amendment by securing the sponsorship of any such ~~of the aforementioned~~ individuals or bodies. All proposed amendments must be submitted directly to the representative assembly for its consideration. The representative assembly shall provide a recommendation to the board of directors to either adopt, reject, or revise any



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~~proposed amendments, while empowered to adopt, reject, or revise
proposed amendments, may not, in and of itself, as a body be
allowed to propose any amendment for its own consideration.~~

Section 6. Section 1006.185, Florida Statutes, is created
to read:

1006.185 Opening remarks at high school athletic contests.—
Each athletic association designated under s. 1006.20 whose
membership includes public schools shall adopt bylaws, policies,
or procedures that provide each school participating in a high
school championship contest or series of contests under the
direction and supervision of the association the opportunity to
make brief opening remarks, if requested by the school, using
the public address system at the event. Such remarks may not be
longer than 2 minutes per participating school. The athletic
association may not control, monitor, or review the content of
the opening remarks and may not control the school's choice of
speaker. Member schools may not provide remarks that are
derogatory, rude, or threatening. Before the opening remarks, an
announcement must be made that the content of any opening
remarks by a participating school is not endorsed by and does
not reflect the views and or opinions of the athletic
association. The decision to allow opening remarks before
regular season contests is at the discretion of each school.

Section 7. This act shall take effect July 1, 2023.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:



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A bill to be entitled
An act relating to interscholastic activities;
amending s. 1002.20, F.S.; authorizing charter school
students and Florida Virtual School full-time students
to participate in extracurricular activities at a
private school under certain circumstances; amending
s. 1002.33, F.S.; authorizing charter school students
to participate in interscholastic extracurricular
activities at a private school under certain
circumstances; amending s 1006.15, F.S.; authorizing
charter school students and Florida Virtual School
full-time program students to participate in
interscholastic extracurricular activities at private
schools under certain circumstances; authorizing
traditional public school students to participate in
interscholastic and intrascholastic activities at
certain schools; revising the requirements for
students to participate in such activities; revising
requirements related to private school students
participating at a Florida High School Athletic
Association (FHSAA)-member school; providing for the
continued participation in such activities by certain
students who transfer from a public school; amending
s. 1006.195, F.S.; conforming a cross-reference;
amending s. 1006.20, F.S.; requiring the FHSAA to
allow any school that joins the organization by sport
to participate in the championship contest or series
of contests for that sport; providing that the
Commissioner of Education may direct the FHSAA to



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revise its bylaws at any time; requiring that any changes to the FHSAA bylaws be ratified by the State Board of Education; deleting a requirement that the appointing authority of members of the FHSAA Board of Directors make appointments that reflect the demographic and population trends of this state; revising the composition of the board of directors; providing that all appointed board members be appointed by the Governor and confirmed by the Senate; requiring that the hiring of the FHSAA executive director and the budget adopted by the board of directors be ratified by the State Board of Education; requiring a majority vote of the board of directors for the approval of legislative recommendations from the representative assembly; creating s. 1006.185, F.S.; requiring each approved athletic association whose membership includes public schools to allow each participating school to make opening remarks at certain athletic contests; providing requirements for the remarks; providing an effective date.

By the Committee on Education Pre-K -12; and Senators Collins, Grall, and Perry

581-02306-23

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1 A bill to be entitled
 2 An act relating to interscholastic activities;
 3 amending ss. 1002.33 and 1006.15, F.S.; authorizing
 4 charter school students to participate in
 5 interscholastic extracurricular activities at private
 6 schools under certain circumstances; amending s.
 7 1006.20, F.S.; requiring the Florida High School
 8 Athletic Association (FHSAA) to allow any school
 9 joining the organization by sport to participate in
 10 the championship contest or series of contests for
 11 that sport; providing that the Commissioner of
 12 Education may direct the FHSAA to revise its bylaws at
 13 any time; requiring that any changes to the FHSAA
 14 bylaws be ratified by the State Board of Education;
 15 deleting a requirement that the appointing authority
 16 of members of the FHSAA Board of Directors make
 17 appointments that reflect the demographic and
 18 population trends of this state; revising the
 19 composition of the board of directors; providing that
 20 all appointed board members be appointed by the
 21 Governor and confirmed by the Senate; requiring that
 22 the hiring of the FHSAA executive director be ratified
 23 by the State Board of Education; requiring that the
 24 budget adopted by the board of directors be ratified
 25 by the State Board of Education; requiring a majority
 26 vote of the board of directors for the approval of
 27 legislative recommendations from the representative
 28 assembly; creating s. 1006.185, F.S.; requiring each
 29 approved athletic association whose membership

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

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30 includes public schools to allow each participating
 31 school to make opening remarks at certain athletic
 32 contests; providing requirements for the remarks;
 33 providing an effective date.
 34
 35 Be It Enacted by the Legislature of the State of Florida:
 36
 37 Section 1. Subsection (11) of section 1002.33, Florida
 38 Statutes, is amended to read:
 39 1002.33 Charter schools.—
 40 (11) PARTICIPATION IN INTERSCHOLASTIC EXTRACURRICULAR
 41 ACTIVITIES.—A charter school student is eligible to participate
 42 in an interscholastic extracurricular activity at the public
 43 school to which the student would be otherwise assigned to
 44 attend, or may develop an agreement to participate at a private
 45 school, pursuant to s. 1006.15(3)(d).
 46 Section 2. Paragraph (d) of subsection (3) of section
 47 1006.15, Florida Statutes, is amended to read:
 48 1006.15 Student standards for participation in
 49 interscholastic and intrascholastic extracurricular student
 50 activities; regulation.—
 51 (3)
 52 (d) An individual charter school student pursuant to s.
 53 1002.33 is eligible to participate at the public school to which
 54 the student would be assigned according to district school board
 55 attendance area policies or which the student could attend, or
 56 may develop an agreement to participate at a private school, in
 57 any interscholastic extracurricular activity of that school,
 58 unless such activity is provided by the student's charter

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school, if the following conditions are met:

1. The charter school student must meet the requirements of the charter school education program as determined by the charter school governing board.

2. During the period of participation at a school, the charter school student must demonstrate educational progress as required in paragraph (b).

3. The charter school student must meet the same residency requirements as other students in the school at which he or she participates.

4. The charter school student must meet the same standards of acceptance, behavior, and performance that are required of other students in extracurricular activities.

5. The charter school student must register with the school his or her intent to participate in interscholastic extracurricular activities as a representative of the school before participation. A charter school student must be able to participate in curricular activities if that is a requirement for an extracurricular activity.

6. A student who transfers from a charter school program to a traditional public school before or during the first grading period of the school year is academically eligible to participate in interscholastic extracurricular activities during the first grading period if the student has a successful evaluation from the previous school year, pursuant to subparagraph 2.

7. Any public school or private school student who has been unable to maintain academic eligibility for participation in interscholastic extracurricular activities is ineligible to

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participate in such activities as a charter school student until the student has successfully completed one grading period in a charter school pursuant to subparagraph 2. to become eligible to participate as a charter school student.

Section 3. Subsection (1), paragraph (a) of subsection (2), paragraphs (a) and (e) of subsection (4), paragraphs (a) and (h) of subsection (5), paragraph (b) of subsection (6), and subsection (8) of section 1006.20, Florida Statutes, are amended to read:

1006.20 Athletics in public K-12 schools.—

(1) GOVERNING NONPROFIT ORGANIZATION.—The Florida High School Athletic Association (FHSAA) is designated as a ~~the~~ governing nonprofit organization of athletics in Florida public schools. If the FHSAA fails to meet the provisions of this section, the commissioner must ~~shall~~ designate a nonprofit organization to govern athletics with the approval of the State Board of Education. The FHSAA is not a state agency as defined in s. 120.52. The FHSAA is ~~shall be~~ subject to the provisions of s. 1006.19. A private school that wishes to engage in high school athletic competition with a public high school may become a member of the FHSAA. Any high school in this ~~the~~ state, including charter schools, virtual schools, and home education cooperatives, may become a member of the FHSAA and participate in the activities of the FHSAA; ~~however~~, membership in the FHSAA is not mandatory for any school. The FHSAA shall ~~must~~ allow a ~~private~~ school the option of maintaining full membership in the association or joining by sport and may not discourage a ~~private~~ school from simultaneously maintaining membership in another athletic association. The FHSAA shall allow any school

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117 ~~joining by sport to participate in the championship contest or~~
 118 ~~series of contests for that sport may allow a public school the~~
 119 ~~option to apply for consideration to join another athletic~~
 120 ~~association.~~ The FHSAA may not deny or discourage
 121 interscholastic competition between its member schools and non-
 122 FHSAA member Florida schools, including members of another
 123 athletic governing organization, and may not take any
 124 retributory or discriminatory action against any of its member
 125 schools that participate in interscholastic competition with
 126 non-FHSAA member Florida schools. The FHSAA may not unreasonably
 127 withhold its approval of an application to become an affiliate
 128 member of the National Federation of State High School
 129 Associations submitted by any other organization that governs
 130 interscholastic athletic competition in this state. The bylaws
 131 of the FHSAA are the rules by which high school athletic
 132 programs in its member schools, and the students who participate
 133 in them, are governed, unless otherwise specifically provided by
 134 statute. For the purposes of this section, the term "high
 135 school" includes grades 6 through 12.

136 (2) ADOPTION OF BYLAWS, POLICIES, OR GUIDELINES.—

137 (a) The FHSAA shall adopt bylaws that, unless specifically
 138 provided otherwise by statute, establish eligibility
 139 requirements for all students who participate in high school
 140 athletic competition in its member schools. The bylaws governing
 141 residence and transfer ~~must shall~~ allow the student to be
 142 immediately eligible in the school in which he or she first
 143 enrolls each school year or the school in which the student
 144 makes himself or herself a candidate for an athletic team by
 145 engaging in a practice ~~before prior to~~ enrolling in the school.

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146 The bylaws ~~must shall~~ also allow the student to be immediately
 147 eligible in the school to which the student has transferred. The
 148 student ~~remains shall be~~ eligible in that school so long as he
 149 or she remains enrolled in that school. Subsequent eligibility
 150 ~~must shall~~ be determined and enforced through the FHSAA's
 151 bylaws. Requirements governing eligibility and transfer between
 152 member schools ~~must shall~~ be applied similarly to public school
 153 students and private school students. The commissioner may
 154 direct the FHSAA to revise its bylaws at any time.

155 1. Any changes to the FHSAA's bylaws must be ratified by
 156 the State Board of Education.

157 2. A bylaw adopted by the FHSAA board of directors may not
 158 take effect until it is ratified by the State Board of
 159 Education.

160 (4) BOARD OF DIRECTORS.—

161 (a) The executive and legislative authority of the FHSAA is
 162 ~~shall be~~ vested in its board of directors, which is. ~~Any entity~~
 163 ~~that appoints members to the board of directors shall examine~~
 164 ~~the ethnic and demographic composition of the board when~~
 165 ~~selecting candidates for appointment and shall, to the greatest~~
 166 ~~extent possible, make appointments that reflect state~~
 167 ~~demographic and population trends. The board of directors shall~~
 168 ~~be composed of 9 members, 8 of whom are appointed by the~~
 169 Governor and confirmed by the Senate 16 persons, as follows:

170 1. Two Four public member school representatives appointed
 171 from different administrative regions, ~~one elected from among~~
 172 ~~its public school representative members within each of the four~~
 173 ~~administrative regions.~~

174 2. Two Four nonpublic member school representatives

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appointed from different administrative regions that are also different than those represented by the public member school representatives appointed under subparagraph 1., ~~one elected from among its nonpublic school representative members within each of the four administrative regions.~~

3. ~~Two~~ Three representatives appointed by the commissioner, one appointed from the two northernmost administrative regions and one appointed from the two southernmost administrative regions. ~~The third representative shall be appointed to balance the board for diversity or state population trends, or both.~~

4. One ~~Two~~ district school superintendent appointed superintendents, one elected from the two northernmost administrative region ~~regions~~ by the members in those regions and one elected from the two southernmost administrative regions by the members in those regions.

5. One ~~Two~~ district school board member appointed members, one elected from the two northernmost administrative regions by the members in those regions and one elected from the two southernmost administrative region ~~regions~~ by the members in those regions.

6. The commissioner or his or her designee from the department executive staff.

(e) The authority and duties of the board of directors, acting as a body and in accordance with the FHSAA's bylaws, are as follows:

1. To act as the incorporated FHSAA's board of directors and to fulfill its obligations as required by the FHSAA's charter and articles of incorporation.

2. To establish such guidelines, regulations, policies, and

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procedures as are authorized by the bylaws.

3. To employ an FHSAA executive director, who ~~has~~ shall have the authority to waive the bylaws of the FHSAA in order to comply with statutory changes. The hiring of the executive director must be ratified by the State Board of Education.

4. To levy annual dues and other fees and to set the percentage of contest receipts to be collected by the FHSAA.

5. To approve the budget of the FHSAA. The budget adopted by the board of directors must be ratified by the State Board of Education.

6. To organize and conduct statewide interscholastic competitions, which may or may not lead to state championships, and to establish the terms and conditions for these competitions.

7. To act as an administrative board in the interpretation of, and final decision on, all questions and appeals arising from the directing of interscholastic athletics of member schools.

8. To approve, reject, or amend any legislative recommendations from the representative assembly. Approval of such recommendations requires a majority vote of the board.

(5) REPRESENTATIVE ASSEMBLY.—

(a) The ~~legislative authority of the FHSAA is vested in its~~ representative assembly may make legislative recommendations to the board of directors.

(h) The authority of the representative assembly is limited to its sole duty, which is to consider, adopt, or reject any recommended proposed amendments to the FHSAA's bylaws.

(6) PUBLIC LIAISON ADVISORY COMMITTEE.—

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233 (b) ~~A~~ No member of the board of directors ~~or the~~ committee
 234 on appeals ~~may not, or representative assembly is eligible to~~
 235 serve on the public liaison advisory committee.

236 (8) AMENDMENT OF BYLAWS.—Each member school representative,
 237 the board of directors acting as a whole or ~~as~~ members acting
 238 individually, any advisory committee acting as a whole to be
 239 established by the FHSAA, the commissioner, and the FHSAA's
 240 executive director ~~may are empowered to~~ propose amendments to
 241 the bylaws. Any other individual may propose an amendment by
 242 securing the sponsorship of any such ~~of the aforementioned~~
 243 individuals or bodies. All proposed amendments must be submitted
 244 directly to the representative assembly for its consideration.
 245 The representative assembly shall provide a recommendation to
 246 the board of directors to either adopt, reject, or revise any
 247 proposed amendments, while empowered to adopt, reject, or revise
 248 proposed amendments, may not, in and of itself, as a body be
 249 allowed to propose any amendment for its own consideration.

250 Section 4. Section 1006.185, Florida Statutes, is created
 251 to read:

252 1006.185 Opening remarks at high school athletic contests.—
 253 Each athletic association designated under s. 1006.20 whose
 254 membership includes public schools shall adopt bylaws, policies,
 255 or procedures that provide each school participating in a high
 256 school championship contest or series of contests under the
 257 direction and supervision of the association the opportunity to
 258 make brief opening remarks, if requested by the school, using
 259 the public address system at the event. Such remarks may not be
 260 longer than 2 minutes per participating school. The athletic
 261 association may not control, monitor, or review the content of

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262 the opening remarks and may not control the school's choice of
 263 speaker. Member schools may not provide remarks that are
 264 derogatory, rude, or threatening. Before the opening remarks, an
 265 announcement must be made that the content of any opening
 266 remarks by a participating school is not endorsed by and does
 267 not reflect the views and or opinions of the athletic
 268 association. The decision to allow opening remarks before
 269 regular season contests is at the discretion of each school.

270 Section 5. This act shall take effect July 1, 2023.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JAY COLLINS

14th District

COMMITTEES:

Agriculture, *Chair*
Appropriations Committee on Education
Appropriations Committee on Transportation, Tourism,
and Economic Development
Education Postsecondary
Education Pre-K -12
Fiscal Policy
Military and Veterans Affairs, Space, and
Domestic Security

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

March 22, 2023

Senator Debbie Mayfield
400 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Mayfield,

I respectfully request that SB 308 – Interscholastic Activities be placed on the next available agenda for the Committee on Rules. This bill is crucial for ensuring that the FHSAA has appropriate oversight and that our children are able to compete in school sports on a level playing field.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in black ink, appearing to read "Jay Collins", with a horizontal line underneath.

Senator Jay Collins
District 14

Cc: Philip Twogood, Staff Director
Shasta W. Kruse, Deputy Staff Director
Cynthia Futch, Committee Administrative Assistant

REPLY TO:

- ☐ 405 North Reo Street, Suite 170, Tampa, Florida 33609 (813) 281-2538
- ☐ 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 387-4014

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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3/30

Meeting Date

Rules

Committee

SB308

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Ryan Kennedy

Phone

239-671-5733

Address

9745 Roundstone Cir.

Email

ryan@go-fla.org

Street

Fort Myers

FL

33967

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Florida Citizens
Alliance

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

March 30, 2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

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308

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Barney Bishop Consulting

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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CS/CS 308

Bill Number or Topic

3-30-23

Meeting Date

Rules

Committee

Amendment Barcode (if applicable)

Name

Craig Damon

Phone

352-216-1214

Address

2935 NE 127th PL

Email

cdamon@fhssa.org

Street

Anthony

City

FL

State

32617

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 Rules

BILL: CS/SB 664

INTRODUCER: Children, Families, and Elder Affairs Committee and Senator Burgess

SUBJECT: Contracts Entered into by the Department of Children and Families

DATE: March 30, 2023

REVISED: 3/30/23

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tuszynski	Cox	CF	Fav/CS
2.	McVaney	McVaney	GO	Favorable
3.	Tuszynski	Twogood	RC	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 664 expands the contract requirements of the Department of Children and Families under s. 409.996, F.S., requiring a lead agency to annually provide and publish operating procedures detailing timelines and procedures to maximize the use of concurrent planning, minimize the time to complete preliminary and final adoptive home studies, and streamline data entry into the statewide child welfare information system.

The bill also requires a lead agency to complete the child specific information section of the unified home study, excluding information related to any prospective caregiver, no later than 90 days after the filing of a petition for termination of parental rights.

The bill will likely have an indeterminate but insignificant fiscal impact on the private sector. The bill is not expected to have an impact on state or local government revenues and expenditures. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

Florida's Child Welfare System

The child welfare system identifies families whose children are in danger of suffering or have suffered abuse, abandonment, or neglect and works with those families to address the problems that are endangering children, if possible. If the problems cannot be addressed, the child welfare system finds safe out-of-home placements for these children. Out-of-home placements can include a temporary placement with a family member, a family foster home, or a residential child-caring agency, or a permanent adoptive placement with a family previously unknown to the child.¹

Community-Based Care Organizations and Services

The DCF contracts for case management, out-of-home care (foster care), adoption, and other related services with lead agencies, also known as community-based care organizations (CBCs). The CBC model is designed to increase local community ownership of service delivery and design of child welfare services.²

The DCF, through the CBCs, administers a system of care³ for children that is directed toward:

- Prevention of separation of children from their families;
- Intervention to allow children to remain safely in their own homes;
- Reunification of families who have had children removed from their care;
- Safety for children who are separated from their families;
- Promoting the well-being of children through emphasis on educational stability and timely health care;
- Permanency; and
- Transition to independence and self-sufficiency.⁴

The CBCs must give priority to services that are evidence-based and trauma informed.⁵ The CBCs contract with a number of subcontractors for case management and direct care services to children and their families. There are 17 CBCs statewide, which together serve the state's 20 judicial circuits.⁶ The CBCs employ case managers that serve as the primary link between the child welfare system and families with children under the DCF's supervision. These case managers work with affected families to ensure that a child reaches his or her permanency goal in a timely fashion.⁷

¹ Section 409.175, F.S.

² The Department of Children and Families, *About Community-Based Care*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/about-community-based-care> (last visited February 27, 2023) (hereinafter cited as "DCF").

³ *Id.*

⁴ *Id.*; Also see generally s. 409.988, F.S.

⁵ Section 409.988(3), F.S.

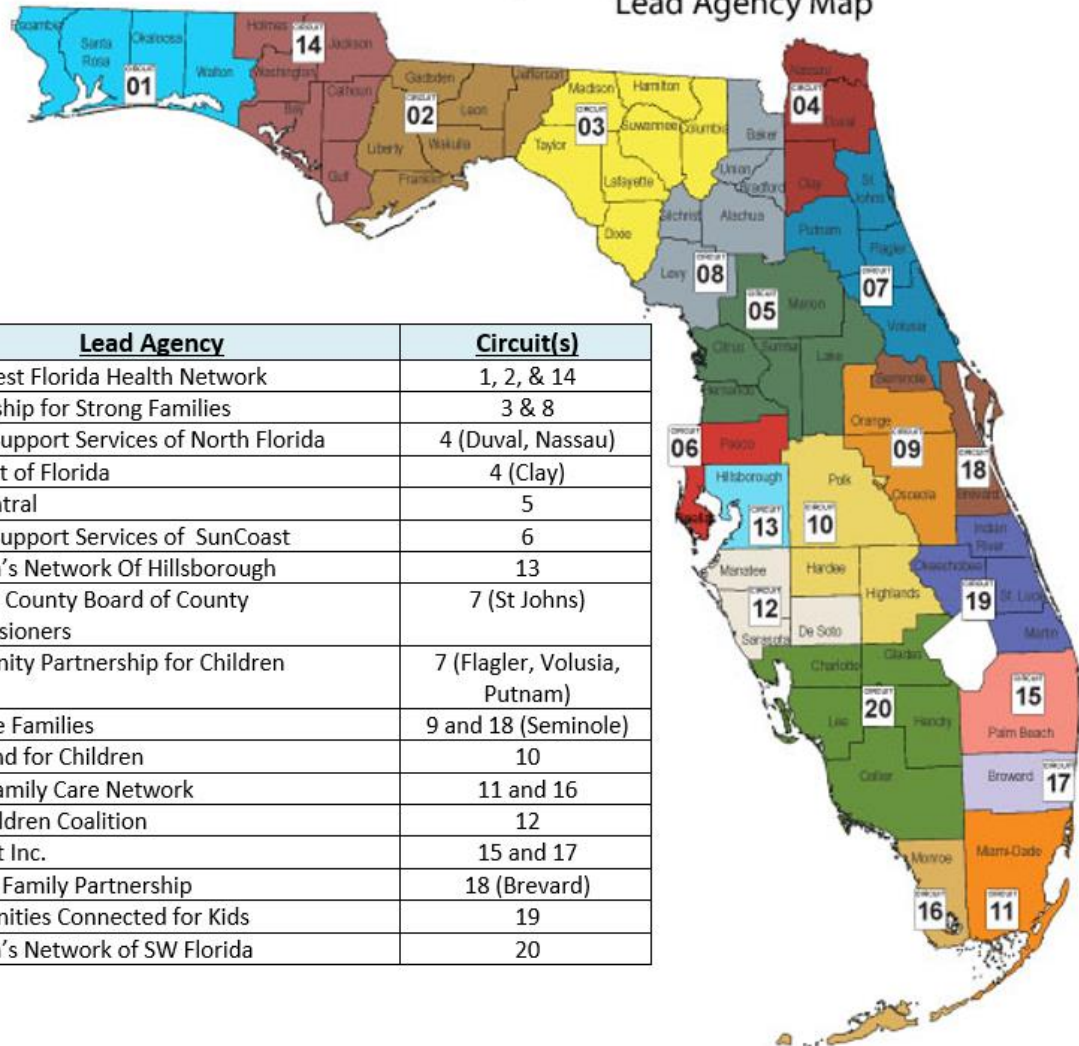
⁶ The DCF, *Lead Agency Information*, available at <https://www.myflfamilies.com/services/child-family/child-and-family-well-being/community-based-care/lead-agency-information> (last visited February 27, 2023).

⁷ Section 409.988(1), F.S.

The DCF contracts with the following lead agencies as illustrated in the table and map below:

Community-Based Care Lead Agency Map

Lead Agency	Circuit(s)
Northwest Florida Health Network	1, 2, & 14
Partnership for Strong Families	3 & 8
Family Support Services of North Florida	4 (Duval, Nassau)
Kids First of Florida	4 (Clay)
Kids Central	5
Family Support Services of SunCoast	6
Children's Network Of Hillsborough	13
St Johns County Board of County Commissioners	7 (St Johns)
Community Partnership for Children	7 (Flagler, Volusia, Putnam)
Embrace Families	9 and 18 (Seminole)
Heartland for Children	10
Citrus Family Care Network	11 and 16
Safe Children Coalition	12
ChildNet Inc.	15 and 17
Brevard Family Partnership	18 (Brevard)
Communities Connected for Kids	19
Children's Network of SW Florida	20



Dependency Process

Current law requires any person who knows or suspects that a child has been abused, abandoned, or neglected to report such knowledge or suspicion to the Florida's central abuse hotline (hotline), including incidents of domestic violence.⁸ A child protective investigation begins if the

⁸ Section 39.201(1), F.S.

hotline determines the allegations meet the statutory definition of abuse,⁹ abandonment,¹⁰ or neglect.¹¹ A child protective investigator investigates the situation either immediately, or within 24 hours after the report is received, depending on the nature of the allegation.¹²

After conducting an investigation, if the child protective investigator determines that the child is in need of protection and supervision that necessitates removal, the investigator may initiate formal proceedings to remove the child from his or her home. When the DCF removes a child from the home, a series of dependency court proceedings must occur before a child may be adjudicated dependent.¹³ The dependency court process is summarized in the table below.

The Dependency Court Process

Dependency Proceeding	Description of Process	Controlling Statute
Removal	A child protective investigation determines a child is unsafe in his or her home and the child is removed.	s. 39.401, F.S.
Shelter Hearing	A shelter hearing occurs within 24 hours after removal. The judge determines whether to keep the child out-of-home.	s. 39.401, F.S.
Petition for Dependency	A petition for dependency occurs within 21 days of the shelter hearing. This petition seeks to find the child dependent.	s. 39.501, F.S.
Arraignment Hearing and Shelter Review	An arraignment and shelter review occurs within 28 days of the shelter hearing. This allows the parent to admit, deny, or consent to the allegations within the petition for dependency and allows the court to review any shelter placement.	s. 39.506, F.S.
Adjudicatory Trial	An adjudicatory trial is held within 30 days of arraignment. The judge determines whether a child is dependent during trial.	s. 39.507, F.S.

⁹ Section 39.01(2), F.S. The term “abuse” means any willful act or threatened act that results in any physical, mental, or sexual abuse, injury, or harm that causes or is likely to cause the child’s physical, mental, or emotional health to be significantly impaired. Abuse of a child includes the birth of a new child into a family during the course of an open dependency case when the parent or caregiver has been determined to lack the protective capacity to safely care for the children in the home and has not substantially complied with the case plan towards successful reunification or met the conditions for return of the children into the home. Abuse of a child includes acts or omissions. Corporal discipline of a child by a parent or legal custodian for disciplinary purposes does not in itself constitute abuse when it does not result in harm to the child.

¹⁰ Section 39.01(1), F.S. The term “abandoned” or “abandonment” means a situation in which the parent or legal custodian of a child or, in the absence of a parent or legal custodian, the caregiver, while being able, has made no significant contribution to the child’s care and maintenance or has failed to establish or maintain a substantial and positive relationship with the child, or both.

¹¹ Sections 39.01(50) and 39.201(2)(a), F.S. “Neglect” occurs when a child is deprived of, or is allowed to be deprived of, necessary food, clothing, shelter, or medical treatment or a child is permitted to live in an environment when such deprivation or environment causes the child’s physical, mental, or emotional health to be significantly impaired or to be in danger of being significantly impaired. The foregoing circumstances shall not be considered neglect if caused primarily by financial inability unless actual services for relief have been offered to and rejected by such person. A parent or legal custodian legitimately practicing religious beliefs in accordance with a recognized church or religious organization who thereby does not provide specific medical treatment for a child may not, for that reason alone, be considered a negligent parent or legal custodian; however, such an exception does not preclude a court from ordering necessary services.

¹² Section 39.101(2), F.S.

¹³ See s. 39.01(14), F.S., for the definition of “child who is found to be dependent.”

Dependency Proceeding	Description of Process	Controlling Statute
Disposition Hearing	If the child is found dependent, disposition occurs within 15 days of arraignment or 30 days of adjudication. The judge reviews the case plan and placement of the child. The judge orders the case plan for the family and the appropriate placement of the child.	s. 39.506, F.S. s. 39.521, F.S.
Post-disposition hearing	The court may change temporary placement at a post disposition hearing any time after disposition but before the child is residing in the permanent placement approved at a permanency hearing.	s. 39.522, F.S.
Judicial Review Hearings	The court must review the case plan and placement every 6 months, or upon motion of a party.	s. 39.701, F.S.
Petition for Termination of Parental Rights	Once the child has been out-of-home for 12 months, if DCF determines that reunification is no longer a viable goal, termination of parental rights is in the best interest of the child, and other requirements are met, a petition for termination of parental rights is filed.	s. 39.802, F.S. s. 39.8055, F.S. s. 39.806, F.S. s. 39.810, F.S.
Advisory Hearing	This hearing is set as soon as possible after all parties have been served with the petition for termination of parental rights. The hearing allows the parent to admit, deny, or consent to the allegations within the petition for termination of parental rights.	s. 39.808, F.S.
Adjudicatory Hearing	An adjudicatory trial shall be set within 45 days after the advisory hearing. The judge determines whether to terminate parental rights to the child at this trial.	s. 39.809, F.S.

In-Home and Out-of-Home Care

The DCF is required to administer a system of care that endeavors to keep children with their families and provides interventions to allow children to remain safely in their own homes.¹⁴ Protective investigators and CBC case managers can refer families for in-home services to allow children who would otherwise be unsafe to remain in their own homes.

When a child protective investigator determines that in-home services are not enough to allow a child to safely remain in his or her home, the investigator removes and places the child with a safe and appropriate temporary placement.¹⁵ These temporary placements, referred to as out-of-home care, provide housing and services to children until they can return home to their families or achieve permanency with other families through adoption or guardianship.¹⁶

The CBCs must place all children in out-of-home care in the most appropriate available setting after conducting an assessment using child-specific factors.¹⁷ Legislative intent is to place

¹⁴ See s. 39.001, F.S.

¹⁵ Sections 39.401 through 39.4022, F.S.

¹⁶ The Office of Program Policy and Government Accountability, *Program Summary*, available at <https://oppaga.fl.gov/ProgramSummary/ProgramDetail?programNumber=5053> (last visited February 28, 2023).

¹⁷ Rule 65C-28.004, F.A.C., provides that the child-specific factors include age, sex, sibling status, physical, educational, emotional, and developmental needs, maltreatment, community ties, and school placement.

children in a family-like environment when they are removed from their homes.¹⁸ When possible, child protective investigators and lead agency case managers place children with relatives or responsible adults whom they know and with whom they have a relationship. These out-of-home placements are referred to as relative and non-relative caregivers or “fictive kin”. When a relative or non-relative caregiver placement is not possible, case managers try to place children in family foster homes licensed by the DCF.

Some children have extraordinary needs, such as multiple placement disruptions, behavioral health problems, juvenile justice involvement, or disabilities, which may require case managers to place them in residential group care. The primary purpose of residential group care is to provide a setting that addresses the unique needs of children and youth who require more intensive services than a family setting can provide.¹⁹

Case Plan Development

The DCF must develop and draft a case plan for each child receiving services within the dependency system.²⁰ The purpose of a case plan is to develop a document that details the permanency goal and services designed to achieve that goal by addressing the identified problems within the family unit.²¹

The services detailed in a case plan must be designed to improve the conditions in the home and aid in maintaining the child in the home, facilitate the child’s safe return to the home, ensure proper care of the child, or facilitate the child’s permanent placement.²² The services offered must be the least intrusive possible into the life of the parent and child and must provide the most efficient path to quick reunification or permanent placement.²³ A case plan must be developed face to face with the parents; guardian ad litem; and, in some cases, the child and temporary custodian of the child.²⁴

A case plan must include:

- A description of the identified problem being addressed;
- The permanency goal;
- If concurrent planning is being used, a goal of reunification and an additional permanency plan;
- The date the case plan expires; and
- Written notice to the parents’ responsibility to comply with the case plan.²⁵

A case plan can be changed at any time to implement the use of concurrent planning.²⁶

¹⁸ Section 39.001(1), F.S.

¹⁹ See generally The Children’s Bureau, Child Welfare Information Gateway, *Group and Residential Care*, available at <https://www.childwelfare.gov/topics/outofhome/group-residential-care/> (last visited March 3, 2023).

²⁰ Section 39.6011(1), F.S.

²¹ See s. 39.6012(1)(b), F.S.

²² S. 39.6012(1)(a), F.S.

²³ *Id.*

²⁴ S. 39.6011(1)(a), F.S.

²⁵ S. 39.6011(2), F.S.

²⁶ Section 39.6013, F.S.

Permanency

An overarching goal of the child welfare system is to ensure that permanent placement with the biological or an adoptive family is achieved as soon as possible for every child and that no child remains in out-of-home care longer than one year²⁷ because time is of the essence for establishing permanency for a child in the child welfare system.²⁸ Because time is of the essence, a permanency hearing must be held no later than 12 months after the date the child was removed from his or her home, or 30 days if a court determines that efforts for reunification are not required.²⁹ During a permanency hearing the court must determine:

- If the current permanency plan is appropriate;
- A timeline of when the child will achieve his or her permanency goal;
- If DCF has made reasonable efforts to finalize the current case plan; and
- The best interest of the child.³⁰

The court is required to review the status of a child at least every six months or more frequently if the court deems necessary or desirable until the child reaches permanency.³¹

Concurrent Planning

In the event reunification does not appear likely or another permanency option is in the best interest of the child, a concurrent plan may be established.³² Concurrent planning is a type of permanency planning in which reunification services are provided to the family of the child at the same time that an alternative permanency plan is made for the child, in case those reunification efforts fail.³³ These secondary goals could be any of the following:

- Adoption;
- Permanent Guardianship;³⁴
- Permanent placement with a fit and willing relative;³⁵ or
- Placement in another planned permanent living arrangement.^{36, 37}

To be effective, concurrent planning requires not only the identification of an alternative plan but also the implementation of active efforts toward both plans simultaneously with the full knowledge of all participants. Compared with more traditional sequential planning for permanency, in which one permanency goal is ruled out before an alternative goal is identified, concurrent planning may provide earlier permanency for the child.³⁸ Current law requires an

²⁷ Section 39.001, F.S.

²⁸ Sections 39.0136 and 39.621, F.S.

²⁹ Section 39.621(1), F.S.

³⁰ Section 39.621(5), F.S.

³¹ Section 39.701(1)(a), F.S.

³² Section 39.6011(2)(c), F.S.

³³ The Children's Bureau, *Concurrent Planning for Timely Permanency for Children*, p. 1, August 2021, available at <https://www.childwelfare.gov/pubPDFs/concurrent.pdf> (last visited February 27, 2023) (hereinafter cited to as "Concurrent Planning").

³⁴ Under s. 39.6221, F.S.

³⁵ Under s. 39.6231, F.S.

³⁶ Under s. 39.6241, F.S.

³⁷ Section 39.01(18), F.S.

³⁸ Concurrent Planning at p. 1

assessment of the family when the child has been in care for 6 months, and a concurrent plan must be developed if, at that time, reunification seems unlikely.³⁹

Unified Home Study

The unified home study (UHS) is an assessment of a common set of requirements that must be met before the DCF can place a child into someone's home, whether a relative/nonrelative placement, foster home, or adoptive home.⁴⁰ The UHS has many requirements, but the two main components are the child-specific information and the assessment of caregiver(s).⁴¹ The child specific information section of the UHS is to assess the needs of the child, including sibling attachments, medical and emotional needs, and placement history and stability to better match that child with a caregiver that can care for and protect that child.

The assessment of caregiver(s) section of the UHS examines the needs of the child and the caregiver(s) capacity to meet those needs, including any health and mental conditions that could interfere with the ability to care for the child and the willingness to:

- Participate in and team to support the permanency of the child's well-being;
- Encourage the child in his or her strengths;
- Maintain awareness of the impact of trauma;
- Ensure safety;
- Make a loving commitment to the child's safety and well-being; and
- Respect the child's culture, religion, and ethnicity.⁴²

This comprehensive assessment creates an ongoing overview of the child's current and past situation and assists a lead agency in identifying the best caregiver for a child quickly.

Concurrent Planning and Unified Home Studies

The effective use of concurrent planning and the UHS can reduce the time to permanency for a child in out-of-home care. This is achieved by making active efforts toward the primary and alternate goals simultaneously rather than only identifying an alternate permanency goal. The time to permanency may shorten by completing all of the child-specific requirements of a UHS as an active effort toward an alternative goal of adoption. This will place case management one step closer to finalizing an adoptive home study after a petition for the termination of parental rights has been filed.⁴³

Child Welfare Information System

The DCF uses a centralized child welfare information system known as Florida Safe Families Network (FSFN) and is in the middle of a multi-year project to transition from old federal guidelines that required a Statewide Automated Child Welfare System (SACWIS) to new federal

³⁹ Section 39.701(5), F.S.

⁴⁰ The Department of Children and Families CFOP, 170-1 ch. 5, 5-1, available at https://www.myflfamilies.com/sites/default/files/2022-12/cfop_170-01_chapter_05_completing_a_unified_home_study.pdf (last visited February 28, 2023) (hereinafter cited as "DCF CFOP").

⁴¹ DCF CFOP 170-1 ch. 5, 5-4g. and j.

⁴² DCF CFOP 170-1 ch. 5, 5-4j.

⁴³ Concurrent Planning

guidelines that require a Comprehensive Child Welfare Information System (CCWIS).⁴⁴ This transition will modernize and enhance the data capabilities of the DCF. Currently, interoperability between the state system and CBCs is difficult and expensive to maintain. The modernization will allow bidirectional interoperability between the DCF and the CBCs as well as the ability to generate richer and more helpful data reports and analytics.

The DCF has reported the following current activities and milestones on CCWIS modernization:⁴⁵

Key Activity/Milestone	Date Due	Status
PMO Director Onboarded	October 1, 2022	Completed
IV&V Vendor Onboarded	October 11, 2022	Completed
Systems Integrator Vendor Onboarded	December 31, 2022	Completed
Staffing Plan Submitted by Advisory Service Team	December 31, 2022	Completed
IV&V initial interviews conducted	January 10, 2023	Completed
Formal Kick-Off Session with Project Team	January 23, 2023	Completed
User Stories Completed	February 17, 2023	In Progress
Functional Discovery Sessions Held	February 20, 2023	In Progress

Future scope of activities include:⁴⁶



III. Effect of Proposed Changes:

The bill expands the contract requirements of the Department of Children and Families under s. 409.996, F.S., requiring a lead agency to annually provide and publish operating procedures detailing timelines and procedures to maximize the use of concurrent planning, minimize the

⁴⁴ The Children's Bureau, *CCWIS Status*, available at <https://www.acf.hhs.gov/cb/training-technical-assistance/ccwis-status> (last visited February 27, 2023)

⁴⁵ The DCF, *CCWIS Modernization Project Update*, PowerPoint Presentation by Cole Sousa, Chief Information Officer, Meeting of the Senate Appropriations Committee on Health and Human Services on February 16, 2023, p. 29, available at https://www.flsenate.gov/Committees/Show/AHS/MeetingPacket/5666/10109_MeetingPacket_5666_2.pdf (last visited March 3, 2023).

⁴⁶ *Id.* at p. 30.

time to complete preliminary and final adoptive home studies, and streamline data entry into the statewide child welfare information system.

The bill also requires a lead agency to complete the child specific information section of the unified home study, excluding information related to any prospective caregiver, no later than 90 days after the filing of a petition for termination of parental rights.

The bill is effective July 1, 2023

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties and municipalities.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill may have an indeterminate fiscal impact on the private sector as the lead agency may be required to change operations, increase support, or increase contract amounts for the requirement to complete specified portions of a home study no later than 90 days after the filing of a petition for the termination of parental rights. However, it is likely that a lead agency can absorb this impact within current operating budgets.

C. Government Sector Impact:

The bill is not expected to impact state or local government revenues and expenditures.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 409.996 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 Children, Families, and Elder Affairs on March 6, 2023:

The committee substitute:

- Requires a community-based care lead agency (CBC) to publish operating procedures, rather than just develop a plan, for certain timelines and procedures.
- Clarifies that a CBC must only complete certain portions of the child-specific information section in the unified home study within 90 days of the filing of the termination of parental rights.

B. Amendments:

None.

By the Committee on Children, Families, and Elder Affairs; and
Senator Burgess

586-02301-23

2023664c1

A bill to be entitled

An act relating to contracts entered into by the
Department of Children and Families; amending s.
409.996, F.S.; revising requirements for contracts
between the department and lead agencies; providing an
effective date.

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

Section 1. Present paragraph (f) of subsection (1) of
section 409.996, Florida Statutes, is redesignated as paragraph
(h), and new paragraph (f) and paragraph (g) are added to that
subsection, to read:

409.996 Duties of the Department of Children and Families.—
The department shall contract for the delivery, administration,
or management of care for children in the child protection and
child welfare system. In doing so, the department retains
responsibility for the quality of contracted services and
programs and shall ensure that, at a minimum, services are
delivered in accordance with applicable federal and state
statutes and regulations and the performance standards and
metrics specified in the strategic plan created under s.
20.19(1).

(1) The department shall enter into contracts with lead
agencies for the performance of the duties by the lead agencies
established in s. 409.988. At a minimum, the contracts must do
all of the following:

(f) Require lead agencies to annually provide written and
published operating procedures that detail timelines and

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586-02301-23

2023664c1

procedures to maximize the use of concurrent case planning,
minimize the time to complete preliminary and final adoptive
home studies, streamline data entry into the statewide child
welfare information system, and reduce time to permanency.

(g) Require lead agencies to gather all information to
complete the requirements for the child-specific section of the
unified home study, excluding information related to any
prospective caregiver, and enter that data into the child
welfare information system of record no later than 90 days after
the filing of a petition for termination of parental rights.

Section 2. This act shall take effect July 1, 2023.

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The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 24, 2023

I respectfully request that **Senate Bill #664**, relating to Contracts Entered into by the Department of Children and Families, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

A handwritten signature in cursive script, appearing to read "Danny", is written over a horizontal line.

Senator Danny Burgess
Florida Senate, District 23

March 30, 2023

Meeting Date

Rules

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

664

Bill Number or Topic

Amendment Barcode (if applicable)

Name Barney Bishop III Phone 850-510-9922

Address 1454 Vieux Carre Drive Email Barney@BarneyBishop.com

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Fla. Smart Justice

...

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 Rules

BILL: SB 678

INTRODUCER: Senator Powell

SUBJECT: Disposal of Property

DATE: March 29, 2023

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Hackett</u>	<u>Ryon</u>	<u>CA</u>	Favorable
2. <u>Price</u>	<u>Vickers</u>	<u>TR</u>	Favorable
3. <u>Hackett</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

SB 678 provides that the Florida Department of Transportation may convey property to a governmental entity without consideration if the property is to be used for affordable housing.

The bill takes effect July 1, 2023.

II. Present Situation:

Disposal of Real Property Acquired for Transportation Purposes

The Florida Department of Transportation (FDOT) acquires land throughout the state to utilize for transportation facilities¹ and secure rights-of-way through purchase, exchange, and donation.² FDOT is authorized to convey acquired property it determines not to be needed for the construction, operation, and maintenance of a transportation facility.³

Generally, FDOT may dispose of the property through negotiations, sealed competitive bids, auctions, or any other means the FDOT deems to be in its best interest.⁴ A sale of unneeded property may not occur at a price less than FDOT's current estimate of value except that:

- If donated for transportation purposes and a transportation facility has not been constructed for at least five years, plans have not been prepared for the construction of such facility, and the property is not located in a transportation corridor, a governmental entity in whose

¹ "Transportation facility" means any means for the transportation of people or property from place to place which is constructed, operated, or maintained in whole or in part from public funds. The term includes the property or property rights, both real and personal, which have been or may be established by public bodies for the transportation of people or property from place to place. See s. 334.03(30), F.S.

² Section 337.25(1), F.S.

³ Section 337.25(4), F.S.

⁴ *Id.*

jurisdiction the property lies may authorize reconveyance of the donated property for no consideration to the original donor or the donor's heirs, successors, assigns, or representatives.⁵

- If the property is to be used for a public purpose, the property may be conveyed without consideration to a governmental entity.⁶
- If the property was originally acquired specifically to provide replacement housing for persons displaced by transportation projects, FDOT may negotiate for the sale of such property as replacement housing.⁷
- If FDOT determines the property requires significant costs to be incurred or that continued ownership of the property exposes FDOT to significant liability risks, FDOT may use the projected maintenance costs over the next ten years to offset the property's value in establishing a value for disposal of the property, even if that value is zero.⁸

The provision allowing conveyance free of consideration to a governmental entity to be used for a public purpose does not define "public purpose."⁹

Right of First Refusal

In general,¹⁰ FDOT is required to first offer the property (a "right of first refusal") to the property owner from whom FDOT originally acquired the property for FDOT's current estimate of value of the property.¹¹ The right of first refusal must:

- Be made in writing and sent to the previous owner via certified mail or hand delivery, effective upon receipt;
- Provide the previous owner with a minimum of 30 days to exercise the right in writing; and
- Be sent to the originator of the offer by certified mail or hand delivery, effective upon dispatch.

If the previous owner exercises his or her right of first refusal, the previous owner has a minimum of 90 days to close on the property. A right of first refusal may not be required for disposal of property acquired more than 10 years before the date of disposition by FDOT.¹²

Affordable Housing

One major goal at all levels of government is to ensure that citizens have access to affordable housing. In general, housing is considered affordable when it costs less than 30 percent of a family's gross income. A family paying more than 30 percent of its income on either rent or mortgage payments is considered "cost burdened," while those paying more than 50 percent are

⁵ Section 337.25(4)(a), F.S.

⁶ Section 337.25(4)(b), F.S.

⁷ Section 337.25(4)(c), F.S.

⁸ Section 337.25(4)(d), F.S.

⁹ *Supra*, note 6. "Public purpose" is defined by *Black's Law Dictionary* as "an action by or at the direction of a government for the benefit of the community as a whole."

¹⁰ This is the case in all conveyances other than returning property to the original donor, the sale of property to produce replacement housing for persons displaced by transportation projects, and the disposal of property acquired more than 10 years before the date of disposition by the department. *Supra* note 3.

¹¹ *Supra* note 3.

¹² *Id.*

considered “extremely cost burdened.” Severely cost burdened households are more likely to sacrifice other necessities such as healthy food and healthcare to pay for housing, and to experience unstable housing situations such as eviction.

Affordable housing is defined in terms of household income. Resident eligibility for Florida’s state and federally funded housing programs is typically governed by area median income (AMI) levels. These levels are published annually by the U.S. Department of Housing and Urban Development (HUD) for every county and metropolitan area.

Housing costs reflect what people are willing to pay to live in an area, which may make it difficult for the workforce, elders, and people with disabilities to find affordable homes and apartments. The government helps make housing affordable through programs which decrease monthly rent or mortgage payments so that income eligible families are able to pay less for housing than it would otherwise cost at “market rate.” Lower monthly payments result from government investment in multifamily rental or single family homes in exchange for price limits.

Disposition of Local Government-owned Property for Affordable Housing

Since 2006, counties and cities have been required to prepare an inventory of publically owned real property that would be appropriate for use as affordable housing, and update the inventory every three years.¹³ The list must include the address and legal description of each such real property, specifying whether it is vacant or improved.

Properties so identified as appropriate for use as affordable housing may be disposed in the following ways:

- Sold and the proceeds used to purchase land for the development of affordable housing;
- Sold with a restriction that requires the development of permanent affordable housing on the land;
- Donated to a nonprofit housing organization for the construction of permanent affordable housing; or
- Made otherwise available for the use for the production and preservation of permanent affordable housing.¹⁴

III. Effect of Proposed Changes:

The bill amends s. 337.25(4)(b), F.S., to provide that the FDOT may convey land not needed for transportation facilities to other governmental entities without consideration for affordable housing purposes.

While current law provides the FDOT may convey such land without consideration “to be used for a public purpose,” the bill expressly provides that such public purposes include local governmental disposition of the property for affordable housing as provided in ss. 125.379 and 166.0451, F.S.

The bill takes effect July 1, 2023.

¹³ Sections 125.379 and 166.0451, F.S.

¹⁴ *Id.*

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

None identified.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

To the extent the provision is utilized, local governments may benefit from consideration-free receipt of land for affordable housing from the Department of Transportation.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 337.25 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.

By Senator Powell

24-00624-23

2023678__

A bill to be entitled

An act relating to disposal of property; amending s. 337.25, F.S.; providing that the use of property as affordable housing qualifies as use for a public purpose in the context of the authorization of the Department of Transportation to convey property without consideration to a governmental entity; providing an effective date.

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

Section 1. Paragraph (b) of subsection (4) of section 337.25, Florida Statutes, is amended to read:

337.25 Acquisition, lease, and disposal of real and personal property.—

(4) The department may convey, in the name of the state, any land, building, or other property, real or personal, which was acquired under subsection (1) and which the department has determined is not needed for the construction, operation, and maintenance of a transportation facility. When such a determination has been made, property may be disposed of through negotiations, sealed competitive bids, auctions, or any other means the department deems to be in its best interest, with due advertisement for property valued by the department at greater than \$10,000. A sale may not occur at a price less than the department's current estimate of value, except as provided in paragraphs (a)-(d). The department may afford a right of first refusal to the local government or other political subdivision in the jurisdiction in which the parcel is situated, except in a

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conveyance transacted under paragraph (a), paragraph (c), or paragraph (e). Notwithstanding any provision of this section to the contrary, before any conveyance under this subsection may be made, except a conveyance under paragraph (a) or paragraph (c), the department shall first afford a right of first refusal to the previous property owner for the department's current estimate of value of the property. The right of first refusal must be made in writing and sent to the previous owner via certified mail or hand delivery, effective upon receipt. The right of first refusal must provide the previous owner with a minimum of 30 days to exercise the right in writing and must be sent to the originator of the offer by certified mail or hand delivery, effective upon dispatch. If the previous owner exercises his or her right of first refusal, the previous owner has a minimum of 90 days to close on the property. The right of first refusal set forth in this subsection may not be required for the disposal of property acquired more than 10 years before the date of disposition by the department.

(b) If the property is to be used for a public purpose, including, but not limited to, affordable housing as provided in ss. 125.379 and 166.0451, the property may be conveyed without consideration to a governmental entity.

Section 2. This act shall take effect July 1, 2023.

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The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 22, 2023

I respectfully request that **Senate Bill #678**, relating to **Disposal of Property**, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

A handwritten signature in black ink, appearing to read "Bobby Powell", is written over a horizontal line.

Senator Bobby Powell
Florida Senate, District 24

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 Rules

BILL: CS/SB 732

INTRODUCER: Education Postsecondary Committee and Senator Wright and others

SUBJECT: Collegiate Purple Star Campuses

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Jahnke	Bouck	HE	Fav/CS
2.	Brown	Proctor	MS	Favorable
3.	Jahnke	Twogood	RC	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 732 establishes the Collegiate Purple Star Campuses program to support military-connected families. The bill defines as a military student a student enrolled in a Florida College System (FCS) institution, state university, or career center who is either a spouse or dependent of, or an active duty member or veteran of the Army, Navy, Air Force, Space Force, Marine Corps, or Coast Guard; a reserve component of a military branch; or the Florida National Guard.

To implement the program, the bill requires the State Board of Education (SBE) and the Board of Governors (BOG) to adopt rules and regulations, respectively, to establish the Collegiate Purple Star Campuses program and provide minimum requirements.

The bill also authorizes the SBE and the BOG to establish additional criteria to identify potential institutions for the program.

The bill may have an indeterminate, though likely insignificant fiscal impact. Any expenses incurred by program-participating institutions, the SBE, or the BOG to implement the program may be absorbed within existing resources.

The bill takes effect July 1, 2023.

II. Present Situation:

Military Personnel and Families

A total of 1.3 million Department of Defense (DoD) active duty military members are assigned to the 50 states and the District of Columbia¹, more than half of which are in California, Virginia, Texas, North Carolina, Georgia, and Florida.² A total of 800,064 reserve members are assigned to the 50 states and the District of Columbia, one-third or 33.6 percent of which are in Texas, California, Florida, New York, Pennsylvania, Ohio, and Georgia.³

Close to two-thirds, 62.7 percent or 1,602,261, of active and reserve military family members are children. Over one-third, 36.9 percent, of family members are spouses. Overall, 37.1 percent of the military has children.⁴

Military Families in Florida

Florida has 20 military installations.⁵ Florida is also home to multiple National Guard and Military Reserve Units.⁶ The following chart provides the number of dependents by age of active duty military personnel at Florida military bases:⁷

Florida Dependents of Active Duty Personnel								
Active Duty Personnel	Spouses	Children				Other Dependents	Total Dependents	Total
		Ages 0 to 5	Ages 6 to 11	Ages 12 to 18	Ages 19+			
64,318	29,492	19,554	16,620	11,665	1,907	299	79,537	143,855

Educational Benefits

Children in active-duty military families face unique educational challenges. A military child changes schools on average three times more often than a nonmilitary child.⁸ To address this, Florida is a member of the Interstate Compact of Educational Opportunity for Military Children.⁹ The compact assists member states in uniformly addressing educational transition issues faced by

¹ Department of Defense, *2021 Demographics, Profile of the Military Community*, pg. iii, available at <https://download.militaryonesource.mil/12038/MOS/Reports/2021-demographics-report.pdf> (last visited Mar. 13, 2023). Branches of the military are the Army, Navy, Marine Corps, Space Force, and Air Force.

² *Id.* at 35.

³ Reserve components are the Army National Guard, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard and Air Force Reserve, and the Coast Guard Reserve. *Id.* at iv and 83.

⁴ Children include minor dependents age 20 or younger and dependents age 22 or younger if enrolled as full-time students. *Id.* at 107 and 108.

⁵ Enterprise Florida, Military-Defense, *Military and Defense Programs*, available at <https://www.enterpriseflorida.com/floridadefense/military-in-florida/> (last visited Mar. 13, 2023).

⁶ Florida Department of Education, Student Support Services Project, *Interstate Military Compact Awareness* (2016), available at https://sss.usf.edu/resources/format/pdf/2016_Charter_School_Presentation.pdf (last visited Mar. 13, 2023).

⁷ DoD, *supra* note 1 at 195.

⁸ S. Beth Ruff and Michael A. Keim, *The Professional Counselor, Revolving Doors: The Impact of Multiple School Transitions on Military Children*, available at <https://files.eric.ed.gov/fulltext/EJ1063210.pdf> (last visited Mar. 13, 2023).

⁹ Section 1000.36, F.S.

transferring active-duty military parents of K-12 children. The compact governs member states in several areas, including school placement, enrollment, records transfer, participation in academic programs and extracurricular activities, and graduation.

In addition to the benefits provided for K-12 students in the compact, educational benefits available to a dependent child at an institution of higher learning include:

- Classification as a resident for tuition purposes for in-state tuition and fees charged at a postsecondary educational institution;¹⁰
- Priority course registration at a postsecondary educational institution;¹¹
- Waiver of transcript fees from a postsecondary educational institution, career center, or charter technical career center;¹² and
- Full payment of tuition and fees at a public postsecondary educational institution for a child of a deceased or severely disabled veteran or servicemember, prisoner of war, servicemember who is missing in action, or servicemember who died or became disabled in specified operations and conflicts.¹³

In 2021, the Legislature established the Purple Star Campus Program for a qualifying traditional public school, charter school, or institution accepting educational choice scholarships.¹⁴ The purpose of the program is to recognize qualifying institutions that support the unique needs of military families, help military-connected students navigate critical challenges, and provide resources for military-connected students when transitioning to a new school environment.¹⁵ The program is designed to support dependent students of current or former servicemembers of the Army, Navy, Air Force, Space Force, Marine Corp, or Coast Guard; a reserve component; or the Florida National Guard.¹⁶ Benefits include special access to school resources; transition assistance; and support and outreach for military families.

Thirty-six states currently participate in similar programs, and four states have introduced legislation to create one.¹⁷ Florida has 122 Purple Star Schools of Distinction located in 10 counties.¹⁸

To participate as a Purple Star Campus, an institution must at minimum:

- Designate a staff member as a military liaison;

¹⁰ Section 1009.21(10), F.S.

¹¹ Section 1004.075, F.S.

¹² Section 1009.26(17)(a), F.S.

¹³ Sections 295.01, 295.011, 295.015, 295.016, 295.017, 295.018, 295.0185, 295.019, and 295.0195, F.S.

¹⁴ Section 1003.051, F.S.; ch. 2021-65, s. 1, Laws of Fla.

¹⁵ Florida Department of Education, *Purple Star School of Distinction Designation*, available at <https://www.fldoe.org/schools/family-community/activities-programs/parental-involvement/purple-star.stml> (last visited Mar. 14, 2023).

¹⁶ Section 1003.051(1)(b), F.S.

¹⁷ Military One Source, Key Issue Status Tracker, *Purple Star Schools Program*, available at <https://statepolicy.militaryonesource.mil/status-tracker/purple-star-schools-program> (last visited Mar. 13, 2023).

¹⁸ Florida Department of Education, *Purple Star School of Distinction Designation*, available at <https://www.fldoe.org/schools/family-community/activities-programs/parental-involvement/purple-star.stml> (last visited Mar. 13, 2023).

- Maintain a dedicated page on its website featuring information and resources for military families;
- Maintain a student-led transition program to provide assistance to transitioning military students;
- Provide professional development training for staff members; and
- Reserve at least 5 percent of controlled open enrollment seats for military students.¹⁹

Collegiate Purple Star Designation

In 2017, Ohio established the first Purple Star Campus Program for PreK-12 schools, designating with a Purple Star those schools that qualified as military friendly. In 2022, Ohio again was the first state to expand the program to the college level by establishing the Collegiate Purple Star designation.²⁰

The Ohio program includes in its student population servicemembers, veterans, spouses, and dependents.²¹

Ohio's criteria for designation as a Purple Star college or university include:

- Having a dedicated military or veteran point of contact or office on campus;
- Establishing priority registration for veterans and servicemembers;
- Surveying student veterans and servicemembers, along with spouses and dependents, about needs and challenges; and
- Allowing for the establishment of student-led groups and organizations for veterans and servicemembers.²²

III. Effect of Proposed Changes:

CS/SB 732 establishes the Collegiate Purple Star Campuses program to support military-connected families and students. The bill defines as a military student a student enrolled in a FCS institution, state university, or career center who is either a spouse or dependent of, or an active duty member or veteran of the Army, Navy, Air Force, Space Force, Marine Corps, or Coast Guard; a reserve component of a military branch; or the Florida National Guard.

To implement the program, the:

- SBE must adopt rules, and the BOG must adopt regulations, to establish the Collegiate Purple Star Campuses program, that require the institution to at a minimum:
 - Designate a staff member as a military liaison;
 - Maintain a webpage on the institution's website which includes resources for military students and families;

¹⁹ Section 1003.051(2)(a), F.S.

²⁰ Ohio Department of Higher Education, *ODHE Unveils New Collegiate Purple Star Designation* (Mar. 8, 2022), available at <https://highered.ohio.gov/about/news-events/all-news/odhe-unveils-new-collegiate-purple-star-designation> (last visited Mar. 13, 2023).

²¹ Ohio Department of Higher Education, *Directive 2022-004, RE: Proposal to Designate Aspiring Military Friendly Institutions as a "Collegiate Purple Star" Institution in Ohio* (Mar. 23, 2022), available at https://highered.ohio.gov/static/files/Directive_2022-004_PurpleStar.pdf, (pg. 2) (last visited Mar. 13, 2023).

²² *Id.*

- Maintain a student-led transition program that assists military students in transitioning into the institution;
- Offer professional development training opportunities for staff members on issues relating to military students; and
- Provide priority course registration for military students.
- SBE and the BOG may establish additional criteria to identify FCS institutions and career centers, or state universities, respectively, that demonstrate a commitment to or provide critical transition support for military-connected families such as:
 - Hosting an annual military recognition event;
 - Partnering with a school liaison officer from a military installation;
 - Supporting projects that connect the FCS institution, state university, or career center with the military community; and
 - Providing outreach for military parents and their children.

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill may have an indeterminate, though likely insignificant fiscal impact. Any expenses incurred by program-participating institutions, the SBE, or the BOG to implement the program may be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 1004.071 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 Education Postsecondary on March 7, 2023:

The committee substitute retains the provisions in the bill, but updates the definition of "military student" to an active duty member or veteran of the Army, Navy, Air Force, Space Force, Marine Corps, or Coast Guard; a reserve component of any branch of the United States military; or the Florida National Guard; and his or her spouse or dependent.

The committee substitute also makes a technical correction to the Collegiate Purple Star Campus requirements for participating institutions.

B. Amendments:

None.

By the Committee on Education Postsecondary; and Senators Wright and Collins

589-02364-23

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A bill to be entitled

An act relating to Collegiate Purple Star Campuses; creating s. 1004.071, F.S.; defining the term "military student"; requiring the State Board of Education to adopt rules and the Board of Governors to adopt regulations to establish the Collegiate Purple Star Campuses program; specifying program criteria for participating Florida College System institutions, state universities, and career centers; providing an effective date.

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

Section 1. Section 1004.071, Florida Statutes, is created to read:

1004.071 Collegiate Purple Star Campuses.—

(1) As used in this section, the term "military student" means a student who is:

(a) Enrolled in a Florida College System institution, state university, or career center.

(b) An active duty member or veteran of the Army, Navy, Air Force, Space Force, Marine Corps, or Coast Guard; a reserve component of any branch of the United States military; or the Florida National Guard; and his or her spouse and dependents.

(2) (a) The State Board of Education shall adopt rules, and the Board of Governors shall adopt regulations, to establish the Collegiate Purple Star Campuses program. At a minimum, the program must require a participating Florida College System institution, state university, or career center to:

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1. Designate a staff member as a military liaison.

2. Maintain a web page on the institution's website which includes resources for military students and their families.

3. Maintain a student-led transition program that assists military students in transitioning to the institution.

4. Offer professional development training opportunities for staff members on issues relating to military students.

5. Provide priority course registration for military students.

(b) The State Board of Education and the Board of Governors may establish additional criteria to identify Florida College System institutions and career centers, or state universities, respectively, that demonstrate a commitment to or provide critical transition supports for military-connected families, such as hosting an annual military recognition event, partnering with a school liaison officer from a military installation, supporting projects that connect the Florida College System institution, state university, or career center with the military community, and providing outreach for military parents and their children.

Section 2. This act shall take effect July 1, 2023.

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The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 24, 2023

I respectfully request that **Senate Bill 732**, relating to Collegiate Purple Star Campuses, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.

Thank you for your consideration.

A handwritten signature in cursive script that reads "Tom A. Wright".

Senator Tom A. Wright
Florida Senate, District 8

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 Rules

BILL: CS/SB 764

INTRODUCER: Criminal Justice Committee and Senator Simon

SUBJECT: Interference with Sporting or Entertainment Events

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Parker</u>	<u>Stokes</u>	<u>CJ</u>	Fav/CS
2.	<u>Parker</u>	<u>Twogood</u>	<u>RC</u>	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 764 creates s. 871.05, F.S., to prohibit certain conduct at a sporting or entertainment event. Specifically, a person may not:

- Intentionally touch or strike a covered participant during a covered event against the will of the covered participant, or intentionally cause bodily harm to a covered participant during a covered event; or
- Willfully enter or remain in a restricted area during a covered event without being authorized, licensed, or invited to enter or remain in such a restricted area.

A person who violates the provisions commits a first degree misdemeanor.¹

The bill prohibits a person from soliciting another person to violate this section by offering money or any other thing of value to another to engage in specific conduct that constitutes such a violation. A person who solicits another person to violate this section commits a third degree felony.

A person convicted of a violation of this section may not realize any profit or benefit, directly or indirectly, from committing such a violation. Any profit or benefit payable to or accruing to a person convicted of a violation of this section is subject to seizure and forfeiture as provided in the Florida Contraband Forfeiture Act.

¹ A first-degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

The bill may have a positive indeterminate fiscal impact. See Section V Fiscal Impact Statement.

The bill provides an effective date of October 1, 2023.

II. Present Situation:

In 2022, during the fourth quarter of Super Bowl LV at Raymond James Stadium in Tampa, a person jumped out of the stands and began running across the playing field.² The person was arrested and charged with trespassing on property other than a structure or conveyance, a first-degree misdemeanor.³ The person entered a plea of no contest and was sentenced to probation for 12 months and to perform 100 hours of community service.⁴

A person commits trespass on a property other than a structure or conveyance if he or she, without being authorized, licensed, or invited, willfully enters upon or remains in any property other than a structure or conveyance:

- As to which notice against entering or remaining is given, either by actual communication to the offender or by posting, fencing, or cultivation as described in s. 810.011, F.S.; or
- If the property is the unenclosed curtilage of a dwelling and the offender enters or remains on such property with the intent to commit an offense thereon, other than the offense of trespass.⁵

Under current law, there is not an enhanced penalty when such a trespass is committed at an athletic competition or entertainment event.

If a spectator at an athletic competition or entertainment event makes physical contact with a participant, official, performer, or security guard, the person commits the crime of battery, a first-degree misdemeanor. A person commits battery if he or she:

- Actually and intentionally touches or strikes another person against the will of the other; or
- Intentionally causes bodily harm to another person.⁶

Under current law, there is generally not an enhanced penalty when a battery is committed at an athletic competition or entertainment event. However, s. 784.081, F.S., does provide enhanced penalties if a person commits an assault, aggravated assault, battery, or aggravated battery against a sports official⁷ during or immediately following an athletic contest as follows:

² Tom Schad, Florida man who ran on the field at Super Bowl 55 faces trespassing charge, USA Today (Feb. 8, 2021) <https://www.usatoday.com/story/sports/nfl/super-bowl/2021/02/08/super-bowl-streaker-man-ran-field-charged-trespassing/4434479001/> (last visited March 13, 2023).

³ A first-degree misdemeanor is punishable by up to one year in jail and a \$1,000 fine. Sections 775.082 and 775.083, F.S.

⁴ Anita Chabria, The untold tale of the San Diego surfer who enabled last year's Super Bowl streaker, L.A. Times (Feb. 11, 2022), <https://www.latimes.com/california/story/2022-02-11/super-bowl-streaker-decoy-doug-yuri-andrade-where-they-are-now> (last visited March 13, 2023).

⁵ Section 810.09(1)(a), F.S.

⁶ Section 784.03(1)(a), F.S.

⁷ Section 784.081(1), F.S., A "sports official" is defined as any person who serves as a referee, an umpire, or a linesman, and any person who serves in a similar capacity as a sports official who may be known by another title, which sports official is duly registered by or is a member of a local, state, regional, or national organization that is engaged in part in providing education and training to sports officials.

- An aggravated battery is reclassified from a second-degree felony⁸ to a first-degree felony.⁹
- An aggravated assault is reclassified from a third-degree felony¹⁰ to a second-degree felony.
- A battery is reclassified from a first-degree misdemeanor to a third-degree felony.
- An assault is reclassified from a second-degree misdemeanor¹¹ to a first-degree misdemeanor.

Florida Lien Law

There is no law that prohibits a person who commits the misdemeanor crimes of trespass or battery at an athletic competition or entertainment event from profiting off such behavior, either by being compensated by a third party to commit such offenses or benefitting from the notoriety gained from committing such offenses.

Florida has enacted laws to prevent a convicted felon from profiting off of his or her crime. Section 944.512, F.S., provides that a lien prior in dignity to all others shall exist in favor of the state upon royalties, commissions, proceeds of sale, or any other thing of value payable to or accruing to a *convicted felon* or a person on her or his behalf, including any person to whom the proceeds may be transferred or assigned by gift or otherwise, from any literary, cinematic, or other account of the crime for which she or he was convicted.¹²

The lien attaches at the time of the conviction in county or circuit court. In the event of an appeal, the funds will be held in the Revolving Escrow Trust Fund of the Department of Legal Affairs until the appeal is resolved.

Florida Contraband Forfeiture Act

The Florida Contraband Forfeiture Act, (FCFA), prescribes procedures and guidelines for law enforcement agencies to follow when seizing, forfeiting, and disposing of property that is authorized to be seized and forfeited under the FCFA. Under s. 932.703, F.S., any contraband article,¹³ vessel, motor vehicle, aircraft, other personal property, or real property used in violation of the FCFA, or in, upon, or by means of which any violation of the act has taken or is taking place, may be seized and forfeited subject to the provisions of the FCFA.¹⁴

⁸ A second-degree felony is punishable by up to fifteen years imprisonment and a \$10,000 fine, as provided in ss. 775.082, 775.083, or 775.084, F.S.

⁹ A first-degree felony is punishable by a term of imprisonment not exceeding 30 years or, when specifically provided by statute, by imprisonment for a term of years not exceeding life imprisonment, as provided in s. 775.082, s. 775.083, or s. 775.083, F.S.

¹⁰ A third-degree felony is punishable by a term of imprisonment not to exceed five years and a \$5,000 fine, as provided in s. 775.082, s. 775.083, or s. 775.084, F.S.

¹¹ A second-degree misdemeanor is punishable by up to 60 days in jail and a \$500 fine, as provided in s. 775.082 and s. 775.083, F.S.

¹² Section 944.512(1), F.S., provides that a conviction is defined as a guilty verdict by a jury or judge, or a guilty or nolo contendere plea by the defendant regardless of adjudication of guilt.

¹³ Section 932.701(2)(a)5. and 6., F.S., states that “Contraband article” means, in part, any real property or personal property which was used or attempted to be used as an instrumentality in the commission of, or in aiding or abetting in the commission of, any felony, whether or not comprising an element of the felony, or which is acquired by proceeds obtained as a result of a violation of the act.

¹⁴ Section 932.703(1), F.S.

Under s. 932.7055, F.S., if a final judgment of forfeiture is entered, a seizing agency may do any of the following:

- Retain the property for the seizing agency's use;
- Sell the property at a public auction or by sealed bid to the highest bidder; or
- Salvage, trade, or transfer the property to any public or nonprofit organization.¹⁵

If a seizing agency is a county or municipal law enforcement agency, the proceeds which remain after all liens and debts against the forfeited property are paid are deposited into a special law enforcement trust fund and may be used to fund school resource officers, crime prevention, safe neighborhood, drug abuse education, and prevention programs, or other law enforcement purposes, including defraying the cost of protracted or complex investigations, providing additional equipment or expertise, purchasing automated external defibrillators for law enforcement vehicles, and providing matching funds to obtain federal grants.¹⁶ Proceeds from a forfeiture may not be used to meet normal operating expenses of a law enforcement agency.¹⁷

Generally, if the seizing agency is a state agency, the remaining proceeds from a forfeiture are deposited into the General Revenue Fund.¹⁸ However, some agencies have a trust fund specifically designated to receive the proceeds from a forfeiture, including the Florida Department of Law Enforcement, a state attorney's office, a school board security agency that employs law enforcement officers, and the State University System police departments.¹⁹

III. Effect of Proposed Changes:

The bill creates s. 871.05, F.S., to prohibit certain conduct at a sporting or entertainment event. Specifically, a person may not:

- Intentionally touch or strike a covered participant during a covered event against the will of the covered participant, or intentionally cause bodily harm to a covered participant during a covered event; or
- Willfully enter or remain in a restricted area during a covered event without being authorized, licensed, or invited to enter or remain in such a restricted area.

A person who violates the provisions commits a first-degree misdemeanor.

The bill provides multiple definitions. Specifically, in this bill:

- "Covered event" is defined to mean an athletic competition or practice, including one conducted in a public venue or a live artistic, theatrical, or other entertainment performance event. The duration of such event includes the period from the time when a venue is held open to the public for such an event until the end of the athletic competition or performance event.
- "Covered participant" means an umpire, officiating crewmember, player, coach, manager, groundskeeper, or any artistic, theatrical, or other performer or sanctioned participant in the

¹⁵ Section 932.7055(1), F.S.

¹⁶ Section 932.7055(5)(a), F.S.

¹⁷ Section 932.7055(5), F.S.

¹⁸ Section 932.7055(6), F.S.

¹⁹ *Id.*

covered event. The term includes event operations and security employees working at a covered event.

- The bill defines “Restricted area” to mean any area designated for use by players, coaches, officials, performers, or other personnel administering a covered event that is one, or adjacent to, the area or performance.

The bill prohibits a person from soliciting another person to violate this section by offering money or any other thing of value to another to engage in specific conduct that constitutes such a violation. A person who solicits another person to violate this section commits a third degree felony.

A person convicted of a violation of this section may not realize any profit or benefit, directly or indirectly, from committing such a violation. Any profit or benefit payable to or accruing to a person convicted of a violation of this section is subject to seizure and forfeiture as provided in the Florida Contraband Forfeiture Act.

The bill provides an effective date of October 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

Under current law, the conduct prohibited by the bill would likely be prosecuted as a battery or trespass, which are both crimes punishable as a first degree misdemeanor with a maximum fine of \$1,000. The bill creates a new crime with a maximum fine of \$2,500. Thus, offenders who are convicted of interfering with a sporting or entertainment event may be fined a greater amount than is authorized under current law resulting in a positive indeterminate fiscal impact.

Under the bill, any profit or benefit a person receives from interfering with a sporting or entertainment event is subject to seizure and forfeiture under the FCFA. In most cases, proceeds from a forfeiture under the FCFA are retained by the seizing agency. To the extent that persons convicted of interfering with a sporting or entertainment event are profiting from committing the offense and such profits are forfeited under the FCFA, there may be a positive fiscal impact to a seizing agency.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 871.05 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 March 20, 2023:

The committee substitute:

- Changes the term “covered area” to “restricted area.”
- Limits the duration of a “covered event” to the time when a venue is held open to the public.
- Revises prohibited conduct by referencing the elements of battery and trespass as provided in current law. Specifically, by providing that a person is prohibited from:
 - Intentionally touching or striking a covered participant during a covered event against the will of the covered participant, or intentionally causing bodily harm to a covered participant during a covered event.
 - Willfully entering or remaining in a restricted area during a covered event without being authorized, licensed, or invited to enter or remain in such a restricted area.
- Creates a third degree felony if a person solicits another person to engage in prohibited conduct by offering money or any other thing of value.

- Makes any profit or benefit payable to or accruing to a person who violates the provisions of the bill subject to seizure and forfeiture as provided in the Florida Contraband Forfeiture Act.

B. Amendments:

None.

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

By the Committee on Criminal Justice; and Senator Simon

591-02785-23

2023764c1

A bill to be entitled

An act relating to interference with sporting or entertainment events; creating s. 871.05, F.S.; providing definitions; prohibiting certain actions during covered sporting and entertainment events; providing criminal penalties; prohibiting profiting from violations; providing for seizure and forfeiture of specified assets; providing an effective date.

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

Section 1. Section 871.05, Florida Statutes, is created to read:

871.05 Interference with a sporting or entertainment event.-

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

(a) "Covered event" means an athletic competition or practice, including one conducted in a public venue or a live artistic, theatrical, or other entertainment performance event. The duration of such event includes the period from the time when a venue is held open to the public for such an event until the end of the athletic competition or performance event.

(b) "Covered participant" means an umpire, officiating crew member, player, coach, manager, groundskeeper, or any artistic, theatrical, or other performer or sanctioned participant in a covered event. The term includes event operations and security employees working at a covered event.

(c) "Restricted area" means any area designated for use by players, coaches, officials, performers, or other personnel

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administering a covered event that is on, or adjacent to, the area of play or performance.

(2) A person may not:

(a) Intentionally touch or strike a covered participant during a covered event against the will of the covered participant, or intentionally cause bodily harm to a covered participant during a covered event; or

(b) Willfully enter or remain in a restricted area during a covered event without being authorized, licensed, or invited to enter or remain in such a restricted area.

(3) A person who:

(a) Violates subsection (2) commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$2,500.

(b) Solicits another person to violate subsection (2) by offering money or any other thing of value to another to engage in specific conduct that constitutes such a violation commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4) A person convicted of a violation of this section may not realize any profit or benefit, directly or indirectly, from committing such a violation. Any profit or benefit payable to or accruing to a person convicted of a violation of this section is subject to seizure and forfeiture as provided in the Florida Contraband Forfeiture Act.

Section 2. This act shall take effect October 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 24, 2023

I respectfully request that **Senate Bill # 764**, relating to Interference with Sporting or Entertainment Events, be placed on the:

- ☐ Committee agenda at your earliest possible convenience.
- ☒ Next committee agenda.

Corey Simon

Senator Corey Simon
Florida Senate, District 3

March 30, 2023

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

764

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name **Barney Bishop III**

Phone **850-510-9922**

Address **1454 Vieux Carre Drive**

Email **Barney@BarneyBishop.com**

Street

Tallahassee

FL

32308

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Barney Bishop Consulting

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 Rules

BILL: CS/CS/SB 774

INTRODUCER: Rules Committee; Ethics and Elections Committee; and Senator Brodeur

SUBJECT: Ethics Requirements for Public Officials

DATE: March 30, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Cleary</u>	<u>Roberts</u>	<u>EE</u>	Fav/CS
2.	<u>Cleary</u>	<u>Twogood</u>	<u>RC</u>	Fav/CS

Please See Section IX. For Additional Information

COMMITTEE SUBSTITUTE – Substantial Changes

I. Summary:

CS/CS/SB 774 makes the following changes to ethics requirements for public officials:

- Requires specified local officers to file a Form 6 financial disclosure, beginning January 1, 2024, instead of the Form 1 they are currently required to file.
- Maintains and makes permanent requirements for e-filing of financial disclosures as specified in the current year implementing bill, by
 - Maintaining the requirement that Form 6 filers submit their financial disclosures via the Commission on Ethics electronic filing system beginning January 1, 2023, and requiring Form 1 filers to submit their disclosures electronically beginning January 1, 2024.
 - Allowing filers to submit federal tax returns for purposes of showing income.
- Allows the Commission on Ethics to dismiss complaints or investigations for certain minor infractions.
- Increases the maximum civil penalty for violations of the Code of Ethics to \$20,000 from \$10,000.
- Adds commissioners of a community redevelopment agency to the list of officers exempt from having to complete ethics training in the year they begin their term, if the term begins after March 31.
- Clarifies that a candidate may submit a verification or receipt of a previous financial disclosure filing to the qualifying officer in lieu of the full financial disclosure.
- Permits the Commission a narrow rulemaking exemption for the bills implementation.

The bill takes effect upon becoming law.

II. Present Situation:

Commission on Ethics

The Commission on Ethics (Commission) was created by the Legislature in 1974 “to serve as guardian of the standards of conduct” for state and local public officials and employees.¹ The Florida Constitution and state law designate the Commission as the independent commission provided for in s. 8(g), Art. II of the Florida Constitution.² Constitutional duties of the Commission consist of conducting investigations and making public reports on all breach of trust complaints towards public officers or employees not governed by the judicial qualifications commission.³ In addition to constitutional duties, the Commission, in part:

- Renders advisory opinions to public officials;⁴
- Makes recommendations to disciplinary officials when appropriate for violations of ethics and disclosure laws;⁵
- Administers the Executive Branch Lobbying Registration and Reporting Law;⁶
- Maintains financial disclosure filings of constitutional officers and state officers and employees;⁷ and
- Administers automatic fines for public officers and employees who fail to timely file a required annual financial disclosure.⁸

Code of Ethics for Public Officers and Employees

The Code of Ethics for Public Officers and Employees (Code of Ethics)⁹ establishes ethical standards for public officials and is intended to ensure that public officials conduct themselves independently and impartially, not using their officers for private gain other than compensation provided by law.¹⁰ The Code of Ethics addresses various issues, such as ethics trainings, voting conflicts, full and public disclosure of financial interests, standards of conduct, and the Commission on Ethics, among others.¹¹

¹ Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, p. 1., available at <https://ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf?cp=2023310> (last visited March 30, 2023); see also s. 112.320, F.S.

² Section (8)(j)(3), art. II, Fla. Const.; s. 112.320, F.S.

³ Section (8)(g), art. II., Fla. Const.

⁴ Section 112.322(3)(a), F.S.

⁵ Section 112.322(2)(b), F.S.

⁶ Sections 112.3215, 112.32155, F.S.

⁷ Section 112.3144, F.S.

⁸ Section 112.3144, F.S.; s. 112.3145, F.S.; s. 112.31455, F.S.

⁹ See pt. III. Ch. 112, F.S.

¹⁰ Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, p. 1., available at <https://ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf?cp=2023310> (last visited March 30, 2023)

¹¹ See pt. III. 112, F.S.

Disclosure of Financial Interests

Full and Public Disclosure (Form 6)

The Florida Constitution requires all elected constitutional officers, candidates for such offices, and statewide elected officers to file a full and public disclosure of their financial interests.¹² Other public officers, candidates, and public employees may be required to file a full and public disclosure of their financial interests as determined by law.¹³

Under the Florida Constitution, the term “full and public disclosure of financial interests” means the reporting individual must disclose his or her net worth and the value for each asset and liability in excess of \$1,000.¹⁴ The disclosure must be accompanied by either a sworn statement that identifies each separate source and amount of income that exceeds \$1,000 or a copy of the reporting individual’s most recent federal income tax return.¹⁵ The Florida Constitution expressly provides that the Legislature can change this definition and requirements.¹⁶

Pursuant to general law, the Commission has created by rule CE Form 6 (Form 6), which required filers use to make the required full and public financial disclosure.¹⁷ Reporting individuals are required to file a Form 6 annually with the Commission by July 1 through the Commission’s electronic filing system.¹⁸

Individuals holding the following positions must presently file a Form 6: governor; lieutenant governor; cabinet members; legislators; state attorneys; public defenders; clerks of circuit courts; sheriffs; tax collectors; property appraisers; supervisors of elections; county commissioners; elected superintendents of schools; district school board members; Jacksonville City Council members (including the mayor); compensation claims judges; the Duval County superintendent of schools; Florida Housing Finance Corporation Board Members; Florida Prepaid College Board Members; and members of each expressway authority, transportation authority (except Jacksonville Transportation Authority), bridge authority, or toll authority created pursuant to ch. 348 or 343, F.S., or any other general law.¹⁹

The Form 6 requires filers to report their net worth, assets, and liabilities.²⁰ The filer must report the specific identification and value of each asset which exceeds \$1,000 in value and provide the name and address of the creditor for each liability which exceeds \$1,000 in amount and its amount, and must submit a statement of the value of the reporting person’s net worth as of December 31 of the preceding year or a more current date.²¹

¹² Section 8(a), art. II, Fla. Const.; see ss. 112.3144(1)(b), 112.3145, F.S.

¹³ *Id.*

¹⁴ Section (8)(j)(1), art. II, Fla. Const.

¹⁵ See 112.3144(6)(c) and (7)(a), F.S. (Beginning January 1, 2023, the Commission may not accept federal income tax returns for proof of income.)

¹⁶ Section 8(j)(1), art. II, Fla. Const. (schedule in effect until change by law).

¹⁷ Section 112.3144(8), F.S.; see R. 34-8.002, F.A.C.

¹⁸ Section (8)(j)(1), art. II, Fla. Const.; see s. 112.3144(2), F.S.

¹⁹ Section (8)(j)(1), art. II, Fla. Const.; see s. 112.3144, F.S.; see R. 34-8.003, F.A.C.

²⁰ See s. (8)(j), art. II, Fla. Const.; s. 112.3144(5),(6), F.S.; R. 34-8.004, F.A.C.

²¹ *Id.*

Beginning January 1, 2022, the Commission was required to establish and have in place an electronic filing system via which filers of financial disclosures would be required to file their disclosure with the Commission through this system.²² The start date requiring all filers of Form 6 financial disclosures to make their disclosures to the Commission solely through this electronic filing system was changed by the Legislature to begin on January 1, 2023.²³ The Commission is required, not later than May 1 of each year, to prepare a current list with the name and contact information for every person required to file a Form 6.²⁴ Each government unit is required to assist the Commission in compiling the list by providing, not later than February 1 of each year, the name and contact information of every person required to file a Form 6, within the respective unit of government as of December 31, of the preceding year.²⁵ Not later than June 1 of each year, the Commission, by email, must provide notice and instructions for the electronic submission of the Form 6 on the Commission's electronic filing system pursuant to s. 112.3144(2), F.S.²⁶ Not later than August 1 of each year, the Commission must determine which persons required to file a Form 6 failed to do so and must send weekly delinquency notices by email as long as a person remains delinquent.²⁷ Form 6 disclosures must be received by the Commission no later than 5 p.m. of the due date.²⁸ Form 6 filers are given a grace period until September of the current year, where no investigative or disciplinary action based on delinquency will be taken if the filer submits the Form 6 by 5 p.m. on September 1 of the current year.²⁹

Candidates for constitutional office must file a Form 6, verified under oath and affirmation, to the qualifying officer at the time of qualifying.³⁰ When a candidate has qualified for office prior to the deadline to file an annual financial disclosure, the disclosure filed with the candidate's qualifying papers is deemed to satisfy the annual disclosure requirement and the qualifying officer is required to submit an electronic copy to the Commission by July 1.³¹ Candidates for office who are not already required to file a Form 6, are required to file their Form 6 with the election office in which they file their qualifying papers at the time they qualify.³² Candidates who are incumbents running for the same office or who currently hold another position currently requiring the annual filing of a Form 6 and who qualifies as a candidate after they have filed a

²² Section 112.31446, F.S.

²³ Section 112.3144(6)(c), F.S. (Section 91, ch. 2022-157, amended subsection (6)(c), among others, in order to implement specific appropriations in the 2022-2023 General Appropriations Act for the development and implementation of the electronic filing system. Section 92, ch. 2022-157, provides that the amendment made to subsection (6)(c), among others, by this act expires July 1, 2023, and the text of those subsections and paragraphs shall revert to that in existence on June 1, 2022. Therefore, effective July 1, 2023, the triggering date requiring filings of financial disclosures be made solely through the electronic filing system, is changed from January 1, 2023, back to January 1, 2022.)

²⁴ Section 112.3144(8)(a), F.S.

²⁵ *Id.*

²⁶ Section 112.3144(8)(b), F.S.

²⁷ Section 112.3144(8)(c), F.S.

²⁸ Section 112.3144(8)(d), F.S.

²⁹ *Id.*

³⁰ Section 99.061(5), F.S.

³¹ Section 99.061(5), F.S.; s. 112.3144(3), F.S.

³² Sections 99.061(5), 99.061(7)(a)5., F.S.

Form 6 with the Commission may file a copy of the Form 6, verification or receipt of the filing of the Form 6 with the Commission, to the qualifying officer.³³

Statement of Financial Interests (Form 1)

In addition to provisions governing the Form 6, current law provides for a less detailed disclosure of financial interests using the Commission's CE Form 1 (Form 1).³⁴ A Form 1 must be filed by a large group of local officers, including all officers holding elected positions in any political subdivision of the state, other than counties, and specified appointed officers.³⁵ Other persons required to file a Form 1 include specified state officers and employees and persons seeking to qualify as candidates for these specified state or local office.³⁶ Currently, mayors; city commissioners; elected members of a city council, town council, village council, or other governing body of a city, town or village; and city, county, town, or village managers are required to file a Form 1.³⁷

Form 1 requires filers to disclose specified information related to sources of income, real property, intangible personal property, liabilities, and interests in specified businesses.³⁸ Although no specific dollar values of incomes, property, or liabilities are required to be reported, the filer must report which assets or liabilities exceed certain dollar thresholds.³⁹ Form 1 filers must disclose: all sources of income in excess of \$2,500, excluding public salary; all sources of income from a business entity that the filer had a material interest in where their gross income was in excess of \$5,000 and in excess of 10% of the businesses gross income; any property, except for their residence or vacation home, in which the person owns more than 5% of the value of the property; any intangible personal property in excess of \$10,000; and any liability in excess of \$10,000.⁴⁰ A Form 1 must be filed annually with the Commission by July 1, 2023.⁴¹

Currently, a local officer⁴² must file a Form 1 within 30 days of appointment or employment and then annually by July 1 of each year with the supervisor of election in the county in which he or she permanently resides.⁴³ Currently, specified state employees⁴⁴ and state officers⁴⁵ must file a Form 1 with the Commission within 30 days of appointment or employment and then annually by July 1 of each year.⁴⁶ Candidates for local elective office who were not previously required to

³³ Section 112.3144(4), F.S.; s. 99.061(7)(a)(5), F.S. (Currently, unlike the Code of Ethics under s. 112.3144(4), F.S. the Elections Code under s. 99.061(7)(a)(5), F.S. only allows the filing of a copy of full and public disclosure at the time of qualifying.)

³⁴ See s. 112.3145, F.S.; R. 34-8.202, F.A.C.

³⁵ See s. 112.3145, F.S.; ss. 99.061(5) and 99.061(7)(a)(5), F.S.; R. 34.8.202, F.A.C.

³⁶ *Id.*; see Florida Commission on Ethics, *Guide to the Sunshine Amendment and Code of Ethics for Public Officers and Employees*, p. 16-18., available at <https://ethics.state.fl.us/Documents/Publications/GuideBookletInternet.pdf?cp=2023310> (last visited March 30, 2023)

³⁷ See s. 112.3145(1), F.S.; R. 34.8.202, F.A.C.

³⁸ Section 112.3145, F.S.

³⁹ See s. 112.3145(3)(a)(b), F.S. (Beginning January 1, 2023, filers may only use the threshold based on dollar value when filing their Form 1.)

⁴⁰ Section 112.3145(3)(b), F.S.

⁴¹ Section 112.3145(2)(b), F.S.

⁴² As defined in s. 112.3145(1)(a), F.S.

⁴³ Section 112.3145(2)(b), F.S.

⁴⁴ As defined in s. 112.3145(1)(b), F.S.

⁴⁵ Not required to file Form 6 as defined in s. 112.3145(1)(c), F.S.

⁴⁶ Section 112.3145(2)(b), F.S.

file an annual financial disclosure are required to file their Form 1 with the qualifying officer at the time of qualifying.⁴⁷

The Commission is required, not later than May 1 of each year, to prepare a current list with the contact information for every state officer, local officer, and specified employee.⁴⁸ Each government unit is required to assist the Commission in compiling the list by providing, not later than February 1 of each year, the name and contact information of every state officer, local officer, or specified state employee within the respective unit of government as of December 31 of the preceding year.⁴⁹ The Commission, not later than May 15 of each year, must provide each supervisors of elections with a current list of all local officers required to file with such supervisors of elections.⁵⁰ Not later than June 1 of each year, the Commission and supervisors of elections, must distribute a copy of the Form 1 and a notice of all applicable disclosure forms and filing deadlines by e-mail.⁵¹ Not later than August 1 of each year, the Commission and each supervisor of elections must determine which individuals required to file a Form 1 have failed to do so and must send delinquency notices to these individuals by certified mail, return receipt requested.⁵²

Filers are given a grace period until September 1 of the current year, where no investigative or disciplinary action based on delinquency will be taken if the filer submits the disclosure by September 1 of the current year.⁵³ Statements must be received by the Commission by 5 p.m. of the due date, however, any statement that is postmarked by the U.S. Postal Service by midnight of the due date or certificate of mailing or receipt from postal carrier before the due date is deemed timely filed.⁵⁴ Not later than November 15 of each year, the supervisors of election in each county must certify to the commission a list of the names and contact information of individuals who failed to file their Form 1.⁵⁵ However, effective July 1, 2023, all filers of Form 1 (except non incumbent candidates) must file their financial disclosures with the Commission solely through the Commission's electronic filing system.⁵⁶

Requirements for Form 6 and Form 1

All persons required to file a Form 6 and Form 1 must disclose interests in specified businesses granted a privilege to operate in the state of Florida.⁵⁷ All Form 6 and Form 1 filers also must file

⁴⁷ Section 112.3145(2)(d), F.S.

⁴⁸ Section 112.3145(8)(a)1, F.S.

⁴⁹ *Id.*

⁵⁰ Section 112.3145(8)(a)2, F.S.

⁵¹ Section 112.3145(8)(b), F.S.

⁵² Section 112.3145(8)(c), F.S.

⁵³ *Id.*

⁵⁴ *Id.*

⁵⁵ Section 112.3145(8)(d), F.S.

⁵⁶ Section 112.3145(2)(e), F.S. (Section 94, ch. 2022-157, amended subsection (2)(e), among others, in order to implement specific appropriations in the 2022-2023 General Appropriations Act for the development and implementation of the electronic filing system. Section 95, ch. 2022-157, provides that the amendment made to subsection (2)(e), among others, by this act expires July 1, 2023, and the text of those subsections and paragraphs shall revert to that in existence on June 1, 2022. Therefore, effective July 1, 2023, the triggering date requiring filings of financial disclosures be made solely through the electronic filing system for Form 1s to the Commission, is changed from January 1, 2024, back to January 1, 2023.)

⁵⁷ Section 112.3145(7), F.S. (i.e. specific entities including banks, insurance companies, cemetery companies, public utilities and others.)

quarterly reports naming clients represented for a fee before agencies at the filer's level of government.⁵⁸ Certain Form 6 and Form 1 filers must certify their completion of any required ethics training on their respective financial disclosure form.⁵⁹ General law also requires an individual subject to filing Form 6 or Form 1 to file a final disclosure statement within 60 days after leaving his or her public position.⁶⁰

Any person required to File a Form 6 or Form 1 whose name is on the Commission's list, and to whom notice has been sent, but who fails to timely file, is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500.⁶¹ However, this limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline has passed.⁶² The Commission is required to promulgate rules for determining the amount of the fine for a late filing,⁶³ an appeal process, procedures for grounds for waiving the fine based on unusual circumstances, and notice requirements.⁶⁴

Candidate Qualifications in Respect to Financial Disclosures

Under the Election Code, at the time of qualifying for office, each candidate for a constitutional office must file a full and public disclosure of financial interests pursuant to s. 8, Art II, of the Florida Constitution, which must be verified under oath or affirmation. A candidate for any other office, including elective office, must file a statement of financial interests.⁶⁵ When a candidate has qualified for office prior to the deadline to file an annual financial disclosure, the disclosure file with the candidate's qualifying papers is deemed to satisfy the annual disclosure requirement.⁶⁶

As of January 1, 2023, under the Code of Ethics, an incumbent in an elective office or a candidate holding another position subject to an annual filing requirement who has filed his or her annual disclosure electronically may submit a copy of the disclosure filed with the Commission, or a verification or receipt for the filing, with the officer before whom he or she qualifies.⁶⁷ A candidate not subject to an annual filing requirement does not file with the Commission, but may complete and print the appropriate disclosure form to file with the officer before whom he or she qualifies.⁶⁸ Under the Elections Code, in order for a candidate to be qualified, the filing officer must receive the full and public disclosure (Form 6) or statement of financial interests (Form 1).⁶⁹ This provision is inconsistent with the verification or receipt provisions in the Code of Ethics.⁷⁰

⁵⁸ Section 112.3145(6), F.S.

⁵⁹ See s. 112.3142, F.S.; s. 112.3144(1)(a), F.S.; s. 112.3145(5), F.S.

⁶⁰ Section 112.3144(10), F.S.; s. 112.3145(2)(b), F.S.

⁶¹ Section 112.3145(8)(g), F.S.

⁶² *Id.*

⁶³ See s. 112.3145(8)(g)1-3, F.S. (Form 1); s. 112.3144(8)(f)1-3, F.S. (Form 6); R. 34-8.011(3), F.A.C.; R. 34-8.210(2), F.A.C.

⁶⁴ See R. 34-8.015, F.A.C.; R. 34-8.215, F.A.C.

⁶⁵ Section 99.061, F.S.

⁶⁶ Sections 112.3144(3), 112.3145(2)(a), F.S.

⁶⁷ Ss. 112.3144(4), 112.3145(2)(c), F.S.

⁶⁸ *Id.*

⁶⁹ Section 99.061(7)(a)5., F.S.

⁷⁰ Section 99.061(7)(b), F.S. (If the filing officer receives qualifying papers during the qualifying period prior to the last day of qualifying, which do not include all statutorily required items, the filing officer must make a reasonable effort to notify the

Procedures on Complaints and Violations

Current law authorizes the Commission to investigate alleged violations of the Code of Ethics upon a written complaint executed on a form prescribed by the Commission and signed under oath or affirmation by any person, or upon receipt of a written referral of a possible violation from the Governor, the Department of Law Enforcement, a State Attorney, or a United States Attorney.⁷¹ The Commission may dismiss any such complaint or referral at any stage of disposition if it determines that the violation alleged is a *de minimis* violation attributable to inadvertent or unintentional error. The Commission is not authorized to dismiss complaints alleging *de minimis* violations⁷² involving financial disclosure statements.⁷³ The Commission may, at its discretion, dismiss any complaint at any stage of disposition should it determine that the public would not be served by proceeding further, in which case, the Commission must issue a public report stating with particularity its reasons for dismissal.⁷⁴

Penalty Provisions

The penalty provisions for violations of the Code of Ethics are located in s. 112.317, F.S. There are no criminal penalties for violation of the Code of s. 8, Art. II, of the Florida Constitution. The penalty provisions cover public officers and public employees, former public officers and employees, candidates, and lobbyists and lobbyists firms. Depending on the individual and the position he or she holds, penalties include impeachment, removal from office or employment, suspension, public censure and reprimand, and a civil penalty not to exceed \$10,000, among other penalties. The Commission is without jurisdiction to impose any penalty, but may make recommendations for an appropriate penalty to the appropriate disciplinary authority charged with imposing penalties as designated under the procedures of s. 112.324(3), F.S.⁷⁵

Ethics Training

All constitutional officers, all elected municipal officers, and each commissioner of a community redevelopment agency (CRA) created under part III. 163, F.S., must complete 4 hours of ethics training each calendar year which addresses, at a minimum, s. 8, Art. II of the Florida Constitution, the Code of Ethics for Public Officers and Employees, and the public records and public meetings law of Florida.⁷⁶ This requirement may be satisfied by completion of a continuing legal education class or other continuing professional education class, seminar, or presentation, if the required subject is covered by the class.⁷⁷

candidate of any missing or incomplete items and must inform the candidate that all required items must be received by the close of qualifying.)

⁷¹ Section 112.324(1)(b), F.S.

⁷² Section 112.324(11), F.S. (a *de minimis* violation is any violation that is unintentional and not material in nature.)

⁷³ See ss. 112.3144 and 112.3145, F.S.

⁷⁴ Section 112.324(12), F.S. (In order for the Commission to dismiss a complaint under this provision, it must find that the public interest would not be served by proceeding further and must issue a public report explaining its justification for dismissal. In contrast, to dismiss a violation for being *de minimis*, the Commission must find that the violation was unintentional and not material in nature.)

⁷⁵ Section 112.324(3), F.S.; s. 112.322(2)(b), F.S.

⁷⁶ Section 112.3142(2)(a)-(c), F.S.

⁷⁷ *Id.*

A constitutional officer or elected municipal officer assuming a new office or a new term of office after March 31 is not required to complete ethics training for the calendar year in which his or her term of office began.⁷⁸ CRAs are not included in this new office or new term of office exemption language.

Lobbyist Registration and Compensation Reporting

Lobbyist must register to lobby the executive branch or the legislative branch in Florida. Executive branch lobbying is regulated by the Code of Ethics and administered by the Commission.⁷⁹ Legislative branch lobbying is regulated primarily by Joint Rule of the House and Senate and administered by the Office of Legislative Services.⁸⁰ Both registration systems require lobbyists to register annually for each principal represented and to indicate the entities to be lobbied.⁸¹ In addition, lobbying firms must file quarterly compensation reports.⁸² Both the Commission and the Legislature have instituted electronic registration and compensation reporting.⁸³ Executive branch lobbyists, however, must supply a written oath to complete each registration as well as a signed statement of authority from the principal.⁸⁴

State agency employees and employees of legislative and judicial branch entities acting in the normal course of their duties are exempt from executive branch lobbying registration.⁸⁵ However, local government officers and employees must register to lobby the state executive branch.

Compensation reporting is subject to random audits, and findings of non-compliance are reported to the Commission, in the case of executive branch lobbying firms, for investigation.⁸⁶

The executive branch lobbyist registration law provides specific procedures for its enforcement.⁸⁷ The Commission reports probable cause findings to the Governor and Cabinet for appropriate action, which can include a fine up to \$5,000 and prohibition from lobbying for up to two years.⁸⁸ A person accused of violating the lobbyist registration law may also request a hearing within 14 days of the mailing of the probable cause notification.⁸⁹

⁷⁸ Section 112.3142(2)(e), F.S.

⁷⁹ Section 112.3215, F.S.

⁸⁰ Section 11.045, F.S. and Joint rule 1.

⁸¹ Section 112.3215(3), F.S.; Joint Rule 1.2.

⁸² Section 112.3215(5)(a)1., F.S.; Joint Rule 1.4.

⁸³ Section 112.32155, F.S.; Joint Rule 1.1(2)(f)

⁸⁴ Section 112.3215(3), F.S.

⁸⁵ Section 112.3215(1)(h)(2), F.S.

⁸⁶ Section 112.3215(8)(c), F.S.

⁸⁷ Section 112.3215(8)-(9), F.S.

⁸⁸ Section 112.3215(9)-(10), F.S.

⁸⁹ Section 112.3215(9), F.S.

III. Effect of Proposed Changes:⁹⁰

Disclosure of Financial Interests

The bill provides the following in regards to Form 1 and Form 6 filers:

- Requires, beginning January 1, 2024, certain local officers, mayors and elected members of the governing body of a municipality to annually file a Form 6 full and public disclosure of financial interest's statement with the Commission on Ethics through the Commission's electronic filing system.
- Exempts local officers required to file a Form 6 from the present requirement to file a Form 1.
- Adds and clarifies that a candidate for elected office that requires a filing of a Form 6 while in office, must file a Form 6 at the time of qualifying as a candidate for that office.
- Requires if an elected local officer, now required to file a Form 6 with the Commission, leaves office before the expiration of his term, each individual appointed to replace such an officer must file a Form 6 annually for the remainder of that individual's term.
- Adds clarifying language that each Form 6 filer must fill out his or her Form 6 on the Commission on Ethics's electronic filing system by the due date annually and extends the filing deadline from 5:00 p.m. to 11:59 p.m.
- Maintains current law, beginning January 1, 2024, that each Form 1 filer must file his or her annual Form 1 financial disclosure by filling out his or her Form 1 on the Commission on Ethics's electronic filing system by the due date annually and extends the filing deadline from 5:00 p.m. to 11:59 p.m.
- Because Form 1 filers, beginning January 1, 2024, can only submit a Form 1 with the Commission by filling out the Form 1 financial statement on the Commission's electronic filing system, the bill removes supervisors of elections from being involved in the Form 1 filing process.
- Requires, beginning January 1, 2024, local officers to file their quarterly reports of the names of clients represented for a fee or commission be filed with the Commission through the electronic filing system.
- Allows Form 1 and Form 6 filers to submit federal income tax returns to report income and requires that filers who chose to file a federal income tax return to report income must also include all attachments and schedules associated with the tax return.

The bill provides the following in regard to the Commission's electronic filing system:

- Requires the Commission's electronic filing system to have the capability to allow filers to upload attachments, including federal income tax returns.
- Requires the Commission's instructions for its electronic filing system to notify filer's that certain personal account information should not be included in the filing.

⁹⁰ The following bill's provisions were legislative recommendations made by the Florida Commission on Ethics in the Commission's most recent annual report to the Legislature: 1) Enhanced financial disclosure for local elected officials; 2) Dismissal of complaints alleging *de minimis* financial disclosures; 3) Increase of maximum civil penalties; 4) Extension of the ethics training filing exemption to commissioners of community redevelopment agencies; and 5) Dismissal of lobbying firm audit matters. See Florida Commission on Ethics, *Annual Report to the Florida Legislature for Calendar Year 2022*, P. 23-24, available at <https://ethics.state.fl.us/Documents/Publications/2022%20Annual%20Report.pdf?cp=202337> (Last visited March 30, 2023)

- Removes language allowing Form 1 and Form 6 filers to fill out and submit paper versions of the forms to the Commission through mail.
- Requires the Commission to notify Form 1 and Form 6 filers by email of all deadlines for filing, instructions on completing the online Form 1 and Form 6, and instructions on how to upload attachments and documentation to the electronic filing system.
- Maintains current law that requires the Commission to notify a Form 1 or Form 6 filer of delinquent filings weekly, through email, as long as the person remains delinquent.
- Specifies that the only determining factor the Commission may use in determining the amount of fine for late submission to the Commission of a Form 1 or Form 6 is the date the filer submitted their Form 1 or Form 6 on the Commission's electronic filing system.

Candidate Qualifications in Respect to Financial Disclosures

The bill adds language to the Election Code⁹¹ allowing filers of Form 1 and Form 6 financial disclosure statements to submit a verification or receipt of the filing to the qualifying officer at the time of qualifying, making this section of the Election Code consistent with the Code of Ethics.

Procedures on Complaints and Violations

The bill allows the Commission to dismiss any complaint or referral for *de minimis* violations of financial disclosures.⁹²

Penalty Provisions

The bill increases the maximum civil penalty allowed under s. 112.317(1), F.S., from \$10,000 to \$20,000.

Ethics Training

The bill adds commissioners of community redevelopment agencies (CRAs) to the new office or new term of office exemption language contained in s. 112.3142(2)(e), F.S., that already exists for constitutional officers and elective municipal officers. CRAs assuming a new office or term of office after March 31 are not required to complete ethics training for the calendar year in which their term of office began.

Lobbyist Registration and Compensation Reporting

The bill adds clarifying language of what allegations must be contained in a complaint or report initiating the requirement for the Commission to investigate potential violations and allows the Commission to dismiss any complaint or investigation from a random audit of lobbying reports, at any stage of disposition, if it determines that the public interest is not served by proceeding

⁹¹ See s. 99.061(7)(a)5, F.S.

⁹² See s. 112.3144, F.S. (Form 6 financial disclosure statements); s. 112.3145, F.S. (Form 1 financial disclosure statements) (allows Commission to dismiss complaints or referrals relating to unintentional or non-material violations of the submission of Form 1 or Form 6 financial disclosure statements.)

further. If the Commission dismisses an action, the Commission must issue a public report stating with particularity its reasons for the dismissals.

Implementation

Requires the Commission, as necessary to revise its financial disclosure forms and instructions and any related rules to conform to this act. Permits the Commission a narrow exemption from the requirements of chapter 120, Florida Statutes to make any such revisions to disclosure forms and instructions pertaining to the 2022 filing year.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill imposes additional financial disclosures on certain officers of local government, but the burden on the governments themselves does not appear to reach the threshold required to be affected by s. 18, Art. VII, Fla. Const.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

Section 8(j)(1), Art. II, of the Florida Constitution provides that the Legislature is authorized to change the definition and requirements for full and public financial disclosures.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill imposes additional financial disclosures on certain officers of local government that will create an indeterminate but most likely insignificant impact. These new Form 6 filers will increase the number of Form 6 disclosures filed with the Commission through the Commission's electronic filing system, which is now active. This increase in the number of Form 6 filings may increase the amount of time and resources that Commission staff requires to review, redact, and publish such disclosures and may require some programming changes to the electronic filing system for the specified local officers to now file the Form 6 on the electronic system. However, with all Form 1 filers soon being required to file their Form 1 disclosures solely with the Commission through the electronic filing system, and with the Commission actively preparing for these increased disclosures and changes to the electronic system, any changes to the process required by adding these specified local officers is most likely negligible.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 99.061, 112.3142, 112.3144, 112.31445, 112.31446, 112.3145, 112.317, 112.3215, and 112.324.

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

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

CS/CS by Rules on March 30, 2023:

- Makes technical changes suggested by staff of the Commission on Ethics clarifying the bill language and helping effectuate the bill's implementation by:
 - Clarifying the effective dates, as January 1, 2024, for when specified local officers are required to file a Form 6 financial disclosure and for when local officers are required to file a quarterly report of the names of clients represented for a fee or commission.
 - Ensuring the language of the Commission's notice requirements for providing instructions for the filing of financial disclosures on the Commission's electronic filing system to Form 1 and Form 6 are the same.
 - Clarifying that filers who choose to file a federal income tax return to report income must also include all the attachments and schedules associated with the tax return.
 - Revises the deadline for the filing of Form 6 and Form 1 financial disclosures from 5 p.m. to 11:59 p.m. on the due date.

- Amending the language of the Form 6 filing requirement for individuals appointed replace local officers (required to file a Form 6), to make the time of that individual's Form 6 filing requirement consistent with all other Form 6 filers.
- Maintaining current law requiring the Commission to provide certain delinquency notices to Form 1 filers.
- Requiring the Commission, as necessary to revise its financial disclosure forms and instructions and any related rules to conform to this act. Permits the Commission a narrow exemption from the requirements of chapter 120, Florida Statutes to make any such revisions to disclosure forms and instructions pertaining to the 2022 filing year.

CS by Ethics and Elections on March 14, 2023:

- Retains from the original bill the requirement that specified local officers file a Form 6 financial disclosure instead of the Form 1 they are currently required to file, with some drafting revisions and the removal of non-elected managers from the requirement.
- Maintains and makes permanent requirements for e-filing of financial disclosures as specified in the current year implementing bill.
- Adds new provisions relating to dismissal of *de minimis* offenses, the maximum civil penalty for violations of the Code of Ethics, ethics training requirements for commissioners of a community redevelopment agency, and authorization for a candidate to submit a verification or receipt of a previous financial disclosure filing to the qualifying officer.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
03/30/2023	.	
	.	
	.	
	.	

The Committee on Rules (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (5) and paragraph (a) of subsection
(7) of section 99.061, Florida Statutes, are amended to read:

99.061 Method of qualifying for nomination or election to
federal, state, county, or district office.—

(5) At the time of qualifying for office, each candidate
for a constitutional office, or for another elective office
subject to an annual filing requirement pursuant to s. 112.3144,



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shall file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a), and a candidate for any other office, including local elective office, shall file a statement of financial interests pursuant to s. 112.3145. A candidate who is subject to an annual filing requirement under s. 112.3144 may file a verification or receipt of electronic filing pursuant to s. 112.3144(4). A candidate who is subject to an annual filing requirement under s. 112.3145 may file a verification or receipt of electronic filing pursuant to s. 112.3145(2)(c) unless the candidate is required to file a full and public disclosure of financial interests pursuant to s. 8, Art. II of the State Constitution or this subsection.

(7)(a) In order for a candidate to be qualified, the following items must be received by the filing officer by the end of the qualifying period:

1. A properly executed check drawn upon the candidate's campaign account payable to the person or entity as prescribed by the filing officer in an amount not less than the fee required by s. 99.092, unless the candidate obtained the required number of signatures on petitions pursuant to s. 99.095. The filing fee for a special district candidate is not required to be drawn upon the candidate's campaign account. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall have until the end of qualifying to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph



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shall disqualify the candidate.

2. The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, which must be verified under oath or affirmation pursuant to s. 92.525(1) (a).

3. If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1) (b); or if the candidate is running without party affiliation for a partisan office, the written statement required by s. 99.021(1) (c).

4. The completed form for the appointment of campaign treasurer and designation of campaign depository, as required by s. 106.021.

5. The full and public disclosure or statement of financial interests required by subsection (5). A public officer who has filed the full and public disclosure or statement of financial interests with the Commission on Ethics before ~~or the supervisor of elections prior to~~ qualifying for office may file a copy of that disclosure or a verification or receipt of electronic filing as provided in subsection (5) at the time of qualifying.

Section 2. Paragraph (e) of subsection (2) of section 112.3142, Florida Statutes, is amended to read:

112.3142 Ethics training for specified constitutional officers, elected municipal officers, and commissioners.—

(2)

(e) The Legislature intends that a constitutional officer, a commissioner of a community redevelopment agency, or an



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70 elected municipal officer who is required to complete ethics
71 training pursuant to this section receive the required training
72 as close as possible to the date that he or she assumes office.
73 A constitutional officer, a commissioner of a community
74 redevelopment agency, or an elected municipal officer assuming a
75 new office or new term of office on or before March 31 must
76 complete the annual training on or before December 31 of the
77 year in which the term of office began. A constitutional
78 officer, a commissioner of a community redevelopment agency, or
79 an elected municipal officer assuming a new office or new term
80 of office after March 31 is not required to complete ethics
81 training for the calendar year in which the term of office
82 began.

83 Section 3. Notwithstanding the expiration date in section
84 92 of chapter 2022-157, Laws of Florida, paragraph (c) of
85 subsection (6), paragraphs (a) and (c) of subsection (7), and
86 subsections (8) and (10) of section 112.3144, Florida Statutes,
87 are reenacted and amended, and paragraph (d) is added to
88 subsection (1) of that section, to read:

89 112.3144 Full and public disclosure of financial
90 interests.—

91 (1)

92 (d) Beginning January 1, 2024, the following local officers
93 must comply with the financial disclosure requirements of s. 8,
94 Art. II of the State Constitution and this section:

95 1. Mayors.

96 2. Elected members of the governing body of a municipality.

97 (6)

98 (c) Each separate source and amount of income which exceeds



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99 \$1,000 must be identified. For the purpose of a filer reporting
100 income, the commission shall accept federal income tax returns.
101 If a filer submits a federal income tax return for the purpose
102 of reporting income, he or she must also include all attachments
103 and schedules associated with such federal income tax return
104 ~~Beginning January 1, 2023, a federal income tax return may not~~
105 ~~be used for purposes of reporting income, and the commission may~~
106 ~~not accept a federal income tax return or a copy thereof.~~

107 (7)(a) Beginning January 1, 2023, a filer may not include
108 in a filing to the commission ~~a federal income tax return or a~~
109 ~~copy thereof;~~ a social security number; a bank, mortgage, or
110 brokerage account number; a debit, charge, or credit card
111 number; a personal identification number; or a taxpayer
112 identification number. If a filer includes such information in
113 his or her filing, the information may be made available as part
114 of the official records of the commission available for public
115 inspection and copying unless redaction is requested by the
116 filer. The commission is not liable for the release of social
117 security numbers or bank account, debit, charge, or credit card
118 numbers included in a filing to the commission if the filer has
119 not requested redaction of such information.

120 (c) The commission must conspicuously post a notice, in
121 substantially the following form, in the instructions for the
122 electronic filing system specifying that:

123 1. Any filer submitting information through the electronic
124 filing system may not include ~~a federal income tax return or a~~
125 ~~copy thereof;~~ a social security number; a bank, mortgage, or
126 brokerage account number; a debit, charge, or credit card
127 number; a personal identification number; or a taxpayer



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identification number in any filing unless required by law.

2. Information submitted through the electronic filing system may be open to public inspection and copying.

3. Any filer has a right to request that the commission redact from his or her filing any social security number, bank account number, or debit, charge, or credit card number contained in the filing. Such request must be made in writing and delivered to the commission. The request must specify the information to be redacted and the specific section or sections of the disclosure in which it was included.

(8) Forms or fields of information for compliance with the full and public disclosure requirements of s. 8, Art. II of the State Constitution must ~~shall~~ be prescribed by the commission. The commission shall allow a filer to include attachments or other supporting documentation when filing a disclosure. The commission shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a) Not later than May 1 of each year, the commission shall prepare a current list of the names, e-mail addresses, and physical addresses of and the offices held by every person required to file full and public disclosure annually by s. 8, Art. II of the State Constitution, or other state law. Each unit of government shall assist the commission in compiling the list by providing to the commission not later than February 1 of each year the name, e-mail address, physical address, and name of the office held by such person within the respective unit of government as of December 31 of the preceding year.

(b) Not later than June 1 of each year, the commission shall notify by e-mail all persons required to file a full and



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public disclosure of financial interests of all of the
following:

1. All applicable filing deadlines for completing and
filing the full and public disclosure of financial interests
prescribed under subsection (3) on the electronic filing system.

2. Instructions on how to complete and file the full and
public disclosure of financial interests as prescribed by
subsection (3) on the electronic filing system, or where to
access such instructions.

Beginning January 1, 2023, paper forms may not be provided and
persons required to file a full and public disclosure of
financial interests must complete and file their disclosures on
the electronic filing system pursuant to subsection (2) ~~Not~~
~~later than June 1 of each year, the commission shall distribute~~
~~a copy of the form prescribed for compliance with full and~~
~~public disclosure and a notice of the filing deadline to each~~
~~person on the list. Beginning January 1, 2022, no paper forms~~
~~will be provided by mail. The notice required under this~~
~~paragraph and instructions for electronic submission must be~~
~~delivered by e-mail.~~

(c) Not later than August 1 of each year, the commission
shall determine which persons on the list have failed to file
full and public disclosure and shall send delinquency notices to
such persons. Each notice must state that a grace period is in
effect until September 1 of the current year. ~~Beginning January~~
~~1, 2022,~~ The notice required under this paragraph must be
delivered by e-mail and must be redelivered on a weekly basis by
e-mail as long as a person remains delinquent.



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(d) Disclosures must be received by the commission not later than 11:59 5 p.m. of the due date. ~~However, any disclosure that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner.~~ Beginning January 1, 2023, upon request of the filer, the commission must provide verification to the filer that the commission has received the filed disclosure.

(e) Beginning January 1, 2023, a written declaration, as provided for under s. 92.525(2), accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.

(f) Any person who is required to file full and public disclosure of financial interests and whose name is on the commission's list, and to whom notice has been sent, but who fails to timely file is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500; however this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and the procedures by which each person whose name is on the list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific that the amount of



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the fine due is based upon when the disclosure is filed on the
electronic filing system created and maintained by the
commission as provided in s. 112.31446. ~~the following:~~

~~1. The amount of the fine due is based upon the earliest of
the following:~~

~~a. When a statement is actually received by the office.~~

~~b. When the statement is postmarked.~~

~~c. When the certificate of mailing is dated.~~

~~d. When the receipt from an established courier company is
dated.~~

~~2.~~ Upon receipt of the disclosure statement or upon accrual
of the maximum penalty, whichever occurs first, the commission
shall determine the amount of the fine which is due and shall
notify the delinquent person. The notice must include an
explanation of the appeal procedure under subparagraph ~~2.~~ ~~3.~~
Such fine must be paid within 30 days after the notice of
payment due is transmitted, unless appeal is made to the
commission pursuant to subparagraph ~~2.~~ ~~3.~~ The moneys shall be
deposited into the General Revenue Fund.

~~2.3.~~ Any reporting person may appeal or dispute a fine,
based upon unusual circumstances surrounding the failure to file
on the designated due date, and may request and is entitled to a
hearing before the commission, which may waive the fine in whole
or in part for good cause shown. Any such request must be in
writing and received by the commission within 30 days after the
notice of payment due is transmitted. In such a case, the
reporting person must, within the 30-day period, notify the
person designated to review the timeliness of reports in writing
of his or her intention to bring the matter before the



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commission. For purposes of this subparagraph, "unusual circumstances" does not include the failure to monitor an e-mail account or failure to receive notice if the person has not notified the commission of a change in his or her e-mail address.

(g) Any person subject to the annual filing of full and public disclosure under s. 8, Art. II of the State Constitution, or other state law, whose name is not on the commission's list of persons required to file full and public disclosure is not subject to the fines or penalties provided in this part for failure to file full and public disclosure in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(h) The notification requirements and fines of this subsection do not apply to candidates or to the first filing required of any person appointed to elective constitutional office or other position required to file full and public disclosure, unless the person's name is on the commission's notification list and the person received notification from the commission. The appointing official shall notify such newly appointed person of the obligation to file full and public disclosure by July 1. The notification requirements and fines of this subsection do not apply to the final filing provided for in subsection (10).

(i) Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted



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to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such fine to a collection agent as provided in s. 17.20.

(10) Each person required to file full and public disclosure of financial interests shall file a final disclosure statement within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under s. 8, Art. II of the State Constitution, or is otherwise required to file full and public disclosure for the final disclosure period. The head of the agency of each person required to file full and public disclosure for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this subsection. When an elected local officer specified in paragraph (1)(d) leaves office before the expiration of his or her term, any individual appointed to replace such officer for the remainder of that term must file a full and public disclosure of financial interests annually thereafter for the remainder of his or her term in office.

Section 4. Subsections (4) and (5) are added to section 112.31445, Florida Statutes, to read:

112.31445 Electronic filing system; full and public disclosure of financial interests.—

(4) The commission shall publish a notice on the electronic filing system instructing filers to redact a social security



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number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number in their filings.

(5) The electronic filing system must allow a filer to include attachments or other supporting documentation when submitting a disclosure through the system.

Section 5. Paragraph (f) is added to subsection (2) of section 112.31446, Florida Statutes, to read:

112.31446 Electronic filing system for financial disclosure.—

(2) By January 1, 2022, the commission shall procure and test an electronic filing system. At a minimum, the electronic filing system must:

(f) Allow a filer to include attachments or other supporting documentation when submitting a disclosure or a statement through the system.

Section 6. Notwithstanding the expiration date in section 95 of chapter 2022-157, Laws of Florida, paragraphs (b) and (e) of subsection (2), paragraphs (a) and (c) of subsection (4), and subsections (6) and (8) of section 112.3145, Florida Statutes, are reenacted and amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.—

(2)

(b) Each state or local officer, except local officers specified in s. 112.3144(1)(d), and each specified state employee shall file a statement of financial interests no later than July 1 of each year. Each state officer, local officer, and specified state employee shall file a final statement of



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financial interests within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under this section or s. 8, Art. II of the State Constitution or otherwise is required to file full and public disclosure or a statement of financial interests for the final disclosure period. Each state or local officer who is appointed and each specified state employee who is employed shall file a statement of financial interests within 30 days from the date of appointment or, in the case of a specified state employee, from the date on which the employment begins, except that any person whose appointment is subject to confirmation by the Senate shall file before ~~prior to~~ confirmation hearings or within 30 days from the date of appointment, whichever comes first.

(e) Beginning January 1, 2024, a statement of financial interests, and ~~and~~ a final statement of financial interests and any amendments thereto, or any other form required by this section, except any statement of a candidate who is not subject to an annual filing requirement, must be filed electronically through an electronic filing system created and maintained by the commission as provided in s. 112.31446.

(4) (a) ~~Beginning January 1, 2024,~~ A filer may not include in a filing to the commission ~~a federal income tax return or a copy of thereof;~~ a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number. If a filer includes such information in



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his or her filing, the information may be made available as part of the official records of the commission available for public inspection and copying unless redaction is requested by the filer. The commission is not liable for the release of social security numbers, bank account numbers, or debit, charge, or credit card numbers included in a filing to the commission if the filer has not requested redaction of the information.

(c) The commission must conspicuously post a notice, in substantially the following form, in the instructions for the electronic filing system specifying that:

1. Any filer submitting information through the electronic filing system may not include ~~a federal income tax return or a copy thereof~~; a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number in any filing unless required by law.

2. Information submitted through the electronic filing system may be open to public inspection and copying.

3. Any filer has a right to request that the commission redact from his or her filing any social security number, bank account number, or debit, charge, or credit card number contained in the filing. Such request must be made in writing and delivered to the commission. The request must specify the information to be redacted and the specific section or sections of the disclosure in which it was included.

(6) Each elected constitutional officer, state officer, local officer, and specified state employee shall file a quarterly report of the names of clients represented for a fee or commission, except for appearances in ministerial matters,



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before agencies at his or her level of government. For the purposes of this part, agencies of government shall be classified as state-level agencies or agencies below state level. ~~Each local officer shall file such report with the supervisor of elections of the county in which the officer is principally employed or is a resident.~~ Each state officer, elected constitutional officer, and specified state employee shall file such report with the commission. Beginning January 1, 2024, each local officer shall file such report with the commission. The report must ~~shall~~ be filed only when a reportable representation is made during the calendar quarter and must ~~shall~~ be filed no later than the last day of each calendar quarter, for the previous calendar quarter. Representation before any agency shall be deemed to include representation by such officer or specified state employee or by any partner or associate of the professional firm of which he or she is a member and of which he or she has actual knowledge. For the purposes of this subsection, the term "representation before any agency" does not include appearances before any court or the Deputy Chief Judge of Compensation Claims or judges of compensation claims or representations on behalf of one's agency in one's official capacity. Such term does not include the preparation and filing of forms and applications merely for the purpose of obtaining or transferring a license based on a quota or a franchise of such agency or a license or operation permit to engage in a profession, business, or occupation, so long as the issuance or granting of such license, permit, or transfer does not require substantial discretion, a variance, a special consideration, or a certificate of public convenience and



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necessity.

(8) Beginning January 1, 2024, forms for compliance with the disclosure requirements of this section and a current list of persons subject to disclosure must ~~shall~~ be created by the commission ~~and provided to each supervisor of elections.~~ The commission shall allow a filer to include attachments or other supporting documentation when filing a disclosure. Beginning January 1, 2024, the commission and each supervisor of elections shall give notice of disclosure deadlines, and delinquencies, and instructions distribute forms in the following manner:

(a) ~~1.~~ Not later than May 1 of each year, the commission shall prepare a current list of the names, e-mail addresses, and physical addresses of, and the offices or positions held by, every state officer, local officer, and specified employee. Each unit of government shall assist the commission in compiling the list by providing to the commission not later than February 1 of each year the name, e-mail address, physical address, and name of agency of, and the office or position held by, each state officer, local officer, or specified state employee within the respective unit of government as of December 31 of the preceding year.

~~2. Not later than May 15 of each year, the commission shall provide each supervisor of elections with a current list of all local officers required to file with such supervisor of elections.~~

(b) The commission shall notify by e-mail, not later than June 1 of each year, all persons required to file a statement of financial interests under subsection (3) of all of the following:



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447 1. All applicable filing deadlines for completing and
448 filing the statement on the electronic filing system.

449 2. Instructions on how to complete and file the statement
450 on the electronic filing system or where to access such
451 instructions.

452
453 Beginning January 1, 2024, paper forms may not be provided and
454 persons required to file a statement of financial interests must
455 complete and file such statements on the electronic filing
456 system pursuant to paragraph (2)(e) ~~Not later than June 1 of~~
457 ~~each year, the commission and each supervisor of elections, as~~
458 ~~appropriate, shall distribute a copy of the form prescribed for~~
459 ~~compliance with subsection (3) and a notice of all applicable~~
460 ~~disclosure forms and filing deadlines to each person required to~~
461 ~~file a statement of financial interests. Beginning January 1,~~
462 ~~2024, no paper forms will be provided. The notice required under~~
463 ~~this paragraph and instructions for electronic submission must~~
464 ~~be delivered by e-mail.~~

465 (c) Not later than August 1 of each year, the commission
466 ~~and each supervisor of elections~~ shall determine which persons
467 required to file a statement of financial interests ~~in their~~
468 ~~respective offices~~ have failed to do so and shall send
469 delinquency notices to these persons. Through December 31, 2023,
470 delinquency notices must be sent by certified mail, return
471 receipt requested. Each notice must state that a grace period is
472 in effect until September 1 of the current year; that no
473 investigative or disciplinary action based upon the delinquency
474 will be taken by the agency head or commission if the statement
475 is filed by September 1 of the current year; that, if the



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statement is not filed by September 1 of the current year, a fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500; ~~for notices distributed by a supervisor of elections, that he or she is required by law to notify the commission of the delinquency;~~ and that, if upon the filing of a sworn complaint the commission finds that the person has failed to timely file the statement within 60 days after September 1 of the current year, such person will also be subject to the penalties provided in s. 112.317. Beginning January 1, 2024, notice required under this paragraph must be delivered by e-mail and must be redelivered on a weekly basis by e-mail as long as the person remains delinquent.

(d) Beginning January 1, 2024, disclosure statements required to be filed with the commission must be filed by 11:59 p.m. on the due date using the commission's electronic filing system pursuant to s. 112.31446 ~~No later than November 15 of each year, the supervisor of elections in each county shall certify to the commission a list of the names and addresses of, and the offices or positions held by, all persons who have failed to timely file the required statements of financial interests. The certification must include the earliest of the dates described in subparagraph (g)1. The certification shall be on a form prescribed by the commission and shall indicate whether the supervisor of elections has provided the disclosure forms and notice as required by this subsection to all persons named on the delinquency list.~~

(e) ~~Statements must be received by the commission not later than 5 p.m. of the due date. However, any statement that is postmarked by the United States Postal Service by midnight of~~



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~~the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner. Beginning January 1, 2023, upon request of the filer, the commission must provide verification to the filer that the commission has received the filed statement.~~

~~(f)~~ Beginning January 1, 2023, the statement must be accompanied by a declaration as provided in s. 92.525(2) and an electronic acknowledgment thereof.

~~(f)(g)~~ Any person ~~who is~~ required to file a statement of financial interests ~~and~~ whose name is on the commission's list, and to whom notice has been sent, but who fails to timely file is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500; however, this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and procedures by which each person whose name is on the list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific that the amount of the fine is based upon the date and time that the disclosure is filed on the electronic filing system as provided in s. 112.31446. ~~the following:~~

1. Beginning January 1, 2024, ~~The amount of the fine due is based upon the earliest of the following:~~

~~a. When a statement is actually received by the office.~~



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~~b. When the statement is postmarked.~~
~~c. When the certificate of mailing is dated.~~
~~d. When the receipt from an established courier company is dated.~~
2. for a specified state employee, ~~or a state officer, or~~
local officer, upon receipt of the disclosure statement by the
commission or upon accrual of the maximum penalty, whichever
occurs first, ~~and for a local officer upon receipt by the~~
~~commission of the certification from the local officer's~~
~~supervisor of elections pursuant to paragraph (d),~~ the
commission shall determine the amount of the fine which is due
and shall notify the delinquent person. The notice must include
an explanation of the appeal procedure under subparagraph 2. 3.
The fine must be paid within 30 days after the notice of payment
due is transmitted, unless appeal is made to the commission
pursuant to subparagraph 2. 3. The moneys are to be deposited
into the General Revenue Fund.
2.3. Any reporting person may appeal or dispute a fine,
based upon unusual circumstances surrounding the failure to file
on the designated due date, and may request and is entitled to a
hearing before the commission, which may waive the fine in whole
or in part for good cause shown. Any such request must be in
writing and received by the commission within 30 days after the
notice of payment due is transmitted. In such a case, the
reporting person must, within the 30-day period, notify the
person designated to review the timeliness of reports in writing
of his or her intention to bring the matter before the
commission. For purposes of this subparagraph, the term "unusual
circumstances" does not include the failure to monitor an e-mail



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account or failure to receive notice if the person has not notified the commission of a change in his or her e-mail address.

(g)~~(h)~~ Any state officer, local officer, or specified employee whose name is not on the list of persons required to file an annual statement of financial interests is not subject to the penalties provided in s. 112.317 or the fine provided in this section for failure to timely file a statement of financial interests in any year in which the omission occurred, but nevertheless is required to file the disclosure statement.

(h)~~(i)~~ The notification requirements and fines of this subsection do not apply to candidates or to the first or final filing required of any state officer, specified employee, or local officer as provided in paragraph (2)(b).

(i)~~(j)~~ Notwithstanding any provision of chapter 120, any fine imposed under this subsection which is not waived by final order of the commission and which remains unpaid more than 60 days after the notice of payment due or more than 60 days after the commission renders a final order on the appeal must be submitted to the Department of Financial Services as a claim, debt, or other obligation owed to the state, and the department shall assign the collection of such a fine to a collection agent as provided in s. 17.20.

Section 7. Subsection (1) of section 112.317, Florida Statutes, is amended to read:

112.317 Penalties.—

(1) Any violation of this part, including, but not limited to, failure to file disclosures required by this part or violation of any standard of conduct imposed by this part, or



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any violation of s. 8, Art. II of the State Constitution, in addition to any criminal penalty or other civil penalty involved, under applicable constitutional and statutory procedures, constitutes grounds for, and may be punished by, one or more of the following:

(a) In the case of a public officer:

1. Impeachment.
2. Removal from office.
3. Suspension from office.
4. Public censure and reprimand.
5. Forfeiture of no more than one-third of his or her salary per month for no more than 12 months.
6. A civil penalty not to exceed \$20,000 ~~\$10,000~~.
7. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of which the public officer was a member or to the General Revenue Fund.

(b) In the case of an employee or a person designated as a public officer by this part who otherwise would be deemed to be an employee:

1. Dismissal from employment.
2. Suspension from employment for not more than 90 days without pay.
3. Demotion.
4. Reduction in his or her salary level.
5. Forfeiture of no more than one-third salary per month for no more than 12 months.
6. A civil penalty not to exceed \$20,000 ~~\$10,000~~.
7. Restitution of any pecuniary benefits received because



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of the violation committed. The commission may recommend that the restitution penalty be paid to the agency by which the public employee was employed, or of which the officer was deemed to be an employee, or to the General Revenue Fund.

8. Public censure and reprimand.

(c) In the case of a candidate who violates this part or s. 8(a) and (i), Art. II of the State Constitution:

1. Disqualification from being on the ballot.

2. Public censure.

3. Reprimand.

4. A civil penalty not to exceed \$20,000 ~~\$10,000~~.

(d) In the case of a former public officer or employee who has violated a provision applicable to former officers or employees or whose violation occurred before the officer's or employee's leaving public office or employment:

1. Public censure and reprimand.

2. A civil penalty not to exceed \$20,000 ~~\$10,000~~.

3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that the restitution penalty be paid to the agency of the public officer or employee or to the General Revenue Fund.

(e) In the case of a person who is subject to the standards of this part, other than a lobbyist or lobbying firm under s. 112.3215 for a violation of s. 112.3215, but who is not a public officer or employee:

1. Public censure and reprimand.

2. A civil penalty not to exceed \$20,000 ~~\$10,000~~.

3. Restitution of any pecuniary benefits received because of the violation committed. The commission may recommend that



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the restitution penalty be paid to the agency of the person or to the General Revenue Fund.

Section 8. Present paragraph (d) of subsection (8) of section 112.3215, Florida Statutes, is redesignated as paragraph (e), a new paragraph (d) is added to that subsection, and paragraph (c) of subsection (8) and subsection (9) of that section are amended, to read:

112.3215 Lobbying before the executive branch or the Constitution Revision Commission; registration and reporting; investigation by commission.—

(8)

(c) The commission shall investigate any lobbying firm, lobbyist, principal, agency, officer, or employee upon receipt of information from a sworn complaint or from a random audit of lobbying reports indicating that the entity or individual has intentionally failed to disclose any material fact or has knowingly submitted false information in any report required by this section or by rules adopted pursuant to this section a possible violation other than a late-filed report.

(d) Notwithstanding paragraphs (a), (b), and (c), the commission may dismiss any complaint or investigation resulting from a random audit of lobbying reports at any stage of disposition if it determines that the public interest is not served by proceeding further, in which case the commission must issue a public report stating with particularity its reasons for the dismissal.

(9) If the commission finds no probable cause to believe that a violation of this section occurred, it must ~~shall~~ dismiss the complaint, whereupon the complaint, together with a written



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statement of the findings of the investigation and a summary of the facts, becomes ~~shall become~~ a matter of public record, and the commission must ~~shall~~ send a copy of the complaint, findings, and summary to the complainant and the alleged violator. If, after investigating information from a random audit of lobbying reports, the commission finds no probable cause to believe that a violation of this section occurred, a written statement of the findings of the investigation and a summary of the facts becomes ~~shall become~~ a matter of public record, and the commission must ~~shall~~ send a copy of the findings and summary to the alleged violator. If the commission finds probable cause to believe that a violation occurred, it must ~~shall~~ report the results of its investigation to the Governor and Cabinet and send a copy of the report to the alleged violator by certified mail. Such notification and all documents made or received in the disposition of the complaint ~~shall then~~ become public records. Upon a request submitted to the Governor and Cabinet in writing, any person whom the commission finds probable cause to believe has violated ~~any provision of~~ this section shall be entitled to a public hearing. Such person shall be deemed to have waived the right to a public hearing if the request is not received within 14 days following the mailing of the probable cause notification. However, the Governor and Cabinet may on its own motion require a public hearing and may conduct such further investigation as it deems necessary.

Section 9. Paragraph (a) of subsection (11) of section 112.324, Florida Statutes, is amended to read:

112.324 Procedures on complaints of violations and



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referrals; public records and meeting exemptions.—

(11) (a) Notwithstanding subsections (1)–(8), the commission may dismiss any complaint or referral at any stage of disposition if it determines that the violation that is alleged or has occurred is a de minimis violation attributable to inadvertent or unintentional error. In determining whether a violation was de minimis, the commission shall consider whether the interests of the public were protected despite the violation. ~~This subsection does not apply to complaints or referrals pursuant to ss. 112.3144 and 112.3145.~~

Section 10. Upon this act becoming a law, the Commission on Ethics shall, as necessary, revise its financial disclosure forms and instructions and any related rules to conform to this act. Any such revisions to disclosure forms and instructions pertaining to the 2022 filing year shall be exempt from the requirements of chapter 120, Florida Statutes.

Section 11. This act shall take effect upon becoming law.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act relating to ethics requirements for public officials; amending s. 99.061, F.S.; requiring candidates for specified elective offices to file a full and public disclosure at the time of qualifying; authorizing candidates to file a certain verification or receipt with the qualifying officer unless certain



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conditions exist; conforming provisions to changes made by the act; amending s. 112.3142, F.S.; revising legislative intent; requiring commissioners of community redevelopment agencies to complete annual ethics training; exempting commissioners who assumed office after a specified date from completing the required annual ethics training for that calendar year; reenacting and amending s. 112.3144, F.S.; requiring specified local officers to file full and public disclosures; requiring the Commission on Ethics to accept federal income tax returns and any attachments or schedules for a specified purpose; deleting the prohibition on including a federal income tax return or a copy thereof for certain filings; requiring the commission to allow a filer to include attachments and other supporting documentation with his or her disclosure; revising the notice the commission sends to specified persons by e-mail; requiring that disclosure statements be filed using the commission's electronic filing system; revising the deadline for disclosures to be received by the commission; deleting provisions relating to financial statements filed by mail; revising a provision requiring the commission to adopt a specified rule; requiring an individual appointed to replace an elected local officer who leaves office before the end of his or her term to file a full and public disclosure of financial interests annually for the remainder of his or her term in office; amending s.



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112.31445, F.S.; requiring the commission to publish a specified notice on the electronic filing system for the disclosure of financial interests; requiring that the filing system allow a filer to include attachments and other supporting documentation; amending s.

112.31446, F.S.; requiring that the electronic filing system allow a filer to submit attachments and other supporting documentation when a disclosure is filed; reenacting and amending s. 112.3145, F.S.; deleting a prohibition on including a federal income tax return or copy thereof in a financial disclosure; deleting a provision requiring specified local officers to file reports with the supervisor of elections of the officer's county of principal employment or residence; requiring local officers to file their quarterly reports of the names of clients they represent for a fee or commission with the Commission on Ethics; deleting a provision requiring the commission to provide a specified list to the supervisors of elections; requiring the commission to allow a filer to include attachments or other documentation when filing a disclosure; deleting a provision requiring the commission to provide the supervisors of elections a certain list annually by a specified date; requiring the commission to provide a certain notice by e-mail, beginning on a specified date; providing that, beginning on a specified date, paper forms will no longer be provided; requiring the commission, before a specified date, to determine which persons have not



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submitted a required statement and to send delinquency notices to such persons; requiring that disclosure statements be filed using the electronic filing system, beginning on a specified date; revising the criteria for a rule that the commission must adopt regarding the electronic filing of disclosure statements; requiring the commission to determine the amount of fines for all delinquent filers, beginning on a specified date; conforming provisions to changes made by the act; amending s. 112.317, F.S.; increasing the maximum civil penalty allowed for certain violations related to statements of financial disclosure; amending s. 112.3215, F.S.; requiring the commission to investigate specified entities or individuals that intentionally failed to disclose any material fact or that knowingly submitted false information in certain required reports; authorizing the commission to dismiss certain complaints and investigations; requiring the commission to issue a specified public report if it dismisses such a complaint or investigation; making technical changes; amending s. 112.324, F.S.; revising applicability; requiring the commission to revise financial disclosure forms and rules for the 2022 filing year to conform to changes made by the act; exempting such revisions from specified rulemaking requirements; providing an effective date.



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LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
03/30/2023	.	
	.	
	.	
	.	

The Committee on Rules (Brodeur) recommended the following:

Senate Amendment (with title amendment)

Between lines 170 and 171
insert:

Section 3. Section 112.31421, Florida Statutes, is created
to read:

112.31421 Governance board training.—

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

(a) "Appointed public official" means either a local
officer as defined in s. 112.3145(1)(a)2.a., b., c., d., or f.,
or a state officer as defined in s. 112.3145(1)(c)2. or 3.



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12 (b) "Department" means the Department of Business and
13 Professional Regulation.

14 (c) "Executive officer" means the chief executive officer
15 of a governmental entity to which an appointed public official
16 is appointed.

17 (d) "Governmental entity" means the entity, or a board, a
18 council, a commission, an authority, or other body thereof, to
19 which an appointed public official or an executive officer is
20 appointed or hired.

21 (2)(a) Beginning January 1, 2024, each appointed public
22 official and executive officer shall complete a minimum of 5
23 hours of board governance training for each term served.

24 1. An appointed public official or executive officer
25 holding office or employed by a governmental entity on January
26 1, 2024, shall complete the 5 hours of board governance training
27 before the expiration of his or her term of service. If an
28 appointed public official or executive officer is employed under
29 a contract that does not specify a termination date for
30 employment, the public official or executive officer must
31 complete the 5 hours of training by January 1, 2025, and once
32 every 4 years thereafter for the duration of his or her
33 employment.

34 2. An appointed public official or executive officer who is
35 appointed, reappointed, or hired after January 1, 2024, shall
36 complete the 5 hours of board governance training within 180
37 days after the date of his or her appointment, reappointment, or
38 hire.

39 (b) By January 1, 2024, the department shall:

40 1. Contract for or approve a board governance training



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41 program that includes an affordable web-based electronic media
42 option; or

43 2. Publish a list of approved board governance training
44 providers on its website. Approved providers may include a
45 Florida College System institution, a state university, a
46 nationally recognized entity specializing in board governance
47 education, or any other entity deemed qualified by the
48 department as capable of providing the minimum training
49 requirements specified in this subsection.

50 (c) The board governance training programs must, at a
51 minimum, provide educational materials and instruction on the
52 following:

53 1. Generally accepted corporate board governance principles
54 and best practices; corporate board fiduciary duty of care legal
55 analyses; corporate board oversight and evaluation procedures;
56 governmental entity responsibilities; executive officer
57 responsibilities; executive officer performance evaluations;
58 selecting, monitoring, and evaluating an executive management
59 team; reviewing and approving proposed investments,
60 expenditures, and budget plans; financial accounting and capital
61 allocation principles and practices; and new governmental entity
62 member orientation.

63 2. The fiduciary duty of care and obligations imposed upon
64 appointed public officials and executive officers pursuant to
65 this section.

66 (d) A governmental entity complies with the training
67 requirement under this subsection by providing a department-
68 approved program or contracting with a provider listed by the
69 department under subparagraph (b)2. However, for governmental



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entities with annual revenues of less than \$300,000, board governance training may be provided by in-house counsel of the governmental entity or the unit of government that created the governmental entity, if applicable, so long as the training complies with the minimum course content established by department rule.

(e) Within 30 days after completion of the board governance training, each appointed public official and executive officer shall certify, in writing or electronic form and under oath, to the department that he or she:

1. Has completed the training required by this subsection;
2. Has read the laws and relevant policies applicable to his or her position;
3. Will work to uphold such laws and policies to the best of his or her ability; and
4. Will faithfully discharge his or her fiduciary duty, as imposed by this section.

(f) The department shall adopt rules to implement this subsection.

(g) This subsection does not apply to appointed public officials and executive officers who:

1. Serve governmental entities whose annual revenues are less than \$100,000;
2. Hold elected office in another capacity; or
3. Complete board governance training involving fiduciary duties or responsibilities which is required under any other state law.

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



846988

And the title is amended as follows:

Delete line 14

and insert:

training for that calendar year; creating s.
112.31421, F.S.; defining terms; requiring appointed
public officials and executive officers to complete
training on board governance beginning on a specified
date; requiring the Department of Business and
Professional Regulation to contract for or approve a
training program or publish a list of approved
training providers; specifying requirements for such
training; providing that training may be provided by
in-house counsel for certain governmental entities;
requiring appointed public officials and executive
officers to certify their completion of the annual
training; requiring the department to adopt rules;
providing exceptions to the training requirement;
reenacting and

By the Committee on Ethics and Elections; and Senator Brodeur

582-02584-23

2023774c1

1 A bill to be entitled
 2 An act relating to ethics requirements for public
 3 officials; amending s. 99.061, F.S.; requiring
 4 candidates for specified elective offices to file a
 5 full and public disclosure at the time of qualifying;
 6 authorizing candidates to file a certain verification
 7 or receipt with the qualifying officer unless certain
 8 conditions exist; conforming provisions to changes
 9 made by the act; amending s. 112.3142, F.S.; requiring
 10 commissioners of community redevelopment agencies to
 11 complete annual ethics training; exempting
 12 commissioners who assumed office after a specified
 13 date from completing the required annual ethics
 14 training for that calendar year; reenacting and
 15 amending s. 112.3144, F.S.; requiring specified local
 16 officers to file full and public disclosures;
 17 requiring the Commission on Ethics to accept federal
 18 income tax returns, financial statements, and other
 19 forms or attachments showing sources of income for a
 20 specified purpose; deleting the prohibition on
 21 including a federal income tax return or a copy
 22 thereof for certain filings; requiring the commission
 23 to allow a filer to include attachments and other
 24 supporting documentation with his or her disclosure;
 25 revising the notice the commission sends to specified
 26 persons; requiring that disclosure statements be filed
 27 using the commission's electronic filing system;
 28 deleting provisions relating to financial statements
 29 filed by mail; revising a provision requiring the

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

582-02584-23

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30 commission to adopt a specified rule; requiring an
 31 individual appointed to replace an elected local
 32 officer who leaves office before the end of his or her
 33 term to file a full and public disclosure of financial
 34 interests within 30 days after his or her appointment
 35 and annually for the remainder of his or her term in
 36 office; amending s. 112.31445, F.S.; requiring the
 37 commission to publish a specified notice on the
 38 electronic filing system for the disclosure of
 39 financial interests; requiring that the filing system
 40 allow a filer to include attachments and other
 41 supporting documentation; amending s. 112.31446, F.S.;
 42 requiring that the electronic filing system allow a
 43 filer to submit attachments and other supporting
 44 documentation when a disclosure is filed; reenacting
 45 and amending s. 112.3145, F.S.; deleting a prohibition
 46 on including a federal income tax return or copy
 47 thereof in a financial disclosure; deleting a
 48 provision requiring specified local officers to file
 49 reports with the supervisor of elections of the
 50 officer's county of principal employment or residence;
 51 requiring local officers to file their quarterly
 52 reports of the names of clients they represent for a
 53 fee or commission with the commission; deleting a
 54 provision requiring the commission to provide a
 55 specified list to the supervisors of elections;
 56 requiring the commission to allow a filer to include
 57 attachments or other documentation when filing a
 58 disclosure; deleting a provision requiring supervisors

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59 of elections to receive and provide notice of
 60 delinquencies of the disclosure of financial
 61 interests; requiring the commission to provide a
 62 certain notice by e-mail, beginning on a specified
 63 date; providing that, beginning on a specified date,
 64 paper forms will no longer be provided; requiring the
 65 commission to determine which persons have not
 66 submitted a required disclosure within a specified
 67 timeframe; requiring the commission to send periodic
 68 specified notices to such persons; requiring that
 69 disclosure statements be filed using the electronic
 70 filing system, beginning on a specified date; revising
 71 the criteria for a rule that the commission must adopt
 72 regarding the electronic filing of disclosure
 73 statements; requiring the commission to determine the
 74 amount of fines for all delinquent filers, beginning
 75 on a specified date; conforming provisions to changes
 76 made by the act; amending s. 112.317, F.S.; increasing
 77 the maximum civil penalty allowed for certain
 78 violations related to statements of financial
 79 disclosure; amending s. 112.3215, F.S.; revising
 80 lobbying investigation requirements; authorizing the
 81 commission to dismiss certain complaints and
 82 investigations; requiring the commission to issue a
 83 specified public report if it dismisses such a
 84 complaint or investigation; amending s. 112.324, F.S.;
 85 authorizing the commission to dismiss financial
 86 disclosure complaints or referrals alleging de minimis
 87 violations; authorizing the commission to dismiss

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88 specified proceedings at any stage of disposition if a
 89 certain condition is met; providing an effective date.
 90

91 Be It Enacted by the Legislature of the State of Florida:
 92

93 Section 1. Subsection (5) and paragraph (a) of subsection
 94 (7) of section 99.061, Florida Statutes, are amended to read:
 95 99.061 Method of qualifying for nomination or election to
 96 federal, state, county, or district office.—

97 (5) At the time of qualifying for office, each candidate
 98 for a constitutional office, or for another elective office
 99 subject to an annual filing requirement pursuant to s. 112.3144,
 100 shall file a full and public disclosure of financial interests
 101 pursuant to s. 8, Art. II of the State Constitution, which must
 102 be verified under oath or affirmation pursuant to s.
 103 92.525(1)(a), and a candidate for any other office, including
 104 local elective office, shall file a statement of financial
 105 interests pursuant to s. 112.3145. A candidate who is subject to
 106 an annual filing requirement under s. 112.3144 may file a
 107 verification or receipt of electronic filing pursuant to s.
 108 112.3144(4). A candidate who is subject to an annual filing
 109 requirement under s. 112.3145 may file a verification or receipt
 110 of electronic filing pursuant to s. 112.3145(2)(c) unless the
 111 candidate is required to file a full and public disclosure of
 112 financial interests pursuant to s. 8, Art. II of the State
 113 Constitution or this subsection.

114 (7)(a) In order for a candidate to be qualified, the
 115 following items must be received by the filing officer by the
 116 end of the qualifying period:

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

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1. A properly executed check drawn upon the candidate's campaign account payable to the person or entity as prescribed by the filing officer in an amount not less than the fee required by s. 99.092, unless the candidate obtained the required number of signatures on petitions pursuant to s. 99.095. The filing fee for a special district candidate is not required to be drawn upon the candidate's campaign account. If a candidate's check is returned by the bank for any reason, the filing officer shall immediately notify the candidate and the candidate shall have until the end of qualifying to pay the fee with a cashier's check purchased from funds of the campaign account. Failure to pay the fee as provided in this subparagraph shall disqualify the candidate.

2. The candidate's oath required by s. 99.021, which must contain the name of the candidate as it is to appear on the ballot; the office sought, including the district or group number if applicable; and the signature of the candidate, which must be verified under oath or affirmation pursuant to s. 92.525(1)(a).

3. If the office sought is partisan, the written statement of political party affiliation required by s. 99.021(1)(b); or if the candidate is running without party affiliation for a partisan office, the written statement required by s. 99.021(1)(c).

4. The completed form for the appointment of campaign treasurer and designation of campaign depository, as required by s. 106.021.

5. The full and public disclosure or statement of financial interests required by subsection (5). A public officer who has

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filed the full and public disclosure or statement of financial interests with the Commission on Ethics ~~before or the supervisor of elections prior to~~ qualifying for office may file a copy of that disclosure or a verification or receipt of electronic filing as provided in subsection (5) at the time of qualifying.

Section 2. Paragraph (e) of subsection (2) of section 112.3142, Florida Statutes, is amended to read:

112.3142 Ethics training for specified constitutional officers, elected municipal officers, and commissioners.-

(2)

(e) The Legislature intends that a constitutional officer, a commissioner of a community redevelopment agency, or an elected municipal officer who is required to complete ethics training pursuant to this section receive the required training as close as possible to the date that he or she assumes office. A constitutional officer, a commissioner of a community redevelopment agency, or an elected municipal officer assuming a new office or new term of office on or before March 31 must complete the annual training on or before December 31 of the year in which the term of office began. A constitutional officer, a commissioner of a community redevelopment agency, or an elected municipal officer assuming a new office or new term of office after March 31 is not required to complete ethics training for the calendar year in which the term of office began.

Section 3. Notwithstanding the expiration date in section 92 of chapter 2022-157, Laws of Florida, paragraph (c) of subsection (6), paragraphs (a) and (c) of subsection (7), subsection (8), and subsection (10) of section 112.3144, Florida

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Statutes, are reenacted and amended, and paragraph (d) is added to subsection (1) of that section, to read:

112.3144 Full and public disclosure of financial interests.-

(1)

(d) The following local officers must comply with the financial disclosure requirements of s. 8, Art. II of the State Constitution and this section:

1. Mayors.

2. Elected members of the governing body of a municipality.

(6)

(c) Each separate source and amount of income which exceeds \$1,000 must be identified. For the purpose of a filer reporting income, the commission shall accept federal income tax returns, financial statements, and other forms or attachments showing sources of income Beginning January 1, 2023, a federal income tax return may not be used for purposes of reporting income, and the commission may not accept a federal income tax return or a copy thereof.

(7) (a) Beginning January 1, 2023, a filer may not include in a filing to the commission ~~a federal income tax return or a copy thereof~~, a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number. If a filer includes such information in his or her filing, the information may be made available as part of the official records of the commission available for public inspection and copying unless redaction is requested by the filer. The commission is not liable for the release of social

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security numbers or bank account, debit, charge, or credit card numbers included in a filing to the commission if the filer has not requested redaction of such information.

(c) The commission must conspicuously post a notice, in substantially the following form, in the instructions for the electronic filing system specifying that:

1. Any filer submitting information through the electronic filing system may not include ~~a federal income tax return or a copy thereof~~, a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number in any filing unless required by law.

2. Information submitted through the electronic filing system may be open to public inspection and copying.

3. Any filer has a right to request that the commission redact from his or her filing any social security number, bank account number, or debit, charge, or credit card number contained in the filing. Such request must be made in writing and delivered to the commission. The request must specify the information to be redacted and the specific section or sections of the disclosure in which it was included.

(8) Forms or fields of information for compliance with the full and public disclosure requirements of s. 8, Art. II of the State Constitution ~~must~~ shall be prescribed by the commission. The commission shall allow a filer to include attachments or other supporting documentation when filing a disclosure. The commission shall give notice of disclosure deadlines and delinquencies and distribute forms in the following manner:

(a) Not later than May 1 of each year, the commission shall

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prepare a current list of the names, e-mail addresses, and physical addresses of and the offices held by every person required to file full and public disclosure annually by s. 8, Art. II of the State Constitution, or other state law. Each unit of government shall assist the commission in compiling the list by providing to the commission not later than February 1 of each year the name, e-mail address, physical address, and name of the office held by such person within the respective unit of government as of December 31 of the preceding year.

(b) Not later than June 1 of each year, the commission shall distribute a copy of the form prescribed for compliance with full and public disclosure and a notice of the filing deadline to each person on the list. Beginning January 1, 2022, no paper forms will not be provided ~~by mail~~. The notice required under this paragraph and instructions for electronic submission of the form and any accompanying attachments must be delivered by e-mail.

(c) Not later than August 1 of each year, the commission shall determine which persons on the list have failed to file full and public disclosure and shall send delinquency notices to such persons. Each notice must state that a grace period is in effect until September 1 of the current year. Beginning January 1, 2022, the notice required under this paragraph must be delivered by e-mail and must be redelivered on a weekly basis by e-mail as long as a person remains delinquent.

(d) Disclosure statements required to be filed with the commission must be filed on the commission's electronic filing system as provided in s. 112.31446 ~~Disclosures must be received by the commission~~ not later than 5 p.m. of the due date.

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~~However, any disclosure that is postmarked by the United States Postal Service by midnight of the due date is deemed to have been filed in a timely manner, and a certificate of mailing obtained from and dated by the United States Postal Service at the time of the mailing, or a receipt from an established courier company which bears a date on or before the due date, constitutes proof of mailing in a timely manner.~~ Beginning January 1, 2023, upon request of the filer, the commission must provide verification to the filer that the commission has received the filed disclosure.

(e) Beginning January 1, 2023, a written declaration, as provided for under s. 92.525(2), accompanied by an electronic signature satisfies the requirement that the disclosure be sworn.

(f) Any person who is required to file full and public disclosure of financial interests and whose name is on the commission's list, and to whom notice has been sent, but who fails to timely file is assessed a fine of \$25 per day for each day late up to a maximum of \$1,500; however this \$1,500 limitation on automatic fines does not limit the civil penalty that may be imposed if the statement is filed more than 60 days after the deadline and a complaint is filed, as provided in s. 112.324. The commission must provide by rule the grounds for waiving the fine and the procedures by which each person whose name is on the list and who is determined to have not filed in a timely manner will be notified of assessed fines and may appeal. The rule must provide for and make specific that the amount of the fine due is based upon when the disclosure is filed on the commission's electronic filing system that is created and

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291 ~~maintained by the commission as provided in s. 112.31446. the~~
 292 ~~following:~~
 293 1. ~~The amount of the fine due is based upon the earliest of~~
 294 ~~the following:~~
 295 ~~a. When a statement is actually received by the office.~~
 296 ~~b. When the statement is postmarked.~~
 297 ~~c. When the certificate of mailing is dated.~~
 298 ~~d. When the receipt from an established courier company is~~
 299 ~~dated.~~
 300 2. Upon receipt of the disclosure statement or upon accrual
 301 of the maximum penalty, whichever occurs first, the commission
 302 shall determine the amount of the fine which is due and shall
 303 notify the delinquent person. The notice must include an
 304 explanation of the appeal procedure under subparagraph 2. 3.
 305 Such fine must be paid within 30 days after the notice of
 306 payment due is transmitted, unless appeal is made to the
 307 commission pursuant to subparagraph 2. 3. The moneys shall be
 308 deposited into the General Revenue Fund.
 309 2.3. Any reporting person may appeal or dispute a fine,
 310 based upon unusual circumstances surrounding the failure to file
 311 on the designated due date, and may request and is entitled to a
 312 hearing before the commission, which may waive the fine in whole
 313 or in part for good cause shown. Any such request must be in
 314 writing and received by the commission within 30 days after the
 315 notice of payment due is transmitted. In such a case, the
 316 reporting person must, within the 30-day period, notify the
 317 person designated to review the timeliness of reports in writing
 318 of his or her intention to bring the matter before the
 319 commission. For purposes of this subparagraph, "unusual

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320 circumstances" does not include the failure to monitor an e-mail
 321 account or failure to receive notice if the person has not
 322 notified the commission of a change in his or her e-mail
 323 address.
 324 (g) Any person subject to the annual filing of full and
 325 public disclosure under s. 8, Art. II of the State Constitution,
 326 or other state law, whose name is not on the commission's list
 327 of persons required to file full and public disclosure is not
 328 subject to the fines or penalties provided in this part for
 329 failure to file full and public disclosure in any year in which
 330 the omission occurred, but nevertheless is required to file the
 331 disclosure statement.
 332 (h) The notification requirements and fines of this
 333 subsection do not apply to candidates or to the first filing
 334 required of any person appointed to elective constitutional
 335 office or other position required to file full and public
 336 disclosure, unless the person's name is on the commission's
 337 notification list and the person received notification from the
 338 commission. The appointing official shall notify such newly
 339 appointed person of the obligation to file full and public
 340 disclosure by July 1. The notification requirements and fines of
 341 this subsection do not apply to the final filing provided for in
 342 subsection (10).
 343 (i) Notwithstanding any provision of chapter 120, any fine
 344 imposed under this subsection which is not waived by final order
 345 of the commission and which remains unpaid more than 60 days
 346 after the notice of payment due or more than 60 days after the
 347 commission renders a final order on the appeal must be submitted
 348 to the Department of Financial Services as a claim, debt, or

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other obligation owed to the state, and the department shall assign the collection of such fine to a collection agent as provided in s. 17.20.

(10) Each person required to file full and public disclosure of financial interests shall file a final disclosure statement within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under s. 8, Art. II of the State Constitution, or is otherwise required to file full and public disclosure for the final disclosure period. The head of the agency of each person required to file full and public disclosure for the final disclosure period shall notify such persons of their obligation to file the final disclosure and may designate a person to be responsible for the notification requirements of this subsection. When an elected local officer specified in paragraph (1)(d) leaves office before the expiration of his or her term, each individual appointed to replace such officer for the remainder of that term shall file a full and public disclosure of financial interests within 30 days after the date of appointment and must file a full and public disclosure of financial interests annually thereafter for the remainder of his or her term in office.

Section 4. Subsections (4) and (5) are added to section 112.31445, Florida Statutes, to read:

112.31445 Electronic filing system; full and public disclosure of financial interests.—

(4) The commission shall publish a notice on the electronic

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filing system instructing filers to redact a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number in their filings.

(5) The electronic filing system must allow a filer to include attachments or other supporting documentation when submitting a disclosure through the system.

Section 5. Paragraph (f) is added to subsection (2) of section 112.31446, Florida Statutes, to read:

112.31446 Electronic filing system for financial disclosure.—

(2) By January 1, 2022, the commission shall procure and test an electronic filing system. At a minimum, the electronic filing system must:

(f) Allow a filer to include attachments or other supporting documentation when submitting a disclosure or a statement through the system.

Section 6. Notwithstanding the expiration date in section 95 of chapter 2022-157, Laws of Florida, paragraphs (b) and (e) of subsection (2), paragraphs (a) and (c) of subsection (4), subsection (6), and subsection (8) of section 112.3145, Florida Statutes, are reenacted and amended to read:

112.3145 Disclosure of financial interests and clients represented before agencies.—

(2)

(b) Each state or local officer, except local officers specified in s. 112.3144(1)(d), and each specified state employee shall file a statement of financial interests no later than July 1 of each year. Each state officer, local officer, and

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specified state employee shall file a final statement of financial interests within 60 days after leaving his or her public position for the period between January 1 of the year in which the person leaves and the last day of office or employment, unless within the 60-day period the person takes another public position requiring financial disclosure under this section or s. 8, Art. II of the State Constitution or otherwise is required to file full and public disclosure or a statement of financial interests for the final disclosure period. Each state or local officer who is appointed and each specified state employee who is employed shall file a statement of financial interests within 30 days from the date of appointment or, in the case of a specified state employee, from the date on which the employment begins, except that any person whose appointment is subject to confirmation by the Senate shall file before ~~prior to~~ confirmation hearings or within 30 days from the date of appointment, whichever comes first.

(e) Beginning January 1, 2024, a statement of financial interests, and a final statement of financial interests and any amendments thereto, or any other form required by this section, except any statement of a candidate who is not subject to an annual filing requirement, must be filed electronically through an electronic filing system created and maintained by the commission as provided in s. 112.31446.

(4)(a) Beginning January 1, 2024, a filer may not include in a filing to the commission ~~a federal income tax return or a copy of thereof~~, a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer

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identification number. If a filer includes such information in his or her filing, the information may be made available as part of the official records of the commission available for public inspection and copying unless redaction is requested by the filer. The commission is not liable for the release of social security numbers, bank account numbers, or debit, charge, or credit card numbers included in a filing to the commission if the filer has not requested redaction of the information.

(c) The commission must conspicuously post a notice, in substantially the following form, in the instructions for the electronic filing system specifying that:

1. Any filer submitting information through the electronic filing system may not include ~~a federal income tax return or a copy thereof~~, a social security number; a bank, mortgage, or brokerage account number; a debit, charge, or credit card number; a personal identification number; or a taxpayer identification number in any filing unless required by law.

2. Information submitted through the electronic filing system may be open to public inspection and copying.

3. Any filer has a right to request that the commission redact from his or her filing any social security number, bank account number, or debit, charge, or credit card number contained in the filing. Such request must be made in writing and delivered to the commission. The request must specify the information to be redacted and the specific section or sections of the disclosure in which it was included.

(6) Each elected constitutional officer, state officer, local officer, and specified state employee shall file a quarterly report of the names of clients represented for a fee

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465 or commission, except for appearances in ministerial matters,
 466 before agencies at his or her level of government. For the
 467 purposes of this part, agencies of government shall be
 468 classified as state-level agencies or agencies below state
 469 level. ~~Each local officer shall file such report with the~~
 470 ~~supervisor of elections of the county in which the officer is~~
 471 ~~principally employed or is a resident.~~ Each state officer,
 472 elected constitutional officer, ~~and~~ specified state employee,
 473 and local officer shall file such report with the commission.
 474 The report must ~~shall~~ be filed only when a reportable
 475 representation is made during the calendar quarter and must
 476 ~~shall~~ be filed no later than the last day of each calendar
 477 quarter, for the previous calendar quarter. Representation
 478 before any agency shall be deemed to include representation by
 479 such officer or specified state employee or by any partner or
 480 associate of the professional firm of which he or she is a
 481 member and of which he or she has actual knowledge. For the
 482 purposes of this subsection, the term "representation before any
 483 agency" does not include appearances before any court or the
 484 Deputy Chief Judge of Compensation Claims or judges of
 485 compensation claims or representations on behalf of one's agency
 486 in one's official capacity. Such term does not include the
 487 preparation and filing of forms and applications merely for the
 488 purpose of obtaining or transferring a license based on a quota
 489 or a franchise of such agency or a license or operation permit
 490 to engage in a profession, business, or occupation, so long as
 491 the issuance or granting of such license, permit, or transfer
 492 does not require substantial discretion, a variance, a special
 493 consideration, or a certificate of public convenience and

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494 necessity.

495 (8) Beginning January 1, 2024, forms for compliance with
 496 the disclosure requirements of this section and a current list
 497 of persons subject to disclosure ~~must shall~~ be created by the
 498 commission ~~and provided to each supervisor of elections.~~ The
 499 commission shall allow a filer to include attachments or other
 500 supporting documentation when filing a disclosure. Beginning
 501 January 1, 2024, the commission ~~and each supervisor of elections~~
 502 shall give notice of disclosure deadlines, ~~and~~ delinquencies,
 503 and instructions ~~distribute forms~~ in the following manner:

504 (a) ~~1.~~ Not later than May 1 of each year, the commission
 505 shall prepare a current list of the names, e-mail addresses, and
 506 physical addresses of, and the offices or positions held by,
 507 every state officer, local officer, and specified employee. Each
 508 unit of government shall assist the commission in compiling the
 509 list by providing to the commission not later than February 1 of
 510 each year the name, e-mail address, physical address, and name
 511 of agency of, and the office or position held by, each state
 512 officer, local officer, or specified state employee within the
 513 respective unit of government as of December 31 of the preceding
 514 year.

515 ~~2. Not later than May 15 of each year, the commission shall~~
 516 ~~provide each supervisor of elections with a current list of all~~
 517 ~~local officers required to file with such supervisor of~~
 518 ~~elections.~~

519 (b) Beginning January 1, 2024, the commission shall notify,
 520 by e-mail, not later than June 1 of each year, all persons
 521 required to file a statement of financial interests, of all of
 522 the following:

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1. All applicable filing deadlines for completing and filing the statement of financial interests, prescribed under subsection (3), on the commission's electronic filing system.

2. Instructions on how to complete and file the statement of financial interests, as prescribed by subsection (3), on the commission's electronic filing system.

3. Instructions on how to upload attachments and documentation onto the commission's electronic filing system.

Beginning January 1, 2024, paper forms may not be provided and persons required to file a statement of financial interests must complete and file their statement of financial interests on the commission's electronic filing system pursuant to paragraph (2) (e) Not later than June 1 of each year, the commission and each supervisor of elections, as appropriate, shall distribute a copy of the form prescribed for compliance with subsection (3) and a notice of all applicable disclosure forms and filing deadlines to each person required to file a statement of financial interests. Beginning January 1, 2024, no paper forms will be provided. The notice required under this paragraph and instructions for electronic submission must be delivered by e-mail.

(c)1. Beginning January 1, 2024, but no later than August 1, 2024, and each August 1 thereafter, the commission shall determine the persons required to file a statement of financial interests pursuant to this part who have failed to do so and the commission shall send delinquency notices by e-mail to these persons. The commission shall redeliver weekly by e-mail such notice as long as the person remains delinquent.

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2. Each notice must state all of the following:

a. A grace period is in effect until September 1 of the current year.

b. Investigative or disciplinary action based upon the delinquency may not be taken by the agency head or commission if the statement is filed by September 1 of the current year, which includes the imposition of a daily fine of \$25 for each day late, up to a maximum penalty of \$1,500.

c. If upon the filing of a sworn complaint the commission finds that a person has failed to timely file the statement within 60 days after September 1 of the current year, such person is subject to the penalties imposed in s. 112.317 Not later than August 1 of each year, the commission and each supervisor of elections shall determine which persons required to file a statement of financial interests in their respective offices have failed to do so and shall send delinquency notices to these persons. Through December 31, 2023, delinquency notices must be sent by certified mail, return receipt requested. Each notice must state that a grace period is in effect until September 1 of the current year; that no investigative or disciplinary action based upon the delinquency will be taken by the agency head or commission if the statement is filed by September 1 of the current year; that, if the statement is not filed by September 1 of the current year, a fine of \$25 for each day late will be imposed, up to a maximum penalty of \$1,500; for notices distributed by a supervisor of elections, that he or she is required by law to notify the commission of the delinquency; and that, if upon the filing of a sworn complaint the commission finds that the person has failed to timely file the statement

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581 within 60 days after September 1 of the current year, such
 582 person will also be subject to the penalties provided in s.
 583 112.317. Beginning January 1, 2024, notice required under this
 584 paragraph must be delivered by e-mail and must be redelivered on
 585 a weekly basis by e-mail as long as the person remains
 586 delinquent.

587 (d) Beginning January 1, 2024, disclosure statements
 588 required to be filed with the commission must be filed using the
 589 commission's electronic filing system pursuant to s. 112.31446
 590 by 5 p.m. on the due date No later than November 15 of each
 591 year, the supervisor of elections in each county shall certify
 592 to the commission a list of the names and addresses of, and the
 593 offices or positions held by, all persons who have failed to
 594 timely file the required statements of financial interests. The
 595 certification must include the earliest of the dates described
 596 in subparagraph (g)1. The certification shall be on a form
 597 prescribed by the commission and shall indicate whether the
 598 supervisor of elections has provided the disclosure forms and
 599 notice as required by this subsection to all persons named on
 600 the delinquency list.

601 (e) ~~Statements must be received by the commission not later~~
 602 ~~than 5 p.m. of the due date. However, any statement that is~~
 603 ~~postmarked by the United States Postal Service by midnight of~~
 604 ~~the due date is deemed to have been filed in a timely manner,~~
 605 ~~and a certificate of mailing obtained from and dated by the~~
 606 ~~United States Postal Service at the time of the mailing, or a~~
 607 ~~receipt from an established courier company which bears a date~~
 608 ~~on or before the due date, constitutes proof of mailing in a~~
 609 ~~timely manner. Beginning January 1, 2023, upon request of the~~

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610 ~~filer, the commission must provide verification to the filer~~
 611 ~~that the commission has received the filed statement.~~

612 ~~(f)~~ Beginning January 1, 2023, the statement must be
 613 accompanied by a declaration as provided in s. 92.525(2) and an
 614 electronic acknowledgment thereof.

615 ~~(f)~~ ~~(g)~~ Any person ~~who is~~ required to file a statement of
 616 financial interests ~~and~~ whose name is on the commission's list,
 617 and to whom notice has been sent, but who fails to timely file
 618 is assessed a fine of \$25 per day for each day late up to a
 619 maximum of \$1,500; however, this \$1,500 limitation on automatic
 620 fines does not limit the civil penalty that may be imposed if
 621 the statement is filed more than 60 days after the deadline and
 622 a complaint is filed, as provided in s. 112.324. The commission
 623 must provide by rule the grounds for waiving the fine and
 624 procedures by which each person whose name is on the list and
 625 who is determined to have not filed in a timely manner will be
 626 notified of assessed fines and may appeal. The rule must provide
 627 for and make specific that the amount of the fine due is based
 628 upon the date and time that the disclosure is filed on the
 629 electronic filing system as provided in s. 112.31446. the
 630 ~~following:~~

631 1. ~~Beginning January 1, 2024, The amount of the fine due is~~
 632 ~~based upon the earliest of the following:~~

- 633 a. ~~When a statement is actually received by the office.~~
- 634 b. ~~When the statement is postmarked.~~
- 635 c. ~~When the certificate of mailing is dated.~~
- 636 d. ~~When the receipt from an established courier company is~~
 637 ~~dated.~~

638 2. ~~for a specified state employee, or a state officer, or~~

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639 local officer, upon receipt of the disclosure statement by the
 640 commission or upon accrual of the maximum penalty, whichever
 641 occurs first, ~~and for a local officer upon receipt by the~~
 642 ~~commission of the certification from the local officer's~~
 643 ~~supervisor of elections pursuant to paragraph (d),~~ the
 644 commission shall determine the amount of the fine which is due
 645 and shall notify the delinquent person. The notice must include
 646 an explanation of the appeal procedure under subparagraph 2. 3-
 647 The fine must be paid within 30 days after the notice of payment
 648 due is transmitted, unless appeal is made to the commission
 649 pursuant to subparagraph 2. 3-. The moneys are to be deposited
 650 into the General Revenue Fund.

651 2.3- Any reporting person may appeal or dispute a fine,
 652 based upon unusual circumstances surrounding the failure to file
 653 on the designated due date, and may request and is entitled to a
 654 hearing before the commission, which may waive the fine in whole
 655 or in part for good cause shown. Any such request must be in
 656 writing and received by the commission within 30 days after the
 657 notice of payment due is transmitted. In such a case, the
 658 reporting person must, within the 30-day period, notify the
 659 person designated to review the timeliness of reports in writing
 660 of his or her intention to bring the matter before the
 661 commission. For purposes of this subparagraph, the term "unusual
 662 circumstances" does not include the failure to monitor an e-mail
 663 account or failure to receive notice if the person has not
 664 notified the commission of a change in his or her e-mail
 665 address.

666 (g) (h) Any state officer, local officer, or specified
 667 employee whose name is not on the list of persons required to

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668 file an annual statement of financial interests is not subject
 669 to the penalties provided in s. 112.317 or the fine provided in
 670 this section for failure to timely file a statement of financial
 671 interests in any year in which the omission occurred, but
 672 nevertheless is required to file the disclosure statement.

673 (h) (i) The notification requirements and fines of this
 674 subsection do not apply to candidates or to the first or final
 675 filing required of any state officer, specified employee, or
 676 local officer as provided in paragraph (2) (b).

677 (i) (j) Notwithstanding any provision of chapter 120, any
 678 fine imposed under this subsection which is not waived by final
 679 order of the commission and which remains unpaid more than 60
 680 days after the notice of payment due or more than 60 days after
 681 the commission renders a final order on the appeal must be
 682 submitted to the Department of Financial Services as a claim,
 683 debt, or other obligation owed to the state, and the department
 684 shall assign the collection of such a fine to a collection agent
 685 as provided in s. 17.20.

686 Section 7. Subsection (1) of section 112.317, Florida
 687 Statutes, is amended to read:

688 112.317 Penalties.—

689 (1) Any violation of this part, including, but not limited
 690 to, failure to file disclosures required by this part or
 691 violation of any standard of conduct imposed by this part, or
 692 any violation of s. 8, Art. II of the State Constitution, in
 693 addition to any criminal penalty or other civil penalty
 694 involved, under applicable constitutional and statutory
 695 procedures, constitutes grounds for, and may be punished by, one
 696 or more of the following:

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- 697 (a) In the case of a public officer:
- 698 1. Impeachment.
- 699 2. Removal from office.
- 700 3. Suspension from office.
- 701 4. Public censure and reprimand.
- 702 5. Forfeiture of no more than one-third of his or her
- 703 salary per month for no more than 12 months.
- 704 6. A civil penalty not to exceed \$20,000 ~~\$10,000~~.
- 705 7. Restitution of any pecuniary benefits received because
- 706 of the violation committed. The commission may recommend that
- 707 the restitution penalty be paid to the agency of which the
- 708 public officer was a member or to the General Revenue Fund.
- 709 (b) In the case of an employee or a person designated as a
- 710 public officer by this part who otherwise would be deemed to be
- 711 an employee:
- 712 1. Dismissal from employment.
- 713 2. Suspension from employment for not more than 90 days
- 714 without pay.
- 715 3. Demotion.
- 716 4. Reduction in his or her salary level.
- 717 5. Forfeiture of no more than one-third salary per month
- 718 for no more than 12 months.
- 719 6. A civil penalty not to exceed \$20,000 ~~\$10,000~~.
- 720 7. Restitution of any pecuniary benefits received because
- 721 of the violation committed. The commission may recommend that
- 722 the restitution penalty be paid to the agency by which the
- 723 public employee was employed, or of which the officer was deemed
- 724 to be an employee, or to the General Revenue Fund.
- 725 8. Public censure and reprimand.

Page 25 of 28

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

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- 726 (c) In the case of a candidate who violates this part or s.
- 727 8(a) and (i), Art. II of the State Constitution:
- 728 1. Disqualification from being on the ballot.
- 729 2. Public censure.
- 730 3. Reprimand.
- 731 4. A civil penalty not to exceed \$20,000 ~~\$10,000~~.
- 732 (d) In the case of a former public officer or employee who
- 733 has violated a provision applicable to former officers or
- 734 employees or whose violation occurred before the officer's or
- 735 employee's leaving public office or employment:
- 736 1. Public censure and reprimand.
- 737 2. A civil penalty not to exceed \$20,000 ~~\$10,000~~.
- 738 3. Restitution of any pecuniary benefits received because
- 739 of the violation committed. The commission may recommend that
- 740 the restitution penalty be paid to the agency of the public
- 741 officer or employee or to the General Revenue Fund.
- 742 (e) In the case of a person who is subject to the standards
- 743 of this part, other than a lobbyist or lobbying firm under s.
- 744 112.3215 for a violation of s. 112.3215, but who is not a public
- 745 officer or employee:
- 746 1. Public censure and reprimand.
- 747 2. A civil penalty not to exceed \$20,000 ~~\$10,000~~.
- 748 3. Restitution of any pecuniary benefits received because
- 749 of the violation committed. The commission may recommend that
- 750 the restitution penalty be paid to the agency of the person or
- 751 to the General Revenue Fund.
- 752 Section 8. Present paragraph (d) of subsection (8) of
- 753 section 112.3215, Florida Statutes, is redesignated as paragraph
- 754 (e), a new paragraph (d) is added to that subsection, and

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paragraph (c) of that subsection is amended, to read:

112.3215 Lobbying before the executive branch or the Constitution Revision Commission; registration and reporting; investigation by commission.—

(8)

(c) The commission shall investigate any lobbying firm, lobbyist, principal, agency, officer, or employee upon receipt of information from a sworn complaint or from a random audit of lobbying reports indicating that the entity or individual has intentionally failed to disclose any material fact or has knowingly submitted false information in any report required by this section or by rules adopted pursuant to this section a possible violation other than a late-filed report.

(d) Notwithstanding paragraphs (a), (b), and (c), the commission may dismiss any complaint or investigation resulting from a random audit of lobbying reports, at any state of disposition, if it determines that the public interest is not served by proceeding further, in which case the commission must issue a public report stating with particularity its reasons for the dismissals.

Section 9. Paragraph (a) of subsection (11) and subsection (12) of section 112.324, Florida Statutes, are amended to read:

112.324 Procedures on complaints of violations and referrals; public records and meeting exemptions.—

(11)(a) Notwithstanding subsections (1)-(8), the commission may dismiss any complaint or referral at any stage of disposition if it determines that the violation that is alleged or has occurred is a de minimis violation attributable to inadvertent or unintentional error. In determining whether a

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violation was de minimis, the commission shall consider whether the interests of the public were protected despite the violation. ~~This subsection does not apply to complaints or referrals pursuant to ss. 112.3144 and 112.3145.~~

(12) Notwithstanding ~~the provisions of~~ subsections (1)-(8), the commission may, at its discretion, dismiss any complaint or referral, or dismiss any proceeding brought under s. 112.3215 at any stage of disposition should it determine that the public interest would not be served by proceeding further, in which case the commission shall issue a public report stating with particularity its reasons for the dismissal.

Section 10. This act shall take effect upon becoming a law.

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3-30-2023

Meeting Date

Rules

Committee

774

Bill Number or Topic

643476

Amendment Barcode (if applicable)

Name

Kerrie Stillman

Phone

850-488-7864

Address

325 John Knox Rd, Bldg E, Sk 20

Street

Tallahassee, FL

City

State

32303

Zip

Email

stillman.kerrie@leg.state.fl.us

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

Florida Commission
on Ethics



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3-30-2023

Meeting Date

Rules

Committee

774

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Kerrie Stillman

Phone

850-488-7864

Address

325 John Knox Rd, Bldg E, Ste 200

Street

Tallahassee, FL

City

State

32303

Zip

Email

Stillman, Kerrie@
leg.state.fl.us

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

Florida Commission
on Ethics



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 774

3/30/23

Meeting Date

Rules

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Amendment Barcode (if applicable)

Name Robert Yaffe

Phone 305 469 0380

Address 1267 102nd St

Street

Bay Harbor

City

FL

State

33154

Zip

Email robert@robertyaffe.com

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

Bay Harbor
City Council

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

SB 779

Bill Number or Topic

Amendment Barcode (if applicable)

3/30/23

Meeting Date

RIES

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Name

Josh Fuller

Phone

Address

1251 98 St.

Street

Email

jfuller@bayharbourislands-
FL.GOV

Bay Harbour Islands, FL 33154

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

Mayor Bay Harbour



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/30/23

APPEARANCE RECORD

774

Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

Derrick Tabertshofer

Phone

863-220-0138

Address

107 E. College Ave.

Email

dtabertshofer@alpha.org

Street

Tallahassee

City

FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐I am appearing without
compensation or sponsorship.☒I am a registered lobbyist,
representing:

Americans for prosperity

☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 Rules

BILL: CS/CS/SB 1098

INTRODUCER: Children, Families, and Elder Affairs Committee, Judiciary Committee and Senator Burton

SUBJECT: Withholding or Withdrawal of Life-prolonging Procedures

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Collazo</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
2.	<u>Delia</u>	<u>Cox</u>	<u>CF</u>	<u>Fav/CS</u>
3.	<u>Collazo</u>	<u>Twogood</u>	<u>RC</u>	<u>Favorable</u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1098 regulates the authority of a court-appointed guardian to consent to withhold or withdraw life-prolonging procedures, or sign an order not to resuscitate, on behalf of a ward. The bill allows the ward's wishes to be followed without delay, but still requires court approval to withhold or withdraw life-prolonging procedures in some cases.

Specifically, the bill creates a statute that:

- Authorizes a guardian of a ward's person to petition a court for authority to consent to withhold or withdraw life-prolonging procedures, if the guardian lacks sufficient authority to consent or if the proposal is in conflict with the wishes of the ward or the ward's next of kin.
- Requires the court to hold a hearing on the petition if it has been notified of an objection or conflict, or if the court has insufficient information to determine whether the criteria for granting the requested authority has been met.
- Requires the court to hold a preliminary hearing within 72 hours after the petition is filed, if a hearing is required and exigent circumstances are alleged, and either rule on the requested relief immediately or conduct an evidentiary hearing within 4 days.
- Allows a guardian without vested authority to consent to the withholding or withdrawal of life-prolonging procedures, without a hearing or prior court approval, if:
 - The ward is in a hospital and the ward's primary physician and at least one other consulting physician document that the ward's death is imminent;

- The guardian has notified known next of kin as to the intent to withhold or withdraw life-prolonging procedures and there is no known objection to the withholding or withdrawing of life-prolonging procedures by the ward, the next of kin, or any other interested person, and the hospital ethics committee has met and agrees with the guardian's proposal.

The bill also amends existing statutes to:

- Require initial and annual guardianship plans to state whether an advance directive or an order to not resuscitate listed therein remains in effect, or state the extent to which their authority to make health care decisions has been transferred by the court to the guardian.
- Provide that a surrogate under an advance directive, or an agent under a durable power of attorney, who has retained the authority to make health care decisions under the initial and annual guardianship plans may exercise that authority without additional approval by the court.
- Provide that any authority to make health care decisions that has been transferred by the court to the guardian may be exercised by the guardian, consistent with the advance directive or the durable power of attorney, and without additional approval by the court, unless there is a conflict over or objection to the guardian's proposed exercise of that authority.

The bill takes effect on July 1, 2023.

II. Present Situation:

Guardians and Guardianship

A “guardian” is someone who has been given the legal duty and authority to care for another person or his or her property because of that person’s infancy, disability, or incapacity.¹ A “guardianship” is a trust relationship designed to protect vulnerable members of society who do not have the ability to protect themselves.² The person for whom a guardian is appointed in a guardianship is called a “ward.”³

Once a guardian is appointed by the court, the guardian serves as a surrogate decision-maker and makes personal or financial decisions, or both, for the ward.⁴ Guardianships are generally disfavored because the ward loses his or her individual and civil rights; a guardian may be appointed only if the court finds there is no less restrictive alternative to a guardianship.⁵

There are two main forms of guardianship: guardianship over the person, and guardianship over the property – each of which may be limited or plenary. For adults, a guardianship may be established when a person has demonstrated that he or she is unable to manage some or all of his

¹ BLACK’S LAW DICTIONARY (11th ed., 2019).

² See Id.

³ Section 744.102(22), F.S.

⁴ See s. 744.102(9), F.S.

⁵ Section 744.1012(1)-(2), F.S.; see also Disability Rights Florida, *Types of Guardianship*, available at https://disabilityrightsflorida.org/disability-topics/disability_topic_info/types_of_guardianship (last visited March 11, 2023).

or her own affairs.⁶ If the adult is competent, this can be accomplished voluntarily. However, if an individual's mental competence is in question, an involuntary guardianship may be established through an adjudication of incompetence, which is determined by a court-appointed examination committee.⁷

A guardianship must be specific to the abilities and needs of the individual and should never be more restrictive than necessary.⁸ Consequently, state law recognizes different types of guardians and guardianship arrangements, including⁹ preneed guardians;¹⁰ voluntary guardianship;¹¹ emergency temporary guardianship;¹² limited guardianship;¹³ guardian advocates for individuals who have a developmental disability¹⁴ or for individuals receiving mental health treatment;¹⁵ and full (*i.e.* plenary) guardianship.¹⁶

Powers and Duties of Court-Appointed Guardians

The powers and duties of a court-appointed guardian may include:

- Filing an initial plan and annual reports.¹⁷
- Making provision for the medical, mental, rehabilitative, and personal care of the person.¹⁸
- Making residential decisions on behalf of the person.¹⁹
- Advocating on behalf of the person in institutional and other residential settings.²⁰
- Making financial decisions on behalf of the person.²¹

On the other hand, certain actions require specific authority from the court before a guardian may take them.²² In particular, a guardian may not:

- Commit the ward to a facility, institution, or licensed service provider without formal placement proceedings pursuant to state law.
- Consent on behalf of the ward to the performance on the ward of any experimental biomedical or behavioral procedure, or to the participation by the ward in any biomedical or behavioral experiment. The court may permit such performance or participation only if it is:
 - Of direct benefit to, and is intended to preserve the life of or prevent serious impairment to, the mental or physical health of the ward; or

⁶ See generally, s. 744.102(9), F.S. A plenary guardian exercises all delegable rights and powers of the ward after a court has determined that the ward lacks the capacity to perform all of the tasks necessary to care for his or her person or property. Section 744.102(9)(b), F.S.

⁷ See generally, s. 744.102(12), F.S.; see also ch. 744, pt. V, F.S. (regarding the adjudication of incapacity and appointment of guardians).

⁸ Section 744.1012(2), F.S.; see also Disability Rights Florida, *supra* note 5.

⁹ See generally Disability Rights Florida, *supra* note 5.

¹⁰ Sections 744.3045 and 744.3046, F.S.

¹¹ Section 744.341, F.S.

¹² Section 744.3031, F.S.

¹³ Section 744.441(1), F.S.; see also s. 744.102(9)(a), F.S. (defining "limited guardian").

¹⁴ Sections 744.3085 and 393.12, F.S.

¹⁵ Sections 744.3085 and 394.4598, F.S.

¹⁶ Section 744.441(1), F.S.; see also s. 744.102(9)(b), F.S. (defining "plenary guardian").

¹⁷ Section 744.361(6)-(7), F.S.

¹⁸ Section 744.361(13)(f), F.S.

¹⁹ See s. 744.361(13)(h), F.S.

²⁰ Section 744.361(13)(i), F.S.

²¹ See s. 744.361(12), F.S.

²² See ss. 744.3725 and 744.3215(4), F.S.

- Intended to assist the ward with developing or regaining his or her abilities.
- Initiate a petition for dissolution of marriage for the ward.
- Consent on behalf of the ward to termination of the ward's parental rights.
- Consent on behalf of the ward to the performance of a sterilization or abortion procedure on the ward.²³

State courts have long recognized the relationship between a guardian and his or her ward is a fiduciary one.²⁴ A fiduciary relationship exists between two persons when one of them is under a duty to act or to give advice for the benefit of the other, upon matters within the scope of that relationship.²⁵ Such duties include, but are not limited to, duties to refrain from self-dealing, of loyalty, to not take unfair advantage of the ward and to act in the best interest of the ward, and to disclose material facts.²⁶

State law also imposes specific duties upon guardians consistent with the basic duties of a fiduciary, including protecting and preserving the property of the ward as well as his or her overall physical and social health.²⁷ For example, as noted above, guardians must file initial²⁸ and annual guardianship reports,²⁹ and an annual accounting of the ward's property, with the court;³⁰ such reports may be deemed evidence of a guardian's faithful execution of his or her fiduciary duties.³¹

An overriding concern of reviewing courts is that guardian fiduciaries not breach their duties to their wards or abuse their positions. If a guardian breaches his or her fiduciary duty, the court must take action to protect the ward and the ward's assets.³²

Initial and Annual Guardianship Plans

Guardians must file an initial guardianship report with the court. It must be filed within 60 days after appointment and, for a guardian of the person, include an initial guardianship plan.³³ Initial guardian plans must contain certain specified information regarding the ward. Among other things, the initial plan must include information regarding the provision of medical, mental, or personal care services for the welfare of the ward; the kind of residential setting best suited for the needs of the ward; the provision of social and personal services for the welfare of the ward; and a list of any preexisting orders not to resuscitate or advance directives.³⁴

²³ *Id.*

²⁴ *See, e.g., In re Guardianship of Lawrence v. Norris*, 563 So. 2d 195, 197 (Fla. 1st DCA 1990) (noting that the guardian in that case was found to have violated his fiduciary duty as a guardian); *Denarii Systems, LLC v. Tellez*, 2011 WL 13322664 (S.D. Fla. 2011) (recognizing that fiduciary duties may be created by legal proceedings, such as in the case of a guardian and ward).

²⁵ *Doe v. Evans*, 814 So. 2d 370, 374 (Fla. 2002) (internal citations omitted).

²⁶ *Capital Bank v. MVP, Inc.* 644 So. 2d 515, 520 (Fla. 3d DCA 1994).

²⁷ *See generally* s. 744.361, F.S.

²⁸ Section 744.362, F.S.

²⁹ Section 744.367, F.S.

³⁰ Section 744.3678, F.S.

³¹ *See generally* s. 744.368, F.S. (directing the clerk of the circuit court to review each initial and annual guardianship report to ensure it contains specified information about the ward).

³² Section 744.446(5), F.S.

³³ Sections 744.361(6) and 744.362(1), F.S.

³⁴ *See* s. 744.363(1)(a)-(f), F.S.

Guardians must also file an annual guardianship report with the court. The annual guardianship report must be filed within 90 days after the last day of the anniversary month of appointment. The annual plan must cover the coming fiscal year, ending on the last day in the anniversary month.³⁵ Similar to the initial guardianship report, the annual guardianship report for a guardian of the person must include an annual guardianship plan³⁶ containing information regarding the medical and mental health conditions, treatment, and rehabilitation needs of the ward; the residence of the ward; the social condition of the ward; and a list of any preexisting orders not to resuscitate or advance directives.³⁷

Determining Incapacity

The process to determine incapacity and appoint a guardian begins with the filing of a petition in the appropriate circuit court. The petition must be served on, and read to, the allegedly incapacitated person. Notice and copies of the petition must also be provided to the attorney for the allegedly incapacitated person and served on all next of kin identified in the petition.³⁸

At hearing, the partial or total incapacity of the person must be established by clear and convincing evidence.³⁹ After finding that a person is incapacitated with respect to the potential exercise of one or more rights, the court must enter a written order of incapacity. A person is deemed incapacitated only as to those rights specified in the court's order.⁴⁰ If the order provides that the person is incapable of exercising delegable rights (described below), the court must next consider whether there are any alternatives to guardianship which will sufficiently address the incapacitated person's problems. If not, a guardian will be appointed.⁴¹

Rights of Incapacitated Persons

A person who has been determined to be incapacitated retains certain rights, regardless of the determination of incapacity, including the right to be treated humanely and with dignity and respect; the right to be protected against abuse, neglect, and exploitation; the right to receive visitors and communicate with others; and the right to privacy.⁴²

Certain rights may be removed from a person by an order determining incapacity, but not delegated to a guardian. They include the right to marry (if the right to enter into a contract has been removed, the right to marry is subject to court approval); the right to vote; the right to personally apply for government benefits; the right to have a driver license; the right to travel; and the right to seek or retain employment.⁴³

³⁵ Section 744.367(1), F.S.

³⁶ Section 744.367(1) and (3)(a), F.S.

³⁷ Section 744.3675, F.S.

³⁸ Section 744.331(1), F.S.

³⁹ Section 744.331(5)(c), F.S.

⁴⁰ Section 744.331(6), F.S.

⁴¹ Section 744.331(6)(b), F.S.

⁴² See s. 744.3215(1)(a)-(o), F.S. (specifying all retained rights).

⁴³ Section 744.3215(2)(a)-(f), F.S.

Additionally, certain other “delegable” rights may be removed from a person by an order determining incapacity, and also delegated to a guardian. They include the rights to:

- Contract.
- Sue and defend lawsuits.
- Apply for government benefits.
- Manage property or to make any gift or disposition of property.
- Determine his or her residence.
- Consent to medical and mental health treatment.
- Make decisions about his or her social environment or other social aspects of his or her life.⁴⁴

Advance Directives

State law defines an advance directive as a witnessed, oral statement or written instruction that expresses a person’s desires about any aspect of his or her future health care, including the designation of a health care surrogate, a living will, or an anatomical gift.⁴⁵ Designation of each of these can serve different purposes and have their own unique requirements and specifications under the law.⁴⁶

One type of advance directive, an “order not to resuscitate” or a “do not resuscitate order,” results in the withholding of cardiopulmonary resuscitation from an individual if the order is presented to the health care professional treating the patient.⁴⁷ For the order to be valid, it must be on the yellow form adopted by the Department of Health, signed by the patient’s physician and by the patient, or if the patient is incapacitated, the patient’s health care surrogate or proxy, court-appointed guardian, or agent under a durable power of attorney.⁴⁸

It is the responsibility of the Emergency Medical Services provider to ensure that the order form or the patient identification device, which is a miniature version of the form, accompanies the patient.⁴⁹ An order not to resuscitate may be revoked by the patient at any time, if signed by the patient, or the patient’s health care surrogate, proxy, court-appointed guardian or a person acting under a durable power of attorney.⁵⁰

A power of attorney is a writing that grants authority to an agent to act in the place of the principal.⁵¹ A “durable” power of attorney is a kind of power of attorney that cannot be terminated by the principal’s incapacity.⁵² Among many other things, a durable power of

⁴⁴ Section 744.3215(3)(a)-(g), F.S.

⁴⁵ Section 765.101(1), F.S.

⁴⁶ *See id.*

⁴⁷ *See* Fla. Admin. Code R. 64J-2.018(1).

⁴⁸ Section 401.45(3), F.S.; *see also* Fla. Admin. Code R. 64J-2.018(1)-(3).

⁴⁹ Fla. Admin. Code R. 64J-2.018(2)(b) and (4).

⁵⁰ Fla. Admin. Code R. 64J-2.018(6).

⁵¹ Section 709.2102(9), F.S.

⁵² Section 709.2102(4), F.S.; *see also* s. 709.2104 (specifying that a power of attorney is durable if it contains the words: “This durable power of attorney is not terminated by subsequent incapacity of the principal except as provided in chapter 709, Florida Statutes,” or similar words that show the principal’s intent that the authority conferred is exercisable notwithstanding the principal’s subsequent incapacity).

attorney may be used to allow another person to make health care decisions on behalf of an incapacitated principal.⁵³

Hospital Ethics Committees

Hospital ethics committees discuss and make recommendations about clinical ethical issues in a hospital.⁵⁴ Such committees are a resource for medical staff and administrators in addressing the difficult ethical questions and compliance issues that arise in patient care, including the proper respect for patient confidentiality or concerns about a patient's refusal of life-saving treatment.⁵⁵ They are typically multi-disciplinary in nature, consisting of representatives from different departments of the facility, including medicine, nursing, law, pastoral care, and social work.⁵⁶

The Florida Bioethics Network is an organization dedicated to the understanding and resolution of ethical and legal problems arising in health care and research in the state's hospitals, hospices, nursing homes, managed care organizations and teaching institutions.⁵⁷

III. Effect of Proposed Changes:

In 2020, in response to reports that a professional guardian had signed an order not to resuscitate against her ward's wishes, the Legislature began requiring guardians to obtain court approval to sign orders not to resuscitate.⁵⁸ Some courts went even further, also requiring court approval for a guardian to consent to withhold or withdraw life-prolonging procedures. These requirements, however, may result in prolonged suffering and be inconsistent with the ward's wishes.

The bill creates or amends several sections within the state's guardianship statutes⁵⁹ to regulate the authority of a court-appointed guardian to consent to withhold or withdraw life-prolonging procedures, or to sign an order not to resuscitate, on behalf of his or her ward. The bill allows a ward's wishes to be followed without delay, but still requires court approval to withhold or withdraw life-prolonging procedures in some cases.

⁵³ See *id.*; see also The Florida Bar, *Consumer Pamphlet: Florida Power of Attorney, About the Power of Attorney*, available at <https://www.floridabar.org/public/consumer/pamphlet13/#about> (last visited March 11, 2023).

⁵⁴ Alaska Regional Hospital, *Alaska Regional Hospital's Ethics Committee* (Apr. 16, 2018), available at <https://www.alaskaregional.com/blog/entry/alaska-regional-hospital-s-ethics-committee>; see also F. Hajibabae et al., *Hospital/clinical ethics committees' notion: an overview*, 9 J. MED. ETHICS HIST. MED. 17 (Dec. 18, 2016) available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC5432947/> (explaining that a healthcare ethics committee or hospital ethics committee is a body of persons established by a hospital or health care institution for the purpose of considering, debating, studying, taking action on, or reporting on ethical issues that arise in patient care) (all sites last visited March 11, 2023).

⁵⁵ Alaska Regional Hospital, *supra* note 54.

⁵⁶ Thaddeus Mason Pope, *The Growing Power of Healthcare Ethics Committees Heightens Due Process Concerns*, 15 CARDOZO JOURNAL OF CONFLICT RESOLUTION 425 (2014), available at <https://open.mitchellhamline.edu/cgi/viewcontent.cgi?article=1278&context=facsch> (last visited March 11, 2023).

⁵⁷ Florida Bioethics Network, *About Us*, available at <https://fhn.miami.edu/about-us/index.html> (last visited March 11, 2023).

⁵⁸ Ch. 2020-35, s. 6, Laws of Fla.; see also Greg Angel, *DeSantis Signs Florida Guardianship Bill Into Law, Expanding Oversight of Program* (Jun. 19, 2020), Spectrum News 13, available at <https://www.mynews13.com/fl/orlando/news/2020/06/19/desantis-signs-florida-guardianship-bill-into-law> (last visited March 11, 2023).

⁵⁹ Chapter 744, F.S.

Guardianship Powers Regarding Life-Prolonging Procedures

The bill creates s. 744.4431, F.S., entitled “Guardianship power regarding life-prolonging procedures.”

The bill authorizes a guardian of a ward’s person to petition a court pursuant to the Florida Probate Rules for authority to consent to withhold or withdraw life-prolonging procedures if:

- The right to consent to withhold or withdraw life-prolonging procedures has not been delegated to the guardian in the order appointing the guardian.
- Sufficient authority under the ward’s preexisting advance directive or durable power of attorney has not been transferred to the guardian.
- The proposed withholding or withdrawal of life-prolonging procedures is in conflict with the wishes, as presently or previously expressed, of the ward, the ward’s next of kin, or any interested person.

The bill requires the petition by the guardian to:

- Describe the proposed action for which court approval is sought and supply documentation of any existing authority for the guardian to make health care decisions for the ward.
- Notify the court of any known objections to the proposed action or of conflicts between the guardian’s proposed action to withhold or withdraw life-prolonging procedures and the wishes, presently or previously expressed, of the ward, the ward’s next of kin, or any interested person.
- Describe the circumstances or evidence and include affidavits or supporting documentation showing that the proposed action satisfies the applicable criteria in the statutes providing for health care decision proxies⁶⁰ or governing individuals who are in a persistent vegetative state.⁶¹

The bill requires the guardian to serve notice of the petition, and of any hearing, upon interested persons and the ward’s next of kin, unless waived by the court.

The bill requires the court to hold a hearing on the petition if it has been notified of an objection or conflict, or if the court has insufficient information to determine whether the criteria for granting the requested authority has been met. If a hearing is required and exigent circumstances are alleged, the court must hold a preliminary hearing within 72 hours after the petition is filed and do one of the following:

- Rule on the relief requested immediately after the preliminary hearing.
- Conduct an evidentiary hearing within 4 days after the preliminary hearing and rule on the relief requested immediately after the evidentiary hearing.

The bill provides that notwithstanding the requirements for court approval described in the bill, and if authority to withhold or withdraw life-prolonging procedures has not been vested in

⁶⁰ See generally s. 765.401, F.S.

⁶¹ See generally s. 765.404, F.S.

another person, the guardian may, without a hearing or prior court approval, consent to the withholding or withdrawal of life-prolonging procedures if:

- The ward is in a hospital and the ward's primary physician and at least one other consulting physician document that the ward's death is imminent;
- The guardian has notified known next of kin as to the intent to withhold life-prolonging procedures and there is no known objection to the withholding or withdrawing life-prolonging procedures by the ward, the next of kin, or any other interested person; and
- The hospital ethics committee has met and agrees with the guardian's proposal to withhold or withdraw life prolonging procedures. If the hospital does not have an ethics committee, it may arrange for this requirement to be satisfied by an ethics committee of another facility or a community-based ethics committee approved by the Florida Bioethics Network.

Rights of Persons Determined Incapacitated

State law includes a list of rights that may be removed from a person by an order determining incapacity and which may be delegated to a guardian.⁶² The bill amends this list to include the right to consent to the withholding or withdrawal of life-prolonging procedures⁶³ and subject to court approval as provided in the bill, if there are not valid advance directives, as defined in s. 765.101, and no valid alternative to guardianship that will sufficiently address the withholding or withdrawal of life-prolonging procedures.

Initial and Annual Guardianship Plans

The bill amends the statutes regulating the contents of initial⁶⁴ and annual⁶⁵ guardianship plans. Specifically, with respect to any signed orders not to resuscitate⁶⁶ or preexisting advance directives identified in the plans,⁶⁷ the bill requires the plan to state whether the order or the directive has been revoked, modified, or suspended by the court, or the extent to which authority under an order or directive has been transferred by the court to the guardian. The plan must also state the date of any revocation, modification, or suspension by the court.

The bill provides that either a surrogate designated by the ward in an advance directive, or an agent designated by the ward in a durable power of attorney, who retains authority to make health care decisions under the guardianship plan, may exercise that authority without additional approval by the court. Any authority of a surrogate or agent that has been transferred to a guardian may be exercised by the guardian, consistent with the advance directive or durable power of attorney, without additional approval by the court. And any power transferred to a

⁶² Section 744.3215(3), F.S.

⁶³ Section 765.101(12), F.S., defines "life-prolonging procedure" to mean any medical procedure, treatment, or intervention, including artificially provided sustenance and hydration, which sustains, restores, or supplants a spontaneous vital function. The term does not include the administration of medication or performance of medical procedure, when such medication or procedure is deemed necessary to provide comfort care or to alleviate pain.

⁶⁴ Section 744.363, F.S.

⁶⁵ Section 744.3675, F.S.

⁶⁶ See s. 401.45(3), F.S., for a full description of the requirements for issuance of a valid order not to resuscitate.

⁶⁷ See s. 765.101(1), F.S., defines "advance directive" to mean a witnessed written document or oral statement in which instructions are given by a principal or in which the principal's desires are expressed concerning any aspect of the principal's health care or health information, and includes, but is not limited to, the designation of a health care surrogate, a living will, or an anatomical gift made pursuant to part V of this chapter..

guardian to execute an order not to resuscitate or to consent to withhold or withdraw life-prolonging procedures is subject to court approval pursuant to the new statute created by the bill (s. 744.4431, F.S.) if there is a conflict over or objection to a proposed exercise of that power.

Guardian Powers upon Court Approval

The bill also implements conforming changes to the statute providing for the powers of guardians upon court approval.⁶⁸

Effective Date

The bill takes effect July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Under the bill, a surrogate under an advance directive, or an agent under a durable power of attorney, who has retained the authority to make health care decisions under the initial and annual guardianship plans may exercise that authority without additional approval by the court. Similarly, a guardian to whom the authority to make health care decisions has

⁶⁸ Section 744.441, F.S.

been transferred by the court may exercise that authority, consistent with the advance directive or the durable power of attorney and without additional approval by the court, unless there is a conflict over or objection to the guardian's proposed exercise of that authority. Accordingly, surrogates, agents, and guardians will in many cases be able to consent to the withholding or withdrawing of life-prolonging procedures, and sign orders to not resuscitate, without incurring the legal costs associated with seeking and obtaining court approval.

C. Government Sector Impact:

For the reasons stated above in the private sector impact, the bill will allow surrogates, agents, and guardians to in certain circumstances consent to the withholding or withdrawing of life-prolonging procedures, and sign orders to not resuscitate, without court approval. As a result, the bill may result in a positive fiscal impact to the courts from the reduction in workload as a result of less status and evidentiary hearings related to such decisions.

The Office of the State Courts Administrator states that the fiscal impact of the bill is indeterminate due to the unavailability of data needed to quantifiably establish the increase in judicial time and workload as a result of new judicial processes and hearing requirements related to petitions for withholding or withdrawal of life-prolonging procedures of incapacitated persons.⁶⁹

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 744.3215, 744.363, 744.3675, and 744.441.

This bill creates section 744.4431 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/CS by Children, Families, and Elder Affairs on March 14, 2023:

The committee substitute:

⁶⁹ The Office of the State Courts Administrator, *Agency Analysis of SB 1098*, March 6, 2023 (on file with the Senate Committee on Children, Families, and Elder Affairs).

- Delegates the right to consent to the withholding or withdrawal of life prolonging procedures, as defined in s. 765.101, subject to court-approval, only if there are not valid advance directives, as defined in s. 765.101, and there is also no valid alternative to guardianship that will sufficiently address the withholding or withdrawal of life-prolonging procedures.
- Modifies the conditions under which consent to the withholding or withdrawing of life-prolonging procedures may occur if the authority to withhold or withdraw life-prolonging procedures has not been vested in another person.
- Specifically, a guardian may, with or without court approval, consent to the withholding or withdrawing of life-prolonging procedures only if:
 - The ward is in a hospital and the ward's primary physician and at least one other consulting physician document that the ward's death is imminent;
 - The guardian has notified the next of kin as to the intent to withhold or withdraw life-prolonging procedures and there is no known objection to the withholding or withdrawing of life-prolonging procedures by the ward, the next of kin, or any other interested person; and
 - The hospital ethics committee has met and agrees with the guardian's proposal to withhold or withdraw life-prolonging procedures.

CS by Judiciary on March 7, 2023:

The committee substitute corrects two cross-references.

B. Amendments:

None.

By the Committees on Children, Families, and Elder Affairs; and
Judiciary; and Senator Burton

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1 A bill to be entitled
2 An act relating to withholding or withdrawal of life-
3 prolonging procedures; amending s. 744.3215, F.S.;
4 authorizing a court to delegate the right to consent
5 to the withholding or withdrawal of life-prolonging
6 procedures of incapacitated persons in certain
7 circumstances; amending ss. 744.363 and 744.3675,
8 F.S.; making technical changes; requiring that initial
9 and annual guardianship plans, respectively, state
10 whether any power under the ward's preexisting order
11 not to resuscitate or advance directive is revoked,
12 modified, suspended, or transferred to the guardian;
13 requiring that such plans state the date of such
14 action; establishing certain authority without
15 additional court approval; requiring a guardian to
16 obtain court approval to exercise transferred power to
17 execute an order not to resuscitate or consent to
18 withhold or withdraw life-prolonging procedures under
19 certain circumstances; creating s. 744.4431, F.S.;
20 authorizing a guardian to petition a court for
21 approval to consent to withhold or withdraw life-
22 prolonging procedures under certain circumstances;
23 specifying requirements for the petition; requiring
24 the guardian to serve certain notices; specifying
25 procedures that must be followed by the court in
26 acting on the petition; authorizing the guardian to
27 withhold or withdraw life-prolonging procedures
28 without a hearing or court approval under certain
29 circumstances; amending s. 744.441, F.S.; making

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30 technical changes; deleting provisions regarding the
31 authority of certain guardians to sign an order not to
32 resuscitate; providing an effective date.
33
34 Be It Enacted by the Legislature of the State of Florida:
35
36 Section 1. Paragraph (h) is added to subsection (3) of
37 section 744.3215, Florida Statutes, to read:
38 744.3215 Rights of persons determined incapacitated.—
39 (3) Rights that may be removed from a person by an order
40 determining incapacity and which may be delegated to the
41 guardian include the right:
42 (h) To consent to the withholding or withdrawal of life-
43 prolonging procedures, as defined in s. 765.101, subject to
44 court approval, if there are no valid advance directives as
45 defined in s. 765.101 and no valid alternatives to guardianship
46 that will sufficiently address the withholding or withdrawal of
47 life-prolonging procedures.
48 Section 2. Present subsections (2) through (6) of section
49 744.363, Florida Statutes, are redesignated as subsections (3)
50 through (7), respectively, paragraph (g) is added to subsection
51 (1) of that section, a new subsection (2) is added to that
52 section, and paragraph (f) of subsection (1) of that section is
53 amended, to read:
54 744.363 Initial guardianship plan.—
55 (1) The initial guardianship plan shall include all of the
56 following:
57 (f) 1. A list of any preexisting;
58 a. Orders not to resuscitate as described in ~~executed under~~

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s. 401.45(3) and the date such orders were signed; or

b. ~~Preexisting~~ Advance directives, as defined in s. 765.101 and, the date such directives were signed. ~~an order or directive was signed,~~

2. For each item listed under subparagraph 1., the plan must state whether the ~~such~~ order or directive has been revoked, modified, or suspended by the court or the extent to which authority under an order or a directive has been transferred by the court to the guardian. The plan must also state the date of such action by the court.

(g) ~~and~~ A description of the steps taken to identify and locate a the preexisting order not to resuscitate or advance directive.

(2) A surrogate designated by the ward in an advance directive or an agent designated by the ward in a durable power of attorney who retains authority to make health care decisions under the guardianship plan may exercise retained authority without additional approval by the court. Any authority of the surrogate to carry out the instructions in the advance directive or any authority of the agent under a durable power of attorney which is transferred to the guardian may be exercised by the guardian, consistent with the advance directive or durable power of attorney, without additional approval by the court. Any authority transferred to the guardian to execute an order not to resuscitate or to consent to withhold or withdraw life-prolonging procedures is subject to court approval pursuant to s. 744.4431 if there is a conflict over or objection to a proposed exercise of that authority.

Section 3. Present subsections (2), (3), and (4) of section

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744.3675, Florida Statutes, are redesignated as subsections (3), (4), and (5), respectively, paragraph (e) is added to subsection (1) of that section, a new subsection (2) is added to that section, and paragraph (d) of subsection (1) of that section is amended, to read:

744.3675 Annual guardianship plan.—Each guardian of the person must file with the court an annual guardianship plan which updates information about the condition of the ward. The annual plan must specify the current needs of the ward and how those needs are proposed to be met in the coming year.

(1) Each plan for an adult ward must, if applicable, include:

(d) 1. A list of any preexisting;

a. Orders not to resuscitate ~~as described in executed under~~ s. 401.45(3) and the date such orders were signed; or

b. ~~Preexisting~~ Advance directives, as defined in s. 765.101 and, the date such directives were signed. ~~an order or directive was signed,~~

2. For each item listed under subparagraph 1., the plan must state whether the ~~such~~ order or directive has been revoked, modified, or suspended by the court or the extent to which authority under an order or directive has been transferred by the court to the guardian. The plan must also state the date of any revocation, modification, or suspension by the court.

(e) ~~and~~ A description of the steps taken to identify and locate a the preexisting order not to resuscitate or advance directive.

(2) A surrogate designated by the ward in an advance directive or an agent designated by the ward in a durable power

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of attorney who retains authority to make health care decisions under the guardianship plan may exercise retained authority without additional approval by the court. Any authority of the surrogate to carry out the instructions in the advance directive or any authority of the agent under a durable power of attorney which is transferred to the guardian may be exercised by the guardian, consistent with the advance directive or durable power of attorney, without additional approval by the court. Any authority transferred to the guardian to execute an order not to resuscitate or to consent to withhold or withdraw life-prolonging procedures is subject to court approval pursuant to s. 744.4431 if there is a conflict over or objection to a proposed exercise of that authority.

Section 4. Section 744.4431, Florida Statutes, is created to read:

744.4431 Guardianship power regarding life-prolonging procedures.—

(1) A guardian of a ward's person may petition a court pursuant to the Florida Probate Rules for authority to consent to withhold or withdraw life-prolonging procedures for any of the following reasons:

(a) The right to consent to withhold or withdraw life-prolonging procedures has not been delegated to the guardian in the order appointing the guardian.

(b) Sufficient authority under the ward's preexisting advance directive or durable power of attorney has not been transferred to the guardian.

(c) The proposed withholding or withdrawal of life-prolonging procedures is in conflict with the wishes, as

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presently or previously expressed, of the ward, the ward's next of kin, or any interested person.

(2) The petition by the guardian must contain all of the following:

(a) A description of the proposed action for which court approval is sought and documentation of any existing authority for the guardian to make health care decisions for the ward.

(b) A statement regarding any known objections to the proposed action or of conflicts between the guardian's proposed action to withhold or withdraw life-prolonging procedures and the wishes, presently or previously expressed, of the ward, the ward's next of kin, or any interested person.

(c) A description of the circumstances or evidence and affidavits or supporting documentation showing that the proposed action satisfies the applicable criteria in s. 765.401 or s. 765.404.

(3) The guardian must serve notice of the petition, and of any hearing, upon interested persons and the ward's next of kin, unless waived by the court.

(4) The court must hold a hearing on the petition if the court has been notified of an objection or a conflict or if the court has insufficient information to determine whether the criteria for granting the requested authority has been met.

(5) If a hearing is required and exigent circumstances are alleged, the court must hold a preliminary hearing within 72 hours after the petition is filed and do one of the following:

(a) Rule on the relief requested immediately after the preliminary hearing.

(b) Conduct an evidentiary hearing within 4 days after the

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preliminary hearing and rule on the relief requested immediately after the evidentiary hearing.

(6) Notwithstanding the requirements for court approval imposed under this section, and if authority to withhold or withdraw life-prolonging procedures has not been vested in another person, the guardian may, without a hearing or prior court approval, consent to the withholding or withdrawal of life-prolonging procedures if all of the following apply:

(a) The ward is in a hospital, and the ward's primary physician and at least one other consulting physician document that the ward's death is imminent.

(b) The guardian has notified known next of kin as to the intent to withhold or withdraw life-prolonging procedures, and there is no known objection to the withholding or withdrawing of life-prolonging procedures by the ward, the next of kin, or any other interested person.

(c) The hospital ethics committee has met and agrees with the guardian's proposal to withhold or withdraw life-prolonging procedures. If the hospital does not have an ethics committee, it may seek approval by the ethics committee of another facility or a community-based ethics committee approved by the Florida Bioethics Network.

Section 5. Section 744.441, Florida Statutes, is amended to read:

744.441 Powers of guardian upon court approval.—After obtaining approval of the court pursuant to a petition for authorization to act,

~~(1)~~ a plenary guardian of the property, or a limited guardian of the property within the powers granted by the order

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appointing the guardian or an approved annual or amended guardianship report, may do all of the following:

(1)~~(a)~~ Perform, compromise, or refuse performance of a ward's contracts that continue as obligations of the estate, as he or she may determine under the circumstances.

(2)~~(b)~~ Execute, exercise, or release any powers as trustee, personal representative, custodian for minors, conservator, or donee of any power of appointment or other power that the ward might have lawfully exercised, consummated, or executed if not incapacitated, if the best interest of the ward requires such execution, exercise, or release.

(3)~~(c)~~ Make ordinary or extraordinary repairs or alterations in buildings or other structures; demolish any improvements; or raze existing, or erect new, party walls or buildings.

(4)~~(d)~~ Subdivide, develop, or dedicate land to public use; make or obtain the vacation of plats and adjust boundaries; adjust differences in valuation on exchange or partition by giving or receiving consideration; or dedicate easements to public use without consideration.

(5)~~(e)~~ Enter into a lease as lessor or lessee for any purpose, with or without option to purchase or renew, for a term within, or extending beyond, the period of guardianship.

(6)~~(f)~~ Enter into a lease or arrangement for exploration and removal of minerals or other natural resources or enter into a pooling or unitization agreement.

(7)~~(g)~~ Abandon property when, in the opinion of the guardian, it is valueless or is so encumbered or in such condition that it is of no benefit to the estate.

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233 ~~(8)(h)~~ Pay calls, assessments, and other sums chargeable or
 234 accruing against, or on account of, securities.

235 ~~(9)(i)~~ Borrow money, with or without security, to be repaid
 236 from the property or otherwise and advance money for the
 237 protection of the estate.

238 ~~(10)(j)~~ Effect a fair and reasonable compromise with any
 239 debtor or obligor or extend, renew, or in any manner modify the
 240 terms of any obligation owing to the estate.

241 ~~(11)(k)~~ Prosecute or defend claims or proceedings in any
 242 jurisdiction for the protection of the estate and of the
 243 guardian in the performance of his or her duties. Before
 244 authorizing a guardian to bring an action described in s.
 245 736.0207, the court shall first find that the action appears to
 246 be in the ward's best interests during the ward's probable
 247 lifetime. There shall be a rebuttable presumption that an action
 248 challenging the ward's revocation of all or part of a trust is
 249 not in the ward's best interests if the revocation relates
 250 solely to a devise. This subsection ~~paragraph~~ does not preclude
 251 a challenge after the ward's death. If the court denies a
 252 request that a guardian be authorized to bring an action
 253 described in s. 736.0207, the court must ~~shall~~ review the
 254 continued need for a guardian and the extent of the need for
 255 delegation of the ward's rights.

256 ~~(12)(l)~~ Sell, mortgage, or lease any real or personal
 257 property of the estate, including homestead property, or any
 258 interest therein for cash or credit, or for part cash and part
 259 credit, and with or without security for unpaid balances.

260 ~~(13)(m)~~ Continue any unincorporated business or venture in
 261 which the ward was engaged.

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262 ~~(14)(n)~~ Purchase the entire fee simple title to real estate
 263 in this state in which the guardian has no interest, but the
 264 purchase may be made only for a home for the ward, to protect
 265 the home of the ward or the ward's interest, or as a home for
 266 the ward's dependent family. If the ward is a married person and
 267 the home of the ward or of the dependent family of the ward is
 268 owned by the ward and spouse as an estate by the entirety and
 269 the home is sold pursuant to the authority of subsection (12)
 270 ~~paragraph (1)~~, the court may authorize the investment of any
 271 part or all of the proceeds from the sale toward the purchase of
 272 a fee simple title to real estate in this state for a home for
 273 the ward or the dependent family of the ward as an estate by the
 274 entirety owned by the ward and spouse. If the guardian is
 275 authorized to acquire title to real estate for the ward or
 276 dependent family of the ward as an estate by the entirety in
 277 accordance with the preceding provisions, the conveyance must
 278 ~~shall~~ be in the name of the ward and spouse and ~~shall~~ be
 279 effective to create an estate by the entirety in the ward and
 280 spouse.

281 ~~(15)(o)~~ Exercise any option contained in any policy of
 282 insurance payable to, or insuring to the benefit of, the ward.

283 ~~(16)(p)~~ Pay reasonable funeral, interment, and grave marker
 284 expenses for the ward from the ward's estate.

285 ~~(17)(q)~~ Make gifts of the ward's property to members of the
 286 ward's family in estate and income tax planning procedures.

287 ~~(18)(r)~~ When the ward's will evinces an objective to obtain
 288 a United States estate tax charitable deduction by use of a
 289 split interest trust (as that term is defined in s. 736.1201),
 290 but the maximum charitable deduction otherwise allowable will

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not be achieved in whole or in part, execute a codicil on the ward's behalf amending said will to obtain the maximum charitable deduction allowable without diminishing the aggregate value of the benefits of any beneficiary under such will.

(19) ~~(s)~~ Create or amend revocable trusts or create irrevocable trusts of property of the ward's estate which may extend beyond the disability or life of the ward in connection with estate, gift, income, or other tax planning or in connection with estate planning. The court shall retain oversight of the assets transferred to a trust, unless otherwise ordered by the court.

(20) ~~(t)~~ Renounce or disclaim any interest by testate or intestate succession or by inter vivos transfer.

(21) ~~(u)~~ Enter into contracts that are appropriate for, and in the best interest of, the ward.

(22) ~~(v)~~ As to a minor ward, pay expenses of the ward's support, health, maintenance, and education, if the ward's parents, or either of them, are alive.

~~(2) A plenary guardian or a limited guardian of a ward may sign an order not to resuscitate as provided in s. 401.45(3). When a plenary guardian or a limited guardian of a ward seeks to obtain approval of the court to sign an order not to resuscitate, if required by exigent circumstances, the court must hold a preliminary hearing within 72 hours after the petition is filed, and:~~

~~(a) Rule on the relief requested immediately after the preliminary hearing; or~~

~~(b) Conduct an evidentiary hearing not later than 4 days after the preliminary hearing and rule on the relief requested~~

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~~immediately after the evidentiary hearing.~~

Section 6. This act shall take effect July 1, 2023.

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Health Policy, *Chair*
Judiciary, *Vice Chair*
Appropriations Committee on Education
Appropriations Committee on Health
and Human Services
Banking and Insurance
Fiscal Policy
Rules
Transportation

JOINT COMMITTEE:

Joint Administrative Procedures Committee

SENATOR COLLEEN BURTON

12th District

March 14, 2023

The Honorable Debbie Mayfield
Committee on Rules
402 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Mayfield,

I respectfully request SB 1098: Withholding or Withdrawal of Life-prolonging Procedures be placed on the Committee on Rules agenda at your earliest convenience.

Thank you for your consideration.

Regards,

A handwritten signature in blue ink that reads "Colleen Burton".

Colleen Burton
State Senator, District 12

CC: Philip Twogood, Staff Director
Shasta Kruse, Deputy Staff Director
Cynthia Futch, Administrative Assistant

REPLY TO:

- ☐ 100 South Kentucky Avenue, Suite 260, Lakeland, Florida 33801 (863) 413-1529
- ☐ 318 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5012

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

3/30/23

Meeting Date

Rules

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
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SB 1098

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Karen Campbell

Phone

Address

1425 E. Piedmont Dr. #201B

Street

Email

Karen.Campbell@northflorida.org
org

Tallahassee

City

FL

State

32308

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

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SB1098

Bill Number or Topic

3/30/23

Meeting Date

Rules

Committee

Amendment Barcode (if applicable)

Name Bryan Cherry

Phone (850) 544-5673

Address 110 E. College Ave. STE 110
Street

Email bryan@pinpointresults

Tallahassee FL. 32301
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

FL Public Guardian
Coalition

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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3/30/23

Meeting Date

Rules

Committee

1098

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Karen Murillo - AARP

Phone

850-567-0414

Address

215 S. Monroe St.

Email

kmurillo@aarp.org

Street

Tallahassee FL

State

32301

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

AARP

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

30 March 2023

Meeting Date

Rules

Committee

Name

Stacy Butterfield, Polk County Clerk of Court

Phone

863-534-4000

Address

255 N. Broadway Ave

Email

stacybutterfield@polk-county.net

Street

Bartow

Florida

City

State

Zip

The Florida Senate

APPEARANCE RECORD

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SB 1098

Bill Number or Topic

Amendment Barcode (if applicable)

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
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(travel, meals, lodging, etc.),
sponsored by:

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3/30/23

Meeting Date

Rules

Committee

1098

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Olivia Babis

Phone

850-617-9718

Address

2473 Lane Dr. Ste 200

Street

Email

olivia.b@drflorida.org

Tallahassee

State

FL 32308

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

Disability Rights FL



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

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 Rules

BILL: SM 1382

INTRODUCER: Senator Collins

SUBJECT: United States Department of Defense

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Brown</u>	<u>Proctor</u>	<u>MS</u>	Favorable
2.	<u>Brown</u>	<u>Twogood</u>	<u>RC</u>	Favorable

I. Summary:

SM 1382 provides a memorial to urge the Congress of the United States to use authorization and appropriation authorities to prohibit “woke” social engineering and experimentation practices and mandate a return to a merit-based system for military force and development.

The memorial requires the Secretary of State to dispatch copies to the President of the United States, President of the United States Senate, Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

A memorial is an official legislative document addressed to the United States Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses but does not require the Governor’s approval nor is it subject to a veto.

II. Present Situation:

United States Presidential Directives on Diversity and Inclusion

On January 20, 2021, the President of the United States through executive order¹ removed earlier presidential restrictions on diversity and inclusion-related training for uniformed personnel.² On June 25, 2021, the President issued an executive order requiring agency heads in establishing diversity and inclusion training to:

¹ The Federal Register, *Executive Order 13985, Advancing Racial Equity and Support for Underserved Communities Through the Federal Government* (Jan. 20, 2021), available at <https://www.federalregister.gov/documents/2021/01/25/2021-01753/advancing-racial-equity-and-support-for-underserved-communities-through-the-federal-government> (last visited Mar. 16, 2023).

² Congressional Research Service, *Diversity and Inclusion Training for Military Personnel* (July 19, 2021), available at <https://crsreports.congress.gov/product/pdf/IN/IN11703> (last visited Mar. 16, 2023).

enable Federal employees, managers, and leaders to have knowledge of systemic and institutional racism and bias against underserved communities ... promote inclusive workplaces ... and have increased understanding of implicit and unconscious bias.³

Since 2011, openly gay and bisexual men and women have been allowed to serve in the military.⁴ In 2021, the ban on transgender individuals serving in the military was lifted through executive order.⁵

Military Promotion of Diversity, Equity and Inclusion

The Under Secretary of Defense for Personnel and Readiness at the Office for Diversity, Equity, and Inclusion, United States Department of Defense oversees and implements diversity management and equal opportunity trainings and programs for:

- Active duty military personnel;
- Reserve component military personnel; and
- DoD civilian employees.⁶

On July 14, 2020, then Secretary of Defense directed the Under Secretary of Defense for Personnel and Readiness by October 1, 2020, to incorporate in professional military education instruction the impact of biases and prejudices on decision-making.⁷

On September 14, 2021, the secretary of the DoD created the Defense Advisory Committee on Diversity and Inclusion.⁸ The committee's purpose is to provide advice and make recommendations on improving racial and ethnic diversity, inclusion, and equal opportunity.⁹

The operation center at the DoD's Defense Information Systems Agency initiated a pilot project on hiring practices.¹⁰ To reduce unconscious bias, names were removed off of applications submitted for vacancies.¹¹

³ The Federal Register, *Executive Order 14035 on Diversity, Equity, Inclusion, and Accessibility in the Federal Workplace* (June 25, 2021), available at <https://www.whitehouse.gov/briefing-room/presidential-actions/2021/06/25/executive-order-on-diversity-equity-inclusion-and-accessibility-in-the-federal-workforce/> (last visited Mar. 16, 2023).

⁴ Dep't of Defense, Military One Source, *LGBTQ in the Military: A Brief History, Current Policies and Safety*, available at <https://www.militaryonesource.mil/relationships/support-community/lgbtq-in-the-military/> (last visited Mar. 15, 2023).

⁵ The Federal Register, *Executive Order 14004 on Enabling All Qualified Americans to Serve Their Country in Uniform* (Jan. 25, 2021), available at <https://www.federalregister.gov/documents/2021/01/28/2021-02034/enabling-all-qualified-americans-to-serve-their-country-in-uniform> (last visited Mar. 16, 2023).

⁶ Dep't of Defense, Office for Diversity, Equity, and Inclusion, *Office for Diversity, Equity, and Inclusion*, available at <https://diversity.defense.gov/> (last visited Mar. 16, 2023).

⁷ Congressional Research Service, *supra* note 6.

⁸ Dep't of Defense, *DoD Announces New Defense Advisory Committee on Diversity and Inclusion* (Sept. 23, 2022), available at <https://www.defense.gov/News/Releases/Release/Article/3169272/dod-announces-new-defense-advisory-committee-on-diversity-and-inclusion/> (last visited Mar. 14, 2023).

⁹ *Id.*

¹⁰ David Vergun, Dep't of Defense News, *Officials Discuss Diversity, Equity and Inclusion Benefits to DoD* (Feb. 2, 2022), available at <https://www.defense.gov/News/News-Stories/Article/Article/2920971/officials-discuss-diversity-equity-and-inclusion-benefits-to-dod/> (last visited Mar. 14, 2023).

¹¹ *Id.*

In addition to the DoD, branches of the military have initiated diversity programs and projects. In 2020, the Army created Project Inclusion, to improve diversity, equity, and inclusion across the force.¹² Initial measures include omitting official photos from recommendations for applicants to officer selection boards and examining possible racial disparity within the military system of justice.¹³ The Army through its Recruiting Command established the Diversity Outreach Inclusion Team, to increase representation of minorities and women among military personnel.¹⁴ In furtherance, the team educates diverse communities on access to college through military scholarship offerings and tuition assistance.¹⁵

On May 3, 2021, the Department of the Navy released immediate measures to promote diversity, equity, and inclusion in policies, programs, and operations.¹⁶ Measures include a review of:

- Contracting practices to identify improvements to promote supplier diversity;
- Policies and conventions for naming ships, bases, and other assets by Navy and Marine Corps leadership, to recommend improved diverse representation;
- Guidelines for selection and assignment boards to remove potential barriers to diversity; and
- Diversity within the Senior Executive Service, and the process of recruitment, selection, and development of Senior Executives to improve the pace of diversity and strength of the applicant pool, while remaining cognizant of merit system principles.¹⁷

On August 9, 2022, the Air Force released updated demographic targets among commissioned officers.¹⁸ The Air Force aspires future officer applicants to be:

- 67.5 percent White (down from the 2014 goal of 80 percent);
- 13 percent Black/African American (up from 10 percent);
- 10 percent Asian (up from 8 percent);
- 7 percent multiracial (no previous goal set);
- 1.5 percent American Indian/Native Alaskan (up from 1 percent); and
- 1 percent Native Hawaiian/Pacific Islander (no change).¹⁹

¹² U.S. Army Public Affairs, *Army unveils new initiative to promote diversity, inclusion across the force* (June 25, 2020), available at https://www.army.mil/article/236766/army_unveils_new_initiative_to_promote_diversity_inclusion_across_the_force (last visited Mar. 14, 2023).

¹³ *Id.*

¹⁴ Joe Lacdan, Army News Service, *USAREC outlines measures to increase inclusivity in recruiting* (Mar. 14, 2022), available at https://www.army.mil/article/254672/usarec_outlines_measures_to_increase_inclusivity_in_recruiting (last visited Mar. 14, 2023).

¹⁵ *Id.*

¹⁶ The Secretary of the Navy, *Memorandum for Assistant Secretaries of the Navy Chief of Naval Operations Commandant of the Marine Corps, Department of the Navy Diversity, Equity, and Inclusion Planning Actions* (May 3, 2021), available at <https://media.defense.gov/2021/May/17/2002645340/-1/-1/0/DON%20DIVERSITY%20EQUITY%20AND%20INCLUSION%20PLANNING%20ACTIONS.PDF/DON%20DIVERSITY%20EQUITY%20AND%20INCLUSION%20PLANNING%20ACTIONS.PDF> (last visited Mar. 15, 2023).

¹⁷ *Id.*

¹⁸ Air Force Times, *Air Force Leaders Set New Goals*, available at <https://www.airforcetimes.com/news/your-air-force/2022/08/30/air-force-leaders-set-new-goals-to-diversify-officer-corps/#:~:text=As%20of%20June%2C%20just%202023,the%20Air%20Force%20Personnel%20Center> (last visited Mar. 15, 2023).

¹⁹ *Id.*

The Air Force also aims for Hispanic or Latino members to comprise 15 percent of its officer applicants, up from 10 percent in 2014.²⁰

To increase the number of women in its pool of commissioned officers, the Air Force aims for a composition of 64 percent men and 36 percent women. This builds upon the 2014 goal of 70 percent men to 30 percent women.²¹

Memorial

A memorial is an official legislative document addressed to the United States Congress, the President of the United States, or some other governmental entity that expresses the will of the Legislature on a matter within the jurisdiction of the recipient. A memorial requires passage by both legislative houses but does not require the Governor's approval nor is it subject to a veto.

III. Effect of Proposed Changes:

SM 1382 provides a memorial to urge the Congress of the United States to use its authorization and appropriation authorities to prohibit the use of “woke” social engineering and experimentation practices, which erode military effectiveness, and mandate a return to a merit-based system for military force development and composition.

The memorial requires the Secretary of State to dispatch copies to the President of the United States, President of the United States Senate, Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

²⁰ *Id.*

²¹ *Id.*

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

None.

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 Collins

14-01912-23

20231382__

Senate Memorial

A memorial to the Congress of the United States, urging Congress to restore the United States Department of Defense's superior warfighting principles of recruiting, assigning, training, promoting, and retaining personnel solely based on merit and ensuring such personnel maintain and display a warrior ethos.

WHEREAS, the United States became the world's greatest warfighting nation shortly after its founding, a fact clearly demonstrated in the 1900s and early 2000s through its engagement in two World Wars and several other military campaigns throughout the globe, establishing a deterrent effect that has prevented another World War for almost 80 years, and

WHEREAS, the United States' military dominance in warfighting came about through reliance on the concept of meritocracy, in which personnel are recruited, assigned to specialties, assigned to positions within a unit, retained, and promoted based on their demonstrated aptitude and performance in the roles they are assigned to perform, regardless of their race, gender, sexual preference, or other person-centric identifiers, and

WHEREAS, the United States' military dominance in warfighting also came about through the ability of personnel to have and maintain a warrior ethos, one in which they are able to transition from being a kind, compassionate individual in peacetime to one who is willing and able to engage an enemy in battle with violence and lethality, and this includes support

Page 1 of 4

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

14-01912-23

20231382__

personnel who may not typically be called upon to engage an enemy face-to-face but nonetheless may find themselves in situations that require them to do so, and

WHEREAS, over the past several years, the United States Department of Defense and its military services have engaged in various practices eroding these warfighting principles to the point at which United States military dominance has been called into serious question, which practices include, but are not limited to:

(1) Overemphasizing and relying on diversity and inclusion in all its forms, including gender, gender identity, race, and sexual preference, as a primary determinant in how military forces should be comprised without providing credible and verifiable evidence that such a prescribed composition results in higher job performance, unit effectiveness, and mission accomplishment, as opposed to a model in which a meritocracy-based force composition is used;

(2) Making nonsensical "unconscious bias" training mandatory for all military and civilian personnel;

(3) Instituting mandatory "emergency use only" COVID-19 vaccines with little regard to individual medical concerns in light of the Anthrax vaccine mandate problems of the late 1990s and denying almost all requests for exemptions based on religious grounds, which is particularly troubling given the recent decision by the United States Department of Defense to rescind the COVID-19 vaccine mandate; and

(4) Requiring mandatory training at the United States Air Force Academy to incorporate "person-centered" and gender-neutral language when describing individuals and to request

Page 2 of 4

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14-01912-23

20231382__

cadets to consider using the term "parent" or "caregiver" rather than "mother" or "father" as to not offend those that may come from a different parenting background, and

WHEREAS, such practices are having a detrimental effect on recruitment, as the United States Army was 15,000 soldiers short of its 2022 recruiting goals, the worst recruiting year on record since the Armed Forces switched to an all-volunteer force nearly 50 years ago, and the remaining branches of the Armed Forces are well behind their historic goal rates as they enter into the 2023 recruiting season, and

WHEREAS, recent studies have found that most young Americans are not fit for military service, with the Department of Defense estimating that just 2 percent of those between the ages of 17 and 21 years have the desired combination of strong academic credentials, adequate physical fitness, and an interest in serving, and

WHEREAS, the combination of an incapable and uninterested recruiting age group and nonmerit-based practices calls into serious question whether the United States military currently has a sufficient number of members who hold a warrior ethos needed to effectively engage an enemy, and

WHEREAS, those with the necessary warrior ethos currently serving in the United States military are more likely to leave service, and those with the necessary warrior ethos before entering into service are more likely to refrain from enlisting as they discover the composition and practices of the Armed Services as referenced herein, NOW, THEREFORE,

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

Page 3 of 4

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14-01912-23

20231382__

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That the Congress of the United States is urged to use its authorization and appropriation authorities to prohibit the use of such "woke" social engineering and experimentation practices, which are eroding military effectiveness, and to mandate a return to a merit-based system for military force development and composition.

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BE IT FURTHER RESOLVED that the Secretary of State dispatch copies of this memorial to the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and each member of the Florida delegation to the United States Congress.

Page 4 of 4

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THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR JAY COLLINS
14th District

COMMITTEES:

Agriculture, *Chair*
Appropriations Committee on Education
Appropriations Committee on Transportation, Tourism,
and Economic Development
Education Postsecondary
Education Pre-K -12
Fiscal Policy
Military and Veterans Affairs, Space, and
Domestic Security

SELECT COMMITTEE:

Select Committee on Resiliency

JOINT COMMITTEE:

Joint Select Committee on Collective Bargaining

March 22, 2023

Senator Debbie Mayfield
400 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Mayfield,

I respectfully request that SM 1382 – United States Department of Defense, be placed on the next available agenda for the Committee on Rules. This bill is crucial for urging Congress to strengthen the United States warfighting abilities.

Should you have any questions or concerns, please feel free to contact my office. Thank you in advance for your consideration.

Thank you,

A handwritten signature in black ink, appearing to read "Jay Collins", with a horizontal line underneath.

Senator Jay Collins
District 14

Cc: Philip Twogood, Staff Director
Shasta W. Kruse, Deputy Staff Director
Cynthia Futch, Committee Administrative Assistant

REPLY TO:

- ☐ 405 North Reo Street, Suite 170, Tampa, Florida 33609 (813) 281-2538
- ☐ 305 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 387-4014

Senate's Website: www.flsenate.gov

KATHLEEN PASSIDOMO
President of the Senate

DENNIS BAXLEY
President Pro Tempore

The Florida Senate

APPEARANCE RECORD

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3.30-23

Meeting Date

Rules

Committee

1382

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Barbara DeVane

Phone

850-251-4280

Address

125 E. Brevard St

Email

barbadevane1@yahoo.com

Street

Tallahassee FL 32308

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FL NOA

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/30/2023

Meeting Date

Senate Rules

Committee

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SB 1382

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Kevin Parker

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
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☐

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representing:

☐

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something of value for my appearance
(travel, meals, lodging, etc.),
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S-001 (08/10/2021)

The Florida Senate
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3 / 30 / 23

Meeting Date

SENATE RULES

Committee

SB 1382

Bill Number or Topic

Amendment Barcode (if applicable)

Name CARLO GUTIERREZ Phone _____

Address _____ Email _____
Street

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/30/23

Meeting Date

S. Rules

Committee

SM 1382

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Jon Harris Maurer MAURER

Phone

Address

201 E. Park Ave.

Email

Street

TLH

City

FL

State

32301

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without compensation or sponsorship.

☒

I am a registered lobbyist, representing:

Equality Florida

☐

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

Received after bill considered

The Florida Senate

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3130123

Meeting Date

Quies

Committee

SB 1382

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Lyle Mitchell

Phone

904 304 6228

Address

9064 Polk Ave

Email

LHM:mitchell@yahoo.com

Street

Jacksonville

FL

32208

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

03/30/23

Meeting Date

Rules

Committee

SMR1382

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Lissie Morales

Phone

Address

Street

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by: Florida Rising

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 Rules

BILL: SB 1438

INTRODUCER: Senators Yarborough and Perry

SUBJECT: Protection of Children

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Favorable
2.	Davis	Twogood	RC	Favorable

I. Summary:

SB 1438 prohibits a person from *knowingly* admitting a child to an adult live performance. In broad, general terms, an adult live performance is a presentation that depicts or simulates nudity, sexual conduct, or specific sexual activities. The penalty for violating this prohibition is a first degree misdemeanor which is punishable by imprisonment that does not exceed 1 year and a fine that does not exceed \$1,000.

If a person who knowingly admits a child to an adult live performance has a license to operate a public lodging establishment or a public food service or has a beverage license, he or she is subject to having that license suspended or revoked and being fined. The fine for a first violation is \$5,000 and the fine for a second or subsequent violation is \$10,000.

The bill takes effect upon becoming law.

II. Present Situation:

The Division of Hotels and Restaurants (Section 1)

Lodging and Food Establishments

The Division of Hotels and Restaurants, within the Department of Business and Professional Regulation, is responsible for inspecting and regulating public lodging and public food service establishments to safeguard the public health, safety, and welfare.¹ In order to fulfill its responsibilities of inspecting and enforcing the pertinent provisions of law, the division is granted the right of entry and access to those establishments at any reasonable time.²

¹ Section 509.032(1), F.S.

² Section 509.032(2)(b), F.S.

Licensure

Each public lodging and food service establishment operating in the state is required to obtain a license from the division before operating. The license must be conspicuously displayed in the office or lobby of the establishment.³

Penalties

If a public lodging or food service establishment operates in violation of chapter 509, F.S., or the rules of the division, it is subject to:

- Fines not to exceed \$1,000 per offense;
- Mandatory completion of a remedial program; and
- Suspension, revocation, or refusal of a license issued under chapter 509.⁴

A license may not be suspended for more than 12 months and at the end of the suspension, the establishment may apply for its license to be reinstated or renewed.⁵

Grounds for Fining, Suspending, or Revoking a License

The division is authorized to fine, suspend, or revoke the license of a public lodging establishment or public food service if:

- A person with a direct financial interest in the establishment has, within the preceding 5 years, been adjudicated guilty or forfeited a bond when charged with soliciting for prostitution, pandering, letting premises for prostitution, keeping a disorderly place, illegally dealing in controlled substances, or any other crime reflecting on professional character.
- The establishment has been deemed an imminent danger to the public health and safety by the division or a local health authority for failure to meet sanitation standards or the premises have been determined to be unsafe or unfit for human occupancy.⁶

Beverage Law (Section 2)

The Division of Alcoholic Beverages and Tobacco within the Department of Business and Professional Regulation is responsible for supervising the conduct, management, and operation of the manufacturing, packaging, distribution, and sale of all alcoholic beverages in the state. The division is also responsible for enforcing the provisions of the Beverage Law, the tobacco law, and the corresponding rules and regulations.⁷

Licensure Qualifications

Licenses are issued by the division to people who are of good moral character and at least 21 years old. Similarly, corporate licenses are issued to corporations whose officers are of good moral character and at least 21 years of age.⁸

³ Section 509.241(1) and (2), F.S.

⁴ Section 509.261(1), F.S.

⁵ Section 509.261(5)(a), F.S.

⁶ Section 509.261(6)(a) and (b), F.S.

⁷ Section 561.02, F.S.

⁸ Section 561.15(1), F.S.

However, a license may not be issued to:

- Anyone who has been convicted within the last 5 years of any offense against the beverage laws of this state, the United States, or any other state;
- Anyone convicted within the last 5 years in this state, any other state, or the United States, of soliciting for prostitution, pandering, letting premises for prostitution, or keeping a disorderly place or of any criminal violation of chapter 893, F.S., pertaining to drug abuse prevention and control, or the controlled substance act of any other state or the Federal Government; or
- Anyone who has been convicted in the last 15 years of any felony in this state or any other state; or to a corporation or any of the officers of whom shall have been so convicted.⁹

All licenses issued by the division are issued as annual licenses.¹⁰

Licensure Revocation and Suspension

The division is authorized to revoke or suspend the license of any person who:

- Violates any state or federal laws or a municipal or county regulation relating to the hours of sale, service, or consumption of alcoholic beverages, permits disorderly conduct on the premises, or permits violations of any state or federal laws by other persons on the premises.
- Violates any laws of this state or any state or territory of the United States.
- Maintains a nuisance on the licensed premises.
- Maintains premises that are unsanitary or are not approved as sanitary.
- Violates any rule promulgated by the division in accordance with the provisions of chapter 561, F.S., or laws relating to the activities on the premises.
- Has an unqualified person who is holding an interest in the license or the licensed business.
- Has a person who is required to be qualified by the division as a condition for the issuance of the license but is not qualified.
- Fails to maintain the licensed premises in an active manner in which the licensed premises are open for the sale of authorized alcoholic beverages during regular business hours for specified times.
- Fails to maintain the premises in an active manner in which the licensed premises are open for business to the public for the retail sale of authorized alcoholic beverages during regular and reasonable business hours for specified times.
- Fails to maintain records of all monthly sales and all monthly purchases of alcoholic beverages and to produce the records for inspection by any division employee within 10 days of written request.
- Fails to comply with a stipulation, consent order, or final order.¹¹

Penalties

If a licensee violates any provisions of the Beverage Law, or its rules, the division may impose a civil penalty that does not exceed \$1,000 for violations that arise from a single transaction. If the licensee does not pay the civil penalty, the license will be suspended for a period of time to be

⁹ Section 561.15(1) and (2), F.S.

¹⁰ Section 561.26, F.S.

¹¹ Section 561.29(1), F.S.

determined by the division. However, the division may suspend the imposition of a penalty when the division, in its discretion, deems it appropriate.¹²

Freedom of Speech and the Protection of Minors

Background

Freedom of speech is guaranteed to citizens in the United States Constitution and the State Constitution.¹³ As a foundational principle, this prohibits the government from dictating what people “see or read or speak or hear.”¹⁴ However, there are limits to the freedom of speech; it is not absolute. Categories of speech that do not enjoy complete protection include defamation, incitement, obscenity, and pornography involving real children.¹⁵

Courts have held, as a bedrock principle of the First Amendment, that a government may not prohibit or suppress the expression of an idea simply because an audience finds the idea offensive or disagreeable.¹⁶ When evaluating what constitutes the free speech rights of adults, the U.S. Supreme Court held, “[W]e have made it perfectly clear that ‘[s]exual expression which is indecent but not obscene is protected by the First Amendment.’”¹⁷ Stated slightly differently, this means that some forms of pornography are protected under the Constitution, but obscenity is not.

The Miller Test

In 1973, the U.S. Supreme Court developed a three-prong test in *Miller v. California*,¹⁸ to define whether speech is obscene. According to the Miller test, speech is determined to be obscene if:

- The average person, applying contemporary community standards would find that the work, taken as a whole, appeals to the prurient interest;
- The work depicts or describes, in a patently offensive way, sexual conduct specifically defined by the applicable state law; and
- The work, taken as a whole, lacks serious literary, artistic, political, or scientific value.¹⁹

The *Miller* test is incorporated into the definition of what is “harmful to minors” in s. 847.001(6), F.S., and “obscenity” in s. 847.001(12), F.S.

The State’s Authority to Protect Minors

In a 2004 decision, the First District Court of Appeal stated:

It is within the Legislature’s power to determine that certain matter is harmful for all minors. There is no indication that the definition of harmful

¹² Section 561.29(3), F.S.

¹³The United States Constitution states, “Congress shall make no law ... abridging the freedom of speech.” U.S. CONST. amend. I. The State Constitution similarly states “No law shall be passed to restrain or abridge the liberty of speech or of the press.” Fla. Const. art. I, s. 4.

¹⁴ *Ashcroft v. Free Speech Coalition*, 535 U.S. 234, 245 (2002).

¹⁵ *Id.*

¹⁶ *Simon & Schuster, Inc. v. Members of New York State Crime Victims Bd*, 502 U.S. 105, 118 (1991).

¹⁷ *Ashcroft*, 245, quoting *Sable Communications of Cal., Inc. v. FCC*, 492 U.S. 115, 126 (1989).

¹⁸ *Miller v. California*, 413 U.S. 15 (1973).

¹⁹ *Id.* at 24.

matter will change depending on the age of the minor. ... The Legislature has the responsibility and authority to protect all of our children, even the older ones.²⁰

Similarly, and in another 2004 decision, the First District Court of Appeal held:

The state has a compelling interest in protecting the physical and psychological well-being of children, which extends to shielding minors from matter that is not obscene by adult standards, but the means must be carefully tailored to achieve that end.²¹

Statutes Protecting Minors from Harmful Material

Section 847.0138, F.S., provides third degree felony penalties for a person who knew or believed that he or she was transmitting an image that is harmful to minors to someone known by the defendant to be a minor. Similarly, s. 847.0133, F.S. prohibits a person from knowingly selling or distributing any obscene material to a minor. The penalty for violating the statute is a third degree felony.

In ch. 847, the chapter containing obscenity crimes, a minor or child is defined to mean any person, whose identity is known or unknown, who is younger than 18 years of age. “Harmful to minors” is defined to mean any exhibition, or representation depicting nudity, sexual conduct, or sexual excitement that meets the three prongs of the *Miller* test.

Recent Events

According to a recent administrative complaint filed by the Director of the Division of Alcoholic Beverages and Tobacco, a licensed vendor of alcoholic beverages was alleged to have hosted “A Drag Queen Christmas” on its premises last December. The six count complaint alleges that the show did not provide notice about the sexually explicit nature of the performance but initially stated that all ages were welcome. The division sent a letter to the license holder notifying him that the sexually explicit show would constitute “public nuisances, lewd activity, and disorderly conduct when minors are in attendance” and if the license holder failed to ensure that minors were prohibited from attending the performances, its license would be subject to penalties, including revocation.²²

The complaint states that the license holder updated its advertising to note that the performances were recommended for audiences 18 years of age and older. However, the license holder’s admission policies permitted minor children to attend if they were accompanied by an adult. The complaint alleges that children younger than 16 years old were knowingly admitted to the show and then details what the performers wore or did not wear and the acts of “sexual conduct, simulated sexual activity, and lewd, vulgar, and indecent displays” that were performed.²³

²⁰ *Simmons v. State*, 886 So. 2d 399, 405 (Fla. 1st DCA 2004).

²¹ *Cashatt v. State*, 873 So. 2d 430, 434 (Fla. 1st DCA 2004).

²² Administrative Complaint, *Department of Business and Professional Regulation, Division of Alcoholic Beverages and Tobacco, Petitioner, v. HRM Owner, LLC, d/b/a Hyatt Regency Miami*, March 14, 2023 (On file with the Senate Committee on Judiciary).

²³ *Id.*

The complaint alleges that the license holder violated six laws²⁴ of the state by hosting the show and its license should be revoked. The license holder may now request an informal hearing in which there are no disputed issues of material fact or request a formal hearing and dispute the issues alleged in the complaint.

III. Effect of Proposed Changes:

Exposing Children to an Adult Live Performance (Section 3)

The bill defines the term “adult live performance” and establishes a first degree misdemeanor penalty for any person who is found guilty of *knowingly* admitting a child to an adult live performance. A first degree misdemeanor is punishable by imprisonment that does not exceed 1 year and a fine that does not exceed \$1,000. A “child” is defined in ch. 827, the abuse of children chapter, to mean any person under the age of 18 years.

Adult Live Performance Defined

An “adult live performance” is defined as any show, exhibition, or other presentation that is performed in front of a live audience and in whole or in part, depicts or simulates nudity, sexual conduct, sexual excitement, specific sexual activities as those terms are defined in s. 847.001, F.S., lewd conduct, or the lewd exposure of prosthetic or imitation genitals or breasts.

The Miller Test for Obscenity

The performance must then meet all three prongs of the obscenity test described in the *Miller* decision, meaning that the performance must:

- Predominantly appeal to a prurient, shameful, or morbid interest;
- Be patently offensive to prevailing standards in the adult community of this state as a whole with respect to what is suitable material or conduct for the age of the child present; and
- Taken as a whole, be without serious literary, artistic, political, or scientific value for the age of the child present.

This language is very similar to the existing definition of what is “harmful to minors” in ch. 847.001, F.S., the chapter dealing with obscenity.

The Element of Knowledge

For a violation to occur under this statute, the defendant must *knowingly* admit a child to an adult live performance. “Knowingly” is defined to mean that someone has a general knowledge of,

²⁴ The statutes that were allegedly violated and listed in the complaint were: Lewd or lascivious exhibition in the presence of a minor less than 16 years of age (s. 800.04(7)(a), F.S.); Operation of any place, structure, building, or conveyance for the purposes of lewdness (s. 796.07(2)(a), F.S.); The unlawful exposing or exhibiting of one’s sexual organs in public or on the private premises of another in a vulgar or indecent manner (s. 800.03, F.S.); Knowingly promoting, conducting, performing, or participating in an obscene show, exhibition, or performance by live persons or a live person before an audience (s. 847.011(4), F.S.); Breach of the peace and disorderly conduct with acts that are of such nature as to corrupt the public morals, or outrage the sense of public decency (s. 877.03, F.S.); and Maintaining a nuisance by erecting or maintaining a structure that tends to annoy the community or injure the health or the community, or becomes manifestly injurious to the morals or manners of the people (s. 823.05(1), F.S.).

reason to know, or a belief or grounds for belief which warrants the person to further inspect or inquire of both:

- The character and content of any adult live performance described in the section which is reasonably susceptible of examination by the defendant; and
- The age of the child.

In a prosecution conducted under this section, a defendant may not raise ignorance of the child's age, a child's misrepresentation of his or her age, or the bona fide, or good faith belief, of a child's consent as a defense.

This definition of "knowingly" is virtually identical to the use of "knowingly" found in s. 847.012(1), F.S., the statute prohibiting a person from knowingly selling certain images, visual representations, or materials to a minor that depict nudity or sexual content that is harmful to minors. Similarly, s. 847.013, F.S., which prohibits exposing minors to harmful motion pictures, exhibitions, and presentations contains very similar language when defining "knowingly."

License of a Public Lodging Establishment or Public Food Establishment (Section 1)

Penalties - Fines, Suspension, or Revocation of a License

The bill authorizes the Division of Hotels and Restaurants to fine, suspend, or revoke the license of a public lodging establishment or public food service establishment if the establishment admits a child to an adult live performance in violation of the newly created statute.

Admitting a child to the performance constitutes an immediate serious danger to the public health, safety, or welfare for the purposes of s. 120.60(6), F.S.,²⁵ which authorizes emergency suspension, restriction, or limitation of a license.

The division may issue a \$1,000 fine for an establishment's first violation and may issue a \$10,000 fine for a second or subsequent violation.

Beverage Law License (Section 2)

Penalties – Revocation, Suspension, of a License; Fines

In a manner similar to section 1, above, the bill authorizes the Division of Alcoholic Beverages and Tobacco to revoke or suspend the beverage license, or fine the license holder, who is found

²⁵ Section 120.60(6), F.S., states: If the agency finds that immediate serious danger to the public health, safety, or welfare requires emergency suspension, restriction, or limitation of a license, the agency may take such action by any procedure that is fair under the circumstances if:

- (a) The procedure provides at least the same procedural protection as is given by other statutes, the State Constitution, or the United States Constitution;
- (b) The agency takes only that action necessary to protect the public interest under the emergency procedure; and
- (c) The agency states in writing at the time of, or prior to, its action the specific facts and reasons for finding an immediate danger to the public health, safety, or welfare and its reasons for concluding that the procedure used is fair under the circumstances. The agency's findings of immediate danger, necessity, and procedural fairness are judicially reviewable. Summary suspension, restriction, or limitation may be ordered, but a suspension or revocation proceeding pursuant to ss. 120.569 and 120.57 shall also be promptly instituted and acted upon.

to maintain a licensed premises that admits a child to an adult live performance in violation of the newly created s. 827.11, F.S.

A violation of this new provision constitutes an immediate, serious danger to the public health, safety, or welfare for purposes of s. 120.60(6), F.S., which allows for the emergency suspension, restriction, or limitation of a license.

The division may issue a \$5,000 fine for a first violation and a \$10,000 fine for a second or subsequent violation.

The bill takes effect upon becoming law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

Venues hosting adult live performances may have decreased revenues to the extent that the bill will result in lost revenues from children who would otherwise have attended.

C. Government Sector Impact:

The bill may result in additional costs to the criminal justice system in enforcing the criminal penalties authorized by the bill. For the same reasons, the Department of

Business and Professional Regulation may incur additional costs in enforcing the provisions of the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 509.261 and 561.29.

This bill creates s. 827.11 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 Yarborough

4-01834C-23

20231438__

1 A bill to be entitled
 2 An act relating to the protection of children;
 3 amending s. 509.261, F.S.; authorizing the Division of
 4 Hotels and Restaurants of the Department of Business
 5 and Professional Regulation to fine, suspend, or
 6 revoke the license of any public lodging establishment
 7 or public food service establishment if the
 8 establishment admits a child to an adult live
 9 performance; specifying that a specified violation
 10 constitutes an immediate, serious danger to the public
 11 health, safety, or welfare; authorizing the division
 12 to issue specified fines for first, second, and
 13 subsequent violations of certain provisions; amending
 14 s. 561.29, F.S.; specifying that the Division of
 15 Alcoholic Beverages and Tobacco of the Department of
 16 Business and Professional Regulation is given full
 17 power and authority to revoke or suspend the license
 18 of any person issued under the Beverage Law when it is
 19 determined or found by the division upon sufficient
 20 cause appearing that he or she is maintaining a
 21 licensed premises that admits a child to an adult live
 22 performance; specifying that a specified violation
 23 constitutes an immediate serious danger to the public
 24 health, safety, or welfare; authorizing the division
 25 to issue specified fines for first, second, and
 26 subsequent violations of certain provisions; creating
 27 s. 827.11, F.S.; defining the terms "adult live
 28 performance" and "knowingly"; prohibiting the raising
 29 of specified arguments as a defense in a prosecution

Page 1 of 4

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

4-01834C-23

20231438__

30 for certain violations; prohibiting a person from
 31 knowingly admitting a child to an adult live
 32 performance; providing criminal penalties; providing
 33 an effective date.

34
 35 Be It Enacted by the Legislature of the State of Florida:

36
 37 Section 1. Subsection (10) is added to section 509.261,
 38 Florida Statutes, to read:

39 509.261 Revocation or suspension of licenses; fines;
 40 procedure.—

41 (10)(a) The division may fine, suspend, or revoke the
 42 license of any public lodging establishment or public food
 43 service establishment if the establishment admits a child to an
 44 adult live performance, in violation of s. 827.11.

45 (b) A violation of this subsection constitutes an immediate
 46 serious danger to the public health, safety, or welfare for the
 47 purposes of s. 120.60(6).

48 (c) Notwithstanding subsection (1), the division may issue
 49 a \$5,000 fine for an establishment's first violation of this
 50 subsection.

51 (d) Notwithstanding subsection (1), the division may issue
 52 a \$10,000 fine for an establishment's second or subsequent
 53 violation of this subsection.

54 Section 2. Paragraph (1) is added to subsection (1) of
 55 section 561.29, Florida Statutes, to read:

56 561.29 Revocation and suspension of license; power to
 57 subpoena.—

58 (1) The division is given full power and authority to

Page 2 of 4

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4-01834C-23

20231438

revoke or suspend the license of any person holding a license under the Beverage Law, when it is determined or found by the division upon sufficient cause appearing of:

(1) Maintaining a licensed premises that admits a child to an adult live performance in violation of s. 827.11.

1. A violation of this paragraph constitutes an immediate, serious danger to the public health, safety, or welfare for the purposes of s. 120.60(6).

2. The division may issue a \$5,000 fine for a first violation of this paragraph.

3. The division may issue a \$10,000 fine for a second or subsequent violation of this paragraph.

Section 3. Section 827.11, Florida Statutes, is created to read:

827.11 Exposing children to an adult live performance.—

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

(a) "Adult live performance" means any show, exhibition, or other presentation in front of a live audience which, in whole or in part, depicts or simulates nudity, sexual conduct, sexual excitement, specific sexual activities as those terms are defined in s. 847.001, lewd conduct, or the lewd exposure of prosthetic or imitation genitals or breasts when it:

1. Predominantly appeals to a prurient, shameful, or morbid interest;

2. Is patently offensive to prevailing standards in the adult community of this state as a whole with respect to what is suitable material or conduct for the age of the child present;
and

3. Taken as a whole, is without serious literary, artistic,

4-01834C-23

20231438

political, or scientific value for the age of the child present.

(b) "Knowingly" means having general knowledge of, reason to know, or a belief or ground for belief which warrants further inspection or inquiry of both:

1. The character and content of any adult live performance described in this section which is reasonably susceptible of examination by the defendant; and

2. The age of the child.

(2) A person's ignorance of a child's age, a child's misrepresentation of his or her age, or a bona fide belief of a child's consent may not be raised as a defense in a prosecution for a violation of this section.

(3) A person may not knowingly admit a child to an adult live performance.

(4) A violation of subsection (3) constitutes a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

Section 4. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 22, 2023

I respectfully request that **Senate Bill #1438**, relating to Protection of Children, be placed on the:

- ☐ committee agenda at your earliest possible convenience.
- ☒ next committee agenda.



Senator Clay Yarborough
Florida Senate, District 4

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30

Meeting Date

Rules

Committee

SB 1438

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Ryan Kennedy

Phone

239-671-5733

Address

9745 Roundstone Cir.

Email

ryan@goFLCA.org

Street

Fort Myers

FL

33967

City

State

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

Florida Citizens
Alliance



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/30/23

Meeting Date

Rules

Committee

1438

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

John Labriola (Christian Family Coalition)

Phone

954-515-2084

Address

Po Box 650216

Email

JFLABRIOLA@gmail.com

Street

Miami

City

FL

State

33265

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

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3-30-23

Meeting Date

Rules

Committee

~~1438~~ 1438

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Abdelilah SKhir (Ab-dee-luh Skeer)

Phone

786-363-1660

Address

4343 W Flagler St #400

Email

askhir@acluf1.org

Street

Miami

FL

33134

City

State

Zip

Speaking:

☐ For



Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

ACLU Florida



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/30/2023

Meeting Date

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1438

Bill Number or Topic

Senate Rules.

Committee

Amendment Barcode (if applicable)

Name

Armando V. Pomar

Phone

786-285-4090

Address

7710 Abbott Ave.

Street

Email

armando.v.pomar@gmail.com

Miami Beach, FL 33141

City

State

Zip

Speaking:

☒ For

☐ Against

☐ Information

OR

Waive Speaking:

☒ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/2023

Meeting Date

Senate Rules

Committee

SB 1438

Bill Number or Topic

Amendment Barcode (if applicable)

Name Kevin Parker

Phone _____

Address _____

Street

Email _____

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

APPEARANCE RECORD

SB 1438
~~SB 1438~~

3/30/23

Meeting Date

S. Rules

Committee

Bill Number or Topic

Amendment Barcode (if applicable)

Deliver both copies of this form to
Senate professional staff conducting the meeting

Name Jon Harris Maurer Phone _____

Address 201 E Park Ave. Email _____
Street

TLH FL 32301
City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Equality Florida

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3-30-23

Meeting Date

1438

Bill Number or Topic

Rules

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Barbara DeVane

Phone

850-251-4280

Address

625 E. Brevard St

Email

barbadevane1@yahoo.com

Street

Tallahassee

City

FL 32308

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

FL NOW

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/30/23

Meeting Date

SENATE RULES

Committee

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1438

Bill Number or Topic

Amendment Barcode (if applicable)

Name

CANO GUTIERREZ

Gunter's

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐ For



Against

☐ Information

OR

Waive Speaking:

☐ In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23

Meeting Date

1438

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Michael Barrett

Phone (850) 222-3803

Address 201 W. Park Ave.
Street

Email mbarrett@flscc.org

Tallahassee
City

FL
State

32301
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Conference of
Catholic Bishops

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

March 30, 2023

Meeting Date

Rules

Committee

Name **Jonathan Webber**

Phone **954-593-4449**

Address **400 Washington Ave**
Street

Email **jonathan.webber@splcactionfund.org**

Montgomery

AL

36104

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

SPLC Action Fund

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1438 Protection of Children

Bill Number or Topic

Amendment Barcode (if applicable)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23

Meeting Date

Rules

Committee

SB 1438

Bill Number or Topic

Amendment Barcode (if applicable)

Name Aaron DiPietro

Phone 904-608-4471

Address 4853 S. Orange Ave.
Street

Email aaron.d@flfamily.org

Orlando
City

FL
State

32806
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Florida Family
Policy Council

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23
Meeting Date

SB 1430
Bill Number or Topic

rules
Committee

Amendment Barcode (if applicable)

Name Yanelis Valdes

Phone

Address

Email

Street

Miami FL 33132
City State Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Engage Miami

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30

Meeting Date

Senate Rules

Committee

SB1438

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Quinn Warner Sweeting

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

March 30, 2023

Meeting Date

Rules

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1438

Bill Number or Topic

Amendment Barcode (if applicable)

Name **Barney Bishop III** Phone **850-510-9922**

Address **1454 Vieux Carre Drive** Email **Barney@BarneyBishop.com**

Street

Tallahassee

City

FL

State

32308

Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

Barney Bishop Consulting

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/29/23

Meeting Date

SB 1438

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

SAM MASOR

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23

Meeting Date

SB 1438

Bill Number or Topic

Senate Rules

Committee

Amendment Barcode (if applicable)

Name

Kayee Rogers

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23

Meeting Date

Rules

Committee

1438

Bill Number or Topic

Amendment Barcode (if applicable)

Name Livia Benitez

Phone _____

Address 865 W 69 St

Street

Hialeah

City

FL

State

53014

Zip

Email livia@engage.miami

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

March 30, 2023

Meeting Date

Rules

Committee

1438

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Alexandra Contreras

Phone

Address

1400 Salzedo Street

Email

Street

Miami

City

FL

State

33134

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Engage Miami

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

03/30/2023
Meeting Date

SB 1438
Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Christina Maves

Phone

Address

Email

Street

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Meeting Date

3/30/23

Committee

Senate Rules

Deliver both copies of this form to
Senate professional staff conducting the meeting

Bill Number or Topic

1438

Amendment Barcode (if applicable)

Name

Anthony Verdyo-Christina Family Court

Phone

786-447-6431

Address

P.O. Box 650216

Email

Street

City

Miami

State

FL.

Zip

33265

Speaking:

☒ For

☐ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/30/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB ~~1438~~ 1438

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name Leslie Villegas (vee-yeh-gus) Phone 786 491 0254

Address 2393 Continental Ave Apt A2 Email leslievillegas0918@gmail.com

Tallahassee FL 32304

City State Zip

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Comp For Party

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

30 Mar 2023

Meeting Date

SB 1438

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

Regina Piazza

Phone

210-602-6265

Address

156 Indian Bayou Dr.

Email

lifelibertytruth@protonmail.com

Street

Destin

City

FL

State

32541

Zip

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



☒ I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:



☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Classical Conversations

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

March 30, 2023

Meeting Date

Rules

Committee

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1438

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Alexandra Contreras

Phone

Address

1400 Salzedo St

Email

Street

Miami

FL

33134

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Engage Miami

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

Received after public testimony

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

30, MAR. 2023

Meeting Date

SB1438

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

CHEVALIER LOVETT

Phone

407.733.4838

Address

200 E. ROBINSON

Email

CHEV@FLORIDASenate.org

Street

Orlando

City

FL

State

32801

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

Received after bill considered

The Florida Senate

APPEARANCE RECORD

3/30/23

Meeting Date

1438 1348

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

Christina Kittle

Phone

Address

2523 Forbes St Unit 4

Email

Street

Jacksville

FL

32204

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

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 Rules

BILL: SB 1674

INTRODUCER: Senators Grall and Perry

SUBJECT: Facility Requirements Based on Sex

DATE: March 29, 2023

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Kraemer	Twogood	RC	Favorable
2.			FP	

I. Summary:

SB 1674 creates s. 553.865, F.S., the “Safety in Private Spaces Act,” (act) and states the legislative purpose and intent of the act as providing restrooms and changing facilities for exclusive use by females or males, in order to maintain public safety, decency, and decorum.

As set out in the bill, a covered entity required to obtain a license to operate in Florida must submit documentation regarding compliance with minimum requirements for restrooms and changing facilities, if applicable. Under the bill, if a covered entity maintains restrooms/changing rooms, the entity must have at a minimum:

- Designated restrooms/changing facilities for exclusive use by females or by males; or
- Unisex restrooms/changing facilities that are intended for a single-occupant or a family and enclosed in floor-to-ceiling walls and accessed by a full door with a secure lock that prevents someone from entering while the changing facility is in use.

The entities subject to the requirements in the bill include, educational institutions, public accommodations, public shelter space (public hurricane evacuation shelters), substance abuse service providers, health care facilities, and numerous other health care provider locations.

The bill requires separate treatment for females and males in these locations:

- Domestic violence centers must provide separate overnight accommodations for females and males, based on their sex, except for mixed-sex family units; and
- Correctional institutions, for all housing assignments, including temporary ones, must separately house females and males in custody, based on their sex.

The bill provides that failure to comply with the minimum requirements for restrooms and changing facilities subjects a covered entity to licensure or regulatory disciplinary action. The bill also authorizes other penalties, including actions against covered entities by the Attorney General to enforce the act, to seek injunctive relief, and to seek imposition of a fine in an amount up to \$10,000.

The bill provides that accessing a restroom or changing facility designated for the opposite sex is often necessary, and lists circumstances and conditions in which such access is authorized, including situations involving comfort assistance or emergency medical help, and access by law enforcement, regulatory authorities, and maintenance.

Under the bill, any person 18 years of age or older who willfully enters a restroom or changing facility designated for the opposite sex for a purpose other than the authorized uses listed in the bill, and refuses to immediately depart when asked to do so by another person in the restroom or changing facility, commits a second degree misdemeanor, which may result in up to 60 days in jail or up to a \$500 fine.

The bill requires each school to establish in its code of student conduct disciplinary procedures for any student under 18 years of age who willfully enters a school restroom or changing facility designated for the opposite sex for a purpose other than the authorized uses listed in the bill.

See Section V, Fiscal Impact Statement.

The bill is effective July 1, 2023.

II. Present Situation:

The Florida Building Code

The Florida Building Code (Building Code) is the unified building code applicable to the design, construction, erection, alteration, modification, repair, or demolition of public or private buildings, structures, and facilities in the state.¹ The Building Code must be applied, administered, and enforced uniformly and consistently throughout the state.²

The Florida Building Commission (commission) adopts an updated building code every three years through review of codes published by the International Code Council and the National Fire Protection Association.³ The Building Code is updated every three years. The current edition of the Building Code is the seventh edition, which is referred to as the 2020 Florida Building Code.⁴ The next edition of the Building Code will take effect on December 31, 2023.

Chapter 553, part IV, F.S., is known as the “Florida Building Codes Act” (Building Codes Act). The purpose and intent of the Building Codes Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code. The Building Code must be applied, administered, and enforced uniformly and consistently from

¹ See s. 553.72, F.S. Part IV of ch. 553, F.S., is cited as the “Florida Building Codes Act.” See s. 552.70, F.S. and the Florida Building Code, 7th Edition, (Building Code) available at https://www.floridabuilding.org/bc/bc_default.aspx (last visited Mar. 23, 2023).

² See s. 553.72(1), F.S.

³ See s. 553.73(7), F.S., which requires review of the International Building Code, the International Fuel Gas Code, the International Existing Building Code, the International Mechanical Code, the International Plumbing Code, and the International Residential Code, all of which are copyrighted and published by the International Code Council, and the National Electrical Code, which is copyrighted and published by the National Fire Protection Association.

⁴ *Id.*

jurisdiction to jurisdiction.⁵ The Building Code is adopted, updated, interpreted, and maintained by the commission, and is enforced by authorized state and local government agencies.⁶

The commission was statutorily created to implement the Building Code. The commission, which is housed within the Department of Business and Professional Regulation (DBPR), is a 19-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Building Code. The commission reviews International Codes published by the International Code Council,⁷ the National Electric Code, and other nationally adopted model codes during its triennial update of the Building Code.⁸

Building Construction Standards for Public Restrooms

As directed by s. 553.86, F.S., the commission incorporated into the Florida Building Code, a ratio of public restroom facilities for men and women for all buildings with public restrooms newly constructed after September 30, 1992.⁹ The Building Code requires the plumbing fixtures ratio for each fixture type to be applied to the occupant load of each sex in accordance with the classification of the building space.¹⁰

Local Enforcement of the Florida Building Code; Issuance of Building Permits

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdiction in protection of the public's health, safety, and welfare.¹¹ Every local government must enforce the Building Code and issue building permits.¹² It is unlawful for a person, firm, or corporation to construct, erect, alter, repair, secure, or demolish any building without first obtaining a permit from the local government enforcing agency or from such persons as may, by resolution or regulation, be directed to issue such permit, upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.¹³

Any construction work that requires a building permit also requires plans and inspections to ensure the work complies with the Building Code. The Building Code requires certain building, electrical, plumbing, mechanical, and gas inspections.¹⁴ Construction work may not be done

⁵ Section 553.72(1), F.S.

⁶ See s. 553.72(3), F.S.

⁷ The International Code Council (ICC) is an association that develops model codes and standards used in the design, building, and compliance process to “construct safe, sustainable, affordable and resilient structures.” International Code Council, *About the ICC*, available at <https://www.iccsafe.org/about/who-we-are/> (last visited Mar. 23, 2023).

⁸ Sections 553.73, and 553.74, F.S.

⁹ The requirement does not apply to establishments licensed under ch. 509, F.S., if the establishment does not provide meeting or banquet rooms accommodating more than 150 persons and has at least the same number of water closets for women as the combined total of water closets and urinals for men. *Id.*

¹⁰ See ch. 4, *Fixtures, Faucets and Fixture Fittings*, https://codes.iccsafe.org/content/FLPC2020P1/chapter-4-fixtures-faucets-and-fixture-fittings#FLPC2020P1_Ch04_Sec401, and the accompanying Minimum Plumbing Facilities Table 403.1 (last visited Mar. 23, 2023). See also ss. 403.1.1 (Fixture Calculations), 402.1.3 (Potty Parity), 403.2 (Separate Facilities), and 403.3 (Required Public Toilet Facilities).

¹¹ Section 553.72, F.S.

¹² Sections 125.01(1)(bb), 125.56(1), and 553.80(1), F.S.

¹³ Sections 125.56(4)(a) and 553.79(1), F.S.

¹⁴ See s. 110 of the Building code at https://www.floridabuilding.org/bc/bc_default.aspx (last visited Mar. 23, 2023).

beyond a certain point until it passes an inspection. Generally speaking, a permit for construction work that passes the required inspections is considered completed or closed.¹⁵

Florida Accessibility Code for Building Construction

The 1993 Legislature created the Florida Americans with Disability Accessibility Implementation Act (disability act)¹⁶ which incorporated the architectural accessibility requirements of the Americans with Disabilities Act of 1990 and maintained existing provisions of Florida law thought to be more stringent than the ADA accessibility guidelines.¹⁷

The disability act established the Florida Accessibility Code for Building Construction (Accessibility Code).¹⁸ The law was amended in 2011 and its resulting requirements were integrated into the Florida Building Code.¹⁹ The Accessibility Code contains scoping and technical requirements for accessibility to sites, facilities, buildings, and elements by individuals with disabilities. The requirements are to be applied during the design, construction, additions to, and alteration of sites, facilities, buildings, and elements.²⁰

Chapter six of the Accessibility Code regulates wheelchair accessible toilet compartments including size, doors, approach, grab bars, and location within a restroom.²¹ Chapter three of the Accessibility Code regulates reach ranges for building elements such as coat hooks, lockers, and other operable parts of a building.²² Requirements include the height of forward reach, side reach, and obstructed reach for persons in a wheelchair.²³

III. Effect of Proposed Changes:

The bill creates s. 553.865, F.S., which provides the act may be cited as the “Safety in Private Spaces Act,” (act) for the legislative purpose and intent of providing restrooms and changing facilities for exclusive use by females or males, in order to maintain public safety, decency, and decorum.

¹⁵ See e.g., Doug Wise, *Closing Inactive & Excluded Building Permits*, Palm Beach County Planning, Zoning & Building Department, Building Division, available at: <http://discover.pbcgov.org/pzb/building/BuildingCodes/PBO-126%20%E2%80%93Closing%20Inactive%20and%20Excluded%20Building%20Permits.pdf> (last visited Mar. 23, 2023).

¹⁶ Section 553.501, F.S.

¹⁷ See Preface to the 2020 Florida Building Code, Accessibility, 7th Edition.

¹⁸ Section 553.503, F.S.

¹⁹ Ch. 2011-222, Laws of Fla.

²⁰ Section 101.1, 2020 Florida Building Code, Accessibility, 7th Edition.

²¹ Chapter 6: Plumbing Elements and Facilities, 2020 Florida Building Code, Accessibility, 7th Edition.

²² Chapter 3: Building Blocks, 2020 Florida Building Code, Accessibility, 7th Edition.

²³ *Id.*

Definitions

The following terms are defined in the act:

- “Changing facility” is a room where two or more persons may be in a state of undress when others are present, including, but not limited to, a dressing room, fitting room, locker room, changing room, or shower room.
- “Correctional institution” is any state correctional institution as defined in s. 944.02, F.S.²⁴; any juvenile detention center or residential program as described in s. 985.03, F.S.; any county or municipal detention facility as defined in s. 951.23, F.S.²⁵; any private correctional facility as defined in s. 944.710, F.S.²⁶; or any other facility used for the detention of adults or juveniles charged with or convicted of a crime.
- “Covered entity” means any:
 - “Educational institution” as defined in s. 768.38, F.S., (which includes “a school, including a preschool, elementary school, middle school, junior high school, secondary school, career center, or postsecondary school, whether public or nonpublic” (schools)).
 - Public accommodations, as defined in s. 760.02(11), F.S.²⁷
 - Public shelter space under s. 252.385, F.S., (public hurricane evacuation shelters);
 - Service provider, as defined in s. 397.311(44), F.S.²⁸
 - Health care facility, which includes any provider as defined in s. 408.803, F.S.²⁹; a provider with an active health care clinic exemption under s. 400.9935, F.S.³⁰; a

²⁴ Section 944.02, F.S., defines “state correctional institution as “any prison, road camp, prison industry, prison forestry camp, or any prison camp or prison farm or other correctional facility, temporary or permanent, in which prisoners are housed, worked, or maintained, under the custody and jurisdiction of the [Department of Corrections].”

²⁵ See ss. 951.23(1)(b) and (d), F.S. A “county detention facility” includes means a county jail, a county stockade, a county work camp, a county residential probation center, and any other place (other than a municipal detention facility) that a county or county officer use to detain persons charged with or convicted of a felony or a misdemeanor, whether or not the facility is operated by a board of county commissioners, a sheriff, or any other entity; a “municipal detention facility” includes a city jail, a city stockade, a city prison camp, and any other place (other than a county detention facility) that a municipality or municipal officer use to detain persons charged with or convicted of a violation of municipal laws or ordinances, whether or not the facility is operated by a city or any other entity.

²⁶ See s. 944.710(3) F.S., defining “private correctional facility” as any facility not operated by the Department of Corrections (DOC) for the incarceration of adults or juveniles sentenced by a court and committed to the custody of the DOC.

²⁷ Section 760.02(11), F.S., defines “public accommodations” as places of public accommodation, lodgings, facilities principally engaged in selling food for consumption on the premises, gasoline stations, places of exhibition or entertainment, and other covered establishments” and provides that the following are places of public accommodation if they serve the public: (a) Any inn, hotel, motel, or other lodging establishment for to transient guests, other than a place within a building of four rooms or less for rent or hire that is occupied as a residence by the proprietor; (b) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited to, facilities located on the premises of any retail establishment, or any gasoline station; (c) Any motion picture theater, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment; (d) Any establishment which is physically located within the premises of any establishment otherwise covered by [s. 760.02(11), F.S.], or within the premises of which is physically located any such covered establishment, and which holds itself out as serving patrons of such covered establishment.

²⁸ Section 397.311(44), F.S., defines “service provider” as a private for-profit or not-for-profit agency, a person who is a private practitioner, or a hospital licensed under or exempt from ch. 398, F.S., relating to substance abuse services.

²⁹ Section 408.803, F.S., defines “provider” as any activity, service, agency, or facility regulated by the Agency for Health Care Administration (AHCA) listed in s. 408.802, F.S., which provides an extensive list of certain entities licensed, registered, or certified by AHCA.

³⁰ See s. 400.9905(4), F.S., describing entities that may claim an exemption.

continuing care³¹ facility with a certificate of authority under ch. 651, F.S., relating to continuing care contracts; an optical establishment permitted under s. 484.007, F.S.; a massage establishment licensed under s. 480.043, F.S.; a pharmacy as defined in s. 465.003, F.S.;³² an office described in s. 459.0138, F.S.,³³ which is required to register with the Department of Health; a pain-management clinic registered under s. 458.3265, F.S.;³⁴ an electrolysis (electrology)³⁵ facility licensed under s. 478.51, F.S.; or any health care setting owned or operated by a health care practitioner as defined in s. 456.001, F.S.,³⁶ or a provider licensed under ch. 394, F.S., relating to Mental Health, ch. 397, F.S., relating to Substance Abuse Services, or part IV of ch. 468, F.S., relating to Radiological Personnel Certification.

- “Female” means a person belonging, at birth, to the biological sex which has the specific reproductive role of producing eggs.
- “Male” means a person belonging, at birth, to the biological sex which has the specific reproductive role of producing sperm.
- “Restroom” means a room that includes one or more water closets (i.e., toilets or urinals), but does not include a unisex restroom as defined in the act.
- “Sex” means the classification of a person as either female or male based on the organization of the body of such person for a specific reproductive role, as indicated by the person’s sex chromosomes, naturally occurring sex hormones, and internal and external genitalia present at birth.
- “Unisex changing facility” means a room intended for a single-occupant or a family in which one or more persons may be in a state of undress, including, but not limited to, a dressing room, fitting room, locker room, changing room, or shower room that is enclosed in floor-to-ceiling walls and accessed by a full door with a secure lock that prevents someone from entering while the changing facility is in use.
- “Unisex restroom” means a room with one or more water closets (i.e., toilets or urinals) that is intended for a single-occupant or a family, and the room is enclosed in floor-to-ceiling

³¹ Section 651.011(5), F.S., defines “continuing care” as furnishing shelter and nursing care or personal services to a facility resident pursuant to a contract, whether such services are provided in the facility or in another setting for continuing care, by an individual not related to the resident, upon payment of an entrance fee.

³² Under s. 465.003(20), F.S., the term “pharmacy” includes a community pharmacy, an institutional pharmacy, a nuclear pharmacy, a special pharmacy, and an internet pharmacy, as further described in the section.

³³ Section 489.0138, F.S., requires registration of offices where “a physician performs a liposuction procedure in which more than 1,000 cubic centimeters of supernatant fat is removed, a Level II office surgery, or a Level III office surgery must register with the [Department of Health] unless the office is licensed as a facility under [ch. 390, F.S., relating to termination of pregnancies, or ch. 395, F.S., relating to hospital licensing and regulation].

³⁴ See s. 458.3265, F.S., for the list of facilities that fall within the registration requirements.

³⁵ Section 478.51, F.S., refers to “electrology facilities.” See section VII on page X of this analysis regarding consideration of an amendment to address this issue.

³⁶ The term “health care practitioner” means any person licensed under the following chapters in the Florida Statutes: ch. 457 (Acupuncture); ch. 458 (Medical Practice); ch. 459 (Osteopathic Medicine); ch. 460 (Chiropractic Medicine); ch. 461 (Podiatric Medicine); ch. 462 (Naturopathy); ch. 463 (Optometry); ch. 464 (Nursing); ch. 465 (Pharmacy); ch. 466 (Dentistry, Dental Hygiene, and Dental Laboratories); ch. 467 (Midwifery); part I (Speech-Language Pathology and Audiology), part II (Nursing Home Administration), part III (Occupational Therapy), part V (Respiratory Therapy), part X, (Dietetics and Nutrition Practice), part XIII (Athletic Trainers), or part XIV (Orthotics, Prosthetics, and Pedorthics of ch. 468 (Miscellaneous Professions and Occupations); ch. 478 (Electrolysis); ch. 480 (Massage Therapy Practice); part I (Clinical Laboratory Personnel), part II (Medical Physicists), or part III (Genetic Counseling) of ch. 483 (Health Testing Services); ch. 484 (Dispensing of Optical Devices and Hearing Aids); ch. 486 (Physical Therapy Practice); ch. 490 (Psychological Services); or ch. 491 (Clinical, Counseling, and Psychotherapy Services).

walls and accessed by a full door with a secure lock that prevents someone from entering while the room is in use.

- “Water closet” means a toilet or urinal.

Minimum Requirements for Covered Facilities Maintained by Covered Entities

A covered entity required to obtain a license to operate in Florida must submit documentation regarding compliance with minimum requirements for restrooms and changing facilities, if applicable, set out in the bill as follows:

Restrooms

A covered entity that maintains a water closet (toilet or urinal) must, at a minimum, have:

- A restroom designated for exclusive use by females and a restroom designated for exclusive use by males; or
- A unisex restroom (intended for a single-occupant or a family and enclosed in floor-to-ceiling walls and accessed by a full door with a secure lock that prevents someone from entering while the room is in use; see the defined term above).

Changing Facilities

A covered entity that maintains a changing facility must, at a minimum, have:

- A changing facility designated for exclusive use by females and a changing facility designated for exclusive use by males; or
- A unisex changing facility (intended for a single-occupant or a family and enclosed in floor-to-ceiling walls and accessed by a full door with a secure lock that prevents someone from entering while the changing facility is in use; see the defined term above).

The bill does not specify the form of the compliance documentation to be submitted to the licensing entity, nor require the licensing entity to review and approve such documentation prior to issuance of a license.³⁷ The compliance documentation, if applicable to the covered entity, must be submitted upon initial application for a license, or on the first renewal of an existing license occurring after July 1, 2023.

The bill provides that failure to comply with the minimum requirements for restrooms and changing facilities subjects a covered entity to licensure or regulatory disciplinary action, as applicable, but does not specify the disciplinary actions authorized to be imposed by a licensing or regulatory entity for such failure or grant authority to such entities to do so.³⁸ The bill also authorizes other penalties, including actions against covered entities by the Attorney General to enforce the act, to seek injunctive relief, and to seek imposition of a fine in an amount up to \$10,000.

³⁷ See section VII on page X of this analysis regarding consideration of an amendment to address these issues.

³⁸ *Id.*

Access to Opposite-Sex Restrooms or Changing Facilities; Refusal to Depart Upon Request

Under the bill, a person may enter a restroom or changing facility designated for the opposite sex under these circumstances (authorized uses):

- To accompany a person of the opposite sex to assist or chaperone a minor child,³⁹ an elderly person,⁴⁰ or disabled person;⁴¹
- For law enforcement or governmental regulatory purposes;
- For the purpose of rendering emergency medical assistance or to intervene in any other emergency situation where the health or safety of another person is at risk;
- For custodial, maintenance, or inspection purposes, provided that the restroom or changing facility is not in use; or
- If the appropriate designated restroom or changing facility is out of order or under repair and the opposite designated restroom or changing facility⁴² contains no person of the opposite sex.

Under the bill, any person 18 years of age or older who willfully enters a restroom or changing facility designated for the opposite sex for a purpose other than the authorized uses listed above, and refuses to immediately depart when asked to do so by another person in the restroom or changing facility, commits a second degree misdemeanor, which may result in up to 60 days in jail or up to a \$500 fine.⁴³

Student Discipline for Improperly Accessing Opposite-Sex Restrooms or Changing Facilities at Schools

The bill requires each school to establish in its code of student conduct disciplinary procedures for any student under 18 years of age⁴⁴ who willfully enters a school restroom or changing

³⁹ Under s. 414.0252, F.S., the term “minor child” means “a child under 18 years of age, or under 19 years of age if the child is a full-time student in a secondary school or at the equivalent level of career training, and does not include anyone who is married or divorced.” In contrast, s. 877.21, F.S., provides that the term “minor” means “any person under 16 years of age.” See section VII on page X of this analysis regarding consideration of an amendment to address this issue.

⁴⁰ Section 825.101, F.S., defines the term “elderly person” to mean “a person 60 years of age or older who is suffering from the infirmities of aging as manifested by advanced age or organic brain damage, or other physical, mental, or emotional dysfunctioning, to the extent that the ability of the person to provide adequately for the person’s own care or protection is impaired.”

⁴¹ The term “disabled person” is not defined in Florida law; however, s. 760.22, F.S., provides that the term “disability” means that (a) a person has a “physical or mental impairment which substantially limits one or more major life activities, or he or she has a record of having, or is regarded as having, such physical or mental impairment;” or (b) a person has a developmental disability (as defined in s. 393.063, F.S.), that is an disorder or syndrome “that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, Down syndrome, Phelan-McDermid syndrome, or Prader-Willi syndrome; that manifests before the age of 18; and that constitutes a substantial handicap that can reasonably be expected to continue indefinitely.” See section VII on page X of this analysis regarding consideration of an amendment to address this issue.

⁴² The phrase to “the opposite designated restroom or changing facility” is ambiguous; See section VII on page X of this analysis regarding consideration of an amendment to address this issue.

⁴³ Under ss. 775.082 and 775.083, F.S., a second degree misdemeanor is punishable by a term of imprisonment not to exceed 60 days, and by a fine not to exceed \$500, respectively.

⁴⁴ As noted above, a person 18 years of age or older, (including a student at a school) who willfully enters a restroom or changing facility designated for the opposite sex for a purpose other than the authorized uses listed in the bill, and refuses to immediately depart when asked to do so by another person in the restroom or changing facility, commits a second degree misdemeanor. Under ss. 775.082 and 775.083, F.S., a second degree misdemeanor is punishable by a term of imprisonment not to exceed 60 days, and by a fine not to exceed \$500, respectively.

facility designated for the opposite sex for a purpose other than the authorized uses listed above, and refuses to immediately depart when asked to do so by another person in the restroom or changing facility.

Separation of Females and Males at Domestic Violence Centers and in Correctional Facilities

Under current law, a domestic violence center is defined as “an agency that provides services to victims of domestic violence as its primary mission.”⁴⁵ The bill requires a domestic violence center to provide separate overnight accommodations for females and males based on their sex, except for mixed-sex family units. Similarly, a correctional institution, for all housing assignments in the institution, including temporary assignments, must separately house females and males in its custody based on their sex.

Enforcement by Attorney General; Severability

The bill authorizes the Attorney General to enforce the act against entities subject to its provisions, through the judicial system, by seeking injunctive relief, and by seeking a fine of up to \$10,000 for any covered entity found to have willfully violated the act. Collected fines must be deposited in the General Revenue Fund.

Under the bill, the act’s provisions are severable, meaning that if any provision of the act or its application to any person or circumstances is held invalid, such invalidity does not affect the other provisions or applications of the act which can be given effect.

The bill is effective July 1, 2023.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

⁴⁵ See s. 39.903, F.S., and part XII of ch. 39, F.S.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The fiscal impact to the private sector is dependent upon implementation of the minimum requirements for restrooms and changing facilities. Restrooms and changing facilities maintained by a covered entity may take the form of restrooms and changing facilities designated for exclusive use by females or males, or unisex restrooms or changing facilities (intended for a single-occupant or a family and enclosed in floor-to-ceiling walls and accessed by a full door with a secure lock that prevents someone from entering while the changing facility is in use), as determined by the covered entity.

C. Government Sector Impact:

The Department of Business and Professional Regulation (DBPR) indicates there are potential impacts to state government, including an increase in general revenue due to the collection of fines from covered entities through enforcement actions initiated by the Attorney General, and an increase in funds payable to the Hotel and Restaurant Trust Fund through the collection of fines assessed against covered entities that do not comply with the minimum requirements for restrooms and changing facilities set forth in the bill.⁴⁶ As to the impact on staff of the Division of Hotels and Restaurants, the DBPR notes there may be a potential increase in staff and labor for processing compliance documentation submitted with applications for initial licenses and for license renewals, with a potential increase in legal staff and labor for the processing of administrative actions against covered entities for noncompliance with the minimum requirements for restrooms and changing facilities set forth in the bill.⁴⁷

The Department of Corrections (DOC) raised concerns in its analysis of the bill of conflicts between state and federal law requirements respecting the housing of females and males in custody and determining their sex, which may cause a loss of federal funding under the Justice Assistance Grant (JAG) program as follows:

The Prison Rape Elimination Act (PREA) was signed into law by President George W. Bush on September 4, 2003. It was created to eliminate sexual abuse in confinement facilities. PREA includes forty-three (43) standards that define three clear goals: to prevent, detect and

⁴⁶ See Department of Business and Professional Regulation, *2023 Agency Legislative Bill Analysis for HB 1521 (identical to SB 1674)* at 4 (Mar. 13, 2023) (on file with the Senate Rules Committee).

⁴⁷ *Id.*

respond to sexual abuse. PREA requires that, “All inmates shall be assessed during an intake screening and upon transfer to another facility for their risk of being sexually abused by other inmates or sexually abusive toward other inmates.” (28 CFR Part 115.41). In accordance with this requirement, the Department conducts an assessment of each inmate upon arrival into agency custody and when transferred to a new facility. Information obtained is used to “inform housing, bed, work, education, and program assignments with the goal of keeping separate those inmates at high risk of being sexually victimized from those at high risk of being sexually abusive.” (28 CFR Part 115.42). Housing decisions are made on a case by case basis to ensure the inmate’s “health and safety, and whether the placement would present management or security problems”.

The Department has a zero-tolerance policy for all forms of sexual abuse, sexual battery, and sexual harassment. The Department has assigned a PREA Coordinator to develop, implement, and monitor the Department's compliance with the PREA standards. In accordance with PREA guidelines, the Department screens inmates to determine if they are at risk of being either a sexual victim or a sexual aggressor. PREA screening considers a variety of relevant factors, including whether an inmate has a disability; an inmate's age, physical build, incarceration history, criminal history, and prior experiences of sexual victimization; an inmate's actual and/or perceived sexual orientation and gender identity; and the inmate's own perception of vulnerability.

According to the Edward Byrne Memorial Justice Assistance Grant Program Frequently Asked Questions document prepared by the Bureau of Justice Assistance, “The PREA statute provides that a state whose governor does not certify full compliance with DOJ’s National Standards to Prevent, Detect, and Respond to Prison Rape (PREA Standards), 34 U.S.C. 30307(e), is subject to the loss of five percent of any DOJ grant funds that it would otherwise receive for prison purposes, unless the governor submits to the Attorney General an assurance that such five percent will be used by the state solely to adopt and achieve full compliance with the PREA Standards in future years.” The five percent is assessed against the state’s 60 percent share of federal funding plus any allocation for certain smaller, local entities, but excludes funding that is passed through to local governments.⁴⁸

The DOC does not estimate the amount of potential loss of Justice Assistance Grant funds (five percent of any DOJ grant funds that the state would otherwise receive for prison purposes), or provide the amounts of such funds granted in prior years.

⁴⁸ See Department of Corrections, *2023 Agency Legislative Bill Analysis for SB 1674* at 2 (Mar. 24, 2023) (on file with the Senate Rules Committee).

As to housing assignments and determination of the sex of persons in its custody, the DOC states:

Although the [DOC] generally assigns inmates to facilities in a manner consistent with the requirement for correctional institutions, uncompromising adherence to the bill's requirements could potentially call into question the case-by-case assessment required under PREA. This in turn could potentially place at risk some federal Justice Assistance Grant (JAG) funding received by the state for justice programs. There is the potential for a financial loss of five percent of the state's 60 percent share of JAG funding, including the less-than-\$10,000 allocation (funds available to local governments whose calculated allocation is under \$10,000), but excluding the mandatory variable passthrough amount (allocations made through the state to local governments).⁴⁹

The Department of Management Services indicates the bill in its current form does not impact that department.⁵⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

Definitions and Technical Issues

The sponsor may wish to consider an amendment to revise the term “electrolysis facility,” which does not match the designation in s. 478.51, F.S., to “electrology facility.” See lines 57-58 of the bill.

With respect to the circumstances in which persons of the opposite sex may enter into a restroom or changing facility designated for the opposite sex, the sponsor may wish to consider an amendment to refer to “minors under the age of 16” or whatever age the sponsor believes is appropriate, rather than to “minor child”, and to refer to “persons with a disability,” as the term “disability” is defined in current law. See lines 99 to 104 of the bill.

With respect to situations when a restroom or changing facility is out of order or under repair, the sponsor may wish to consider an amendment to refer to “the restroom or changing facility designated for the opposite sex,” rather than the ambiguous phrase “opposite designated restroom or changing facility.” See lines 113 to 116 of the bill.

⁴⁹ *Id.* at 3.

⁵⁰ See letter from the Director of Legislative Affairs, the Department of Management Services (Mar. 20, 2023) (on file with the Senate Rules Committee).

Documentation, Licensure and Regulatory Discipline

The DBPR notes that adoption of rules may be required to:⁵¹

promulgate rules to provide guidance on what covered entities should submit as documentation for proof of compliance and directives on verification of compliance documents. The type of documentation required may have an indeterminate impact on the amount of division [of Hotels and Restaurants] staff and labor needed to verify compliance of each establishment.

While the DBPR states the transfer of a license from one location or from one individual to another is prohibited by s. 509.241(1), F.S., and therefore, a change in ownership requires the Division of Hotels and Restaurants (DHR) to issue a brand new license, it is unclear why a new type of license would be required under the bill.⁵²

The DHR's Counsel notes that:

Not all public food service and public lodging establishments fall under the definition of "public accommodations". The division [of Hotels and Restaurants] will need to determine which licensed establishments fall under the bill's requirement and amend its rules accordingly. Some licensed establishments that are currently exempt from the division's public restroom requirements may not be exempt from the bill's requirements. Ex. Vacation rentals.

The sponsor may wish to consider an amendment to specify the form of the required documentation so compliance or non-compliance may be objectively determined, and to require that such documentation be submitted to the covered entity's licensing or regulatory board.

The sponsor may wish to consider an amendment to address the imposition of licensing and regulatory discipline upon non-compliant covered entities, to provide due notice to covered entities of the possibility of such discipline, authorize licensing and regulatory boards by specifying the documentation required, the circumstances for imposing such discipline, and the penalties for noncompliance.

Section 553.865(11)(b), F.S., provides that a covered entity is subject to licensure and regulatory disciplinary action, as applicable, for a violation of s. 553.865(4) or (5), F.S., created by the bill. See lines 144 to 147 of the bill.

The bill affects many different types of entities, including licensed entities that are subject to disciplinary and licensure requirements specified by the licensing act for the particular type of entity. A licensing act may not provide the licensing board or agency with sufficient disciplinary

⁵¹ See Department of Business and Professional Regulation, *2023 Agency Legislative Bill Analysis for HB 1521 (identical to SB 1674)* at 6 (Mar. 13, 2023) (on file with the Senate Rules Committee).

⁵² *Id.*

authority, including a basis for denial of an initial license or a renewal license, for violations not specified in the applicable licensing act.

Disciplinary statutes may set forth penalties for a licensee's violations of law. Without specific authority to a licensing or regulatory board or agency for a specific penalty, it is not clear that the licensed entity may be subject to discipline for a violation that is not prohibited by the applicable licensing act.

For example, alcoholic beverage licensees under chs. 561, 562, 563, 564, and 565, F.S., may be disciplined, or have a license renewal denied, for a violation of any laws of this state or the United States.⁵³ However, public food service establishments and public lodging establishments licensed under ch. 509, F.S., may be disciplined, or have a license renewal denied, for a violation of ch. 509, F.S., a rule of the DHR with the DBPR, or a crime related to prostitution, controlled substances, gambling, or reflecting on professional character.⁵⁴

VIII. Statutes Affected:

This bill creates section 553.865 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.

⁵³ See s. 561.29(1), F.S.

⁵⁴ See ss. 509.261(1), (5), (6), and (7), F.S.

By Senator Grall

29-00992-23

20231674

A bill to be entitled

An act relating to facility requirements based on sex; creating s. 553.865, F.S.; providing a short title; providing legislative findings; providing definitions; providing requirements for exclusive use of restrooms by gender; providing requirements for exclusive use of changing facilities by gender; providing exceptions; prohibiting willfully entering a restroom or changing facility designated for the opposite sex and refusing to immediately depart when asked to do so by another person present there; providing criminal penalties; providing requirements for exclusive use of domestic violence centers by gender; providing requirements for correctional institutions; requiring entities that receive state licenses to submit compliance documentation; authorizing the Attorney General to bring enforcement actions; authorizing civil penalties; providing for certain funds to be deposited in the General Revenue Fund; providing severability; providing an effective date.

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

Section 1. Section 553.865, Florida Statutes, is created to read:

553.865 Private spaces.—

(1) This section may be cited as the "Safety in Private Spaces Act."

(2) The Legislature finds that females and males should be

29-00992-23

20231674

provided restrooms and changing facilities for their exclusive use in order to maintain public safety, decency, and decorum.

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

(a) "Changing facility" means a room in which two or more persons may be in a state of undress in the presence of others, including, but not limited to, a dressing room, fitting room, locker room, changing room, or shower room.

(b) "Correctional institution" means any state correctional institution as defined in s. 944.02, juvenile detention center or residential program as described in s. 985.03, county or municipal detention facility as defined in s. 951.23, private correctional facility as defined in s. 944.710, or any other facility used for the detention of adults or juveniles charged with or convicted of a crime.

(c) "Covered entity" means any:

1. Educational institution, as defined in s. 768.38.

2. Public accommodations, as defined in s. 760.02(11).

3. Public shelter space under s. 252.385.

4. Service provider, as defined in s. 397.311(44).

5. Health care facility, which means any provider as defined in s. 408.803; a provider with an active health care clinic exemption under s. 400.9935; a continuing care facility with a certificate of authority under chapter 651; an optical establishment permitted under s. 484.007; a massage establishment licensed under s. 480.043; a pharmacy as defined in s. 465.003; an office described in s. 459.0138 which is required to register with the Department of Health; a pain-management clinic registered under s. 458.3265; an electrolysis facility licensed under 478.51; or any health care setting owned

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or operated by a health care practitioner as defined in s.
456.001 or a provider licensed under chapter 394, chapter 397,
or part IV of chapter 468.

(d) "Female" means a person belonging, at birth, to the
biological sex which has the specific reproductive role of
producing eggs.

(e) "Male" means a person belonging, at birth, to the
biological sex which has the specific reproductive role of
producing sperm.

(f) "Restroom" means a room that includes one or more water
closets. This term does not include a unisex restroom.

(g) "Sex" means the classification of a person as either
female or male based on the organization of the body of such
person for a specific reproductive role, as indicated by the
person's sex chromosomes, naturally occurring sex hormones, and
internal and external genitalia present at birth.

(h) "Unisex changing facility" means a room intended for a
single-occupant or a family in which one or more persons may be
in a state of undress, including, but not limited to, a dressing
room, fitting room, locker room, changing room, or shower room
that is enclosed in floor-to-ceiling walls and accessed by a
full door with a secure lock that prevents another individual
from entering while the changing facility is in use.

(i) "Unisex restroom" means a room that includes one or
more water closets that is intended for a single-occupant, or a
family, and the room is enclosed in floor-to-ceiling walls and
accessed by a full door with a secure lock that prevents another
individual from entering while the room is in use.

(j) "Water closet" means a toilet or urinal.

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(4) A covered entity that maintains a water closet must, at
a minimum, have:

(a) A restroom designated for exclusive use by females and
a restroom designated for exclusive use by males; or

(b) A unisex restroom.

(5) A covered entity that maintains a changing facility
must, at a minimum, have:

(a) A changing facility designated for exclusive use by
females and a changing facility designated for exclusive use by
males; or

(b) A unisex changing facility.

(6) For purposes of this section, a person may enter a
restroom or changing facility designated for the opposite sex
under the following circumstances:

(a) To accompany another person of the opposite sex for the
purpose of assisting or chaperoning a minor child, elderly
person, or disabled person;

(b) For law enforcement or governmental regulatory
purposes;

(c) For the purpose of rendering emergency medical
assistance or to intervene in any other emergency situation
where the health or safety of another person is at risk;

(d) For custodial, maintenance, or inspection purposes,
provided that the restroom or changing facility is not in use;
or

(e) If the appropriate designated restroom or changing
facility is out of order or under repair and the opposite
designated restroom or changing facility contains no person of
the opposite sex.

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20231674__

(7) A person 18 years of age or older who willfully enters, for a purpose other than those listed in subsection (6), a restroom or changing facility designated for the opposite sex and refuses to immediately depart when asked to do so by another person present in the restroom or changing facility commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083.

(8) Each educational institution shall establish in its code of student conduct disciplinary procedures for any person under 18 years of age who willfully enters, for a purpose other than those listed in subsection (6), an educational institution restroom or changing facility designated for the opposite sex and refuses to immediately depart when asked to do so by another person present in the restroom or changing facility.

(9) A domestic violence center under chapter 39 must provide separate overnight accommodations for females and males based on their sex. This requirement does not apply to mixed-sex family units.

(10) A correctional institution must house females and males in its custody separately, based on their sex. This requirement applies to all housing assignments in a correctional institution, including temporary assignments.

(11)(a) A covered entity that is required to obtain a license to operate in the state shall submit documentation regarding compliance with subsections (4) and (5), as applicable, upon initial application for such license or on first renewal after July 1, 2023.

(b) A covered entity that fails to comply with subsection (4) or subsection (5) shall be subject to penalties under

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paragraph (c) and is subject to licensure or regulatory disciplinary action, as applicable.

(c) The Attorney General may bring a civil action to enforce this section against any covered entity. The Attorney General may seek injunctive relief, and, for any covered entity found to have willfully violated this section, the Attorney General may seek to impose a fine of up to \$10,000.

(d) Fines collected pursuant to paragraph (c) must be deposited in the General Revenue Fund.

Section 2. If any provision of this act or its application to any person or circumstances is held invalid, the invalidity does not affect other provisions or applications of the act which can be given effect without the invalid provision or application, and to this end the provisions of this act are severable.

Section 3. This act shall take effect July 1, 2023.



The Florida Senate

Committee Agenda Request

To: Senator Debbie Mayfield, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 10, 2023

I respectfully request that **Senate Bill #1674**, relating to Facility Requirements Based on Sex, be placed on the:

- ☒ committee agenda at your earliest possible convenience.
- ☐ next committee agenda.

Erin K. Grall

Senator Erin Grall
Florida Senate, District 29

The Florida Senate

APPEARANCE RECORD

Meeting Date

3/30/23

Bill Number or Topic

1674

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Senate Rules

Amendment Barcode (if applicable)

Name

Anthony Verdugo-Christion Family Coalition

Phone

786-447-6431

Address

P.O. Box 650216

Email

Street

Miami

State

FL.

Zip

33265

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

APPEARANCE RECORD

SB-1674

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Bill Number or Topic

Amendment Barcode (if applicable)

3/30/2023

Meeting Date

Senate Rules

Committee

Name

Armando V. Pomar

Phone

786-285-4090

Address

7710 Abbott Ave

Street

Email

armando.v.pomar@gmail.com

Miami Beach, FL 33141

City

State

Zip

Speaking:

☒ For

☐ Against

☐ Information

OR

Waive Speaking:

☒ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:



☒ I am appearing without compensation or sponsorship.



☐ I am a registered lobbyist, representing:



☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

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3/30/23

Meeting Date

S. Rules

Committee

SB 1674

Bill Number or Topic

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Amendment Barcode (if applicable)

Name Jon Harris Mauner

Phone _____

Address 201 E Park Ave.

Email _____

Street

TLH

FL

32301

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Equality Florida

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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Meeting Date

SENATE RULES

Committee

SB 1674

Bill Number or Topic

Amendment Barcode (if applicable)

Name

CARO GUTIERREZ

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

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3-30-23

Meeting Date

Rules

Committee

Skier (Am)

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1674

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Abdelilah SKhir (Ab-dee-luh Skear)

Phone

786-363-1660

Address

4343 W Flagler St #400

Email

askhir@aclufi.org

Street

Miami

FL

33134

City

State

Zip

Speaking:

☐ For

☒ Against

☐ Information

OR

Waive Speaking:

☐ In Support

☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

ACLU Florida

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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APPEARANCE RECORD3/30/23

Meeting Date

Rules

Committee

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Bill Number or Topic

Amendment Barcode (if applicable)

Name

John Labriola (Christian Family Coalition)

Phone

954-515-2084

Address

Po Box 650216

Street

Miami

City

FL

State

33265

Zip

Email

JFLABRIOLA@gmail.com

Speaking:

☒

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:☐I am appearing without
compensation or sponsorship.☐I am a registered lobbyist,
representing:☒I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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The Florida Senate

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3/30/23

Meeting Date

Senate Rules

Committee

SB 1674

Bill Number or Topic

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Amendment Barcode (if applicable)

Name

Kaleb Hobson-Garcia

Phone

850-644-2525

Address

600 W College Ave

Street

Email

Tallahassee

City

FL

State

32306

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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S-001 (08/10/2021)

March 30, 2023

Meeting Date

Rules

Committee

Name **Jonathan Webber**

Address **400 Washington Ave**
Street

Montgomery

City

AL

State

36104

Zip

The Florida Senate

APPEARANCE RECORD

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SB 1674 Facility Rqmnts Based on Sex

Bill Number or Topic

Amendment Barcode (if applicable)

Phone **954-593-4449**

Email **jonathan.webber@splcactionfund.org**

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:

SPLC Action Fund

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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Meeting Date

Rules

Committee

1674

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Olivia Barbis

Phone

850-617-9718

Address

2473 Con Dr. 200

Street

Email

oliviab@drflorido.org

Tallahassee FL 32304

City

State

Zip

Speaking:

☐

For

☐

Against

☒

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

Disability Rights
FL

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022JointRules.pdf \(flsenate.gov\)](#)

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Meeting Date

SB 1674
Bill Number or Topic

Committee _____
Name Christina Maves Phone _____
Address _____ Email _____
Street _____
City _____ State _____ Zip _____

Speaking: ☐ For ☒ Against ☐ Information **OR** Waive Speaking: ☐ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

- ☒ I am appearing without compensation or sponsorship.
- ☐ I am a registered lobbyist, representing:
- ☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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3/30/23

Meeting Date

SB 1674

Bill Number or Topic

Senate Rules

Committee

Amendment Barcode (if applicable)

Name

Kaylee Rogers

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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3/30

Meeting Date

SB 1674

Bill Number or Topic

Senate Rules

Committee

Amendment Barcode (if applicable)

Name

Quinn Warner Swearingen

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

APPEARANCE RECORD

SB1674

Meeting Date

Bill Number or Topic

Deliver both copies of this form to
Senate professional staff conducting the meeting

Committee

Amendment Barcode (if applicable)

Name

ANDREA MERCADO

Phone

954 303 7202

Address

1104 Waterbrook Ln

Email

ameradofloridarising.org

Street

Weston

FL

33326

City

State

Zip

Speaking:

☐

For

☒

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐I am appearing without
compensation or sponsorship.☐I am a registered lobbyist,
representing:☒I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3.30.23

Meeting Date

1674

Bill Number or Topic

Committee on Rules

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

Amendment Barcode (if applicable)

Name

Trish Brown (Community person)

Phone

Address

Street

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

30. MARCH. 23

Meeting Date

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1674

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

CHEVALLER LOVETT W/ FLORIDA RISING

Phone

407.733.4838

Address

200 E. ROBINSON ST

Email

CHEV@FLORIDARISING.ORG

Street

Orlando

City

FL

State

32801

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒I am appearing without
compensation or sponsorship.☐I am a registered lobbyist,
representing:☐I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3-20-23

Meeting Date

Rules

Committee

1674

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Barbara DeVane

Phone

850-251-4280

Address

625 E. Brevard St

Email

barbadevane1@yahoo.com

Street

Tallahassee

State

FL 32308

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without compensation or sponsorship.

☒ I am a registered lobbyist, representing:

FL NOW

☐ I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/2023

Meeting Date

SB 1674

Bill Number or Topic

Senate Rules

Committee

Amendment Barcode (if applicable)

Name

Kevin Parker

Phone

Address

Street

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23

Meeting Date

Rules

Committee

SB 1674

Bill Number or Topic

Amendment Barcode (if applicable)

Name **ANDREA MERCADO**

Phone **954-303-7202**

Address **1104 Waterbrook Lane**
Street

Email

Weston
City

FL
State

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

FLORIDA RISING

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23

Meeting Date

rules

Committee

SB 1674

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Yanelis Valdes

Phone

Address

Street

Miami FL

City

State

Zip

33132

Email

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Engage Miami

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1, [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/29/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB 1674

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

SAM MAJOR

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23

Meeting Date

Rules

Committee

1674

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Livia Benitez

Phone

Address

865 W 69 St

Email

livia@engage-miami

Street

Hiialeah

City

FL

State

33014

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

March 30, 2023

Meeting Date

1674

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name

Ernestine Feggans

Phone

904 414 9574

Address

10970 Lem Turner Rd #407

Email

Ernestine.feggans

Street

Jax

City

FL

State

32212

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23

Meeting Date

Rules

Committee

SB 1674

Bill Number or Topic

Amendment Barcode (if applicable)

Name Kyle Mitchell

Phone 904 304 6228

Address 9064 Polk Ave
Street

Email KHMitchell@yahoo.com

Jacksonville
City

FL
State

32208
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

3/30/23

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1674

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Christina Kittle

Phone

Address

2523 Forbes St Unit 4

Email

Street

Jacksonville

FL

32204

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☒

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

3/30/23

Meeting Date

Rules

Committee

1679

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Sara Mahmood

Phone

9046514120

Address

2523 Forbes Street

Email

Sara.d.mahmood@gmail.com

Street

Jax

FL

32209

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without compensation or sponsorship.

☐

I am a registered lobbyist, representing:

☒

I am not a lobbyist, but received something of value for my appearance (travel, meals, lodging, etc.), sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

03/30/23

Meeting Date

Rules

Committee

Deliver both copies of this form to
Senate professional staff conducting the meeting

SB1674

Bill Number or Topic

Amendment Barcode (if applicable)

Name

Lissie [lee-see] Morales

Phone

Address

Street

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☒

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Florida Rising

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

30 MAR 23

Meeting Date

The Florida Senate
APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

1674

Bill Number or Topic

Committee

Name

Jacquelyn Harris

Phone

386.344.4763

Address

1985 McQuade Street

Email

JazzyJ904@gmail.com

Street

Jax

City

FL

State

32209

Zip

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☐

In Support

☒

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

30mar2023
Meeting Date

SB 1674
Bill Number or Topic

Rules
Committee

Amendment Barcode (if applicable)

Name Regina Piazza Phone 210-602-6265

Address 156 Indian Bayou Dr. Email life.liberty.truth@protonmail.com
Street

Destin FL 32541
City State Zip

Speaking: ☐ For ☐ Against ☐ Information **OR** Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23

Meeting Date

SB 1674

Bill Number or Topic

Committee

Amendment Barcode (if applicable)

Name

Leslie Villegas (vee-yeh-gus)

Phone

786 491 0254

Address

Street

Tallahassee

FL

32304

City

State

Zip

Email

Speaking:

☐

For

☐

Against

☐

Information

OR

Waive Speaking:

☒

In Support

☐

Against

PLEASE CHECK ONE OF THE FOLLOWING:

☒

I am appearing without
compensation or sponsorship.

☐

I am a registered lobbyist,
representing:

☐

I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23

Meeting Date

Rules

Committee

SB 1674

Bill Number or Topic

Amendment Barcode (if applicable)

Name Aaron DiPietro

Phone 904-608-4471

Address 4853 S. Orange Ave.

Email aaron.d@fffamily.org

Street

Orlando

City

FL

State

32806

Zip

Speaking:



For



Against



Information

OR

Waive Speaking:



In Support



Against

PLEASE CHECK ONE OF THE FOLLOWING:



I am appearing without
compensation or sponsorship.



I am a registered lobbyist,
representing:

Florida Family
Policy Council



I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](https://www.flsenate.gov/2020-2022-Joint-Rules.pdf)

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

S-001 (08/10/2021)

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

3/30/23

Meeting Date

1674

Bill Number or Topic

Rules

Committee

Amendment Barcode (if applicable)

Name Michael Barrett

Phone (850) 222-3803

Address 201 W. Park Ave.
Street

Email mbarrett@fla.senate.gov

Tallahassee
City

FL
State

32301
Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☒ In Support ☐ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☒ I am a registered lobbyist,
representing:
Florida Conference of
Catholic Bishops

☐ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

**The Following Appearance Record
Not Read by the Chair**

The Florida Senate

APPEARANCE RECORD

Deliver both copies of this form to
Senate professional staff conducting the meeting

March 30, 2023

Meeting Date

Rules

Committee

1674

Bill Number or Topic

Amendment Barcode (if applicable)

Name Alexandra Contreras

Phone

Address 1400 Salzedo Street

Email

Street

Miami

City

FL

State

33134

Zip

Speaking: ☐ For ☐ Against ☐ Information

OR

Waive Speaking: ☐ In Support ☒ Against

PLEASE CHECK ONE OF THE FOLLOWING:

☐ I am appearing without
compensation or sponsorship.

☐ I am a registered lobbyist,
representing:

☒ I am not a lobbyist, but received
something of value for my appearance
(travel, meals, lodging, etc.),
sponsored by:

Engage Miami

While it is a tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this hearing. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard. If you have questions about registering to lobby please see Fla. Stat. §11.045 and Joint Rule 1. [2020-2022 Joint Rules.pdf \(flsenate.gov\)](#)

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

S-001 (08/10/2021)

CourtSmart Tag Report

Room: KB 412
Caption: Senate Rules Committee

Case No.: -
Judge:

Type:

Started: 3/30/2023 8:32:50 AM

Ends: 3/30/2023 12:09:15 PM

Length: 03:36:26

8:32:49 AM Chair Mayfield calls the meeting to order
8:32:56 AM Roll call
8:33:10 AM Quorum announced
8:33:33 AM Pledge of Allegiance
8:33:53 AM Chair with opening comments
8:34:35 AM Tab 1 CS/SB 50 Public Records/Judicial Assistants
8:34:39 AM Senator Wright explains the bill
8:35:49 AM Questions
8:35:52 AM Appearance Form
8:35:57 AM Allison Dudley waives
8:36:06 AM Debate
8:36:11 AM Senator Wright waives close
8:36:19 AM Roll call
8:36:35 AM CS/SB 50 is reported favorably
8:36:57 AM Tab 6 CS/SB 732 Collegiate Purple Star Campuses
8:37:07 AM Senator Wright explains the bill
8:37:48 AM Questions
8:37:58 AM Debate
8:38:04 AM Senator Wright waives close
8:38:05 AM Roll call
8:38:44 AM CS/SB 732 is reported favorably
8:38:50 AM Tab 3 CS/SB 308 Interscholastic Activities
8:39:08 AM Senator Collins explains the bill
8:39:54 AM Late-filed Amendment Barcode 830706
8:39:58 AM Senator Collins explains the amendment
8:41:56 AM Questions
8:42:01 AM Senator Rouson
8:42:24 AM Senator Collins
8:42:56 AM Senator Torres
8:43:11 AM Senator Collins
8:43:29 AM Senator Torres
8:43:40 AM Senator Collins
8:43:48 AM Appearance Forms
8:43:55 AM Debate
8:44:05 AM Senator Collins waives close
8:44:10 AM Without objection
8:44:17 AM Amendment is adopted
8:44:20 AM Back on bill
8:44:23 AM Questions
8:44:25 AM Appearance Forms
8:44:30 AM Ryan Kennedy, Florida Citizens Alliance, waives
8:44:40 AM Barney Bishop, Barney Bishop Consulting, waives
8:44:50 AM Craig Damon speaks
8:52:21 AM Senator Rouson
8:52:32 AM Mr. Damon
8:52:38 AM Senator Rouson
8:52:46 AM Mr. Damon
8:52:49 AM Senator Rouson
8:52:50 AM Mr. Damon
8:52:54 AM Senator Rouson
8:53:02 AM Mr. Damon
8:53:03 AM Senator Rouson

8:53:13 AM	Mr. Damon
8:53:17 AM	Senator Rouson
8:53:29 AM	Mr. Damon
8:53:40 AM	Senator Book
8:54:02 AM	Mr. Damon
8:54:22 AM	Debate
8:54:41 AM	Senator Hooper
8:55:16 AM	Senator Rouson
8:56:19 AM	Senator Torres
8:57:01 AM	Senator Baxley
9:01:15 AM	Senator Osgood
9:04:16 AM	Senator Simon
9:05:19 AM	Senator Collins closes on the bill
9:08:15 AM	Roll call
9:08:57 AM	CS/CS/SB 308 is reported favorably
9:09:03 AM	Tab 10 SM 1382 United States Department of Defense
9:09:15 AM	Senator Collins explains the bill
9:10:05 AM	Questions
9:10:10 AM	Appearance Forms
9:10:13 AM	Barbara DeVane, FL NOW waives
9:10:18 AM	Kevin Parker waives
9:10:28 AM	Caro Gutierrez waives
9:10:45 AM	Jon Harris Maurer, Equality Florida, speaks
9:12:29 AM	Debate
9:12:40 AM	Senator Collins closes on the bill
9:15:15 AM	Roll call
9:16:00 AM	SM 1382 is reported favorably
9:16:07 AM	Tab 8 CS.SB 774 Ethics Requirements for Public Officials
9:16:18 AM	Senator Brodeur explains
9:16:22 AM	Amendment Barcode 846988
9:16:30 AM	Withdrawn
9:16:48 AM	Amendment Barcode 643476
9:16:50 AM	Senator Brodeur explains the amendment
9:18:43 AM	Kerrie Stillman, Florida Commission on Ethics, waives
9:18:56 AM	Debate
9:19:04 AM	Senator Brodeur waives close
9:19:11 AM	Amendment adopted
9:19:12 AM	Back on the bill
9:19:14 AM	Questions
9:19:16 AM	Senator Jones
9:19:55 AM	Senator Brodeur
9:21:29 AM	Senator Jones
9:21:42 AM	Senator Brodeur
9:22:34 AM	Senator Torres
9:22:48 AM	Senator Brodeur
9:22:52 AM	Senator Torres
9:22:59 AM	Senator Brodeur
9:23:16 AM	Senator Torres
9:23:38 AM	Senator Brodeur
9:24:06 AM	Senator Osgood
9:24:46 AM	Senator Brodeur
9:25:04 AM	Senator Hooper
9:25:24 AM	Senator Brodeur
9:25:31 AM	Senator Hooper
9:25:36 AM	Senator Brodeur
9:25:39 AM	Senator Hooper
9:25:50 AM	Senator Brodeur
9:26:06 AM	Senator Hooper
9:26:18 AM	Senator Brodeur
9:26:20 AM	Senator Burton
9:26:48 AM	Senator Brodeur
9:27:42 AM	Senator Burton

9:28:01 AM Senator Brodeur
9:28:22 AM Kerrie Stillman, Florida Commission on Ethics speaks
9:32:45 AM Senator Burton
9:33:33 AM Ms. Stillman
9:35:13 AM Appearance Forms
9:35:19 AM Kerrie Stillman waives
9:35:49 AM Robert Yaffe speaks
9:42:21 AM Senator Jones
9:42:47 AM Mr. Yaffe
9:43:16 AM Chair Mayfield
9:43:22 AM Mr. Yaffe
9:44:04 AM Senator Hutson
9:44:10 AM Mr. Yaffe
9:46:13 AM Senator Hutson
9:46:17 AM Mr. Yaffe
9:47:08 AM Senator Hutson
9:47:11 AM Mr. Yaffe
9:47:13 AM Senator Hutson
9:47:16 AM Mr. Yaffe
9:47:27 AM Senator Hooper
9:47:32 AM Mr. Yaffe
9:48:09 AM Senator Hooper
9:48:28 AM Mr. Yaffe
9:49:14 AM Josh Fuller, Mayor - Bay Harbor Islands, speaks
9:52:18 AM Derick Tabertshafer, Americans for Prosperity, waives
9:52:28 AM Debate
9:52:35 AM Senator Jones
9:53:42 AM Senator Torres
9:54:52 AM Senator DiCeglie
9:56:45 AM Senator Brodeur closes on the bill
9:57:52 AM Roll call
9:58:38 AM CS/CS/SB 774 is reported favorably
9:58:47 AM Tab 2 CS/CS/SB 192 Everglades Protection Area
9:58:57 AM Senator Avila explains the bill
9:59:21 AM Questions
9:59:40 AM Appearance Forms
9:59:47 AM Karl Rasmussen, Everglades Trust, waives
9:59:51 AM Dave Cullen, Sierra Club FL, waives
9:59:58 AM Jane West, 1000 Friends of Florida, waives
10:00:06 AM Debate
10:00:18 AM Senator Jones
10:00:35 AM Senator Avila waives close
10:00:37 AM Roll call
10:01:19 AM CS/CS/SB 192 is reported favorably
10:01:25 AM Tab 5 SB 678 Disposal of Property
10:01:33 AM Senator Powell explains the bill
10:01:49 AM Questions
10:02:12 AM Debate
10:02:19 AM Senator Powell waives close
10:02:21 AM Roll call
10:03:04 AM SB 678 is reported favorably
10:03:10 AM Tab 4 CS/SB 664 Contracts Entered into by The Department of Children and Families
10:03:19 AM Senator Burgess explains the bill
10:03:47 AM Questions
10:03:49 AM Appearance Forms
10:03:51 AM Barney Bishop, FL Smart Justice waives
10:03:57 AM Debate
10:04:02 AM Senator Burgess waives close
10:04:05 AM Roll call
10:04:49 AM CS/SB 664 is reported favorably
10:04:52 AM Tab 7 CS/SB 764 Interference with Sporting or Entertainment Events
10:05:02 AM Senator Simon explains the bill

10:06:01 AM Questions
10:06:39 AM Senator Rouson
10:07:12 AM Senator Simon
10:07:22 AM Appearance Form
10:07:34 AM Barney Bishop, Barney Bishop Consulting, waives
10:07:39 AM Debate
10:07:50 AM Senator Simon waives close
10:07:54 AM Roll call
10:08:33 AM CS/SB 764 is reported favorably
10:08:35 AM Tab 9 CS/CS/SB 1098 Withholding or Withdrawal of Life-prolonging Procedures
10:08:49 AM Senator Burton explains the bill
10:09:43 AM Questions
10:09:46 AM Appearance Forms
10:09:51 AM Karen Campbell, Executive Director of the North Florida Office of Public Guardian, speaks
10:11:53 AM Olivia Babis, Disability Rights FL, called to speak
10:12:02 AM Bryan Cherry, FL Public Guardian Coalition, waives
10:12:15 AM Karen Murillo, AARP, waives
10:12:19 AM Stacy Butterfield, Polk County Clerk of Court, waives
10:12:27 AM Olivia Babis, Disability Rights FL, speaks
10:16:35 AM Debate
10:16:49 AM Senator Burton closes on the bill
10:17:21 AM Roll call
10:18:03 AM CS/CS/SB 1098 is reported favorably
10:18:08 AM Tab 11 SB 1438 Protection of Children
10:18:17 AM Senator Yarborough explains the bill
10:19:15 AM Questions
10:19:51 AM Senator Jones
10:20:45 AM Senator Yarborough
10:22:05 AM Senator Jones
10:23:13 AM Senator Yarborough
10:23:53 AM Senator Jones
10:24:56 AM Senator Yarborough
10:25:24 AM Senator Jones
10:25:43 AM Senator Yarborough
10:25:53 AM Senator Jones
10:26:15 AM Senator Yarborough
10:26:33 AM Senator Jones
10:26:42 AM Senator Yarborough
10:27:05 AM Senator Jones
10:27:20 AM Senator Yarborough
10:27:40 AM Appearance Forms
10:27:43 AM Ryan Kennedy, Florida Citizens Alliance, speaks
10:29:13 AM John Labriola, Christian Family Coalition, speaks
10:32:19 AM Senator Jones
10:32:24 AM Mr. Labriola
10:32:50 AM Senator Jones
10:32:52 AM Mr. Labriola
10:33:01 AM Senator Jones
10:33:05 AM Mr. Labriola
10:33:30 AM Senator Jones
10:33:33 AM Mr. Labriola
10:34:07 AM Senator Jones
10:34:11 AM Mr. Labriola
10:34:14 AM Senator Jones
10:34:17 AM Mr. Labriola
10:34:47 AM Senator Jones
10:34:50 AM Chair Mayfield
10:36:01 AM Senator Jones
10:36:51 AM Chair Mayfield
10:37:13 AM Abdelilah Skhir, ACLU Florida, speaks
10:40:32 AM Armando V. Pomar waives
10:40:51 AM Kevin Parker speaks

10:44:07 AM John Harris Maurer, Policy Director, Equality Florida, speaks
10:47:20 AM Quinn Werner Swearingen called to speak
10:47:48 AM Caro Gutierrez waives
10:47:48 AM Barbara DeVane, FL NOW, waives
10:47:48 AM Michael Barrett, Florida Conference of Catholic Bishops, waives
10:47:48 AM Jonathan Webber, SPLC Action Fund, waives
10:47:49 AM Aaron DiPietro, Florida Family Policy Council, waives
10:47:49 AM Yanelis Valdes, Engage Miami, waives
10:48:10 AM Quinn Werner Swearingen speaks
10:51:08 AM Senator Garcia
10:51:39 AM Mr. Swearingen
10:51:47 AM Senator Garcia
10:51:48 AM Mr. Swearingen
10:52:36 AM Chair Mayfield
10:52:37 AM Senator Garcia
10:52:57 AM Chair Mayfield
10:53:11 AM Mr. Swearingen
10:53:49 AM Chair Mayfield
10:53:56 AM Christina Maves called to speak
10:54:09 AM Barney Bishop, Barney Bishop Consulting, waives
10:54:11 AM Sam Major waives
10:54:14 AM Kaylee Rogers waives
10:54:17 AM Livia Benitez waives
10:54:23 AM Alexandra Conteras waives
10:54:34 AM Christina Maves speaks
10:59:02 AM Anthony Verdugo, Christian Family Coalition, speaks
11:01:44 AM Leslie Villegas, Forward Party, speaks
11:03:04 AM Chair Mayfield
11:03:09 AM Ms. Villegas
11:04:42 AM Chair Mayfield
11:04:56 AM Regina Piazza speaks
11:06:12 AM Alexandra Contreras, Engage Miami, speaks
11:06:50 AM Chair Mayfield
11:06:55 AM Ms. Contreras
11:07:03 AM Chair Mayfield
11:07:06 AM Ms. Contreras
11:07:32 AM Debate
11:07:34 AM Senator Book
11:10:08 AM Senator Jones
11:13:26 AM Senator Broxson
11:14:32 AM Chair Mayfield
11:14:36 AM Senator Jones
11:14:41 AM 2.10 Rule - Meeting time extended
11:15:02 AM Senator Jones
11:15:04 AM Senator Mayfield
11:15:18 AM Senator Osgood
11:21:44 AM Senator Torres
11:24:48 AM Senator Yarborough closes on the bill
11:28:46 AM Roll call
11:29:30 AM SB 1438 is reported favorably
11:29:33 AM Tab 12 SB 1674 Facility Requirements Based on Sex
11:29:39 AM Senator Grall explains the bill
11:30:27 AM Questions
11:31:07 AM Senator Book
11:31:11 AM Senator Grall
11:31:22 AM Senator Book
11:31:26 AM Senator Grall
11:31:37 AM Senator Book
11:32:05 AM Senator Grall
11:32:25 AM Senator Rouson
11:32:36 AM Senator Grall
11:33:23 AM Senator Rouson

11:33:32 AM Senator Grall
11:33:59 AM Senator Rouson
11:34:16 AM Appearance Forms
11:34:37 AM Chair Mayfield
11:35:05 AM Kaleb Hodson-Garcia
11:35:10 AM Anthony Verdugo, Christian Family Coalition, waives
11:35:12 AM Armando Pomar waives
11:35:17 AM Chair Mayfield
11:35:20 AM John Harris Mauer
11:35:21 AM Chair Mayfield
11:35:22 AM John Harris Maurer speaks
11:36:44 AM Caro Gutierrez
11:38:58 AM Abdelilah Skhir, ACLU Florida speaks
11:40:22 AM John Labriola, Christian Family Coalition speaks
11:42:11 AM Senator Book
11:42:14 AM Mr. Labriola
11:42:21 AM Senator Book
11:42:27 AM Mr. Labriola
11:42:39 AM Senator Osgood
11:42:47 AM Mr. Labriola
11:43:18 AM Senator Osgood
11:43:21 AM Mr. Labriola
11:43:42 AM Senator Osgood
11:43:46 AM Mr. Labriola
11:44:04 AM Chair Mayfield
11:44:07 AM Mr. Labriola
11:44:17 AM Kaleb Hobson-Garcia speaks
11:46:32 AM Jonathan Webber, SPLC Action Fund speaks
11:48:00 AM Olivia Babis, Disability Rights FL speaks
11:49:31 AM Christina Maves speaks
11:51:19 AM Kaylee Rogers speaks
11:52:28 AM Quinn Werner-Swearingen speaks
11:54:46 AM Andrea Mercado, Florida Rising speaks
11:55:41 AM Trish Brown waives
11:55:46 AM Chev Levett, Florida Rising, waives
11:55:49 AM Barbara DeVane, FL NOW, waives
11:55:52 AM Kevin Parker waives
11:55:57 AM Andrea Mercado, Florida Rising, waives
11:55:59 AM Yanelis Valdes, Engage Miami, waives
11:56:05 AM Sam Major waives
11:56:08 AM Livia Benitez waives
11:56:12 AM Ernestine Feggans waives
11:56:16 AM Kyle Mitchell waives
11:56:19 AM Christine Kittle waives
11:56:23 AM Sarah M. waives
11:56:27 AM Lissie Morales waives
11:56:31 AM JacQuelyn Harris waives
11:56:38 AM Regina Piazza waives
11:56:42 AM Leslie Villegas waives
11:56:46 AM Aaron DiPietro, Florida Family Policy Council, waives
11:56:49 AM Michael Barrett, Florida Conference of Catholic Bishops, waives
11:57:01 AM Debate
11:57:09 AM Senator Book
11:59:13 AM Senator Torres
12:00:48 PM Senator Rouson
12:01:59 PM Senator Osgood
12:04:26 PM Chair Mayfield
12:04:35 PM Senator Grall closes on the bill
12:06:33 PM Roll call
12:07:35 PM SB 1674 is reported favorably
12:08:18 PM Votes After Motions
12:08:27 PM Senator Book

12:08:37 PM Senator Garcia
12:08:46 PM Without objection
12:08:56 PM Senator Garcia moves to adjourn
12:09:01 PM Meeting adjourned