Tab 1	**CS/SB 42** by **JU, Taddeo**; (Similar to CS/H 06525) Relief of Dominguez by Hillsborough County

Tab 2	**SR 1808** by **Taddeo**; Film and Television Production

Tab 3	**SB 94** by **Stewart (CO-INTRODUCERS) Torres**; (Compare to CS/H 00069) Child Care Facilities

140174	A	S	RCS	RC, Stewart	Delete L.46:	04/18 08:23 AM

Tab 4	**CS/CS/SB 122** by **JU, BI, Broxson (CO-INTRODUCERS) Hooper, Simmons, Stewart**; (Compare to CS/CS/H 01247) Agreements Between Service Providers and Consumers

338298	D	S	RCS	RC, Broxson	Delete everything after	04/18 10:10 AM
~~838662~~	AA	S	WD	RC, Rodriguez	btw L.4 - 5:	04/18 10:10 AM
~~927034~~	AA	S	WD	RC, Farmer	Delete L.30 - 33:	04/18 10:10 AM
~~273814~~	AA	S	WD	RC, Thurston	Delete L.97 - 98:	04/18 10:10 AM
504126	AA	S	UNFAV	RC, Farmer	Delete L.147:	04/18 10:10 AM
~~668170~~	AA	S	WD	RC, Farmer	Delete L.160 - 190:	04/18 10:10 AM
645914	AA	S	UNFAV	RC, Thurston	Delete L.232 - 250:	04/18 10:10 AM
~~394600~~	AA	S	WD	RC, Thurston	Delete L.276:	04/18 10:10 AM
204184	AA	S	UNFAV	RC, Farmer	Delete L.283:	04/18 10:10 AM
922830	AA	S	UNFAV	RC, Farmer	Delete L.323 - 330:	04/18 10:10 AM
~~873114~~	AA	S	WD	RC, Farmer	Delete L.323 - 330:	04/18 10:10 AM
~~547328~~	AA	S	WD	RC, Farmer	Delete L.323 - 330:	04/18 10:10 AM
488804	A	S		RC, Rodriguez	btw L.266 - 267:	04/16 12:22 PM

Tab 5	**SB 7054** by **BI**; (Identical to H 07091) OGSR/Hurricane or Flood Loss Models

Tab 6	**CS/CS/SB 168** by **IS, JU, Gruters (CO-INTRODUCERS) Bean, Mayfield, Broxson**; (Compare to CS/CS/H 00527) Federal Immigration Enforcement

330876	A	S	RCS	RC, Gruters	Delete L.49 - 116:	04/18 10:12 AM
568358	A	S	UNFAV	RC, Rodriguez	Delete L.57 - 76:	04/18 10:12 AM
457010	A	S	UNFAV	RC, Rodriguez	Delete L.94 - 110:	04/18 10:12 AM
795686	A	S	UNFAV	RC, Rodriguez	Delete L.116:	04/18 10:12 AM
158572	A	S	RCS	RC, Gruters	Delete L.129:	04/18 10:12 AM
620498	A	S	RCS	RC, Gruters	Delete L.158 - 182:	04/18 10:12 AM
195982	A	S	UNFAV	RC, Rodriguez	Delete L.185 - 199:	04/18 10:12 AM
413562	A	S	UNFAV	RC, Rodriguez	Delete L.250 - 254:	04/18 10:12 AM
456262	A	S	UNFAV	RC, Farmer	Delete L.260 - 261:	04/18 10:12 AM
695286	A	S	UNFAV	RC, Rodriguez	Delete L.261:	04/18 10:12 AM
969240	A	S	UNFAV	RC, Rodriguez	btw L.261 - 262:	04/18 10:12 AM
268432	A	S L	UNFAV	RC, Rodriguez	btw L.220 - 221:	04/18 10:12 AM

Tab 7	**CS/CS/SB 200** by **GO, JU, Cruz**; (Similar to CS/H 06515) Relief of the Estate of Herminio Padilla, Jr., by the City of West Palm Beach and Others

Tab 8	**CS/SB 630** by **HP, Perry (CO-INTRODUCERS) Baxley**; (Similar to CS/CS/1ST ENG/H 00451) Nonopioid Alternatives

Tab 9	**SB 902** by **Perry (CO-INTRODUCERS) Hutson, Bracy**; (Compare to CS/CS/H 00447) Open and Expired Building Permits

768214	D	S	RCS	RC, Perry	Delete everything after	04/18 08:49 AM

Tab 10	**CS/SB 7046** by **GO, CJ**; (Similar to CS/H 07057) Critical Infrastructure Facilities and Staff

Tab 11	**SM 852** by **Diaz (CO-INTRODUCERS) Wright**; (Similar to H 00713) VA MISSION Act of 2018

Tab 12	**CS/SB 920** by **CJ, Pizzo**; (Identical to CS/H 01021) DNA Database

Tab 13	**SB 1136** by **Harrell (CO-INTRODUCERS) Perry**; (Similar to CS/H 01043) Cyberharassment

Tab 14	**CS/SB 1418** by **CF, Powell**; (Compare to CS/CS/H 00361) Mental Health

923424	D	S	RCS	RC, Powell	Delete everything after	04/18 09:14 AM

Tab 15	**SR 1438** by **Torres**; (Similar to H 08011) Taiwan

Tab 16	**CS/SB 1520** by **BI, Bean**; (Identical to CS/H 00007) Direct Health Care Agreements

Tab 17	**CS/CS/SB 1704** by **IT, BI, Wright**; (Similar to CS/CS/H 01393) Department of Financial Services

Tab 18	**SR 1820** by **Hooper**; (Similar to H 01379) Moratorium on Drilling in the Gulf of Mexico

Tab 19	**CS/CS/CS/SB 76** by **JU, IT, IS, Simpson (CO-INTRODUCERS) Passidomo, Hooper, Mayfield, Book, Rouson, Berman, Perry, Taddeo, Cruz**; (Compare to H 00045) Texting While Driving

758640	D	S	RCS	RC, Simpson	Delete everything after	04/18 09:26 AM

Tab 20	**CS/SB 336** by **FT, Brandes**; (Compare to CS/CS/H 00005) Local Tax Referenda

164680	A	S	RCS	RC, Lee	Delete L.30 - 64:	04/18 09:29 AM
232346	A	S	RCS	RC, Brandes	Delete L.65:	04/18 09:29 AM

Tab 21	**CS/SB 380** by **BI, Brandes**; (Identical to CS/H 00617) Homeowners' Insurance Policy Disclosures

Tab 22	**CS/SB 548** by **JU, Brandes**; (Similar to CS/CS/H 00409) Electronic Legal Documents

Tab 23	**SB 342** by **Lee**; (Similar to CS/H 00281) Public Records/Voters and Voter Registration

Tab 24	**SB 742** by **Braynon**; (Similar to H 01381) Designation of Eligible Telecommunications Carriers

Tab 25	**CS/CS/SB 862** by **JU, BI, Stargel**; (Compare to CS/CS/CS/H 00355) Lessor Liability Under Special Mobile Equipment Leases

661740	D	S	RCS	RC, Stargel	Delete everything after	04/18 09:48 AM
~~492136~~	AA	S	WD	RC, Rodriguez	Delete L.27 - 33:	04/18 09:48 AM
533376	A	S		RC, Rodriguez	Delete L.41 - 43:	04/16 01:58 PM

Tab 26	**SB 990** by **Gibson (CO-INTRODUCERS) Berman, Rodriguez**; (Similar to CS/1ST ENG/H 00563) Unemployment Compensation

203116	A	S	RCS	RC, Gibson	Delete L.32 - 91:	04/18 09:50 AM

Tab 27	**SB 1208** by **Baxley**; (Identical to H 00975) Aircraft Liens

Tab 28	**SJR 274** by **Baxley (CO-INTRODUCERS) Mayfield, Perry, Rouson**; (Identical to H 00229) Limitation on Terms of Office for Members of a District School Board

The Florida Senate

COMMITTEE MEETING EXPANDED AGENDA

RULES
Senator Benacquisto, Chair
Senator Gibson, Vice Chair

MEETING DATE: Wednesday, April 17, 2019
TIME: 2:00—6:00 p.m.
PLACE: *Toni Jennings Committee Room,* 110 Senate Building

MEMBERS: Senator Benacquisto, Chair; Senator Gibson, Vice Chair; Senators Book, Bradley, Brandes, Braynon, Farmer, Flores, Hutson, Lee, Montford, Passidomo, Rodriguez, Simmons, Simpson, Stargel, and Thurston

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	**CS/SB 42** Judiciary / Taddeo (Similar CS/H 6525)	Relief of Dominguez by Hillsborough County ; Providing for the relief of Jorge L. Dominguez, Chelsea Beatrice Dominguez, Brittney Delores Dominguez, and Tori Alexis Dominguez by Hillsborough County; providing for an appropriation to compensate them for the wrongful death of Darcia Lynn Dominguez, which occurred as the result of the negligence of Hillsborough County and one of its employees, etc. SM JU 03/11/2019 Fav/CS GO 03/26/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 16 Nays 0
2	**SR 1808** Taddeo	Film and Television Production; Recognizing the value of film and television production as an economic driver and a creator of high-wage jobs, encouraging the collaboration of public-sector and private-sector efforts through the development of programs and partnerships, and encouraging the Florida Office of Film and Entertainment's continued support of various collaborative programs and partnerships for national and international marketing, etc. CM 03/18/2019 Temporarily Postponed CM 03/25/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 16 Nays 0
3	**SB 94** Stewart (Compare CS/H 69)	Child Care Facilities; Citing this act as the "Child Safety Alarm Act"; requiring that, by a specified date, vehicles used by child care facilities and large family child care homes to transport children be equipped with a reliable alarm system that prompts the driver to inspect the vehicle for children before exiting the vehicle; requiring the Department of Children and Families to adopt by rule minimum safety standards and to maintain a list of approved alarm manufacturers and alarm systems, etc. CF 01/22/2019 Favorable IS 03/05/2019 Favorable RC 04/03/2019 Temporarily Postponed RC 04/17/2019 Fav/CS	Fav/CS Yeas 15 Nays 1

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	**CS/CS/SB 122** Judiciary / Banking and Insurance / Broxson (Compare CS/CS/H 1247)	Agreements Between Service Providers and Consumers; Specifying limitations and authorized provisions relating to a service provider's right to payment under certain agreements with consumers under urgent or emergency circumstances; specifying requirements, limitations, and prohibited provisions for agreements containing a post-loss assignment of benefits; providing that attorney fees under certain provisions of the Florida Insurance Code may not be awarded to an assignee of post-loss benefits who is a service provider, etc. BI 01/22/2019 Workshop-Discussed BI 02/04/2019 Workshop-Discussed BI 02/11/2019 Temporarily Postponed BI 03/04/2019 Fav/CS JU 03/18/2019 Fav/CS RC 04/17/2019 Fav/CS	Fav/CS Yeas 11 Nays 6
5	**SB 7054** Banking and Insurance (Identical H 7091, Compare CS/H 759, CS/S 1416)	OGSR/Hurricane or Flood Loss Models; Amending provisions relating to exemptions from public records and public meetings requirements for certain trade secrets used in designing and constructing hurricane or flood loss models and provided to the Florida Commission on Hurricane Loss Projection Methodology, the Office of Insurance Regulation, or the Insurance Consumer Advocate, and for certain portions and recordings of meetings at which the trade secrets are discussed; removing the scheduled repeal of the exemptions, etc. GO 03/12/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 15 Nays 1
6	**CS/CS/SB 168** Infrastructure and Security / Judiciary / Gruters (Compare CS/H 527, S 170)	Federal Immigration Enforcement; Prohibiting sanctuary policies; requiring state entities, local governmental entities, and law enforcement agencies to use best efforts to support the enforcement of federal immigration law; authorizing a law enforcement agency to transport an alien unlawfully present in the United States under certain circumstances; prohibiting discrimination on specified grounds, etc. JU 02/11/2019 Temporarily Postponed JU 02/19/2019 Fav/CS IS 03/12/2019 Fav/CS RC 04/17/2019 Fav/CS	Fav/CS Yeas 9 Nays 8

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	**CS/CS/SB 200** Governmental Oversight and Accountability / Judiciary / Cruz (Similar CS/H 6515)	Relief of the Estate of Herminio Padilla, Jr., by the City of West Palm Beach and Others; Providing for the relief of the Estate of Herminio Padilla, Jr., by the City of West Palm Beach, Palm Beach County, the City of Lake Worth, the City of Riviera Beach, and the Town of Palm Beach; providing for an appropriation to compensate his estate for injuries and damages sustained by Herminio Padilla, Jr., as a result of the negligence of the City of West Palm Beach, Palm Beach County, the City of Lake Worth, the City of Riviera Beach, and the Town of Palm Beach, etc. SM JU 04/01/2019 Fav/CS GO 04/10/2019 Fav/CS RC 04/17/2019 Favorable	Favorable Yeas 16 Nays 0
8	**CS/SB 630** Health Policy / Perry (Similar CS/CS/H 451)	Nonopioid Alternatives; Requiring the Department of Health to develop and publish on its website an educational pamphlet regarding the use of nonopioid alternatives for the treatment of pain; requiring that the pamphlet include specified information, including the advantages and disadvantages of the use of such alternatives, etc. HP 03/25/2019 Not Considered HP 04/01/2019 Fav/CS JU 04/08/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 16 Nays 0
9	**SB 902** Perry (Compare CS/CS/H 447)	Open and Expired Building Permits; Specifying conditions under which a building permit is considered an open permit, expired permit, or closed permit; authorizing an open or expired permit to be closed on by or on behalf of the current property owner if certain requirements are met; authorizing the owner of a home for sale to assume the role of an owner-builder in order to resolve an open permit under certain circumstances, etc. CA 03/12/2019 Favorable IT 03/26/2019 Favorable RC 04/17/2019 Fav/CS	Fav/CS Yeas 15 Nays 0
10	**CS/SB 7046** Governmental Oversight and Accountability / Criminal Justice (Similar CS/H 7057)	Critical Infrastructure Facilities and Staff; Redefining the term “critical infrastructure facility”; requiring any person employed as a full-time, a part-time, or an auxiliary correctional officer be at least 18 years of age, etc. GO 03/19/2019 Fav/CS RC 04/17/2019 Favorable	Favorable Yeas 16 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	**SM 852** Diaz (Similar HM 713)	VA MISSION Act of 2018; Urging Congress and the Department of Veterans Affairs to ensure that the VA MISSION Act of 2018 is implemented in a manner consistent with the legislative intent and purpose of the act, etc. MS 04/03/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 16 Nays 0
12	**CS/SB 920** Criminal Justice / Pizzo (Identical CS/H 1021, Compare H 7125)	DNA Database; Revising legislative findings relating to the use of the DNA database, etc. CJ 03/18/2019 Fav/CS JU 04/08/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 16 Nays 0
13	**SB 1136** Harrell (Similar CS/H 1043, Compare H 7125)	Cyberharassment; Redefining the terms “personal identifying information” and “sexually cyberharass”; providing criminal penalties, etc. CJ 03/11/2019 Favorable JU 03/25/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 14 Nays 2
14	**CS/SB 1418** Children, Families, and Elder Affairs / Powell (Compare CS/CS/H 361, S 7048)	Mental Health; Requiring service providers to disclose information from a clinical record under certain circumstances relating to threats to cause seriously bodily injury or death; requiring, rather than authorizing, psychiatrists to disclose certain patient communications for purposes of notifying potential victims and law enforcement agencies of certain threats; revising responsibilities of the Department of Education and the Statewide Office for Suicide Prevention, etc. CF 04/01/2019 Fav/CS RC 04/17/2019 Fav/CS	Fav/CS Yeas 16 Nays 0
15	**SR 1438** Torres (Similar HR 8011)	Taiwan; Enhancing the sister-state relationship and bilateral economic and cultural ties between Florida and the Republic of China (Taiwan), and reaffirming and maintaining the commitment of the State of Florida and the United States to the strong and deepening relationship with Taiwan, as the two nations together embrace the fundamental values of freedom, democracy, and the protection of human rights, etc. CM 03/25/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 15 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
16	**CS/SB 1520** Banking and Insurance / Bean (Identical CS/H 7, Compare S 7078)	Direct Health Care Agreements; Expanding the scope of direct primary care agreements that are exempt from the Florida Insurance Code and renaming them direct health care agreements; adding health care providers who may market, sell, or offer to sell such agreements, etc. BI 03/18/2019 Fav/CS HP 04/01/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 16 Nays 0
17	**CS/CS/SB 1704** Innovation, Industry, and Technology / Banking and Insurance / Wright (Similar CS/CS/H 1393, Compare CS/H 723, CS/CS/S 908)	Department of Financial Services; Requiring the Division of Treasury to maintain, rather than turn over to the Division of Accounting and Auditing, warrants drawn by the Chief Financial Officer; deleting a requirement that trust companies, where certain care and maintenance trust funds may be established, must operate pursuant to ch. 660, F.S.; revising requirements for the supervision of licensed funeral establishments by funeral directors in charge; deleting an examination requirement for an applicant for an industrial fire insurance or burglary insurance license, etc. BI 03/25/2019 Fav/CS IT 04/02/2019 Not Considered IT 04/10/2019 Fav/CS RC 04/17/2019 Favorable	Favorable Yeas 15 Nays 1
18	**SR 1820** Hooper (Similar HR 1379)	Moratorium on Drilling in the Gulf of Mexico; Supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line, etc. EN 04/02/2019 Favorable MS 04/10/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 16 Nays 0
19	**CS/CS/CS/SB 76** Judiciary / Innovation, Industry, and Technology / Infrastructure and Security / Simpson (Compare H 45, CS/H 107)	Texting While Driving; Authorizing law enforcement officers, during a specified timeframe, to stop motor vehicles to issue verbal or written warnings to persons who are texting while driving; authorizing law enforcement officers, after a specified date, to stop motor vehicles and issue citations to persons who are texting while driving; authorizing participation in a distracted driving safety program in lieu of the specified penalties for first-time offenders; deleting a provision requiring that enforcement be accomplished only as a secondary action, etc. IS 02/19/2019 Fav/CS IT 03/06/2019 Fav/CS JU 03/25/2019 Fav/CS RC 04/17/2019 Fav/CS	Fav/CS Yeas 15 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
20	**CS/SB 336** Finance and Tax / Brandes (Compare CS/CS/H 5, CS/S 1040)	Local Tax Referenda; Providing that a referendum to adopt or amend a local discretionary sales surtax must be held at a general election, etc. EE 02/13/2019 Favorable FT 03/20/2019 Fav/CS RC 04/17/2019 Fav/CS	Fav/CS Yeas 11 Nays 5
21	**CS/SB 380** Banking and Insurance / Brandes (Similar S 550, Identical CS/H 617)	Homeowners' Insurance Policy Disclosures; Revising circumstances under which insurers issuing homeowners' insurance policies must include a specified statement relating to flood insurance with the policy documents at initial issuance and renewals, etc. BI 02/19/2019 Fav/CS CA 03/20/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 15 Nays 0
22	**CS/SB 548** Judiciary / Brandes (Similar CS/H 409)	Electronic Legal Documents; Revising provisions relating to use of the office of notary public; authorizing online notarizations; specifying registration and qualification requirements for online notaries public; prescribing online notarization procedures; specifying the manner by which an online notary public must verify the identity of a principal or a witness, etc. JU 04/01/2019 Fav/CS GO 04/10/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 14 Nays 1
23	**SB 342** Lee (Similar CS/H 281)	Public Records/Voters and Voter Registration; Providing an exemption from public records requirements for information concerning preregistered voter registration applicants who are minors; providing for future legislative review and repeal; providing for retroactive application; providing a statement of public necessity, etc. EE 03/20/2019 Favorable GO 04/02/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 16 Nays 0

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
24	**SB 742** Braynon (Similar H 1381)	Designation of Eligible Telecommunications Carriers; Including certain commercial mobile radio service providers within the definition of the term "eligible telecommunications carrier"; authorizing the Public Service Commission to designate any commercial mobile radio service provider as an eligible telecommunications carrier for the limited purpose of providing Lifeline service; deleting a provision requiring carriers to allow subscribers to demonstrate continued eligibility for Lifeline service under certain conditions, etc. IT 03/19/2019 Favorable GO 04/02/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 16 Nays 0
25	**CS/CS/SB 862** Judiciary / Banking and Insurance / Stargel (Compare CS/CS/CS/H 355)	Lessor Liability Under Special Mobile Equipment Leases; Providing that a lessor of special mobile equipment that causes injury, death, or damage is not liable for certain acts of the lessee or lessee's agent if the lease agreement requires documented proof of specified insurance coverage; providing that a lessee's failure to maintain the required coverage does not impose liability on the lessor, etc. BI 03/18/2019 Fav/CS JU 04/08/2019 Fav/CS RC 04/17/2019 Fav/CS	Fav/CS Yeas 14 Nays 2
26	**SB 990** Gibson (Similar CS/H 563)	Unemployment Compensation; Prohibiting certain victims of domestic violence from being disqualified for benefits for voluntarily leaving work; prohibiting the employment record of an employing unit from being charged in certain circumstances, etc. CM 03/25/2019 Favorable JU 04/08/2019 Favorable RC 04/17/2019 Fav/CS	Fav/CS Yeas 16 Nays 0
27	**SB 1208** Baxley (Identical H 975)	Aircraft Liens; Specifying that a lienor is not required to possess an aircraft to perfect certain liens, etc. BI 04/01/2019 Favorable JU 04/08/2019 Favorable RC 04/17/2019 Favorable	Favorable Yeas 16 Nays 0
28	**SJR 274** Baxley (Identical HJR 229)	Limitation on Terms of Office for Members of a District School Board; Proposing amendments to the State Constitution to limit the terms of office for a member of a district school board, etc. EE 03/12/2019 Favorable ED 04/10/2019 Favorable RC 04/17/2019 Temporarily Postponed	Temporarily Postponed

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
	Other Related Meeting Documents		

THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
302 The Capitol

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5237

DATE	COMM	ACTION
3/6/19	SM	Report Submitted
3/11/19	JU	**Fav/CS**
3/25/19	GO	**Favorable**
4/17/19	RC	**Favorable**

March 6, 2019

The Honorable Bill Galvano
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/SB 42** – Judiciary Committee and Senator Taddeo
HB 6525 – Representative Fernandez
Relief of Jorge L. Dominguez, Chelsea Beatrice Dominguez, Brittney Delores Dominguez, and Tori Alexis Dominguez

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR LOCAL FUNDS IN THE AMOUNT OF $400,000. THIS AMOUNT IS THE REMAINING UNPAID BALANCE OF A SETTLEMENT REGARDING THE NEGLIGENCE OF A HILLSBOROUGH COUNTY EMPLOYEE, WHICH RESULTED IN THE DEATH OF DARCIA LYNN DOMINGUEZ.

FINDINGS OF FACT:

The Crash on February 6, 2010

On the morning of February 6, 2010, Mrs. Darcia Lynn Dominguez, a 39 year-old registered nurse, traveled northbound on Veterans Express Highway in Tampa and crashed into a tractor-trailer truck owned and maintained by Hillsborough County. The vehicle was driven by Mr. Santiago Hasbun who had a commercial driver license (CDL) and was a Hillsborough County employee.

Prior to the incident, the truck was serviced by Hillsborough County and batteries were replaced.

The truck experienced an electrical malfunction which resulted in the Vehicle Management Control System (VMAC)

on the dashboard indicating that voltage was decreasing. As stipulated by the parties, it would have taken fifteen minutes or more for the volt meter gauge to fall from its normal operating position to the position where the decreasing voltage triggered the illumination of a lightning bolt on the dashboard. Once the lightning bolt illuminated on the volt meter gauge, the truck shut down within fifteen minutes. At the time the vehicle shut down, Mr. Hasbun had, approximately, another 27 seconds to pull off of the highway.

The divided highway had two northbound and two southbound lanes and was divided by guardrails. The grass median available to the left of the northbound lanes was at least 21 feet wide and the paved shoulder available to the right of the northbound lanes was 10 feet wide.

Mr. Hasbun did not pull the truck off of the road. The vehicle remained in the left travel lane of the highway without functioning hazard or flashing lights because of the complete loss of power.

Mr. Hasbun placed orange triangles on the hash marks of the highway with the farthest triangle being placed 75 feet back from the end of the truck.

At approximately 8:17 a.m., Mrs. Dominguez crashed into the back of the truck. The crash occurred shortly after someone called 911 to report that, while going the speed limit, the caller almost drove into the back of the broken down truck in the left travel lane. Parties agreed that Mrs. Dominguez's phone records were investigated and she was not using her phone to call or text at the time of the accident.

Mrs. Dominguez suffered traumatic brain injuries and scalp avulsion as well as numerous fractures to the skull, left arm, a rib, and both femurs.

On February 11, 2010, Mrs. Dominguez died as a result of the traumatic brain injuries.

Mrs. Dominguez had three daughters: Ms. Chelsea Dominguez, Ms. Brittney Dominguez, and Ms. Tori Dominguez, who were 18, 16, and 10, respectively, at the time of the crash. Mrs. Dominguez was the wife of Mr. Jorge Dominguez, although they were separated at that time.

Mr. Gary Anderson, Ph. D., economist, testified that past losses and the present value of future losses as a result of the Mrs. Dominguez's death totals $1,724,243.

Settlement

The parties stipulated that a jury could have attributed 60 – 90 percent of the negligence involved to the County and that a jury may have found $4 – 8 million as a "reasonable range" of damages.

Claimants and Hillsborough County entered a settlement agreement for $600,000. Claimants received $200,000 from Hillsborough County and seek the remaining $400,000 in two payments of $200,000.

Additionally, claimants settled separately with the County's insurance carrier and received $50,000 from that agreement.

Claimant also reported that personal injury protection (PIP) insurance covered the cost of Mrs. Dominguez's funeral, which was less than $10,000.

CONCLUSIONS OF LAW:

Section 768.28, Florida Statutes (2010), waives sovereign immunity for tort liability up to $200,000. Sums exceeding this amount are payable by the State and its agencies or subdivisions by further act of the Legislature.

A county is liable for a negligent act committed by an employee acting within the scope of employment. Mr. Hasbun was operating the tractor-trailer truck within the scope of his employment thereby making Hillsborough County liable for any negligent acts committed by him.

There are four elements to a negligence claim: (1) duty – where the defendant has a legal obligation to protect others against unreasonable risks; (2) breach – which occurs when the defendant has failed to conform to the required standard of conduct; (3) causation – where the defendant's conduct is foreseeably and substantially the cause of the resulting damages; and (4) damages – actual harm.[1]

Duty

[1] Williams v. Davis, 974 So.2d 1052, at 1056–1057 (Fla. 2007).

Motorists have a duty to use reasonable care to avoid accidents and injury to themselves and others.[2] The driver of an automobile, a "dangerous instrumentality," is responsible for maintaining control of the vehicle, commensurate with the setting, and being "prepared to meet the exigencies of an emergency within reason and consistent with reasonable care and caution."[3] Mr. Hasbun and Mrs. Dominguez both had the duty to use reasonable care while operating their vehicles.

In this particular situation, Mr. Hasbun also had specific statutory duties relevant to his operation of the truck. Sections 316.194(1), and 316.301, Florida Statutes, respectively, require a driver to remove a vehicle such as Mr. Hasbun's from the highway when practicable to do so and, if disabled or stopped for more than 10 minutes, to place warning devices at 10 feet, 100 feet, and 200 feet from the stopped vehicle, in the center of the lane, and in the direction of traffic approaching that lane. The CDL Manual also required placement of cones at the aforementioned intervals.

Breach

As the parties have also stipulated and the record demonstrates, Mr. Hasbun violated both statutes and breached the required duty of care.

Mr. Hasbun was required to remove the tractor trailer from the road if practicable. Stipulations and evidence submitted demonstrate that Mr. Hasbun had time to remove the vehicle from the road but did not do so. Once the lightning bolt illuminated on the volt meter gauge, he had approximately 15 minutes to exit the highway or pull off of the road and he did neither. After the vehicle completely shut down, there was another 27 seconds, approximately, within which Mr. Hasbun could have pulled off of the highway and onto the 21 foot wide grassy median to the left or the 10 foot paved shoulder to the right but he did neither. He brought the vehicle to a stop in the left travel lane.

Once the vehicle was stopped in the left travel lane, Mr. Hasbun breached his duty to provide proper warning to approaching motorists. Again, stipulations and evidence show that Mr. Hasbun did not properly place orange triangles as the

[2] *Id.*, 974 So.2d at 1063.
[3] Nelson v. Ziegler, 89 So.2d 780, 783 (Fla. 1956).

farthest back he placed a cone was 75 feet when statute and the CDL manual required that they be placed at intervals of 10 feet, 100 feet, and 200 feet from the vehicle. Additionally, rather than the cones being placed in the middle of the obstructed travel lane, they were placed on the hashmarks that divide the inside and outside lanes.

Mrs. Dominguez also had a duty to operate her vehicle with reasonable care, however, nothing has been submitted to demonstrate that this duty was breached. Both parties agreed that discovery demonstrated that Mrs. Dominguez was not on her phone at the time of the incident. Additionally, there is no known eyewitness to the crash or preceding events.

Causation

Mr. Hasbun's breaches of duty, including his violations of statutes and CDL manual requirements, in not removing the truck from the highway and improperly placing warning devices are the cause of the resulting damages. A collision was foreseeable when the truck was brought to a stop in the left travel lane of the highway, and warning devices were improperly placed. The existence of the vehicle in the left travel lane of the highway and the truncated warning of a danger (as a result of the misplaced triangles) were the substantial causes of the collision resulting in the death of Mrs. Dominguez.

Although the parties stipulated that a jury could have apportioned 60 – 90 percent of the negligence to Hillsborough County (thereby suggesting comparative fault of Mrs. Dominguez ranging from 10 – 40 percent of the negligence), the undersigned does not find comparative negligence on behalf of Mrs. Dominguez. This conclusion is based upon there being no known eyewitness to the moments preceding the collision and no other facts in evidence demonstrating negligence of Mrs. Dominguez.

Damages

As a result of the February 6, 2010 collision, Mrs. Dominguez suffered traumatic brain injuries, scalp avulsion, fractures to the skull, left arm, a rib, and both femurs. On February 11, 2010, Mrs. Dominguez died due to these injuries.

Mrs. Dominguez's death also resulted in economic losses estimated at $1,724, 243.

ATTORNEY FEES: The bill states that attorney fees may not exceed 25 percent of the amount awarded.

Outstanding costs amount to $5,892.38.

RECOMMENDED AMENDMENT: The undersigned recommends changing the date on line 12 of the bill from "February 26, 2010" to "February 6, 2010" to accurately reflect the date of the incident. The recommended amendment is appended.

FINDING: For the reasons set forth above, the undersigned finds that the claimant has demonstrated the elements of negligence by the greater weight of the evidence and the amount sought is reasonable.

Respectfully submitted,

Christie M. Letarte
Senate Special Master

cc: Secretary of the Senate

CS by Judiciary on March 11, 2019:
This amendment corrects the date of the automobile accident that is the basis for the claim bill.

By the Committee on Judiciary; and Senator Taddeo

590-02874-19 201942c1

A bill to be entitled

An act for the relief of Jorge L. Dominguez, Chelsea Beatrice Dominguez, Brittney Delores Dominguez, and Tori Alexis Dominguez by Hillsborough County; providing for an appropriation to compensate them for the wrongful death of Darcia Lynn Dominguez, which occurred as the result of the negligence of Hillsborough County and one of its employees; providing a limitation on the payment of compensation and attorney fees; providing an effective date.

WHEREAS, on February 6, 2010, Darcia Lynn Dominguez, a 39-year-old licensed registered nurse, was driving northbound on Veterans Expressway in Tampa, and

WHEREAS, on the morning in question, Santiago Hasbun, an employee of Hillsborough County, acting in the regular course and scope of his employment duties and with the express consent of Hillsborough County, was operating a tractor-trailer owned by Hillsborough County northbound on Veterans Expressway, and

WHEREAS, Mr. Hasbun negligently operated the tractor-trailer when he failed to remove the vehicle from the traveled portion of the highway despite a warning from the vehicle management and control system of impending engine failure, which warning continued for a period of at least 15 minutes before the engine shut down, and despite the availability of a 24-foot to 37-foot grass median onto to which he could have traveled and parked the tractor-trailer, and

WHEREAS, Mr. Hasbun violated Florida law by failing to timely exit the tractor-trailer or to remove it from the

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

590-02874-19 201942c1

traveled portion of the roadway prior to the engine breakdown and, thereafter, by failing to warn approaching motorists of the hazard posed by the vehicle by not placing statutorily required emergency triangles or cones in the proper location at the rear of the vehicle, the purpose of such placement being to apprise approaching motorists of the hazard at a sufficient distance to allow them to stop or take evasive action, and

WHEREAS, Hillsborough County, through its Fleet Management Department, was negligent in its servicing and maintenance of the tractor-trailer driven by Mr. Hasbun, which resulted in an electrical failure, which prevented the operation of the tractor-trailer's emergency flashing lights, and

WHEREAS, the combined negligence of Hillsborough County and its employee, Mr. Hasbun, proximately caused Ms. Dominguez to crash into the back of the tractor-trailer, which had come to a complete stop on the traveled portion of the roadway, and

WHEREAS, at the time of her death as a result of the crash, Ms. Dominguez was the spouse of Jorge L. Dominguez and the mother of their three daughters, Tori Alexis Dominguez, then 10 years of age; Brittney Delores Dominguez, then 16 years of age; and Chelsea Beatrice Dominguez, then 18 years of age, and

WHEREAS, in accordance with the Wrongful Death Act, Mr. Dominguez commenced a legal action against Hillsborough County in Tampa on behalf of the Estate of Darcia Lynn Dominguez and her surviving spouse and daughters, and

WHEREAS, after years of litigation, Hillsborough County on December 13, 2016, acknowledged its negligence and that of its employee and entered into a consent judgment for $600,000, of which Hillsborough County has paid its sovereign immunity limit

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

of $200,000, and

WHEREAS, in a separate, confidential settlement, the county's excess insurance carrier, Star Insurance Company, paid an additional, confidential amount to the plaintiff and, by virtue of the consent judgment and the settlement agreement reached between the parties, Hillsborough County has agreed that it is liable to the Estate of Darcia Lynn Dominguez for an additional $400,000 in damages, to be paid in two equal installments over the course of 2 years, with the first $200,000 payment to be made during the October following the effective date of this act, and the second $200,000 payment to be made during October of the immediately following year, and

WHEREAS, Hillsborough County has acknowledged that a reasonable estimate of the damages recoverable for the four statutory survivors of Ms. Dominguez is between $4 million and $8 million and forensic estimates of her lifetime earnings, recoverable as damages for loss of net accumulations to her estate, amounted to an additional $1.7 million, and

WHEREAS, Hillsborough County consents to and fully supports the passage of this act, NOW, THEREFORE,

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

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. Hillsborough County is authorized and directed to appropriate from funds not otherwise encumbered and to draw two warrants in the sum of $200,000 each, payable to the Estate of Darcia Lynn Dominguez. The first $200,000 shall be paid

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

during the October following the effective date of this act, and the second $200,000 shall be paid during October of the immediately following year.

Section 3. The amount paid by Hillsborough County pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all present and future claims arising out of the factual situation described in this act which resulted in the death of Darcia Lynn Dominguez. The total amount paid for attorney fees relating to this claim may not exceed 25 percent of the amount awarded under this act.

Section 4. This act shall take effect upon becoming a law.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Banking and Insurance
Infrastructure and Security

SENATOR ANNETTE TADDEO
40th District

March 27, 2019

Senator Lizbeth Benacquisto, Chair
Committee on Rules
402 Senate Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: Committee Agenda Request

Chairwoman Benacquisto,

I respectfully request that **Senate Bill #42**, relating to the Relief of Dominguez by Hillsborough County, be placed on the committee agenda at your earliest possible convenience. The bill was reported favorably by the Committee on Governmental Oversight and Accountability on March 26, 2017.

Should you have any questions, feel free to contact me.

Sincerely,

Senator Annette Taddeo
Florida Senate, District 40

REPLY TO:
☐ 10689 North Kendall Drive, Suite 212, Miami, Florida 33176 (305) 596-3003
☑ 210 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: *www.flsenate.gov*

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

Topic _____ Bill Number 42 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	SR 1808
INTRODUCER:	Senator Taddeo
SUBJECT:	Film and Television Production
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	**Favorable**
2.	Reeve	Phelps	RC	**Favorable**

I. Summary:

SR 1808 recognizes the value of film and television production as an economic driver and creator of high-wage jobs. The resolution encourages the continuing collaboration of public- and private-sector efforts in program and partnership development, and encourages the Florida Office of Film and Entertainment's collaborative programs and partnerships for national and international marketing.

Legislative resolutions have no force of law and are not subject to the approval or veto powers of the Governor.

II. Present Situation:

Florida has a rich history in the motion picture industry, dating back to the winter headquarters opened in North Florida by film studios in the early 20th century

Industry Incentives

The state did not have an official mechanism to encourage the development of the industry until the creation of the Office of Film and Entertainment (Office) within the Department of Economic Opportunity in 1999. The Office is tasked with promoting film, television, and digital media production through facilitating access to filming locations, serving as a liaison between the film industry and government entities, administering economic incentives, and marketing the state as a premier production center.

The Office administers the Entertainment Industry Sales Tax Exemption Program, which offers tax exemptions to companies that create qualified productions in Florida. The office approved 954 applications for the sales tax exemption during Fiscal Year 2017-2018, resulting in an

estimated 32,000 Florida jobs and $1 billion in Florida expenditures.[1] Several local governments, including Miami-Dade and Hillsborough Counties, provide production incentives in the form of grants and rebates.

Tourism

As one of Florida's main economic drivers, the tourism industry has capitalized on the many well-known films and television shows the state has provided a backdrop for. Tourism spurred by the entertainment industry encourages tourists to visit production sets and associated amusement activities in destinations they might not otherwise be drawn to; visitors also participate in film tourism activities while at particular destinations as a result of entertainment marketing efforts. Though no official state studies have been conducted, the Motion Picture Association of America estimated that at least 4.4 million of Florida's visitors in 2013 can be attributed to film induced tourism.[2]

Film Schools

Florida has numerous film schools; two of the schools, the Ringling College of Art and Design Film Department and the Florida State University College of Motion Picture Arts, consistently rank among the top film schools in the nation.[3] Previous state incentive programs included provisions that would ensure entertainment projects employed graduates of Florida's film schools and made use of schools' production facilities.

III. Effect of Proposed Changes:

SR 1808 recognizes the value of film and television production as an economic driver and creator of high-wage jobs. The resolution encourages the continuing collaboration of public- and private-sector efforts in program and partnership development, and encourages the Florida Office of Film and Entertainment's collaborative programs and partnerships for national and international marketing.

Legislative resolutions have no force of law and are not subject to the approval or veto powers of the Governor.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

---

[1] Florida Office of Film and Entertainment, *Fiscal Year 2017-2018 Annual Report* (2018), *available at* https://filminflorida.com/wp-content/uploads/2018/11/Office-of-Film-and-Entertainment-Annual-Report-FY-2017-2018_FINAL.pdf.

[2] Motion Picture Association of America, *Economic and Social Impacts of the Florida Film and Entertainment Industry Financial Incentive Program* (2013), *available at* https://www.mpaa.org/wp-content/uploads/2014/01/Economic-and-Social-Impacts-of-the-Florida-Film-and-Entertainment-Industry-Financial-Incentive-Program.pdf.

[3] *The Top 25 American Film Schools,* The Hollywood Reporter (Aug. 2018), https://www.hollywoodreporter.com/lists/top-25-american-film-schools-ranked-1134785/item/2018-top-25-film-schools-florida-state-university-1134838 (last visited March 22, 2019).

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:

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.

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

By Senator Taddeo

40-01332-19 20191808__

Senate Resolution

A resolution recognizing the value of film and television production as an economic driver and a creator of high-wage jobs, encouraging the collaboration of public-sector and private-sector efforts through the development of programs and partnerships, and encouraging the Florida Office of Film and Entertainment's continued support of various collaborative programs and partnerships for national and international marketing.

WHEREAS, this state has a rich history as a primary center for film and television production in the United States and, with its natural scenic beauty and diverse environment, has long been considered one of the premier locations for film and television production in the world, and

WHEREAS, historically, this state has maintained a highly trained and professional film and television production workforce, a wide variety of support businesses essential to film and television production, and a resilient infrastructure capable of supporting film and television production, and

WHEREAS, this state's nationally acclaimed colleges and universities continue to produce talented filmmakers, many of whom are on scholarships funded by this state and would prefer to remain in this state upon graduation, but often decide to relocate in pursuit of more favorable economic environments, and

WHEREAS, tourism is a principal component of this state's economy, the opportunity to tour filming locations is widely acknowledged as a boon to tourism, and this state recognizes

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

Florida Senate - 2019 **(NP) SR 1808**

40-01332-19 20191808__

that film production contributes substantially to tourism in this state, and

WHEREAS, traditionally, this state has supported the film and television industry through financial incentives, tax exemptions, and marketing, and

WHEREAS, counties and local communities also are engaging in efforts to reinvigorate film and television production across the state, and

WHEREAS, in its November 2018 analysis of this state's film and television industry, Florida TaxWatch, Inc., encouraged the private sector to develop its own incentive and subsidy programs and this approach has received public support, NOW, THEREFORE,

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

That the Senate recognizes the value of film and television production as an economic driver and a creator of high-wage jobs.

BE IT FURTHER RESOLVED that the Senate encourages the continued collaboration of both public-sector and private-sector efforts to develop programs and partnerships related to film and television production.

BE IT FURTHER RESOLVED that the Senate supports and encourages the Florida Office of Film and Entertainment as it continues to promote such partnerships, including national and international collaborative programs, in its national and international marketing efforts.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Banking and Insurance
Infrastructure and Security

SENATOR ANNETTE TADDEO
40th District

March 25, 2019

Senator Lizbeth Benacquisto, Chair
Committee on Rules
404 S. Monroe Street
Tallahassee, FL 32399-1100

RE: Committee Agenda Request

Chairman Benacquisto,

I respectfully request that **Senate Resolution #1808**, relating to Film and Television Production, be placed on the committee agenda at your earliest possible convenience. This resolution was reported favorably by the Committee on Commerce and Tourism on March 25, 2019.

Should you have any questions, feel free to contact me.

Sincerely,

Senator Annette Taddeo
Florida Senate, District 40

REPLY TO:
❒ 10689 North Kendall Drive, Suite 212, Miami, Florida 33176 (305) 596-3003
❒ 210 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5040

Senate's Website: *www.flsenate.gov*

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

1808
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S.
Street

Phone 727/897-9291

St Petersburg FL 33705
City *State* *Zip*

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

1808
Bill Number (if applicable)

Topic Resolution on Film

Amendment Barcode (if applicable)

Name CHRIS RAWNO

Job Title COMPASS Chair

Address 403 Shamrock Road
Street

St. Augustine, Florida 32086
City *State* *Zip*

Phone 904/806-6369

Email chrisrawno@aol.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing COMPASS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

1808
Bill Number (if applicable)

Topic Film and Television Production

Amendment Barcode (if applicable)

Name Phillip Suderman

Job Title Policy Director

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

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 94
INTRODUCER:	Rules Committee and Senator Stewart
SUBJECT:	Child Care Facilities
DATE:	April 17, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	**Favorable**
2.	Proctor	Miller	IS	**Favorable**
3.	Delia	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 94 creates the "Child Safety Alarm Act" and requires that after January 1, 2020, vehicles used by child care facilities to transport children must be equipped with an approved alarm system that prompts the driver to inspect the vehicle for the presence of children before leaving the area. This change is in response to reported deaths of small children who are left in vehicles.

The bill requires the Department of Children and Families (the Department or DCF) to adopt by rule minimum safety standards for reliable alarm systems and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles.

The bill is expected to have a significant fiscal impact on private entities and has an effective date of October 1, 2019.

II. Present Situation:

Death by hyperthermia or vehicular heat stroke deaths have become more prevalent since federal law required that children ride in the backseat due to the danger of front passenger seat airbags.[1]

[1] *See* Gene Weingarten, *Fatal Distraction: Forgetting a Child in the Backseat of a Car is a Horrifying Mistake. Is it a Crime?*, THE WASHINGTON POST, Mar. 8, 2009, *available at:* http://www.washingtonpost.com/wp-dyn/content/article/2009/02/27/AR2009022701549.html (last visited January 11, 2019).

The national average number of these deaths is 38 per year.[2] Fifty-four percent of hyperthermia deaths involve children under the age of one.[3] Between 1998 and 2018, Florida has the second highest number of child deaths from vehicular heat stroke.[4]

Technology Based Prevention

Automobile Manufacturers

The auto industry has been aware of the problem for years. General Motors (GM) tried over ten years ago to find a solution, but found the results were unreliable. At the 2002 New York Auto Show, GM unveiled a system that would be able to detect the heartbeat of a child left in a car and then measure the vehicle's temperature. If it was becoming dangerously hot, it would sound the horn to alert a parent or passersby. GM later reported that the system was abandoned after it was found "not reliable enough to put into production."[5]

Ford was among the other automakers who also expressed interest in developing such a system, but a decade later, the technology isn't available on any automobile as a factory standard feature or option. Auto safety groups have called for manufacturers to do more, but for several reasons including cost, technology, liability and privacy issues, there is still no foolproof way of preventing overheating deaths or warning of the possibility before they happen.[6]

In 2016, GM announced it would introduce a new safety system to remind drivers to check for children in the rear seats, and that it could eventually develop features to detect forgotten children.[7] The National Highway Traffic Safety Administration (NHTSA) said it has no plans to require automakers to add in-vehicle technology that would alert those who leave young children behind in hot cars.[8]

Aftermarket Systems

There are numerous aftermarket warning systems that alert a parent to a child left in a safety seat, shopping cart, or elsewhere, but federal regulators have questioned their efficacy.

A preliminary assessment performed on technology devices aimed at helping to prevent a child from being unintentionally left in a hot car concluded that they are not reliable and limited in their effectiveness, according to a study by NHTSA and the Children's Hospital of Philadelphia.[9]

---

[2] *See* Kids and Cars.org, Children Vehicular Heatstroke Deaths by Year, *available at:* https://www.kidsandcars.org/how-kids-get-hurt/heat-stroke/ (last visited February 25, 2019).
[3] *See* Kids and Cars.org, Fact Sheet, *available at:* http://www.kidsandcars.org/wp-content/uploads/2018/10/Heatstroke-fact-sheet-2018-1.pdf (last visited February 25, 2019).
[4] California Department of Meteorology and Climate Science, Heatstroke Deaths of Children in Vehicles by State, *available at*: http://noheatstroke.org/state.htm (last visited January 11, 2019).
[5] Paul Eisenstein, *Death in Hot Cars: Why Can't the Automakers Prevent the Danger*? July 14, 2014, *available at:* http://www.nbcnews.com/storyline/hot-cars-and-kids/death-hot-cars-why-cant-automakers-prevent-danger-n152911 (last visited January 11, 2019).
[6] *Id*.
[7] David Shepardson, *GM has a way to help prevent drivers from forgetting children in the back seat*, Business Insider, January 12, 2016, *available at:* https://www.businessinsider.com/r-gm-unveils-technology-to-help-avoid-child-heatstroke-deaths-2016-1 (last visited February 25, 2019).
[8] *Id*.
[9] Consumer Reports, *Warning systems to detect children left in hot cars found unreliable, study finds, available at*

The study found several limitations in these products after conducting tests, including inconsistencies in arming sensitivity, variations in warning signal distance, potential interference from other electronic devices, children inadvertently disarming the device by slumping over or sleeping out of position, and limitations in the products' susceptibility to misuse or other common scenarios, such as a beverage spill. Many of the products tested require extensive setup work by caregivers and parents, potentially giving them a false sense of security. Moreover, since the devices are restraint-based, they wouldn't address the 20 to 40 percent of children who are killed in hot cars when they enter a vehicle without adult permission.[10]

Licensing Standards for Child Care Facilities and Large Family Child Care Homes

The department establishes licensing standards that each licensed child care facility in the state must meet.[11] A child care facility is defined in Florida law as "any child care center or child care arrangement which provides child care for more than five children unrelated to the operator and which receives a payment, fee, or grant for any of the children receiving care, wherever operated, and whether or not operated for profit."[12]

A large family child care home is defined as an occupied residence in which child care is regularly provided for children from at least two unrelated families, which receives a payment, fee, or grant for any of the children receiving care, whether or not operated for profit, and which has at least two full-time child care personnel on the premises during the hours of operation.[13]

The department currently oversees 6,016 licensed child care entities including child care facilities, large family child care homes and family day care homes.[14] In addition, there are homes that are only registered by the agency, facilities that are exempt from licensure due to a religious affiliation,[15] and homes currently licensed by five counties in the state.[16] Of these homes, 1,745 child care facilities and large family child care homes regulated by the department reported that they transport children as of 2019.[17]

Statutory licensing standards for child care facilities are extensive and reference transportation and vehicles, including the requirement that minimum standards include accountability for children being transported.[18] The Florida Administrative Code provides requirements for licensed child care facilities and large family child care homes to follow in relation to vehicles

https://www.consumerreports.org/cro/news/2012/08/warning-systems-to-detect-children-left-in-hot-cars-found-unreliable-study-finds/index.htm. (last visited January 11, 2019).

[10] Ryan Jaslow, *Gov't study: Devices that alert parents they left a child in a car deemed unreliable,* CBS News, July 31, 2012, *available at https://www.cbsnews.com/news/govt-study-devices-that-alert-parents-they-left-a-child-in-car-deemed-unreliable/* (last visited January 11, 2019).

[11] Section 402.305, F.S.

[12] Section 402.302(2), F.S.

[13] Section 402.302(11), F.S.

[14] Florida Department of Children and Families, *DCF Quick Facts*, (Quarter 2, Fiscal Year 2018-2019), *available at:* http://www.dcf.state.fl.us/general-information/quick-facts/cc / (last visited February 25, 2019).

[15] Section 402.316, F.S.

[16] Section 402.306, F.S. Those five counties are Broward, Hillsborough, Palm Beach, Pinellas and Sarasota.

[17] Florida Department of Children and Families, Agency Analysis of 2019 Senate Bill 94 (February 7, 2019). On file with the Senate Committee on Infrastructure and Security.

[18] Section 402.305, F.S

that are owned, operated, or regularly used by the facility or home, as well as vehicles that provide transportation through a contract or agreement with an outside entity.[19]

Providers are required to maintain a driver's log for all children being transported. This log must include the child's name, date, time of departure, time of arrival, signature of driver, and signature of second staff member to verify the driver's log and that all children have left the vehicle. Upon arrival at the destination, the driver of the vehicle must mark each child off the log as the child departs the vehicle, conduct a physical inspection and visual sweep of the vehicle, and sign, date, and record the driver's log immediately to verify all children were accounted for and that the sweep was conducted. Upon arrival at the destination, a second staff member must also conduct a physical inspection and visual sweep of the vehicle and sign, date, and record the driver's log to verify all children were accounted for and that the driver's log is complete.[20]

Current standards for child care facilities and large family child care homes do not address alarm systems in vehicles, however, Palm Beach County and Broward County have requirements similar to the one proposed in the bill.[21]

III. Effect of Proposed Changes:

Section 1 provides a short title for the bill — the "Child Safety Alarm Act."

Section 2 amends s. 402.305, F.S., relating to licensing standards for child care facilities, to require that on or after January 1, 2020, vehicles used by child care facilities and large family child care homes to transport children must have an approved alarm system that prompts the driver to inspect the vehicle for the presence of children before leaving the area.

The bill requires the department to adopt by rule minimum safety standards for reliable alarm systems and maintain a list of alarm manufacturers and alarm systems that are approved to be installed in vehicles. The bill also modifies existing minimum safety standards in statute pertaining to transportation for child care facilities. Under the bill, these standards must include:

- The required use of seat belts in all vehicles used by child care facilities and large family child care homes to transport children;
- Annual inspections for all such vehicles;
- Limitations on the number of children that may be transported within each vehicle;
- Procedures to ensure that children are not inadvertently left in vehicles when transported by the facility; and
- Relevant accountability measures for each facility.

The bill also clarifies that child care facilities and large family child care homes are not responsible for the safe transport of children when they are being transported by a parent or guardian.

Section 3 provides an effective date of October 1, 2019.

[19] *See* 65C-22.001(6) and 65C-20.13(8), F.A.C.
[20] *Id*.
[21] Florida Department of Children and Families, Agency Analysis of 2019 Senate Bill 94 (February 7, 2019). On file with the Senate Committee on Infrastructure and Security.

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:

The department reported approximately 1,745 child care providers currently offer a transportation service. These programs would be required to purchase, at a minimum, one of the alarm systems required by this bill.[22]

The fiscal impact on individual providers will vary based on unit cost, installation costs, and possible future warranty fees. As of 2019, the DCF anticipates the unit costs to vary from $65 to $300. While warranty fees may potentially be $80 to $100 each year and installation costs may range from $0 to $200 depending on the unit and installer.[23]

C. Government Sector Impact:

The DCF advised there is a workload increase in establishing and maintaining a list of approved alarm manufacturers. In addition, there is a cost of approximately $6,500 for rule promulgation to adopt minimum safety standards for the alarm systems. However,

[22] Florida Department of Children and Families, Agency Analysis of 2019 Senate Bill 94 (February 7, 2019). On file with the Senate Committee on Infrastructure and Security.
[23] *Id.*

according to the DCF this minimal fiscal impact can be absorbed through existing resources.[24]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 402.305 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.)

CS by Rules on April 17, 2019:

- The CS changes the effective date of the bill from July 1, 2019 to October 1, 2019.

B. Amendments:

None.

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

[24] *Id*.

140174

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Stewart) recommended the following:

Senate Amendment

Delete line 46
and insert:
Section 3. This act shall take effect October 1, 2019.

By Senator Stewart

13-00174-19 201994__

A bill to be entitled

An act relating to child care facilities; providing a short title; amending s. 402.305, F.S.; requiring that, by a specified date, vehicles used by child care facilities and large family child care homes to transport children be equipped with a reliable alarm system that prompts the driver to inspect the vehicle for children before exiting the vehicle; requiring the Department of Children and Families to adopt by rule minimum safety standards and to maintain a list of approved alarm manufacturers and alarm systems; providing an effective date.

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

Section 1. This act may be cited as the "Child Safety Alarm Act."

Section 2. Subsection (10) of section 402.305, Florida Statutes, is amended to read:

402.305 Licensing standards; child care facilities.—

(10) TRANSPORTATION SAFETY.—

(a) Minimum standards shall include all of the following:

1. Requirements for child restraints or seat belts in vehicles used by child care facilities and large family child care homes to transport children.

2. ~~,~~Requirements for annual inspections of such ~~the~~ vehicles.

3. ~~,~~Limitations on the number of children that may be transported in such ~~the~~ vehicles.

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

13-00174-19 201994__

4. ~~,~~Procedures to ensure that ~~avoid leaving~~ children are not inadvertently left in vehicles when transported by the facility~~,~~ and that systems are in place to ensure accountability for children transported by such facilities and homes ~~the child care facility~~.

(b) By January 1, 2020, all vehicles used by child care facilities and large family child care homes to transport children must be equipped with a reliable alarm system approved by the department which prompts the driver to inspect the vehicle for children before exiting the vehicle. The department shall adopt by rule minimum safety standards for such systems and shall maintain a list of approved alarm manufacturers and alarm systems that meet or exceed those standards.

(c) A child care facility or large family child care home is not responsible for the safe transport of children when they are being transported by a parent or guardian.

Section 3. This act shall take effect July 1, 2019.

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

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 6, 2019

I respectfully request that **Senate Bill #: 94** relating to Child Care Facilities, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Linda Stewart

Senator Linda Stewart
Florida Senate, District 13

c.c. John Phelps, Staff Director
Cynthia Futch, Committee Administrative Assistant

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 94
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Child Care Facilities

Name Dr. Danielle Thomas

Job Title Legislation Chair

Address 1747 Orlando Central Pkwy
Street
Orlando FL 32809
City *State* *Zip*

Phone 407.859.7604

Email legislation@floridapta.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

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/CS/SB 122
INTRODUCER:	Rules Committee; Judiciary Committee; Banking and Insurance Committee; and Senator Broxson and others
SUBJECT:	Agreements Between Service Providers and Consumers
DATE:	April 19, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	**Fav/CS**
2.	Davis	Cibula	JU	**Fav/CS**
3.	Billmeier	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 122 makes various changes to address issues arising from the assignment of post-loss benefits from a property insurance policy. The bill eliminates the "one way" attorney fee for assignees. The bill requires the assignee to give the insurer notice prior to the filing of a lawsuit and make a presuit demand. The insurer must respond with a presuit settlement offer. To award fees, the court must compare the difference between the demand and the offer with the judgment obtained and award fees based on a formula.

The bill allows insurers to make available a property insurance policy that prohibits or restricts the assignment of benefits. If an insurer offers a policy that prohibits or restricts assignments, it must offer a policy with benefits that are assignable. When purchasing a policy that prohibits or restricts assignments, the named insured must reject the fully assignable policy. Policies prohibiting or restricting assignment of benefits must be at a lower cost.

The bill requires assignees to comply with some of the policyholder's duties under the insurance policy. Insurance policies generally require insureds to cooperate with the claims investigation, sit for examinations under oath by the insurance company, and participate in appraisal. This bill applies those duties to the assignees as well.

The bill:

- Gives the insured 14 days to rescind the assignment.
- Gives the insured 30 days to rescind the assignment if the assignee has not begun substantial work during that 30 days.
- Requires the assignee to provide a copy of the AOB to the insurance company within 3 days.
- Limits AOBs to $3,000 or 1 percent of Coverage A during emergency situations.
- Prohibits assignees from charging mortgage processing or rescission fees to the insured.
- Limits the ability of assignees to collect payment from insureds.
- Requires insurers to report information about assignments to the Office of Insurance Regulation.
- Provides that Citizens Property Insurance Corporation cannot implement rate changes unless the rate filing reflects projected savings from the bill.

II. Present Situation:

Attorney Fees in Insurance Litigation

In general, parties to a lawsuit each pay their own attorney fees unless statutes or contractual provisions provide otherwise. Section 627.428, F.S., provides, in part:

> Upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer and in favor of the insured or beneficiary a reasonable sum as fees or compensation for the insured's or beneficiary's attorney prosecuting the suit in which the recovery is had.[1]

This statute allows an insured to recover his or her own attorney fees if the insured prosecutes a lawsuit to enforce an insurance policy. Some version of this statute has been the law in Florida since at least 1893.[2]

The Florida Supreme Court recently explained the purpose of the statute:

> The need for fee and cost reimbursement in the realm of insurance litigation is deeply rooted in public policy. Namely, the Legislature recognized that it was essential to "level the playing field" between the economically-advantaged and sophisticated insurance companies and the individual citizen. Most assuredly, the average policyholder has neither the finances nor the expertise to single-handedly take on an insurance carrier. Without the funds necessary to compete with an insurance carrier, often a concerned policyholder's only means to take protective

[1] Section 626.9373, F.S., contains substantially similar language but it applies to surplus lines insurers. Florida courts have interpreted the statutes to have the same meaning.

[2] See *Tillis v. Liverpool & London & Globe Insurance Company*, 35 So. 171 (1903)(rejecting an insurance company argument that the 1893 law providing that an insured may recover attorney fees in actions against an insurance company to enforce a policy violates due process and equal protection).

> action is to hire that expertise in the form of legal counsel… For this reason, the Legislature recognized that an insured is not made whole when an insurer simply grants the previously denied benefits without fees. The reality is that once the benefits have been denied and the plaintiff retains counsel to dispute that denial, additional costs that require relief have been incurred. Section 627.428, F.S., takes these additional costs into consideration and levels the scales of justice for policyholders by providing that the insurer pay the attorney's fees resulting from incorrectly denied benefits.[3]

Florida courts have interpreted the statute broadly to allow recovery of fees when the insurer ultimately settles the case before trial.[4] The court awards fees pursuant to the statute even if the insurer does not act in bad faith.[5]

There must be a dispute over the amount owed before attorney fees can be recovered pursuant to s. 627.428, F.S. In *Goldman v. United Services Automobile Association*,[6] homeowners sustained water damage due to a plumbing leak. The homeowners reported the claim to their insurance company. The insurance company investigated and paid the claim. The homeowners filed a lawsuit without informing the insurance company that they disputed the amount of the claim. The insurance company demanded appraisal and paid the disputed amount after the appraisal award.[7] The court held the homeowners were not entitled to attorney fees because the insurance company was not aware of a dispute over the amount of the claim until the filing of the lawsuit. The court said that attorney fees may only be recovered when the claims process breaks down and the parties are no longer working to resolve the claim.[8]

Assignments of Post-Loss Insurance Benefits

An assignment is the voluntary transfer of the rights of one party under a contract to another party. Current law generally allows an insurance policyholder to assign the benefits of the policy, such as the right to be paid, to another party. This assignment is often called an "assignment of benefits" or "AOB." Once an assignment is made, the assignee can take action to enforce the contract. Accordingly, if the benefits are assigned and the insurer refuses to pay, the assignee may file a lawsuit against the insurer to recover the insurance benefits.[9]

---

[3] *Johnson v. Omega Ins. Co.*, 200 So.3d 1207, 1215-1216 (Fla. 2016)(internal citations omitted).
[4] *Johnson v. Omega Ins. Co.*, 200 So.3d 1207, 1215 (Fla. 2016)(noting that it is "well settled that the payment of a previously denied claim following the initiation of an action for recovery, but prior to the issuance of a final judgment, constitutes the functional equivalent of a confession of judgment").
[5] *Insurance Co. of North America v. Lexow*, 602 So.2d 528, 531 (Fla. 1992)("We reject the argument that attorney's fees should not be assessed against INA because this dispute involved a type of claim which reasonably could be expected to be resolved by a court. INA's good faith in bringing this suit is irrelevant. If the dispute is within the scope of s. 627.428, F.S., and the insurer loses, the insurer is always obligated for attorney's fees").
[6] 244 So.3d 310 (Fla. 4th DCA 2018).
[7] *Goldman*, 244 So.3d at 311.
[8] *Goldman*, 244 So.3d at 312. *See also Hill v. State Farm Florida Insurance Company*, 35 So.3d 956, 961 (Fla. 2d DCA 2010)(stating that "fees should normally be limited to the work associated with filing the lawsuit after the insurance carrier has ceased to negotiate or has breached the contract and the additional legal work necessary and reasonable to resolve the breach of contract); *Lewis v. Universal Property and Casualty Insurance Co.*, 13 So.3d 1079 (Fla. 4th DCA 2009).
[9] *Nationwide Mutual Insurance Company v. Pinnacle Medical, Inc.* 753 So.2d 55, 57 (Fla. 2000)("The right of assignee to sue for breach of contract to enforce assigned rights predates the Florida Constitution").

The Florida Supreme Court Applies Section 627.428, F.S., to AOB Cases

Section 627.428, F.S., provides that "any named or omnibus insured or the named beneficiary under a policy" may be entitled to attorney fees. In 1961, the First District Court of Appeal held that an assignee of the proceeds of a life insurance policy could recover attorney fees when the assignee had to sue to enforce payment.[10]

In 1971, the Fourth District Court of Appeal considered whether the insured's assignee of benefits from a property insurance policy was entitled to attorney fees and held the assignee was not entitled to fees because the assignee was not a named insured or beneficiary.[11] The Fourth District's opinion was appealed to the Florida Supreme Court and the Florida Supreme Court reversed. In 1972, the Florida Supreme Court held that an insured's assignee is entitled to attorney fees under s. 627.0127, F.S., the predecessor statute to s. 627.428, F.S. The court said "an assignee of an insurance claim stands to all intents and purposes in the shoes of the insured and logically should be entitled to an attorney's fee when he sues and recovers on the claim."[12]

The court reaffirmed the holding in 2008:

> [S]ection 627.428 authorizes an award of attorney's fees only to "the named or omnibus insured or named beneficiary" under an insurance policy and to other third parties who obtain coverage based on an assignment from an insured.[13]

Anti-Assignment Provisions in Insurance Contracts Do Not Prevent AOB in Property Insurance or Motor Vehicle Insurance

Section 627.422, F.S., governs assignability of insurance contracts and provides that a policy may or may not be assignable according to its terms. In *Lexington Insurance Company v. Simkins Industries,*[14] the court held that a provision in an insurance contract prohibiting assignment of the policy was enforceable under the plain language of s. 627.422, F.S. The court explained that the purpose of a provision prohibiting assignment was to protect an insurer against unbargained-for risks.[15]

An assignment made after the loss is valid even if the contract states otherwise.[16] In *Continental Casualty Company v. Ryan Incorporated Eastern,*[17] the court noted that it is a "well-settled rule that [anti-assignment provisions do] not apply to an assignment after loss." A court explained that a rationale for post-loss assignments is that "assignment of the policy, or rights under the policy, before the loss is incurred transfers the insurer's contractual relationship to a party with

[10] Travelers Insurance Company v. Tallahassee Bank and Trust Company, 133 So.2d 463 (Fla. 1st DCA 1961).
[11] *Southern American Fire Insurance Company v. All Ways Reliable Building Maintenance, Inc.*, 251 So.2d 11 (Fla. 4th DCA 1971), *reversed, All Ways Reliable Building Maintenance, Inc. v. Moore*, 261 So.2d 131 (Fla. 1972).
[12] *All Ways Reliable Bldg. Maintenance, Inc. v. Moore*, 261 So.2d 131 (1972).
[13] Continental Cas. Co. v. Ryan, Inc. Eastern, 974 So.2d 368, 379 (Fla. 2008).
[14] 704 So.2d 1384 (Fla. 1998).
[15] *Id*. at 1386.
[16] *West Fla. Grocery Co. v. Teutonia Fire Ins. Co*., 74 Fla. 220, 77 So. 209 (1917); *Gisela Inv., N.V. v. Liberty Mut. Ins. Co.*, 452 So.2d 1056 (Fla. 3d DCA 1984).
[17] 974 So.2d 368, 377 n. 7 (Fla. 2000).

whom it never intended to contract, but an assignment after loss is simply the transfer of the right to a claim for money" and "has no effect upon the insurer's duty under the policy."[18]

Assignments have been prohibited by contract in other insurance contexts. In *Kohl v. Blue Cross Blue Shield of Florida, Inc.*,[19] the court found anti-assignment language was sufficiently clear and upheld language prohibiting the assignment of a health insurance claim. The court explained that anti-assignment clauses "prohibiting an insured's assignments to out-of-network medical providers are valuable tools in persuading health [care] providers to keep their costs down and as such override the general policy favoring the free alienability of choses in action."[20]

AOB in Property Insurance Cases

In recent years, insurers have complained of abuse of the assignment of benefits process. An insurance company described the issue in a court filing:

> The typical scenario surrounding the use of an "assignment of benefits" involved vendors and contractors, mostly water remediation companies, who were called by an insured immediately after a loss to perform emergency remediation services, such as water extraction. The vendor came to the insured's home and, before performing any work, required the insured to sign an "assignment of benefits" – when the insured would be most vulnerable to fraud and price gouging. Vendors advised the insured, "We'll take care of everything for you." The vendor then submitted its bill to the insurer that was, on average, nearly 30 percent higher than comparative estimates from vendors without an assignment of benefits. Some vendors added to the invoice an additional 20 percent for "overhead and profit," even though a general contractor would not be required or hired to oversee the work. Vendors used these inflated invoices to extract higher settlements from insurers. This, in turn, significantly increases litigation over the vendors' invoices.[21]

In a court filing in a different case, a company that provides emergency repair and construction services explained the rationale behind assignments of insurance benefits:

> As a practical matter, a homeowner often will not be able to afford or hire a contractor immediately following a loss unless the contractor accepts an assignment of benefits to ensure payment. A homeowner may be unable to comply with the … provision requiring the homeowner to protect and repair the premises unless the remediation contractor accepts an assignment of benefits, however, contractors will become unwilling to accept payments by assignment if court decisions render the assignments unenforceable …

[18] *Wehr Constructors, Inc. v. Assurance Company of America*, 384 S.W.3d 680, 683 (Ky. 2012). The Florida courts' interpretation of s. 627.422, F.S., appears to be the position of a majority of states that have considered the issue.
[19] 955 So.2d 1140 (Fla. 4th DCA 2007).
[20] *Id*. at 1144-1145.
[21] *Security First Insurance Company v. State of Florida, Office of Insurance Regulation*, Case No. 1D14-1864 (Fla. 1st DCA), Appellant's Initial Brief at pp. 3-4 (appellate record citations omitted).

> Whether the repair invoice is routed through the insured or submitted by the service provider directly by assignment, the service provider's repair invoice is submitted to the insurer for coverage and reviewed by an adjuster. The only difference an assignment makes is that, if an insurance company wishes to partially deny coverage or contest an invoice as unreasonable, the insured policyholder is not mired in litigation in which he or she has no stake.[22]

There have been a number of cases in recent years where courts have held that post-loss benefits are assignable.[23]

Data and Recommendations for Reform

According to the Department of Financial Services,[24] the number of AOB lawsuits for water claims has increased in recent years:

Year	2006	2007	2008	2009	2010	2011	2012	2013	2014	2015	2016	2017	2018
Water	8	35	87	184	483	989	1,603	2,083	2,786	5,328	8,488	10,937	16,890

This chart shows the percentage of lawsuits with an AOB for water claims or for windshield glass:

Year	Lawsuits	AOB	AOB Percentage
2018	278,739	34,289	12.3%
2017	229,188	36,601	16.0%
2016	192,598	28,183	14.6%
2015	161,062	18,145	11.3%
2014	148,003	11,804	8.0%
2013	141,320	6,414	4.5%[25]

In 2015, the Office of Insurance Regulation (OIR) did a data call to attempt to determine the effect of assignment of benefits in the insurance market.[26] The OIR found that water losses alone could require rate increases of 10 percent per year.[27] The Insurance Commissioner showed that

---

[22] *One Call Property Services, Inc. v. Security First Insurance Company*, Case No. 4D14-0424 (Fla. 4th DCA), Appellant's Initial Brief at 46-48.

[23] *See, e.g., Security First Ins. Co. v. State of Florida Office of Insurance Regulation*, 177 So.3d 627, *rehearing denied* (Fla. 1st DCA 2015); *Bioscience W., Inc. v. Gulfstream Prop. & Cas. Ins. Co.*, 185 So.2d 638 (Fla.2d DCA 2016); *One Call Property Services, Inc. v. Security First Ins. Co.*, 165 So.3d 749 (Fla. 4th DCA 2015); *Accident Cleaners, Inc. v. Universal Ins. Co.*, 186 So.3d 1 (Fla. 5th DCA 2015).

[24] Data presented to the Senate Committee on Banking and Insurance on January 22, 2019 (on file with the Senate Committee on Banking and Insurance).

[25] The number of lawsuits was determined by entering a start date of January 1 and an end date of December 31 for each year as selection criteria into the Florida Department of Financial Services Service of Process reports site https://apps.fldfs.com/LSOPReports/Reports/Report.aspx (last visited February 5, 2019). The number of AOB lawsuits was provided the Florida Department of Financial Services.

[26] http://www.floir.com/Sections/PandC/AssignmentofBenefits.aspx (last accessed February 5, 2019).

[27] Office of Insurance Regulation, *2015 Report on Review of the 2015 Assignment of Benefits Data Call* (February 8, 2016) at p 8. The report can be accessed at https://www.floir.com/siteDocuments/AssignmentBenefitsDataCallReport02082016.pdf (last visited on February 5, 2019).

the OIR has approved a greater percentage of rate increases in personal residential insurance in recent years:

Year	Percentage of Filings with a Rate Increase
2017	91.9%
2016	72.0%
2015	44.9%
2014	37.6%[28]

In 2017, the OIR conducted another data call on AOB. The OIR found that water losses (a combination of the frequency of water claims and the severity of the claims) increased 14.2 percent per year from January 1, 2010, to September 30, 2015.[29] From January 1, 2015, to June 30, 2017, water losses increased by 42.1 percent per year.[30] In 2015, almost 13 percent of the water claims utilized an AOB. In 2017, that percentage was approximately 17 percent.[31]

Citizens Property Insurance Company (Citizens) reports an increase in both litigation and litigation where the claimant has an AOB:[32]

Year	Lawsuits	AOB	AOB Percentage
2018	13,363	3,631	27.2%
2017	7,624	2,718	35.6%
2016	10,061	3,242	32.2%
2015	7,653	1,250	16.3%
2014	9,525	1,062	11.1%
2013	9,146	860	9.4%

The current average actuarial rate indication for multiperil homeowners policies for policies issued by Citizens Property Insurance Corporation (Citizens) is 25.2 percent. Citizens anticipates an actuarial rate indication on the same policies of 10.1 percent if AOB reform is successful.[33] Citizens reports that 70 percent of its homeowners multiperil customers received rate decreases in 2015 while 97 percent of those customers will see rate increases in 2019.[34]

[28] Presentation by David Altmaier to the Senate Committee on Banking and Insurance on January 22, 2019 (on file with the Senate Committee on Banking and Insurance).
[29] Office of Insurance Regulation, *Report of the 2017 Assignment of Benefits Data Call*, January 8, 2018, at page 1. The report can be accessed at https://www.floir.com/siteDocuments/AssignmentBenefitsDataCallReport02082017.pdf (last visited on February 5, 2019).
[30] *Id*.
[31] *Id.* at p. 3.
[32] Presentation by Barry Gilway to the Senate Committee on Banking and Insurance on January 22, 2019 (on file with the Senate Committee on Banking and Insurance).
[33] Presentation by Barry Gilway to the Senate Committee on Banking and Insurance on January 22, 2019 (on file with the Senate Committee on Banking and Insurance).
[34] *Id*.

A restoration contractor testified that issues arise between assignees and insurers because insurers wrongly deny claims and adjusters are poorly trained.[35] The contractor suggested the following solutions:

- Regulation of restoration contractors;
- Increased training for insurance company claims staff;
- Increased penalties for insurance fraud committed by contractors; and
- Penalties against insurers for underpayment and delayed claims.[36]

Nebraska AOB Reform

In *Mallard Gutter Company v. Farm Bureau Property and Casualty Insurance Company,*[37] the Nebraska Supreme Court held that assignment of post-loss benefits from an insured to a roofing contractor is allowed under Nebraska law. In 2018, the Nebraska Legislature adopted a statute to deal with perceived issues in Nebraska. The statute:

- Allows an assignment to authorize a contractor to be named as a copayee;
- Requires the assignment to be provided to the insurer within five business days after execution;
- Requires the following notice on an assignment:

> YOU ARE AGREEING TO ASSIGN CERTAIN RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY. WITH AN ASSIGNMENT, THE RESIDENTIAL CONTRACTOR SHALL BE ENTITLED TO PURSUE ANY RIGHTS OR REMEDIES THAT YOU, THE INSURED HOMEOWNER, HAVE UNDER YOUR INSURANCE POLICY. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING;

- Provides that the assignment shall not impair the interest of a mortgagee; and
- Provides that the assignment shall not prevent or inhibit an insurer from communicating with the named insured or mortgagee.[38]

Florida Courts Say if Policy Changes Are Needed, They Should be Made by the Legislature

The First District Court of Appeal recently noted:

> [W]e are not unmindful of the concerns that Security First expressed in support of [limiting assignment of benefits], providing evidence that inflated or fraudulent post-loss claims filed by remediation companies exceeded by thirty percent comparable services; that policyholders may sign away their rights without understanding the implications; and that a "cottage industry" of "vendors, contractors, and attorneys" exists that use the "assignments of benefits and the

[35] Presentation by Josh Reynolds to the Senate Committee on Banking and Insurance on February 4, 2019 (on file with the Senate Committee on Banking and Insurance).
[36] *Id*.
[37] 889 N.W.2d 596 (Neb. 2016).
[38] Neb.Rev.St. s 44-8605.

> threat of litigation" to "extract higher payments from insurers." These concerns, however, are matters of policy that we are ill-suited to address.[39]

The Fourth District Court of Appeal explained the competing policy arguments raised by the assignment of benefits issue:

> Turning to the practical implications of this case, we note that this issue boils down to two competing public policy considerations. On the one side, the insurance industry argues that assignments of benefits allow contractors to unilaterally set the value of a claim and demand payment for fraudulent or inflated invoices. On the other side, contractors argue that assignments of benefits allow homeowners to hire contractors for emergency repairs immediately after a loss, particularly in situations where the homeowners cannot afford to pay the contractors up front.[40]

The court noted that if "studies show that these assignments are inviting fraud and abuse, then the legislature is in the best position to investigate and undertake comprehensive reform."[41]

III. Effect of Proposed Changes:

CS/CS/CS/SB 122 makes numerous changes to the law relating to assignment of post-loss benefits. The bill:

- Requires assignees of post-loss benefits from a property insurance policy to give presuit notice to the insurer before filing suit;
- Provides that "one way" attorney fees do not apply to suits brought by such assignees and creates a formula to determine entitlement to attorney fees;
- Allows property insurers to offer a policy which prohibits or restricts assignments of post-loss benefits;
- Creates requirements for assignment agreements;
- Requires assignees to comply with certain duties under the insurance policy;
- Provides protections for the insured;
- Places requirements on Citizens;
- Requires reporting to the OIR; and
- Provides for severability.

Presuit Notice and Attorney Fees

Presuit Notice by Assignee

An assignee must provide the named insured, insurer, and the assignor with a written notice of intent to initiate litigation before filing suit under the policy. The notice must be served at least 10 business days before filing suit. It may not be served before the insurer has made a coverage

[39] *Security First Ins. Co. v. State of Florida Office of Insurance Regulation*, 177 So.3d 627, 628, *rehearing denied* (Fla. 1st DCA 2015).
[40] *One Call Property Services, Inc. v. Security First Ins. Co.*, 165 So.3d 749, 755 (Fla. 4th DCA 2015).
[41] *Id*.

determination pursuant to s. 627.70131, F.S.[42] The notice must specify that damages in dispute and the amount claimed and contain a presuit settlement demand. The assignee must also provide the insurer, named insured and assignor a detailed written invoice or estimate of services, including itemized information on equipment, materials, and supplies and the number of labor hours; and in the case of work performed, proof that the work has been performed in accordance with accepted industry standards.

Response by the Insurer

The insurer must respond within 10 business days by making a presuit settlement offer or requiring appraisal. The bill requires the insurer to have a procedure in place for the prompt investigation, review, and evaluation of claims contained in the presuit notice.

Attorney Fee Calculation

"One way" attorney fees do not apply in litigation between assignees and insurers. Instead, attorney fees are calculated by determining the difference between the assignee's presuit demand and the insurer's presuit offer. This number is called the "disputed amount." Once the court reaches a decision, the judgment obtained is compared to the disputed amount. If the difference between the judgment obtained by the assignee and the insurer's presuit settlement offer is:

- Less than 25 percent of the disputed amount, the insurer is entitled to an award of reasonable attorney fees.
- At least 25 percent but less than 50 percent of the disputed amount, no party is entitled to an award of attorney fees.
- At least 50 percent of the disputed amount, the assignee is entitled to an award of reasonable attorney fees.

The bill provides that the only way an assignee can obtain attorney fees is pursuant to the provisions of the bill or under s. 57.105, F.S.[43]

An insurer waives its right to attorney fees if the insurer fails to inspect the property or provide authorization for repairs within 7 calendar days after the first notice of loss. The insurer does not waive its right to fees if the failure to inspect the property or provide authorization for repairs is the result of:

- An event for which the Governor had declared a state of emergency.
- Factors beyond the control of the insurer which reasonably prevented an inspection or written or oral authorization for repairs.
- The named insured's failure or inability to allow an inspection of the property after a request by the insurer, the insurer does not waive its right to an award of attorney fees.

Insurers May Offer a Non-Assignable Policy

[42] Section 627.70131, F.S., requires an insurer to make a coverage determination and pay or deny a claim within 90 days of receipt of the claim.
[43] Section 57.105, F.S., allows a party to obtain attorney fees if the opposing party raises frivolous claims or defenses.

The bill allows an insurer to make available a policy that restricts in whole or in part an insured's right to execute an assignment agreement[44] if all of the following conditions are met:

- The insurer makes available to the insured or potential insured at the same time the same coverage under a policy that does not restrict the right to execute an assignment agreement;
- Each restricted policy is available at a lower cost than the unrestricted policy; and
- The policy prohibiting assignment in whole is available at a lower cost than any policy prohibiting assignment in part.

Each restricted policy must include on its face the following notice in 18-point uppercase and boldfaced type:

> THIS POLICY DOES NOT ALLOW THE UNRESTRICTED ASSIGNMENT OF POST-LOSS INSURANCE BENEFITS. BY SELECTING THIS POLICY, YOU WAIVE YOUR RIGHT TO FREELY ASSIGN OR TRANSFER THE POST-LOSS PROPERTY INSURANCE BENEFITS AVAILABLE UNDER THIS POLICY TO A THIRD PARTY OR TO OTHERWISE FREELY ENTER INTO AN ASSIGNMENT AGREEMENT AS THE TERM IS DEFINED IN SECTION 627.7152 OF THE FLORIDA STATUTES.

The insurer must notify the insured at least annually of the coverage options the insurer makes available under this section. Such notice must be part of and attached to the notice of premium. A named insured must reject a fully assignable policy in writing or electronically. The rejection of a fully assignable policy shall be made on a form approved by the OIR. The form must state that the policy restricts the assignment of benefits. The heading of the form shall be in 18-point uppercase and boldfaced type and state:

> YOU ARE ELECTING TO PURCHASE AN INSURANCE POLICY THAT RESTRICTS THE ASSIGNMENT OF BENEFITS UNDER THE POLICY IN WHOLE OR IN PART. PLEASE READ CAREFULLY.

The bill requires an assignee to indemnify and hold harmless the assignor from all liabilities resulting from the assignment of a policy that prohibits or restricts assignment of benefits.

Requirements in an Assignment Agreement

The bill requires that an assignment agreement must:

- Be in writing;
- Be executed by both the assignor and assignee;
- Allow the assignor to rescind the assignment agreement without a penalty or fee within 14 days after the execution of the agreement;

[44] Under the bill, an assignment agreement is any instrument which transfers post-loss benefits under a property insurance policy.

- Allow the assignor to rescind the assignment agreement without a penalty or fee within at least 30 days after the date work on the property is scheduled to commence if the assignee has not substantially performed;
- Allow the assignor to rescind the assignment agreement without a penalty within or at least 30 days after the execution of the agreement if the agreement does not contain a commencement date and the assignee has not begun substantial work on the property;
- Contain a provision requiring the assignee to provide a copy of the executed assignment agreement to the insurer within 3 business days after the date on which the assignment agreement is executed or the date on which work begins, whichever is earlier;
- Contain a written, itemized, per-unit cost estimate of the services to be performed by the assignee;
- Relate only to work to be performed by the assignee for services to protect, repair, restore, or replace a dwelling or structure or to mitigate against further damage to such property.

The assignment agreement must contain a notice in 18-point uppercase and boldfaced type that provides notice of the policyholder's rights of rescission, obligation to pay for contracted work performed before the agreement is rescinded, and continuing obligation to perform the duties required under the property insurance policy. The notice includes the following warning:

> YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY TO A THIRD PARTY, WHICH MAY RESULT IN LITIGATION AGAINST YOUR INSURER. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING IT.

An assignment agreement may not contain:

- A penalty or fee for rescission;
- A check or mortgage processing fee;
- A penalty or fee for cancellation of the agreement; or
- An administrative fee.

If an assignor acts under an urgent or emergency circumstance to protect property from damage and executes an assignment agreement to protect, repair, restore, or replace property or to mitigate against further damage to the property, an assignee may not receive an assignment of post-loss benefits under a residential property insurance policy in excess of the greater of $3,000 or 1 percent of the Coverage A limit under such policy.

An assignment agreement that does not comply with the conditions is invalid and unenforceable.

Assignee Must Comply with Certain Duties

Many property insurance policies contain duties that the insured must fulfil in order for policy to provide coverage. Many policies require the insured to cooperate with the insurer during the claims investigation or sit for an examination under oath. Compliance with those duties can be a condition precedent to the filing of a lawsuit under the policy. Under current law, AOBs give

assignees policy benefits but do not require assignees to fulfill important duties.[45] The bill requires that an assignee:

- Must provide the assignor with accurate and up-to-date revised estimates of the scope of work to be performed as supplemental or additional repairs are required;
- Must perform the work in accordance with accepted industry standards;
- May not seek payment from the assignor exceeding the applicable deductible under the policy unless the assignor has chosen to have additional work performed at the assignor's own expense;
- Must submit to examinations under oath conducted by the insurer that are reasonably necessary, based on the scope of the work and the complexity of the claim. The examinations must be limited to matters related to the services provided, the cost of the services, and the assignment agreement; and
- Must participate in appraisal or other alternative dispute resolution methods in accordance with the terms of the policy.

The bill requires an assignee to demonstrate that the insurer is not prejudiced by the assignee's failure to:

- Maintain records of all services provided under the assignment agreement;
- Cooperate with the insurer in the claim investigation;
- Provide the insurer with requested records and documents related to the services provided, and permit the insurer to make copies of such records and documents; and
- Deliver a copy of the executed assignment agreement to the insurer within 3 business days after executing the assignment agreement or work has begun, whichever is earlier.

Current law requires an insurer to plead and prove that an insured's failure to cooperate in a claims investigation substantially prejudiced the insurer.[46] This bill requires the assignee to demonstrate the insurer was not prejudiced by an assignee's failure to cooperate.

Provisions Regarding Managed Repair Arrangements and Insurance Adjusting

The bill provides that an assignment agreement does not modify or eliminate any term, condition, or defense relating to any managed repair arrangement provided in the policy.

The bill provides that an assignment agreement does not transfer or create any authority to adjust a claim to a person or entity not authorized to adjust a claim under part VI, ch. 626.

Protections for the Insured

The bill provides that if a vendor accepts an AOB, the vendor waives claims against a named insured for payments arising from the assignment agreement. A named insured is responsible for the payment of all of the following:

- Any deductible amount due under the policy.
- Any betterment ordered and performed that is approved by the named insured.

[45] *See Shaw v. State Farm Fire & Cas. Co.*, 37 So.3d 329, 332 (Fla. 5th DCA 2010) (en banc), *overruled on other grounds by Nunez v. Geico Gen. Ins. Co.*, 117 So.3d 388, 396–97 (Fla.2013).
[46] *See Bankers Ins. Co. v. Macias*, 475 So.2d 1216 (1985); *Ramos v. Northwestern Mut. Ins. Co.*, 336 So.2d 71 (1976).

- Any contracted work performed before the assignment agreement is rescinded.

The waiver remains in effect even if the assignment is rescinded or found invalid and the insured is not responsible for any damages if a non-assignable policy is assigned.

The bill does not change some traditional assignments. The conditions placed on assignments by the bill do not apply to assignments such as those given to family members or assignments to persons who purchase property after the loss.

Reports to the Office of Insurance Regulation

The bill requires the OIR to require each insurer to report by January 30, 2022, and each year thereafter data on each residential and commercial property insurance claim paid in the prior calendar year under an assignment agreement. The Financial Services Commission, the rulemaking entity for the OIR, must adopt by rule a list of the data required. The data must include specific data about claims adjustment and settlement timeframes and trends, grouped by whether litigated or not litigated and by loss adjustment expenses.

Citizens Property Insurance Corporation

The bill provides that Citizens Property Insurance Corporation may not implement rate changes in 2019 for DP-3 and HO-3 policies unless the rate filing reflects projected rate savings. Such rate filing must include an exhibit demonstrating the impact of the bill on indicated rates for DP-3 and HO-3 policies. Citizens Property Insurance Corporation must provide policyholders with details on the projected rate savings.

Severability

The amendment contains a severability provision. It provides that if a provision of the bill is held invalid, that invalidity does not affect the remaining provisions of the bill which can be given effect without the invalid provision.

Penalties for Filing and Dismissing Actions

The bill provides that if an assignee commences an action in any court based upon or including the same claim against the same adverse party that such assignee has previously voluntarily dismissed, the court may order the assignee to pay the attorney fees and costs of the adverse party of the action previously voluntarily dismissed.

Effective Date

The effective date of the bill is July 1, 2019. The provisions relating to assignment agreements and attorney fees apply to assignment agreements entered into on or after July 1, 2019. The provisions of the bill relating to policies that restrict or prohibit assignments are effective July 1, 2019.

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:

Due Process

The Florida Supreme Court has explained that in order to determine whether a statute violates due process, it must determine whether the statute bears a reasonable relationship to a legitimate legislative objective and is not discriminatory, arbitrary, or oppressive.[47] In *Nationwide Mutual Fire Insurance Company v. Pinnacle Medical Inc.*,[48] the court considered a challenge to a provision in the Florida Motor Vehicle No-Fault law that created a prevailing party standard for awarding attorney fees to medical provider assignees, rather than the standard applied to insureds under s. 627.428, F.S. The court held that the prevailing party standard for awarding attorney fees to medical provider assignees violated the due process[49] rights of medical providers.

In 1998, the Motor Vehicle No-Fault Law required motor vehicle insurance policies to contain a provision requiring providers who accepted an assignment of personal injury protection benefits to provide medical services or supplies to resolve any dispute with the insurance company via binding arbitration. It provided the prevailing party could recover attorney fees but did not define prevailing party.[50] In 1998, the Legislature amended the No-Fault Law to create a prevailing party definition.[51] Under s. 626.736, F.S., providers who accepted assignments and had a dispute were not entitled to attorney fees under

[47] 753 So.2d 55, 59 (Fla. 2000).
[48] 753 So.2d 55, 59 (Fla. 2000).
[49] Article 1, section 9 of the Florida Constitution provides that no person shall be deprived of life, liberty, or property without due process of law.
[50] *See* Section 627.736(5), F.S. (Supp. 1998).
[51] *See* ch. 98-270, L.O.F. The definition provides that the claimant prevails if the PIP award at arbitration exceeds the sum of the insurer's offer at arbitration plus 50 percent of the difference between the insurer's demand at arbitration and the insurer's offer. The insurer prevails if the PIP award is less than the insurer's offer at arbitration plus 50 percent of the difference between the insurer's demand at arbitration and the insurer's offer. The formula can be expressed as PIP BENEFITS DETERMINED BY ARBITRATION < or > INSURER OFFER + .5(CLAIMANT DEMAND – INSURER OFFER).

s. 627.428, F.S. Instead, they could only recover fees if they prevailed at arbitration under the statutory formula.

The court said that an objective of No-Fault Law was to provide persons injured in an accident with prompt payment of benefits and that the legislative objective of s. 627.428, F.S., was to discourage insurance companies from contesting valid claims and to reimburse successful insureds for their attorney fees when they are compelled to sue to enforce their insurance contracts. The court explained that the prevailing party attorney fee formula replaced s. 627.428, F.S., attorney fees with an award of attorney fees based on who was the prevailing party. Therefore, medical provider-assignees were subject to attorney fees while insureds suing to enforce the exact same contract could obtain one-way imposition of attorney fees against insurers. The court held that this distinction does nothing to further the prompt payment of benefits or to discourage insurers' denial of valid claims and that the effect of the attorney-fee provision was to delay insureds from receiving medical benefits by encouraging medical providers to require payment from insureds at the time the services are rendered. Therefore, the court said the prevailing party attorney-fee provision arbitrarily distinguished between medical providers and insureds and violated medical providers' due process rights.[52]

Opponents may argue that the provisions of this bill that prohibit an assignee from using s. 627.428, F.S., to collect attorney fees when the assignee prevails in an action against an insurance company similarly violates the assignee's due process rights. They could argue that the assignee, like the medical providers in *Pinnacle*, are suing to enforce the same contract as a named insured and the distinction between assignees and named insureds is arbitrary and does nothing to encourage the prompt payment of valid claims. Similarly, opponents could argue that the bill's requirement that an assignee demonstrate that an insurer was not prejudiced by the assignee's failure to cooperate with a claims investigation violates due process because the insured is not held to that standard if the insured is bringing the case.

Proponents could argue that this bill's distinction is not arbitrary. Proponents could argue that the distinction was drawn because: (1) there has been a large increase in AOB litigation in recent years; (2) claims with an AOB are often higher cost than claims without an AOB; (3) AOB claims are more likely to be inflated; and (4) the one-way attorney fee statute limits the insurers' ability to litigate smaller claims. Proponents could argue that the Legislature is drawing this distinction to prevent further increases in insurances rates because higher rates harm the state's economy.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

[52] 753 So.2d 55, 59 (Fla. 2000).

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 627.7152 and 627.7153.

This bill substantially amends section 627.422 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/CS by Rules on April 17, 2019:

- Removes provisions relating to automobile windshield glass from the bill.
- Provides that insurers must make available a property insurance policy that does not restrict AOB. Insurers may also offer a policy that entirely or partially restricts AOB. When purchasing a policy that restricts AOB, the named insured must reject the fully assignable policy and receive a notice that the policy restricts AOB. The policy restricting AOB must be at a lower cost.
- Eliminates "one way" attorney fees for assignees. The bill requires the assignee to give the insurer notice prior to the filing of a lawsuit and make a presuit demand. The insurer must respond with a presuit settlement offer. To award fees, the court must compare the difference between the demand and the offer with the judgment obtained and award fees based on a formula.
- Requires assignees to comply with some of the policyholder's duties under the insurance policy.
- Provides that Citizens cannot implement rate changes unless the rate filing reflects projected savings from the bill.

CS/CS by Judiciary on March 18, 2019:

In addition to stylistic and clarifying changes, the following provisions are added:

- Agreements made under urgent or emergency circumstances must be in writing and identify the work to be performed and the applicable changes.

- All post-loss agreements must be in writing and identify the work to be performed and the applicable charges and the dates by which the work will begin and be completed.
- Consumers may rescind an agreement, not 30 days after execution, but 30 days after the scheduled commencement date if the service provider has not substantially performed.
- Language is added to clarify that, whether a contract was made under urgent circumstances or otherwise, a service provider retains the right to payment for services performed before the rescission.
- The Legislative Findings and Intent section of the underlying bill are moved from the end of the bill and placed as "whereas" clauses at the beginning of the bill.

CS by Banking and Insurance on March 4, 2019:

- Establishes standards for a valid assignment of post-loss benefits under property insurance policies and motor vehicle insurance policies for coverage of windshield damage under comprehensive or combined additional coverage.
- Limits the scope of an AOB in urgent or emergency circumstances and requires the assignee service provider to waive all claims against a consumer other than for payment of the deductible and betterment ordered by the consumer.
- Provides that the prevailing party in litigation between an assignee service provider and insurer may be awarded attorney fees and establishes standard for the court to apply when determining the prevailing party.
- Prohibits "judge shopping" by authorizing judges to order assignees to pay attorney fees and cost to the other party when an assignee service provider files suit, voluntarily dismisses the action, and then refiles in hopes of being assigned a different judge.
- Contains legislative findings and intent.

B. Amendments:

None.

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

338298

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Broxson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 627.7152, Florida Statutes, is created to read:

627.7152 Assignment agreements.—

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

(a) "Assignee" means a person who is assigned post-loss benefits through an assignment agreement.

(b) "Assignment agreement" means any instrument by which

338298

post-loss benefits under a residential property insurance policy or commercial property insurance policy, as that term is defined in s. 627.0625(1), are assigned or transferred, or acquired in any manner, in whole or in part, to or from a person providing services to protect, repair, restore, or replace property or to mitigate against further damage to the property.

(c) "Assignor" means a person who assigns post-loss benefits under a residential property insurance policy or commercial property insurance policy to another person through an assignment agreement.

(d) "Disputed amount" means the difference between the assignee's presuit settlement demand and the insurer's presuit settlement offer.

(e) "Judgment obtained" means damages recovered, if any, but does not include any amount awarded for attorney fees, costs, or interest.

(f) "Presuit settlement demand" means the demand made by the assignee in the written notice of intent to initiate litigation as required by paragraph (9)(a).

(g) "Presuit settlement offer" means the offer made by the insurer in its written response to the notice of intent to initiate litigation as required by paragraph (9)(b).

(2)(a) An assignment agreement must:

1. Be in writing and executed by and between the assignor and the assignee.

2. Contain a provision that allows the assignor to rescind the assignment agreement without a penalty or fee by submitting a written notice of rescission signed by the assignor to the assignee within 14 days after the execution of the agreement, at

338298

least 30 days after the date work on the property is scheduled to commence if the assignee has not substantially performed, or at least 30 days after the execution of the agreement if the agreement does not contain a commencement date and the assignee has not begun substantial work on the property.

3. Contain a provision requiring the assignee to provide a copy of the executed assignment agreement to the insurer within 3 business days after the date on which the assignment agreement is executed or the date on which work begins, whichever is earlier. Delivery of the copy of the assignment agreement to the insurer may be made:

a. By personal service, overnight delivery, or electronic transmission, with evidence of delivery in the form of a receipt or other paper or electronic acknowledgement by the insurer; or

b. To the location designated for receipt of such agreements as specified in the policy.

4. Contain a written, itemized, per-unit cost estimate of the services to be performed by the assignee.

5. Relate only to work to be performed by the assignee for services to protect, repair, restore, or replace a dwelling or structure or to mitigate against further damage to such property.

6. Contain the following notice in 18-point uppercase and boldfaced type:

YOU ARE AGREEING TO GIVE UP CERTAIN RIGHTS YOU HAVE UNDER YOUR INSURANCE POLICY TO A THIRD PARTY, WHICH MAY RESULT IN LITIGATION AGAINST YOUR INSURER. PLEASE READ AND UNDERSTAND THIS DOCUMENT BEFORE SIGNING IT. YOU HAVE THE RIGHT TO CANCEL THIS

338298

AGREEMENT WITHOUT PENALTY WITHIN 14 DAYS AFTER THE DATE THIS AGREEMENT IS EXECUTED, AT LEAST 30 DAYS AFTER THE DATE WORK ON THE PROPERTY IS SCHEDULED TO COMMENCE IF THE ASSIGNEE HAS NOT SUBSTANTIALLY PERFORMED, OR AT LEAST 30 DAYS AFTER THE EXECUTION OF THE AGREEMENT IF THE AGREEMENT DOES NOT CONTAIN A COMMENCEMENT DATE AND THE ASSIGNEE HAS NOT BEGUN SUBSTANTIAL WORK ON THE PROPERTY. HOWEVER, YOU ARE OBLIGATED FOR PAYMENT OF ANY CONTRACTED WORK PERFORMED BEFORE THE AGREEMENT IS RESCINDED. THIS AGREEMENT DOES NOT CHANGE YOUR OBLIGATION TO PERFORM THE DUTIES REQUIRED UNDER YOUR PROPERTY INSURANCE POLICY.

7. Contain a provision requiring the assignee to indemnify and hold harmless the assignor from all liabilities, damages, losses, and costs, including, but not limited to, attorney fees, should the policy subject to the assignment agreement prohibit, in whole or in part, the assignment of benefits.

(b) An assignment agreement may not contain:

1. A penalty or fee for rescission under subparagraph (a)2.;

2. A check or mortgage processing fee;

3. A penalty or fee for cancellation of the agreement; or

4. An administrative fee.

(c) If an assignor acts under an urgent or emergency circumstance to protect property from damage and executes an assignment agreement to protect, repair, restore, or replace property or to mitigate against further damage to the property, an assignee may not receive an assignment of post-loss benefits under a residential property insurance policy in excess of the greater of $3,000 or 1 percent of the Coverage A limit under

338298

such policy. For purposes of this paragraph, the term "urgent or emergency circumstance" means a situation in which a loss to property, if not addressed immediately, will result in additional damage until measures are completed to prevent such damage.

(d) An assignment agreement that does not comply with this subsection is invalid and unenforceable.

(3) In a claim arising under an assignment agreement, an assignee has the burden to demonstrate that the insurer is not prejudiced by the assignee's failure to:

(a) Maintain records of all services provided under the assignment agreement.

(b) Cooperate with the insurer in the claim investigation.

(c) Provide the insurer with requested records and documents related to the services provided, and permit the insurer to make copies of such records and documents.

(d) Deliver a copy of the executed assignment agreement to the insurer within 3 business days after executing the assignment agreement or work has begun, whichever is earlier.

(4) An assignee:

(a) Must provide the assignor with accurate and up-to-date revised estimates of the scope of work to be performed as supplemental or additional repairs are required.

(b) Must perform the work in accordance with accepted industry standards.

(c) May not seek payment from the assignor exceeding the applicable deductible under the policy unless the assignor has chosen to have additional work performed at the assignor's own expense.



(d) Must, as a condition precedent to filing suit under the policy, and, if required by the insurer, submit to examinations under oath and recorded statements conducted by the insurer or the insurer's representative that are reasonably necessary, based on the scope of the work and the complexity of the claim, which examinations and recorded statements must be limited to matters related to the services provided, the cost of the services, and the assignment agreement.

(e) Must, as a condition precedent to filing suit under the policy, and, if required by the insurer, participate in appraisal or other alternative dispute resolution methods in accordance with the terms of the policy.

(5) An assignment agreement and this section do not modify or eliminate any term, condition, or defense relating to any managed repair arrangement provided in the policy.

(6) An assignment agreement does not transfer or create any authority to adjust, negotiate, or settle any portion of a claim to a person or entity not authorized to adjust, negotiate, or settle a claim on behalf of an assignor or a claimant under part VI of chapter 626.

(7)(a) Notwithstanding any other provision of law, and except as provided in paragraph (b), acceptance by an assignee of an assignment agreement is a waiver by the assignee and its subcontractors of claims against a named insured for payments arising from the assignment agreement. The assignee and its subcontractors may not collect or attempt to collect money from an insured, maintain any action at law against an insured, claim a lien on the real property of an insured, or report an insured to a credit agency for payments arising from the assignment

338298

agreement. Such waiver remains in effect after the assignment agreement is rescinded by the assignor or after a determination that the assignment agreement is invalid.

(b) A named insured is responsible for the payment of all of the following:

1. Any deductible amount due under the policy.

2. Any betterment ordered and performed that is approved by the named insured.

3. Any contracted work performed before the assignment agreement is rescinded.

(8) The assignee shall indemnify and hold harmless the assignor from all liabilities, damages, losses, and costs, including, but not limited to, attorney fees, should the policy subject to the assignment agreement prohibit, in whole or in part, the assignment of benefits.

(9)(a) An assignee must provide the named insured, insurer, and the assignor, if not the named insured, with a written notice of intent to initiate litigation before filing suit under the policy. Such notice must be served by certified mail, return receipt requested, or electronic delivery at least 10 business days before filing suit, but may not be served before the insurer has made a determination of coverage under s. 627.70131. The notice must specify the damages in dispute, the amount claimed, and a presuit settlement demand. Concurrent with the notice, and as a precondition to filing suit, the assignee must provide the named insured, insurer, and the assignor, if not the named insured, a detailed written invoice or estimate of services, including itemized information on equipment, materials, and supplies; the number of labor hours; and, in the



case of work performed, proof that the work has been performed in accordance with accepted industry standards.

(b) An insurer must respond in writing to the notice within 10 business days after receiving the notice specified in paragraph (a) by making a presuit settlement offer or requiring the assignee to participate in appraisal or other method of alternative dispute resolution under the policy. An insurer must have a procedure for the prompt investigation, review, and evaluation of the dispute stated in the notice and must investigate each claim contained in the notice in accordance with the Florida Insurance Code.

(10) Notwithstanding any other provision of law, in a suit related to an assignment agreement for post-loss claims arising under a residential or commercial property insurance policy, attorney fees and costs may be recovered by an assignee only under s. 57.105 and this subsection.

(a) If the difference between the judgment obtained by the assignee and the presuit settlement offer is:

1. Less than 25 percent of the disputed amount, the insurer is entitled to an award of reasonable attorney fees.

2. At least 25 percent but less than 50 percent of the disputed amount, no party is entitled to an award of attorney fees.

3. At least 50 percent of the disputed amount, the assignee is entitled to an award of reasonable attorney fees.

(b) If the insurer fails to inspect the property or provide written or oral authorization for repairs within 7 calendar days after the first notice of loss, the insurer waives its right to an award of attorney fees under this subsection. If the failure



to inspect the property or provide written or oral authorization for repairs is the result of an event for which the Governor had declared a state of emergency under s. 252.36, factors beyond the control of the insurer which reasonably prevented an inspection or written or oral authorization for repairs, or the named insured's failure or inability to allow an inspection of the property after a request by the insurer, the insurer does not waive its right to an award of attorney fees under this subsection.

(c) If an assignee commences an action in any court of this state based upon or including the same claim against the same adverse party that such assignee has previously voluntarily dismissed in a court of this state, the court may order the assignee to pay the attorney fees and costs of the adverse party resulting from the action previously voluntarily dismissed. The court shall stay the proceedings in the subsequent action until the assignee has complied with the order.

(11) This section does not apply to:

(a) An assignment, transfer, or conveyance granted to a subsequent purchaser of the property with an insurable interest in the property following a loss;

(b) A power of attorney under chapter 709 that grants to a management company, family member, guardian, or similarly situated person of an insured the authority to act on behalf of an insured as it relates to a property insurance claim; or

(c) Liability coverage under a property insurance policy.

(12) The office shall require each insurer to report by January 30, 2022, and each year thereafter data on each residential and commercial property insurance claim paid in the


338298

prior calendar year under an assignment agreement. The Financial Services Commission shall adopt by rule a list of the data required, which must include specific data about claims adjustment and settlement timeframes and trends, grouped by whether litigated or not litigated and by loss adjustment expenses.

(13) This section applies to an assignment agreement executed on or after July 1, 2019.

Section 2. Section 627.7153, Florida Statutes, is created to read:

627.7153 Policies restricting assignment of post-loss benefits under a property insurance policy.—

(1) As used in this section, the term "assignment agreement" has the same meaning as provided in s. 627.7152.

(2) An insurer may make available a policy that restricts in whole or in part an insured's right to execute an assignment agreement only if all of the following conditions are met:

(a) The insurer makes available to the insured or potential insured at the same time the same coverage under a policy that does not restrict the right to execute an assignment agreement.

(b) Each restricted policy is available at a lower cost than the unrestricted policy.

(c) The policy prohibiting assignment in whole is available at a lower cost than any policy prohibiting assignment in part.

(d) Each restricted policy include on its face the following notice in 18-point uppercase and boldfaced type:

THIS POLICY DOES NOT ALLOW THE UNRESTRICTED ASSIGNMENT OF POST-LOSS INSURANCE BENEFITS. BY SELECTING THIS POLICY, YOU WAIVE


338298

YOUR RIGHT TO FREELY ASSIGN OR TRANSFER THE POST-LOSS PROPERTY INSURANCE BENEFITS AVAILABLE UNDER THIS POLICY TO A THIRD PARTY OR TO OTHERWISE FREELY ENTER INTO AN ASSIGNMENT AGREEMENT AS THE TERM IS DEFINED IN SECTION 627.7152 OF THE FLORIDA STATUTES.

(3) The insurer shall notify the insured at least annually of the coverage options the insurer makes available under this section. Such notice must be part of and attached to the notice of premium.

(4) A named insured must reject a fully assignable policy in writing or electronically. The rejection of a fully assignable policy shall be made on a form approved by the office. The form must state that the policy restricts the assignment of benefits. The heading of the form shall be in 18-point uppercase and boldfaced type and state:

YOU ARE ELECTING TO PURCHASE AN INSURANCE POLICY THAT RESTRICTS THE ASSIGNMENT OF BENEFITS UNDER THE POLICY IN WHOLE OR IN PART. PLEASE READ CAREFULLY.

(5) This section applies to a policy issued or renewed on or after July 1, 2019.

Section 3. Section 627.422, Florida Statutes, is amended to read:

627.422 Assignment of policies or post-loss benefits.—A policy may be assignable, or not assignable, as provided by its terms. Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer



has received at its home office written notice of termination of the assignment or pledge or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment.

(1) LIFE OR HEALTH INSURANCE POLICIES.—Subject to its terms relating to assignability, any life or health insurance policy under the terms of which the beneficiary may be changed upon the sole request of the policyowner may be assigned either by pledge or transfer of title, by an assignment executed by the policyowner alone and delivered to the insurer, whether or not the pledgee or assignee is the insurer. ~~Any such assignment shall entitle the insurer to deal with the assignee as the owner or pledgee of the policy in accordance with the terms of the assignment, until the insurer has received at its home office written notice of termination of the assignment or pledge or written notice by or on behalf of some other person claiming some interest in the policy in conflict with the assignment.~~

(2) POST-LOSS BENEFITS UNDER CERTAIN PROPERTY INSURANCE POLICIES.—A residential or commercial property insurance policy may not prohibit the assignment of post-loss benefits unless it complies with s. 627.7153.

Section 4. Citizens Property Insurance Corporation may not implement rate changes in 2019 for DP-3 and HO-3 policies unless the rate filing reflects projected rate savings from this act. Such rate filing must include an exhibit demonstrating the impact of this act on indicated rates for DP-3 and HO-3 policies. Citizens Property Insurance Corporation shall provide policyholders with details on the projected rate savings from this act.

338298

Section 5. If any provision of this act or its application to any person or circumstance is held invalid, the invalidity does not affect the remaining 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 6. This act shall take effect July 1, 2019.

================ 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 insurance assignment agreements; creating s. 627.7152, F.S.; providing definitions; providing requirements and limitations for property insurance assignment agreements; providing a burden of proof; providing that an assignment agreement does not affect managed repair arrangements under a property insurance policy; providing that an assignment agreement does not confer or create authority to adjust, negotiate, or settle a claim without authorization under part VI of chapter 626; providing that an acceptance by an assignee of an assignment agreement is a waiver by the assignee and its subcontractors of certain claims against an insured; specifying an insured's payment obligations under an assignment agreement; requiring notice of intent to initiate litigation; specifying requirements for such

338298

notice; requiring a written response to the notice of intent to initiate litigation; specifying requirements for such response; providing for an award of reasonable attorney fees for certain claims arising under an assignment agreement; providing for an award of reasonable attorney fees following a voluntary dismissal under certain circumstances; requiring the court to stay proceedings under certain circumstances; directing the Office of Insurance Regulation to require insurers to report specified data; requiring the Financial Services Commission to adopt rules; providing applicability; creating s. 627.7153, F.S.; defining the term "assignment agreement"; authorizing insurers to make available property insurance policies restricting the assignment of post-loss benefits under certain conditions; requiring annual notice of coverage options; requiring a written or electronic waiver under certain circumstances; requiring the office to approve a waiver form; providing applicability; amending s. 627.422, F.S.; providing that residential or commercial property insurance policies may not prohibit the assignment of post-lost benefits; providing an exception; prohibiting Citizens Property Insurance Corporation from implementing rate changes for certain policies; providing an exception; requiring certain rate filings to include specified information; requiring the corporation to inform policyholders of certain information; providing severability; providing an effective date.

838662

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment to Amendment (338298) (with title amendment)

Between lines 4 and 5
insert:

Section 1. Section 627.7016, Florida Statutes, is amended to read:

627.7016 Insurer contracts with building contractors; policies limiting contractor selection.—

(1) An insurer who offers residential coverage, as defined in s. 627.4025, may contract with a building contractor skilled

838662

in techniques that mitigate hurricane damage. Insurers may offer policyholders the option to select the services of such building contractors to repair damage covered by the insurance policy. The insurer must guarantee the building contractor's work and may offer the policyholder any other terms, conditions, or benefits. The insurance company is not liable for the actions of the building contractor.

(2) An insurer offering residential coverage, as described in s. 627.4025, which limits the policyholder's choice of contractor necessary to repair property covered under the policy must oversee and ensure:

(a) The use of general and subtrade contractors who have current and active licensure under chapter 489;

(b) That any contractor is prohibited from placing a lien on the covered property for work performed under the policy;

(c) That all necessary permits are obtained for work performed under the policy; and

(d) The quality of work performed by a contractor under the policy for 3 years after all work has been completed or after a certificate of occupancy is issued, whichever is later.

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

And the title is amended as follows:

Delete line 344

and insert:

An act relating to property insurance policies; amending s. 627.7016, F.S.; specifying requirements for insurers offering residential coverage that limits the policyholder's choice of contractor necessary to

838662

repair the covered property;

927034

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (338298)

Delete lines 30 - 33
and insert:
litigation as required by paragraph (9)(b).

(g) "Presuit settlement offer" means the offer made by the insurer in its written response to the notice of intent to initiate litigation as required by paragraph (9)(c).

273814

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Thurston) recommended the following:

Senate Amendment to Amendment (338298)

Delete lines 97 - 98
and insert:
under a residential property insurance policy in excess of 2 percent of the Coverage A limit or 2 percent of the total value of the property damage coverage under

504126

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (338298) (with title amendment)

Delete line 147
and insert:
VI of chapter 626. However, an assignor may negotiate on behalf of the assignee with an insurer as to the scope of work or the price.

========== T I T L E A M E N D M E N T ==========
And the title is amended as follows:

504126

Delete line 353

and insert:

authorization under part VI of chapter 626; providing an exception; providing

668170

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (338298) (with title amendment)

Delete lines 160 - 190
and insert:
(b) Notwithstanding paragraph (a), a named insured is responsible for the payment of all of the following:
1. Any deductible amount due under the policy.
2. Any betterment ordered and performed that is approved by the named insured.
3. Any contracted work performed before the assignment

668170

agreement is rescinded.

(8) The assignee shall indemnify and hold harmless the assignor from all liabilities, damages, losses, and costs, including, but not limited to, attorney fees, should the policy subject to the assignment agreement prohibit, in whole or in part, the assignment of benefits.

(9)(a) An insurer shall make a determination of coverage within 7 days after receipt of notice of a claim.

(b) An assignee must provide the named insured, insurer, and the assignor, if not the named insured, with a written notice of intent to initiate litigation before filing suit under the policy. Such notice must be served by certified mail, return receipt requested, or electronic delivery at least 10 business days before filing suit, but may not be served before the insurer has made a determination of coverage under s. 627.70131. The notice must specify the damages in dispute, the amount claimed, and a presuit settlement demand. Concurrent with the notice, and as a precondition to filing suit, the assignee must provide the named insured, insurer, and the assignor, if not the named insured, a detailed written invoice or estimate of services, including itemized information on equipment, materials, and supplies; the number of labor hours; and, in the case of work performed, proof that the work has been performed in accordance with accepted industry standards.

(c) An insurer must respond in writing to the notice within 10 business days after receiving the notice specified in paragraph (b) by making a presuit settlement offer or requiring

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

668170

And the title is amended as follows:

Delete line 358

and insert:

assignment agreement; requiring insurers to make a determination of coverage within a certain timeframe after receiving notice of a claim; requiring notice of intent to

645914

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Thurston) recommended the following:

Senate Amendment to Amendment (338298) (with title amendment)

Delete lines 232 - 250
and insert:
(11) An insurer may not:
(a) Require that a particular vendor make repairs to a dwelling;
(b) Unless expressly requested by the insured, recommend or suggest a particular vendor for repairs to be made to a dwelling;

645914

(c) Disparage the assignee;

(d) Advise as to the insured's rights under any agreement; or

(e) Otherwise attempt to influence the insured to rescind any agreement between the insured and the assignee.

(12) This section does not apply to:

(a) An assignment, transfer, or conveyance granted to a subsequent purchaser of the property with an insurable interest in the property following a loss;

(b) A power of attorney under chapter 709 that grants to a management company, family member, guardian, or similarly situated person of an insured the authority to act on behalf of an insured as it relates to a property insurance claim; or

(c) Liability coverage under a property insurance policy.

(13) The office shall require each insurer to report by January 30, 2022, and each year thereafter data on each residential and commercial property insurance claim paid in the prior calendar year under an assignment agreement. The Financial Services Commission shall adopt by rule a list of the data required, which must include specific data about claims adjustment and settlement timeframes and trends, grouped by whether litigated or not litigated and by loss adjustment expenses.

(14) This section applies to an assignment agreement

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

And the title is amended as follows:

Between lines 367 and 368

insert:

645914

prohibiting certain actions by insurers;

394600

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Thurston) recommended the following:

Senate Amendment to Amendment (338298)

Delete line 276
and insert:
TERM IS DEFINED IN SECTION 627.7152 OF THE FLORIDA STATUTES. BY SELECTING THIS POLICY, YOU MAY BE REQUIRED TO PAY FOR EXPENSES TO REPAIR OR TO PREVENT FURTHER DAMAGE TO YOUR PROPERTY PRIOR TO ANY PAYMENT BEING MADE BY YOUR INSURER. THIS MAY APPLY WHETHER YOU ARE IN AN EMERGENCY SITUATION OR OTHERWISE.

204184

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (338298) (with title amendment)

Delete line 283
and insert:
in writing. The rejection of a fully

================ T I T L E A M E N D M E N T ================
And the title is amended as follows:
Delete line 376
and insert:

204184

coverage options; requiring a written

922830

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (338298) (with title amendment)

Delete lines 323 - 330

and insert:

Section 4. A property insurer may not implement rate changes in 2019 for DP-3 or HO-3 policies. A DP-3 or HO-3 property insurance policy issued in years 2020 to 2023 must provide rate savings to consumers if it is restricted-in-part or restricted-in-whole. A restricted-in-part policy must be provided at a 10-percent lower cost to the consumer than an

922830

unrestricted policy. A restricted-in-whole policy must be provided at a 10-percent lower cost than a restricted-in-part policy, or at a 20-percent lower cost than an unrestricted policy if no restricted-in-part policy is offered by the insurer.

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

And the title is amended as follows:

Delete lines 382 - 387

and insert:

benefits; providing an exception; prohibiting property insurers from implementing rate changes for certain policies during a certain year; requiring that certain property insurance policies with certain restrictions and issued during a certain timeframe must provide specified rate savings to consumers; providing

873114

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (338298) (with title amendment)

Delete lines 323 - 330

and insert:

Section 4. An insurer, including Citizens Property Insurance Corporation, may not implement rate changes in 2019 for DP-3 or HO-3 policies unless the rate filing reflects projected rate savings from this act. Such a rate filing must include an exhibit demonstrating the impact of this act on indicated rates for DP-3 and HO-3 policies. An insurer,

873114

including Citizens Property Insurance Corporation, shall provide policyholders with details on the projected rate savings from this act.

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

And the title is amended as follows:

Delete lines 382 - 387

and insert:

benefits; providing an exception; prohibiting insurers, including Citizens Property Insurance Corporation, from implementing rate changes for certain policies except under certain circumstances; requiring certain rate filings to include specified information; requiring insurers, including the corporation, to inform policyholders of certain information; providing

547328

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment to Amendment (338298) (with title amendment)

Delete lines 323 - 330

and insert:

Section 4. A property insurer may not implement rate changes in 2019 for DP-3 or HO-3 policies. A property insurer may not implement rate changes for DP-3 or HO-3 policies in 2020 and thereafter, unless the rate filing reflects projected rate savings from this act. Such rate filing must include an exhibit demonstrating the impact of this act on indicated rates for DP-3

547328

and HO-3 policies. A property insurer shall provide policyholders with details on the projected rate savings from this act.

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

And the title is amended as follows:

Delete lines 382 - 387

and insert:

benefits; providing an exception; prohibiting property insurers from implementing rate changes for certain policies in a certain year; prohibiting such rate changes in subsequent years except under certain circumstances; requiring certain rate filings to include specified information; requiring such insurers to inform policyholders of certain information; providing

488804

LEGISLATIVE ACTION

Senate . House

. .

. .

. .

. .

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 266 and 267

insert:

Section 4. Section 627.7016, Florida Statutes, is amended to read:

627.7016 Insurer contracts with building contractors; policies limiting contractor selection.—

(1) An insurer who offers residential coverage, as defined in s. 627.4025, may contract with a building contractor skilled in techniques that mitigate hurricane damage. Insurers may offer

488804

policyholders the option to select the services of such building contractors to repair damage covered by the insurance policy. The insurer must guarantee the building contractor's work and may offer the policyholder any other terms, conditions, or benefits. The insurance company is not liable for the actions of the building contractor.

(2) An insurer offering residential coverage, as described in s. 627.4025, which limits the policyholder's choice of contractor necessary to repair property covered under the policy must oversee and ensure:

(a) The use of general and subtrade contractors who have current and active licensure under chapter 489;

(b) That any contractor is prohibited from placing a lien on the covered property for work performed under the policy;

(c) That all necessary permits are obtained for work performed under the policy; and

(d) The quality of work performed by a contractor under the policy for 3 years after all work has been completed or after a certificate of occupancy is issued, whichever is later.

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

And the title is amended as follows:

Delete line 25

and insert:

benefits who is a service provider; amending s. 627.7016, F.S.; specifying requirements for insurers offering residential coverage that limits the policyholder's choice of contractor necessary to repair the covered property; providing

By the Committees on Judiciary; and Banking and Insurance; and Senators Broxson, Hooper, and Simmons

590-03195-19 2019122c2

A bill to be entitled

An act relating to agreements between service providers and consumers; creating s. 501.172, F.S.; defining terms; specifying limitations and authorized provisions relating to a service provider's right to payment under certain agreements with consumers under urgent or emergency circumstances; specifying requirements, limitations, and prohibited provisions for agreements containing a post-loss assignment of benefits; providing that a prevailing party under certain policies and coverages has the right to attorney fees and costs; providing that a court need not determine that there is a prevailing party; providing factors a court must consider in determining who is the prevailing party, under certain circumstances; providing construction relating to waiver of claims and limitations on recovery; authorizing a court to order an assignee to pay attorney fees and costs under certain circumstances; requiring the court to stay proceedings under certain circumstances; providing applicability; amending ss. 626.9373 and 627.428, F.S.; providing that attorney fees under certain provisions of the Florida Insurance Code may not be awarded to an assignee of post-loss benefits who is a service provider; providing applicability; providing an effective date.

WHEREAS, the Legislature finds that provisions of law allowing insureds to recover attorney fees in litigation against

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

590-03195-19 2019122c2

their insurers are intended to level the economic playing field between the economically-advantaged insurance company and the individual consumer, and

WHEREAS, the award of attorney fees to the individual consumer under such laws makes the consumer financially whole and discourages insurance companies from contesting valid claims, and

WHEREAS, however, the Legislature finds that the increased use of post-loss assignment of benefits by service providers has led to a dramatic increase in assignment of benefits litigation, and

WHEREAS, the Legislature recognizes that additional costs incurred by insurance companies in contesting assignment of benefits-related litigation or in paying inflated claims for insurance proceeds are factored into the rates charged for property insurance and motor vehicle insurance, and

WHEREAS, the Legislature finds that by explicitly providing that any right to attorney fees or costs against an insurer by a service provider must be as provided in this act, the Legislature is addressing the dramatic increase in assignment of benefits litigation by nonparties to property insurance policies and motor vehicle insurance policies for coverage of windshield damage and the associated increase in insurance premiums that are experienced by consumers, and

WHEREAS, the Legislature intends to maintain its public policy of making consumers financially whole and reducing inequities between consumers and their insurance companies, as such consumers have the right to obtain attorney fees in civil actions they bring against their insurers, NOW, THEREFORE,

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

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

Section 1. Section 501.172, Florida Statutes, is created to read:

501.172 Agreements between service providers and consumers.—

(1) DEFINITIONS.—As used in this section:

(a) "Consumer" means a person who has an interest in, or who has a right to manage real or personal property, including improvements upon such property, regardless of whether for personal or business purposes, including an owner, a tenant, a licensee, or a property manager.

(b) "Service provider" means a person who enters into an agreement with a consumer for the stabilization, repair, improvement, or remediation of real or personal property.

(2) LIMITATION ON AGREEMENTS BETWEEN SERVICE PROVIDERS AND CONSUMERS UNDER URGENT OR EMERGENCY CIRCUMSTANCES.—

(a) If a consumer acts under urgent or emergency circumstances to protect property from damage and enters into an agreement with a service provider to stabilize, protect, repair, or improve the property, the service provider may only contract for, receive, or acquire in any manner from the consumer at the time the right to payment for the work necessary to stabilize, protect, and prevent additional damage to the property. The agreement must be in writing and detail, to the extent reasonable under the circumstances, the work to be performed and the charges for the services to be provided. The right to payment may include:

1. A post-loss assignment of benefits under a property insurance policy or under the comprehensive or combined additional coverage under a motor vehicle insurance policy for coverage of windshield damage, executed pursuant to subsection (3), except that notwithstanding ss. 626.9373 and 627.428, any right to attorney fees or costs against an insurer by any such service provider shall be as provided in subsection (4). A service provider may not receive from a consumer acting under urgent or emergency circumstances an assignment of post-loss benefits:

a. Under a property insurance policy, in excess of the greater of $3,000 or 1 percent of the Coverage A limit under such policy.

b. Under a motor vehicle insurance policy for comprehensive or combined additional coverage for windshield damage, in excess of $500.

2. An acknowledgment of the rights that may exist, if any, under chapter 713 to make a claim upon the property.

(b) To the extent that an agreement between a consumer and a service provider purports to provide greater rights to the service provider under such urgent or emergency circumstances, including alleged rights to do further repairs, remediation, or improvements or an assignment of rights, benefits, causes of action, or other contractual rights in violation of this subsection, such purported assignment is void.

(3) REQUIREMENTS FOR POST-LOSS AGREEMENTS, INCLUDING THOSE CONTAINING A POST-LOSS ASSIGNMENT OF BENEFITS.—In all circumstances, an agreement entered into by a consumer and a service provider after a loss or damage has occurred to the

consumer's property must be in writing. The agreement must detail, to the extent reasonable under the circumstances, the work to be performed, the charges for the services to be provided, and the dates by which work on the property will commence and be completed. The agreement may also provide for subsequent change orders, subject to the approval by the consumer and service provider, which must also set forth in writing the changes to the scope of work and the cost for the changes to the work. To the extent that the agreement contains a post-loss assignment of insurance benefits to the service provider or some third person under a property insurance policy or under the comprehensive or combined additional coverage under a motor vehicle insurance policy for coverage of windshield damage, the purported assignment of benefits is valid only if all of the following are satisfied:

(a) The consumer or service provider provides a copy of the agreement to the consumer's insurer, sent to the location designated for receipt of such agreements if specified in the insurance policy, within 3 business days after the agreement's execution.

(b) The agreement provides that the consumer may rescind the agreement by submitting a written notice of rescission which is signed by the consumer to the service provider within 14 days after the execution of the agreement, at least 30 days after the date work on the property is scheduled to commence if the service provider has not substantially performed, or at least 30 days after the execution of the agreement if the agreement does not contain a commencement date and the service provider has not begun substantial work on the property. However, the service

provider retains the right to payment for services performed pursuant to the agreement before receiving notice of the rescission.

(c) The agreement does not impose any fee or penalty for rescinding the agreement, for check processing, for not using a specified service provider for permanent repairs, or for mortgage processing.

(d) The agreement does not prevent or inhibit an insurer from communicating with the consumer at any time.

(e) The agreement, if made under a motor vehicle insurance policy for comprehensive or combined additional coverage for windshield damage, does not assign the right to more than $500 in post-loss benefits.

(f) The agreement does not transfer or create any authority to adjust, negotiate, or settle any portion of a claim to a person or an entity who is not authorized to adjust, negotiate, or settle a claim on behalf of the insured or claimant under part VI of chapter 626.

(g) The agreement does not transfer to the assignee any greater right to attorney fees and costs from the insurer than the right to attorney fees and costs as provided for in subsection (4).

(h) The agreement relates only to work performed or to be performed by the service provider.

(4) ATTORNEY FEES.—

(a) In a civil action under a property insurance policy or under the comprehensive or combined additional coverage under a motor vehicle insurance policy for coverage of windshield damage, between an insurer and a service provider who obtains an

assignment of post-loss benefits, the prevailing party has the right to attorney fees and costs from the:

1. Insurer, if the service provider is the prevailing party.

2. Service provider, if the insurer is the prevailing party.

(b) The prevailing party is the party which prevails on the significant issues of the case. The court may determine that there is no prevailing party in a case. In determining if there is a prevailing party, the court must consider:

1. The issues litigated;

2. The amount of the claims by the service provider versus the amount recovered;

3. The existence of setoffs and counterclaims, if any; and

4. The amounts offered by either party to resolve the issues prior to or during litigation.

(5) LIMITATION ON RECOVERY FROM ASSIGNOR.—An assignee service provider that accepts an assignment of post-loss benefits waives any and all claims against a consumer, except as provided herein. The consumer remains responsible for the payment of any deductible amount provided for by the terms of the insurance policy, and for the cost of any betterment ordered by the consumer. This subsection does not prohibit the assignee from collecting or attempting to collect money from, maintaining an action at law against, or claiming a lien on the property of a consumer or reporting a consumer to a credit agency for payment of the amount of the insurance deductible, or any amount attributable to betterment ordered by the consumer. This waiver is effective notwithstanding any subsequent determination that

the assignment agreement is invalid or the rescission of the assignment agreement by the consumer.

(6) ACTIONS BASED UPON THE SAME CLAIM AND PARTY PREVIOUSLY VOLUNTARILY DISMISSED.—If a service provider assignee commences an action in any court of this state based upon or including the same claim against the same adverse party that such assignee has previously voluntarily dismissed in a court of this state, the court may, as it deems proper, order the assignee to pay the attorney fees and costs of the adverse party of the action previously voluntarily dismissed. Upon the issuance of such order, the court shall stay the proceedings in the subsequent action until the assignee has complied with the order.

(7) APPLICATION.—This section does not apply to a power of attorney granted to a management company, family member, guardian, or similarly situated person which complies with chapter 709 and which may include, as part of the authority granted, the authority to act in place of a principal as it relates to a property insurance or motor vehicle insurance claim, if such power of attorney is not provided to a service provider or any person with a personal or financial interest in the service provider.

Section 2. Section 626.9373, Florida Statutes, is amended to read:

626.9373 Attorney ~~Attorney's~~ fees.—

(1) Upon the rendition of a judgment or decree by any court of this state against a surplus lines insurer in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer on or after the effective date of this act, the trial court or, if the insured or

beneficiary prevails on appeal, the appellate court, shall adjudge or decree against the insurer in favor of the insured or beneficiary a reasonable sum as fees or compensation for the insured's or beneficiary's attorney prosecuting the lawsuit for which recovery is awarded.

(2) If awarded, attorney ~~attorney's~~ fees or compensation shall be included in the judgment or decree rendered in the case.

(3) Attorney fees may not be awarded under this section to an assignee of post-loss benefits who is a service provider under s. 501.172.

Section 3. Section 627.428, Florida Statutes, is amended to read:

627.428 Attorney fees ~~Attorney's fee~~.—

(1) Upon the rendition of a judgment or decree by any of the courts of this state against an insurer and in favor of any named or omnibus insured or the named beneficiary under a policy or contract executed by the insurer, the trial court or, in the event of an appeal in which the insured or beneficiary prevails, the appellate court shall adjudge or decree against the insurer and in favor of the insured or beneficiary a reasonable sum as fees or compensation for the insured's or beneficiary's attorney prosecuting the suit in which the recovery is had.

(2) As to suits based on claims arising under life insurance policies or annuity contracts, no such attorney fees ~~attorney's fee~~ shall be allowed if such suit was commenced prior to expiration of 60 days after proof of the claim was duly filed with the insurer.

(3) When so awarded, compensation or fees of the attorney

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

shall be included in the judgment or decree rendered in the case.

(4) Attorney fees may not be awarded under this section to an assignee of post-loss benefits who is a service provider under s. 501.172.

Section 4. Section 501.172, Florida Statutes, as created by this act, and the amendments made by this act to ss. 626.9373 and 627.428, Florida Statutes, apply to actions pending on or after July 1, 2019, to the extent that the act does not require the invalidation of any provision of a contract executed before July 1, 2019.

Section 5. This act shall take effect July 1, 2019.

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

Duplicat

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

Amendment Barcode (if applicable

Topic AOB

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St
Street

Phone 224-7173

Tallahassee FL 32301
City *State* *Zip*

Email bbevis@aif.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

Topic Assignment of Benefits

604914
Amendment Barcode (if applicable)

Name Richard Kanen

Job Title Owner

Address 941 Morse Blvd
Street

Winter Park FL 32789
City *State* *Zip*

Phone 407-233-0493

Email richie@airqualityassessors.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Air Quality Assessors

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

* 645914
Amendment Barcode (if applicable)

Topic A.O.B.

Name Dave DeBlander

Job Title Owner- Pro Clean Restoration

Address 3255 Potter ST.
Street

Phone 850-712-8711

Pensacola, FL. 32514
City *State* *Zip*

Email dave@procleanrestoration.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Pro Clean Restoration + Cleaning

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

Bill Number (if applicable)

Topic Assignment of Benefits

645914
Amendment Barcode (if applicable)

Name Jesus Moises of Moises/Gross, Attorneys at Law

Job Title Partner

Address 999 Ponce de Leon Blvd., Suite 945
Street

Phone (305) 306-3055

Coral Gables FL 33134
City *State* *Zip*

Email jmoises@moisesgross.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Moises/Gross, Attorneys at Law

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/17/19 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

Meeting Date

122

Bill Number (if applicable)

645914

Amendment Barcode (if applicable)

Topic _____

Name Foy + Ralston

Job Title _____

Address 317 E. Park Ave

Street

Tall. FL 01

City *State* *Zip*

Phone _____

Email _____

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

Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing _____

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

Topic Assignment of Benefits

6459 14
Amendment Barcode (if applicable)

Name Jim Apuzzo

Job Title Owner

Address 2200 Winter Spgs Blvd.
Street

Oviedo FL 32765
City *State* *Zip*

Phone 407-448-0048

Email jmapuzzo@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Damage control

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

504126
Amendment Barcode (if applicable)

Topic Unlicensed Adjusting

Name Steve Geller

Job Title Attorney

Address 110 East Broward Blvd
Street
Fort Lauderdale FL 33301
City *State* *Zip*

Phone 954 315 3926

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FAPIA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

504126
Amendment Barcode (if applicable)

Topic A.O.B.

Name Dave DeBardeler

Job Title Owner

Address 3255 Potter ST.
Street

Pensacola FL. 32514
City *State* *Zip*

Phone 850-712-8711

Email dave@procleanrestoration.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ ~~Against~~ N/A
(The Chair will read this information into the record.)

Representing Pro Clean Restoration + Cleaning

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

Topic AOB

504126
Amendment Barcode (if applicable)

Name Foyt Ralston

Job Title

Address 317 E. Park Ave
Street

Tallahassee FL 01
City *State* *Zip*

Phone

Email

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Florida Assc. of Restoration Spec.

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

Topic Assignment of Benefits

504126
Amendment Barcode (if applicable)

Name Richie Kidwell

Job Title owner

Address 941 Morse Blvd
Street
Winter Park, FL 32789
City *State* *Zip*

Phone 407-233-0493

Email richie@aivqualityassessors.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing AV Quality Assessors

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

922830
Amendment Barcode (if applicable)

Topic Assignment of Benefits

Name Richie Kidwell

Job Title Owner

Address 941 Morse Blvd,
Street
Winter Park FL 32789
City *State* *Zip*

Phone 407-233-0493

Email rich@aqualityassessors.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Air Quality Assessors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 122
Bill Number (if applicable)

922830
Amendment Barcode (if applicable)

Topic AOB

Name Tyler Chase 2

Job Title ATTORNEY

Address 2976 S. OKEECHOBEE AVE
Street

ORLANDO FL 32806
City *State* *Zip*

Phone 407 425 4640

Email Tyler@thjlegal.

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FJA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4-17-19
Meeting Date

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

CS/CS/SB 122
Bill Number (if applicable)

Topic ASSIGNMENT OF BENEFITS

338298
Amendment Barcode (if applicable)

Name CAM FENTRESS

Job Title LEGISLATIVE COUNSEL

Address 1400 VILLAGE SQ # 3-243
Street

TALL FL 32312
City *State* *Zip*

Phone 850-222-2772

Email AFENTRESS@AOL.COM

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLA. ROOFING & SHEET METAL CONTRACTORS ASSN

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.17.19
Meeting Date

122
Bill Number (if applicable)

338298
Amendment Barcode (if applicable)

Topic Insurance

Name Trey Goldman

Job Title Legislative Counsel

Address 200 S. Monroe St
Street

Phone 850/224-1400

TLH FL 32301
City *State* *Zip*

Email treyg@floridarealtors.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Realtors

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

122
Bill Number (if applicable)

338298
Amendment Barcode (if applicable)

Topic Assignment of Benefits

Name Christine Ashburn

Job Title Chief - Communications, Legislative + External Affairs

Address 2101 Maryland Circle
Street

Phone 850-513-3746

Tallahassee FL 32303
City *State* *Zip*

Email Christine.ashburn@citizensfla.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Citizens Property Insurance Corp

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4-17-19 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) CS/CS/SB 122

Meeting Date *Bill Number (if applicable)*

338298

Amendment Barcode (if applicable)

Topic ASSIGNMENT OF BENEFITS

Name RALPH DAVIS.

Job Title PRESIDENT, STREAMLINE ROOFING & CONSTRUCTION

Address PO BOX 2378 Phone 850-575-1168

Street

TALLAHASSEE FL 32316 Email INFO@STREAMLINEROOFING.COM

City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing FLA. ROOFING & SHEET METAL CONTRACTORS ASSN

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

SB 122
Bill Number (if applicable)

Topic Assignment of Benefits Abuse

338298
Amendment Barcode (if applicable)

Name Paul Huszar

Job Title CEO, VetCor, LLC

Address 6302 Benjamin Rd., Suite 411 (Street)

Phone (813)504-1624

Tampa (City) FL (State) 33634 (Zip)

Email phuszar@vetcorservices.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

I wish to speak

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 122
Bill Number (if applicable)

338298
Amendment Barcode (if applicable)

Topic AOB Reform

Name Charles Snellgrove

Job Title Retired

Address 1759 Starlight Drive
Street

Phone 727-458-1808

Clearwater FL 33755
City *State* *Zip*

Email n4tbo_ham@yahoo.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Self/Consumer/Victim of AOB Abuse

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB122
Bill Number (if applicable)

338298
Amendment Barcode (if applicable)

Topic ADR

Name Tyler Chaser - Attorney

Job Title 2876 S. Osceola Ave

Address Orlando FL 32806
Street

City *State* *Zip*

Phone 4072254640

Email tyler@whjlegal

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FJA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

338298
Amendment Barcode (if applicable)

Topic A.O.B.

Name Dave DeBlander

Job Title Owner - Pro Clean Restoration

Address 3255 Potter St.
Street

Pensacola FL. 32514
City *State* *Zip*

Phone 850-712-8711

Email daveo procleanrestoration.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Pro Clean Restoration

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

122

4/17/18
Meeting Date

~~338298~~
Bill Number (if applicable)

338298
Amendment Barcode (if applicable)

Topic _____

Name Foyt Ralston

Job Title _____

Address 30 E. Park Ave
Street

Phone _____

Tall FL 32301
City *State* *Zip*

Email _____

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Assoc. Restoration Specialist

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

338298
Amendment Barcode (if applicable)

Topic AOB DE Amendment

Name Caitlin Murray

Job Title Director of Government Affairs

Address 200 E. Gaines St.
Street

Phone (850) 413-5005

Tallahassee FL 32399
City *State* *Zip*

Email Caitlin.murray@floir.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Office of Insurance Regulation

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4-17-19 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) CS/CS/SB 122

Meeting Date *Bill Number (if applicable)*

Topic ASSIGNMENT OF BENEFITS *Amendment Barcode (if applicable)*

Name RALPH DAVIS

Job Title PRESIDENT, STREAMLINE ROOFING & CONSTRUCTION

Address PO BOX 2378 Phone 850-575-1168

Street

TALLAHASSEE FL 32316 Email INFO@STREAMLINEROOFING.COM

City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing FLA. ROOFING & SHEET METAL CONTRACTORS ASSN

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 122
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic AOB Reform

Name Charles Snellgrove

Job Title Retired

Address 1759 Starlight Drive
Street

Clearwater FL 33755
City *State* *Zip*

Phone 727-458-1808

Email n4tbo_ham@yahoo.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Self / Consumer / Victim of AOB Abuse

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 17, 2019
Meeting Date

SB 122
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Assignment of Benefits

Name Judge Ana Maria Pando (Retired County Court Judge - Miami-Dade Florida) (Ana Maria Pando, PA)

Job Title

Address 2307 Douglas Road, Suite 102
Street
Miami FL 33145
City *State* *Zip*

Phone 305-807-3170

Email pando@pandolaw.org

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing ~~N/A~~ Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic AOB

Name Tyler Chase-Z

Job Title 2876 S. Osceola Ave - Attorney

Address Orlando FL 32806
Street

Phone 407 425 4640

Email Tyler@mhjlegal

City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FJA

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 122
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Assignment of Benefits

Name Jesus Moises of Moises | Gross, Attorneys at Law

Job Title Partner

Address [redacted] 999 Ponce de Leon Blvd., Suite 945 Phone (305)306-3055
Street

Coral Gables FL 33134 Email jdmoises@moisesgross.com
City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Moises | Gross, Attorneys At Law

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

122
Bill Number (if applicable)

Topic Assignment of Benefits

Amendment Barcode (if applicable)

Name Sal Nuzzo

Job Title VP of Policy

Address 100 North Duval Street
Street

Phone 850-322-9941

Tallahassee FL 32301
City *State* *Zip*

Email snuzzo@jamesmadison.org

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing The James Madison Institute

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

Topic Assignment of Benefits

Amendment Barcode (if applicable)

Name Richie Kinnett

Job Title Owner

Address 941 Morse Blvd.
Street
Winter Park, FL 32789
City *State* *Zip*

Phone 407-233-0493

Email richie@airqualityassessors.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Air Quality Assessors

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Abuse of AOB

Name Meredith Stanfield

Job Title Director, Legislative & Cabinet Affairs

Address PL 11
Street
Tallahassee FL 32399
City *State* *Zip*

Phone (850) 413-2890

Email meredith.stanfield@myfloridaCFO.com

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Department of Financial Services

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17
Meeting Date

SB 122
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 122

Name Nirav Desai

Job Title Attorney

Address 19050 Biscayne Blvd Apt. 1016
Street

Phone 631.327.2990

~~Address~~ Miami FL 33181
City *State* *Zip*

Email ndesai@ujroelaw.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Mitigation Companies

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

Topic Assignment of Benefits

Amendment Barcode (if applicable)

Name Jim Apuzzo

Job Title Owner

Address 2200 Winter Springs Blvd
Street
Oviedo FL 32765
City *State* *Zip*

Phone 407-448-0048

Email jmapuzzo@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing Damage Control

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

SB122
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Property Ins.

Name William Roe

Job Title Attorney

Address 17971 Biscayne Blvd Ste. 210
Street

Aventura FL 33160
City *State* *Zip*

Phone 786-332-6324

Email wjroe@wjroelaw.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing Mitigation Companies / homeowners

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

Topic Agreements Btwn. Service Providers & Consumers

Amendment Barcode (if applicable)

Name Beth V. (Vecchiolla)

Job Title Sr. Dir. Govt Consulting

Address 215 S. Monroe St., Ste 500
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone 850-425-3393

Email bvecchiolla@carltonfields.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Nat'l. Assoc. of Mutual Insur. Co's

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

Topic AOB

Amendment Barcode (if applicable)

Name Caitlin Murray

Job Title Director of Government Affairs

Address 200 E. Gaines St.
Street

Phone (850) 413-5005

Tallahassee FL 32399
City *State* *Zip*

Email Caitlin.murray@floir.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Office of Insurance Regulation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

122
Bill Number (if applicable)

Topic Assignment of Benefits

Amendment Barcode (if applicable)

Name Christine Ashburn

Job Title Chief - Communications, Legislative & External Affairs

Address 2101 Maryland Circle
Street

Phone 850-513-3746

Tallahassee FL 32303
City *State* *Zip*

Email christine.ashburn@citizensfla.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Citizens Property Insurance Corporation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 122
Bill Number (if applicable)

Topic Agreements Between Service Providers + Consumers

Amendment Barcode (if applicable)

Name Kenneth Pratt

Job Title Senior VP of Governmental Affairs

Address 1001 Thomasville Rd Ste 201
Street

Phone 850-509-8020

Tallahassee FL 32301
City *State* *Zip*

Email kpratt@floridabankers.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Bankers Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

122
Bill Number (if applicable)

Topic ADB

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 136 S Bronough St
Street

Tallahassee
City *State* *Zip*

Phone 521-1200

Email cjohnson@flchamber.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

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 7054
INTRODUCER:	Banking and Insurance Committee
SUBJECT:	OGSR/Hurricane or Flood Loss Models
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Matiyow	Knudson		**BI Submitted as Committee Bill**
1.	Ponder	McVaney	GO	**Favorable**
2.	Matiyow	Phelps	RC	**Favorable**

I. Summary:

SB 7054 amends s. 627.0628(3)(g), F.S., to save from repeal the current exemption from public records disclosure for trade secrets used in designing and constructing hurricane and flood loss models that are provided by a private company to the Florida Commission on Hurricane Loss Projection Methodology (methodology commission), the Office of Insurance Regulation (OIR), or the consumer advocate under s. 627.0628, F.S., by removing the October 2, 2019, repeal date.

The bill also saves from repeal the public meetings exemption for those portions of a meeting by the methodology commission or a rate filing by an insurer in which trade secrets pertaining to hurricane or flood models are discussed.

Pursuant to the Open Government Sunset Review Act, the public records exemption is scheduled to repeal October 2, 2019, unless reenacted by the Legislature. Since the bill continues the exemption and does not expand the scope of the public records exemption, the bill requires a majority vote of each chamber for passage.

This bill takes effect October 1, 2019.

II. Present Situation:

Public Records Law

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] This 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]

[1] FLA. CONST., art. I, s. 24(a).
[2] *Id*.

Chapter 119, F.S., known as the Public Records Act, constitutes the main body of public records laws.[3] The Public Records Act states that

> [i]t is the policy of this state that all state, county, and municipal records are open for personal inspection and copying by any person. Providing access to public records is a duty of each agency.[4]

The Public Records Act typically contains general exemptions that apply across agencies. Agency- or program-specific exemptions often are placed in the substantive statutes relating to that particular agency or program.

The Public Records Act does not apply to legislative or judicial records.[5] Legislative records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislature are codified primarily in s. 11.0431(2)-(3), F.S., and adopted in the rules of each house of the legislature.

A public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.[6] The Florida Supreme Court has interpreted public records as being "any material prepared in connection with official agency business which is intended to perpetuate, communicate, or formalize knowledge of some type."[7]

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 state or local government public record at any reasonable time, under reasonable conditions, and under supervision by the custodian of the public record.[8] A violation of the Public Records Act may result in civil or criminal liability.[9]

Only the Legislature may create an exemption to public records requirements.[10] An exemption must be created by general law and must specifically state the public necessity justifying the exemption.[11] Further, the exemption must be no broader than necessary to accomplish the stated purpose of the law. A bill enacting an exemption may not contain other substantive provisions[12]

---

[3] Public records laws are found throughout the Florida Statutes.
[4] Section 119.01(1), F.S.
[5] *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995).
[6] Section 119.011(12), F.S., defines "public record" to mean "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" 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."
[7] *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc*., 379 So. 2d 633, 640 (Fla. 1980).
[8] Section 119.07(1)(a), F.S.
[9] Section 119.10, F.S. Public records laws are found throughout the Florida Statutes, as are the penalties for violating those laws.
[10] FLA CONST., art. I, s. 24(c).
[11] *Id.*
[12] The bill may, however, contain multiple exemptions that relate to one subject.

and must pass by a two-thirds vote of the members present and voting in each house of the Legislature.[13]

When creating or expanding a public records exemption, the Legislature may provide that a record is 'confidential and exempt' or 'exempt.'[14] Records designated as 'confidential and exempt' may be released by the records custodian only under the circumstances defined by the Legislature or pursuant to a court order. Records designated as 'exempt' may be released at the discretion of the records custodian under certain circumstances.[15]

Open Meetings Laws

The Florida Constitution also provides that the public has a right to access governmental meetings.[16] Each collegial body must provide notice of its meetings to the public and permit the public to attend any meeting at which official acts are taken or at which public business is transacted or discussed.[17] This applies to the meetings of any collegial body of the executive branch of state government, counties, municipalities, school districts or special districts.[18]

Public policy regarding access to government meetings also is addressed in the Florida Statutes. Section 286.011, F.S., which is also known as the "Government in the Sunshine Law,"[19] or the "Sunshine Law,"[20] requires all meetings of any board or commission of any state or local agency or authority at which official acts are to be taken be open to the public.[21] The board or commission must provide the public reasonable notice of such meetings.[22] Public meetings may not be held at any location that discriminates on the basis of sex, age, race, creed, color, origin or economic status or which operates in a manner that unreasonably restricts the public's access to the facility.[23] Minutes of a public meeting must be promptly recorded and open to public inspection.[24] Failure to abide by open meetings requirements will invalidate any resolution, rule or formal action adopted at a meeting.[25] A public officer or member of a governmental entity who violates the Sunshine Law is subject to civil and criminal penalties.[26]

---

[13] FLA. CONST., art. I, s. 24(c)
[14] If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The Sch. Bd. of Seminole*, 874 So.2d 48, 53 (Fla. 5th DCA 2004).
[15] *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991).
[16] FLA. CONST., art. I, s. 24(b).
[17] *Id*.
[18] FLA. CONST., art. I, s. 24(b). Meetings of the Legislature are governed by Article III, section 4(e) of the Florida Constitution, which states: "The rules of procedure of each house shall further provide that all prearranged gatherings, between more than two members of the legislature, or between the governor, the president of the senate, or the speaker of the house of representatives, the purpose of which is to agree upon formal legislative action that will be taken at a subsequent time, or at which formal legislative action is taken, regarding pending legislation or amendments, shall be reasonably open to the public."
[19] *Times Pub. Co. v. Williams*, 222 So.2d 470, 472 (Fla. 2d DCA 1969).
[20] *Board of Public Instruction of Broward County v. Doran*, 224 So.2d 693, 695 (Fla. 1969).
[21] Section 286.011(1)-(2), F.S.
[22] *Id.*
[23] Section 286.011(6), F.S.
[24] Section 286.011(2), F.S.
[25] Section 286.011(1), F.S.
[26] Section 286.011(3), F.S.

The Legislature may create an exemption to open meetings requirements by passing a general law by at least a two-thirds vote of both the Senate and the House of Representatives.[27] The exemption must explicitly lay out the public necessity justifying the exemption, and must be no broader than necessary to accomplish the stated purpose of the exemption.[28] A statutory exemption which does not meet these two criteria may be unconstitutional and may not be judicially saved.[29]

Open Government Sunset Review Act

The Open Government Sunset Review Act (the Act) prescribes a legislative review process for newly created or substantially amended public records or open meetings exemptions,[30] with specified exceptions.[31] The Act provides that an exemption automatically repeals 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.[32] 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.[33] An exemption serves an identifiable purpose if it meets one of the following purposes *and* the Legislature finds that the purpose of the exemption outweighs open government policy and cannot be accomplished without the exemption:

- It allows the state or its political subdivision to effectively and efficiently administer a program, and administration would be significantly impaired without the exemption;[34]
- Releasing sensitive personal information would be defamatory or would jeopardize an individual's safety. If this public purpose is cited as the basis of an exemption, however, only personal identifying information is exempt;[35] or
- It protects trade or business secrets.[36]

[27] FLA. CONST., art. I, s. 24(c).
[28] *Id*.
[29] *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So. 2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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. *Id*. at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So.2d 189 (Fla. 1st DCA 2004), the court found that the intent of a public records statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id*. at 196.
[30] Section 119.15, F.S. An exemption is substantially amended if the amendment expands the scope of the exemption to include more records or information or to include meetings as well as records (s. 119.15(4)(b), F.S.). The requirements of the Act do not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System (s. 119.15(2), F.S.).
[31] Section 119.15(2)(a) and (b), F.S., provide that exemptions that are required by federal law or are applicable solely to the Legislature or the State Court System are not subject to the Open Government Sunset Review Act.
[32] Section 119.15(3), F.S.
[33] Section 119.15(6)(b), F.S.
[34] Section 119.15(6)(b)1., F.S.
[35] Section 119.15(6)(b)2., F.S.
[36] Section 119.15(6)(b)3., F.S.

The Act also requires specified questions to be considered during the review process.[37] In examining an exemption, the Act asks the Legislature to carefully 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.[38] If the exemption is reenacted or saved from repeal without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are *not* required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless provided for by law.[39]

Florida Commission on Hurricane Loss Projection Methodology

In 1995, the Florida Legislature created the Florida Commission on Hurricane Loss Projection Methodology (methodology commission), under s. 627.0628, F.S., which declares the legislative intent is "to encourage the use of the most sophisticated actuarial methods to assure that consumers are charged lawful rates for residential property insurance coverage."[40] The methodology commission is administratively housed within the State Board of Administration, but independently exercises its powers and duties as specified in the statute.

A number of vendors produce highly complex computer models that purport to reflect an average annual expected loss from hurricanes, floods and other perils. Models of this nature are driven by an array of internal assumptions, within a variety of scientific disciplines (e.g., meteorology, structural engineering, actuarial science, statistics, computer science). Although some basic assumptions may be common to more than one model, many of the detailed internal assumptions have been developed only after considerable research by each vendor, which closely guards that information as a trade secret. If all internal information of a model were published, that model could be replicated, and the vendor that produced the model would lose the entirety of its value.

Initially, s. 627.0628, F.S., did not contain an exemption from public records or public meetings. Accordingly, the methodology commission undertook a process to evaluate the participating computer models, which contained proprietary information, without the ability to exempt either records or meetings from full public disclosure. The methodology commission first established detailed standards that a model was required to meet in order to obtain approval. For the portion of the model that was nonproprietary, the methodology commission members questioned the vendor in open meetings; for the portion that was proprietary, the methodology commission hired a "professional team" of experts which went on-site to determine whether the model met

[37] 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?

[38] FLA. CONST. art. I, s. 24(c).
[39] Section 119.15(7), F.S.
[40] Ch. 95-276, s. 6, Laws of Fla.

the applicable standards, and reported its findings to the methodology commission in an open hearing.

In 2005, the Legislature enacted s. 627.0628(3)(f), which pertains to public records exemptions for the methodology commission.[41] The public records exemptions are:

- Section 627.0628(3)(f)1., F.S., which provides that trade secrets used in designing and constructing a hurricane loss model and submitted by a private company to the methodology commission, the OIR, or the consumer advocate are confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution.
- Section 627.0628(3)(f)2., F.S., which provides that a portion of a meeting of the methodology commission or of a rate proceeding at which trade secrets used in designing and constructing a hurricane loss model are discussed is exempt from s. 286.011, F.S., and s. 24(b), Art. I of the State Constitution.

In 2014[42], the Legislature expanded the methodology commission's oversight to include flood models submitted by insurers wanting to offer private flood insurance in competition with the National Flood Insurance Program. The Legislature that year also expanded the current public records exemptions for hurricane models to include flood models submitted to the methodology commission, the OIR and the office of the consumer advocate.[43] As a result of amending the current exemptions to include flood models, all exempt materials will sunset of October 2, 2019, unless saved from repeal by the Legislature.

Staff reviewed the methodology commission responses[44] to the questions to be considered in accordance with s. 119.15(6)(a), F.S. The commission stated that the exemption prevents the disclosure of trade secrets that would negatively impact the business interests of companies that develop hurricane and flood models. The commission stated that such trade secrets are not readily obtainable through alternative means and are not protected by another exemption.

III. Effect of Proposed Changes:

Section 1 amends s. 627.0628, F.S., to continue the public records exemption for the scheduled repeal trade secrets used in designing and constructing hurricane and flood loss models that are provided to the methodology commission, the OIR, or the consumer advocate under s. 627.0628, F.S.

The bill also continues the public meeting exemption for that portion of a meeting of the methodology commission or a rate filing by an insurer in which trade secrets pertaining to hurricane and flood loss models are discussed.

Section 2 provides that the bill takes effect October 1, 2019.

[41] Ch, 2005-264, s. 3, Laws of Fla.
[42] Ch. 2014-80, Laws of Fla.
[43] Ch. 2014-98, Laws of Fla.
[44] Email from Leonard Schulte, Commission Representative, to Scott Matiyow, Senior Legislative Analyst for the Senate Committee on Banking and Insurance (September 25, 2018) (on file with the Senate Committee on Banking and Insurance).

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take an action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate nor reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

Vote Requirement

Article 1, 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 continues a current public records exemption and public meeting exemption beyond its current date of repeal; thus, the bill does not require an extraordinary vote 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. This bill continues current public records and public meetings exemptions without expansion. Thus, a statement of public necessity is not required.

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 trade secrets used in designing and constructing hurricane and flood loss models that are provided by a private company to the methodology commission, the OIR, or the consumer advocate under s. 627.0628, F.S. Additionally, the law protects that portion of a meeting with the methodology commission or of a rate proceeding on an insurer's rate filing in which trade secrets pertaining to hurricane and flood loss models are discussed. The exemptions do 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:

Private vendors that produce hurricane and flood loss models to the methodology commission would continue to have their sensitive development data and information protected. The private sector will continue to be subject to the cost associated with the agency making redactions in response to public records request.

C. Government Sector Impact:

The exemptions will continue to allow members of the methodology commission, the OIR, and the consumer advocate's office to have access to all information pertaining to the development of models that project hurricane and flood losses. The agency will continue to incur costs related to the redaction of records in response to public records request.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.0628 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 the Committee on Banking and Insurance

597-02483-19 20197054__

A bill to be entitled

An act relating to a review under the Open Government Sunset Review Act; amending s. 627.0628, F.S., relating to exemptions from public records and public meetings requirements for certain trade secrets used in designing and constructing hurricane or flood loss models and provided to the Florida Commission on Hurricane Loss Projection Methodology, the Office of Insurance Regulation, or the Insurance Consumer Advocate, and for certain portions and recordings of meetings at which the trade secrets are discussed; removing the scheduled repeal of the exemptions; providing an effective date.

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

Section 1. Paragraph (g) of subsection (3) of section 627.0628, Florida Statutes, is amended to read:

627.0628 Florida Commission on Hurricane Loss Projection Methodology; public records exemption; public meetings exemption.—

(3) ADOPTION AND EFFECT OF STANDARDS AND GUIDELINES.—

(g)1. A trade secret, as defined in s. 688.002, which is used in designing and constructing a hurricane or flood loss model and which is provided pursuant to this section, by a private company, to the commission, office, or consumer advocate appointed pursuant to s. 627.0613 is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

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

597-02483-19 20197054__

2.a. That portion of a meeting of the commission or of a rate proceeding on an insurer's rate filing at which a trade secret made confidential and exempt by this paragraph is discussed is exempt from s. 286.011 and s. 24(b), Art. I of the State Constitution. The closed meeting must be recorded, and no portion of the closed meeting may be off the record.

b. The recording of a closed portion of a meeting is exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution.

~~c. This paragraph is subject to the Open Government Sunset Review Act in accordance with s. 119.15 and shall stand repealed on October 2, 2019, unless reviewed and saved from repeal through reenactment by the Legislature.~~

Section 2. This act shall take effect October 1, 2019.

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

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Rules Committee

Subject: Committee Agenda Request

Date: March 18, 2019

7054

I respectfully request that **Senate Bill # 705(0,2,4,6)**, relating to OGSR, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Darryl Rouson

Senator Darryl Rouson
Florida Senate, District 19

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/17/2019
Meeting Date

7054
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/897-9291

St Petersburg FL 33705
City *State* *Zip*

Email justice2jesus@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

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/CS/SB 168
INTRODUCER:	Rules Committee; Infrastructure and Security Committee; Judiciary Committee; and Senator Gruters and others
SUBJECT:	Federal Immigration Enforcement
DATE:	April 18, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	**Fav/CS**
2.	Price	Miller	IS	**Fav/CS**
3.	Davis	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 168 creates a new chapter of Florida Statutes entitled "Federal Immigration Enforcement." The bill seeks to ensure that state and local entities and law enforcement agencies cooperate with federal government officials to enforce, and not obstruct, immigration laws. In its most general and broad terms, the bill prohibits sanctuary jurisdictions and requires state and local entities to comply with federal immigration detainers when they are supported by proper documentation.

In more specific terms, the bill:

- Prohibits a state entity, law enforcement agency, or local governmental entity, from having a sanctuary policy.
- Requires a covered government body to use its best efforts to support the enforcement of federal immigration law.
- Prohibits a state entity, local governmental entity, or law enforcement agency from restricting a law enforcement agency's ability to communicate or exchange information with a federal immigration agency on immigration enforcement matters.
- Provides procedures for a court to follow to reduce a defendant's sentence and thereby permit law enforcement agencies to transfer the defendant to a federal facility.
- Requires a law enforcement agency that has custody of someone who is subject to an immigration detainer to notify the judge of the detainer, record in the person's file the existence of the detainer, and comply with the detainer.

- Requires a county correctional facility to enter into an agreement with a federal immigration agency for the payment of costs associated with housing and detaining defendants.
- Permits the Attorney General to institute an action for a violation of this law or to prevent a violation of the law.
- Requires any sanctuary policies currently in effect be repealed within 90 days after the effective date of the act.

The fiscal impact to state and local governments is indeterminate.

The bill takes effect July 1, 2019, except that the section establishing penalties takes effect October 1, 2019.

II. Present Situation:

General Overview

The Federal Government is responsible for both establishing and enforcing immigration laws. Congress has enacted legislation, which the federal courts have interpreted, and the body of immigration law has developed. The responsibility for enforcing immigration laws rests with the Department of Homeland Security's (DHS) U.S. Immigration and Customs Enforcement (ICE) and its Enforcement and Removal Operations. It is the mission of Enforcement and Removal Operations to identify, apprehend, and remove aliens who are a risk to national security or public safety, enter the country illegally, or seek to undermine the integrity of the country's immigration laws or border control efforts.[1] In order to carry out its mission, ICE depends, in part, on the assistance of local and state law enforcement agencies to identify removable aliens.[2] However, some state and local jurisdictions have chosen to expressly define or limit their roles in immigration enforcement and have become known as "sanctuary" jurisdictions. The critics of sanctuary jurisdictions argue that they limit law enforcement's abilities and encourage illegal immigration. Those who support sanctuary jurisdictions argue that they are necessary to prevent local law enforcement resources from being diverted to enforce immigration laws.[3]

Federal Immigration Law

The Federal Government's authority to regulate immigration law is established in the United States Constitution. This power is extensive. The Constitution grants Congress the power to "establish an uniform Rule of Naturalization,"[4] and to "regulate Commerce with foreign Nations."[5] Additional authority is found in the Federal Government's broad powers over foreign affairs.[6]

---

[1] U.S. Immigration and Customs Enforcement, *Enforcement and Removal Operations, Mission*, https://www.ice.gov/ero
[2] Congressional Research Service, *Sanctuary Jurisdictions and Criminal Aliens: In Brief* (Jan. 10, 2017), https://www.everycrsreport.com/reports/R44118.html#Content.
[3] *Id*.
[4] U.S. CONST. art. 1, s. 8, cl. 4.
[5] U.S. CONST. art. 1, s. 8, cl. 3.
[6] *Toll v. Moreno*, 458 U.S. 1 (1982).

The individual states are not granted similar powers under the Constitution and they may not encroach upon federal authority in this area. When states enact immigration laws, they are often challenged on the grounds that the law is preempted by federal law under the Supremacy Clause of the Constitution.[7] The federal preemption doctrine is a principle of law which holds that federal laws take precedence over state laws, and as such, states may not enact laws that are inconsistent with the federal law.

Yet, the U.S. Supreme Court has noted that this vast federal power is not without limits. In *De Canas v. Bica*, a 1976 decision, the U.S. Supreme Court held that federal immigration law does not inherently preempt state court jurisdiction over all matters involving immigration issues. The Court noted that it has never held that every state statute "which in any way deals with aliens is a regulation of immigration and thus *per se* pre-empted by this constitutional power."[8] In *Arizona v. Unites States*,[9] a 2012 U.S. Supreme Court ruling, the Court similarly stated that "In preemption analysis, courts should assume that 'the historic police powers of the States' are not superseded 'unless that was the clear and manifest purpose of Congress.'"

Tenth Amendment and Anti-Commandeering Doctrine

While the Federal Government has substantial authority to preempt state or local immigration regulations, the authority is restricted by the anti-commandeering principles of the Tenth Amendment.[10] Those principles prevent Congress from "commandeering" or forcing state or local governments to implement a federal regulatory program.[11] Some state and local jurisdictions have relied on this principle to avoid enforcing federal immigration policies and, as a result, have established sanctuary jurisdictions.[12]

Sanctuary Jurisdictions

Although the term "sanctuary jurisdiction" is not defined in federal statute or regulation, it is generally understood to be a jurisdiction that has adopted a law or policy intended to significantly limit participation in the enforcement of federal immigration activities. States and municipalities have adopted varying degrees of sanctuary policies which have taken on multiple forms. Some jurisdictions have adopted "don't enforce" policies in which law enforcement is

[7] U.S. CONST. art. 6. The Supremacy Clause states that the Constitution and federal laws "shall be the supreme Law of the Land; and the Judges in every State shall be bound thereby, any Thing in the Constitution or Laws of any state to the Contrary notwithstanding."
[8] *De Canas v. Bica*, 424 U.S. 351, 355 (1976).
[9] *Arizona v. United States*, 567 U.S. 387, 400 (2012). See also *United States v. California*, 314 F. Supp. 3d 1077, 1085 (E.D. Cal. 2018)
[10] The Tenth Amendment to the United States Constitution provides "The powers not delegated to the United States by the Constitution, nor prohibited by it to the States, are reserved to the States respectively, or to the people."
[11] *New York v. U.S.*, 505 U.S. 144, 188 (1992). In weighing whether a federal law that created incentives for states to dispose of low-level radioactive waste violated the anti-commandeering doctrine the Court held, "Whatever the outer limits of that sovereignty may be, one thing is clear: The Federal Government may not compel the States to enact or administer a federal regulatory program." See also *Printz v. United States*, 521 U.S. 898 (1997). The Court has also held that every federal requirement imposed on state or local entities is not necessarily a violation of the anti-commandeering doctrine. Some federal statutes that require states to collect and report information to federal agencies are acceptable. *Reno v. Condon*, 528 U.S 141 (2000).
[12] Sarah S. Herman, Congressional Research Service, *State and Local "Sanctuary" Policies Limiting Participation in Immigration Enforcement* (March 23, 2017), https://fas.org/sgp/crs/homesec/R44795.pdf.

restricted from cooperating with federal immigration authorities who are attempting to apprehend removable aliens. Other jurisdictions have adopted "don't ask" policies that restrict law enforcement officials from inquiring about someone's immigration status. Yet other entities have adopted "don't tell" policies that restrict local law enforcement officials from sharing information with federal immigration officials. These last measures are primarily directed at preventing federal immigration officials from relying on the information to identify and arrest for removal aliens who are unlawfully present. Some jurisdictions have even adopted policies that prevent law enforcement officials from alerting federal immigration officials about the release status of aliens who are incarcerated.[13]

Sanctuary Jurisdictions in Florida

It is difficult to determine how many sanctuary jurisdictions, if any, exist in Florida because organizations use different criteria for making their determinations and because the information necessary to make these determinations is not readily available. For example, the Federation for American Immigration Reform (FAIR) released a list of sanctuary jurisdictions in May 2018 which stated that, as of April 2018, 12 counties and 3 cities qualified as Florida sanctuary jurisdictions.[14] The Center for Immigration Studies provided a list of sanctuary jurisdictions, updated October 2018, which stated that Alachua and Clay Counties were sanctuary jurisdictions.[15]

Perhaps one of the most objective ways to measure whether an entity is a sanctuary jurisdiction is to determine whether it is disqualified from receiving federal criminal justice grant funds due to perceived violations of federal immigration law. Those violations generally involve limiting or restricting communication and information between a state or local entity and the DHS about an immigrant's status or release. The Florida Department of Law Enforcement (FDLE) serves as the state administering agency for the federal Byrne Justice Assistance Grant Program.[16] According to FDLE and the U.S. Department of Justice (DOJ), Office of Justice Programs, applicants that seek grant funding[17] from the Department of Justice must submit specific certifications from the attorney general and the chief executive officer, which is either the governor or mayor, stating that the applicant complies with 8 U.S.C. s. 1373[18] and does not restrict communications

[13] *Id*.

[14] Federation for American Immigration Reform, *Sanctuary Jurisdictions Nearly Double Since President Trump Promised to Enforce Our Immigration Laws*, 52-55 (May 2018), http://www.fairus.org/sites/default/files/2018-05/Sanctuary-Report-FINAL-2018.pdf. FAIR stated that it drew its information from resolutions, ordinances, and policy directives as well as secondary sources. At that time, and not necessarily currently, the counties listed were Alachua, Bradford, Broward, Flagler, Gulf, Highlands, Leon, Palm Beach, Seminole, St. Lucie, Volusia, and Washington. The cities were Key West, St. Petersburg, and West Palm Beach.

[15] Center for Immigration Studies, *Fact Sheet, Sanctuary Cities, Counties, and States* (Oct. 2018), https://cis.org/Fact-Sheet/Sanctuary-Cities.

[16] Email from Rona Kay Cradit, Bureau Chief, Office of Criminal Justice Grants, Florida Department of Law Enforcement (Feb. 5, 2019) (on file with the Senate Committee on Judiciary).

[17] The grants are Edward Byrne Memorial Justice Assistance Grant program, funded through the U.S. Department of Justice, the largest source of criminal justice grant funding.

[18] The requirements of 8 U.S.C. s. 1373 have been found unconstitutional by federal district courts with respect to the jurisdictions in those cases. However, the issues in those cases are under appeal. See *State of New York v. Department of Justice*, 343 F.Supp.3d 213, (S.D.N.Y. 2018), *appeal docketed*, No. 19-275 (2nd Cir. Jan. 28, 2019). The text of 8 U.S.C s. 1373 is as follows:

between state and local agencies and DHS entities regarding someone's citizenship or immigration status. Beginning in 2017, the Office of Justice Programs added two requirements for applicants to receive grant funding: an award recipient must permit DHS access to correctional and detention facilities to meet with an alleged alien to inquire about his or her right to be in the country; and an award recipient must also provide DHS a minimum of 48 hours' advance notice concerning the scheduled release time and date of someone in the jurisdiction's custody when DHS requests that notice in order to take the person into custody.[19]

As of February 5, 2019, FDLE has received 188 executed attorney general certifications and 111 executed chief executive officer certifications from county and municipal governments.[20] In essence, these entities are stating that they comply with federal law and do not limit, restrict, or prohibit the exchange of information between governmental entities, agencies, or persons concerning the citizenship or immigration status of a person. This is the criteria many groups use to determine what constitutes a sanctuary jurisdiction.

Only one Florida municipality, the City of West Palm Beach, appeared on a compliance review list released by DOJ in January 2018.[21] The city was required to submit documentation to the Department of Justice demonstrating whether its employees could communicate with DOJ, DHS, ICE, or their agents.[22] The City of West Palm Beach now appears on the current FDLE list of jurisdictions that have submitted certifications stating that it is in compliance with federal immigration laws.

---

§1373. Communication between government agencies and the Immigration and Naturalization Service

(a) In general

Notwithstanding any other provision of Federal, State, or local law, a Federal, State, or local government entity or official may not prohibit, or in any way restrict, any government entity or official from sending to, or receiving from, the Immigration and Naturalization Service information regarding the citizenship or immigration status, lawful or unlawful, of any individual.

(b) Additional authority of government entities

Notwithstanding any other provision of Federal, State, or local law, no person or agency may prohibit, or in any way restrict, a Federal, State, or local government entity from doing any of the following with respect to information regarding the immigration status, lawful or unlawful, of any individual:

(1) Sending such information to, or requesting or receiving such information from, the Immigration and Naturalization Service.

(2) Maintaining such information.

(3) Exchanging such information with any other Federal, State, or local government entity.

(c) Obligation to respond to inquiries

The Immigration and Naturalization Service shall respond to an inquiry by a Federal, State, or local government agency, seeking to verify or ascertain the citizenship or immigration status of any individual within the jurisdiction of the agency for any purpose authorized by law, by providing the requested verification or status information.

[19] U.S. Department of Justice, Office of Justice Programs, *Overview of Legal Requirements Generally Applicable to OJP Grants and Cooperative Agreements – FY 2017 Awards; Alert: New Requirements for Certain FY 2017 Programs* (2017), https://ojp.gov/funding/Explore/SolicitationRequirements/index.htm.

[20] See Email from Rona Kay Cradit, *supra* note 16.

[21] *Id*.

[22] Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice, Correspondence to the City of West Palm Beach, p. 25-26 (Jan. 24, 2018), https://www.justice.gov/opa/press-release/file/1028311/download.

Immigration Law and Removals

The Federal Government, through immigration law,[23] seeks to control the number and type of aliens who are granted permission to enter, remain in the United States, and become citizens. Just as the Federal Government has established criteria for entering the country, it has also established formal criteria and procedures for removing or deporting an alien from this country who has violated the immigration laws. An alien may be removed for a number of reasons, including entering the country illegally, remaining longer than a visa authorizes, committing marriage fraud to obtain entry, or committing certain crimes.[24]

Immigration Detainers

An immigration detainer is a notice that the DHS issues to a law enforcement agency, whether federal, state, or local, to notify the agency that ICE intends to take custody of someone in the custody of that law enforcement agency. A copy of the federal detainer form currently used by the DHS appears at the end of this analysis.[25]

A detainer serves three purposes:

- To serve notice to a law enforcement agency that ICE intends to take custody of an alien who is in the agency's custody once he or she is no longer subject to that agency's detention;
- To request information from the law enforcement agency concerning the alien's upcoming release so that ICE may gain custody before the alien is released; and
- To request a law enforcement agency to maintain custody, for no more than 48 hours, of an alien who otherwise would be released in order to permit ICE enough time to assume custody. The 48 hour period excludes Saturday, Sundays, and holidays.[26]

According to ICE, detainers are an essential tool ICE needs to identify and remove criminal aliens who are currently in the custody of federal, state, or local law enforcement. ICE is dependent on state and local law enforcement to cooperate and partner with them in this effort.[27]

Whether to comply with a federal immigration detainer has been a challenging issue for local law enforcement agencies. For many years, sheriffs' offices simply honored detainers and provided the requested information about the detention or upcoming release of someone held in custody. In 2014, this changed. Two federal court cases[28] questioned the legality of detaining an inmate based solely upon a detainer from ICE when there was no accompanying probable cause

[23] The Immigration and Nationality Act of 1952 and its amendments contain the current body of immigration law. It is contained in 8 U.S.C.A., Title 8 – Aliens and Nationality.
[24] 8 U.S.C. s. 1227.
[25] DHS Form I-247A.
[26] *Ice Detainers: Frequently Asked Questions*, U.S. Immigration and Customs Enforcement (Dec. 28, 2011), https://www.ice.gov/ice-detainers-frequently-asked-questions.
[27] *Id*. The authority to issue a detainer stems from federal regulations found at 8 C.F.R. § 287.7, which arises from the Secretary's power under the Immigration and Nationality Act § 103(a)(3), 8 U.S.C. 1103(a)(3), to issue "regulations … necessary to carry out [her] authority" under the INA, and from ICE's general authority to detain individuals who are subject to removal or removal proceedings."
[28] *Galarza v. Szalczyk*, 745 F. 3d 634 (3d Cir. 2014) and *Miranda-Olivares v. Clackamas County*, No. 3:12-cv-02317-ST, 2014 WL 1414305 (D. Ore. April 11, 2014).

to support the detention.[29] In both cases the plaintiffs were detained pursuant to ICE detention orders. Information was provided to the counties which indicated that investigations were being undertaken to learn whether the plaintiffs were candidates for removal and deportation. Both counties were ultimately held civilly liable for an unlawful seizure, even though the counties complied with a federal regulation cited in the detainer form that gave them the apparent authority to detain the inmates. Not surprisingly, ICE detainers have been interpreted by federal courts to be requests, not mandatory commands that deprive an agency of any discretion whether to detain an alien. In *Galarza*, the court noted that under the Tenth Amendment, immigration officials may not command state and local officials to imprison suspected aliens, because doing so would be inconsistent with the anti-commandeering principle of the Tenth Amendment.[30]

New Enforcement Policy Between ICE and Florida Sheriffs

On January 17, 2018, the ICE office issued a news release announcing that 17 basic ordering agreements had been agreed to with sheriffs around the state.[31] The number of agreements is now at 34.[32] These agreements detail "a new process to clarify that aliens held by these jurisdictions are held under the color of federal authority." As such, the local law enforcement jurisdictions receive "liability protection from potential litigation as a result of faithfully executing their public safety duties." The news release stated that sheriffs will no longer have to choose between releasing criminal illegal aliens from their custody back into the community or exposing themselves to potential civil liability for violating the alien's civil rights. The participating sheriffs will also receive compensation for complying with the detainers.[33]

Additional Agreements Between the Federal Government and Local Entities

According to the Florida Sheriffs Association, as of March 18, 2019, five entities operate 287(g) programs in their jails: Jacksonville, and the counties of Clay, Collier, Pasco, and Hernando. The 287(g) program is a partnership with ICE in which federal authority is delegated to a state or local law enforcement agency to permit specially trained and supervised law enforcement officers to perform the functions of immigration law enforcement officers.[34] Additionally, four counties have intergovernmental services agreements (IGSAs) to house ICE inmates: Wakulla, Glades, Monroe, and Baker. The intergovernmental services agreements are authorized by federal statute and permit the U.S. Attorney General to enter into a cooperative agreement with a state or local entity to provide guaranteed bed space for detained persons. [35, 36]

---

[29] Florida Sheriffs Association, *Legal Alert: ICE Detainers* (on file with the Senate Committee on Judiciary).
[30] *Galarza*, 745 F. 3d at 643.
[31] U.S. Immigration and Customs Enforcement, News Releases, *ICE, 17 FL Sheriffs Announce New Enforcement Partnership* (Jan. 17, 2018) https://www.ice.gov/news/releases/ice-17-fl-sheriffs-announce-new-enforcement-partnership.
[32] Email from Matt Dunagan, Deputy Executive Director of Operations, Florida Sheriffs Association (April 15, 2019) (on file with the Senate committee on Judiciary). Those counties with Basic Ordering Agreements are: Bay, Brevard, Charlotte, Columbia, DeSoto, Flagler, Gulf, Hardee, Hendry, Hernando, Highlands, Indian River, Lafayette, Lake, Lee, Levy, Manatee, Marion, Martin, Monroe, Nassau, Okeechobee, Palm Beach, Pasco, Pinellas, Polk, Santa Rosa, Sarasota, Seminole, St. Johns, St. Lucie, Suwannee, Washington, and Walton.
[33] *See supra* note 31.
[34] *See infra* note 41 for a more detailed explanation.
[35] *See supra* note 32.
[36] 8 U.S.C. s. 1103(a)(11((B).

Texas Legislation and Litigation

In 2017, Texas enacted SB 4, a law that, among other things, prohibited local authorities from restricting their cooperation or communication with federal immigration enforcement officials and directed local law enforcement to comply with ICE detainer requests.[37] Several cities moved for preliminary injunctive relief before the bill became effective. The plaintiffs challenged the bill in Federal District Court on the grounds of federal preemption and violations of First Amendment free speech and Fourth Amendment search and seizure protections.[38] The court granted a preliminary injunction preventing several sections of the law from taking effect. The state appealed to the U.S. Court of Appeals for the Fifth Circuit and requested a stay of each injunction. The Fifth Circuit ultimately upheld the majority of the statute.[39] In a lengthy decision the court determined that:

- Texas was not preempted from enacting the legislation;
- A requirement that law enforcement agencies comply with an immigration detainer request when the agency had custody of a person who was the subject of the detainer was not facially unconstitutional;
- The Fourth Amendment prohibition against unlawful search and seizure did not require probable cause of criminality in order to detain someone in the context of immigration law; and
- The Texas constitution did not prevent the state from pre-empting the home-rule authority of cities when it passed the law.

The *City of El Cenizo* opinion, the case upholding Texas SB 4, has been somewhat distinguished by other cases, one of which is a Florida federal district case in Miami that is still in the discovery stage.[40] In that case, the plaintiffs, comprised of aliens and immigrant advocacy groups, brought an action against Miami-Dade County and alleged that the county violated their civil rights under the Fourth Amendment when it arrested them based upon an ICE detainer request and without probable cause to believe that they had committed a crime. Miami-Dade County moved to dismiss the plaintiffs' case. The court concluded that it "does not find the analysis in *EL Cenizo* persuasive or helpful . . ." and ruled that the plaintiffs had alleged enough facts under the Fourth Amendment to withstand a complete motion to dismiss. This case is ongoing.

III. Effect of Proposed Changes:

CS/CS/CS/SB 168 seeks to ensure that state and local entities and law enforcement agencies cooperate with the Federal Government to enforce, and not obstruct, immigration laws. In its most general terms, the bill prohibits sanctuary jurisdictions and requires state and local entities to comply with federal immigration detainers. The bill creates Ch. 908 of the Florida Statutes, ss. 908.101 through 908.109, F.S., entitled "Federal Immigration Enforcement."

[37] *Texas Senate Bill 4* (2017-2018), *https://legiscan.com/TX/bill/SB4/2017*.
[38] *City of El Cenizo, et al., v. State of Texas, et. al.,* 264 F. Supp. 3d 744 (2017).
[39] *City of El Cenizo, et al., v. State of Texas, et al.,* 890 F. 3d 164 (2018).
[40] *C.F.C. et al., v. Miami-Dade County*, 2018 WL 6616030.

Findings and Intent (s. 908.101, F.S.)

The Legislature finds that it is an important state interest to cooperate and assist the Federal Government as it seeks to enforce federal immigration laws throughout the state.

Sanctuary Policies are Prohibited (s. 908.103, F.S.)

A state entity, law enforcement agency, or local governmental entity is prohibited from adopting or having a sanctuary policy. A sanctuary policy is generally defined as a law or policy which contravenes 8 U.S.C. s. 1373(a) or (b), by:

- Prohibiting or restricting information between a federal, state, or local government agency and the Immigration and Naturalization Service regarding the citizenship or immigration status of an individual; or
- Prohibiting or restricting a Federal, state, or local government entity from sending, requesting, receiving, maintaining, or exchanging information regarding the immigration status of an individual to, or from, the Immigration and Naturalization Service.

Additionally, a sanctuary policy means a policy which knowingly prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency with regard to federal immigration enforcement, including, but not limited to, limiting or preventing a law enforcement agency from:

- Complying with an immigration detainer;
- Complying with a request from a federal immigration agency to notify the agency before the release of an inmate or detainee in its custody;
- Providing a federal immigration agency access to an inmate for an interview;
- Participating in any program or agreement authorized under section 287 of the Immigration and Nationality Act, 8 U.S.C. s. 1357;[41] or
- Providing a federal immigration agency with an inmate's incarceration status or release date.

Cooperation with Federal Immigration Authorities (s. 908.104, F.S.)

A law enforcement agency must use its best efforts to support the enforcement of federal immigration law. However, this requirement only applies to an official, representative, agent, or employee when he or she is acting within the scope of official duties or scope of employment.

The bill prohibits a state entity, local governmental entity, law enforcement agency, or an employee, an agent, or a representative of the entity or agency, except where provided by federal law, from restricting a law enforcement agency's ability to:

- Send information regarding a person's immigration status to, or requesting, receiving, or reviewing that information from a federal immigration agency;

[41] This program, known as the 287(g) program, is a partnership venture that involves a delegation of federal authority to a state or local law enforcement entity. The program allows the state or local entity to enter into a memorandum of agreement, thereby forming a partnership with ICE, to permit designated law enforcement officers, who are specially trained and supervised, to perform the functions of immigration law enforcement within their respective jurisdictions. The ICE website states that the sheriff's offices of Clay, Collier, Hernando, and Pasco counties, as well as the Jacksonville Sheriff's Office, have these mutually signed agreements in force. U.S. Immigration and Customs Enforcement, *Delegation of Immigration Authority Section 287(g) Immigration and Nationality Act* (rev. July 10, 2018), https://www.ice.gov/287g.

- Record and maintain immigration status information for purposes of the act;
- Exchange immigration status information with a federal immigration agency, state entity, local governmental entity, or law enforcement agency;
- Use the immigration information to comply with an immigration detainer; or
- Use the immigration information to confirm the identity of a person who is detained by a law enforcement agency.

Criminal Cases

The bill requires a judge in a criminal case to order a secure correctional facility where the defendant is to be confined to reduce a defendant's sentence by not more than 12 days if the facility determines that the reduction will facilitate the defendant's seamless transfer into federal custody if he or she is subject to an immigration detainer. The judge must indicate on the record that the defendant is subject to an immigration detainer or otherwise indicate that the defendant is subject to transfer into federal custody when making the order. If a judge does not have this information at the time of sentencing, but a law enforcement agency receives the information after sentencing, the law enforcement agency must notify the judge and he or she must issue the order to the secure correctional facility as soon as the information becomes available.

Transport

When a county correctional facility or the Department of Corrections receives verification from a federal immigration agency that a person subject to an immigration detainer is in its custody, the agency may securely transport the person to a federal facility in this state or to a point of transfer to federal custody outside the jurisdiction of the agency. However, the law enforcement agency may not transfer the alien any sooner than the 12-day time period mentioned above. The law enforcement agency must first obtain judicial authorization before transporting the alien outside of the state.

Victims or Witnesses

The cooperation and support requirements in this section do not require a state entity, local governmental entity, or law enforcement agency to provide a federal immigration agency with information related to a victim or witness to a criminal offense if the victim or witness timely cooperates in good faith in the investigation or prosecution of the crime. A victim or witness's cooperation must be documented in the entity's or agency's investigative records, and the entity or agency must retain the records for at least 10 years for the purposes of audit, verification, or inspection by the Auditor General.

Duties Related to Immigration Detainers (s. 908.105 F.S.)

The bill establishes the duties of a law enforcement agency when it has custody of someone subject to an immigration detainer. If an agency has custody of a person subject to a detainer, the agency must:

- Inform the judge who is authorized to grant or deny bail that the person is subject to a detainer;
- Record the detainer information in the person's case file; and

- Comply with the requests made in the detainer after determining that the detainer is consistent with the requirements set forth in s. 908.102, F.S., as explained above.

A law enforcement agency is not required to perform the three duties listed above for a person who is transferred from another law enforcement agency if the previous agency performed the duty before transferring custody. Additionally, a judge who receives notice that someone is subject to an immigration detainer must cause the detainer information to be recorded in the court record, regardless of whether the detainer notice is received before or after a judgment is rendered in the case.

Reimbursement of Costs (s. 908.106, F.S.)

The bill requires each county correctional facility to enter into an agreement with a federal immigration agency for the temporary housing and payment of the costs of persons who are the subject of immigration detainers. Those agreements may be basic ordering agreements, agreements authorized by section 287 of the Immigration and Nationality Act[42] or successor or similar acts.

Enforcement (s. 908.107, F.S.)

The bill authorizes the Attorney General to institute a civil action against any state entity, local government entity, or law enforcement agency for a violation of this law or to prevent a violation of the law. The civil action may be an action for an injunction or any other appropriate orders or relief.

When a court determines, either through adjudication or a consent decree, that a state entity, local governmental entity, or law enforcement agency has violated this act, the court must enjoin the unlawful sanctuary policy. The court retains continuing jurisdiction over the parties and subject matter and may initiate contempt proceedings to enforce its orders. An order that approves a consent decree or grants an injunction must contain written findings of fact that specifically describe the sanctuary policy that violates the prohibition against sanctuary jurisdictions.

Education Records (s. 908.108, F.S.)

The bill provides that it does not apply to the release of education records of an educational agency or institution, unless that release conforms to the provisions of the Family Educational Rights and Privacy Act of 1974. For purposes of that act, education records mean those records, files, documents, and other materials which contain information directly related to a student and are maintained by an educational agency or institution or by a person acting for the agency or institution. Education records do not include records of instructional, supervisory, and administrative personnel, records maintained by a law enforcement unit of the educational agency or institution, certain employment records for people who are not in attendance at the agency or institution, and medical or psychological records used in treating a student.[43]

[42] *See supra* note 37.
[43] 20 U.S.C. 1232g(a)(4)(A) and (B).

Discrimination Is Prohibited (s. 908.109, F.S.)

The bill prohibits discrimination based upon a person's gender, race, religion, national origin, or physical disability, except as authorized by the United States Constitution or State Constitution.

Repeal of Sanctuary Policies Required (Section 2)

Any sanctuary policy, as defined in the bill, in effect on the effective date of the act must be repealed within 90 days after the act's effective date.

Effective Dates

The act takes effect on July 1, 2019, but the section pertaining to enforcement contained in s. 908.107, F.S., takes effect on October 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

It appears that the bill, by requiring counties and municipalities to comply with immigration detainers, requires a "county or municipality to spend funds or to take an action requiring the expenditure of funds" as described in Article VII, section 18 of the Florida Constitution.

Article VII, section 18, subsection (a) of the Florida Constitution provides in part that a county or municipality may *not* be bound by a general law requiring the county or municipality to spend funds or to take an action that requires the expenditure of funds unless the law fulfills an important state interest and a listed exception is met.

Additionally, Article VII, section 18, subsection (d) provides eight exemptions, which, if any single one is met, exempt the law from the limitations on mandates. One of the exemptions applies when the law has an "insignificant fiscal impact." At this time, whether the fiscal impact is insignificant or significant cannot be known. The bill requires each county correctional facility to enter into an agreement with a federal immigration agency for the payment of the costs of temporarily housing and detaining persons who are the subject of an immigration detainer. It is unknown if these agreements will completely cover the costs of detaining people. Many sheriffs' offices have already entered into basic ordering agreements with the Federal Government and are reimbursed for housing inmates, pursuant to a detainer, at a rate of $50 for up to 48 hours of detention. If the person is not held for very long, arguably, the sheriff's office could profit, depending on what it costs to hold someone. If, in contrast, a person is held for the full 48 hours, the costs might result in a loss, depending on what reimbursement costs are negotiated. There is no data available yet to answer this concern.

Article VII, section 18, subsection (a) also provides that a mandate may be binding if the Legislature determines that the law fulfills an important state interest and is approved by two-thirds vote of the membership in each house. If the bill does have a significant fiscal impact and another exemption or exception in Article VII, section 18 does not apply, the

bill must be approved by two-thirds vote of each chamber to be binding upon the 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:

This bill has provisions that are similar to Texas Senate Bill 4, enacted in 2017. That bill among other things, prohibited local authorities from restricting cooperation or communication with federal immigration enforcement officials and directed local law enforcement agencies to comply with ICE detainers.[44] Several cities moved for preliminary injunctive relief before the bill became effective, alleging that the bill violated Fourth Amendment search and seizure protections among other things.[45] When the case, *City of El Cenizo v. State of Texas*, reached the U.S. Court of Appeals for the Fifth Circuit, the court upheld the majority of the statute.[46] In a lengthy decision, the court determined that:

- Texas was not preempted by federal law from enacting the legislation;
- A requirement that law enforcement agencies comply with an immigration detainer when the agency had custody of a person who was the subject of the detainer was not facially unconstitutional; and
- The Fourth Amendment prohibition against unlawful search and seizure did not require probable cause of criminality in order to detain someone in the context of immigration law.

Notwithstanding the Fifth Circuit's *El Cenizo* opinion, there are a number of federal court opinions holding that ICE detainers alone are not sufficient authority for a state or local government entity to detain a person. However, many of these cases may be distinguishable from litigation that may result from CS/SB 168.

The main distinguishing feature may be the fact that the cases predate significant changes to ICE detainer policies made in April 2017. Under the new policies, ICE detainers must be accompanied by an administrative arrest warrant and include a probable cause determination.[47] Other court opinions involving ICE detainers have found that local law

[44] *Texas Senate Bill 4* (2017-2018), *https://legiscan.com/TX/bill/SB4/2017*.
[45] *City of El Cenizo, et al., v. State of Texas, et. al.,* 264 F. Supp. 3d 744 (2017).
[46] *City of El Cenizo, et al., v. State of Texas, et al.*, 890 F. 3d 164 (2018).
[47] *Creedle v. Miami-Dade County*, 349 F.Supp.3d 1276, at *9 (S.D. Fla. 2018).

enforcement agencies were without authority under state law to comply with an immigration detainer. But, CS/SB 168 clearly authorizes compliance with immigration detainers and ICE warrants.

Nonetheless, a federal district court in Miami in *C.F.C. v. Miami-Dade County* issued an "Order on Defendant's Motion to Dismiss" in which the court determined that "Plaintiffs have alleged plausible facts to support their contention that the County violated their Fourth Amendment rights when it arrested [them] based on a detainer and without probable cause that either of them had committed a crime."[48] This case, however, is not final and it remains in the discovery stage.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The fiscal impact to state and local governments is indeterminate.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates the following sections of the Florida Statutes: 908.101, 908.102, 908.103, 908.104, 908.105, 908.106, 908.107, 908.108, and 908.109.

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/CS by Rules on April 17, 2019:
The committee substitute incorporates three amendments which are technical and substantive in nature. The amendments:

[48] *C.F.C. v. Miami-Dade County*, 349 F.Supp.3d 1236 (S.D. Fla. 2018).

- Make technical changes to the definitions of federal immigration agency, law enforcement agency, local government entity, and state entity by removing a reference to the entity's officials, representatives, agents, employees, and persons holding public office. It appears that this change means that the entities, and not the individuals, could be named as defendants in an enforcement action by the Attorney General.
- Clarify that employees, agents, or representatives of state and local entities and law enforcement agencies are under the same restrictions as the state and local law enforcement agencies and may not interfere or prohibit actions that will facilitate the enforcement of federal immigration law.
- Adjust the time period in which inmates may be transferred to ICE custody by providing that the transfer may take place within the final 12 days of an inmate's sentence, rather than the 7-day period stated in the underlying bill. This makes the bill consistent with the current policy in place between DOC and ICE.

CS/CS by Infrastructure and Security on March 12, 2019:
The CS/CS incorporates a technical amendment to insert a title, "Federal Immigration Enforcement," for the newly created chapter of law.

CS by Judiciary on February 19, 2019:
The committee substitute significantly reduces the scope of the underlying bill. The committee substitute removes the provisions pertaining to: the duty of a law enforcement agency to determine an arrested person's immigration status at the time of booking; the duty of officials to report violations of the act and the ensuing possibility that they might be suspended or removed from office for not reporting violations; the requirement that the Attorney General provide a format for complaints alleging violations of the act; the responsibility of the state attorney to investigate and pursue complaints of violations; financial penalties for having sanctuary policies; the creation of a civil cause of action for injuries or wrongful death attributed to a sanctuary policy; and the ineligibility of entities to receive state grant funding if the entity had a sanctuary policy in effect. The committee substitute adds a provision that requires agencies to enter into agreements with federal entities to recover costs for detaining aliens. The committee substitute also adds a provision specifying that a detainer must be accompanied by a particular form of federal warrant to be sufficient.

B. Amendments:

None.

DEPARTMENT OF HOMELAND SECURITY

IMMIGRATION DETAINER - NOTICE OF ACTION

Subject ID: Event #:	File No: Date:
TO: (Name and Title of Institution - OR Any Subsequent Law Enforcement Agency)	FROM: (Department of Homeland Security Office Address)

Name of Alien: _____

Date of Birth: _____ Citizenship: _____ Sex: _____

1. DHS HAS DETERMINED THAT PROBABLE CAUSE EXISTS THAT THE SUBJECT IS A REMOVABLE ALIEN. THIS DETERMINATION IS BASED ON *(complete box 1 or 2)*.

- ☐ A final order of removal against the alien;
- ☐ The pendency of ongoing removal proceedings against the alien;
- ☐ Biometric confirmation of the alien's identity and a records check of federal databases that affirmatively indicate, by themselves or in addition to other reliable information, that the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law; and/or
- ☐ Statements made by the alien to an immigration officer and/or other reliable evidence that affirmatively indicate the alien either lacks immigration status or notwithstanding such status is removable under U.S. immigration law.

2. DHS TRANSFERRED THE ALIEN TO YOUR CUSTODY FOR A PROCEEDING OR INVESTIGATION *(complete box 1 or 2)*.

- ☐ Upon completion of the proceeding or investigation for which the alien was transferred to your custody, DHS intends to resume custody of the alien to complete processing and/or make an admissibility determination.

IT IS THEREFORE REQUESTED THAT YOU:

- **Notify DHS** as early as practicable (at least 48 hours, if possible) before the alien is released from your custody. Please notify DHS by calling ☐ U.S. Immigration and Customs Enforcement (ICE) or ☐ U.S. Customs and Border Protection (CBP) at _____. If you cannot reach an official at the number(s) provided, please contact the Law Enforcement Support Center at: (802) 872-6020.
- **Maintain custody** of the alien for a period **NOT TO EXCEED 48 HOURS** beyond the time when he/she would otherwise have been released from your custody to allow DHS to assume custody. The alien **must be served with a copy of this form** for the detainer to take effect. This detainer arises from DHS authorities and should not impact decisions about the alien's bail, rehabilitation, parole, release, diversion, custody classification, work, quarter assignments, or other matters
- Relay this detainer to any other law enforcement agency to which you transfer custody of the alien.
- Notify this office in the event of the alien's death, hospitalization or transfer to another institution.

☐ If checked: please cancel the detainer related to this alien previously submitted to you on _____ (date).

_____ _____

(Name and title of Immigration Officer) (Signature of Immigration Officer) (Sign in Ink)

Notice: If the alien may be the victim of a crime or you want the alien to remain in the United States for a law enforcement purpose, notify the ICE Law Enforcement Support Center at (802) 872-6020. You may also call this number if you have any other questions or concerns about this matter.

TO BE COMPLETED BY THE LAW ENFORCEMENT AGENCY CURRENTLY HOLDING THE ALIEN WHO IS THE SUBJECT OF THIS NOTICE:

Please provide the information below, sign, and return to DHS by mailing, emailing or faxing a copy to _____ .

Local Booking/Inmate #: _____ Estimated release date/time: _____

Date of latest criminal charge/conviction: _____ Last offense charged/conviction: _____

This form was served upon the alien on _____ , in the following manner:

☐ in person ☐ by inmate mail delivery ☐ other (please specify): _____

_____ _____

(Name and title of Officer) (Signature of Officer) (Sign in Ink)

DHS Form I-247A (3/17) Page 1 of 3

SAMPLE

330876

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Gruters) recommended the following:

Senate Amendment

Delete lines 49 - 116
and insert:
immigration law.

(2) "Immigration detainer" means a facially sufficient written or electronic request issued by a federal immigration agency using that agency's official form to request that another law enforcement agency detain a person based on probable cause to believe that the person to be detained is a removable alien under federal immigration law, including detainers issued

330876

pursuant to 8 U.S.C. ss. 1226 and 1357 along with a warrant described in paragraph (c). For purposes of this subsection, an immigration detainer is deemed facially sufficient if:

(a) The federal immigration agency's official form is complete and indicates on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law; or

(b) The federal immigration agency's official form is incomplete and fails to indicate on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law, but is supported by an affidavit, order, or other official documentation that indicates that the federal immigration agency has probable cause to believe that the person to be detained is a removable alien under federal immigration law; and

(c) The federal immigration agency supplies with its detention request a Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant of Removal/Deportation or a successor warrant or other warrant authorized by federal law.

(3) "Inmate" means a person in the custody of a law enforcement agency.

(4) "Law enforcement agency" means an agency in this state charged with enforcement of state, county, municipal, or federal laws or with managing custody of detained persons in the state and includes municipal police departments, sheriff's offices, state police departments, state university and college police departments, county correctional agencies, and the Department of Corrections.

330876

(5) "Local governmental entity" means any county, municipality, or other political subdivision of this state.

(6) "Sanctuary policy" means a law, policy, practice, procedure, or custom adopted or permitted by a state entity, local governmental entity, or law enforcement agency which contravenes 8 U.S.C. s. 1373(a) or (b) or which knowingly prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency with respect to federal immigration enforcement, including, but not limited to, limiting a law enforcement agency in, or prohibiting such agency from:

(a) Complying with an immigration detainer;

(b) Complying with a request from a federal immigration agency to notify the agency before the release of an inmate or detainee in the custody of the law enforcement agency;

(c) Providing a federal immigration agency access to an inmate for interview;

(d) Participating in any program or agreement authorized under section 287 of the Immigration and Nationality Act, 8 U.S.C. s. 1357; or

(e) Providing a federal immigration agency with an inmate's incarceration status or release date.

(7) "State entity" means the state or any office, board, bureau, commission, department, branch, division, or institution thereof, including institutions within the State University System and the Florida College System.

568358

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment

Delete lines 57 - 76
and insert:
pursuant to 8 U.S.C. ss. 1226 and 1357 along with a valid judicial warrant, issued in compliance with s. 901.02(2).

457010

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment

Delete lines 94 - 110
and insert:
contravenes 8 U.S.C. s. 1373(a) or (b).

795686

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment

Delete line 116
and insert:
representative, an agent, or an employee of the entity. The term does not include the Department of Children and Families or the employees of the department.

158572

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Gruters) recommended the following:

Senate Amendment

Delete line 129
and insert:
enforcement agency, or an employee, an agent, or a representative of the entity or agency, may not prohibit or in any way restrict a law

620498

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Gruters) recommended the following:

Senate Amendment

Delete lines 158 - 182
and insert:
by a period of not more than 12 days on the facility's determination that the reduction in sentence will facilitate the seamless transfer of the defendant into federal custody. For purposes of this paragraph, the term "secure correctional facility" means a state correctional institution as defined in s. 944.02 or a county detention facility or a municipal detention facility as defined in s. 951.23.

620498

(c) If the information specified in sub-subparagraph (a)2.a. or sub-subparagraph (a)2.b. is not available at the time the sentence is pronounced in the case, but is received by a law enforcement agency afterwards, the law enforcement agency shall notify the judge who shall issue the order described by paragraph (b) as soon as the information becomes available.

(4) When a county correctional facility or the Department of Corrections receives verification from a federal immigration agency that a person subject to an immigration detainer is in the law enforcement agency's custody, the agency may securely transport the person to a federal facility in this state or to another point of transfer to federal custody outside the jurisdiction of the law enforcement agency. The law enforcement agency may transfer a person who is subject to an immigration detainer and is confined in a secure correctional facility to the custody of a federal immigration agency not earlier than 12 days before his or her release date. A law enforcement agency shall obtain judicial

195982

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete lines 185 - 199

and insert:

(5) A state entity, local governmental entity, or law enforcement agency implementing this chapter has an affirmative duty to inquire whether or not a person is a victim of or a witness to a criminal offense, and if so, the victim or the witness may not be subject to the chapter.

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

195982

And the title is amended as follows:

Delete lines 18 - 21

and insert:

circumstances; providing that certain entities or agencies have an affirmative duty to inquire whether or not a person is a victim of or a witness to a criminal offense, and if so, prohibiting the person from being subject to the act; specifying

413562

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete lines 250 - 254

and insert:

908.108 Education facilities or institutions.—This chapter does not apply to law enforcement agencies or local governmental entities while operating at any educational facility or institution.

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

And the title is amended as follows:

413562

Delete line 26

and insert:

nonapplicability of the act to certain educational facilities and institutions;

456262

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Farmer) recommended the following:

Senate Amendment

Delete lines 260 - 261
and insert:
disability of a person.

695286

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete line 261

and insert:

United States Constitution or the State Constitution. A person aggrieved by a violation of this section may enforce any provision of this section by a civil action in any court of competent jurisdiction on behalf of themselves or others similarly situated, and in addition to any judgment awarded the appropriate court must allow reasonable attorney fees to be paid to the aggrieved person. The remedies in this section are

695286

cumulative of other remedies and this section may not be construed as a limitation.

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

And the title is amended as follows:

Between lines 27 and 28

insert:

authorizing an aggrieved person to file a civil cause of action in a court of competent jurisdiction; providing for the payment of reasonable attorney fees;

969240

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Between lines 261 and 262

insert:

908.111 Repeal.—This chapter shall stand repealed on July 1, 2022, unless reviewed and saved from repeal through reenactment by the Legislature.

Section 2. The Office of Economic and Demographic Research, in consultation with the Office of Program Policy Analysis and Government Accountability, shall conduct a study on the fiscal impact of this act on every affected agency and entity. The

969240

study must, at a minimum, include the fiscal impact on state entities as defined in this act, on law enforcement agencies as defined in this act, on local governmental entities as defined in this act, on tourism, on agriculture, and on the overall state economy. By January 1, 2021, the study must be completed and the Office of Economic and Demographic Research must submit a report to the Governor, the President of the Senate, the Minority Leader of the Senate, the Speaker of the House of Representatives, and the Minority Leader of the House of Representatives.

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

And the title is amended as follows:

Delete line 28

and insert:

providing for future legislative review and repeal; requiring a fiscal impact study; specifying minimum requirements for the study; providing a completion date for the study; requiring the submittal of a report to the Governor and the Legislature by a specified date; requiring repeal of

268432

LEGISLATIVE ACTION

Senate	.	House
Comm: UNFAV	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment

Between lines 220 and 221
insert:
(4) A person who is the subject of an immigration detainer may not be temporarily housed in a privately managed correctional facility.

By the Committees on Infrastructure and Security; and Judiciary; and Senators Gruters, Bean, and Mayfield

596-02970-19 2019168c2

A bill to be entitled

An act relating to federal immigration enforcement; creating chapter 908, F.S., relating to federal immigration enforcement; providing legislative findings and intent; providing definitions; prohibiting sanctuary policies; requiring state entities, local governmental entities, and law enforcement agencies to use best efforts to support the enforcement of federal immigration law; prohibiting restrictions by the entities and agencies on taking certain actions with respect to information regarding a person's immigration status; providing requirements concerning certain criminal defendants subject to immigration detainers or otherwise subject to transfer to federal custody; authorizing a law enforcement agency to transport an alien unlawfully present in the United States under certain circumstances; providing an exception to reporting requirements for crime victims or witnesses; requiring recordkeeping relating to crime victim and witness cooperation in certain investigations; specifying duties concerning immigration detainers; requiring county correctional facilities to enter agreements for payments for complying with immigration detainers; providing for injunctive relief; providing for applicability to certain education records; prohibiting discrimination on specified grounds; providing for implementation; requiring repeal of existing sanctuary policies within a specified period; providing effective dates.

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

596-02970-19 2019168c2

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

Section 1. Chapter 908, Florida Statutes, consisting of sections 908.101-908.109, is created to read:

CHAPTER 908

FEDERAL IMMIGRATION ENFORCEMENT

908.101 Legislative findings and intent.—The Legislature finds that it is an important state interest to cooperate and assist the federal government in the enforcement of federal immigration laws within this state.

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

(1) "Federal immigration agency" means the United States Department of Justice and the United States Department of Homeland Security, a division within such an agency, including United States Immigration and Customs Enforcement and United States Customs and Border Protection, any successor agency, and any other federal agency charged with the enforcement of immigration law. The term includes an official or employee of such an agency.

(2) "Immigration detainer" means a facially sufficient written or electronic request issued by a federal immigration agency using that agency's official form to request that another law enforcement agency detain a person based on probable cause to believe that the person to be detained is a removable alien under federal immigration law, including detainers issued pursuant to 8 U.S.C. ss. 1226 and 1357 along with a warrant described in paragraph (c). For purposes of this subsection, an

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

immigration detainer is deemed facially sufficient if:

(a) The federal immigration agency's official form is complete and indicates on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law; or

(b) The federal immigration agency's official form is incomplete and fails to indicate on its face that the federal immigration official has probable cause to believe that the person to be detained is a removable alien under federal immigration law, but is supported by an affidavit, order, or other official documentation that indicates that the federal immigration agency has probable cause to believe that the person to be detained is a removable alien under federal immigration law; and

(c) The federal immigration agency supplies with its detention request a Form I-200 Warrant for Arrest of Alien or a Form I-205 Warrant of Removal/Deportation or a successor warrant or other warrant authorized by federal law.

(3) "Inmate" means a person in the custody of a law enforcement agency.

(4) "Law enforcement agency" means an agency in this state charged with enforcement of state, county, municipal, or federal laws or with managing custody of detained persons in the state and includes municipal police departments, sheriff's offices, state police departments, state university and college police departments, county correctional agencies, and the Department of Corrections. The term includes an official or employee of such an agency.

(5) "Local governmental entity" means any county,

municipality, or other political subdivision of this state. The term includes a person holding public office or having official duties as a representative, agent, or employee of the entity.

(6) "Sanctuary policy" means a law, policy, practice, procedure, or custom adopted or permitted by a state entity, local governmental entity, or law enforcement agency which contravenes 8 U.S.C. s. 1373(a) or (b) or which knowingly prohibits or impedes a law enforcement agency from communicating or cooperating with a federal immigration agency with respect to federal immigration enforcement, including, but not limited to, limiting a law enforcement agency in, or prohibiting such agency from:

(a) Complying with an immigration detainer;

(b) Complying with a request from a federal immigration agency to notify the agency before the release of an inmate or detainee in the custody of the law enforcement agency;

(c) Providing a federal immigration agency access to an inmate for interview;

(d) Participating in any program or agreement authorized under section 287 of the Immigration and Nationality Act, 8 U.S.C. s. 1357; or

(e) Providing a federal immigration agency with an inmate's incarceration status or release date.

(7) "State entity" means the state or any office, board, bureau, commission, department, branch, division, or institution thereof, including institutions within the State University System and the Florida College System. The term includes a person holding public office or having official duties as a representative, agent, or employee of the entity.

908.103 Sanctuary policies prohibited.—A state entity, law enforcement agency, or local governmental entity may not adopt or have in effect a sanctuary policy.

908.104 Cooperation with federal immigration authorities.—

(1) A law enforcement agency shall use best efforts to support the enforcement of federal immigration law. This subsection applies to an official, representative, agent, or employee of the entity or agency only when he or she is acting within the scope of his or her official duties or within the scope of his or her employment.

(2) Except as otherwise expressly prohibited by federal law, a state entity, local governmental entity, or law enforcement agency may not prohibit or in any way restrict a law enforcement agency from taking any of the following actions with respect to information regarding a person's immigration status:

(a) Sending the information to or requesting, receiving, or reviewing the information from a federal immigration agency for purposes of this chapter.

(b) Recording and maintaining the information for purposes of this chapter.

(c) Exchanging the information with a federal immigration agency or another state entity, local governmental entity, or law enforcement agency for purposes of this chapter.

(d) Using the information to comply with an immigration detainer.

(e) Using the information to confirm the identity of a person who is detained by a law enforcement agency.

(3)(a) For purposes of this subsection the term "applicable criminal case" means a criminal case in which:

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

1. The judgment requires the defendant to be confined in a secure correctional facility; and

2. The judge:

a. Indicates in the record under s. 908.105 that the defendant is subject to an immigration detainer; or

b. Otherwise indicates in the record that the defendant is subject to a transfer into federal custody.

(b) In an applicable criminal case, when the judge sentences a defendant who is the subject of an immigration detainer to confinement, the judge shall issue an order requiring the secure correctional facility in which the defendant is to be confined to reduce the defendant's sentence by a period of not more than 7 days on the facility's determination that the reduction in sentence will facilitate the seamless transfer of the defendant into federal custody. For purposes of this paragraph, the term "secure correctional facility" means a state correctional institution as defined in s. 944.02 or a county detention facility or a municipal detention facility as defined in s. 951.23.

(c) If the information specified in sub-subparagraph (a)2.a. or sub-subparagraph (a)2.b. is not available at the time the sentence is pronounced in the case, but is received by a law enforcement agency afterwards, the law enforcement agency shall notify the judge who shall issue the order described by paragraph (b) as soon as the information becomes available.

(4) When a county correctional facility or the Department of Corrections receives verification from a federal immigration agency that a person subject to an immigration detainer is in the law enforcement agency's custody, the agency may securely

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

transport the person to a federal facility in this state or to another point of transfer to federal custody outside the jurisdiction of the law enforcement agency. However, the law enforcement agency may transport a person who is subject to an immigration detainer and is confined in a secure correctional facility only upon authorization by a court order unless the transportation will occur within the 7 day period under subsection (3). A law enforcement agency shall obtain judicial authorization before securely transporting an alien to a point of transfer outside of this state.

(5) This section does not require a state entity, local governmental entity, or law enforcement agency to provide a federal immigration agency with information related to a victim of or a witness to a criminal offense if the victim or witness timely and in good faith responds to the entity's or agency's request for information and cooperation in the investigation or prosecution of the offense.

(6) A state entity, local governmental entity, or law enforcement agency that, pursuant to subsection (5), withholds information regarding the immigration information of a victim of or witness to a criminal offense shall document the victim's or witness's cooperation in the entity's or agency's investigative records related to the offense and shall retain the records for at least 10 years for the purpose of audit, verification, or inspection by the Auditor General.

908.105 Duties related to immigration detainers.—

(1) A law enforcement agency that has custody of a person subject to an immigration detainer issued by a federal immigration agency shall:

(a) Provide to the judge authorized to grant or deny the person's release on bail under chapter 903 notice that the person is subject to an immigration detainer.

(b) Record in the person's case file that the person is subject to an immigration detainer.

(c) Upon determining that the immigration detainer is in accordance with s. 908.102(2), comply with the requests made in the immigration detainer.

(2) A law enforcement agency is not required to perform a duty imposed by paragraph (1)(a) or paragraph (1)(b) with respect to a person who is transferred to the custody of the agency by another law enforcement agency if the transferring agency performed that duty before the transfer.

(3) A judge who receives notice that a person is subject to an immigration detainer shall cause the fact to be recorded in the court record, regardless of whether the notice is received before or after a judgment in the case.

908.106 Reimbursement of costs.—Each county correctional facility shall enter into an agreement or agreements with a federal immigration agency for temporarily housing persons who are the subject of immigration detainers and for the payment of the costs of housing and detaining those persons. A compliant agreement may include any contract between a correctional facility and a federal immigration agency for housing or detaining persons subject to immigration detainers, such as basic ordering agreements in effect on or after July 1, 2019, agreements authorized by section 287 of the Immigration and Nationality Act, 8 U.S.C. s. 1357, or successor agreements and other similar agreements authorized by federal law.

908.107 Enforcement.—

(1) The Attorney General may institute a civil action against any state entity, local government entity, or law enforcement agency for a violation of this chapter or to prevent a violation of this chapter. An action for relief may include an action for an injunction or any other appropriate orders or relief. Upon adjudication by the court or as provided in a consent decree declaring that a state entity, local governmental entity, or law enforcement agency has violated this chapter, the court shall enjoin the unlawful sanctuary policy. The court has continuing jurisdiction over the parties and subject matter and may enforce its orders with the initiation of contempt proceedings as provided by law.

(2) An order approving a consent decree or granting an injunction must include written findings of fact that describe with specificity the existence and nature of the sanctuary policy that is in violation of s. 908.103.

908.108 Education records.—This chapter does not apply to the release of information contained in education records of an educational agency or institution, except in conformity with the Family Educational Rights and Privacy Act of 1974, 20 U.S.C. s. 1232g.

908.109 Discrimination prohibited.—A state entity, a local governmental entity, or a law enforcement agency, or a person employed by or otherwise under the direction or control of the entity or agency, may not base its actions under this chapter on the gender, race, religion, national origin, or physical disability of a person except to the extent authorized by the United States Constitution or the State Constitution.

Section 2. A sanctuary policy, as defined in s. 908.102, Florida Statutes, that is in effect on the effective date of this act violates the public policy of this state and must be repealed within 90 days after that date.

Section 3. Section 908.107, Florida Statutes, as created by this act, shall take effect October 1, 2019, and, except as otherwise expressly provided in this act, this act shall take effect July 1, 2019.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, *Chair*
Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Banking and Insurance

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR JOE GRUTERS
23rd District

March 14, 2019

The Honorable Lizabeth Benacquisto, Chair
Rules Committee
402 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Benacquisto:

I am writing to request that Senate Bill 168, Federal Immigration Enforcement, be placed on the agenda of the next Rules Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

Joe Gruters

cc: John B. Phelps, Staff Director
Cynthia Futch, Committee Administrative Assistant

REPLY TO:
☐ 381 Interstate Boulevard, Sarasota, Florida 34240 (941) 378-6309
☐ 324 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5023

Senate's Website: *www.flsenate.gov*

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/19
Meeting Date

168
Bill Number (if applicable)

Topic SB 168

Amendment Barcode (if applicable)

Name Ana Castillo

Job Title Student

Address 1001 Ocala Rd Apt 333
Street

Phone (239) 285-9042

Tallahassee FL 32304
City *State* *Zip*

Email aec16k@my.fsu.edu

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Omega Phi Beta Sorority, Inc.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Federal Immigration Enforcement

Amendment Barcode (if applicable)

Name Shayna Lopez-Rivas

Job Title Retail Manager

Address Protected by State Statute
Street

Phone

Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/16/2019
Meeting Date

sb 168
Bill Number (if applicable)

Topic family separation bill sb168

Amendment Barcode (if applicable)

Name Maria Guerrero

Job Title FSU student

Address 202 Varsity Dr
Street

Tallahassee FL 33326
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family Separation Bill SB 168

Amendment Barcode (if applicable)

Name Alicia Camaliche

Job Title FSU Student

Address 8150 SW 72nd ave PH 192
Street

Phone

Miami FL 33193
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Federal Immigration Enforcement

Amendment Barcode (if applicable)

Name David Sleeth

Job Title Policy Director

Address 1639 Corey Wood Circle
Street

Tallahassee FL 32304
City *State* *Zip*

Phone 305-587-3405

Email dsleeth@engageusa.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Engage Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

02/27/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Ariel Knowy

Job Title

Address
Street

Phone

Tallahassee FL
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/2019
Meeting Date

SB 168
Bill Number (if applicable)

Topic SB 168 - family separations

Amendment Barcode (if applicable)

Name Pablo Velasco

Job Title FSU student

Address 101 S Woodward ave
Street

Tallahassee FL 32313
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family separation NO on SB 168
Amendment Barcode (if applicable)

Name Faith Mercado

Job Title

Address
Street

Phone 786 306 7791

Coral Gables FL 33135
City *State* *Zip*

Email faithmer2@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family Separation Vote No on SB168
Amendment Barcode (if applicable)

Name Gina Romero

Job Title

Address
Street Doral FL 33178
City *State* *Zip*

Phone 7863930370

Email Romero_ginac@hotmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Aala Cedeno

Job Title

Address 4242 NW 2 St #1065
Street

Phone 786-486-4523

Miami FL 33126
City *State* *Zip*

Email JalaCedeno@gmail

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.17.19
Meeting Date

SB 169
Bill Number (if applicable)

Topic FAMILY Separation

Amendment Barcode (if applicable)

Name Olga Bautista

Job Title

Address 6222 SW 102 TERR 33156
Street

Phone 7863405.85

Miami FL FL 33156
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Claudia E. Taboada

Job Title Independent

Address 729 Middle St
Street

Phone 954-642-6792

Fort. Lauderdale FL 33312
City *State* *Zip*

Email claudiataboada1@hotmail

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family Seperation

Amendment Barcode (if applicable)

Name Ana

Job Title ~~Recreational Leader~~

Address 3613 E Comanche Ave
Street

Phone

Tampa FL 33610
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB-168
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Carol

Job Title

Address 3613 E Comanche Ave
Street

Tampa, FL 33610
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 1608
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Charo Valero

Job Title State Policy Director

Address 1951 NW 7th Ave #600
Street

Phone (786) 442-8199

Miami FL 33136
City *State* *Zip*

Email charo@latinainstitute.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing FL. Latina Advocacy Network

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

S.B. 168
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Adrian Boxtel

Job Title farmer

Address _____ Phone _____
Street

Plant City Florida Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

168
Bill Number (if applicable)

Topic Immigration Sanctuary Cities

Amendment Barcode (if applicable)

Name Kara Gross

Job Title

Address 4343 W Flagler
Street

Phone 850-294-6071

Miami FL 78363
City *State* *Zip*

Email Kgross@aclufl.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing ACLU FL

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family Seperation

Amendment Barcode (if applicable)

Name Benjamin Paley

Job Title

Address
Street

Phone

Hollywood FL
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/19
Meeting Date

SB 1608
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Jose Martinez

Job Title

Address 710 E Windhorst RD
Street

Phone

Brandon FL 33510
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Sabas Mejia

Job Title

Address 710 E Windhorst RD
Street

Brandon FL 33510
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

10

THE FLORIDA SENATE

APPEARANCE RECORD

4-17-19
Meeting Date

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

168
Bill Number (if applicable)

Topic Family Seperation

Amendment Barcode (if applicable)

Name Carolyn Siegelman

Job Title

Address 10731 NW 16 Ct
Street

Phone 954-821-1347

Plantation Fl 33322
City *State* *Zip*

Email CXsiegel@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/17/19
Meeting Date

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

SB 168
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Sohamy Garcia

Job Title

Address 9414 N oakleaf Ave
Street

Tampa FL 33612
City *State* *Zip*

Phone 813-404-2378

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/2019
Meeting Date

SB 168
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Family Separation

Name Rhenie Dalger

Job Title

Address 20730 NE 4th PL
Street

Phone 786-280-9062

Miami FL 33179
City *State* *Zip*

Email rheniedalger@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Family Separation

Name Eylin Garcia

Job Title

Address 1407 Marshwood DR
Street

Seffner FL 33584
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB-168
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Family Separation

Name Sagnid Talley

Job Title

Address 7116 BAY DRIVE APT 9
Street

MIAMI FL 33141
City *State* *Zip*

Phone 929-732-0591

Email STALLY@FANM.ORG

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.17.19
Meeting Date

1168
Bill Number (if applicable)

Topic FAMILY SEPERATION

Amendment Barcode (if applicable)

Name DAMI FERAL

Job Title

Address 1134 19TH AVE N
Street
LAKE WORTH. FL 33460
City *State* *Zip*

Phone 561.596.8416

Email TRAINMA@RSEUP.NET

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

168
Bill Number (if applicable)

Topic Federal Immigration

Amendment Barcode (if applicable)

Name Barry Tillis

Job Title STAGE Technician

Address 1134 Orwell Ave
Street

Phone 407 432 4624

Orlando FL 32809
City *State* *Zip*

Email barrytillis1@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Barry Tillis

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

168
Bill Number (if applicable)

Topic FEDERAL IMMIGRATION ENFORCEMENT
Amendment Barcode (if applicable)

Name GLENDA ABICHT (PRONOUNCED ABBOTT)

Job Title SERVICES TECHNICIAN

Address 4305 SW 98 AV
Street

Phone 786-376-1181

MIAMI FL 33165
City *State* *Zip*

Email GLENDA.ABICHT@GMAIL.COM

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Federal Immigration Enforcement

Amendment Barcode (if applicable)

Name Serena James

Job Title Cosmetologist

Address 5237 Champagne Circle
Street

Orlando FL 3288
City *State* *Zip*

Phone 7036388181

Email SniKKij@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 1608
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Jasmen Rogers-Shaw

Job Title Staff and Policy Director

Address 745 NW 54th Street
Street

Phone (954) 261-1380

Miami FL 33127
City *State* *Zip*

Email jasmen@theworkerscenter.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Miami Workers Center

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/19
Meeting Date

SB168
Bill Number (if applicable)

Topic Immigration

Amendment Barcode (if applicable)

Name Daniela Tung

Job Title Student

Address FSU Campus
Street

Phone

City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/19
Meeting Date

SB168
Bill Number (if applicable)

Topic Immigration

Amendment Barcode (if applicable)

Name Amy Montserrat Arguello

Job Title Student

Address FSU campus
Street

Phone

City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

168
Bill Number (if applicable)

Topic Federal Immigration Enforcement

Amendment Barcode (if applicable)

Name Jacqui Carmona

Job Title Political Director AFSCME FL

Address 700 S Royal Poinciana Blvd
Street

Miami FL
City *State* *Zip*

Phone

Email jcarmona@afscmefl.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing AFSCME FL

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

168
Bill Number (if applicable)

Topic Immigration

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Executive Director

Address 579 E. Call St.
Street
Tallahassee, FL 32301
City *State* *Zip*

Phone 850-321-9386

Email fcfep@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Fla. Center for Fiscal & Economic Policy

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Cirenia Cervantes

Job Title

Address
Street

Phone

Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing We Are Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

168
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Immigration

Name Ana C Limas

Job Title

Address 37240 Lock St
Street

Dade City FL 33523
City *State* *Zip*

Phone 3524678345

Email Anaclimas@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

168
Bill Number (if applicable)

Topic Immigration

Amendment Barcode (if applicable)

Name Octavio Serrato

Job Title

Address 37240 Lock St
Street

Phone (863) 254-1873

Dade City FL 33523
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic SB 168

Amendment Barcode (if applicable)

Name Karyn Morton

Job Title

Address 2771 Monument Rd #29-213
Street

Phone 904-652-7640

Jacksonville FL 32225
City *State* *Zip*

Email Kdmlady@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

SB 168
Bill Number (if applicable)

Topic SB168

Amendment Barcode (if applicable)

Name Faith Reagan

Job Title

Address ~~[redacted]~~ 2160 Mayport Rd. #1902
Street

Phone (904) 238-1967

Atlantic Beach, FL 32233
City *State* *Zip*

Email justfaith101@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

168
Bill Number (if applicable)

Topic Federal Immigration Enforcement

Amendment Barcode (if applicable)

Name Ingrid Delgado

Job Title Associate for Social Concerns & Respect Life

Address 201 W Park Ave
Street

Tallahassee FL 32301
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Madison Meding

Job Title Student

Address FSU campus
Street

Phone _____

_____
City *State* *Zip*

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic ICE Enforcement

Name Kara Gross

Job Title Legislative Director

Address 4343 W Flagler St, 400
Street

Phone 786-363-4436

Miami — *City* | FL — *State* | 33134 — *Zip*

Email kgross@aclufl.org

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing ACLU of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 1108
Bill Number (if applicable)

Topic FEDERAL IMMIGRATION ENFORCEMENT

Amendment Barcode (if applicable)

Name MIRIAM BAKER

Job Title RETIRED

Address 6005 EAST 64th ST
Street

Phone 904-382-2394

JACKSONVILLE FL 32208
City *State* *Zip*

Email iambunny@bellsouth.net

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing MYSELF

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/10/19
Meeting Date

168
Bill Number (if applicable)

Topic Fed Immigration Enforcement

Amendment Barcode (if applicable)

Name Jennifer Kenny

Job Title electrician

Address 1917 Quail Ridge Ct. apt 1901
Street

Phone 321-277-9385

Cocoa FL 32926
City *State* *Zip*

Email jken606@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 17, 2019
Meeting Date

SB 168
Bill Number (if applicable)

Topic Federal Immigration Enforcement

Amendment Barcode (if applicable)

Name Yvonne Larsen

Job Title retired

Address 12651 Kentwood Avenue
Street

Phone 7138856179

Fort Myers — *City* | Florida — *State* | 33913 — *Zip*

Email yl1210@hotmail.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

SPEAKING FOR STATE-WIDE ORGANIZATION

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB168
Bill Number (if applicable)

Topic Rule of Law Adherance Act

Amendment Barcode (if applicable)

Name David Caulkett

Job Title VP Floridians For Immigration Enforcement

Address 2314 S Cypress Bend Dr
Street

Phone 9549701492

Email DavidC@FLIMEN.org

City *State* *Zip*

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Floridians For Immigration Enforcement

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

CS/SB 168
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name John Mills

Job Title _____

Address 9059 Orlando Ave.
Street

Navarre FL 32566
City *State* *Zip*

Phone 901-237-6561

Email John.Mills@gmail.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Panhandle Patriots

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

CS/CS/SB 168
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Robert Windham

Job Title _____

Address 7 Bougainvillea Court
Street

Phone 850 654-7103

Miramar Beach FL 32550
City *State* *Zip*

Email wardeag1e46rw@cox.net

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Floridians for E-verify Now

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Rule of Law Adherance Act

Amendment Barcode (if applicable)

Name Amzpola Hamsberger

Job Title President, Legal Immigrants for America

Address 1170 Tree Swallow Dr. #307
Street

Phone 407 977 7045

Winter Springs, FL 32708
City *State* *Zip*

Email pres@goli.org

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Legal Immigrants For America

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/17/2019 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB 168

Meeting Date *Bill Number (if applicable)*

Topic SUPPORT SB 168 *Amendment Barcode (if applicable)*

Name LANE WATKINS

Job Title RETIRED

Address 159 SW SYDNEY NICOLE CT Phone 904 673 0788

Street

LAKE CITY, FL 32024 Email H25PFD@YAHOO.COM

City *State* *Zip*

Speaking: [X] For [ ] Against [ ] Information Waive Speaking: [ ] In Support [ ] Against

(The Chair will read this information into the record.)

Representing SELF

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date	Bill Number (if applicable)
	SB 168

Amendment Barcode (if applicable)

Topic SB 168

Name Anmaar Habib

Job Title

Address 437 NE 29th St (Street)

Phone 305 985 8478

Miami (City) FL (State) 33137 (Zip)

Email ajhabib@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

SB 168
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 168 / IMMIGRATION

Name THOMAS KINNEY

Job Title POLITICAL DIRECTOR

Address 2398 CORAL WAY APT. 3
Street

Phone 786 346 0819

MIAMI FLORIDA 33
City *State* *Zip*

Email THOMAS@FLIVOTES.ORG

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLORIDA IMMIGRANT COALITION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4-17-19 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB 168

Meeting Date *Bill Number (if applicable)*

Topic Rule of Law Adherence Act *Amendment Barcode (if applicable)*

Name Rev. Alec Pueschel

Job Title Reverend

Address 7645 Sentry Oak Cir E Phone 904 998 9711

Street

Jacksonville, FL 32256 Email adpueschel@gmail.com

City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

SB 168

Meeting Date | *Bill Number (if applicable)*

Topic SB 168

Amendment Barcode (if applicable)

Name James Calkins

Job Title

Address 5112 Holcomb Rd

Street

Phone 850-5[illegible]

Milton FL 32583

City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against

(The Chair will read this information into the record.)

Representing My Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

168
Bill Number (if applicable)

Topic Federal Immigration Enforcement

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title Public Policy

Address 126 N. Mills Ave
Street

Orlando FL 32801
City *State* *Zip*

Phone 4073764801

Email ida.eskamani@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing We Are Florida (Florida Immigrant Coalition)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/16/2019
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family separation bill SB 168

Amendment Barcode (if applicable)

Name Amy Mills

Job Title FSU student

Address 24 SW 10 St
Street

Phone

Miami FL 33135
City *State* *Zip*

Email

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date	Bill Number (if applicable)
	168

Topic Immigration Enforcement — Amendment Barcode (if applicable)

Name Bobby & Kiyan Michael

Job Title Angel Parents

Address 11210 Monument Landing Blvd — Phone 904-536-5269

Street

Jax — FL — 32225 — Email

City — State — Zip

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☑ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-2019
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family separation

Amendment Barcode (if applicable)

Name Michelle Bart

Job Title Office Administrator

Address _____ Phone _____
Street

Pompano FL Email _____
City *State* *Zip*

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing _____

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

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

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

S-001 (10/14/14)

Duplicate

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/16/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Federal Immigration Enforcement

Amendment Barcode (if applicable)

Name Scott D. McCoy

Job Title Senior Policy Counsel

Address P.O. Box 10788
Street

Phone 850-521-3024

Tallahassee FL 32302
City *State* *Zip*

Email scott.mccoy@splcenter.org

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Southern Poverty Law Center Action Fund

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Family Seperation

Name Andy J. Vila

Job Title Student

Address 937 NW 132 AVE W
Street

Phone 786-370-3816

City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Paula Muñoz

Job Title South Florida Organizer

Address 12372 SW 10 St
Street

Phone 954 980 6411

Pembroke Pines FL 33025
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Immigrant Coalition

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/18
Meeting Date

SB 148
Bill Number (if applicable)

Topic Family Separation

Amendment Barcode (if applicable)

Name Isaac Diaz

Job Title

Address 1410 Marsh Wood Dr
Street

Phone

Valrico FL 33864
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Family separation

Amendment Barcode (if applicable)

Name Jaylee Lopez

Job Title

Address 710 e wmdlhorst dr
Street

Brandon FL 33511
City *State* *Zip*

Phone

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2014
Meeting Date

SB 168
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Federal Immigration Enforcement

Name John Bonelli

Job Title Labor

Address 1022 Plantation Dr. Apt B-6
Street

Phone 407-575-5168

Kissimmee FL. 34741
City *State* *Zip*

Email BonelloSRJohn@Yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic FAMILY SEPARATION

Amendment Barcode (if applicable)

Name FLAVIA FRANCO

Job Title

Address 417 NORTH B STREET
Street

LAKE WORTH FL 33460
City *State* *Zip*

Phone (561)670-7860

Email FLA.MELISA@G

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

Topic _____ Bill Number 168 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting/Date

SB 168
Bill Number (if applicable)

Topic Sanctuary Cities / Immigration

Amendment Barcode (if applicable)

Name Margarita Romo

Job Title Ex Director

Address 37240 Calle de Milagros
Street
Dade City FL. 33523
City *State* *Zip*

Phone 352-206-7763

Email Romo1936@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Farmworkers

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/17/2017 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB 168

Meeting Date *Bill Number (if applicable)*

Topic Family Separation *Amendment Barcode (if applicable)*

Name Pamela Comet

Job Title

Address *Street* Phone

City *State* *Zip* Email

Speaking: ☐ For ☒ Against ☐ Information Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing We Are Florida

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

168
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Immigration

Name Rev Dr Russell Meyer

Job Title Exec Dir Florida Council of Churches

Address 5025 Southampton Cir
Street
Tampa FL 33647
City *State* *Zip*

Phone 813 435 5335

Email rmeyer@floridachurches.org

Speaking: ☐ For ☑ Against ☐ Information Wish to speak

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing FL Council of Churches

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic Sanctuary City Ban

Amendment Barcode (if applicable)

Name Tiffany Clarke

Job Title Student

Address N/A
Street

N/A
City *State* *Zip*

Phone N/A

Email N/A

Speaking: ☐ For ☑ Against ☑ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Students and Undocumented Immigrants in Academia

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/14
Meeting Date

SB 168
Bill Number (if applicable)

Topic SB 168

Amendment Barcode (if applicable)

Name Michael A Garcel

Job Title Student Senator

Address 132 Dixie Dr Apt 136
Street

Phone (786) 612-9853

TLH FL 32304
City *State* *Zip*

Email MikeGarcel@Gmail.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Immigrants

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04-11-19
Meeting Date

SB168
Bill Number (if applicable)

Topic Immigration Bill

Amendment Barcode (if applicable)

Name Natalia Chalco Lopez

Job Title Student

Address FSU campus
Street

Phone

City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/19
Meeting Date

SB 168
Bill Number (if applicable)

Topic family Separation

Amendment Barcode (if applicable)

Name Jessica Cruz

Job Title

Address
Street

Phone

City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing We are Florida

Appearing at request of Chair: ☒ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-2019
Meeting Date

SB 168
Bill Number (if applicable)

Topic Rule of Law Adherence Act

Amendment Barcode (if applicable)

Name Deborah Katz Pueschel

Job Title

Address 7645 Sentry Oak Cir E
Street
Jacksonville, FL 32256
City *State* *Zip*

Phone 904 998 9711

Email adpueschel@gmail.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
409 The Capitol

Mailing Address
404 South Monroe Street
Tallahassee, Florida 32399-1100
(850) 487-5229

DATE	COMM	ACTION
03/27/19	SM	Report Submitted
04/01/19	JU	**Fav/CS**
04/10/19	GO	**Fav/CS**
04/17/19	RC	**Favorable**

March 27, 2019

The Honorable Bill Galvano
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/CS/SB 200** – Governmental Oversight and Accountability Committee; Judiciary Committee and Senator Cruz
HB 6515 – Representative Fernandez-Barquin
Relief of Estate of Herminio Padilla, Jr., by the City of West Palm Beach and Others

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED, SETTLED CLAIM FOR $100,000 FROM THE CITY OF WEST PALM BEACH, PALM BEACH COUNTY, THE CITY OF LAKE WORTH, THE CITY OF RIVIERA BEACH, AND THE TOWN OF PALM BEACH TO THE ESTATE OF MR. HERMINIO PADILLA, JR., AS A RESULT OF HIS WRONGFUL DEATH.

FINDINGS OF FACT:

On January 17, 2015, shortly after midnight, Mr. Herminio Padilla, Jr., 48, was at work at the East Central Regional Water Reclamation Facility. As he was walking on a catwalk above a sewage basin, the grate on which Mr. Padilla was standing fell out of the catwalk causing Mr. Padilla to fall into the basin and drown.

The City of West Palm Beach conducted an internal audit of the facility in February 2014, which revealed shortcomings, including management issues.[1]

[1] City of West Palm Beach Internal Auditor, Investigative Audit of East Central Regional Water Reclamation Facility Report (Feb. 21, 2014), 10 – 11.

In October 2014, the facility hired Brown and Caldwell to conduct a walk-through of the facility and provide a report. The report noted that many of the grates and guardrails were severely corroded and in need of immediate replacement or repair.[2]

An employee stated he had told management about a number of issues, including unfit grating that was in need of replacement. He said he had previously made a statement to others at the facility that "it was not if[,] but when[,] they pull a rotting corpse out that maybe things would change."[3]

After Mr. Padilla's death, the City hired WJE Engineers to investigate why the grate collapsed. The engineers and the West Palm Beach Police reported similar findings. Namely, that the grate only had two fasteners on the south side (none on the north, east, or west edges) and seemed to have slipped toward the south edge and off of the north edge.[4] Mr. Padilla and the grate fell through and into the basin below. There was no net or safety mechanism in place to catch someone who may fall from the catwalks above the basins.

The City of West Palm Beach holds the title to, owns, and operates, the facility. West Palm Beach confirmed that Mr. Padilla. was an employee and the city owned, operated and maintained the facility.

All five respondents share usage of the facility pursuant to an interlocal agreement. The settlement divides payment of the claim bill award by each respondent's usage percentage at the time they entered into the interlocal agreement in 1991. Payment would be divided as follows:

- West Palm Beach – $54,091.00
- Palm Beach County – $22,727.00[5]
- City of Lake Worth – $11,363.50
- City of Riviera Beach – $7,273.00
- Town of Palm Beach – $4,545.50

[2] Brown and Caldwell Report, (Dec. 17, 2014).
[3] Patrick Tranchese, (Jan. 18, 2015).
[4] *See* WJE Engineers Report (Feb. 17, 2015), 4; West Palm Beach Police Department Report (Jan. 30, 2015).
[5] Parties agree there was a scrivener's error in the settlement where Palm Beach County's percentage of the $100,000 claim was listed as $22,272.00 when it should be $22,727.00. The bill should be amended to reflect the same.

Mr. Padilla was divorced and left three adult sons. His family received $7,500 in funeral expenses from workers' compensation, $80,000 from a $40,000 double indemnity life insurance policy Mr. Padilla had through his employer, and another $5,000 from an accidental death policy.

POSITIONS OF RESPONDENTS:

All five respondents support this claim bill and did not contest the claim at the special master hearing.

The City of West Palm Beach concedes that it owns, operates, and maintains the facility and confirmed that Mr. Padilla was an employee working within the scope of his employment when the accident occurred. The City has also commemorated a bench and named a road at the plant in memory of Mr. Padilla.

The other respondents did not contest the bill or give an argument at the hearing. However, had litigation continued, respondents had arguments denying the allegations and liability. They also would have argued that they did not own or operate the facility and therefore did not owe a duty of care. If found to be owners or operators, they were prepared to argue that they were entitled to workers' compensation immunity and did not have notice of dangerous conditions. The suit was settled in mediation.

These arguments, in accordance with the settlement agreement not to oppose the bill, were not presented at the claim bill hearing.

CONCLUSIONS OF LAW:

A *de novo* hearing was held as the Legislature is not bound by settlements or jury verdicts when considering a claim bill, passage of which is an act of legislative grace.

Generally, the underlying tortious cause of action in a claim bill is a negligence claim for which sovereign immunity is waived up to caps identified in section 768.28(5), Florida Statutes. However, in this particular matter, the claimant was an employee of the City of West Palm Beach. Workers' compensation is an exclusive remedy[6] unless one of the

[6] *See* section 440.11(1), Florida Statutes, which provides that "[t]he liability of an employer prescribed in s. 440.10 shall be exclusive and in place of all other liability, including vicarious liability, of such employer to any third-party tortfeasor and to the employee, the legal representative thereof, husband or wife, parents, dependents, next of kin, and anyone otherwise entitled to recover damages from such employer at law or in admiralty on account of such injury or death" except as provided in certain situations.

egregious statutory exceptions is demonstrated by an employee working in furtherance of the employer.[7]

A narrow exception to workers' compensation immunity is provided when the claimant can demonstrate that an intentional tort, as defined by the statute, was committed. The exception relevant to the analysis of this claim bill requires the claimant to demonstrate that an intentional tort causing injury or death was committed.[8]

The statute defines "intentional tort" for the purpose of identifying exceptions to workers' compensation immunity. The relevant definition of "intentional tort" in this matter, which under the statute must be demonstrated by clear and convincing evidence, requires that the:

(1) employer engaged in conduct the employer knew, based on prior similar accidents or explicit warnings specifically identifying a known danger, was virtually certain to result in injury or death to the employee, and
(2) employee was not aware of the risk because the danger was not apparent, and
(3) employer deliberately concealed or misrepresented the danger so as to prevent the employee from exercising informed judgment about whether to perform the work.[9]

Regarding the intentional tort exception to workers' compensation immunity, the Florida Supreme Court has applied the standard of "substantial certainty."[10] The Court provided that "[u]nder an objective test for the substantial certainty standard, an analysis of the circumstances in a case would be required to determine whether a reasonable person would understand that the employer's conduct was 'substantially certain' to result in injury or death to the employee."[11] Concealment of a danger is not necessarily required, but rather a factor, in determining substantial certainty as a matter of law, and whether a plaintiff has

[7] *See* Ramsey v. Dewitt Excavating, Inc., 248 So.3d 1270, 1272 (Fla. 2018); Bakerman v. The Bombay Co., Inc., 961 So.2d 259, 261 – 261 (Fla. 2007) (stating, in reference to the comprehensive Florida Workers' Compensation scheme in Chapter 440, that "employers that comply with the provisions of the chapter are given immunity from civil suit by the employee, except in the most egregious circumstances").
[8] Section 440.11(1)(b), Florida Statutes.
[9] *Id*.
[10] *See Bakerman*, 961 So.2d at 262 (citing and quoting Turner v. PCR, Inc., 754 So.2d 683 (Fla. 2000)).
[11] *Id*.

demonstrated substantial certainty would be a question for a jury.[12]

Although the elements of the intentional tort exception may be difficult to demonstrate by clear and convincing evidence, it is possible that a jury would have found for the claimant in this matter.

Employer's Prior Knowledge of a Known Danger
The employer had prior knowledge of maintenance issues by way of employee complaints and at least two reports regarding the status of the facility. The reports identified grates that were not secure and noted the need for grates to be repaired or replaced immediately. The employer had to know that, especially without a safety net or safety mechanism below a catwalk over a basin, an employee could fall to their demise if grates were not secure.

Employee Unaware of the Risk
There is no indication in the record that Mr. Padilla had any prior knowledge of the maintenance concerns regarding the grating in the facility.

Concealment by Employer as to Prevent Informed Judgment of Employee about Whether to Perform the Work
The record does not indicate whether the employer made employees aware of the maintenance and safety concerns at the facility. There is no information suggesting that Mr. Padilla, himself, was ever aware of the risks of walking on the catwalk grating.

LITIGATION HISTORY:

Stephen P. Padilla filed suit against all five respondents for the wrongful death of his father while also asserting negligence claims with regard to the operation and maintenance of the facility.

On October of 2018, the case settled during mediation for $300,000 and, as a condition of the settlement agreement, the respondents would not contest this $100,000 claim bill.

IMPACT OF PAYMENT:

The respondents have all represented that they are able to pay their respective portions of the claim and encourage the passage of this claim bill. Respondents are self-insured and

[12] *Id*. at 263 – 265.

state that the amounts due fall within their self-insured retention.

ATTORNEY FEES: The bill provides that attorney fees may not exceed 25 percent of the amount of the amount awarded.

RECOMMENDED AMENDMENT: Parties agree there was a scrivener's error in the settlement where Palm Beach County's percentage of the $100,000 claim was listed as $22,272.00 when it should be $22,727.00. The bill should be amended to reflect the same.

The parties have also provided agreed upon language, which may also be considered as an amendment.

CONCLUSION: Based upon the information provided by the claimant before and during the special master hearing, the undersigned finds that evidence exists for a jury to have found in favor of Mr. Stephen Padilla's claim, on behalf of the estate, against the City of West Palm Beach under an exception to workers' compensation immunity.

While there is a question as to liability of the other respondents, the undersigned did not have the benefit of hearing arguments from those parties due to the settlement agreement precluding them from opposing the bill.

All respondents have agreed to pay a percentage, as previously outlined, of the award in this claim bill and support its passage.

Respectfully submitted,

Christie M. Letarte
Senate Special Master

cc: Secretary of the Senate

CS/CS by Governmental Oversight and Accountability on April 10, 2019:
The committee substitute sets the maximum amounts paid from this claims bill for attorney fees at $20,000; for lobbying fees at $5,000; and for other costs at $5,000.

CS by Judiciary:
The committee substitute changes Palm Beach County's payment to $22,727 from $22,272 in the underlying bill.

By the Committees on Governmental Oversight and Accountability; and Judiciary; and Senator Cruz

585-04141-19 2019200c2

A bill to be entitled

An act for the relief of the Estate of Herminio Padilla, Jr., by the City of West Palm Beach, Palm Beach County, the City of Lake Worth, the City of Riviera Beach, and the Town of Palm Beach; providing for an appropriation to compensate his estate for injuries and damages sustained by Herminio Padilla, Jr., as a result of the negligence of the City of West Palm Beach, Palm Beach County, the City of Lake Worth, the City of Riviera Beach, and the Town of Palm Beach; providing a limitation on the payment of fees and costs; providing an effective date.

WHEREAS, on January 17, 2015, Herminio Padilla, Jr., was an employee of the City of West Palm Beach as a wastewater plant operator, and

WHEREAS, shortly after midnight on January 17, 2015, while working at the water reclamation facility, Mr. Padilla was walking on an elevated catwalk over a sewage basin when a grate allegedly and unexpectedly collapsed, causing him to fall into the basin, and

WHEREAS, at the time of this event, no one was present in the area, other than Mr. Padilla, and Mr. Padilla sank in the basin and drowned, and

WHEREAS, the Estate of Herminio Padilla, Jr., filed a lawsuit against his employer, the City of West Palm Beach, who owns and operates the water reclamation facility, as well as Palm Beach County, the City of Lake Worth, the City of Riviera Beach, and the Town of Palm Beach, who have a beneficial

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

585-04141-19 2019200c2

interest in the water reclamation facility where the accident occurred, and

WHEREAS, it is alleged that, before the drowning occurred, the City of West Palm Beach as the owner and operator of the water reclamation facility hired an engineering firm to perform a visual inspection of the facility and the firm identified several safety issues that required immediate attention, and

WHEREAS, subsequent to the drowning, the City of West Palm Beach as the owner and operator of the water reclamation facility hired a separate engineering company to perform an analysis of the drowning which revealed that the grate that collapsed was missing an attachment which caused it to slide off the supporting ledge, and

WHEREAS, subsequent to the drowning, an e-mail written by another employee of the facility alleged that complaints about other catwalks at the facility were brought to the attention of the City of West Palm Beach before the drowning, and

WHEREAS, on October 17, 2018, the parties participated in mediation and a settlement in the amount of $400,000 was reached, as a compromise with no defendant admitting liability, and of which the City of West Palm Beach, Palm Beach County, the City of Lake Worth, the City of Riviera Beach, and the Town of Palm Beach have collectively paid the statutory limit of $300,000, and $100,000 remaining to be paid by the City of West Palm Beach, Palm Beach County, the City of Lake Worth, the City of Riviera Beach, and the Town of Palm Beach collectively upon approval of a claim bill, NOW, THEREFORE,

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

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

Section 1. The facts stated in the preamble to this act are found and declared to be true.

Section 2. The City of West Palm Beach, Palm Beach County, the City of Lake Worth, the City of Riviera Beach, and the Town of Palm Beach are authorized and directed to appropriate from funds not otherwise encumbered and to draw warrants in the sums of $54,091, $22,727, $11,363.50, $7,273, and $4,545.50, respectively, payable to Stephen P. Padilla, as personal representative of the Estate of Herminio Padilla, Jr., as compensation for injuries and damages sustained.

Section 3. The amounts paid by the City of West Palm Beach, Palm Beach County, the City of Lake Worth, the City of Riviera Beach, and the Town of Palm Beach pursuant to s. 768.28, Florida Statutes, and the amount awarded under this act are intended to provide the sole compensation for all past, present, and future claims arising out of the factual situation alleged in this act which resulted in the death of Herminio Padilla, Jr. Of the amount awarded under this act, the total amount paid for attorney fees may not exceed $20,000, the total amount paid for lobbying fees may not exceed $5,000, and the total amount paid for costs or other similar expenses may not exceed $5,000.

Section 4. This act shall take effect upon becoming a law.

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

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 10, 2019

I respectfully request that **Senate Bill #200**, relating to Relief of the Estate of Herminio Padilla, Jr., by the City of West Palm Beach and Others, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Janet Cruz
Florida Senate, District 18

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

Topic _____ Bill Number 200 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City *State* *Zip*

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

The Florida Senate

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 630
INTRODUCER:	Health Policy Committee and Senators Perry and Baxley
SUBJECT:	Nonopioid Alternatives
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Looke	Brown	HP	**Fav/CS**
2.	Tulloch	Cibula	JU	**Favorable**
3.	Looke	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 630 amends s. 456.44, F.S., to require the Department of Health (DOH) to develop and publish on its website an educational pamphlet regarding the use of nonopioid alternatives for the treatment of pain. The bill also requires a health care practitioner to, prior to treating a patient with anesthesia or a Schedule II opioid medication in a non-emergency situation: inform the patient of available nonopioid alternatives for the treatment of pain; discuss the advantages and disadvantages of the use of nonopioid alternatives; provide the patient with the pamphlet created by the DOH; and document any alternatives considered in the patient's record.

The bill provides an effective date of July 1, 2019.

II. Present Situation:

Opioid Abuse

Both nationally and in Florida, opioid addiction and abuse has become an epidemic. The Florida Department of Law Enforcement (FDLE) reported that, when compared to 2016, 2017 saw:

- 6,178 (8 percent more) opioid-related deaths;
- 6,932 (4 percent more) individuals died with one or more prescription drugs in their system;[1]

[1] The drugs were identified as either the cause of death or merely present in the decedent. These drugs may have also been mixed with illicit drugs and/or alcohol. These drugs were not necessarily opioids.

- 3,684 (4 percent more) individuals died with at least one prescription drug in their system that was identified as the cause of death;
- Occurrences of heroin increased by 3 percent and deaths caused by heroin increased by 1 percent;
- Occurrences of fentanyl increased by 27 percent and deaths caused by fentanyl increased by 25 percent;
- Occurrences hydrocodone increased by 6 percent while deaths caused by hydrocodone decreased by 8 percent;
- Occurrences of buprenorphine and deaths caused by buprenorphine increased by 19 percent.[2]

The federal Centers for Disease Control and Prevention (CDC) estimates that the nationwide cost of opioid misuse at $78.5 billion per year.[3]

History of the Opioid Crisis in Florida

"In the late 1990s, pharmaceutical companies reassured the medical community that patients would not become addicted to prescription opioid pain relievers, and health care providers began to prescribe them at greater rates."[4] "This subsequently led to widespread diversion and misuse of these medications before it became clear that these medications could indeed be highly addictive."[5] Between the early 2000s and the early 2010s, Florida was infamous as the "pill mill capital" of the country. At the peak of the pill mill crisis, doctors in Florida bought 89 percent of all the oxycodone sold in the county.[6]

Between 2009 and 2011, the Legislature enacted a series of reforms to combat prescription drug abuse. These reforms included strict regulation of pain management clinics; creating the Prescription Drug Monitoring Program (PDMP); and stricter regulation on selling, distributing, and dispensing controlled substances.[7] "In 2016, the opioid prescription rate was 75 per 100 persons in Florida. This rate was down from a high of 83 per 100."[8]

As reported by the Florida Attorney General's Opioid Working Group,

> Drug overdose is now the leading cause of non-injury related death in the United States. Since 2000, drug overdose death rates increased by 137 percent, including a 200 percent increase in the rate of overdose deaths involving opioids. In 2015, over 52,000 deaths in the U.S. were attributed to drug poisoning, and over 33,000

[2] FDLE, *Drugs Identified in Deceased Persons by Florida Medical Examiners 2017 Annual Report* (Nov. 2018) http://www.fdle.state.fl.us/MEC/Publications-and-Forms/Documents/Drugs-in-Deceased-Persons/2017-Annual-Drug-Report.aspx (last visited on Apr. 3, 2019).
[3] National Institute on Drug Abuse, *Opioid Overdose Crisis* (Rev. Jan. 2019), https://www.drugabuse.gov/drugs-abuse/opioids/opioid-overdose-crisis (last visited on Apr. 3, 2019).
[4] *Id.*
[5] *Id.*
[6] Lizette Alvarez, *Florida Shutting 'Pill Mill' Clinics*, The New York Times (Aug. 31, 2011), *available at* http://www.nytimes.com/2011/09/01/us/01drugs.html (last visited on Apr. 3, 2019).
[7] *See* chs. 2009-198, 2010-211, and 2011-141, Laws of Fla.
[8] Attorney General's Opioid Working Group, *Florida's Opioid Epidemic: Recommendations and Best Practices*, 7 (March 1, 2019), *available at* https://myfloridalegal.com/webfiles.nsf/WF/TDGT-B9UTV9/$file/AG+Opioid+Working+Group+Report+Final+2-28-2019.pdf, (last visited on Apr. 3, 2019).

(63 percent) involved an opioid. In 2015, 3,535 deaths occurred in Florida where at least one drug was identified as the cause of death. More specifically, 2,535 deaths were caused by at least one opioid in 2015. Stated differently, seven lives per day were lost to opioids in Florida in 2015. Overall the state had a rate of opioid-caused deaths of 13 per 100,000. The three counties with the highest opioid death rate were Manatee County (37 per 100,000), Dixie County (30 per 100,000), and Palm Beach County (22 per 100,000).[9]

Early in 2017, the Center for Disease Control (CDC) declared the opioid crisis an epidemic. [10] Shortly thereafter, on May 3, 2017, Governor Rick Scott signed Executive Order 17-146 declaring the opioid epidemic a public health emergency in Florida.[11]

House Bill 21

In 2018, the Florida Legislature passed HB 21 (ch. 2018-13, L.O.F.) to combat the opioid crisis. HB 21:

- Required additional training for practitioners on the safe and effective prescribing of controlled substances;
- Restricted the length of prescriptions for Schedule II opioid medications to 3 days or up to 7 days if medically necessary;
- Reworked the PDMP statute to require that prescribing practitioners check the PDMP prior to prescribing a controlled substance and to allow the integration of PDMP data with electronic health records and the sharing of PDMP data between Florida and other states; and
- Provided for additional funding for treatment and other issues related to opioid abuse.

III. Effect of Proposed Changes:

CS/SB 630 amends s. 456.44, F.S., to establish legislative findings that every competent adult has the right of self-determination regarding healthcare decisions, including the right to refuse treatment with a Schedule II opioid controlled substance.

The bill requires the DOH to develop and publish on its website an educational pamphlet regarding the use of nonopioid alternatives for the treatment of pain. The pamphlet must include:

- Information on available nonopioid alternatives for the treatment of pain, including nonopioid medicinal drugs or drug products and nonpharmacological therapies; and
- The advantages and disadvantages of the use of nonopioid alternatives.

Additionally, the bill requires a health care practitioner, prior to providing anesthesia or ordering, administering, dispensing or prescribing a Schedule II opioid drug to a patient in a nonemergency situation, to:

- Inform the patient of available nonopioid alternatives for the treatment of pain, which may include nonopioid medicinal drugs or drug products, interventional procedures or treatments, acupuncture, chiropractic treatments, massage therapy, physical therapy, occupational therapy, or any other appropriate therapy as determined by the health care practitioner;

[9] *Id.*
[10] *See* Exec. Order No. 17-146, available at https://www.flgov.com/wp-content/uploads/2017/05/17146.pdf.
[11] *Id.*

- Discuss the advantages and disadvantages of the use of nonopioid alternatives, including whether the patient is at a high risk of, or has a history of, controlled substance abuse or misuse and the patient's personal preferences;
- Provide the patient with the educational pamphlet described in paragraph (b); and
- Document the nonopioid alternatives considered in the patient's record.

The bill provides an effective date of July 1, 2019.

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:

CS/SB 630 may have an indeterminate negative fiscal impact on the DOH related to the development of the educational pamphlet but such impact would likely be absorbed within existing resources.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 456.44 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 Health Policy on April 1, 2019:
The CS eliminates the requirement that the DOH adopt in rule a voluntary nonopioid directive form and all related requirements placed on a health care practitioner. The CS instead requires the DOH to create and publish an educational pamphlet on its website regarding nonopioid alternatives for the treatment of pain. Additionally, the bill requires a health care practitioner to, prior to treating a patient with anesthesia or a Schedule II opioid medication in a non-emergency situation, inform the patient of available nonopioid alternatives for the treatment of pain, discuss the advantages and disadvantages of the use of nonopioid alternatives, provide the patient with the pamphlet created by the DOH, and document any alternatives considered in the patient's record.

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 Health Policy; and Senators Perry and Baxley

588-03681-19 2019630c1

A bill to be entitled

An act relating to nonopioid alternatives; amending s. 456.44, F.S.; providing a legislative finding; requiring the Department of Health to develop and publish on its website an educational pamphlet regarding the use of nonopioid alternatives for the treatment of pain; requiring that the pamphlet include specified information, including the advantages and disadvantages of the use of such alternatives; providing requirements for health care practitioners; providing an exception; providing an effective date.

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

Section 1. Subsection (7) is added to section 456.44, Florida Statutes, to read:

456.44 Controlled substance prescribing.—

(7) NONOPIOID ALTERNATIVES.—

(a) The Legislature finds that every competent adult has the fundamental right of self-determination regarding decisions pertaining to his or her own health, including the right to refuse an opioid drug listed as a Schedule II controlled substance in s. 893.03 or 21 U.S.C. s. 812.

(b) The department shall develop and publish on its website an educational pamphlet regarding the use of nonopioid alternatives for the treatment of pain. The pamphlet must, at a minimum, include:

1. Information on available nonopioid alternatives for the treatment of pain, including nonopioid medicinal drugs or drug products and nonpharmacological therapies; and

2. The advantages and disadvantages of the use of nonopioid alternatives.

(c) Except in the provision of emergency services and care, as defined in s. 395.002, before providing anesthesia or ordering, administering, dispensing, or prescribing an opioid drug listed as a Schedule II controlled substance in s. 893.03 or 21 U.S.C. s. 812 for the treatment of pain, a health care practitioner shall:

1. Inform the patient of available nonopioid alternatives for the treatment of pain, which may include nonopioid medicinal drugs or drug products, interventional procedures or treatments, acupuncture, chiropractic treatments, massage therapy, physical therapy, occupational therapy, or any other appropriate therapy as determined by the health care practitioner;

2. Discuss the advantages and disadvantages of the use of nonopioid alternatives, including whether the patient is at a high risk of, or has a history of, controlled substance abuse or misuse and the patient's personal preferences;

3. Provide the patient with the educational pamphlet described in paragraph (b); and

4. Document the nonopioid alternatives considered in the patient's record.

Section 2. This act shall take effect July 1, 2019.

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

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 9, 2019

I respectfully request that **Senate Bill #630**, relating to Nonopioid Alternatives, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

W. Keith Perry

Senator Keith Perry
Florida Senate, District 8

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Criminal Justice, *Chair*
Infrastructure and Security, *Vice Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Banking and Insurance
Education

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR KEITH PERRY
8th District

MEMORANDUM

To: Senator Lizbeth Benacquisto, Rules Chair
From: Senator Keith Perry
Subject: Unable to Present SB 630
Date: April 16, 2019

Chair Benacquisto,

Unfortunately I will not be able to present my bill SB 630 regarding Nonopioid Alternatives in front of the Rules Committee on Wednesday April 17th. I have asked Senator Flores to present it in my place and I would greatly appreciate your approval of her presentation.

Thank you for your time and understanding.

Respectfully,

W. Keith Perry

REPLY TO:
- 2610 NW 43rd Street, Suite 2B, Gainesville, Florida 32606 (352) 264-4040
- Marion County Board of Commissioners, 115 SE 25th Avenue, Ocala, Florida 34471
- Putnam County Government Complex, 2509 Crill Avenue, Palatka, Florida 32177
- 316 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5008

Senate's Website: *www.flsenate.gov*

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/19/2019
Meeting Date

630
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S
Street

Phone 727/892-9291

St Petersburg FL 33705
City *State* *Zip*

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4-17-2019
Meeting Date

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

630
Bill Number (if applicable)

Topic Nonopioid Alternatives

Amendment Barcode (if applicable)

Name Paul Lowell

Job Title Partner, Converge Government Affairs

Address 3250 NE 1st Ave, Ste 305 *Street*

Phone 305 423 4131

Miami *City* FL *State* 33137 *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Chiropractic Society

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

630
Bill Number (if applicable)

Topic SB 630 - Non-opioid Alternatives

Amendment Barcode (if applicable)

Name Natalie Kato

Job Title

Address 315 S. Calhoun St.
Street

Phone

Email

City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Association of Nurse Anesthetists

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

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 902
INTRODUCER:	Rules Committee and Senators Perry, Hutson, and Bracy
SUBJECT:	Building Permits
DATE:	April 18, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Toman	Yeatman	CA	**Favorable**
2.	Oxamendi	Imhof	IT	**Favorable**
3.	Toman	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 902 establishes processes and related procedures for property owners and local governments to close open and expired building permits. Specifically, the bill:

- Allows local governments to provide written notice to a property owner and contractor no less than 30 days before a building permit is set to expire.
- Creates a procedure for property owners to close open or expired building permits by retaining the original contractor or a different contractor to perform the work necessary and obtain the inspections required to close the permit.
- Clarifies that a subsequent contractor is only liable for the work she or he performs when working to close a permit.
- Allows the owner of a residential property to close a permit by assuming the role of an owner-builder upon approval from the local enforcement agency (LEA).
- Provides a LEA may close a building permit after 6 years, if the agency determines that no apparent safety hazards exist.
- Prohibits a LEA from penalizing or denying issuance of a building permit to a subsequent arms-length purchaser solely because a previous owner applied for a permit which was not closed.
- Prohibits a LEA from denying issuance of a building permit to a contractor solely because the contractor is listed on other building permits that are not closed.
- Limits a LEA to only charge one search fee for identifying building permits for a particular tax parcel.

- Establishes that the prevailing Florida Building Code used for compliance when closing open or expired permits is the Code in effect at the time of the permit application.

The effective date of the bill is October 1, 2019.

II. Present Situation:

Florida Building Code

Part IV of ch. 553, F.S., is known as the "Florida Building Codes Act." The purpose and intent of the Florida Building Codes Act is to provide a mechanism for the uniform adoption, updating, interpretation, and enforcement of a single, unified state building code.[1] The Florida Building Code must be applied, administered and enforced uniformly and consistently from jurisdiction to jurisdiction.[2] The Florida Building Commission develops and maintains the Florida Building Code.[3]

Enforcement of the Florida Building Code: Permits and Inspections

It is the intent of the Legislature that local governments have the power to inspect all buildings, structures, and facilities within their jurisdictions in protection of the public's health, safety, and welfare.[4] Authorized state and local government agencies enforce the Florida Building Code and issue building permits.[5]

A building permit is an official document or certificate issued by the local building official that authorizes performance of a specific activity.[6] 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 enforcing agency upon the payment of reasonable fees as set forth in a schedule of fees adopted by the enforcing agency.[7] A local building department or enforcement agency must post each type of building permit application on its website.[8] Each application must be inscribed with the date of application and the Florida Building Code in effect as of that date.[9] All permits must contain a disclosure stating that there may be other permitting requirements from other governmental entities beyond the local building department or enforcement agency.[10]

---

[1] Section 553.72(1), F.S.
[2] *Id.*
[3] Section 553.74, F.S. The Florida Building Commission is a 27-member technical body made up of design professionals, contractors, and government experts in various disciplines covered by the Florida Building Code.
[4] Section 553.72(2), F.S.
[5] *See* ss. 125.01(1)(bb), 125.56(1), 553.72(3), and 553.80(1) F.S.
[6] Section 553.79(1)(b), F.S. requires a local code enforcement agency to post each type of building permit application on its website. Section 202, 2017 Florida Building Code – Building, Sixth Edition (July 2017) *available at* https://codes.iccsafe.org/content/FBC2017/chapter-2-definitions (last visited Mar. 20, 2019).
[7] *See* ss. 125.56(4)(a) and 553.79(1), F.S. Other entities may, by resolution or regulation, be directed to issue permits.
[8] Section 553.79(1)(b), F.S.
[9] Section 105.3., 2017 Florida Building Code.
[10] Section 553.79(10), F.S.

Abandoned or Expired Permits

Section 105 of the Florida Building Code provides certain activity-related characterizations of building permits although it does not explicitly define open permits. An application for a building permit is deemed *abandoned* 180 days after the filing of the permit application unless the application has been pursued in good faith or an extension has been granted by the local building department.[11] In addition, a permit becomes *invalid* if no work starts within six months after issuance of the permit or if work on the project ceases for a period of six months after work has commenced on the project.[12] A new permit is required if a permit is revoked after work has commenced, becomes *null and void*, or *expires* because of a lack of progress on the project.[13] If a new permit is not obtained within 180 days from the date the permit becomes null and void, the local enforcement agency may require the removal of all work that has been performed on the project.[14] Work shall be considered to be in *active progress* when the permit has received an approved inspection within 180 days.[15] The fee for renewal, reissuance, and extension of a permit is set forth by the administrative authority.[16]

Real Estate Disclosure Agreement Forms

Florida's real estate industry has developed standardized forms for many real property transactions for use by owners, real estate agents, and attorneys. It is common for a seller of real property to complete a property disclosure form prior to the sale of the property to disclose all known facts materially affecting the value of the property being sold and that are not readily observable or known by the buyer.[17] A recent addition to the seller's property disclosure form includes questions pertaining to active or open permits on the property which have not been closed by a final inspection.

Created jointly by the Florida Bar (BAR) and Florida Realtors (FR),[18] the standard contract[19] and the "As Is" residential contracts for sale and purchase"[20] are accepted forms for transactions of varied configurations and complexities. The forms outline responsibilities and obligations of the parties in a real estate transaction closing, including inspection periods, seller disclosures, and status of building permits. Under paragraph 12 of the standard contract, if the buyer gives notice of permit issues, the seller is obligated to resolve open or expired permits and obtain permits for any unpermitted improvements up to a certain dollar amount. Under paragraph 12 of the "As Is"

[11] Section 105.3.2, 2017 Florida Building Code.
[12] Section 105.4.1, 2017 Florida Building Code.
[13] Section 105.4.1.1, 2017 Florida Building Code.
[14] Section 105.4.1.2, 2017 Florida Building Code.
[15] Section 105.4.1.3, 2017 Florida Building Code.
[16] Section 105.4.1.4, 2017 Florida Building Code.
[17] An example of a seller's property disclosure form is available at: https://www.nefar.com/filebin/pdbdb/11/728_11.pdf (last visited March 9, 2019).
[18] Florida Realtors, formerly the Florida Association of Realtors (FAR), is a trade association for the real estate industry, available at: https://www.floridarealtors.org/AboutFar/AboutUs/index.cfm (last visited Mar. 20, 2019).
[19] An example of the FR/BAR Standard Contract is available at: https://www.floridarealtors.org/LegalCenter/HotTopics/upload/FloridaRealtors-FloridaBar-5_032217_Watermarked-3.pdf (last visited Mar. 20, 2019).
[20] An example of the FR/BAR 'AS IS' Contract is available at: *https://www.needtosellmyhousefast.com/wp-content/uploads/2014/08/Florida-FAR-BAR-AS-IS-Residential-Contract-For-Sale-and-Purchase.pdf* (last visited Mar. 20, 2019).

contract, the seller must assist the buyer with closing permits but is not obligated to spend money for this purpose.

In response to the disclosure requirements pertaining to open or expired permits on the seller's disclosure form and the FR/BAR forms, title companies, closing agents, and real estate attorneys research properties to determine if open or expired permits exist. Without resolution of such permits, closings may be delayed and clarity on buyer, seller, contractor, and enforcement agency understanding and accountability for permit resolution can be compromised.

Construction Work Performed by Owners of Property

Sections 489.103(7) and 489.503(6), F.S., exempt construction work and electrical contracting work, respectively, from licensure requirements if the work is performed by owners of property acting as their own contractor and providing direct, onsite supervision themselves of all work not performed by licensed contractors. To qualify for the exemption, an owner must appear and sign the building permit application and must satisfy all local permitting requirements.

Contractor Liability

When a contractor contracts for a project they are liable for the work they perform. During the progress of the work the contractor has a duty to exercise due care, and while the contractor is in control of the project site, the contractor is liable for harm resulting from defects, hidden or otherwise.[21]

According to the Department of Business and Professional Regulation (DBPR), a substitute contractor is expected to be competent to assess, contract for, and repair a situation that was left behind by the previous contractor so that a project can be completed in accordance with the Florida Building Code.[22]

III. Effect of Proposed Changes:

Section 1 amends s. 125.56, F.S., to provide that a county that issues building permits may send a written notice of expiration to the owner of a property and the contractor listed on the permit no less than 30 days before a permit is set to expire. The section also limits a county to charging a person only one search fee, commensurate with its costs, for identifying building permits assigned to a particular tax parcel.

Section 2 amends s. 166.222, F.S., to limit a municipality to charging a person only one search fee, commensurate with its costs, for identifying building permits assigned to a particular tax parcel.

Section 3 amends s. 489.103(7), F.S., to expand the owner-builder exemption to licensure requirements for construction contractors to allow a property owner to complete requirements of a building permit when the contractor listed on the permit has substantially completed a project

[21] *See* Slavin v. Kay, 108 So. 2d 462, 467 (Fla. 1958).
[22] Florida Department of Business and Professional Regulation, *2019 Agency Analysis of HB 447*, *available at* http://abar.laspbs.state.fl.us/ABAR/Document.aspx?id=23010&yr=2019 (last visited April 17, 2019).

for one-family or two-family residences, townhomes or an individual residential condominium unit or cooperative unit. Prior to qualifying for the exemption, the owner must receive approval from the local permitting agency including the determination of substantial completion. An owner who qualifies for the exemption is not required to occupy the dwelling or unit for at least one year after the completion of the project.

Section 4 amends s. 489.503(6), F.S., to expand the owner-builder exemption to licensure requirements for electrical and alarm systems contractors to allow a property owner to complete requirements of a building permit when the contractor listed on the permit has substantially completed a project for one-family or two-family residences, townhomes or an individual residential condominium unit or cooperative unit. Prior to qualifying for the exemption, the owner must receive approval from the local permitting agency including the determination of substantial completion. An owner who qualifies for the exemption is not required to occupy the dwelling or unit for at least one year after the completion of the project.

Section 5 amends s. 553.79, F.S., to provide that local governments that issue building permits may send a written notice of expiration to the owner of a property and the contractor listed on the permit no less than 30 days before a permit is set to expire. The section also allows a property owner, whether or not the owner is listed on the application for a building permit, to close the permit by complying with the following requirements:

- Retain the original contractor listed on the permit or hire a different contractor to perform the work necessary to satisfy the conditions of the permit and to obtain any necessary inspections in order to close the permit.
- Assume the role of an owner-builder in accordance with ss. 489.103(7) and 489.503(6), F.S.

If hiring a contractor other than the original contactor when closing the permit, the new contactor is not liable for any defects in the work performed by the original contractor, only for the new work she or he performs. To ‘close’ a permit is defined to mean that the requirements of the permit have been satisfied.

If a building permit is expired and its requirements have been deemed substantially completed by the local enforcement agency, the permit may be closed without having to obtain a new building permit and the work required may be done pursuant to the building code in effect at the time the local enforcement agency received the permit application, unless the contractor has sought and received approval for an alternative material, design, or method of construction.

A local enforcement agency may close a building permit six years after the issuance of the permit, even in the absence of a final inspection, if the agency determines that no apparent safety hazards exist.

Finally, a local enforcement agency may not deny issuance of a building permit to issue a notice of violation to, or fine, penalize, sanction, or assess fees against an arms-length purchaser of a property for value solely because a building permit was applied for by a previous owner of the property. Relatedly, an agency may not deny issuance of a building permit to a contractor solely because the contractor is listed on other building permits that were not closed. The local enforcement agency shall maintain all rights and remedies against the property owner and contractor listed on the permit.

Section 6 amends s. 553.80, F.S., to limit a local government to charging a person only one search fee, commensurate with its costs, for identifying building permits assigned to a particular tax parcel.

Section 7 amends s. 440.103, F.S., to provide a clarifying cross-reference.

Section 8 provides an effective date of October 1, 2019.

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:

Property owners may incur additional costs to conduct searches for open and expired permits. To the extent that these searches identify such permits early on, the cost incurred may be less than the cost to resolve open or expired permits at a later date.

C. Government Sector Impact:

Local building departments and local enforcement agencies may incur costs related to the permissive noticing authorized by the bill.

VI. Technical Deficiencies:

None.

VII. Related Issues:

A DBPR analysis of an earlier version of the bill indicated that the department may require additional rulemaking authority to accommodate new statutory provisions. It is unclear if the bill as amended may also necessitate rulemaking.[23]

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 125.56, 166.222, 440.103, 489.103, 489.503, 553.79, and 553.80.

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 Rules on April 17, 2019:
The committee substitute reorganizes and streamlines the bill into substantive statutory sections for clarity of intent with the following provisions:

- Allows local governments to provide written notice by USPS or e-mail to a property owner and contractor no less than 30 days before a building permit is set to expire.
- Creates a procedure for any property owner to close open and expired building permits by retaining the original contractor or a different contractor to perform the work necessary and obtain the inspections required to close the permit.
- Clarifies a subsequent contractor is only liable for the work she or he performs when working to close a permit.
- Allows the owner of a residential property to close a permit by assuming the role of an owner-builder upon approval from the local enforcement agency (LEA).
- Provides a LEA may close a building permit after 6 years, if the agency determines that no apparent safety hazards exist.
- Prohibits a LEA from penalizing or denying issuance of a building permit to a subsequent arms-length purchaser solely because a previous owner applied for a permit which was not closed.
- Prohibits a LEA from denying issuance of a building permit to a contractor solely because the contractor is listed on other building permits that are not closed.
- Limits a LEA to only charge one search fee for identifying building permits for a particular tax parcel.
- Establishes that the prevailing Florida Building Code used for compliance when closing open or expired permits is the Code in effect at the time of the permit application.

[23] *Id.*

B. Amendments:

None.

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

768214

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Perry) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Paragraphs (c) and (d) are added to subsection (4) of section 125.56, Florida Statutes, to read:

125.56 Enforcement and amendment of the Florida Building Code and the Florida Fire Prevention Code; inspection fees; inspectors; etc.—

(4)

(c) A county that issues building permits may send a

768214

written notice of expiration, by e-mail or United States Postal Service, to the owner of the property and the contractor listed on the permit, no less than 30 days before a building permit is set to expire. The written notice must identify the permit that is set to expire and the date the permit will expire.

(d) A county that issues building permits may charge a person only one search fee, in an amount commensurate with the research and time costs incurred by the county, for identifying building permits for each unit or subunit assigned by the county to a particular tax parcel identification number.

Section 2. Section 166.222, Florida Statutes, is amended to read:

166.222 Building code inspection fees.—

(1) The governing body of a municipality may provide a schedule of reasonable inspection fees in order to defer the costs of inspection and enforcement of the provisions of its building code.

(2) The governing body of a municipality that issues building permits may charge a person only one search fee, in an amount commensurate with the research and time costs incurred by the governing body, for identifying building permits for each unit or subunit assigned by the governing body to a particular tax parcel identification number.

Section 3. Paragraphs (a) and (c) of subsection (7) of section 489.103, Florida Statutes, are amended to read:

489.103 Exemptions.—This part does not apply to:

(7)(a) Owners of property when acting as their own contractor and providing direct, onsite supervision themselves of all work not performed by licensed contractors:

768214

1. When building or improving farm outbuildings or one-family or two-family residences on such property for the occupancy or use of such owners and not offered for sale or lease, or building or improving commercial buildings, at a cost not to exceed $75,000, on such property for the occupancy or use of such owners and not offered for sale or lease. In an action brought under this part, proof of the sale or lease, or offering for sale or lease, of any such structure by the owner-builder within 1 year after completion of same creates a presumption that the construction was undertaken for purposes of sale or lease.

2. When repairing or replacing wood shakes or asphalt or fiberglass shingles on one-family, two-family, or three-family residences for the occupancy or use of such owner or tenant of the owner and not offered for sale within 1 year after completion of the work and when the property has been damaged by natural causes from an event recognized as an emergency situation designated by executive order issued by the Governor declaring the existence of a state of emergency as a result and consequence of a serious threat posed to the public health, safety, and property in this state.

3. When installing, uninstalling, or replacing solar panels on one-family, two-family, or three-family residences, and the local permitting agency’s county or municipal government is participating in a “United States Department of Energy SunShot Initiative: Rooftop Solar Challenge” grant. However, an owner must utilize a licensed electrical contractor to effectuate the wiring of the solar panels, including any interconnection to the customer’s residential electrical wiring. The limitations of

768214

this exemption shall be expressly stated in the building permit approved and issued by the permitting agency for such project.

4. When completing the requirements of a building permit, where the contractor listed on the permit substantially completed the project as determined by the local permitting agency, for a one-family or two-family residence, townhome, or an accessory structure of a one-family or two-family residence or townhome or an individual residential condominium unit or cooperative unit. Prior to qualifying for the exemption, the owner must receive approval from the local permitting agency, and the local permitting agency must determine that the contractor listed on the permit substantially completed the project. An owner who qualifies for the exemption under this subparagraph is not required to occupy the dwelling or unit for at least 1 year after the completion of the project.

(c) To qualify for exemption under this subsection, an owner must personally appear and sign the building permit application and must satisfy local permitting agency requirements, if any, proving that the owner has a complete understanding of the owner's obligations under the law as specified in the disclosure statement in this section. However, for purposes of implementing a "United States Department of Energy SunShot Initiative: Rooftop Solar Challenge" grant and the participation of county and municipal governments, including local permitting agencies under the jurisdiction of such county and municipal governments, an owner's notarized signature or personal appearance to sign the permit application is not required for a solar project, as described in subparagraph (a)3., if the building permit application is submitted

768214

electronically to the permitting agency and the owner certifies the application and disclosure statement using the permitting agency's electronic confirmation system. If any person violates the requirements of this subsection, the local permitting agency shall withhold final approval, revoke the permit, or pursue any action or remedy for unlicensed activity against the owner and any person performing work that requires licensure under the permit issued. The local permitting agency shall provide the person with a disclosure statement in substantially the following form:

DISCLOSURE STATEMENT

1. I understand that state law requires construction to be done by a licensed contractor and have applied for an owner-builder permit under an exemption from the law. The exemption specifies that I, as the owner of the property listed, may act as my own contractor with certain restrictions even though I do not have a license.

2. I understand that building permits are not required to be signed by a property owner unless he or she is responsible for the construction and is not hiring a licensed contractor to assume responsibility.

3. I understand that, as an owner-builder, I am the responsible party of record on a permit. I understand that I may protect myself from potential financial

768214

risk by hiring a licensed contractor and having the permit filed in his or her name instead of my own name. I also understand that a contractor is required by law to be licensed in Florida and to list his or her license numbers on permits and contracts.

4. I understand that I may build or improve a one-family or two-family residence or a farm outbuilding. I may also build or improve a commercial building if the costs do not exceed $75,000. The building or residence must be for my own use or occupancy. It may not be built or substantially improved for sale or lease, unless I am completing the requirements of a building permit where the contractor listed on the permit substantially completed the project. If a building or residence that I have built or substantially improved myself is sold or leased within 1 year after the construction is complete, the law will presume that I built or substantially improved it for sale or lease, which violates the exemption.

5. I understand that, as the owner-builder, I must provide direct, onsite supervision of the construction.

6. I understand that I may not hire an unlicensed person to act as my contractor or to supervise persons working on my building or residence. It is my responsibility to ensure that the persons whom I


768214

employ have the licenses required by law and by county or municipal ordinance.

7. I understand that it is a frequent practice of unlicensed persons to have the property owner obtain an owner-builder permit that erroneously implies that the property owner is providing his or her own labor and materials. I, as an owner-builder, may be held liable and subjected to serious financial risk for any injuries sustained by an unlicensed person or his or her employees while working on my property. My homeowner’s insurance may not provide coverage for those injuries. I am willfully acting as an owner-builder and am aware of the limits of my insurance coverage for injuries to workers on my property.

8. I understand that I may not delegate the responsibility for supervising work to a licensed contractor who is not licensed to perform the work being done. Any person working on my building who is not licensed must work under my direct supervision and must be employed by me, which means that I must comply with laws requiring the withholding of federal income tax and social security contributions under the Federal Insurance Contributions Act (FICA) and must provide workers’ compensation for the employee. I understand that my failure to follow these laws may subject me to serious financial risk.

768214

9. I agree that, as the party legally and financially responsible for this proposed construction activity, I will abide by all applicable laws and requirements that govern owner-builders as well as employers. I also understand that the construction must comply with all applicable laws, ordinances, building codes, and zoning regulations.

10. I understand that I may obtain more information regarding my obligations as an employer from the Internal Revenue Service, the United States Small Business Administration, the Florida Department of Financial Services, and the Florida Department of Revenue. I also understand that I may contact the Florida Construction Industry Licensing Board at ...(telephone number)... or ...(Internet website address)... for more information about licensed contractors.

11. I am aware of, and consent to, an owner-builder building permit applied for in my name and understand that I am the party legally and financially responsible for the proposed construction activity at the following address: ...(address of property)....

12. I agree to notify ...(issuer of disclosure statements)... immediately of any additions, deletions, or changes to any of the information that I have provided on this disclosure.



Licensed contractors are regulated by laws designed to protect the public. If you contract with a person who does not have a license, the Construction Industry Licensing Board and Department of Business and Professional Regulation may be unable to assist you with any financial loss that you sustain as a result of a complaint. Your only remedy against an unlicensed contractor may be in civil court. It is also important for you to understand that, if an unlicensed contractor or employee of an individual or firm is injured while working on your property, you may be held liable for damages. If you obtain an owner-builder permit and wish to hire a licensed contractor, you will be responsible for verifying whether the contractor is properly licensed and the status of the contractor’s workers’ compensation coverage.

Before a building permit can be issued, this disclosure statement must be completed and signed by the property owner and returned to the local permitting agency responsible for issuing the permit. A copy of the property owner’s driver license, the notarized signature of the property owner, or other type of verification acceptable to the local permitting agency is required when the permit is issued.

Signature: ...(signature of property owner)....



Date: ...(date)....

Section 4. Subsection (6) of section 489.503, Florida Statutes, is amended to read:

489.503 Exemptions.—This part does not apply to:

(6)(a) An owner of property making application for permit, supervising, and doing the work in connection with the construction, maintenance, repair, and alteration of and addition to a single-family or duplex residence for his or her own use and occupancy and not intended for sale or an owner of property when acting as his or her own electrical contractor and providing all material supervision himself or herself, when building or improving a farm outbuilding or a single-family or duplex residence on such property for the occupancy or use of such owner and not offered for sale or lease, or building or improving a commercial building with aggregate construction costs of under $75,000 on such property for the occupancy or use of such owner and not offered for sale or lease. In an action brought under this subsection, proof of the sale or lease, or offering for sale or lease, of more than one such structure by the owner-builder within 1 year after completion of same is prima facie evidence that the construction was undertaken for purposes of sale or lease.

(b) An owner of property completing the requirements of a building permit, where the contractor listed on the permit substantially completed the project as determined by the local permitting agency, for a one-family or two family residence, townhome, accessory structure of a one-family or two-family residence or townhome or individual residential condominium unit or cooperative unit. Prior to the owner qualifying for the

768214

exemption, the owner must receive approval from the local permitting agency, and the local permitting agency must determine that the contractor substantially completed the project. An owner who qualifies for the exemption under this paragraph is not required to occupy the dwelling or unit for at least 1 year after the completion of the project.

(c) This subsection does not exempt any person who is employed by such owner and who acts in the capacity of a contractor. For the purpose of this subsection, the term "owner of property" includes the owner of a mobile home situated on a leased lot. To qualify for exemption under this subsection, an owner shall personally appear and sign the building permit application and must satisfy local permitting agency requirements, if any, proving that the owner has a complete understanding of the owner's obligations under the law as specified in the disclosure statement in this section. If any person violates the requirements of this subsection, the local permitting agency shall withhold final approval, revoke the permit, or pursue any action or remedy for unlicensed activity against the owner and any person performing work that requires licensure under the permit issued. The local permitting agency shall provide the owner with a disclosure statement in substantially the following form:

Disclosure Statement

State law requires electrical contracting to be done by licensed electrical contractors. You have applied for a permit under an exemption to that law. The exemption allows you, as the

768214

owner of your property, to act as your own electrical contractor even though you do not have a license. You may install electrical wiring for a farm outbuilding or a single-family or duplex residence. You may install electrical wiring in a commercial building the aggregate construction costs of which are under $75,000. The home or building must be for your own use and occupancy. It may not be built for sale or lease, unless you are completing the requirements of a building permit where the contractor listed on the permit substantially completed the project. If you sell or lease more than one building you have wired yourself within 1 year after the construction is complete, the law will presume that you built it for sale or lease, which is a violation of this exemption. You may not hire an unlicensed person as your electrical contractor. Your construction shall be done according to building codes and zoning regulations. It is your responsibility to make sure that people employed by you have licenses required by state law and by county or municipal licensing ordinances.

Section 5. Present subsections (15) through (20) of section 553.79, Florida Statutes, are redesignated as subsections (17) through (22), respectively, new subsections (15) and (16) are added to that section, and paragraph (c) is added to subsection (1) of that section, to read:

553.79 Permits; applications; issuance; inspections.—

(c) A local government that issues building permits may send a written notice of expiration, by e-mail or United States Postal Service, to the owner of the property and the contractor listed on the permit, no less than 30 days before a building permit is set to expire. The written notice must identify the

768214

permit that is set to expire and the date the permit will expire.

(15)(a) A property owner, regardless of whether the property owner is the one listed on the application for the building permit, may close a building permit by complying with the following requirements:

1. The property owner may retain the original contractor listed on the permit or hire a different contractor appropriately licensed in this state to perform the work necessary to satisfy the conditions of the permit and to obtain any necessary inspections in order to close the permit. If a contractor other than the original contractor listed on the permit is hired by the property owner to close the permit, such contractor is not liable for any defects in the work performed by the original contractor and is only liable for the work that he or she performs.

2. The property owner may assume the role of an owner-builder, in accordance with ss. 489.103(7) and 489.503(6).

3. For purposes of this section, the term "close" means that the requirements of the permit have been satisfied.

(b) If a building permit is expired and its requirements have been substantially completed, as determined by the local enforcement agency, the permit may be closed without having to obtain a new building permit, and the work required to close the permit may be done pursuant to the building code in effect at the time the local enforcement agency received the application for the permit, unless the contractor has sought and received approval from the local enforcement agency for an alternative material, design, or method of construction.



(c) A local enforcement agency may close a building permit 6 years after the issuance of the permit, even in the absence of a final inspection, if the local enforcement agency determines that no apparent safety hazards exist.

(16)(a) A local enforcement agency may not deny issuance of a building permit to, issue a notice of violation to, or fine, penalize, sanction, or assess fees against an arms-length purchaser of a property for value solely because a building permit was applied for by a previous owner of the property was not closed. The local enforcement agency shall maintain all rights and remedies against the property owner and contractor listed on the permit.

(b) The local enforcement agency may not deny issuance of a building permit to a contractor solely because the contractor is listed on other building permits that were not closed.

Section 6. Paragraph (e) is added to subsection (7) of section 553.80, Florida Statutes, to read:

553.80 Enforcement.—

(7) The governing bodies of local governments may provide a schedule of reasonable fees, as authorized by s. 125.56(2) or s. 166.222 and this section, for enforcing this part. These fees, and any fines or investment earnings related to the fees, shall be used solely for carrying out the local government’s responsibilities in enforcing the Florida Building Code. When providing a schedule of reasonable fees, the total estimated annual revenue derived from fees, and the fines and investment earnings related to the fees, may not exceed the total estimated annual costs of allowable activities. Any unexpended balances shall be carried forward to future years for allowable

768214

activities or shall be refunded at the discretion of the local government. The basis for a fee structure for allowable activities shall relate to the level of service provided by the local government and shall include consideration for refunding fees due to reduced services based on services provided as prescribed by s. 553.791, but not provided by the local government. Fees charged shall be consistently applied.

(e) The governing body of a local government that issues building permits may charge a person only one search fee, in an amount commensurate with the research and time costs incurred by the governing body, for identifying building permits for each unit or subunit assigned by the governing body to a particular tax parcel identification number.

Section 7. Section 440.103, Florida Statutes, is amended to read:

440.103 Building permits; identification of minimum premium policy.—Every employer shall, as a condition to applying for and receiving a building permit, show proof and certify to the permit issuer that it has secured compensation for its employees under this chapter as provided in ss. 440.10 and 440.38. Such proof of compensation must be evidenced by a certificate of coverage issued by the carrier, a valid exemption certificate approved by the department, or a copy of the employer's authority to self-insure and shall be presented, electronically or physically, each time the employer applies for a building permit. As provided in s. 553.79(20) ~~s. 553.79(19)~~, for the purpose of inspection and record retention, site plans or building permits may be maintained at the worksite in the original form or in the form of an electronic copy. These plans



768214

and permits must be open to inspection by the building official or a duly authorized representative, as required by the Florida Building Code. As provided in s. 627.413(5), each certificate of coverage must show, on its face, whether or not coverage is secured under the minimum premium provisions of rules adopted by rating organizations licensed pursuant to s. 627.221. The words "minimum premium policy" or equivalent language shall be typed, printed, stamped, or legibly handwritten.

Section 8. This act shall take effect October 1, 2019.

================ 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 building permits; amending s. 125.56, F.S.; authorizing counties to provide notice to certain persons under certain circumstances; authorizing counties that issue building permits to charge a person a single search fee for a certain amount under certain circumstances; amending s. 166.222, F.S.; authorizing the governing bodies of municipalities to charge a person a single search fee for a certain amount under certain circumstances; to charge a person one search fee for a certain amount under certain circumstances; amending ss. 489.103 and 489.503, F.S.; providing exemptions to certain contracting requirements; revising forms for disclosure statements; amending s. 553.79, F.S.;

768214

authorizing a local government to provide notice to certain persons under certain circumstances within a specified timeframe; authorizing a property owner to close a permit under certain circumstances; providing that a contractor is not liable for work performed in certain circumstances; defining the term "close"; authorizing a local enforcement agency to close a permit under certain circumstances; prohibiting a local enforcement agency from taking certain actions relating to building permits that were applied for but not closed by a previous owner; providing that local enforcement agencies retain all rights and remedies against the property owner and contractor listed on such a permit; amending s. 553.80, F.S.; authorizing the governing body of a local government to charge a person a single search fee one search fee for a certain amount under certain circumstances; amending s. 440.103, F.S.; conforming a cross-reference; providing an effective date.

By Senator Perry

8-00857-19 2019902__

A bill to be entitled

An act relating to open and expired building permits; creating s. 553.7905, F.S.; specifying conditions under which a building permit is considered an open permit, expired permit, or closed permit; authorizing an open or expired permit to be closed on by or on behalf of the current property owner if certain requirements are met; prohibiting a local enforcement agency from taking certain actions against a subsequent arms-length purchaser of property because a building permit was not properly closed within certain time periods; providing that a local enforcement agency maintains all rights and remedies identified on the permit; providing that certain permits may be closed under certain circumstances; providing exceptions; authorizing the owner of a home for sale to assume the role of an owner-builder in order to resolve an open permit under certain circumstances; providing that such owner is not required to reside in the home for a specified period; authorizing a contractor to hold an unlimited number of permits; providing that certain provisions of the Florida Building Code are not applicable to certain permits; providing an exception; requiring a local enforcement agency to provide written notice to a property owner when issuing a building permit; authorizing a governmental entity to charge a fee for searching for and identifying certain open or unexpired building permits; requiring a local enforcement agency to send

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

8-00857-19 2019902__

a written notice to a property owner within a specified period if a permit has not been properly closed; providing requirements for the notice; providing that failure to receive written notice does not relieve certain persons from taking action to close a permit; providing construction; providing an effective date.

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

Section 1. Section 553.7905, Florida Statutes, is created to read:

553.7905 Open and expired permits; procedures for closing; notices to owners applying for permits.—

(1) A building permit shall be considered an open permit if it is issued for any portion of construction of any commercial, residential, or mixed-use project that has not received final inspection approval within one of the following periods:

(a) One year after the expiration of the notice of commencement or the last amendment thereto.

(b) In the absence of a notice of commencement:

1. One year after the last inspection conducted under the permit; or

2. If an inspection has not been performed on the project, 2 years after the date of issuance of the permit.

(2) If an open permit expires without receiving final inspection approval and without complying with other requirements of the permit at issue, the open permit shall be considered an expired permit as provided in s. 105.4 of the

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

Florida Building Code.

(3) A closed permit is a building permit in which any of the following apply:

(a) A final inspection approval has been obtained upon satisfaction of permit requirements.

(b) No work is started under the original permit within 6 months after issuance of the permit.

(c) The requirements of subsection (4) are satisfied.

(4) An open or expired permit may be closed by or on behalf of the current property owner, regardless of whether the property owner is the same owner who originally applied for the permit or is a subsequent owner, by complying with the requirements for closing permits pursuant to a mutual agreement between the current property owner and the local enforcement agency that issued the permit or, absent such an agreement, by complying with the following requirements:

(a) The property owner may retain the original contractor who obtained the permit or may hire a different contractor licensed in this state who possesses any license required for the performance of any work necessary to satisfy the conditions of the permit at issue, in order to close the open or expired permit; reactivate the permit if it is expired; or satisfy any requirement of the permit at issue not yet satisfied, including correcting of any code violation in accordance with the building code that was in effect when the application for the permit was filed, and obtaining any necessary inspection.

1. The state license of the contractor who performs these functions must be current and active.

2. After providing the local enforcement agency a written

notice of change to a new licensed contractor and reactivation of the permit, if applicable, the contractor is not liable for any existing defect or existing work that fails to comply with any applicable code, rule, regulation, ordinance, permit requirement, or law other than the work actually performed by the contractor.

3. The property owner and the permitholder under the original open or expired permit remain liable, within the period of any applicable statute of limitations or repose and as provided by applicable law, for any defect in the work or for failure to comply with any applicable code, rule, regulation, ordinance, permit requirement, or law.

4. To the extent required by chapter 489, the owner or the contractor may hire licensed subcontractors in the scope of the permitted work who may perform the functions of the contractor as outlined in this subsection to the extent the work is covered by the subcontractor's license.

5. All work required to properly close an open or expired permit under this section must be performed in accordance with the building code in effect on the date the application for the open or expired permit was filed, unless, pursuant to the building code in effect when the work is performed, the contractor has sought and received approval from the local enforcement agency for an alternative material, design, or method of construction.

(b)1. As an alternative to the procedures required in paragraph (a), a property owner may hire an engineer or architect who possesses a current and active license in this state; is experienced in designing, supervising, or inspecting

work of the nature covered by the open or expired permit at issue; and has at least 3 years of experience in performing field inspections regarding such work to inspect the construction work subject to the open or expired building permit, direct any repair necessary to comply with all the requirements of the permit, and confirm compliance by submitting an affidavit bearing the seal of the engineer or architect to the issuing local enforcement agency. The affidavit must be substantially in the following form:

I, ...(specify name)..., possess a current and active ...(specify engineering or architectural)... license in the State of Florida. I am experienced in designing, supervising, or inspecting work of the nature covered by the open or expired permit at the real property located at ...(specify address).... I have at least 3 years of experience in performing field inspections as to such work. I have inspected the construction work subject to the open or expired building permit number ...(specify number)..., and I confirm that the construction work complies with all known requirements of the permit at issue.

Signed:

...(affix licensing seal)...

2. If any of the permitted work includes construction outside the engineer's or architect's area of expertise, the

property owner, engineer, or architect may hire an engineer or architect licensed in the scope of the permitted work who may direct any necessary repairs to comply with all requirements of the permit at issue. The engineer or architect hired by the property owner, engineer, or architect must confirm compliance by submitting to the local enforcement agency issuing the permit a signed and sealed affidavit attesting to compliance with all requirements of the permit at issue.

3. The local enforcement agency issuing the permit shall accept the affidavit or affidavits referenced in this paragraph as satisfaction of all requirements of the permit at issue and shall thereafter close the building permit, unless the agency conducts its own final inspection within 7 business days after receipt of the affidavit or affidavits and discovers code or permit violations within the scope of work covered by the permit. Such violations must be corrected to the local enforcement agency's satisfaction as a condition to closing the permit. All work required to properly close an open or expired permit under this paragraph must be performed in accordance with the building code in effect on the date the application for the open or expired permit was filed, unless, pursuant to the building code in effect when the work is performed, the engineer or architect has sought and received approval from the local enforcement agency for an alternative material, design, or method of construction.

(5) The requirements of subsection (4) apply regardless of whether the building permit is open or has expired.

(6)(a) A local enforcement agency may not deny issuance of a building permit or issue a notice of violation to, or fine,

penalize, sanction, or assess fees against, a subsequent arms-length purchaser of the subject property for value solely because a building permit was not properly closed within one of the following periods:

1. Five years after expiration of the date of recordation of the notice of commencement or of the last amendment thereto.

2. If a notice of commencement was not recorded, within 7 years after the building permit was issued.

(b) A local enforcement agency shall maintain all rights and remedies against the property owner and contractor identified on the permit.

(7) An individual trade permit, or any other permit type determined by a local enforcement agency, may be closed 6 years after issuance of the permit if no apparent safety hazards exist and no code violations have been previously documented. This subsection does not apply to a building permit for a building project still under construction with a legally granted permit extension.

(8) As an alternative to the requirements in subsection (4), with the approval of the local enforcement agency, the owner of a home for sale may assume the role of an owner-builder in order to resolve an open permit for a substantially completed project when the project is abandoned or otherwise not completed by the licensed contractor who obtained the permit. The owner is not required to continue to reside in the home for 1 year. This alternative applies only to real property consisting of single or multiple family dwellings up to and including four units.

(9) A contractor may hold an unlimited number of active permits.

(10) Provisions in the Florida Building Code which authorize permits to be administratively closed by a local enforcement agency are not applicable to a permit subject to regulation by an agency not specifically enforcing the Florida Building Code, except where the local enforcement agency has regulatory authority over other areas related to the permit, such as zoning or other land development code provisions. Regulations not subject to such provisions in the Florida Building Code include, but are not limited to, local zoning and land use rules, local stormwater management rules, local platting and subdivision requirements, rules implemented by the Department of Health and the Department of Business and Professional Regulation, local utility standards, and provisions of the National Flood Insurance Program Community Rating System.

(11) When issuing a building permit, a local enforcement agency shall provide to the property owner a written notice, which may be electronically provided if the permit package is electronically provided, in substantially the following form:

IMPORTANT NOTICE REGARDING COMPLIANCE WITH THE INSPECTION AND APPROVAL PROCESS FOR ALL BUILDING PERMITS

You are receiving a building permit authorizing the construction referenced in the application that was submitted to this local enforcement agency by you or on your behalf. The permit is issued with conditions, including required building inspections and assurances that the construction complies with the design

submitted with the permit application and any other conditions referenced in the permit. It is critical that you ensure that all necessary building inspections are passed before the expiration of any notice of commencement or amendment thereto, as these inspections are important to ensure that construction has been performed in a safe and proper manner. If you have any questions regarding these procedures, please call the local enforcement agency. Your failure to comply may also result in unsafe conditions arising from your construction.

(12) The applicable governmental entity may charge only one search fee for searching for and identifying open or unexpired building permits for a tax parcel, regardless of how many units or subunits may be assigned by a municipality or county to a particular tax parcel identification number, in an amount commensurate with research and time costs incurred by the governmental entity.

(13) For all building permits issued after October 1, 2019, a local enforcement agency shall send a written notice to the property owner if a building permit has not been properly closed within 1 to 3 years after issuance of any such permit. The notice must advise the property owner of the need to properly close the permit upon completion of the work covered by the permit. Failure to receive written notice does not relieve the contractor or the property owner from taking the necessary actions to legally close the permit.

(14) This act does not prevent a local governmental entity

from enforcing any provision of a local land development code or other local ordinance not inconsistent with this section.

Section 2. This act shall take effect October 1, 2019.

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 26, 2019

I respectfully request that **Senate Bill #902**, relating to Open and Expired Building Permits, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

W. Keith Perry

Senator Keith Perry
Florida Senate, District 8

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Criminal Justice, *Chair*
Infrastructure and Security, *Vice Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Banking and Insurance
Education

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR KEITH PERRY
8th District

MEMORANDUM

To: Senator Lizbeth Benacquisto, Rules Chair
From: Senator Keith Perry
Subject: Unable to Present SB 902
Date: April 16, 2019

Chair Benacquisto,

Unfortunately, I will not be able to present my bill SB 902 regarding Open and Expired Building Permits in front of the Rules Committee on Wednesday April 17th. I have asked Senator Hutson to present it in my place, and I would greatly appreciate your approval of his presentation.

Thank you for your time and understanding.

Respectfully,

W. Keith Perry

REPLY TO:
☐ 2610 NW 43rd Street, Suite 2B, Gainesville, Florida 32606 (352) 264-4040
☐ Marion County Board of Commissioners, 115 SE 25th Avenue, Ocala, Florida 34471
☐ Putnam County Government Complex, 2509 Crill Avenue, Palatka, Florida 32177
☐ 316 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5008

Senate's Website: *www.flsenate.gov*

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

SB 902
Bill Number (if applicable)

768214
Amendment Barcode (if applicable)

Topic OPEN/EXPIRED PERMITS

Name CAM FENTRISS

Job Title LEG. COUNSEL

Address 1400 VILLAGE SQ #3-243
Street

TAL FL 32312
City *State* *Zip*

Phone 850-222-2772

Email AFENTRISS@FROC.COM

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLA. ROOFING & SHEET METAL CONTRACTORS ASSN

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4.17.19
Meeting Date

902
Bill Number (if applicable)

768214
Amendment Barcode (if applicable)

Topic Building Permits

Name Trey Goldman

Job Title Legislative Counsel

Address 200 S. Monroe St
Street

TLH FL 32301
City *State* *Zip*

Phone 850/224-1400

Email treyg@floridarealtors.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Realtors

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

902
Bill Number (if applicable)

768214
Amendment Barcode (if applicable)

Topic Building Permits

Name FRENCH BROWN

Job Title Lobbyist

Address 215 S. Monroe St. Suite 815
Street

Phone 850-455-0992

TALLAHASSEE FL 32301
City *State* *Zip*

Email fbrown@deanmead.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Real Property Probate & Trust Law Section of the FL BAR

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19	902
Meeting Date	*Bill Number (if applicable)*

Topic Open & Expired Building Permits	*Amendment Barcode (if applicable)*
Name Scott Jenkins	
Job Title Lobbyist	
Address 113 E. College Ave. Ste 200 *Street*	Phone 850 681 0829
TLH FL 32301 *City* *State* *Zip*	Email scott@willsmanagt.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

unless needed to talk

Representing Florida Home Builders Assoc.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

Topic _____ Bill Number 902 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH Phone 727-897-9291
Street

SAINT PETERSBURG FLORIDA 33705 E-mail JUSTICE2JESUS@YAHOO.COM
City *State* *Zip*

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

The Florida Senate

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 7046
INTRODUCER:	Governmental Oversight and Accountability Committee and Criminal Justice Committee
SUBJECT:	Critical Infrastructure Facilities and Staff
DATE:	April 16, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
	Cox	Jones		**CJ Submitted as Committee Bill**
1.	Hackett	McVaney	GO	**Fav/CS**
2.	Cox	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 7046 amends various statutes to address security and staffing concerns found within critical infrastructure facilities.

The bill prohibits the use of drones in close proximity to any:
- State correctional institution,
- Private correctional facility,
- Secure juvenile detention center or facility,
- Nonsecure, high-risk, or maximum-risk residential facility, or
- County detention facility.

The bill lowers the minimum age for employment as a correctional officer from 19 years of age to 18 years of age. This change also allows a person between the age of 18 years and 19 years to be certified as a correctional officer.

The bill also reenacts a number of sections relating to employment qualifications for certain officers to incorporate the changes made to s. 943.13, F.S.

The bill does not appear to affect state revenues or expenditures.

The bill takes effect July 1, 2019.

II. Present Situation:

Drone Regulatory Structure – General

A drone, also called Unmanned Aerial Vehicle (UAV) and Unmanned Aerial System (UAS), is defined in s. 934.50, F.S., as a powered, aerial vehicle that:

- Does not carry a human operator;
- Uses aerodynamic forces to provide vehicle lift;
- Can fly autonomously or be piloted remotely;
- Can be expendable or recoverable; and
- Can carry a lethal or nonlethal payload.[1]

Drones range in size from wingspans of 6 inches to 246 feet and can weigh from approximately 4 ounces to over 25,600 pounds.[2] They may be controlled manually or through an autopilot that uses a data link to connect the drone's pilot to the drone.[3] Drones can be equipped with various items, such as infrared cameras[4] and "LADAR" (laser radar).[5]

Drones are considered to be aircraft subject to the regulation by the Federal Aviation Administration (FAA).[6] In February 2012, Congress passed the FAA Modernization and Reform Act of 2012 (Modernization Act), which required the FAA to safely open the nation's airspace to drones by September 2015.[7] The Modernization Act vested authority to regulate the use of drones to the FAA, as it does all aircraft in the national airspace, with an emphasis on safety, efficiency, and national security.[8] The FAA has stated that state and local restrictions affecting

---

[1] Section 934.50(2), F.S.
[2] Department of Transportation, Federal Aviation Administration, *Unmanned Aircraft Operations in the National Airspace System*, 14 CFR Part 91, Docket No. FAA-2006-25714, February 6, 2007.
[3] *Id*.
[4] Infrared cameras can see objects through walls based on the relative levels of heat produced by the objects. Congressional Research Service, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, April 3, 2013, available at www.fas.org/sgp/crs/natsec/R42701.pdf (last visited February 13, 2019); Search and rescue drones equipped with thermal imaging help first responders identify the location of people lost in chaotic scenes, and police departments have started using drones with thermal capabilities to identify the location of suspects while keeping an infrared eye on their officers. Spire Drones, *Best Infrared Drones (Buying Guide)*, available at https://buythebestdrone.com/best-infrared-drones/ (last visited February 13, 2019).
[5] The research and development laboratory at the Massachusetts Institute of Technology has developed airborne ladar systems that generate detailed 3D imagery of terrain and structures, including those beneath dense foliage. The lab reports that the micro-ladar could be used under both clear and heavy foliage conditions for surveillance and reconnaissance missions as well as for humanitarian assistance and disaster relief operations. Lincoln Laboratory, Massachusetts Institute of Technology, R & D Projects, *Micro-ladar*, available at https://www.ll.mit.edu/r-d/projects/micro-ladar (last visited February 13, 2019).
[6] FAA, Office of the Chief Counsel, *State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet*, p. 1 (on file with the Senate Committee on Criminal Justice)(hereinafter cited as "FAA Fact Sheet").
[7] Pub. L. No. 112-95, (2012), The FAA Modernization and Reform Act of 2012; Congressional Research Service, *Drones in Domestic Surveillance Operations: Fourth Amendment Implications and Congressional Response*, April 3, 2013, available at www.fas.org/sgp/crs/natsec/R42701.pdf (last visited February 13, 2019).
[8] However, considerations such as privacy are beyond the scope of FAA authority. 14 CFR Parts 21, 43, 61, 91, 101, 107, 119, 133, and 183, *Operation and Certification of Small Unmanned Aircraft Systems*, 81 FR 42064-01, June 28, 2016; *See also* FAA Fact Sheet, p. 1.

drone operation should be consistent with federal statutory and regulatory framework pertaining to specified aspects of the airspace.[9]

Under the authority granted in the 2012 Act, the FAA issued its regulations on the operation and certification of small (less than 55 pounds at take-off) unmanned aircraft systems in June 2016.[10] The 2016 small drone regulations are still in effect and include airspace restrictions and a waiver mechanism allowing for deviations from drone operational restrictions upon application and authorization by the FAA.[11] The FAA issued regulations for drones used for commercial purposes, but hobbyist drones continue to fall under the model airplane safety guidelines, including flying at or below 400 feet and keeping the drone within sight.[12] Subsequent to the 2016 FAA regulations, Congress approved a 17-month extension of the authority of the FAA, known as the "Extension, Safety, and Security Act of 2016 (Extension Act)."[13] In addition to providing the FAA continued authority and funding to operate, the Extension Act required the FAA, by the end of 2016, to establish a process for operators or proprietors of fixed-site facilities to petition the FAA to prohibit or restrict the operation of an unmanned aircraft in close proximity to a fixed-site facility. The section provides that a "fixed-site facility" means critical infrastructure, oil refineries and chemical facilities, amusement parks, and other locations that warrant such restrictions.[14] As of February 2019, the FAA has not established such an application process for state or local fixed site facility entities to apply for such restrictions.

The FAA Chief Counsel stated in 2016 that the longstanding doctrine is that when the federal government does act, state and local governments cannot enact even complementary rules; however, he believes there needs to be a conversation over where state and local governments can put restrictions on low-altitude drone use "so we can get past the issue of what's state and what's federal."[15]

A number of states have enacted a wide range of laws that regulate, and even restrict, the operation of drones. Ten states, including Arizona, Louisiana, Nevada, New Jersey, North Carolina, Oregon, South Dakota, Tennessee, Texas and Wisconsin, prohibit drone operation near or over prisons.[16] Additionally, the FAA recently, at the request of its federal security partners, prohibited the operation of drones over a number of federal correctional facilities. There are only a few exceptions that permit drone flights within these restrictions, and they must be coordinated with the individual facility and/or the FAA. Operators who violate the flight restrictions may be subject to enforcement action, including potential civil penalties and criminal charges.[17]

---

[9] FAA Fact Sheet, p. 1.
[10] *Supra*, n. 8.
[11] *Id*.
[12] NCSL, *Regulating Drones: Who and How?*, available at http://www.ncsl.org/blog/2017/08/08/regulating-drones-who-and-how.aspx (last visited February 20, 2019).
[13] Pub. L. No. 114-190 (2016).
[14] Pub. L. No. 114-190, s. 2209 (2016).
[15] National Conference of State Legislators (NCSL), *Who Should Regulate Drones?*, available at http://www.ncsl.org/blog/2016/12/09/who-should-regulate-drones.aspx (last visited February 20, 2019).
[16] NCSL, *2017 Unmanned Aircraft Systems (UAS) State Legislation Update*, January 17, 2018, available at http://www.ncsl.org/research/transportation/2017-unmanned-aircraft-systems-uas-state-legislation-update.aspx (last visited February 20, 2019).
[17] FAA, News and Updates, *FAA Establishes Restrictions on Drone Operations over DOJ and DOD Facilities*, February 14, 2019, available at https://www.faa.gov/news/updates/?newsId=93048 (last visited February 20, 2019). The FAA used its

Therefore, it appears that such regulations related to the operation of drones near or over correctional facilities is consistent with the federal statutory and regulatory framework for the operation of drones.

Protection of Critical Infrastructure Facilities in Florida from Drone Traffic

Florida has enacted laws to ensure safety of specified locations within the state. Section 330.41, F.S., protects critical infrastructure facilities by prohibiting any person from knowingly or willfully:

- Operating a drone over a critical infrastructure facility, unless the drone is in transit for commercial purposes and is in compliance with Federal Aviation Administration (FAA) regulations;
- Allowing a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or
- Allowing a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

"Critical infrastructure facility" means any of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and which are posted on the property in a manner reasonably likely to come to the attention of intruders:

- An electrical power generation or transmission facility, substation, switching station, or electrical control center.
- A chemical or rubber manufacturing or storage facility.
- A mining facility.
- A natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline.
- A liquid natural gas or propane gas terminal or storage facility with a capacity of 4,000 gallons or more. Any portion of an aboveground oil or gas pipeline.
- A wireless communications facility, including tower, antennae, support structures, and all associated ground-based equipment.[18]

A first violation of this prohibition is a second degree misdemeanor[19] and a second or subsequent violation is a first degree misdemeanor.[20]

existing authority under Title 14 of the Code of Federal Regulations to address concerns about drone operations over national security sensitive facilities by establishing temporary unmanned aircraft system (UAS) specific flight restrictions. 14 C.F.R. s. 99.7 (2016).

[18] Section 33.41(2)(a), F.S.

[19] A second degree misdemeanor is punishable by up to 60 days in jail and up to a $500 fine. Sections 775.082 and 775.083, F.S.

[20] Section 330.41, F.S. A first degree misdemeanor is punishable by up to one year in jail and a fine of up to $1,000.

The prohibition does not apply to prohibited actions which are committed by:

- A federal, state, or other governmental entity, or a person under contract or otherwise acting under the direction of a federal, state, or other governmental entity;
- A law enforcement agency that is in compliance with s. 934.50, F.S., or a person under contract with or otherwise acting under the direction of such law enforcement agency; or
- An owner, operator, or occupant of the critical infrastructure facility, or a person who has prior written consent of such owner, operator, or occupant.[21]

Section 330.41(3)(a), F.S., preempts regulation of the operation of drones to the state except as provided in federal regulations, authorizations, or exemptions.[22] However, the statute does not limit the authority of a local government to enact or enforce local ordinances relating to nuisances, voyeurism, harassment, reckless endangerment, property damage, or other illegal acts arising from the use of drones if such laws or ordinances are not specifically related to the use of a drone for those illegal acts.[23]

To ensure that Florida is compliant with Federal laws related to the regulation of drones, s. 330.41(4), F.S., requires that the provisions limiting the operation of drones near critical infrastructure facilities sunsets 60 days after the FAA adopts rules to designate critical infrastructure facilities and provides a process for specified entities to apply for exemptions and protection from drone use.[24] Section 330.41, F.S., must be construed in accordance with standards imposed by federal statutes, regulations, and FAA guidance on UAS.[25]

Introduction of Contraband into State Facilities

The DOC asserts that the threat of the use of drones to introduce contraband into prison facilities is a major concern. The DOC reports that smaller items such as cell phones, illegal drugs, and tobacco can be easily carried by the inexpensive smaller drones sold at many retail stores and large items, such as guns, ammunition, and other weapons, are increasingly more likely to be introduced to a facility with drones becoming more and more capable, affordable, and available. Since the initiation of tracking in late 2016, the DOC reports that there have been 38 total reported incidents of drone sightings, some of which contain multiple drones sighted.[26]

[21] Section 330.41(4)(c), F.S.

[22] "Except as otherwise expressly provided, a political subdivision may not enact or enforce an ordinance or resolution relating to the design, manufacture, testing, maintenance, licensing, registration, certification, or operation of an unmanned aircraft system, including airspace, altitude, flight paths, equipment or technology requirements; the purpose of operations; and pilot, operator, or observer qualifications, training, and certification." Section 330.41(3)(b), F.S.

[23] Section 330.41(3)(c), F.S.

[24] Section 330.41(4)(e), F.S. As mentioned above, it does not appear that the FAA has adopted a process for designating critical infrastructure facilities at this time.

[25] Section 330.41(5), F.S.

[26] The DOC, *SPB 7046 Agency Analysis*, February 15, 2019, p. 2 (hereinafter cited as "The DOC SPB 7046 Analysis")(on file with the Criminal Justice Committee). *See also* The DOC, Office of Institutions, Bureau of Security, *Drone Threat to FDC Facilities Background Information*, p. 1-5 (on file with the Criminal Justice Committee). The DOC provided statistics for various contraband recovered in the last Fiscal Year, including 9,009 cell phones, 11,910 weapons, approximately 51,000 grams of various drugs, and 809,198 grams of tobacco were recovered in facilities during Fiscal Year 2017-18.

It is a felony offense in Florida to introduce contraband into or upon the grounds of a state correctional institution, a juvenile detention facility or commitment program, or a county detention facility.[27]

Florida Statutes define the following state facilities:

- *State correctional institution* means 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.[28]
- *Privatized prisons* are authorized by ch. 957, F.S. The Department of Management Services contracts with private businesses who will establish cost-effective, privately operated correctional facilities in the State of Florida.[29]
- *Detention center or facility* means a facility used pending court adjudication or disposition or execution of court order for the temporary care of a child alleged or found to have committed a violation of law. A detention center or facility may provide secure custody. A facility used for the commitment of adjudicated delinquents shall not be considered a detention center or facility.[30]
- *Nonsecure residential facilities* are either environmentally secure, staff secure, or are hardware-secure with walls, fencing, or locking doors. Youth assessed and classified for placement in programs at this commitment level represent a low or moderate risk to public safety and require close supervision.[31]
- *High-risk residential facilities* are hardware-secure with perimeter fencing and locking doors. Youth assessed and classified for this level of placement require close supervision in a structured residential setting. Placement in programs at this level is prompted by a concern for public safety that outweighs placement in programs at lower commitment levels.[32]
- *Maximum-risk residential facilities* are maximum-custody, hardware-secure with perimeter security fencing and locking doors. Youth assessed and classified for this level of placement require close supervision in a maximum security residential setting. Placement in a program at this level is prompted by a demonstrated need to protect the public.[33]
- *County detention facility* means a county jail, a county stockade, a county work camp, a county residential probation center, and any other place except a municipal detention facility used by a county or county officer for the detention of persons charged with or convicted of either felony or misdemeanor.[34]

[27] Sections 944.47, 985.711, and 951.22, F.S.
[28] Section 944.02(8), F.S.
[29] Section 957.04(1)(e), F.S. Currently there are seven private prison facilities housing approximately 10,000 inmates in operation in Florida. The Department of Corrections, *2017-18 Annual Report*, p. 3 and 7, available at http://www.dc.state.fl.us/pub/annual/1718/FDC_AR2017-18.pdf (last visited February 14, 2019).
[30] Section 985.03(19), F.S.
[31] Section 985.03(44)(b), F.S.
[32] Section 985.03(44)(c), F.S.
[33] Section 985.03(44)(d), F.S.
[34] Section 951.23(1)(a), F.S.

Employment Qualifications for Certain Officers in Specified Facilities

The Criminal Justice Standards and Training Commission (Commission), which is housed within the Florida Department of Law Enforcement (FDLE), is responsible for implementing requirements related to the training, certification, and discipline of full-time, part-time,[35] and auxiliary[36] correctional officers.[37]

Section 943.10(2), F.S., defines "correctional officer" to mean any person who is appointed or employed full time by the state or any political subdivision thereof, or by any private entity which has contracted with the state or county, and whose primary responsibility is the supervision, protection, care, custody, and control, or investigation, of inmates within a correctional institution; however, the term "correctional officer" does not include any secretarial, clerical, or professionally trained personnel.[38]

Section 943.13, F.S., provides that, to be eligible to be employed as a correctional officer, the person must:

1. Be at least 19 years of age;
2. Be a citizen of the United States, notwithstanding any law of the state to the contrary;
3. Be a high school graduate or its equivalent;[39]
4. Not have been convicted of any felony or of a misdemeanor involving perjury or a false statement, or have received a dishonorable discharge from any of the Armed Forces of the United States;[40]
5. Have documentation of his or her processed fingerprints on file with the employing agency or, if a private correctional officer, have documentation of his or her processed fingerprints on file with the Department of Corrections (DOC) or the Commission;[41]

[35] Section 943.10(7), F.S., defines "part-time correctional officer" to mean any person who is employed or appointed less than full time, as defined by the employing or appointing agency, with or without compensation, whose responsibilities include the supervision, protection, care, custody, and control of inmates within a correctional institution.
[36] Section 943.10(9), F.S., defines "auxiliary correctional officer" to mean any person employed or appointed, with or without compensation, who aids or assists a full-time or part-time correctional officer and who, while under the supervision of a full-time or part-time correctional officer, has the same authority as a full-time or part-time correctional officer for the purpose of providing supervision, protection, care, custody, and control of inmates within a correctional institution or a county or municipal detention facility.
[37] Correctional officers are eligible for special risk class benefits in accordance with s. 121.0515, F.S. Special risk class membership awards more retirement credit per year of service than is awarded to other employees due to the increased risk that such employees undertake as a part of their duties. Membership of correctional officers in the special risk class is determined by whether the officer's primary duties and responsibilities involve the custody of prisoners or inmates within a prison, jail, or other criminal detention facility, or while on work detail outside the facility, or while being transported; or whether the officer is the supervisor or command officer of a member or members who have such responsibilities. Section 121.0515(1) and (3)(c), F.S.
[38] Section 943.10(2), F.S.
[39] Section 943.13(3), F.S., provides that the Commission must define the term high school equivalency in rule.
[40] Section 943.13(4), F.S., further specifies that: a. Any person who, after July 1, 1981, pleads guilty or nolo contendere to or is found guilty of any felony or of a misdemeanor involving perjury or a false statement is not eligible for employment or appointment as an officer, notwithstanding suspension of sentence or withholding of adjudication; and b. Any person who has pled nolo contendere to a misdemeanor involving a false statement, prior to December 1, 1985, and has had such record sealed or expunged shall not be deemed ineligible for employment or appointment as an officer.
[41] Section 943.13(5), F.S., provides that the FDLE must retain and enter into the statewide automated biometric identification system all fingerprints submitted. Thereafter, the fingerprints must be available for all purposes and uses authorized for arrest fingerprints entered in the statewide automated biometric identification system pursuant to s. 943.051, F.S. The FDLE is also

6. Have passed a physical examination by a licensed physician, physician assistant, or certified advanced registered nurse practitioner, based on specifications established by the Commission;
7. Have a good moral character as determined by a background investigation by the Commission;
8. Execute and submit a sworn affidavit-of-applicant form attesting to his or her compliance with the above-listed requirements to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity;
9. Complete a Commission approved basic recruit training program for the applicable criminal justice discipline, unless exempt under law;[42] and
10. Achieve an acceptable score on the officer certification examination for the applicable criminal justice discipline.

If a critical need for officers exists, the employing agency may temporarily employ a person as a correctional officer, if he or she has met the first eight requirements listed above.[43] Any person employed as a temporary correctional officer must be supervised by another correctional officer anytime he or she is performing any duties of a correctional officer and must attend the first basic recruit training program offered in the geographic area within 180 consecutive days of employment.[44] A person temporarily employed as a correctional officer is prohibited from being employed in the position for more than 30 months. However, a person that is attending the first available basic recruit training program offered in his or her geographic area may continue to be employed as a temporary correctional officer until he or she:

- Fails or withdraws from the basic recruit training program; or
- Is separated from employment or appointment by the employing agency.[45]

Any person employed as a correctional officer, regardless of age, must comply with all the above-described eligibility criteria and any other requirements imposed by the Commission, including such requirements as continuing education requirements proscribed in s. 943.135, F.S.

The DOC reports that 23 states permit 18 year olds to be employed as correctional officers.[46]

---

required to search all arrest fingerprints received pursuant to s. 943.051, F.S., against the fingerprints retained in the statewide automated biometric identification system in accordance with s. 943.13, F.S., and report to the employing agency any arrest records that are identified with the retained employee's fingerprints. These fingerprints must be forwarded to the FDLE for processing and retention.

[42] Section 943.13(9), F.S., provides an exemption for an applicant to be required to take the basic recruit training program, including that if the applicant has completed a comparable basic recruit training program for the applicable criminal justice discipline in another state or for the Federal Government and served as a full-time sworn officer in another state or for the Federal Government for at least 1 year. For the exemption to be available, the applicant cannot have more than an 8-year break in employment, as measured from the separation date of the most recent qualifying employment to the time a complete application is submitted for the exemption.

[43] Section 943.131(1)(a), F.S.

[44] Section 943.131(1)(a) and (c), F.S.

[45] Section 943.131(1)(b), F.S.

[46] The DOC SPB 7046 Analysis, p. 2. The DOC reported in its agency analysis for SB 854 (2017), which included this identical provision, that these states include Arkansas, Georgia, Illinois, Indiana, Kansas, Louisiana, Michigan, Minnesota, Mississippi, Montana, Nebraska, New Jersey, New Mexico, Rhode Island, South Carolina, South Dakota, Tennessee, Texas, Virginia, Washington, West Virginia, Wisconsin, and Wyoming. The DOC, *Senate Bill 854 (2017) Analysis*, at p. 2, (September 19, 2017) (on file with the Senate Committee on Criminal Justice).

Temporary Employment Authorization Assignments

Newly hired officers, unless previously certified as correctional officers under state regulations, are hired under "temporary employment authorization status" (TEA). TEA officers typically work in the institutions while waiting for training, which can take between three and six months.[47] TEA officers must work in positions under direct supervision by licensed correctional officers.[48] Department of Corrections Procedure 208.016, Officers in Temporary Employment Authorization Status, outlines procedures and requirements for the utilization of TEA officers and further establishes restrictions on their employment. TEA officers are not required to be firearms certified, must begin their basic recruit training within 180 consecutive days of beginning TEA status, and must complete basic recruit training within 18 months of beginning the training program. TEA officers are restricted from certain assignments, such as:

- Tower/vehicular/stationary perimeter posts,
- Vehicular gates,
- Outside work squads,
- Outside inmate transport/medical escort,
- Medical isolation/self-harm observation status,
- Canine, and
- Death row.

III. Effect of Proposed Changes:

Drones and Critical Infrastructure Facilities

Section 1 amends s. 330.41(2)(a), F.S., to include the following structures within the definition of the term "critical infrastructure facility":

- A state correctional institution as defined in s. 944.02, F.S., and a private prison as authorized in ch. 957, F.S.
- A secure juvenile detention center as defined in s. 985.03(45), F.S., or facility, nonsecure residential facility, high-risk residential facility, and maximum-risk residential facility as defined in s. 985.03(44), F.S.
- A county detention facility, as defined by s. 951.23, F.S.

The DOC cites concerns about utilizing drones to deliver contraband to jails and prisons. Introducing contraband by any means constitutes a felony offense.

Minimum Age Requirement for Correctional Officers in Critical Infrastructure Facilities

Section 2 amends s. 943.13, F.S., to reduce the minimum age requirement for correctional officers in state correctional facilities, which are considered critical infrastructure facilities, from 19 years of age to 18 years of age. The bill does not place any limitations on the duties that may be performed by a correctional officer who is younger than 19 years of age. According to the

[47] Florida Legislature Office of Program Policy Analysis and Government Accountability, *Study of Operations of the Florida Department of Corrections*, November 2015, available at http://www.oppaga.state.fl.us/MonitorDocs/Reports/pdf/15-FDC.pdf (last viewed March 16, 2019).
[48] Florida Department of Corrections, Procedure 602.030, *Security Staff Utilization.*

DOC factsheet, this change will help staff a position which is experiencing critical staffing and retention issues.

Sections 3 through 16 reenact ss. 943.131, 943.133, 943.137, 943.139, 943.1395, 943.14, 943.17, 943.253, 944.105, 944.714, 945.035, 948.01, 951.063, and 985.644, F.S., respectively, to incorporate the change made in section 2 regarding the minimum age requirement.

The bill takes effect July 1, 2019.

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 a state tax shares 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:

The regulation of the national airspace and the aircraft that occupy that airspace is a federal matter.[49] The FAA Chief Counsel issued a document in 2015 about state and local regulation of drones in which he said that state and local restrictions affecting unmanned aerial system operations should be consistent with the extensive federal statutory and regulatory framework in order to "ensure the maintenance of a safe and sound air transportation system and of navigable airspace free from inconsistent restrictions."[50] However, given the Chief Counsel's acknowledgement that "laws traditionally related to state and local police power – including land use, zoning, privacy, trespass, and law enforcement operations – generally are not subject to federal regulation"[51] it appears that

[49]Congress has vested the FAA with authority to regulate the areas of airspace use, management and efficiency, air traffic control, safety, navigational facilities, and aircraft noise at its source. 49 U.S.C. ss. 40103, 44502, and 44701-44735.
[50]FAA, Office of the Chief Counsel, *State and Local Regulation of Unmanned Aircraft Systems (UAS) Fact Sheet*, December 17, 2015, available at https://www.faa.gov/uas/resources/policy_library/media/UAS_Fact_Sheet_Final.pdf (last viewed February 4, 2019).
[51] *Id*., citing *Skysign International, Inc. v. City and County of Honolulu*, 276 F.3d 1109, 1115 (9th Cir. 2002).

the bill would not be an encroachment into an area exclusively regulated by the federal government.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill reduces the minimum age requirement to age 18 for a person to be (a) certified as a correctional officer if otherwise qualified, or (b) if a critical need for correctional officers exists, employed as a temporary correctional officer (and attend the next available training program in the geographic region). The bill may increase the number of persons eligible to be hired as a correctional officer, potentially reducing the number of vacant positions within the Department of Corrections. To the extent such hires have not completed the training program, the DOC may pay the new hire a state salary and incur the cost of the training program on behalf of the new hire.

VI. Technical Deficiencies:

None.

VII. Related Issues:

As of March 15, 2019, the DOC had 10,243 people employed as full-time correctional officers (class code 8003) statewide.[52] The department had another 2,053 correctional officer positions vacant as of that date. Of the active correctional officers, 2,367 appear to be correctional officer trainees, of which, according to the DOC, 982 are attending academies at this time. According to PeopleFirst data, 129 of the correctional officers are 20 years of age or less.

As a correctional officer trainee, the employee is paid $33,500 (the minimum salary of a certified correctional officer) until the employee completes the training and passes the certification test. The training is a 12-week program, paid for by the DOC. Costs incurred by the DOC include $2,334 for institutional academy on-boarding and $3,184 for academy tuition, equipment, and materials.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 930.41 and 943.13.

[52]https://salaries.myflorida.com/?utf8=%E2%9C%93&by_name=&by_agency=Department+of+Corrections&by_class_code=8003&min_salary=0&max_salary=317200 (last viewed on March 15, 2019).

This bill reenacts the following sections of the Florida Statutes: 943.131, 943.133, 943.137, 943.139, 943.1395, 943.14, 943.17, 943.253, 944.105, 944.714, 945.035, 948.01, 951.063, and 985.644, F.S.

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 19, 2019:
The committee substitute adds county detention facilities, as defined by s. 951.23, F.S., to the list of critical infrastructure facilities.

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 Committees on Governmental Oversight and Accountability; and Criminal Justice

585-03246-19 20197046c1

A bill to be entitled

An act relating to critical infrastructure facilities and staff; amending s. 330.41, F.S.; redefining the term "critical infrastructure facility"; reenacting and amending s. 943.13, F.S.; requiring any person employed as a full-time, a part-time, or an auxiliary correctional officer be at least 18 years of age; reenacting ss. 943.131(1)(a) and (c) and (4), 943.133(1) and (6), 943.137(1), 943.139(2), 943.1395(1), (2), and (3), 943.14(7), 943.17(4), 943.253, 944.105(7), 944.714(2), 945.035(3), 948.01(1)(a), 951.063, and 985.644(3)(b), F.S., all relating to employment qualifications or requirements for certain officers, to incorporate the amendment made to s. 943.13, F.S., in references thereto; providing an effective date.

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

Section 1. Paragraph (a) of subsection (2) of section 330.41, Florida Statutes, is amended, and subsection (4) of that section is republished, to read:

330.41 Unmanned Aircraft Systems Act.—

(2) DEFINITIONS.—As used in this act, the term:

(a) "Critical infrastructure facility" means any of the following, if completely enclosed by a fence or other physical barrier that is obviously designed to exclude intruders, or if clearly marked with a sign or signs which indicate that entry is forbidden and which are posted on the property in a manner

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

585-03246-19 20197046c1

reasonably likely to come to the attention of intruders:

1. An electrical power generation or transmission facility, substation, switching station, or electrical control center.

2. A chemical or rubber manufacturing or storage facility.

3. A mining facility.

4. A natural gas or compressed gas compressor station, storage facility, or natural gas or compressed gas pipeline.

5. A liquid natural gas or propane gas terminal or storage facility with a capacity of 4,000 gallons or more.

6. Any portion of an aboveground oil or gas pipeline.

7. A wireless communications facility, including the tower, antennae, support structures, and all associated ground-based equipment.

8. A state correctional institution as defined in s. 944.02 or a private correctional facility authorized under chapter 957.

9. A secure detention center or facility as defined in s. 985.03(45) or a nonsecure residential facility, a high-risk residential facility, or a maximum-risk residential facility, as those terms are described in s. 985.03(44).

10. A county detention facility as defined in s. 951.23.

(4) PROTECTION OF CRITICAL INFRASTRUCTURE FACILITIES.—

(a) A person may not knowingly or willfully:

1. Operate a drone over a critical infrastructure facility;

2. Allow a drone to make contact with a critical infrastructure facility, including any person or object on the premises of or within the facility; or

3. Allow a drone to come within a distance of a critical infrastructure facility that is close enough to interfere with the operations of or cause a disturbance to the facility.

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

(b) A person who violates paragraph (a) commits a misdemeanor of the second degree, punishable as provided in s. 775.082 or s. 775.083. A person who commits a second or subsequent violation commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(c) This subsection does not apply to actions identified in paragraph (a) which are committed by:

1. A federal, state, or other governmental entity, or a person under contract or otherwise acting under the direction of a federal, state, or other governmental entity.

2. A law enforcement agency that is in compliance with s. 934.50, or a person under contract with or otherwise acting under the direction of such law enforcement agency.

3. An owner, operator, or occupant of the critical infrastructure facility, or a person who has prior written consent of such owner, operator, or occupant.

(d) Subparagraph (a)1. does not apply to a drone operating in transit for commercial purposes in compliance with Federal Aviation Administration regulations, authorizations, or exemptions.

(e) This subsection shall sunset 60 days after the date that a process pursuant to s. 2209 of the FAA Extension, Safety and Security Act of 2016 becomes effective.

Section 2. Subsection (1) of section 943.13, Florida Statutes, is amended, and subsection (8) is reenacted, to read:

943.13 Officers' minimum qualifications for employment or appointment.—On or after October 1, 1984, any person employed or appointed as a full-time, part-time, or auxiliary law enforcement officer or correctional officer; on or after October

1, 1986, any person employed as a full-time, part-time, or auxiliary correctional probation officer; and on or after October 1, 1986, any person employed as a full-time, part-time, or auxiliary correctional officer by a private entity under contract to the Department of Corrections, to a county commission, or to the Department of Management Services shall:

(1) Be at least 19 years of age, except that any person employed as a full-time, a part-time, or an auxiliary correctional officer must be at least 18 years of age.

(8) Execute and submit to the employing agency or, if a private correctional officer, submit to the appropriate governmental entity an affidavit-of-applicant form, adopted by the commission, attesting to his or her compliance with subsections (1)-(7). The affidavit shall be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit shall include conspicuous language that the intentional false execution of the affidavit constitutes a misdemeanor of the second degree. The affidavit shall be retained by the employing agency.

Section 3. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in references thereto, paragraphs (a) and (c) of subsection (1) and subsection (4) of section 943.131, Florida Statutes, are reenacted to read:

943.131 Temporary employment or appointment; minimum basic recruit training exemptions.—

(1)(a) An employing agency may temporarily employ or appoint a person who complies with the qualifications for employment in s. 943.13(1)-(8), but has not fulfilled the

requirements of s. 943.13(9) and (10), if a critical need exists to employ or appoint the person and such person is or will be enrolled in the next approved basic recruit training program available in the geographic area or that no assigned state training program for state officers is available within a reasonable time. The employing agency must maintain documentation which demonstrates that a critical need exists to employ a person pursuant to this section. Prior to the employment or appointment of any person other than a correctional probation officer under this subsection, the person shall comply with the firearms provisions established pursuant to s. 943.17(1)(a). Any person temporarily employed or appointed as an officer under this subsection must attend the first training program offered in the geographic area, or the first assigned state training program for a state officer, subsequent to his or her employment or appointment. A person temporarily employed or appointed as an officer under this subsection must begin basic recruit training within 180 consecutive days after employment. Such person must fulfill the requirements of s. 943.13(9) within 18 months after beginning basic recruit training and must fulfill the certification examination requirements of s. 943.13(10) within 180 consecutive days after completing basic recruit training. A person hired after he or she has commenced basic recruit training or after completion of basic recruit training must fulfill the certification examination requirements of s. 943.13(10) within 180 consecutive days after completion of basic recruit training or the commencement of employment, whichever occurs later.

(c) No person temporarily employed or appointed under the

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

provisions of this subsection may perform the duties of an officer unless he or she is adequately supervised by another officer of the same discipline. The supervising officer must be in full compliance with the provisions of s. 943.13 and must be employed or appointed by the employing agency.

(4) Within 1 year after receiving an exemption, an applicant who is exempt from completing the commission-approved basic recruit training program must:

(a) Complete all additional required training as required by the commission.

(b) Demonstrate proficiency in the high-liability areas as defined by commission rule.

(c) Complete the requirements of s. 943.13(10).

If the proficiencies and requirements of s. 943.13(10) are not met within the 1-year period, the applicant must seek an additional exemption as provided in this subsection. Except as provided in subsection (1), before the employing agency may employ or appoint the applicant as an officer, the applicant must meet the minimum qualifications described in s. 943.13(1)-(8) and must fulfill the requirements of s. 943.13(10).

Section 4. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in references thereto, subsections (1) and (6) of section 943.133, Florida Statutes, are reenacted to read:

943.133 Responsibilities of employing agency, commission, and program with respect to compliance with employment qualifications and the conduct of background investigations; injunctive relief.—

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

(1) The employing agency is fully responsible for the collection, verification, and maintenance of documentation establishing that an applicant complies with the requirements of ss. 943.13 and 943.131, and any rules adopted pursuant to ss. 943.13 and 943.131.

(6) If an employing agency employs or appoints an officer in violation of this section or of s. 943.13, s. 943.131, or s. 943.135, or any rules adopted pursuant thereto, the Department of Legal Affairs, at the request of the chair of the commission, shall apply to the circuit court in the county of the employing agency for injunctive relief prohibiting the employment or appointment of the person contrary to this section.

Section 5. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (1) of section 943.137, Florida Statutes, is reenacted to read:

943.137 Establishment of qualifications and standards above the minimum.—

(1) Nothing herein may be construed to preclude an employing agency from establishing qualifications and standards for employment, appointment, training, or promotion of officers that exceed the minimum requirements set by ss. 943.13 and 943.17, including establishing tobacco-use standards.

Section 6. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (2) of section 943.139, Florida Statutes, is reenacted to read:

943.139 Notice of employment, appointment, or separation; response by the officer; duty of commission.—

(2) In a case of separation from employment or appointment, the employing agency shall execute and maintain an affidavit-of-separation form adopted by the commission, setting forth in detail the facts and reasons for such separation. The information contained in the affidavit-of-separation form must be submitted, or electronically transmitted, to the commission. If the officer is separated for his or her failure to comply with s. 943.13, the notice must so specify. The affidavit must be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit must include conspicuous language that intentional false execution of the affidavit constitutes a misdemeanor of the second degree. Any officer who has separated from employment or appointment must be permitted to respond to the separation, in writing, to the commission, setting forth the facts and reasons for the separation as he or she understands them.

Section 7. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in references thereto, subsections (1), (2), and (3) of section 943.1395, Florida Statutes, are reenacted to read:

943.1395 Certification for employment or appointment; concurrent certification; reemployment or reappointment; inactive status; revocation; suspension; investigation.—

(1) The commission shall certify, under procedures established by rule, any person for employment or appointment as an officer if:

(a) The person complies with s. 943.13(1)-(10); and

(b) The employing agency complies with s. 943.133(2) and (3).

(2) An officer who is certified in one discipline and who complies with s. 943.13 in another discipline shall hold concurrent certification and may be assigned in either discipline within his or her employing agency.

(3) Any certified officer who has separated from employment or appointment and who is not reemployed or reappointed by an employing agency within 4 years after the date of separation must meet the minimum qualifications described in s. 943.13, except for the requirement found in s. 943.13(9). Further, such officer must complete any training required by the commission by rule in compliance with s. 943.131(2). Any such officer who fails to comply with the requirements provided in s. 943.131(2) must meet the minimum qualifications described in s. 943.13, to include the requirement of s. 943.13(9).

Section 8. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (7) of section 943.14, Florida Statutes, is reenacted to read:

943.14 Commission-certified criminal justice training schools; certificates and diplomas; exemptions; injunctive relief; fines.—

(7) Each criminal justice training school that offers law enforcement, correctional, or correctional probation officer basic recruit training, or selection center that provides applicant screening for criminal justice training schools, shall conduct a criminal history background check of an applicant prior to entrance into the basic recruit class. A complete set of fingerprints must be taken by an authorized criminal justice agency or by an employee of the criminal justice training school

or selection center who is trained to take fingerprints. If the employing agency has previously taken a set of fingerprints from the applicant and has obtained a criminal history check of the applicant using the fingerprints, the requirements of this subsection shall be met when the employing agency submits to the criminal justice training school or selection center a letter stating the date on which the agency took the fingerprints of the applicant, a summary of the criminal history check based on the fingerprints, and a certification that the applicant is qualified to enroll in the basic recruit training program pursuant to s. 943.13. If the criminal justice training school or selection center takes the fingerprints, it shall submit the fingerprints to the Florida Department of Law Enforcement for a statewide criminal history check, and forward the fingerprints to the Federal Bureau of Investigation for a national criminal history check. Applicants found through fingerprint processing to have pled guilty to or been convicted of a crime which would render the applicant unable to meet the minimum qualifications for employment as an officer as specified in s. 943.13(4) shall be removed from the pool of qualified candidates by the criminal justice training school or selection center.

Section 9. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (4) of section 943.17, Florida Statutes, is reenacted to read:

943.17 Basic recruit, advanced, and career development training programs; participation; cost; evaluation.—The commission shall, by rule, design, implement, maintain, evaluate, and revise entry requirements and job-related

curricula and performance standards for basic recruit, advanced, and career development training programs and courses. The rules shall include, but are not limited to, a methodology to assess relevance of the subject matter to the job, student performance, and instructor competency.

(4) The commission may, by rule, establish a sponsorship program for prospective officers. The rule shall specify the provisions of s. 943.13 that must be satisfied prior to the prospective officer's enrollment in a basic recruit training course. However, the rule shall not conflict with any laws or rules of the State Board of Education relating to student enrollment.

Section 10. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, section 943.253, Florida Statutes, is reenacted to read:

943.253 Exemption; elected officers.—Elected officers are exempt from the requirements of ss. 943.085-943.25. However, an elected officer may participate in the programs and benefits under ss. 943.085-943.25 if he or she complies with s. 943.13(1)-(7).

Section 11. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (7) of section 944.105, Florida Statutes, is reenacted to read:

944.105 Contractual arrangements with private entities for operation and maintenance of correctional facilities and supervision of inmates.—

(7) The department shall require the certification of

private correctional officers at the private vendor's expense under s. 943.1395, and all such officers must meet the minimum qualifications established in s. 943.13. All other employees of the private vendor that perform their duties at the private correctional facility shall receive, at a minimum, the same quality and quantity of training as that required by the state for employees of state-operated correctional facilities. All training expenses shall be the responsibility of the private vendor. The department shall be the contributor and recipient of all criminal background information necessary for certification by the Criminal Justice Standards and Training Commission.

Section 12. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (2) of section 944.714, Florida Statutes, is reenacted to read:

944.714 Quality assurance and standards of operation.—

(2) All private correctional officers employed by a private vendor must be certified, at the private vendor's expense, as having met the minimum qualifications established for correctional officers under s. 943.13.

Section 13. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, subsection (3) of section 945.035, Florida Statutes, is reenacted to read:

945.035 Notice of employment, appointment, or separation; response by the correctional officer; duty of department.—

(3) In a case of separation from employment or appointment, the department shall execute and maintain an affidavit-of-separation form adopted by the commission, setting forth in

detail the facts and reasons for such separation. A copy of the affidavit-of-separation form must be submitted, or electronically transmitted, to the commission. If the correctional officer is separated for failure to comply with s. 943.13, the notice must so specify. The affidavit must be executed under oath and constitutes an official statement within the purview of s. 837.06. The affidavit must include conspicuous language that intentional false execution of the affidavit constitutes a misdemeanor of the second degree. Any correctional officer who has separated from employment or appointment must be permitted to respond to the separation, in writing, to the commission, setting forth the facts and reasons for the separation as the officer understands them.

Section 14. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, paragraph (a) of subsection (1) of section 948.01, Florida Statutes, is reenacted to read:

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

(1) Any state court having original jurisdiction of criminal actions may at a time to be determined by the court, with or without an adjudication of the guilt of the defendant, hear and determine the question of the probation of a defendant in a criminal case, except for an offense punishable by death, who has been found guilty by the verdict of a jury, has entered a plea of guilty or a plea of nolo contendere, or has been found guilty by the court trying the case without a jury.

(a) If the court places the defendant on probation or into community control for a felony, the department shall provide

immediate supervision by an officer employed in compliance with the minimum qualifications for officers as provided in s. 943.13. A private entity may not provide probationary or supervision services to felony or misdemeanor offenders sentenced or placed on probation or other supervision by the circuit court.

Section 15. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, section 951.063, Florida Statutes, is reenacted to read:

951.063 Privately operated county correctional facilities.—Each private correctional officer employed by a private entity under contract to a county commission must be certified as a correctional officer under s. 943.1395 and must meet the minimum qualifications established in s. 943.13. The county shall provide to the Criminal Justice Standards and Training Commission all necessary fingerprints for Florida Department of Law Enforcement and Federal Bureau of Investigation background checks. The Criminal Justice Standards and Training Commission shall advise the county as to those employees whose certification has been denied or revoked. Neither the county nor the private entity shall be the direct recipient of criminal records.

Section 16. For the purpose of incorporating the amendment made by this act to section 943.13, Florida Statutes, in a reference thereto, paragraph (b) of subsection (3) of section 985.644, Florida Statutes, is reenacted to read:

985.644 Departmental contracting powers; personnel standards and investigation.—

(3)

(b) Law enforcement, correctional, and correctional probation officers, certified pursuant to s. 943.13, are not required to submit to level 2 screenings as long as they are currently employed by a law enforcement agency or correctional facility. The department shall electronically submit to the Department of Law Enforcement:

1. Fingerprint information obtained during the employment screening required by subparagraph (a)1.

2. Fingerprint information for all persons employed by the department, or by a provider under contract with the department, in delinquency facilities, services, or programs if such fingerprint information has not previously been submitted pursuant to this section.

Section 17. This act shall take effect July 1, 2019.

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

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 21, 2019

I respectfully request that **Senate Bill #7046**, relating to Critical Infrastructure Facilities and Staff, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

W. Keith Perry

Senator Keith Perry
Florida Senate, District 8

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Criminal Justice, *Chair*
Infrastructure and Security, *Vice Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Banking and Insurance
Education

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR KEITH PERRY
8th District

MEMORANDUM

To: Senator Lizbeth Benacquisto, Rules Chair
From: Senator Keith Perry
Subject: Unable to Present CS/SB 7046
Date: April 17, 2019

Chair Benacquisto,

Unfortunately, I will not be able to present CS/SB 7046 regarding Critical Infrastructure Facilities and Staff in front of the Rules Committee on Wednesday April 17th. I have asked Senator Brandes to present it in my place, and I would greatly appreciate your approval of his presentation.

Thank you for your time and understanding.

Respectfully,

W. Keith Perry

REPLY TO:
- 2610 NW 43rd Street, Suite 2B, Gainesville, Florida 32606 (352) 264-4040
- Marion County Board of Commissioners, 115 SE 25th Avenue, Ocala, Florida 34471
- Putnam County Government Complex, 2509 Crill Avenue, Palatka, Florida 32177
- 316 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5008

Senate's Website: *www.flsenate.gov*

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

7046
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S.
Street

Phone 727/897-9291

St Petersburg FL 33705
City *State* *Zip*

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 17, 2019
Meeting Date

SB 7046
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic SB 7046 Critical Infrastructure Facilities and Staff

Name Jared Torres

Job Title Legislative Affairs Director

Address 501 South Calhoun Street
Street

Phone 850-717-3045

Tallahassee FL 32399
City *State* *Zip*

Email Jared.Torres@fdc.myflorida.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Department of Corrections

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

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 852
INTRODUCER:	Senators Diaz and Wright
SUBJECT:	VA MISSION Act of 2018
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Caldwell	MS	**Favorable**
2.	Brown	Phelps	RC	**Favorable**

I. Summary:

SM 852 is a memorial to the Congress of the United States, and the United States Department of Veterans Affairs (VA) urging Congress and the VA to ensure that the VA MISSION Act of 2018 is implemented in a manner consistent with the legislative intent and purpose of the act. The purpose of the VA MISSION Act of 2018 is to overhaul existing law on veteran health care to improve access for veterans. Areas of health care addressed in the law include VA and non-VA health care services, veterans' homes, access to walk-in VA care, and prescription drug procedures.

The memorial requests that Congress and the VA ensure that the law's deadlines are timely met so veterans can have the highest quality of health care both from inside and outside the Veterans Health Administration System (VHA).

More specifically, the memorial states that successful implementation of the act requires:

- Timely publication of clear access and quality standards;
- Seamless access to walk-in care;
- Innovation in care delivery and claims processing; and
- Meeting key deadlines as the VHA reviews its infrastructure needs.

The memorial requests that the Florida Secretary of State dispatch copies to the President of the United States, the Secretary of the VA, the Chairman and Ranking member of the Committee on Veterans' Affairs of the United States House of Representatives, the United States Senate, and to each Florida delegation member of Congress.

A memorial is an official legislative document addressed to 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:

VA MISSION Act of 2018

On June 6, 2018, President Donald Trump signed into law the VA MISSION Act of 2018, formally known as the VA Maintaining Systems and Strengthening Integrated Outside Networks Act.[1] The Act represents an overhaul of existing law on veteran health care to improve access for veterans.[2]

Features of the law include:

- Consolidating VA community care programs into a single program to make it easier for veterans to navigate;
- Expanding eligibility for the Program of Comprehensive Assistance for Family Caregivers;
- Strengthening the VA's ability to recruit and retain quality medical providers; and
- Strengthening the VA's infrastructure.[3]

Consolidating Community Care

The VA has provided care to veterans through community providers for decades but as community providers have expanded in number and complexity, veterans have increasingly found community care to be difficult to navigate.[4] The act consolidates seven VA community care programs into one streamlined program.[5] As part of this consolidation, the VA is establishing standards for access and quality that will apply to both VA facilities and community providers, based on analysis of best practices in government and the private sector, tailored to the needs of veterans.[6] Included in the changes to community care is the creation of a safe opioid program. The safe opioid program will facilitate improved information-sharing amongst community health care providers regarding prescriptions issued to veterans.[7]

Expanded Eligibility for the Program of Comprehensive Assistance for Family Caregivers

The Program of Comprehensive Assistance for Family Caregivers offers caregivers of veterans training, educational resources, and other tools, such as a caregiver support line staffed by licensed professionals and a peer support group.[8] Prior to implementation of the act, the Program of Comprehensive Assistance for Family Caregivers was only available to veterans who incurred or aggravated a serious injury in the line of duty on or after September 11, 2001.[9] The act

---

[1] Pub.L. 115-182 (H.R. 5674); GovTrack, https://www.govtrack.us/congress/bills/115/s2372
[2] VetsFirst, *What is the VA Mission Act?*, available at http://www.vetsfirst.org/what-is-the-va-mission-act/ (last visited March 28, 2019).
[3] Office of Enterprise Integration, U.S. Dept. of Veterans Affairs, *VA MISSION Act*, available at https://www.va.gov/oei/missionAct/ (last visited March 28, 2019).
[4] *Id*.
[5] United States Senate Committee on Veterans' Affairs, *The VA MISSION Act of 2018*, available at https://www.veterans.senate.gov/imo/media/doc/One%20Pager_The%20VA%20MISSION%20Act%20of%202018.pdf (last visited March 28, 2019).
[6] Office of Enterprise Integration, *supra* note 3.
[7] GovTrack, s. 2372 (115th: VA MISSION Act of 2018, available at https://www.govtrack.us/congress/bills/115/s2372/summary (last visited March 28, 2019).
[8] U.S. Dept. of Veterans Affairs, *VA Caregiver Support*, available at https://www.caregiver.va.gov/ (last visited March 28, 2019).
[9] Office of Enterprise Integration, *supra* note 3.

expands the program to eligible veterans and their caregivers from all eras.[10] Expansion will occur in two phases, beginning with those injured on or before May 7, 1975, with further expansion beginning two years later. As of October 2018, the timeline for expansion was still in development.[11]

Strengthening Recruitment and Retention of the Best Medical Providers

The act provides the VA greater ability to recruit and retain quality medical providers through greater access to an education debt reduction program, and improved flexibility for recruitment, relocation, and retention. VA will also pilot a scholarship program for eligible veterans to be medically trained in exchange for serving in a VA hospital or clinic for four years.[12]

Strengthening Infrastructure

The average VA building is almost 60 years old, with only half built since 1920. The act is designed to strengthen the VA's ability to manage its real property portfolio to enhance quality infrastructure.[13] To do so, the act requires the VA to establish a nine member Asset and Infrastructure Review Commission, tasked with making recommendations to the President on VHA facility modernization and realignment.[14]

Delay in Implementation of the Act

In addition to the phased-in expansion of the caregiver program, in expectation that the community care consolidation would take time, the act contains an appropriation of $5.2 billion in mandatory funding to provide a continuity of operations under the existing Veterans Choice Program (multiple providers).[15] The VA cites the significant complexity associated with health care delivery as the basis for the lack of immediate implementation of the community care consolidation.[16]

III. Effect of Proposed Changes:

SM 852 urges the United States Congress and the United States Department of Veterans Affairs (VA) to ensure that the VA MISSION Act of 2018 is implemented in a manner consistent with the legislative intent and purpose of the act.

The memorial requests that Congress and the VA ensure that the law's deadlines are timely met so veterans can have the highest quality of health care both from inside and outside the Veterans Health Administration System.

More specifically, the memorial states that successful implementation of the act requires:

- Timely publication of clear access and quality standards;

[10] *Id*.
[11] Office of Enterprise Integration, U.S. Dept. of Veterans Affairs, *VA MISSION Act of 2018, Frequently Asked Questions*, available at https://www.va.gov/oei/docs/MISSION_Act_2018_FAQs.pdf (last visited March 28, 2019).
[12] Office of Enterprise Integration, *supra* note 3.
[13] *Id*.
[14] GovTrack, *supra* note 7.
[15] Office of Enterprise Integration, *supra* note 10.
[16] *Id*.

- Seamless access to walk-in care;
- Innovation in care delivery and claims processing; and
- Meeting key deadlines as the VHA reviews its infrastructure needs.

The memorial requests that the Florida Secretary of State dispatch copies to the President of the United States, the Secretary of the VA, the Chairman and Ranking member of the Committee on Veterans' Affairs of the United States House of Representatives, the United States Senate, and to each Florida delegation member of Congress.

A memorial is an official legislative document addressed to 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.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

As SM 852 is a memorial requesting an action of the federal government, mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties or 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:

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.

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

By Senator Diaz

36-01223-19 2019852__

Senate Memorial

A memorial to the Congress of the United States and the United States Department of Veterans Affairs, urging Congress and the department to ensure that the VA MISSION Act of 2018 is implemented in a manner consistent with the legislative intent and purpose of the act.

WHEREAS, Florida has the third largest veteran population in the United States, at approximately 1.6 million veterans, and

WHEREAS, the health and well-being of Florida's veterans are of utmost importance to the members and body of the Florida Legislature, and

WHEREAS, the United States Department of Veterans Affairs has been charged with ensuring the health and well-being of Florida's veterans, but in recent years, it has failed to deliver the quality and timely care our veterans deserve, and

WHEREAS, on June 6, 2018, President Donald J. Trump signed into law the VA MISSION Act of 2018, Public Law No. 115-182, after the legislation had passed both houses of Congress with strong bipartisan support and had received the support of over 30 veteran and military service organizations, and

WHEREAS, upon its full implementation, the VA MISSION Act of 2018 will improve the health and well-being of veterans in Florida and throughout the entire country and will preserve the beneficial aspects of the Veterans Health Administration while giving veterans increased options in community care programs, and

WHEREAS, the VA MISSION Act of 2018 requires an overhaul

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

36-01223-19 2019852__

and modernization of the Veterans Health Administration to provide veterans with more choices for where they receive medical care through a new and consolidated Veterans Community Care Program, and

WHEREAS, the Florida Department of Veterans' Affairs operates six skilled nursing facilities and one assisted living facility for veterans, and the VA MISSION Act of 2018 authorizes the Veterans Health Administration to enter into community provider agreements with these facilities to better serve veterans which will result in allowing these facilities to seamlessly partner with the administration without becoming subject to additional federal regulations, and

WHEREAS, the VA MISSION Act of 2018 establishes an information-sharing process to ensure that safe opioid prescribing practices are used by community care providers from which veterans are receiving care, and

WHEREAS, the VA MISSION Act of 2018 expands access to the VA caregivers program to all veterans who have incurred or aggravated serious injuries while serving in active duty, not just those serving since September 11, 2001, and

WHEREAS, the Florida Legislature urges the Federal Government to further improve the quality of veterans' health care available to the state's veteran population, NOW, THEREFORE,

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

That the Congress of the United States and the United States Department of Veterans Affairs are urged to ensure that

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

the VA MISSION Act of 2018 is implemented in a manner consistent with the legislative intent and purpose of the act.

BE IT FURTHER RESOLVED that the Congress and the United States Department of Veterans Affairs are urged to ensure the law's deadlines are timely met so veterans can gain access to the highest quality of health care both inside and outside of the Veterans Health Administration system. Successful implementation requires the timely publication of clear access and quality standards, seamless access to walk-in care, innovation in care delivery and claims processing, and meeting key deadlines as the Veterans Health Administration reviews its infrastructure needs.

BE IT FURTHER RESOLVED that the Secretary of State dispatch copies of this memorial to the President of the United States, the Secretary of the United States Department of Veterans Affairs, the Chairman and Ranking Member of the Committee on Veterans' Affairs of the United States House of Representatives, and the United States Senate, respectively, and to each member of the Florida delegation to the United States Congress.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

17 April 2019
Meeting Date

SB 852
Bill Number (if applicable)

Topic VA MISSION Act of 2018

Amendment Barcode (if applicable)

Name Diego Echeverri

Job Title Director of Coalitions

Address 200 W College Ave
Street

Phone 813-767-2086

TLH FL
City *State* *Zip*

Email decheverri@cv4a.org

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Concerned Veterans For America

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

Topic _____ Bill Number 852 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

852
Bill Number (if applicable)

Topic Veterans

Amendment Barcode (if applicable)

Name Bill Kelnick

Job Title

Address 303 Johns Pl
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 8502573126

Email

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing VFW / American Legion

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

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

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

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

S-001 (10/14/14)

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 920
INTRODUCER:	Criminal Justice Committee and Senator Pizzo
SUBJECT:	DNA Database
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cellon	Jones	CJ	**Fav/CS**
2.	Cibula	Cibula	JU	**Favorable**
3.	Cellon	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 920 revises the legislative intent found in s. 943.325(1)(b), F.S., the statute establishing a statewide DNA database. In establishing the database, the Legislature expressed the intent that

> a match between casework evidence DNA samples from a criminal investigation and DNA samples from a state or federal DNA database of certain offenders may be used to find probable cause for the issuance of a warrant to obtain the DNA sample from an offender.

As revised by the bill, the legislative intent states that the Legislature intends for matches between casework evidence DNA samples and DNA databases of offenders to be used for an additional purpose—finding probable cause to obtain a warrant for an offender's arrest.

The bill may reduce costs to establish probable cause to arrest a person based on DNA evidence by eliminating a perceived requirement that multiple DNA tests are necessary to establish probable cause.

The bill is effective July 1, 2019.

II. Present Situation:

Using DNA to Solve Crimes

A person's unique Deoxyribonucleic acid (DNA) profile is present in bodily fluids, a strand of hair, and even skin cells.[1] Because a perpetrator often leaves DNA at the scene of a crime, that DNA evidence can be used to aid in solving crimes in two ways:

- In cases where there is a suspect, by comparing the suspect's DNA (known sample) to DNA evidence collected at the crime scene (unknown sample); and
- If there is no known suspect, by comparing DNA evidence gathered at the crime scene to DNA database profiles to help identify the perpetrator if he or she has a sample in a database.[2]

Forensic crime laboratories extract and analyze DNA found at a crime scene. To identify the DNA contributor, the crime scene DNA profile must be matched either to a known suspect or to a DNA profile stored in a database.[3] Accurate identification depends upon factors such as:

- The quality of the DNA sample;
- The number of genetic markers analyzed;
- Whether the sample was prepared properly; and
- The ability of those doing the analysis to interpret the results.[4]

All 50 states and the federal government have laws requiring the collection of DNA samples from some category of offenders. There currently exists a network of local, state, and federal DNA databases available to law enforcement agencies for the purpose of comparing crime scene evidence to DNA profiles. State DNA profiles are sent to the National DNA Index System. This national database can be searched using a technology platform, developed by the Federal Bureau of Investigation, known as the Combined DNA Index System (CODIS).[5]

CODIS searches the national database system weekly and, if there is a match between a crime scene DNA sample and a DNA database profile, the agency that submitted the profile is notified, making it possible to link suspects to unsolved crimes.[6] CODIS is also capable of linking DNA evidence from crime scenes in different locations, potentially aiding multi-jurisdictional cooperation in solving crimes attributable to serial offenders.[7]

---

[1] William Harris, HowStuffWorks, *How DNA Evidence Works*, Jan. 18, 2001, available at https://science.howstuffworks.com/life/genetic/dna-evidence2.htm (last visited Apr. 5, 2019).
[2] United States Department of Justice, *Advancing Justice through DNA Technology: Using DNA to Solve Crimes*, updated March 7, 2017, available at https://www.justice.gov/archives/ag/advancing-justice-through-dna-technology-using-dna-solve-crimes.
[3] *See* note 1, *supra*.
[4] Stephen Leahy, *Alleged Golden State Killer Busted by DNA. But are Tests 100% Accurate?*, NATIONAL GEOGRAPHIC, Apr. 25, 2018, available at https://news.nationalgeographic.com/2018/04/dna-testing-accuracy-golden-state-killer-science-spd/.(last visited Apr. 5, 2019). *Note, this link contains a graphic video of an autopsy.
[5] *Id*.
[6] *Id*.
[7] Federal Bureau of Investigation, *Combined DNA Index System (CODIS)*, available at https://www.fbi.gov/services/laboratory/biometric-analysis/codis (last visited Apr. 5, 2019)

Current Law

Section 943.325, F.S., created the DNA database within the Florida Department of Law Enforcement (FDLE) in 1989, and required persons convicted of certain sex crimes to provide blood samples to be tested for genetic markers for the purpose of personal identification of the person submitting the sample.[8] The results from the blood samples were then entered into a DNA database maintained by the FDLE to be available in a statewide automated personal identification system for classifying, matching, and storing DNA analyses.[9]

Since its creation, the statewide DNA database has evolved to the point where the FDLE now accepts oral swab samples (known samples) from qualifying offenders, which means any person meeting two criteria:

(1) a person who is:

- Committed to a county jail;
- Committed to or under the supervision of the Department of Corrections, including persons incarcerated in a private correctional institution;
- Committed to or under the supervision of the Department of Juvenile Justice;
- Transferred to this state under the Interstate Compact on Juveniles, part XIII of ch. 985, F.S.; or
- Accepted under Article IV of the Interstate Corrections Compact, part III of ch. 941, F.S.; [10] and

(2) a person who is:

  - Convicted of any felony offense or attempted felony offense in this state or of a similar offense in another jurisdiction;
  - Convicted of a violation of ss. 784.048, 810.14, 847.011, 847.013, 847.0135, or 877.26, F.S., or an offense that was found, pursuant to s. 874.04, F.S., to have been committed for the purpose of benefiting, promoting, or furthering the interests of a criminal gang as defined in s. 874.03, F.S.;[11] or
  - Arrested for any felony offense or attempted felony offense in this state.[12]

The collection of samples from a person booked into a jail, correctional facility, or juvenile facility for a felony has been a phased-in process. The process started in January 2011 with the last phase slated to begin January 1, 2019, subject to sufficient funding appropriations passed by the Legislature and approved by the Governor.[13]

[8] Ch. 89-335, Laws of Fla.
[9] *Id*.
[10] Section 943.325(2)(g)1.a.-e., F.S.
[11] These offenses are: stalking; voyeurism; certain acts in connection with obscene, or lewd, materials; renting, selling, or loaning harmful motion pictures, exhibitions, shows, presentations, or representations to minors; computer pornography, prohibited computer usage, or traveling to meet a minor; direct observation, videotaping, or visual surveillance of customers in a merchant's dressing room; and criminal gang related offenses.
[12] Section 943.325(2)(g)2.a.-c., F.S.
[13] Section 943.325(3)(b), F.S.

Legislative Intent in Section 943.325, F.S.

Section 943.325(1)(b), F.S., contains legislative findings approving the use of a DNA match between crime scene evidence and a DNA database sample match to establish probable cause for a judge to issue a search warrant to obtain a suspect's DNA (known) sample. Section 943.325(1)(b), F.S., states:

> The Legislature also finds that upon establishment of the Florida DNA database a match between casework evidence DNA samples from a criminal investigation and DNA samples from a state or federal DNA database of certain offenders may be used to find probable cause for the issuance of a warrant to obtain the DNA sample from an offender.

Once the law enforcement officer serves the search warrant on the person, the officer can then obtain a DNA sample from the suspect that will be compared to the sample from the crime scene and the match sample from a DNA database. The timetable for the laboratory comparison of the three DNA samples cannot be stated with certainty. If the known sample confirms that the match is accurate, the officer may then arrest the suspect. This is at best a two-step process for the law enforcement officer who must first obtain the suspect's sample, wait for results from a lab confirming the three DNA profiles match one another (crime scene, database, and officer-obtained suspect sample), and then arrest the suspect.[14]

Case Law

In a factual scenario similar to the one that may result under the bill, a Florida court has found that a DNA sample in the FDLE database and a match to DNA crime scene evidence is "sufficient to create probable cause to arrest the defendant."[15] In the case, a voluntary DNA swab was obtained from the defendant during the investigation of an unrelated crime. The DNA – a known sample – was then analyzed and stored in the FDLE DNA database. Crime scene DNA evidence from an unsolved sexual battery, also in the database, and the defendant's known DNA sample matched.[16]

The defendant was arrested for the unsolved sexual battery based on the DNA match. At the police station, subsequent to his arrest, the defendant provided another known DNA sample, for identification confirmation. Later, the defendant argued that the second known sample should not be admissible at trial because the first match did not constitute probable cause to arrest the defendant.[17]

The court disagreed with the defendant's argument, noting that the taking of DNA samples has been widely accepted by courts as analogous to the taking of fingerprints. The court further explained that because the comparison of latent fingerprints and known fingerprints on file

[14] Information based upon Senate Criminal Justice Committee staff conversations with law enforcement officer representatives on March 7, 8, and 12, 2019, and a conference call with law enforcement representatives and FDLE representatives on March 8, 2019.
[15] *Myles v. State*, 54 So. 3d 509, 512 (Fla. 3rd DCA 2010), *rev. den.* 72 So. 3d 746 (Fla. 2011).
[16] *Id*. at 510-11.
[17] *Id*.

provide probable cause for an arrest, a DNA match to a DNA database is also probable cause for an arrest.[18]

III. Effect of Proposed Changes:

The bill revises the legislative intent in s. 943.325(1)(b), F.S., which describes how the Legislature intends for the statewide DNA database to be used. As revised, the Legislature intends that matches between casework evidence DNA samples and DNA databases of offenders be used to find probable cause to obtain a warrant for an offender's arrest. This is in addition to the current stated intent that matches between casework evidence and DNA databases be used to find probable cause for the issuance of a warrant to obtain a DNA sample from an offender. The revised language creates the potential for or clarifies that a law enforcement officer may avoid taking an identification confirmation DNA sample from a suspect pursuant to a search warrant, prior to arrest.

The bill is effective July 1, 2019.

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.

[18] *Id*. at 512.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill will reduce costs to establish probable cause to arrest a criminal suspect to the extent that the existing intent language is understood by law enforcement agencies to require an additional DNA test after a DNA sample from a criminal investigation is found to match a sample in a DNA database.

VI. Technical Deficiencies:

None.

VII. Related Issues:

If no identification confirmation DNA sample is taken prior to a defendant's arrest, it may be problematic in the criminal proceedings because once a suspect is arrested the right to a speedy trial attaches, both procedurally and constitutionally.[19] Essentially this means that if a defendant asserts his or her right to a speedy trial under the Florida Rules of Criminal Procedure and, barring any procedural issues or delays by the defendant, the trial must commence within 60 days.[20] If the identification confirmation DNA analysis and comparison has not been completed in a timely manner, the prosecutor may not be able to prove beyond a reasonable doubt that the defendant committed the crime.

VIII. Statutes Affected:

This bill substantially amends section 943.325 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 18, 2019:
The Committee Substitute restores current language in s. 943.325(1)(b), F.S., providing for a DNA match to be used for a judge to find probable cause to issue a search warrant to obtain a DNA sample from an offender.

B. Amendments:

None.

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

[19] "In all criminal prosecutions, the accused shall enjoy the right to a speedy and public trial." U.S. CONST. amend. VI; *see also* Fla. R. Crim. P. 3.191.
[20] Fla. R. Crim. P. 3.191.

By the Committee on Criminal Justice; and Senator Pizzo

591-03155-19 2019920c1

A bill to be entitled

An act relating to the DNA database; amending s. 943.325, F.S.; revising legislative findings relating to the use of the DNA database; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section 943.325, Florida Statutes, is amended to read:

943.325 DNA database.—

(1) LEGISLATIVE INTENT.—

(b) The Legislature also finds that upon establishment of the Florida DNA database, a match between casework evidence DNA samples from a criminal investigation and DNA samples from a state or federal DNA database of certain offenders may be used to find probable cause for the issuance of a warrant for arrest, or to obtain the DNA sample from an offender.

Section 2. This act shall take effect July 1, 2019.

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

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 8, 2019

I respectfully request that **Senate Bill #CS/SB 920**, relating to DNA Database, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jason W.B. Pizzo
Florida Senate, District 38

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

4/17/2019
Meeting Date

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

920
Bill Number (if applicable)

Topic DNA Database

Amendment Barcode (if applicable)

Name Matt Puckett

Job Title Lobbyist

Address 300 East Brevard Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone

Email

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Police Benevolent Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/17/19
Meeting Date

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

SB 920
Bill Number (if applicable)

Topic Senate Rules

Amendment Barcode (if applicable)

Name Captain Matt Butler

Job Title Orange County Sheriff's Officer

Address 2500 W Colonial Dr.
Street

Phone 407-254-7000

Orlando FL 32805
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Orange County Sheriff's Office

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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 1136
INTRODUCER:	Senators Harrell and Perry
SUBJECT:	Cyberharassment
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Erickson	Jones	CJ	**Favorable**
2.	Davis	Cibula	JU	**Favorable**
3.	Erickson	Phelps	RC	**Favorable**

I. Summary:

SB 1136 amends s. 784.049, F.S., which prohibits and punishes sexual cyberharassment. Currently, this section prohibits willfully and maliciously publishing a sexually explicit image of another person which contains or conveys the personal identification information of the depicted person *to an Internet website* without the depicted person's consent, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person. The bill expands the definition to prohibit dissemination *via electronic means to another person*, in addition to publishing an image on an Internet website in the manner described.

The bill also amends current legislative findings in s. 784.049, F.S., to indicate that sexual cyberharassment includes dissemination of such sexually explicit images of another person via electronic means in the manner described, makes conforming changes to the definition of the term "sexually cyberharass," and defines "personal identification information."

The Department of Corrections estimates that this bill will have an indeterminate fiscal impact. See Section V. Fiscal Impact Statement.

The bill is effective July 1, 2019.

II. Present Situation:

Section 784.049, F.S., prohibits and punishes sexual cyberharassment. The term "sexually cyberharass" means to publish a sexually explicit image[1] of a person that contains or conveys the personal identification information[2] of the depicted person to an Internet website without the

[1] "Sexually explicit image" means any image depicting nudity or depicting any person engaging in sexual conduct. Section 784.049(2)(d), F.S.

[2] Section 784.049(2)(b), F.S., defines "personal identification information" by reference to the definition of that term in s. 817.568, F.S. Section 817.568(1)(f), F.S., defines "personal identification information" as any name or number that may be

depicted person's consent, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person.[3]

A person who willfully and maliciously sexually cyberharasses another person generally commits a first degree misdemeanor.[4] However, a person who has one prior conviction for sexual cyberharassment and who commits a second or subsequent sexual cyberharassment commits a third degree felony.[5]

Further, an aggrieved person may initiate a civil action against a person who violates s. 784.049, F.S., to obtain all appropriate relief in order to prevent or remedy a violation of this section, including:

- Injunctive relief;
- Monetary damages to include $5,000 or actual damages incurred as a result of a violation of this section, whichever is greater; and
- Reasonable attorney fees and costs.[6]

The criminal and civil penalties of this section do not apply to:

- A provider of an interactive computer service as defined in 47 U.S.C. s. 230(f), information service as defined in 47 U.S.C. s. 153, or communications service as defined in s. 202.11, F.S., that provides the transmission, storage, or caching of electronic communications or messages of others; other related telecommunications or commercial mobile radio service; or content provided by another person; or
- A law enforcement officer, as defined in s. 943.10, F.S., or any local, state, federal, or military law enforcement agency, that publishes a sexually explicit image in connection with the performance of his or her duties as a law enforcement officer, or law enforcement agency.[7]

III. Effect of Proposed Changes:

The bill amends s. 784.049, F.S., which prohibits and punishes sexual cyberharassment. Currently, this section prohibits willfully and maliciously publishing a sexually explicit image of another person which contains or conveys the personal identification information of the depicted person to an Internet website without the depicted person's consent, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person. The bill provides that sexual cyberharassment also includes the willful and malicious dissemination of such images via electronic means in the manner described.

---

used, alone or in conjunction with any other information, to identify a specific person, and includes an extensive list of specific information such as name, postal or electronic mail address, telephone number, social security number, date of birth, driver license or identification number, bank account number, and credit or debit card number.

[3] Section 784.049(2)(c), F.S.

[4] Section 784.049(3)(a), F.S.

[5] Section 784.049(3)(b), F.S.

[6] Section 784.049(5), F.S.

[7] Section 784.049(6), F.S.

A sexual cyberharassment violation is generally a first degree misdemeanor, which is punishable by up to one year in county jail and a fine of up to $1,000.[8] However, a person who has one prior conviction for sexual cyberharassment and who commits a second or subsequent sexual cyberharassment commits a third degree felony, which is punishable by up to five years in state prison and a fine of up to $5,000.[9]

An aggrieved person may initiate a civil action against a person who violates s. 784.049, F.S., to obtain all appropriate relief.[10]

The bill amends current legislative findings in s. 784.049, F.S., to indicate that sexual cyberharassment includes dissemination of such sexual images of another person via electronic means in the manner described.

The bill amends the definition of "sexually cyberharass." As amended, "sexually cyberharass" means to publish on an Internet website or to disseminate via electronic means to another person a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person without the depicted person's consent, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person.

Currently, "personal identification information" is defined by reference to a definition of that term in s. 817.568, F.S. The bill defines "personal identification information" as any information that identifies an individual, including, but not limited to, a name, a postal or an e-mail address, a telephone number, a social security number, a date of birth, or any unique physical representation.

The bill is effective July 1, 2019.

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.

[8] Sections 775.082 and 775.083, F.S.
[9] Sections 775.082 and 775.083, F.S.
[10] *See* "Present Situation" section of this analysis for a detailed description of some of the available relief.

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 Department of Corrections' legislative analysis states that the Department, in the last 3 years, has recorded two probation admissions and no prison admissions related to this offense. The Department estimates that this crime will increase the number of violations, but the number is not known, therefore, the impact of the bill is indeterminate.[11]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 784.049 of the Florida Statutes.
This bill reenacts the following sections of the Florida Statutes: 901.15, 901.41, and 933.18.

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.

[11] Department of Corrections, *2019 Agency Legislative Bill Analysis* (March 11, 2019), http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=28443.

By Senator Harrell

25-01198-19 20191136__

A bill to be entitled

An act relating to cyberharassment; amending s. 784.049, F.S.; revising legislative intent; redefining the terms "personal identifying information" and "sexually cyberharass"; providing criminal penalties; reenacting ss. 901.15(16), 901.41(5), and 933.18(11), F.S., relating to lawful arrests by officers without a warrant, prearrest diversion programs, and when a warrant may be issued for the search of a private dwelling, respectively, to incorporate the amendment made to s. 784.049, F.S., in references thereto; providing an effective date.

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

Section 1. Section 784.049, Florida Statutes, is amended to read:

784.049 Sexual cyberharassment.—

(1) The Legislature finds that:

(a) A person depicted in a sexually explicit image taken with the person's consent has a reasonable expectation that the image will remain private.

(b) It is becoming a common practice for persons to publish a sexually explicit image of another to Internet websites or to disseminate such sexually explicit image of another by electronic means without the depicted person's consent, for no legitimate purpose, with the intent of causing substantial emotional distress to the depicted person.

(c) When such images are published on Internet websites or

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

25-01198-19 20191136__

disseminated via electronic means, they are able to be viewed indefinitely by persons worldwide and are able to be easily reproduced and shared.

(d) The publication of such images on Internet websites or the dissemination of such images via electronic means creates a permanent record of the depicted person's private nudity or private sexually explicit conduct.

(e) The existence of such images on Internet websites or the dissemination of such images without the consent of all parties depicted causes those depicted ~~in such images~~ significant psychological harm.

(f) Safeguarding the psychological well-being of persons depicted in such images is compelling.

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

(a) "Image" includes, but is not limited to, any photograph, picture, motion picture, film, video, or representation.

(b) "Personal identification information" means any information that identifies an individual, including, but not limited to, a name, a postal or an e-mail address, a telephone number, a social security number, a date of birth, or any unique physical representation ~~has the same meaning as provided in s. 817.568~~.

(c) "Sexually cyberharass" means to publish on an Internet website or to disseminate via electronic means to another person a sexually explicit image of a person that contains or conveys the personal identification information of the depicted person ~~to an Internet website~~ without the depicted person's consent, for no legitimate purpose, with the intent of causing

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

substantial emotional distress to the depicted person.

(d) "Sexually explicit image" means any image depicting nudity, as defined in s. 847.001, or depicting a person engaging in sexual conduct, as defined in s. 847.001.

(3)(a) Except as provided in paragraph (b), a person who willfully and maliciously sexually cyberharasses another person commits a misdemeanor of the first degree, punishable as provided in s. 775.082 or s. 775.083.

(b) A person who has one prior conviction for sexual cyberharassment and who commits a second or subsequent sexual cyberharassment commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(4)(a) A law enforcement officer may arrest, without a warrant, any person that he or she has probable cause to believe has violated this section.

(b) Upon proper affidavits being made, a search warrant may be issued to further investigate violations of this section, including warrants issued to search a private dwelling.

(5) An aggrieved person may initiate a civil action against a person who violates this section to obtain all appropriate relief in order to prevent or remedy a violation of this section, including the following:

(a) Injunctive relief.

(b) Monetary damages to include $5,000 or actual damages incurred as a result of a violation of this section, whichever is greater.

(c) Reasonable attorney fees and costs.

(6) The criminal and civil penalties of this section do not apply to:

(a) A provider of an interactive computer service as defined in 47 U.S.C. s. 230(f), information service as defined in 47 U.S.C. s. 153, or communications service as defined in s. 202.11, that provides the transmission, storage, or caching of electronic communications or messages of others; other related telecommunications or commercial mobile radio service; or content provided by another person; or

(b) A law enforcement officer, as defined in s. 943.10, or any local, state, federal, or military law enforcement agency, that publishes a sexually explicit image in connection with the performance of his or her duties as a law enforcement officer, or law enforcement agency.

(7) A violation of this section is committed within this state if any conduct that is an element of the offense, or any harm to the depicted person resulting from the offense, occurs within this state.

Section 2. For the purpose of incorporating the amendment made by this act to section 784.049, Florida Statutes, in a reference thereto, subsection (16) of section 901.15, Florida Statutes, is reenacted to read:

901.15 When arrest by officer without warrant is lawful.—A law enforcement officer may arrest a person without a warrant when:

(16) There is probable cause to believe that the person has committed a criminal act of sexual cyberharassment as described in s. 784.049.

Section 3. For the purpose of incorporating the amendment made by this act to section 784.049, Florida Statutes, in a reference thereto, subsection (5) of section 901.41, Florida

Statutes, is reenacted to read:

901.41 Prearrest diversion programs.—

(5) ELIGIBILITY.—A violent misdemeanor, a misdemeanor crime of domestic violence, as defined in s. 741.28, or a misdemeanor under s. 741.29, s. 741.31, s. 784.046, s. 784.047, s. 784.048, s. 784.0487, or s. 784.049 does not qualify for a civil citation or prearrest diversion program.

Section 4. For the purpose of incorporating the amendment made by this act to section 784.049, Florida Statutes, in a reference thereto, subsection (11) of section 933.18, Florida Statutes, is reenacted to read:

933.18 When warrant may be issued for search of private dwelling.—No search warrant shall issue under this chapter or under any other law of this state to search any private dwelling occupied as such unless:

(11) An instrumentality or means by which sexual cyberharassment has been committed in violation of s. 784.049, or evidence relevant to proving that sexual cyberharassment has been committed in violation of s. 784.049, is contained therein.

If, during a search pursuant to a warrant issued under this section, a child is discovered and appears to be in imminent danger, the law enforcement officer conducting such search may remove the child from the private dwelling and take the child into protective custody pursuant to chapter 39. The term "private dwelling" shall be construed to include the room or rooms used and occupied, not transiently but solely as a residence, in an apartment house, hotel, boardinghouse, or lodginghouse. No warrant shall be issued for the search of any

private dwelling under any of the conditions hereinabove mentioned except on sworn proof by affidavit of some creditable witness that he or she has reason to believe that one of said conditions exists, which affidavit shall set forth the facts on which such reason for belief is based.

Section 5. This act shall take effect July 1, 2019.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Health Policy, *Chair*
Appropriations Subcommittee on Health and Human Services, *Vice Chair*
Appropriations Subcommittee on Criminal and Civil Justice
Children, Families, and Elder Affairs
Military and Veterans Affairs and Space

JOINT COMMITTEE:
Joint Committee on Public Counsel Oversight

SENATOR GAYLE HARRELL
25th District

March 26, 2019

Senator Lizbeth Benacquisto
402 Senate Building
404 South Monroe Street
Tallahassee, FL 32399

Chair Benacquisto,

I respectfully request that **SB 1136 – Cyber Harassment** be placed on the next available agenda for the Committee on Rules. SB 1136 passed its last committee stop unanimously.

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

Thank you,

Gayle

Senator Gayle Harrell
Senate District 25

Cc: John B. Phelps, Staff Director
Cynthia Futch, Committee Administrative Assistant

REPLY TO:
☐ 215 SW Federal Highway, Suite 203, Stuart, Florida 34994 (772) 221-4019
☐ 310 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: *www.flsenate.gov*

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 1136
Bill Number (if applicable)

Topic Senate Rules

Amendment Barcode (if applicable)

Name Captain Matt Butler

Job Title Captain

Address 2500 W Colonial Dr.
Street

Phone 407-254-7000

Orlando FL 32805
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Orange County Sheriff's Office

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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 1418
INTRODUCER:	Rules Committee; Children, Families, and Elder Affairs Committee; and Senator Powell
SUBJECT:	Mental Health
DATE:	April 17, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Delia	Hendon	CF	**Fav/CS**
2.	Delia	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1418 implements two recommendations of a Department of Children and Families (DCF) task force which has been studying the issue of Baker Act cases involving minors. The first of the specific recommendations contained in the CS encourages school districts to adopt a standardized suicide assessment tool that school-based mental health professionals would implement prior to initiation of an involuntary examination. The second recommendation increases the number of days, from the next working day to five working days that the receiving facility has to submit forms to DCF, to allow DCF to capture data on whether the minor was admitted, released, or a petition filed with the court. The CS also increases data gathering on involuntary examinations and requires DCF to report every two years on its findings and recommendations related to involuntary examinations initiated on minors.

The CS also requires that when a patient communicates a specific threat against an identifiable individual to a mental health service provider, the provider must release information from the clinical record of the patient sufficient to inform law enforcement of the potential threat.

The CS will likely have a fiscal impact and takes effect on becoming a law.

II. Present Situation:

Baker Act

In 1971, the Legislature passed the Florida Mental Health Act (also known as "The Baker Act") to address the mental health needs of individuals in the state. The Baker Act allows for voluntary

and, under certain circumstances, involuntary, examinations of individuals suspected of having a mental illness and presenting a threat of harm to themselves or others. The Baker Act also establishes procedures for courts, law enforcement, and certain health care practitioners to initiate such examinations and then act in response to the findings.

Individuals in acute mental or behavioral health crisis may require emergency treatment to stabilize their condition. Emergency mental health examination and stabilization services may be provided on a voluntary or involuntary basis.[1] An involuntary examination is required if there is reason to believe that the person has a mental illness and because of his or her mental illness:[2]

- The person has refused voluntary examination after conscientious explanation and disclosure of the purpose of the examination or is unable to determine for himself or herself whether examination is necessary; and
- Without care or treatment, the person is likely to suffer from neglect or refuse to care for himself or herself; such neglect or refusal poses a real and present threat of substantial harm to his or her well-being; and it is not apparent that such harm may be avoided through the help of willing family members or friends or the provision of other services; or
- There is a substantial likelihood that without care or treatment the person will cause serious bodily harm to himself or herself or others in the near future, as evidenced by recent behavior.

Involuntary Admissions

Involuntary patients must be taken to either a public or a private facility that has been designated by the Department of Children and Families (DCF) as a Baker Act receiving facility. The purpose of receiving facilities is to receive and hold or refer, as appropriate, involuntary patients under emergency conditions for mental health or substance abuse evaluation and to provide treatment or transportation to the appropriate service provider.[3]

Within the 72-hour examination period, or if the 72 hours end on a weekend or holiday, no later than the next business day, one of the following must occur:

- The patient must be released, unless he or she is charged with a crime, in which case law enforcement will assume custody;
- The patient must be released for voluntary outpatient treatment;
- The patient, unless charged with a crime, must give express and informed consent to a placement as a voluntary and admitted as a voluntary patient; or
- A petition for involuntary placement must be filed in circuit court for involuntary outpatient or inpatient treatment.[4]

[1] SS. 394.4625 and 394.463, F.S.
[2] S. 394.463(1), F.S.
[3] S. 394.455(39), F.S. This term does not include a county jail.
[4] S. 394.463(2)(g), F.S.

Receiving facilities must give prompt notice[5] of the whereabouts of a patient who is being involuntarily held for examination to the patient's guardian,[6] guardian advocate,[7] health care surrogate or proxy, attorney, and representative.[8] If the patient is a minor, the receiving facility must give prompt notice to the minor's parent, guardian, caregiver, or guardian advocate. Notice for an adult may be provided within 24 hours of arrival; however, notice for a minor must be provided immediately after the minor's arrival at the facility. The facility may delay the notification for a minor for up to 24 hours if it has submitted a report to the central abuse hotline. The receiving facility must attempt to notify the minor's parent, guardian, caregiver, or guardian advocate until it receives confirmation that the notice has been received. Attempts must be repeated at least once every hour during the first 12 hours after the minor's arrival and then once every 24 hours thereafter until confirmation is received, the minor is released, or a petition for involuntary services is filed with the court.[9]

Task Force Report on Involuntary Examination of Minors

During the 2017 Legislative session, the Legislature passed HB 1121, which the Governor signed as ch. 2017-151, Laws of Florida. One of its provisions created a task force within DCF to address the issue of involuntary examination of minors 17 years old and younger.

The task force was composed of stakeholders from the education, mental health, law enforcement, and legal fields. The task force was required to submit a report of its findings and recommendations to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 1, 2017; the task force submitted its report on November 15, 2017.[10]

Data Analysis

Based on an analysis of available data regarding involuntary examinations of minors, the task force found that:[11]

- Involuntary examinations for children occur in varying degrees across counties.
- There is an increasing trend statewide and in certain counties to initiate involuntary examinations of minors.
- The seasonal pattern shows that involuntary examinations are more common when school is in session.
- Some children have multiple involuntary examinations, although most children who have an involuntary examination have only one.

---

[5] Notice may be provided in person or by telephone; however, in the case of a minor, notice may also be provided by other electronic means. S. 394.455(2),F.S.

[6] "Guardian" means the natural guardian of a minor, or a person appointed by a court to act on behalf of a ward's person if the ward is a minor or has been adjudicated incapacitated. Section 394.455(17), F.S.

[7] "Guardian advocate" means a person appointed by a court to make decisions regarding mental health treatment on behalf of a patient who has been found incompetent to consent to treatment. Section 394.455(18), F.S.

[8] S. 394.4599(2)(b), F.S.

[9] S. 394.4599(c), F.S.

[10] DEPARTMENT OF CHILDREN AND FAMILIES, Office of Substance Abuse and Mental Health, *Task Force Report on Involuntary Examination of Minors*, (Nov. 15, 2017), available at: http://www.dcf.state.fl.us/service-programs/samh/publications/ (last visited April 2, 2019).

[11] Id. at 20.

- Decreases in juvenile arrests correlate with increases of involuntary examinations of children, although it is important to note that the analyses did not show a causal link and there has been a long pattern of decreases in juvenile crime over more than a decade.
- While recent increases in involuntary examinations in certain counties are deserving of focus, a more important focus needs to be on counties that have high rates of involuntary examination. Counties with high rates are, for the most part, not the same counties with the recent increases.
- The most common involuntary examination for children is initiated by law enforcement based on evidence of harm to self.
- The majority of involuntary examinations initiated for children by mental health professionals are initiated by physicians, followed by licensed mental health counselors, and clinical social workers, with many fewer initiated by psychologists, psychiatric nurses, marriage and family therapists, and physicians' assistants.

Recommendations

The task force made six recommendations for encouraging alternatives to and eliminating inappropriate initiations of involuntary examinations of minors under the Baker Act:

- Fund an adequate network of prevention and early intervention services so that mental health challenges are addressed prior to becoming a crisis.
- Expand access to outpatient crisis intervention services and treatment.
- Create within DCF the "Invest in the Mental Health of our Children" grant program to provide matching funds to counties that can be used to plan, implement, or expand initiatives that increase public safety, avert increased mental health spending, and improve the accessibility and effectiveness of prevention and intervention services for children who have a diagnosed mental illness or co-occurring mental health and substance use disorder.
- Encourage school districts, through legislative intent language, to adopt a standardized suicide assessment tool that school-based mental health professionals would implement prior to initiation of a Baker Act examination.[12]
- Revise s. 394.463, F.S., to include school psychologists licensed under ch. 490, F.S. to the list of mental health professionals who are qualified to initiate a Baker Act.
- Require Youth Mental Health First Aid or Crisis Intervention Team (CIT) training for school resource officers and other law enforcement officers who initiate Baker Act examinations from schools.[13]

Additionally, the task force recommended amending s. 394.463, F.S., to increase the number of days, from the next working day to five working days, that the receiving facility has to submit forms to DCF required by s. 394.463, F.S. The task force states that this change would allow

[12] The Task Force found that data supports the conclusion that implementation of risk assessment protocols significantly reduced the number of children and youth who received Baker Act initiations in school districts across the state.

[13] CIT training is an effective law enforcement response program designed for first responders who handle crisis situations involving individuals with mental illness or co-occurring disorders. It emphasizes a partnership between law enforcement, the mental health and substance abuse treatment system, mental health advocacy groups, and consumers of mental health services and their families. Additionally, this training offers evidence-informed techniques designed to calm the individual in crisis down, reduces reliance on the Baker Act as a means of handling the crisis, and informs individuals of local resources that are available to people in need of mental health services and supports.

DCF to capture data on whether the minor was admitted, released, or a petition filed with the court.[14]

Clinical Records and Confidentiality

Clinical records maintained by mental health facilities in Florida "include[] all medical records, progress notes, charts, and admission and discharge data, and all other information recorded by facility staff which pertains to the patient's hospitalization or treatment[15]." Clinical records are confidential and exempt by statute.[16] Instances in which clinical records must be disclosed to certain individuals include:

- Authorization from patient or guardian
- Authorization from patient's attorney needed "for adequate representation"
- Court order
- The Department of Corrections, if the patient is committed to, or is to be returned to, the Department of Corrections from the Department of Children and Families.[17]

Therapist-Client Privilege

In 1996, the U.S. Supreme Court established a federal psychotherapist-patient privilege protecting a patient's confidential communication with a psychotherapist in the course of treatment or diagnosis.[18] The privilege protects a patient's confidential communication from compelled disclosure.[19] The majority of states have laws that either permit or require mental health professionals to disclose otherwise confidential information received from patients who the professional reasonably believes may become violent.[20]

Tarasoff and the Duty to Protect

In *Tarasoff v. Regents of the University of California*,[21] a University of California (UC) Berkeley student, Prosenjit Poddar, told his therapist of his plan to purchase a gun and murder another student, Tatiana Tarasoff.[22] The therapist informed the campus police of the threat but neither the police nor the therapist warned Tarasoff directly.[23] Poddar proceeded to carry out his plan and murder Tarasoff roughly two months later. Tarasoff's parents sued the UC Regents and the Supreme Court of California ultimately developed what is now known as a *Tarasoff* duty: "The general formulation is that a mental health worker is obligated promptly to notify either the potential victim or the police when a patient makes an explicit threat of serious physical harm against a readily identifiable third party . . . ."[24]

---

[14] Id.
[15] Section 394.4615, F.S.
[16] *Id*.
[17] Section 394.4615(2), F.S.
[18] *See* Jaffee v. Redmond, 518 U.S. 1 (1996).
[19] *Id*.
[20] Edwards, Griffin Sims, Database of State Tarasoff Laws (February 11, 2010), *available at* https://papers.ssrn.com/sol3/papers.cfm?abstract_id=1551505 (last visited April 2, 2019).
[21] 551 P.2d 334 (Cal. 1976).
[22] *Id*.
[23] *Id*.
[24] Paul B. Herbert & Kathryn A. Young, Tarasoff at Twenty-Five, 30 J. Am. Acad. Psychiatry L. 275, 277 (2002).

The *Tarasoff* duty has expanded into many different forms and requirements among the different states. There is no blanket federal duty to warn or protect; instead, there is substantial state-by-state variation in whether and how the duties are defined and codified. There are three general categories of states: those that mandate some duty to warn or protect (and that often specify whether law enforcement, the victim, or a combination should be "warned," generally considered 'mandatory' states); those that allow therapists to warn by protecting them from liability for breach of confidentiality if they do so, but do not require them to issue a warning (permissive states); and those that offer no statutory or case law guidance.[25]

Duties of Mental Health Professionals in Florida

Florida is considered a 'permissive' duty to warn/protect state: mental health providers are given discretion to breach confidentiality with patients and warn of a threat to a third party where a patient has "declared an intention to harm other persons."[26] The Legislature first added a dangerous patient exception to the confidentiality requirement for psychiatrists,[27] and later for psychologists[28] and for social workers and other mental health professionals.[29] Communications between a licensed or certified mental health worker and the patient or client are confidential, and may be waived, only when "there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society…" and the licensed professional communicates the information "only to the potential victim, appropriate family member, or …other appropriate authorities."[30]

Sexually Violent Predator Program Criminal History Records Access

Federal Criminal History Record Information Databases

The Federal Bureau of Investigation administers the National Crime Information Center (NCIC) database, containing information on persons subject to civil protection orders and arrest warrants, and the Interstate Identification Index (III), containing criminal history record information (CRHI). Under federal regulation, CRHI from the NCIC/III-databases is made available to criminal justice agencies for criminal justice purposes.[31]

The National Crime Prevention and Privacy Compact defines "criminal justice agency" as a:[32]

- Court; or
- Governmental agency or any subunit thereof that:
    - Performs the administration of criminal justice pursuant to statute or executive order; and

[25] *Id*.
[26] Section 394.4615, F.S.
[27] Section 456.059, F.S.
[28] Section 490.0147, F.S.
[29] Section 491.0147, F.S.
[30] *Id*.
[31] 28 C.F.R. § 20.33(a)(1).
[32] 42 U.S.C. § 14616.

- Allocates a substantial part of its annual budget to the administration of criminal justice.

"Criminal justice" under the Compact includes activities relating to detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.

The exchange of CRHI between the federal government and states is subject to cancellation if disseminated to unintended recipients.[33]

Sexually Violent Predator Program

A sexually violent predator is a person who has been convicted of a sexually violent offense[34] and has a mental abnormality or personality disorder that makes them likely to engage in future acts of sexual violence if not confined to a secure facility for long-term control, care, and treatment.[35] To address the treatment needs of these offenders, Legislature enacted the Involuntary Civil Commitment of Sexually Violent Predators Act,[36] also known as the Jimmy Ryce Act, in 1998. The Jimmy Ryce Act creates a civil commitment process for sexually violent predators that is similar to the Baker Act, used to involuntarily commit and treat mentally ill persons.[37] Under the Jimmy Ryce Act, offenders convicted of specified sex offenses who are nearing the end of their criminal sentence are referred to the DCF for a risk assessment by a multidisciplinary team as to whether the offender meets the clinical definition of a sexually violent predator. After the risk assessment, DCF provides a recommendation to the state attorney.[38]

Following receipt of DCF's recommendation and supporting information, the state attorney determines whether to file a petition with the circuit court alleging that the offender is a sexually violent predator.[39] At trial, a judge or jury must determine by clear and convincing evidence that an offender meets the definition of a sexually violent predator.[40] A sexually violent predator must be committed to DCF's custody for:[41]

---

[33] 28 C.F.R. § 20.33(b); s. 943.054, F.S.

[34] S. 394.912(9), F.S., defines the term "sexually violent offense" as: Murder of a human being while engaged in sexual battery in violation of s. 782.04(1)(a)2., F.S.; Kidnapping or false imprisonment of a child under the age of 13 and, in the course of that offense, committing sexual battery; or a lewd, lascivious, or indecent assault or act upon or in the presence of the child; Sexual battery in violation of s. 794.011, F.S.; Lewd, lascivious, or indecent assault or act upon or in presence of the child in violation of ss. 800.04 or 847.0135(5), F.S.; An attempt, criminal solicitation, or conspiracy, in violation of s. 777.04, F.S., of a sexually violent offense; Any conviction for a felony offense in effect at any time before October 1, 1998, which is comparable to a sexually violent offense listed above or any federal conviction or conviction in another state for a felony offense that in this state would be a sexually violent offense; or any criminal act that, either at the time of sentencing for the offense or subsequently during civil commitment proceedings under this part, has been determined beyond a reasonable doubt to have been sexually motivated.

[35] S. 394.912(10), F.S.

[36] Ch. 394, Part V, F.S.

[37] Ch. 394, Part I, F.S.

[38] Id.

[39] S. 394.914, F.S.

[40] S. 394.917, F.S.

[41] S. 394.917, F.S.

- Control;
- Care; and
- Treatment.

III. Effect of Proposed Changes:

Section 1 amends section 394.4615, F.S., requiring the release of confidential information from a patient's clinical record sufficient to inform law enforcement of a specific threat to cause serious bodily injury or death to the individual. The threat must be communicated to law enforcement by the administrator of a mental health treatment facility or hospital once the patient has made the threat to a service provider at the facility or hospital, and law enforcement must notify potential victims of the threat.

Section 2 amends s. 394.463, F.S., to increase the number of days that a receiving facility has to submit forms to DCF from the next working day to five working days, and requires DCF to indicate whether the minor was admitted, released, or a petition was filed with the court. The CS also requires DCF to report to the Governor and Legislature every two years on its findings and recommendations related to involuntary examinations of minors. Specifically, DCF must use the additional data that it will be receiving under the bill to identify patterns and trends and cases where involuntary examinations are repeatedly initiated against the same child, study root causes for such patterns, trends, or repeated involuntary examinations, and make recommendations for encouraging alternatives to eliminating inappropriate initiations of such examinations.

Section 3 amends section 394.917, F.S., revising the statutorily defined purpose of DCF's SVPP to include that it rehabilitates criminal offenders upon commitment of a sexually violent predator. This will allow SVPP to administer a criminal justice function pursuant to statute and therefore qualify as a criminal justice agency under federal law. As a criminal justice agency, SVPP will be able to access criminal history record information from the FBI's national and interstate criminal databases.

Section 4 amends section 456.059, F.S., requiring a psychiatrist to disclose patient communications to the extent necessary to warn law enforcement of a threat of serious bodily injury or death made by the patient of the threat. The CS requires law enforcement to notify potential victims of the threat. The CS provides that such disclosure of confidential communications may not be the basis of legal action or any civil or criminal liability against the psychiatrist.

Section 5 amends section 490.0147, F.S., requiring a psychologist to disclose patient communications to the extent necessary to warn law enforcement of a threat of serious bodily injury or death made by the patient of the threat. The CS also requires law enforcement to notify potential victims of the threat. The CS provides that such disclosure of confidential communications may not be the basis of legal action or any civil or criminal liability against the psychologist.

Section 6 amends section 491.0147, F.S., requiring a health care professional licensed under Chapter 491, Florida Statutes, to disclose patient communications to the extent necessary to warn law enforcement of a threat of serious bodily injury or death made by the patient of the threat.

The CS also requires law enforcement to notify potential victims of the threat The CS provides that such disclosure of confidential communications may not be the basis of legal action or any civil or criminal liability against the health care professional.

Section 7 amends s. 1012.383, relating to youth suicide prevention training, to require the Department of Education (DOE), in consultation with the Statewide Office for Suicide Prevention and suicide prevention experts, to add suicide screening as part of its requirements for "Suicide Prevention Certified Schools." DOE must keep a list of "Suicide Prevention Certified Schools" on its website, and school districts must post on their websites a list of "Suicide Prevention Certified Schools" in their districts.

Additionally, the CS requires DOE to identify available standardized suicide screening instruments that are appropriate to use with a school-age population and have acceptable validity and reliability, and include information about obtaining instruction in their administration and use. The suicide screening will be used alongside awareness and prevention materials for training instructional personnel in elementary, middle, and high schools in youth suicide awareness, prevention, and screening.

Section 8 reenacts paragraph (u) of section 490.009(1), F.S., for the purpose of incorporating changes made by the CS to s. 490.0147.

Section 9 reenacts paragraph (u) of section 491.009(1), F.S., for the purpose of incorporating changes made by the CS to s. 491.0147.

Section 10 provides an effective date of July 1, 2019.

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:

For a school to be considered a "Suicide Prevention Certified School", it must have two school-based staff members certified or otherwise deemed competent in the use of a suicide screening instrument pursuant to s. 1012.583, F.S. For those schools that do not already meet this requirement but want to obtain the "Suicide Prevention Certified" recognition, there may be an indeterminate fiscal impact due to the cost associated with the certification or training.

Additionally, an elementary, middle, or high school that voluntarily elects to be a "Suicide Prevention Certified School" may incur indeterminate costs to train personnel on the suicide screening instrument.

Local law enforcement offices may need additional training and/or to add personnel to handle what may be an increased threat response from mandatory reporting, however the impact of these potential needs cannot be determined.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The CS substantially amends sections 394.4615, 394.463, 394.917, 456.059, 490.009, 490.0147, 491.009, 491.0147, and 1012.583 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 April 17, 2019:

- The CS removes the requirement that facility and hospital administrators, psychiatrists, psychologists, and licensees under ch. 491, F.S., warn potential victims of a threat and allows for permissive reporting, as under current law.

- The CS requires DCF to report to the Governor and Legislature every two years on data gathered on child Baker Acts.
- The CS adds a statutory fix for DCF's Sexually Violent Predator Program.

CS by Children, Families, and Elder Affairs on April 1, 2019:

- The CS removes a provision requiring courts to appoint a public defender to represent minors being admitted to a receiving facility, a mental health treatment facility, or a hospital under the Baker Act within one court working day of an involuntary placement petition being filed.
- The CS removes a provision requiring administrators of Baker Act receiving facilities to file a petition for a circuit court hearing within 24 hours of a minor patient applying for voluntary admission to the facility.
- The CS removes a provision requiring that courts hold a hearing within 5 days of receiving a completed application to determine whether the patient has voluntarily consented to be admitted to the facility.
- The CS provides Baker Act receiving facilities with five days, as opposed to one under current law, to submit paperwork on involuntary examinations to DCF.
- The CS encourages schools to use a standardized suicide screening instrument through the voluntary "Suicide Prevention Certified Schools" program.
- The CS requires various mental health service providers to warn potential victims and law enforcement of identifiable threats of serious bodily injury or death made by a patient.

B. Amendments:

None.

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

923424

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Powell) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Present subsections (4) through (11) of section 394.4615, Florida Statutes, are renumbered as subsections (5) through (12), respectively, paragraph (a) of subsection (3) is amended, and a new subsection (4) is added to that section, to read:

394.4615 Clinical records; confidentiality.—

(3) Information from the clinical record may be released in



the following circumstances:

(a) When a patient has communicated to a service provider a specific threat to cause serious bodily injury or death to an identified or a readily available person, if the service provider reasonably believes, or should reasonably believe according to the standards of his or her profession, that the patient has the apparent intent and ability to imminently or immediately carry out such threat ~~declared an intention to harm other persons~~. When such communication ~~declaration~~ has been made, the administrator may authorize the release of sufficient information to provide adequate warning to the person threatened with harm by the patient.

For the purpose of determining whether a person meets the criteria for involuntary outpatient placement or for preparing the proposed treatment plan pursuant to s. 394.4655, the clinical record may be released to the state attorney, the public defender or the patient's private legal counsel, the court, and to the appropriate mental health professionals, including the service provider identified in s. 394.4655(7)(b)2., in accordance with state and federal law.

(4) Information from the clinical record must be released when a patient has communicated to a service provider a specific threat to cause serious bodily injury or death to an identified or a readily available person, if the service provider reasonably believes, or should reasonably believe according to the standards of his or her profession, that the patient has the apparent intent and ability to imminently or immediately carry out such threat. When such communication has been made, the



administrator must authorize the release of sufficient information to communicate the threat to law enforcement. A law enforcement agency that receives notification of a specific threat under this subsection must take appropriate action to prevent the risk of harm, including, but not limited to, notifying the intended victim of such threat or initiating a risk protection order. A service provider's authorization to release information from a clinical record when communicating a threat pursuant to this section may not be the basis of any legal action or criminal or civil liability against the service provider.

Section 2. Paragraph (a) of subsection (2) of section 394.463, Florida Statutes, is amended, and subsection (4) is added to that section, to read:

394.463 Involuntary examination.—

(2) INVOLUNTARY EXAMINATION.—

(a) An involuntary examination may be initiated by any one of the following means:

1. A circuit or county court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination and specifying the findings on which that conclusion is based. The ex parte order for involuntary examination must be based on written or oral sworn testimony that includes specific facts that support the findings. If other less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer, or other designated agent of the court, shall take the person into custody and deliver him or her to an appropriate, or the nearest, facility within the designated receiving system



pursuant to s. 394.462 for involuntary examination. The order of the court shall be made a part of the patient's clinical record. A fee may not be charged for the filing of an order under this subsection. A facility accepting the patient based on this order must send a copy of the order to the department within 5 ~~the next~~ working days ~~day~~. The order may be submitted electronically through existing data systems, if available. The order shall be valid only until the person is delivered to the facility or for the period specified in the order itself, whichever comes first. If no time limit is specified in the order, the order shall be valid for 7 days after the date that the order was signed.

2. A law enforcement officer shall take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to an appropriate, or the nearest, facility within the designated receiving system pursuant to s. 394.462 for examination. The officer shall execute a written report detailing the circumstances under which the person was taken into custody, which must be made a part of the patient's clinical record. Any facility accepting the patient based on this report must send a copy of the report to the department within 5 ~~the next~~ working days ~~day~~.

3. A physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or clinical social worker may execute a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based. If other less restrictive means, such



as voluntary appearance for outpatient evaluation, are not available, a law enforcement officer shall take into custody the person named in the certificate and deliver him or her to the appropriate, or nearest, facility within the designated receiving system pursuant to s. 394.462 for involuntary examination. The law enforcement officer shall execute a written report detailing the circumstances under which the person was taken into custody. The report and certificate shall be made a part of the patient's clinical record. Any facility accepting the patient based on this certificate must send a copy of the certificate to the department within 5 ~~the next~~ working days ~~day~~. The document may be submitted electronically through existing data systems, if applicable.

When sending the order, report, or certificate to the department, a facility shall at a minimum provide information about which action was taken regarding the patient under paragraph (g), which information shall also be made a part of the patient's clinical record.

(4) DATA ANALYSIS.—Using data collected under paragraph (2)(a), the department shall, at a minimum, analyze data on the initiation of involuntary examinations of children, identify any patterns or trends and cases in which involuntary examinations are repeatedly initiated on the same child, study root causes for such patterns, trends, or repeated involuntary examinations, and make recommendations for encouraging alternatives to and eliminating inappropriate initiations of such examinations. The department shall submit a report on its findings and recommendations to the Governor, the President of the Senate,



and the Speaker of the House of Representatives by November 1 of each odd numbered year.

Section 3. Subsection (2) of section 394.917, Florida Statutes, is amended to read:

394.917 Determination; commitment procedure; mistrials; housing; counsel and costs in indigent appellate cases.—

(2) If the court or jury determines that the person is a sexually violent predator, upon the expiration of the incarcerative portion of all criminal sentences and disposition of any detainers, the person shall be committed to the custody of the Department of Children and Families for control, care, ~~and~~ treatment, and rehabilitation of criminal offenders, until such time as the person's mental abnormality or personality disorder has so changed that it is safe for the person to be at large. At all times, persons who are detained or committed under this part shall be kept in a secure facility segregated from patients of the department who are not detained or committed under this part.

Section 4. Section 456.059, Florida Statutes, is amended to read:

456.059 Communications confidential; exceptions.—Communications between a patient and a psychiatrist, as defined in s. 394.455, shall be held confidential and may ~~shall~~ not be disclosed except upon the request of the patient or the patient's legal representative. Provision of psychiatric records and reports are ~~shall be~~ governed by s. 456.057. Notwithstanding any other provision of this section or s. 90.503, when ~~where~~:

(1) A patient is engaged in a treatment relationship with a psychiatrist;


923424

(2) Such patient has communicated to the psychiatrist a specific threat to cause serious bodily injury or death to an identified or a readily available person ~~made an actual threat to physically harm an identifiable victim or victims~~; and

(3) The treating psychiatrist makes a clinical judgment that the patient has the apparent intent and ability to imminently or immediately carry out such threat ~~capability to commit such an act and that it is more likely than not that in the near future the patient will carry out that threat~~,

the psychiatrist may disclose patient communications to the extent necessary to warn any potential victim ~~or~~ and must disclose patient communications to the extent necessary to communicate the threat to a law enforcement agency. A law enforcement agency that receives notification of a specific threat under this subsection must take appropriate action to prevent the risk of harm, including, but not limited to, notifying the intended victim of such threat or initiating a risk protection order. A psychiatrist's disclosure of confidential communications when communicating a threat pursuant to this section may not be the basis of any legal action or criminal or civil liability against the psychiatrist ~~No civil or criminal action shall be instituted, and there shall be no liability on account of disclosure of otherwise confidential communications by a psychiatrist in disclosing a threat pursuant to this section~~.

Section 5. Section 490.0147, Florida Statutes, is amended to read:

490.0147 Confidentiality and privileged communications.—


923424

(1) Any communication between a psychologist ~~any person licensed under this chapter~~ and her or his patient or client is ~~shall be~~ confidential. This privilege may be waived under the following conditions:

(a) ~~(1)~~ When the psychologist ~~person licensed under this chapter~~ is a party defendant to a civil, criminal, or disciplinary action arising from a complaint filed by the patient or client, in which case the waiver shall be limited to that action~~.~~;

(b) ~~(2)~~ When the patient or client agrees to the waiver, in writing, or when more than one person in a family is receiving therapy, when each family member agrees to the waiver, in writing~~.~~; or

(c) ~~(3)~~ When a patient or client has communicated to the psychologist a specific threat to cause serious bodily injury or death to an identified or readily available person, and the psychologist makes a clinical judgment that the patient or client has the apparent intent and ability to imminently or immediately carry out such threat and the psychologist ~~there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society and the person licensed under this chapter~~ communicates the information ~~only~~ to the potential victim~~, appropriate family member, or law enforcement or other appropriate authorities~~. A disclosure of confidential communications by a psychologist when communicating a threat pursuant to this subsection may not be the basis of any legal action or criminal or civil liability against the psychologist.

(2) Such privilege must be waived, and the psychologist



shall disclose patient or client communications to the extent necessary to communicate the threat to a law enforcement agency, if a patient or client has communicated to the psychologist a specific threat to cause serious bodily injury or death to an identified or readily available person, and the psychologist makes a clinical judgment that the patient or client has the apparent intent and ability to imminently or immediately carry out such threat. A law enforcement agency that receives notification of a specific threat under this subsection must take appropriate action to prevent the risk of harm, including, but not limited to, notifying the intended victim of such threat or initiating a risk protection order. A psychologist's disclosure of confidential communications when communicating a threat pursuant to this subsection may not be the basis of any legal action or criminal or civil liability against the psychologist.

Section 6. Section 491.0147, Florida Statutes, is amended to read:

491.0147 Confidentiality and privileged communications.—Any communication between any person licensed or certified under this chapter and her or his patient or client is ~~shall be~~ confidential.

(1) This privilege ~~secrecy~~ may be waived under the following conditions:

(a) ~~(1)~~ When the person licensed or certified under this chapter is a party defendant to a civil, criminal, or disciplinary action arising from a complaint filed by the patient or client, in which case the waiver shall be limited to that action.


923424

(b) ~~(2)~~ When the patient or client agrees to the waiver, in writing, or, when more than one person in a family is receiving therapy, when each family member agrees to the waiver, in writing.

(c) ~~(3)~~ When a patient or client has communicated to the person licensed or certified under this chapter a specific threat to cause serious bodily injury or death to an identified or readily available person, and the person licensed or certified under this chapter makes a clinical judgment that the patient or client has the apparent intent and ability to imminently or immediately carry out such threat~~, in the clinical judgment of the person licensed or certified under this chapter, there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society~~ and the person licensed or certified under this chapter communicates the information ~~only~~ to the potential victim~~, appropriate family member, or law enforcement or other appropriate authorities. There shall be no liability on the part of, and no cause of action of any nature shall arise against, a person licensed or certified under this chapter for the disclosure of otherwise confidential communications under this subsection~~. A disclosure of confidential communications by a person licensed or certified under this chapter when communicating a threat pursuant to this subsection may not be the basis of any legal action or criminal or civil liability against such person.

(2) This privilege must be waived, and the person licensed or certified under this chapter shall disclose patient or client communications to the extent necessary to communicate the threat to a law enforcement agency, if a patient or client has


923424

communicated to such person a specific threat to cause serious bodily injury or death to an identified or readily available person, and the person licensed or certified under this chapter makes a clinical judgment that the patient or client has the apparent intent and ability to imminently or immediately carry out such threat. A law enforcement agency that receives notification of a specific threat under this subsection must take appropriate action to prevent the risk of harm, including, but not limited to, notifying the intended victim of such threat or initiating a risk protection order. A disclosure of confidential communications by a person licensed or certified under this chapter when communicating a threat pursuant to this subsection may not be the basis of any legal action or criminal or civil liability against such person.

Section 7. Section 1012.583, Florida Statutes, is amended to read:

1012.583 Continuing education and inservice training for youth suicide awareness and prevention.—

(1) By July 1, 2019 ~~Beginning with the 2016-2017 school year~~, the Department of Education, in consultation with the Statewide Office for Suicide Prevention and suicide prevention experts, shall develop a list of approved youth suicide awareness and prevention training materials and suicide screening instruments that may be used for training in youth suicide awareness, suicide ~~and~~ prevention, and suicide screening for instructional personnel in elementary school, middle school, and high school. The approved list of materials:

(a) Must identify available standardized suicide screening instruments appropriate for use with a school-age population and



which have validity and reliability and include information about obtaining instruction in the administration and use of such instruments.

(b) ~~(a)~~ Must include training on how to identify appropriate mental health services and how to refer youth and their families to those services.

(c) ~~(b)~~ May include materials currently being used by a school district if such materials meet any criteria established by the department.

(d) ~~(c)~~ May include programs that instructional personnel can complete through a self-review of approved youth suicide awareness and prevention materials.

(2) A school ~~that chooses to incorporate 2 hours of training offered pursuant to this section~~ shall be considered a "Suicide Prevention Certified School~~.~~" if it:

(a) Incorporates 2 hours of training offered pursuant to this section. The training must be included in the existing continuing education or inservice training requirements for instructional personnel and may not add to the total hours currently required by the department. A school that chooses to participate in the training must require all instructional personnel to participate.

(b) Has at least two school-based staff members certified or otherwise deemed competent in the use of a suicide screening instrument approved under subsection (1) and has a policy to use such suicide risk screening instrument to evaluate a student's suicide risk before requesting the initiation of, or initiating, an involuntary examination due to concerns about that student's suicide risk.


923424

(3) A school that meets the criteria in subsection (2) ~~participates in the suicide awareness and prevention training pursuant to this section~~ must report its compliance ~~participation~~ to the department. The department shall keep an updated record of all Suicide Prevention Certified Schools and shall post the list of these schools on the department's website. Each school shall also post on its own website whether it is a Suicide Prevention Certified School, and each school district shall post on its district website a list of the Suicide Prevention Certified Schools in that district.

(4) A person has no cause of action for any loss or damage caused by an act or omission resulting from the implementation of this section or resulting from any training required by this section unless the loss or damage was caused by willful or wanton misconduct. This section does not create any new duty of care or basis of liability.

(5) The State Board of Education may adopt rules to implement this section.

Section 8. For the purpose of incorporating the amendment made by this act to section 490.0147, Florida Statutes, in a reference thereto, paragraph (u) of subsection (1) of section 490.009, Florida Statutes, is reenacted to read:

490.009 Discipline.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(u) Failing to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 490.0147.

Section 9. For the purpose of incorporating the amendment



made by this act to section 491.0147, Florida Statutes, in a reference thereto, paragraph (u) of subsection (1) of section 491.009, Florida Statutes, is reenacted to read:

491.009 Discipline.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(u) Failure of the licensee, registered intern, or certificateholder to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 491.0147.

Section 10. This act shall take effect July 1, 2019.

================ 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 mental health; amending s. 394.4615, F.S.; requiring service providers to disclose information from a clinical record under certain circumstances relating to threats to cause seriously bodily injury or death; requiring a law enforcement agency that receives notification of a specific threat to take appropriate action; providing immunity for service providers for certain actions; amending s. 394.463, F.S.; revising deadlines for submission of documentation regarding involuntary examinations; requiring additional information be included in reports to the department; requiring the



department to report to the Governor and Legislature on data collected from such reports; amending s. 394.917, F.S.; revising the purpose of civil commitment of sexually violent predators to the department after completion of their criminal incarceration sentences; amending s. 456.059, F.S.; requiring psychiatrists to disclose certain patient communications for purposes of notifying law enforcement agencies of certain threats; requiring the notified law enforcement agency to take appropriate action to prevent the risk of harm to the victim; providing psychiatrists with immunity from specified liability and actions under certain circumstances; amending s. 490.0147, F.S.; requiring psychologists to disclose certain patient or client communications for purposes of notifying law enforcement agencies of certain threats; requiring the notified law enforcement agency to take appropriate action to prevent the risk of harm to the victim; providing psychologists with immunity from specified liability and actions under certain circumstances; amending s. 491.0147, F.S.; requiring certain license holders and certificate holders to disclose certain patient or client communications for purposes of notifying law enforcement agencies of certain threats; requiring the notified law enforcement agency to take appropriate action to prevent the risk of harm to the victim; providing such persons with immunity from specified liability and actions; amending s. 1012.583, F.S.;


923424

revising responsibilities of the Department of Education and the Statewide Office for Suicide Prevention; revising criteria for designation as a Suicide Prevention Certified School; requiring that the department, schools, and school districts post certain information regarding such schools be posted on their respective websites; reenacting ss. 490.009 and 491.009, F.S., relating to discipline of psychologists and other licensed therapists, to incorporate amendments made by the act; providing an effective date.

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

586-03728-19 20191418c1

A bill to be entitled

An act relating to mental health; amending s. 394.4615, F.S.; requiring service providers to disclose information from a clinical record under certain circumstances relating to threats to cause seriously bodily injury or death; amending s. 394.463, F.S.; revising deadlines for submission of documentation regarding involuntary examinations; amending s. 456.059, F.S.; requiring, rather than authorizing, psychiatrists to disclose certain patient communications for purposes of notifying potential victims and law enforcement agencies of certain threats; amending s. 490.0147, F.S.; requiring, rather than authorizing, psychologists to disclose certain patient and client communications for purposes of notifying potential victims and law enforcement agencies of certain threats; providing psychologists with immunity from specified liability and actions under certain circumstances; amending s. 491.0147, F.S.; requiring, rather than authorizing, certain license holders and certificate holders to disclose certain patient and client communications for purposes of notifying potential victims and law enforcement agencies of certain threats; providing such persons with immunity from specified liability and actions; amending s. 1012.583, F.S.; revising responsibilities of the Department of Education and the Statewide Office for Suicide Prevention; revising criteria for designation as a Suicide Prevention Certified School;

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

586-03728-19 20191418c1

requiring that the department, schools, and school districts post certain information regarding such schools be posted on their respective websites; reenacting s. 490.009, F.S., relating to discipline of psychiatrists; reenacting s. 491.009, F.S., relating to discipline of psychologists; providing an effective date.

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

Section 1. Present subsections (4) through (11) of section 394.4615, Florida Statutes, are redesignated as subsections (5) through (12), respectively, a new subsection (4) is added to that section, and subsection (3) of that section is amended, to read:

394.4615 Clinical records; confidentiality.—

(3) Information from the clinical record must ~~may~~ be released ~~in the following circumstances:~~

~~(a)~~ when a patient has communicated to a service provider a specific threat to cause serious bodily injury or death to an identified or a readily available person, if the service provider reasonably believes, or should reasonably believe according to the standards of his or her profession, that the patient has the apparent intent and ability to imminently or immediately carry out such threat ~~declared an intention to harm other persons~~. When such communication ~~declaration~~ has been made, the administrator must ~~may~~ authorize the release of sufficient information to provide adequate warning to the person threatened with harm by the patient and communicate the threat

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

to law enforcement.

(4)(a) ~~(b)~~ Information from the clinical record may be released when the administrator of the facility or secretary of the department deems release to a qualified researcher as defined in administrative rule, an aftercare treatment provider, or an employee or agent of the department is necessary for treatment of the patient, maintenance of adequate records, compilation of treatment data, aftercare planning, or evaluation of programs.

(b) For the purpose of determining whether a person meets the criteria for involuntary outpatient placement or for preparing the proposed treatment plan pursuant to s. 394.4655, the clinical record may be released to the state attorney, the public defender or the patient's private legal counsel, the court, and to the appropriate mental health professionals, including the service provider identified in s. 394.4655(7)(b)2., in accordance with state and federal law.

Section 2. Paragraph (a) of subsection (2) of section 394.463, Florida Statutes, is amended to read:

394.463 Involuntary examination.—

(2) INVOLUNTARY EXAMINATION.—

(a) An involuntary examination may be initiated by any one of the following means:

1. A circuit or county court may enter an ex parte order stating that a person appears to meet the criteria for involuntary examination and specifying the findings on which that conclusion is based. The ex parte order for involuntary examination must be based on written or oral sworn testimony that includes specific facts that support the findings. If other

less restrictive means are not available, such as voluntary appearance for outpatient evaluation, a law enforcement officer, or other designated agent of the court, shall take the person into custody and deliver him or her to an appropriate, or the nearest, facility within the designated receiving system pursuant to s. 394.462 for involuntary examination. The order of the court shall be made a part of the patient's clinical record. A fee may not be charged for the filing of an order under this subsection. A facility accepting the patient based on this order must send a copy of the order to the department within 5 ~~the next~~ working days ~~day~~. The order may be submitted electronically through existing data systems, if available. The order shall be valid only until the person is delivered to the facility or for the period specified in the order itself, whichever comes first. If no time limit is specified in the order, the order shall be valid for 7 days after the date that the order was signed.

2. A law enforcement officer shall take a person who appears to meet the criteria for involuntary examination into custody and deliver the person or have him or her delivered to an appropriate, or the nearest, facility within the designated receiving system pursuant to s. 394.462 for examination. The officer shall execute a written report detailing the circumstances under which the person was taken into custody, which must be made a part of the patient's clinical record. Any facility accepting the patient based on this report must send a copy of the report to the department within 5 ~~the next~~ working days ~~day~~.

3. A physician, clinical psychologist, psychiatric nurse, mental health counselor, marriage and family therapist, or

clinical social worker may execute a certificate stating that he or she has examined a person within the preceding 48 hours and finds that the person appears to meet the criteria for involuntary examination and stating the observations upon which that conclusion is based. If other less restrictive means, such as voluntary appearance for outpatient evaluation, are not available, a law enforcement officer shall take into custody the person named in the certificate and deliver him or her to the appropriate, or nearest, facility within the designated receiving system pursuant to s. 394.462 for involuntary examination. The law enforcement officer shall execute a written report detailing the circumstances under which the person was taken into custody. The report and certificate shall be made a part of the patient's clinical record. Any facility accepting the patient based on this certificate must send a copy of the certificate to the department within 5 ~~the next~~ working days ~~day~~. The document may be submitted electronically through existing data systems, if applicable.

Section 3. Section 456.059, Florida Statutes, is amended to read:

456.059 Communications confidential; exceptions.—Communications between a patient and a psychiatrist, as defined in s. 394.455, shall be held confidential and may ~~shall~~ not be disclosed except upon the request of the patient or the patient's legal representative. Provision of psychiatric records and reports are ~~shall be~~ governed by s. 456.057. Notwithstanding any other provision of this section or s. 90.503, when ~~where~~:

(1) A patient is engaged in a treatment relationship with a psychiatrist;

(2) Such patient has communicated to the psychiatrist a specific threat to cause serious bodily injury or death to an identified or a readily available person ~~made an actual threat to physically harm an identifiable victim or victims~~; and

(3) The treating psychiatrist makes a clinical judgment that the patient has the apparent intent and ability to imminently or immediately carry out such threat ~~capability to commit such an act and that it is more likely than not that in the near future the patient will carry out that threat~~,

the psychiatrist shall ~~may~~ disclose patient communications to the extent necessary to warn any potential victim or to communicate the threat to a law enforcement agency. A psychiatrist's disclosure of confidential communications when communicating a threat pursuant to this section may not be the basis of any legal action or criminal or civil liability against the psychiatrist ~~No civil or criminal action shall be instituted, and there shall be no liability on account of disclosure of otherwise confidential communications by a psychiatrist in disclosing a threat pursuant to this section~~.

Section 4. Section 490.0147, Florida Statutes, is amended to read:

490.0147 Confidentiality and privileged communications.—

(1) Any communication between a psychologist ~~any person licensed under this chapter~~ and her or his patient or client is ~~shall be~~ confidential. This privilege may be waived under the following conditions:

(a) ~~(1)~~ When the psychologist ~~person licensed under this chapter~~ is a party defendant to a civil, criminal, or

disciplinary action arising from a complaint filed by the patient or client, in which case the waiver shall be limited to that action; or.

(b) (2) When the patient or client agrees to the waiver, in writing, or when more than one person in a family is receiving therapy, when each family member agrees to the waiver, in writing.

(2) Such privilege must be waived, and the psychologist shall disclose patient and client communications to the extent necessary to warn any potential victim and to communicate the threat to a law enforcement agency, if a patient or client has communicated to the psychologist a specific threat to cause serious bodily injury or death to an identified or readily available person, and the psychologist makes a clinical judgment that the patient or client has the apparent intent and ability to imminently or immediately carry out such threat. A psychologist's disclosure of confidential communications when communicating a threat pursuant to this subsection may not be the basis of any legal action or criminal or civil liability against the psychologist

~~(3) When there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society and the person licensed under this chapter communicates the information only to the potential victim, appropriate family member, or law enforcement or other appropriate authorities~~.

Section 5. Section 491.0147, Florida Statutes, is amended to read:

491.0147 Confidentiality and privileged communications.—Any

communication between any person licensed or certified under this chapter and her or his patient or client is ~~shall be~~ confidential.

(1) This privilege ~~secrecy~~ may be waived under the following conditions:

(a) ~~(1)~~ When the person licensed or certified under this chapter is a party defendant to a civil, criminal, or disciplinary action arising from a complaint filed by the patient or client, in which case the waiver shall be limited to that action.

(b) ~~(2)~~ When the patient or client agrees to the waiver, in writing, or, when more than one person in a family is receiving therapy, when each family member agrees to the waiver, in writing.

(2) This privilege must be waived, and the person licensed or certified under this chapter shall disclose patient and client communications to the extent necessary to warn any potential victim and to communicate the threat to a law enforcement agency, if a patient or client has communicated to such person a specific threat to cause serious bodily injury or death to an identified or readily available person, and the person licensed or certified under this chapter makes a clinical judgment that the patient or client has the apparent intent and ability to imminently or immediately carry out such threat. A disclosure of confidential communications by a person licensed or certified under this chapter when communicating a threat pursuant to this subsection may not be the basis of any legal action or criminal or civil liability against such person

~~(3) When, in the clinical judgment of the person licensed~~

~~or certified under this chapter, there is a clear and immediate probability of physical harm to the patient or client, to other individuals, or to society and the person licensed or certified under this chapter communicates the information only to the potential victim, appropriate family member, or law enforcement or other appropriate authorities. There shall be no liability on the part of, and no cause of action of any nature shall arise against, a person licensed or certified under this chapter for the disclosure of otherwise confidential communications under this subsection~~.

Section 6. Section 1012.583, Florida Statutes, is amended to read:

1012.583 Continuing education and inservice training for youth suicide awareness and prevention.—

(1) By July 1, 2019 ~~Beginning with the 2016-2017 school year~~, the Department of Education, in consultation with the Statewide Office for Suicide Prevention and suicide prevention experts, shall develop a list of approved youth suicide awareness and prevention training materials and suicide screening instruments that may be used for training in youth suicide awareness, suicide ~~and~~ prevention, and suicide screening for instructional personnel in elementary school, middle school, and high school. The approved list of materials:

(a) Must identify available standardized suicide screening instruments appropriate for use with a school-age population and which have validity and reliability and include information about obtaining instruction in the administration and use of such instruments.

(b) ~~(a)~~ Must include training on how to identify appropriate

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

mental health services and how to refer youth and their families to those services.

(c) ~~(b)~~ May include materials currently being used by a school district if such materials meet any criteria established by the department.

(d) ~~(c)~~ May include programs that instructional personnel can complete through a self-review of approved youth suicide awareness and prevention materials.

(2) A school ~~that chooses to incorporate 2 hours of training offered pursuant to this section~~ shall be considered a "Suicide Prevention Certified School~~.~~" if it:

(a) Incorporates 2 hours of training offered pursuant to this section. The training must be included in the existing continuing education or inservice training requirements for instructional personnel and may not add to the total hours currently required by the department. A school that chooses to participate in the training must require all instructional personnel to participate.

(b) Has at least two school-based staff members certified or otherwise deemed competent in the use of a suicide screening instrument approved under subsection (1) and has a policy to use such suicide risk screening instrument to evaluate a student's suicide risk before requesting the initiation of, or initiating, an involuntary examination due to concerns about that student's suicide risk.

(3) A school that meets the criteria in subsection (2) ~~participates in the suicide awareness and prevention training pursuant to this section~~ must report its compliance ~~participation~~ to the department. The department shall keep an

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

updated record of all Suicide Prevention Certified Schools and shall post the list of these schools on the department's website. Each school shall also post on its own website whether it is a Suicide Prevention Certified School, and each school district shall post on its district website a list of the Suicide Prevention Certified Schools in that district.

(4) A person has no cause of action for any loss or damage caused by an act or omission resulting from the implementation of this section or resulting from any training required by this section unless the loss or damage was caused by willful or wanton misconduct. This section does not create any new duty of care or basis of liability.

(5) The State Board of Education may adopt rules to implement this section.

Section 7. For the purpose of incorporating the amendment made by this act to section 490.0147, Florida Statutes, in a reference thereto, paragraph (u) of subsection (1) of section 490.009, Florida Statutes, is reenacted to read:

490.009 Discipline.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(u) Failing to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 490.0147.

Section 8. For the purpose of incorporating the amendment made by this act to section 491.0147, Florida Statutes, in a reference thereto, paragraph (u) of subsection (1) of section 491.009, Florida Statutes, is reenacted to read:

491.009 Discipline.—

(1) The following acts constitute grounds for denial of a license or disciplinary action, as specified in s. 456.072(2):

(u) Failure of the licensee, registered intern, or certificateholder to maintain in confidence a communication made by a patient or client in the context of such services, except as provided in s. 491.0147.

Section 9. This act shall take effect upon becoming a law.

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 9, 2019

I respectfully request that **CS/SB 1418**, relating to Admission to Mental Health Facilities, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Bobby Powell
Florida Senate, District 30

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/2019
Meeting Date

SB 1418
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Mental Health

Name Jill Gran

Job Title Senior Policy Adviser

Address 316 E Park Avenue
Street

Phone 850-224-6048

Tallahassee FL 32301
City *State* *Zip*

Email jill@fccmh.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Council for Behavioral Health

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 1418
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Mental Health

Name Dr. Daniella Thomas

Job Title Legislation Chair

Address 1747 Orlando Central Pkwy
Street

Phone 407 855 7604

Orlando FL 32809
City *State* *Zip*

Email legislation@floridapta.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

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:	SR 1438
INTRODUCER:	Senator Torres
SUBJECT:	Taiwan
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Reeve	McKay	CM	**Favorable**
2.	Reeve	Phelps	RC	**Favorable**

I. Summary:

SR 1438 recognizes the economic and cultural ties between the United States and Taiwan and reaffirms Florida's commitment to the two countries' diplomatic relationship, one based on shared values of freedom, democracy, and the protection of human rights.

Legislative resolutions have no force of law and are not subject to the approval or veto powers of the Governor.

II. Present Situation:

Taiwan, formally the Republic of China, is located off the southeastern coast of China. The population of Taiwan is roughly 23.5 million.[1] As of 2017, there were more than 8,000 Taiwanese citizens and 40,000 Americans of Taiwanese descent residing in Florida.[2]

April 10, 2019, marks the 40th anniversary of the Taiwan Relations Act (the Act), which outlined the unofficial relationship between the United States and Taiwan. The US does not recognize Taiwan as an independent state and instead considers it a part of China; however, the US and Taiwan have maintained strong cultural and economic ties since the creation of the Act in 1979. Taiwan is the United States' 11th largest trading partner, and the US is Taiwan's second largest trading partner. The Trade and Investment Framework Agreement for East Asia, the conditions under which Taiwan trades with the United States, has helped globalize the Taiwanese economy and solidify Taiwan as a key East Asian trade and security ally.[3]

---

[1] Republic of China Ministry of Foreign Affairs, *About Taiwan, available at* https://www.taiwan.gov.tw/ (last visited March 22, 2019).
[2] Migration Policy Institute, *State Immigration Data Profile: Florida* (2017), *available at* https://www.migrationpolicy.org/article/taiwanese-immigrants-united-states (last visited March 22, 2019).
[3] United States Department of State, *U.S. Relations with Taiwan Fact Sheet* (2018), *available at* https://www.state.gov/r/pa/ei/bgn/35855.htm (last visited March 22, 2019).

Taiwan and the United States both hold memberships in a number of the same international organizations, including the World Trade Organization and the Asia-Pacific Economic Cooperation Forum. Taiwan also participates as an observer in several international organizations that promote ideals with which the United States aligns, such as the World Health Assembly and the International Criminal Policy Organization (known as INTERPOL).

Florida in particular enjoys close commercial and cultural relationships with Taiwan. Dr. Tsai Ing-wen, Taiwan's first female president, flew into Miami and met with Senator Marco Rubio on the first stop of her inaugural visit.[4] Taiwan is Florida's seventh largest export market in Asia, and the Department of Agriculture and Consumer Services promotes their "Fresh From Florida" brand of products in retail establishments there.[5] Sisterhood relationships exist between Florida and Taiwan, Miami-Dade County and New Taipei City (formerly Taipei County), and some Florida cities and their Taiwanese counterparts.[6]

III. Effect of Proposed Changes:

The resolution recognizes the relationship and shared interests between the people of Taiwan and the people of the United States and supports the further strengthening of the ties between Florida and Taiwan. A copy of the resolution will be presented to President Tsai In-wen of Taiwan as a token of the sentiments of the Florida Senate.

Legislative resolutions have no force of law and are not subject to the approval or veto powers of the Governor.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

---

[4] Office of Senator Marco Rubio, *Rubio Welcomes Taiwanese President to Miami* (June 24, 2016), https://www.rubio.senate.gov/public/index.cfm/press-releases?ID=5061149F-F0E3-4FF5-B4AC-C6E2AD09B785 (last visited March 22, 2019).

[5] *New Partnership to Expand 'Fresh From Florida' Footprint In Taiwan,* Growing Produce (Nov. 26, 2014), https://www.growingproduce.com/vegetables/new-partnership-to-expand-fresh-from-florida-footprint-in-taiwan/ (last visited March 22, 2019).

[6] Enterprise Florida, *Directory of Consulates, Bi-National Chambers and Sister Cities in Florida* (2017), *available at* https://www.enterpriseflorida.com/wp-content/uploads/Directory_of_Consulates_Chambers_and_Sister_Cities_in_Florida.pdf (last visited March 22, 2019).

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:

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 Torres

15-01437-19 20191438__

Senate Resolution

A resolution enhancing the sister-state relationship and bilateral economic and cultural ties between Florida and the Republic of China (Taiwan), and reaffirming and maintaining the commitment of the State of Florida and the United States to the strong and deepening relationship with Taiwan, as the two nations together embrace the fundamental values of freedom, democracy, and the protection of human rights.

WHEREAS, Dr. Tsai Ing-wen, the first female president of the Republic of China (Taiwan), was welcomed in Miami on June 24, 2016, enhancing the already strong bilateral relationship between Taiwan and Florida, as well as strengthening the common values that Taiwan shares with the United States, and

WHEREAS, April 10, 2019, marks the 40th anniversary of the enactment of the Taiwan Relations Act, which maintains peace, security, and stability in the Western Pacific and promotes the foreign policy of the United States by authorizing the continuation of commercial, cultural, and other relationships between the people of the United States and the people of Taiwan, and

WHEREAS, Taiwan is an East Asian ally of the United States, which continues to provide defensive weaponry and arms to Taiwan through the sale of naval vessels, equipment, and munitions, including 60 Sikorsky UH-60M Black Hawk helicopters that were officially transferred in Florida, and the provision of post-sale training in this state, which created local employment

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

15-01437-19 20191438__

opportunities, and

WHEREAS, Taiwan's meaningful participation in international organizations, including its bid for observer status in the International Criminal Police Organization, better known as INTERPOL, and the World Health Assembly, is encouraged and supported, as is its meaningful participation in the United Nations Framework Convention on Climate Change and the International Civil Aviation Organization, both of which are in the best interests of the regional and global economy, and

WHEREAS, Taiwan participates in, observes, or cooperates with more than 50 international organizations and holds membership status in both the Asia-Pacific Economic Cooperation and the World Trade Organization, and

WHEREAS, Taiwan has been a member of the United States' Visa Waiver Program since November 1, 2012, reflecting the cooperation between the United States and Taiwan and making travel for business and tourism more convenient, and

WHEREAS, Taiwan's contributions in the global marketplace in both traditional and innovative industries, and its support for continued bilateral dialogue under the Trade and Investment Framework Agreement, together with exploration of the possibility of a future bilateral investment agreement with the United States, will globalize Taiwan's economy and eliminate trade barriers, thus solidifying Taiwan as a robust and trustworthy partner to the United States for trade and security in East Asia, and

WHEREAS, Taiwan is the United States' 11th largest trading partner and is Florida's 7th largest export market in Asia, and

WHEREAS, sisterhood relationships exist between Florida and

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

Taiwan, Miami-Dade County and New Taipei City (formerly Taipei County), and a number of Florida cities and the Port of Miami and their Taiwanese counterparts, NOW, THEREFORE,

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

That the relationship and shared interests between the people of Taiwan and the people of the United States are recognized and the partnership between the two nations and further strengthening of the ties between Florida and Taiwan, including future trade opportunities, are supported.

BE IT FURTHER RESOLVED that a copy of this resolution, with the Seal of the Senate affixed, be presented to President Tsai Ing-wen of Taiwan, through the Taipei Economic and Cultural Office in Miami, as a tangible token of the sentiments of the Florida Senate.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Commerce and Tourism, *Vice Chair*
Appropriations Subcommittee on Transportation, Tourism, and Economic Development
Children, Families, and Elder Affairs
Governmental Oversight and Accountability
Military and Veterans Affairs and Space

JOINT COMMITTEE:
Joint Select Committee on Collective Bargaining

SENATOR VICTOR M. TORRES, JR.
15th District

April 5, 2019

Lizbeth Benacquisto, Chair
Committee on Rules
404 S. Monroe Street
Tallahassee, FL 32399

Dear Chair Benacquisto:

Please accept this letter as a formal request to schedule SR 1438, which is a resolution for Taiwan for the next available meeting of the Rules Committee. Please let me know if you have any questions or need additional information. Thank you, in advance, for your favorable consideration of this request.

Respectfully,

Victor M. Torres, Jr.
State Senator
District 15

c: John B. Phelps, Staff Director, Committee on Rules
Matthew Hunter, Legislative Assistant

REPLY TO:
☐ 101 Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (850) 410-4817
☐ 226 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5015

Senate's Website: *www.flsenate.gov*

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/SB 1520
INTRODUCER:	Banking and Insurance Committee and Senator Bean
SUBJECT:	Direct Health Care Agreements
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Johnson	Knudson	BI	**Fav/CS**
2.	Lloyd	Brown	HP	**Favorable**
3.	Johnson	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1520 expands the scope of the current exemption from the Florida Insurance Code (code) for direct primary care agreements to apply to all direct health care agreements for specified health care practitioners, which would include dentists. The bill removes regulatory uncertainty as to whether such providers may use a direct contracting model without the possibility of such agreements being considered insurance products.

The bill does not impact state revenues or expenditures.

The effective date of the bill is July 1, 2019.

II. Present Situation:

Direct Contracting with Health Care Providers

Direct primary care is a type of direct contracting that eliminates third party payers from the provider-patient relationship.[1] Through a direct contractual agreement with a health care

[1] The direct primary care or direct contracting model is compared to the concierge practice model. However, while both provide access to physician services for a periodic fee, the concierge model generally continues to bill third party payers, such as insurers on a fee for service basis, in addition to the collection of membership and retainer fees. *See* Phillip M. Eskew and Kathleen Klink, *Direct Primary Care: Practice Distribution and Cost Across the Nation*, Journal of the Amer. Bd. of

provider, a patient generally pays a monthly retainer fee, on average $77 per individual,[2] to the health care provider for defined primary care services, such as office visits, preventive care, annual physical examination, and routine laboratory tests.

After paying the monthly fee, a patient can access all services under the agreement at no extra charge based on the terms of the agreement. Typically, direct contracting practices provide routine preventive services, screenings, or tests, like lab tests, mammograms, pap screenings, and vaccinations. A direct health care provider agreement can be designed to address most health care issues, including women's health services, pediatric care, urgent care, wellness education, and chronic disease management. A direct contracting agreement may also include specialty physicians.

Individuals and employers may enter into such direct contracting agreements. A recent Willis Towers Watson survey found that only six percent of employers were contracting directly with providers in 2017, but 22 percent are considering it for 2019 to obtain greater savings for the delivery of health care services.[3]

Some of the potential benefits of the direct contracting model for providers include reducing patient volume, minimizing administrative and staffing expenses, increasing time with patients, and increasing revenues. The direct contracting provider eliminates administrative costs associated with filing and resolving insurance claims. Existing direct primary care practices claim to reduce expenses by more than 40 percent by eliminating administrative staff resources associated with third-party costs.[4]

In 2014, the American Academy of Private Physicians (AAPP) estimated that approximately 5,500 physicians operate under some type of direct financial relationship with their patients outside of standard insurance coverage. According to the AAPP, that number has increased around 25 percent per year since 2010.[5] The Direct Primary Care Coalition has adopted model state legislation for direct primary care agreements (DPC).[6] As of March 1, 2019, 25 states have adopted some type of direct contracting agreement provisions, such as DPC legislation, which defines a DPC agreement as an agreement between a primary care physician and a patient, and such agreement is outside the scope of state insurance regulation.[7] Missouri enacted a law in 2015 which provides that a medical retainer agreement was an agreement between a licensed

---

Family Med. (Nov.-Dec. 2015) Vol. 28, No. 6, p. 797, *available at:* http://www.jabfm.org/content/28/6/793.full.pdf (last viewed March 28, 2019).

[2] *Id.* A study of 141 DPC practices found the average monthly retainer fee to be $77.38. Of the 141 practices identified, 116 (82 percent) have cost information available online. The average monthly cost to the patient was $93.26 (median monthly cost, $75.00; range, $26.67 to $562.50 per month) for these 116 practices. Of the 116 DPCs noted, 36 charged a one-time enrollment fee and the average enrollment fee was $78. Twenty-eight of 116 DPCs charged a fee for office visits in addition to the retainer fee, and the average visit fee was $16.

[3] Willis Towers Watson, *Best practices in health care employer survey* (2018), available at https://www.willistowerswatson.com/-/media/WTW/PDF/Insights/2018/01/2017-best-practices-in-health-care-employer-survey-wtw.pdf (last viewed Mar. 11, 2019).

[4] Lisa Zamosky, Direct-Pay Medical Practices Could Diminish Payer Headaches, MEDICAL ECONOMICS (Apr. 24, 2014).

[5] David Twiddy, *Practice Transformation: Taking the Direct Primary Care Route*, Family Practice Management, No. 3, (May-June 2014), *available at:* http://www.aafp.org/fpm/2014/0500/p10.html (last viewed Oct. 19, 2017).

[6] Direct Primary Care Coalition Model State Legislation, *available at* http://www.dpcare.org/dpcc-model-legislation. (last viewed Mar. 9, 2019).

[7] See https://www.dpcare.org/state-level-progress-and-issues (last viewed Mar. 12, 2019).

physician and an individual patient and was not insurance, thereby not limiting the application of the law to direct primary care physicians.[8]

Federal Health Care Reform and Direct Primary Care

The federal Patient Protection and Affordable Care Act (PPACA)[9] requires health insurers to make guaranteed issue coverage available to all individuals and employers without exclusions for preexisting conditions. The PPACA also mandates that insurers that offer qualified health plans provide 10 categories of essential health benefits.[10]

An individual can enroll in a direct health care provider agreement and obtain coverage through a high deductible health plan (HDHP),[11] which would provide coverage for severe injuries or chronic conditions. Such an individual may benefit from enrolling in a direct health care provider agreement since it may provide a greater degree of access to health care for a monthly fee that is substantially less than the annual deductible of the HDHP.

State Regulation of Insurance

The Office of Insurance Regulation (OIR) licenses and regulates the activities of insurers, health maintenance organizations (HMOs), and other risk-bearing entities. These specified entities must meet certain requirements for licensure. Before receiving a certificate of authority from the OIR, a HMO and a prepaid health clinic must receive a health care provider certificate[12] from the Agency for Health Care Administration pursuant to part III of ch. 641, F.S.[13]

Currently, Florida law exempts direct primary care (DPC) agreements from regulation under the Insurance Code. Section 624.27, F.S., provides the following definitions and requirements for a DPC agreement to be exempt from the Insurance Code.

- A direct primary health care agreement is a contract between a health care provider and a patient, the patient's legal representative, or an employer which must satisfy the requirements regarding contract terms and disclosures and does not indemnify for services provided by a third party.
- A primary care provider is a licensed health care practitioner under ch. 458, F.S., (medical doctor or physician assistant); ch. 459, F.S., (osteopathic doctor or physician assistant); ch. 460, F.S., (chiropractic physician); or ch. 464, F.S., (nurses and advanced registered nurse practitioners); or a primary care group practice, which provides primary care services to patients.

[8] Missouri Law 2015 H.B. 769.

[9] Pub. Law No. 111-148 (Mar. 23, 2010) amended by Pub. Law. No. 111-152 (Mar. 30, 2010).

[10] 42 U.S.C. s. 18022.

[11] A high deductible health plan (HDHP) has a higher deductible than typical plans and a maximum limit on the amount of the annual deductible and out-of-pocket medical expenses an insured must pay for covered services. For 2019, for self-only coverage, the annual minimum deductible is $1,350 and the maximum is $6,650. See https://www.irs.gov/publications/p969#en_US_2016_publink1000204030 (last viewed Mar. 9, 2019).

[12] Section 641.49, F.S.

[13] Section 641.48, F.S., provides that the purpose of part III of ch. 641, F.S., is to ensure that HMOs and prepaid health clinics deliver high-quality care to their subscribers.

- Direct primary care services are screening, assessment, diagnosis, and treatment conducted within the competency and training of the primary care provider for the purpose of promoting health or detecting and managing disease or injury.

A DPC agreement must meet the following minimum requirements and disclosures:

- Be in writing and signed by the provider or the provider's agent and the patient, the patient's legal representative, or the patient's employer;
- Allow a party to terminate the agreement with 30 days' advance written notice and provide for the immediate termination of the agreement if the physician-patient relationship is violated or a party breaches the terms of the agreement;
- Describe the scope of health care services covered by the monthly fee;
- Specify the monthly fee and any fees for health care services not covered by the monthly fee;
- Specify the duration of the agreement and any automatic renewal provisions;
- Offer a refund of monthly fees paid in advance if the provider ceases to offer health care services for any reason; and
- Contain the following statements in contrasting color and 12-point or larger type on the same page as the applicant's signature:

> This agreement is not health insurance, and the health care provider will not file any claims against the patient's health insurance policy or plan for reimbursement of any primary care services covered by this agreement. This agreement does not qualify as minimum essential coverage to satisfy the individual shared responsibility provision of the federal Patient Protection and Affordable Care Act, 26 U.S.C. s. 5000A. This agreement is not workers' compensation insurance and does not replace an employer's obligations under ch. 440, F.S.

Prepaid Health Clinics

Prepaid health clinics[14] are required to obtain a certificate of authority from the OIR pursuant to part II of ch. 641, F.S. The entity must meet minimum surplus requirements[15] and comply with solvency protections for the benefit of subscribers by securing insurance or filing a surety bond with the OIR.[16] Part II also provides that the procedures for offering basic services and offering and terminating contracts to subscribers may not unfairly discriminate based on age, health, or economic status.[17]

State Regulation of Health Care Practitioners

The Department of Health (DOH) is responsible for the licensure and regulation of most health care practitioners in the state. In addition to the regulatory authority in specific practice acts for

[14] Section 641.402, F.S., defines the term, "prepaid health clinic," to mean any organization authorized under part II that provides, either directly or through arrangements with other persons, basic services to persons enrolled with such organization, on a prepaid per capita or prepaid aggregate fixed-sum basis, including those basic services which subscribers might reasonably require to maintain good health. However, no clinic that provides or contracts for, either directly or indirectly, inpatient hospital services, hospital inpatient physician services, or indemnity against the cost of such services shall be a prepaid health clinic.
[15] Section 641.406, F.S.
[16] Section 641.409, F.S.
[17] Section 641.406, F.S.

each profession or occupation, ch. 456, F.S., provides the general regulatory provisions for health care professions within the DOH through the Division of Medical Quality Assurance.

Section 456.001, F.S., defines "health care practitioner" as any person licensed under chs. 457 (acupuncture); 458 (medicine); 459 (osteopathic medicine); 460 (chiropractic medicine); 461 (podiatric medicine); 462 (naturopathic medicine); 463 (optometry); 464 (nursing); 465 (pharmacy); 466 (dentistry and dental hygiene); 467 (midwifery); 478 (electrology or electrolysis); 480 (massage therapy); 484 (opticianry and hearing aid specialists); 486 (physical therapy); 490 (psychology); 491 (psychotherapy); F.S., or parts III or IV of ch. 483 (clinical laboratory personnel or medical physics), F.S.[18]

III. Effect of Proposed Changes:

Section 1 amends s. 624.27, F.S., to expand the current exemption of direct primary care agreements from the Insurance Code to apply to all direct health care agreements with the specified practitioners, and dentists licensed under ch. 466, F.S., are added to the list. The existing provisions of the section are revised to replace the term, "primary care" with the term, "health care." As a result, the terms, "direct primary care agreement," "primary care provider," and "primary care services," are replaced with the terms, "direct health care agreement," "health care provider," and "health care services," respectively. As a result, the section provides that the act of entering into a direct health provider agreement does not constitute the business of insurance and is not subject to the Florida Insurance Code, and such agreements are no longer limited to primary care.

Section 2 provides that the bill takes effect July 1, 2019.

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.

[18] The miscellaneous professions and occupations regulated in parts I, II, III, V, X, XIII, or XIV (speech-language pathology and audiology; nursing home administration; occupational therapy; respiratory therapy; dietetics and nutrition practice; athletic trainers; and orthotics, prosthetics, and pedorthics) of ch. 468, F.S., are considered health care practitioners under s. 456.001, F.S.

E. Other Constitutional Issues:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

CS/SB 1520 removes regulatory uncertainty for health care providers who are not primary care providers that contract directly with individuals or employers by providing that the direct health care agreement is not insurance if certain conditions are met, and as a result, the OIR does not regulate the agreements.

Additional health care providers may elect to pursue a direct health care model and establish direct health care practices that may increase patients' access to affordable health care services.

Many individuals have high deductible policies and must meet a significant out of pocket cost to access many types of medical care. The direct health care agreement may provide a less expensive option for accessing certain services.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 624.27 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 Banking and Insurance on March 18, 2019:
The CS provides that a direct health care agreement could include agreements with dentists.

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 Banking and Insurance; and Senator Bean

597-03200-19 20191520c1

A bill to be entitled

An act relating to direct health care agreements; amending s. 624.27, F.S.; expanding the scope of direct primary care agreements that are exempt from the Florida Insurance Code and renaming them direct health care agreements; adding health care providers who may market, sell, or offer to sell such agreements; providing an effective date.

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

Section 1. Section 624.27, Florida Statutes, is amended to read:

624.27 Direct health ~~primary~~ care agreements; exemption from code.—

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

(a) "Direct health ~~primary~~ care agreement" means a contract between a health ~~primary~~ care provider and a patient, a patient's legal representative, or a patient's employer, which meets the requirements of subsection (4) and does not indemnify for services provided by a third party.

(b) "Health ~~Primary~~ care provider" means a health care provider licensed under chapter 458, chapter 459, chapter 460, ~~or~~ chapter 464, or chapter 466, or a health ~~primary~~ care group practice, who provides health ~~primary~~ care services to patients.

(c) "Health ~~Primary~~ care services" means the screening, assessment, diagnosis, and treatment of a patient conducted within the competency and training of the health ~~primary~~ care provider for the purpose of promoting health or detecting and

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

Florida Senate - 2019 **CS for SB 1520**

597-03200-19 20191520c1

managing disease or injury.

(2) A direct health ~~primary~~ care agreement does not constitute insurance and is not subject to the Florida Insurance Code. The act of entering into a direct health ~~primary~~ care agreement does not constitute the business of insurance and is not subject to the Florida Insurance Code.

(3) A health ~~primary~~ care provider or an agent of a health ~~primary~~ care provider is not required to obtain a certificate of authority or license under the Florida Insurance Code to market, sell, or offer to sell a direct health ~~primary~~ care agreement.

(4) For purposes of this section, a direct health ~~primary~~ care agreement must:

(a) Be in writing.

(b) Be signed by the health ~~primary~~ care provider or an agent of the health ~~primary~~ care provider and the patient, the patient's legal representative, or the patient's employer.

(c) Allow a party to terminate the agreement by giving the other party at least 30 days' advance written notice. The agreement may provide for immediate termination due to a violation of the physician-patient relationship or a breach of the terms of the agreement.

(d) Describe the scope of health ~~primary~~ care services that are covered by the monthly fee.

(e) Specify the monthly fee and any fees for health ~~primary~~ care services not covered by the monthly fee.

(f) Specify the duration of the agreement and any automatic renewal provisions.

(g) Offer a refund to the patient, the patient's legal representative, or the patient's employer of monthly fees paid

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

in advance if the health ~~primary~~ care provider ceases to offer health ~~primary~~ care services for any reason.

(h) Contain, in contrasting color and in at least 12-point type, the following statement on the signature page: "This agreement is not health insurance and the health ~~primary~~ care provider will not file any claims against the patient's health insurance policy or plan for reimbursement of any health ~~primary~~ care services covered by the agreement. This agreement does not qualify as minimum essential coverage to satisfy the individual shared responsibility provision of the Patient Protection and Affordable Care Act, 26 U.S.C. s. 5000A. This agreement is not workers' compensation insurance and does not replace an employer's obligations under chapter 440."

Section 2. This act shall take effect July 1, 2019.

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

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 2, 2019

I respectfully request that **Senate Bill # 1520**, relating to Direct Health Care Agreements, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Aaron Bean

Senator Aaron Bean
Florida Senate, District 4

File signed original with committee office

S-020 (03/2004)

W

THE FLORIDA SENATE

APPEARANCE RECORD

4/17/19 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SB 1520

Meeting Date *Bill Number (if applicable)*

Topic Direct Health Care *Amendment Barcode (if applicable)*

Name Alexandra Abboud

Job Title Governmental Affairs Liaison

Address 118 E Jefferson st Phone (850) 224-1089

Street

Tallahassee FL 32301 Email Aabboud@floridadental.org

City *State* *Zip*

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

(The Chair will read this information into the record.)

Representing Florida Dental Association

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

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

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

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

1520
Bill Number (if applicable)

Topic Direct Health Care Agreements

Amendment Barcode (if applicable)

Name Phillip Suderman

Job Title Policy Director

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

Topic _____ Bill Number 1520 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/CS/SB 1704
INTRODUCER:	Innovation, Industry, and Technology Committee, Banking and Insurance Committee, and Senator Wright
SUBJECT:	Department of Financial Services
DATE:	April 16, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Billmeier	Knudson	BI	**Fav/CS**
2.	Wiehle	Imhof	IT	**Fav/CS**
3.	Billmeier	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1704 is the agency bill for the Department of Financial Services.

The bill allows the Division of Treasury to maintain warrants paid rather than turning them over to the Division of Auditing and Accounting and extending the retention period from 5 to 10 years.

The bill amends Florida Funeral, Cemetery, and Consumer Services Act to:

- Allow a funeral director in charge to supervise up to two facilities, provided they are within a specified distance from one another;
- Authorize out of state trust companies to service a funeral or cemetery's care and maintenance trust fund;
- Provide criteria for internship programs for a joint funeral director and embalmer license applicant; and
- Allow out of state trust companies to receive funds from a preneed contract without obtaining a preneed license.

The bill amends various licensing statutes administered by the Division of Agent and Agency Services. The bill:

- Allows applicants that have committed certain felonies to obtain a license on a probationary basis once the applicant has served at least half of the disqualifying period if the applicant has not committed any crimes during that time;
- Creates a temporary license for personal lines agents similar to the temporary license existing in other lines;
- Provides that licenses for industrial fire or burglary agents will no longer be issued but allows current license holders to maintain their licenses;
- Eliminates examination requirements for industrial fire insurance and burglary insurance agents as well as crop hail and multiple-peril crop insurance agents; and
- Provides the DFS the discretion to deny an application for an insurance agency license on the grounds that another jurisdiction has taken an adverse action against a professional license held by that person.

The bill provides for a uniform fire alarm permit for installing, replacing, or repairing a fire alarm system.

The bill amends the DFS property insurance mediation program to require the mediator to report a settlement through mediation to all parties within 10 days after the conclusion of the mediation. The report must include the settlement amount.

The bill amends statutes relating to the State Fire Marshal to provide that identification of state-owned and leased buildings will no longer be determined by the U.S. National Grid Coordinate System and to direct the Division of State Fire Marshal to develop employer best practices for firefighter cancer prevention. It also clarifies requirements for installation of fire extinguishers and preengineered systems.

The bill amends the Disposition of Unclaimed Property Act to allow the DFS to automatically disburse certain unclaimed property accounts to verified claimants.

II. Present Situation:

The Department of Financial Services (DFS) is created by s. 20.121, F.S. The agency head for the DFS is the Chief Financial Officer (CFO).[1] The DFS has the following divisions and offices:

- Division of Accounting and Auditing;
- Division of Consumer Services;
- Division of Funeral, Cemetery, and Consumer Services;
- Division of Insurance Agent and Agency Services;
- Division of Investigative and Forensic Services;
- Division of Public Assistance Fraud;
- Division of Rehabilitation and Liquidation;
- Division of Risk Management;
- Division of State Fire Marshal;

[1] Section 20.121(1), F.S.

- Division of Treasury;
- Division of Unclaimed Property;
- Division of Workers' Compensation;
- Division of Administration; and
- Office of Insurance Consumer Advocate.[2]

The bill deals with various divisions and programs within the DFS. The divisions and programs changed by the bill are briefly discussed as follows.

Division of the Treasury

The CFO, or Treasurer, is the state treasurer.[3] The Division of the Treasury within the DFS has three bureaus:
- Bureau of Funds Management;
- Bureau of Collateral Management; and
- Bureau of Deferred Compensation.[4]

Section 17.56, F.S., requires the Division of Treasury to turn over to the Division of Accounting and Auditing all warrants drawn by the Chief Financial Officer or the Comptroller and paid by the Division of Treasury. The warrants shall be turned over as soon as the Division of Treasury shall have recorded such warrants and charged the same against the accounts upon which such warrants are drawn. The DFS reports that this requirement was created with the divisions were housed in separate agencies.[5]

Division of Funeral, Cemetery, and Consumer Services

Regulation of Licensees

The Board of Funeral, Cemetery, and Consumer Services, within the DFS, licenses and regulates cemeteries, funeral directors, embalmers, burial rights brokers, and others in the death care industry. The Board of Funeral, Cemetery, and Consumer Services licenses:
- Embalmer apprentices;
- Embalmer interns;
- Funeral director interns;
- Funeral directors;
- Funeral director and embalmers;
- Direct disposers;
- Monument establishment sales agents; and
- Preneed sales agents.

---

[2] Section 20.121(2), F.S.
[3] Section 20.121(1), F.S.
[4] Department of Financial Services, Division of Treasury, *Annual Report 2018* (available at https://www.myfloridacfo.com/Division/Treasury/Reports/AnnualReports/docs/2018TreasuryAnnualReport.pdf (last visited Mar. 27, 2019).
[5] *See* Department of Financial Services, *SB 1704 Legislative Bill Analysis* (Mar. 27, 2019) (on file with the Senate Committee on Innovation, Industry, and Technology).

Current law generally requires each establishment have a licensed funeral director, embalmer, or direct disposer in charge of that establishment. Section 497.380, F.S., provides that each licensed funeral establishment must have one full-time funeral director in charge. Since October 1, 2010, the full-time funeral director in charge must hold an active, valid embalmer license or combination license as a funeral director and an embalmer under most circumstances. Section 497.476, F.S., allows persons to be licensed as both a funeral director and an embalmer. Persons holding a combination license as a funeral director and an embalmer are subject to regulation both as a funeral director and an embalmer.

The full-time funeral director may not be the full-time funeral director in charge of any other funeral establishment or of any other direct disposal establishment. The funeral director in charge is responsible for ensuring that the facility, its operation, and all persons employed in the facility comply with all applicable federal and state laws and rules.[6] Each establishment must have a funeral director reasonably available to the public during normal business hours.[7]

Section 497.385, F.S., requires each licensed centralized embalming facility to have at least one full-time embalmer in charge. The full-time embalmer in charge may not be the full-time embalmer in charge, full-time funeral director in charge, or full-time direct disposer in charge of any other establishment licensed under ch. 497, F.S.

Section 497.606, F.S., requires each cinerator facility to have one full-time licensed direct disposer or licensed funeral director in charge for that facility. Such person may be in charge of only one facility. The licensed funeral director or licensed direct disposer is responsible for making sure the facility, its operations, and all persons employed in the facility comply with all applicable state and federal laws and rules.[8]

Preneed Contracts

A "preneed contract" is any arrangement or method, of which the provider of funeral merchandise or services has actual knowledge, whereby any person agrees to furnish funeral merchandise or service in the future.[9] Persons who sell preneed contracts are licensed by the Board of Funeral, Cemetery, and Consumer Services.[10] Section 497.458, F.S., requires any person who receives funds under a preneed contract for funeral services or merchandise or burial services or merchandise to deposit certain percentages of the amounts received with a trust company operating pursuant to ch. 660, F.S., with a national or state bank holding trust powers, or with a federal or state savings and loan association holding trust powers. Trust companies operating under ch. 660, F.S., are domiciled in Florida.

Care and Maintenance Trust Funds

A cemetery company has a duty to ensure that the grounds, structures, and other improvements of the cemetery are well cared for and maintained in a proper and dignified condition.[11] The

[6] Section 497.380(7), F.S.
[7] *Id.*
[8] Section 497.606(8), F.S.
[9] Section 497.005(61), F.S.
[10] Section 497.453, F.S.
[11] Section 497.262, F.S.

cemetery company must establish a "care and maintenance" trust fund with a trust company operating under ch. 660, F.S.

Division of Agent and Agency Services

The DFS licenses and regulates insurance agents, insurance agencies, and insurance adjusters. There are over 50 different types of licenses. Typically, obtaining a license involves completing education requirements, submitting to a criminal and professional background check, passing an examination, and paying a license fee. Some licensees must act as apprentices supervised by others when performing duties. This bill makes changes to various agent licensing provisions. Each change is discussed in Section III, Effect of Proposed Changes.

DFS Property Insurance Mediation Program

Section 627.7015, F.S., creates a property insurance mediation program through the DFS. It is available for claims under personal lines and commercial residential policies before commencing the appraisal process, or before commencing litigation.[12] An insurer must notify the policyholder of the right to participate in mediation at the time of the claim.[13] Mediation is nonbinding. However, if a written settlement is reached, the policyholder has 3 business days within which the policyholder may rescind the settlement unless the policyholder has cashed or deposited any check or draft disbursed to the policyholder for the disputed matters as a result of the conference. If a settlement agreement is reached and is not rescinded, it is binding and acts as a release of all specific claims that were presented in that mediation conference.[14]

Division of State Fire Marshal

The CFO serves as the State Fire Marshal.[15] The Division of State Fire Marshal:

- Conducts fire/life safety inspections and construction plans review on all state-owned buildings;
- Regulates the fireworks and the fire sprinkler industries, inspects and licenses boilers;
- Certifies fire suppression industry workers;
- Approves firefighter training curricula;
- Offers fire service training at the Florida State Fire College; and
- Certifies that fire service members meet industry-based standards.[16]

Division of Unclaimed Property

The DFS administers the Florida Disposition of Unclaimed Property Act. Unclaimed property is any funds or other property, tangible or intangible, that has remained unclaimed by the owner for a certain number of years. Unclaimed property may include savings and checking accounts, money orders, travelers' checks, uncashed payroll or cashiers' checks, stocks, bonds, other securities, insurance policy payments, refunds, security and utility deposits, and contents of safe

[12] Section 627.7015(1), F.S.
[13] Section 627.7015(2), F.S.
[14] Section 627.7015(6), F.S.
[15] Section 633.104, F.S.
[16] *See* https://www.myfloridacfo.com/division/sfm/ (last visited Mar. 27, 2019).

deposit boxes.[17] The DFS Division of Unclaimed Property is responsible for receiving property, attempting to locate the rightful owners, and returning the property or proceeds to them. There is no statute of limitations and persons may claim their property at any time and at no cost.

III. Effect of Proposed Changes:

Financial Records and Reporting of Audits

Section 1 requires the Division of Treasury to maintain all warrants drawn by the CFO for a period of 10 years from the date the warrant was presented for payment. It removes the requirement that the Division of Treasury turn over the warrants to the Division of Accounting and Auditing.

Division of Funeral, Cemetery, and Consumer Services

Regulation of Licensees

Sections 6, 7, 13, and 14 amend ss. 497.380, 497.385, 497.604, and 497.606, F.S., to allow a funeral director with appropriate licenses to serve as a funeral director in charge for a total of two funeral establishments, centralized embalming facilities, direct disposal establishments, or cinerator facilities as long as the two locations are not more than 75 miles apart measured in a straight line. The bill allows a funeral director to serve as a funeral director in charge if the establishment does not have an embalming room on site.

Section 7 amends s. 497.385, F.S., to allow an embalmer in charge of a centralized embalming facility to also serve as a funeral director in charge or as a direct disposer in charge if the embalmer has appropriate licenses. The bill makes changes to the combination license for funeral directors and embalmers.

Section 4 amends s. 497.376, F.S., to require an applicant for a combination license as a funeral director and an embalmer to hold the educational credentials required for licensure as a funeral director, which are:

- An associate in arts degree, associate in science degree, or an associate in applied science degree in mortuary science approved by the licensing authority; or
- An associate degree or higher from a college or university accredited by a regional accrediting agency recognized by the United States Department of Education and be a graduate of a course of study in mortuary science or funeral service arts approved by the licensing authority from a college or university accredited by the American Board of Funeral Service Education.

Section 5 amends s. 497.377, F.S., relating to internship requirements for combined licensure as a funeral director and embalmer. The bill allows the internship requirement for licensure as funeral director and the internship requirement for licensure as an embalmer to be served concurrently. The bill provides that an applicant for combined licensure as a funeral director and embalmer who has not completed the educational credentials required for that license is eligible for licensure as a combination funeral director and embalmer intern if the applicant:

[17] Sections 717.104-717.116, F.S.

- Is currently enrolled in and attending a college accredited by the American Board of Funeral Service Education in an accredited course of study in mortuary science;
- Has completed at least 75 percent of the course of study in mortuary science, as certified by the college in which the applicant is currently enrolled; and
- Has taken and received a passing grade in a college credit course in mortuary law or funeral service law and has taken and received a passing grade in a college credit course in ethics.

The bill requires an application for internship for a combination funeral director and embalmer license to include the name and address of the funeral director and the embalmer who will supervise the intern and the name of the licensed funeral establishment where the training will be conducted.

The bill provides that a combination funeral director and embalmer intern may perform only the tasks, functions, and duties relating to funeral directing and embalming which are performed under the direct supervision of a licensed funeral director or an embalmer. "Direct supervision" means supervision by a licensed:

- Funeral director who provides initial direction and periodic inspection of the arrangements and who is physically present or on the premises of the funeral establishment at all times when the tasks, functions, and duties relating to funeral directing are performed; or
- Embalmer who provides initial direction and instruction regarding the preservation of a dead human body in its entirety or in part and who is physically present or on the premises of the funeral establishment or embalming facility at all times when the tasks, functions, and duties relating to embalming are performed.[18]

The bill creates an exception to the direct supervision requirement upon the intern's graduation from an accredited college with an appropriate degree and the intern's passage of the laws and rules examination required by the Board of Funeral, Cemetery, and Consumer Services. If the intern meets those conditions and the funeral director in charge of the internship training agency certifies to the Board of Funeral, Cemetery, and Consumer Services that the intern is competent to complete the internship under general supervision, the intern may complete the internship under general supervision. "General supervision" means supervision by a licensed:

- Funeral director who is reasonably available and in a position to provide direction and guidance by being physically present, being on the premises of the funeral establishment, or being in proximity to the funeral establishment and available telephonically or by electronic communication at all times when the tasks, functions, and duties relating to funeral directing are performed; or
- Embalmer who is reasonably available and in a position to provide direction and guidance by being physically present, being on the premises of the funeral establishment or embalming facility, or being in proximity to the funeral establishment or embalming facility and available telephonically or by electronic communication at all times when the tasks, functions, and duties relating to embalming are performed.[19]

The bill provides that a combination funeral director and embalmer intern license expires one year after issuance. The bill allows the Board of Funeral, Cemetery, and Consumer Services to

[18] Section 497.002(29), F.S.
[19] Section 497.002(39), F.S.

adopt rules that allow a combination funeral director and embalmer intern to renew her or his funeral director and embalmer intern license for an additional one-year period if the combination funeral director and embalmer intern demonstrates her or his failure to complete the internship before expiration of the license due to illness, personal injury, or other substantial hardship beyond her or his reasonable control or demonstrates that she or he has completed the requirements for licensure as a combination funeral director and embalmer but is awaiting the results of a licensure examination.

Preneed Contracts

Sections 2, 3, 8, 10, and 12 amend ss. 626.8732, 497.266, 497.452, 497.458, and 497.464, F.S., to eliminate the requirement that trust companies holding care and maintenance trust funds and preneed trust funds must be operating pursuant to ch. 660, F.S., thus allowing licensees to use national trust companies.

Section 11 amends s. 497.459, F.S., to create a form notice of intent to perform on a preneed contract for funeral or burial merchandise or services. The notice must state that the preneed licensee intends to perform on the contract upon the occurrence of the earliest of any of the following events:

- Fifty years after the date of execution of the preneed contract by the purchaser;
- The beneficiary of the preneed contract attaining the age of 105 years of age or older; or
- The beneficiary's social security number being contained within the United States Social Security Administration Death Master File.

The licensee must mail the notice to the last known mailing address of the purchaser as provided to the preneed licensee. If the purchaser or the beneficiary's legally authorized person fails to respond to the notice within 120 days after delivery of the notice, the funds held in trust must be distributed in accordance with the terms of the preneed contract.

The notice provisions do not affect a purchaser's rights to cancel the preneed contract and receive a refund or a licensee's obligations to refund.

Section 497.453, F.S., requires preneed licensees to file an annual report on the activities of any trust established pursuant to the Florida Funeral, Cemetery, and Consumer Services Act. **Section 9** amends that section to require preneed licensees which sold 15,000 or more preneed contracts in a year to file additional trust reports. The bill defines "Year 1" as a year in which a preneed licensee sells, or a group of preneed licensees under common control sells in aggregate, 15,000 or more preneed contracts in this state. The bill defines "Year 2" as the year immediately after Year 1. In Year 2, the bill requires the licensee or licensees to prepare a report of Florida preneed operations in Year 1 on a form prescribed by rule. The licensee must cause and pay for such report to be audited by an independent certified public accounting firm concerning the accuracy and fairness of the presentation of the data provided in the report. By December 31 of Year 2, the licensee must provide the report to the Division of Funeral, Cemetery, and Consumer Services along with a written and signed opinion of the certified public accounting firm concerning the accuracy and fairness of the presentation of the data reported in the report. The report must be prepared and submitted using forms and procedures specified by DFS rule. The

bill provides that the DFS may adopt rules specifying the format of the report and the information to be reported.

Division of Agent and Agency Services

Section 626.175, F.S., allows the DFS to issue temporary licenses as certain types of insurance agents. For example, the DFS may issue a temporary license as a general lines agent so a person can wind up the business affairs of another agent.[20] Personal lines agents are limited to transacting business related to property and casualty insurance sold to individuals and families for noncommercial purposes.[21] There is no provision in s. 626.175, F.S., allowing temporary licenses as personal lines agents.

Section 18 amends that section to allow the DFS to issue a temporary license as personal lines agent:

- To the executor or administrator of the estate of a deceased individual who was licensed and appointed as a personal lines agent at the time of his or her death;
- To a surviving next of kin of the deceased individual if no administrator or executor has been appointed and qualified; or
- To an individual otherwise qualified to be licensed as an agent, who has completed the educational or training requirements, and who is appointed to represent an insurer of the industrial[22] or ordinary-combination class[23] solely for the purpose of collecting premiums and servicing in-force policies.

The bill removes industrial fire and burglary agents from the temporary license statute because the license types are being eliminated by the bill. **Section 27** Amends that section to make a conforming change to s. 626.729, F.S.

The bill removes the requirement that a temporary life agent has sat for the life agent examination prior to the termination of the temporary appointment. The temporary life agent must be appointed to represent an insurer of the industrial or ordinary-combination class solely for the purpose of collecting premiums and servicing in-force policies.

Section 19 allows an applicant who has been found guilty of or has pleaded guilty or nolo contendere to a felony not subject to a permanent bar and not subject to a fifteen-year disqualifying period to obtain a license on a probationary basis. The applicant must have served at least half of the disqualifying period and, during that time, the applicant cannot have been

[20] *See* s. 626.175, F.S., and https://www.myfloridacfo.com/Division/Agents/Licensure/General/docs/T02-20.htm (last visited Mar. 19, 2019).
[21] *See* ss. 626.015(17), 626.311, F.S.
[22] Section 626.782, F.S., defines an "industrial class insurer" is an insurer writing industrial life insurance and as to such insurance operates under a system of collecting a debit by its agent. Section 627.502, F.S., defines "industrial life insurance" as that form of life insurance written under policies under which premiums are payable monthly or more often, bearing the words "industrial policy" or "weekly premium policy" or words of similar import imprinted upon the policies as part of the descriptive matter, and issued by an insurer which, as to such industrial life insurance, is operating under a system of collecting a debit by its agent.
[23] An "ordinary-combination class insurer" is an insurer writing both ordinary class insurance and industrial class insurance. *See* s. 626.783, F.S.

found guilty or not pleaded guilty or nolo contendere to a crime. If the DFS issues a probationary license, the probation period ends upon the end of the disqualifying period.

Section 20 amends s. 626.221, F.S., to provide that an applicant for an all-lines adjuster license who has been licensed as an all-lines adjuster and appointed as an independent adjuster or company employee adjuster is exempt from the examination if an application for licensure is filed within 48 months following the date of cancellation or expiration of the prior appointment.

Section 626.2815, F.S., mandates continuing education for insurance agents and insurance adjusters. **Section 21** amends that section to remove continuing education requirement for license types that have been eliminated in recent years or are being eliminated by this bill.

Section 22 amends s. 626.321, F.S., to provide that no new or additional licenses to transact industrial fire insurance or burglary insurance[24] will be issued after July 1, 2019. There are approximately 100 of those licenses still active.[25] Current licensees will be allowed to renew their licenses and appointments. The bill eliminates the examination requirement for crop, hail, and multiple peril crop insurance.

An appointment is the authority given by an insurer or employer to a licensee to transact insurance or adjust claims on behalf of an insurer or employer.[26] Section 626.471, F.S., provides that an appointing entity, such as an insurance company, may terminate an appointee's, such as an insurance agent, appointment at any time subject to any contract rights. The appointing entity must give the appointee 60 days' notice prior to termination and provide the notice by mail or by delivery in person. **Section 23** amends that section to allow the appointing entity to give notice via email.

Section 24 repeals s. 626.521, F.S., which currently requires an appointing insurer to secure a full detailed credit and character report before appointing an agent, adjuster, service representative, customer representative, or managing general agent. The bill allows insurers to require credit or character reports as a condition of appointment but leaves the decision with the insurer. **Sections 16 and 17** amend ss. 626.022 and 626.025, F.S., to make conforming changes.

Section 25 amends s. 626.536, F.S., to remove unnecessary language. An "insurance agency" is a licensee so referring to both is redundant.

Section 626.6215, F.S., currently authorizes the DFS to refuse to issue a license or suspend or revoke an insurance agency license under certain circumstances. **Section 26** amends that section to provide for discretionary refusal, suspension, or revocation when a licensee has had a denial,

[24] Section 626.729, F.S., provides "industrial fire insurance" is insurance against loss by fire of either buildings and other structures or contents, which may include extended coverage; windstorm insurance; basic limits owners, landlords, or tenants liability insurance with single limits of $25,000; comprehensive personal liability insurance with a single limit of $25,000; or burglary insurance, under which the premiums are collected quarterly or more often and the face amount of the insurance provided by the policy on one risk is not more than $50,000, including the contents of such buildings and other structures, and the insurer issuing such policy is operating under a system of collecting a debit by its agents.

[25] *See* Department of Financial Services, *SB 1704 Legislative Bill Analysis* (Mar. 15, 2019) (on file with the Senate Committee on Banking and Insurance).

[26] Section 626.015(4), F.S.

suspension, or revocation of, or any other adverse administrative action against, a license to practice or conduct any regulated profession, business, or vocation by this state, any other state, any nation, any possession or district of the United States, any court, or any lawful agency thereof. Similar language already exists in s. 626.621, F.S., for insurance agents.

Section 28 repeals s. 626.7355, F.S., which currently creates temporary license as a customer representative. Customer representatives obtain licensure by meeting education and background check requirements so the temporary license is obsolete.

Sections 29 and 30 make technical changes to ss. 626.8437 and 626.844, F.S.

Section 626.865, F.S., currently provides qualifications for licensure as a public adjuster. One of the qualifications is that the applicant has been licensed in this state as an all-lines adjuster, and has been appointed on a continual basis for the previous 6 months as a public adjuster apprentice, as an independent adjuster, or as a company employee adjuster.[27] Section 626.8732, F.S., has a similar requirement for nonresident adjusters except they must have been employed for a year. **Section 31** amends s. 626.8732, F.S., to provide the same 6 month employment requirement for nonresident adjusters as current law has for resident adjusters.

Section 38 amends s. 648.49, F.S., to require a bail bond agent whose license or appointment has been suspended to file an application for reinstatement with the DFS before the license or appointment can be reinstated. This revision makes the bail bond statute consistent with other DFS licensing statutes.

DFS Property Insurance Mediation Program

Section 32 amends s. 627.7015, F.S., to require the mediator to provide a written report of the results of the mediation, including any settlement amount, to the insurer, the policyholder, and the policyholder's representative, if the policyholder is represented. This report must be provided at the conclusion of the mediation.

Division of State Fire Marshal

Fire Alarms

Section 15 creates s. 553.7921, F.S., to create a uniform fire alarm permit application that must be filed before installing or replacing a fire alarm, or repairing an existing alarm system if the local enforcement authority requires a plan review before conducting these activities. The bill establishes the form and the required information for completing the form. The uniform fire alarm permit application must be accompanied by specified supporting documentation, must be signed by a designated person, and may be filed electronically or by facsimile.

Inspections

Section 633.218, F.S., requires the State Fire Marshal to inspect, or have inspected, each state-owned building on a recurring basis. A state-owned building or state-leased building or space

[27] Section 626.8732, F.S.

must be identified through use of the United States National Grid Coordinate System.[28] **Section 34** amends that section to remove this requirement. The DFS reports that it will identify locations using the FL-SOLARIS[29] and information from the Department of Management Services. It will not use outside vendors.[30]

Currently, licensed fire protection system contractors are mandated to conduct inspections of fire protection systems pursuant to the Florida Fire Prevention Code. Section 633.312, F.S., mandates that the inspecting contractor provide the building owner and the local authority having jurisdiction a copy of the inspection report. There are no limitations on inspection report format or uniform submission requirements. Some local jurisdictions have contracted with third-party software vendors and require the submission of inspection reports to their jurisdiction to be done via these systems. **Section 36** amends s. 633.312, F.S., to require submission pursuant to a statewide uniform set of procedures of fire protection system inspection reports completed by fire protection system contractors. The procedures apply to a local authority having jurisdiction or a third-party vendor contracted for the collection of such reports. The bill requires the State Fire Marshal to adopt a rule requiring all third-party vendors or local authorities having jurisdiction to follow a standardized procedure, including:

- A uniform reporting format that must be used by all local authorities having jurisdiction and that is designed to reduce the amount of information a contractor must manually input into the system; and
- A set of uniform submission procedures to be used by local authorities having jurisdiction or by vendors.

The rule must allow a contractor to attach additional documents, including the contractor's detailed inspection report, to the submission. A contractor's inspection report is not required to follow a standardized format, and a vendor or local authority having jurisdiction may not require a contractor to enter the details of the inspection report or of the deficiency repair status into an electronic system.

Section 33 makes a conforming change in s. 633.216, F.S.

Installation of Fire Extinguishers and Preengineered Systems

Section 633.306, F.S., provides requirements for the installation of fire extinguishers and preengineered systems. A fire extinguisher is a cylinder that:

- Is portable and can be carried or is on wheels;
- Is manually operated;
- May use a variety of extinguishing agents that are expelled under pressure;
- Is rechargeable or nonrechargeable;
- Is installed, serviced, repaired, recharged, inspected, and hydrotested according to applicable procedures of the manufacturer, standards of the National Fire Protection Association, and the Code of Federal Regulations; and

[28] Section 633.218(1)(f), F.S. The National Grid may be found here: https://www.arcgis.com/home/item.html?id=dc352c5f18854d82b32bce92c0b6656b (last visited Mar. 21, 2019).
[29] *See* https://floridadep.gov/lands/fl-solaris (last visited Mar. 26, 2019).
[30] Email from the Department of Financial Services staff to committee staff (on file with the Committee on Banking and Insurance).

- Is listed by a nationally recognized testing laboratory.[31]

A preengineered system is a fire suppression system which:
- Uses any of a variety of extinguishing agents;
- Is designed to protect specific hazards;
- Must be installed according to pretested limitations and configurations specified by the manufacturer and applicable National Fire Protection Association (NFPA) standards. Only those chapters within the National Fire Protection Association standards which pertain to servicing, recharging, repairing, installing, hydrotesting, or inspecting any type of preengineered fire extinguishing system may be used;
- Must be installed using components specified by the manufacturer or components that are listed as equal parts by a nationally recognized testing laboratory such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc.; and
- Must be listed by a nationally recognized testing laboratory.[32]

Section 633.306, F.S., provides the following requirements for installation of fire extinguishers and preengineered systems:
- Fire equipment dealers must be licensed;
- Equipment supplied must be listed by a nationally recognized testing laboratory;
- Equipment must be installed in accordance with the applicable standards of the National Fire Protection Association and the manufacturer's drawings and specifications;
- Each piece of equipment supplied shall be guaranteed for a period of 1 year against defects in material or operation; and
- The fire equipment dealer must furnish the consumer with the manufacturer's descriptive literature, including the specifications and maintenance requirements as approved by the nationally recognized testing laboratory, the operating instructions for all equipment installed, the mechanical drawings and specifications for proper installation and use of equipment, and a diagram of the final installation.

Section 35 amends s. 633.306, F.S., to require fire extinguisher and preengineered systems equipment to be installed using only components and parts specified by the manufacturer or listed as equal parts by a nationally recognized testing laboratory, such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc. The use of similar language in s. 633.306, F.S., and 633.102(25), F.S., should clarify that the use of equal parts as designated by recognized testing laboratories is permitted in the installation of fire extinguishers[33] and preengineered systems.[34]

Cancer Prevention Best Practices

Section 633.520, F.S., requires every firefighter employer to furnish and use safety devices and safeguards, adopt and use methods and processes reasonably adequate to render such an employment and place of employment safe, and do every other thing reasonably necessary to

[31] Section 633.102(8), F.S.
[32] Section 633.102(25), F.S.
[33] Section 633.102(8), F.S., requires that fire extinguishers be installed pursuant to the Code of Federal Regulations. Fire extinguisher installers would be required to comply with requirements in both statutes.
[34] Email from DFS staff to committee staff dated March 26, 2019 (on file with the Committee on Banking and Insurance).

protect the lives, health, and safety of such firefighter employees. **Section 37** amends that section to require the Division of State Fire Marshal to adopt rules to establish employer cancer prevention best practices relating to personal protective equipment, decontamination, fire suppression, and fire stations.

Division of Unclaimed Property

Current law in s. 717.124, F.S., allows an apparent owner to electronically submit a claim for unclaimed property to the DFS. If a claim is submitted electronically for $1,000 or less, the DFS may use a method of identity verification other than a copy of a valid driver license, other government-issued photographic identification, or a sworn notarized statement.[35] **Section 39** amends that section to change the claim amount from $1,000 to $5,000.

The bill contains provisions allowing the DFS to be more active in attempting to return property to owners. The bill provides that the DFS may develop and implement an identification verification and disbursement process for accounts valued at less than $2,000. After the DFS receives the property and adds the property to the database, the account may be disbursed to an apparent owner after the DFS has verified that the apparent owner is living and has verified the apparent owner's correct, current address. The DFS must include with the payment a notification and an explanation of the dollar amount, source, and property type of each account included in the disbursement. The bill also allows the DFS to develop and implement a verification and disbursement process for accounts which the apparent owner is a government entity. The bill provides rulemaking authority to administer this program.

The bill provides that the DFS may develop a process by which a registered claimant's representative may electronically submit to the DFS electronic images of completed claims and claim-related documents, including limited powers of attorney and purchase agreements that have been personally signed and dated by a claimant or by a seller after the original documents provided by the claimant or by the seller to the claimant's representative are physically received and in the claimant's representative's possession for any respective claim.

Each claim filed by a registered claimant's representative must include a statement by the claimant's representative or buyer accurately attesting that all documents are true copies of the original documents and that all original documents are physically in the possession of the claimant's representative or buyer. All original documents must be kept in original form, by claim number, under the secure control of the claimant's representative or buyer and must be made available for inspection by the DFS.

The bill provides rulemaking authority to administer these programs.

Effective Date

Section 40 provides an effective date of July 1, 2019.

[35] Section 717.124(7), F.S.

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:

The establishment of employer cancer prevention best practices may result in increased costs of compliance for the governmental entities that employ firefighters. To the extent that such best practices are effective in reducing cancer, the best practices may reduce financial costs related to cancer treatment.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 17.56, 497.263, 497.266, 497.376, 497.377, 497.380, 497.385, 497.452, 497.453, 497.458, 497.459, 497.464, 497.604, 497.606, 626.022, 626.025, 626.175, 626.207, 626.221, 626.2815, 626.321, 626.471, 626.536, 626.6215, 626.729, 626.8437, 626.844, 626.8732, 627.7015, 633.216, 633.218, 633.306, 633.312, 633.520, 648.49, and 717.124.

This bill creates section 553.7921 of the Florida Statutes.

This bill repeals the following sections of the Florida Statutes: 626.521 and 626.7355.

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 Innovation, Industry, and Technology on April 10, 2019:
The CS:

- Creates a form notice of intent to perform on a preneed contract for funeral or burial merchandise or services; provides for use of the notice, including a list of events which allow it use, and provides that the notice provisions do not affect a purchaser's rights to cancel the preneed contract and receive a refund or a licensee's obligations to refund; and
- Creates a uniform fire alarm permit application, and provides conditions for its use.

CS by Banking and Insurance on March 25, 2019:
The CS:

- Allows a funeral director in charge to be in charge of two locations as long as those locations are not more than 75 miles apart;
- Allows a person who is disqualified from licensure due to a felony conviction that is not subject to permanent disqualification from licensure, to obtain a probationary license after serving half of the disqualification period;
- Revises the DFS Property Insurance Mediation Program to require the mediator to provide the policyholder with the results of the mediation at the conclusion of the mediation;
- Removes a provision allowing the DFS to keep $30 million in the Unclaimed Property Trust Fund and maintains current law; and
- Requires fire extinguisher and preengineered systems equipment to be installed using only components and parts specified by the manufacturer or listed as equal parts by a nationally recognized testing laboratory, such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc.

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 Committees on Innovation, Industry, and Technology; and Banking and Insurance; and Senator Wright

580-04151-19 20191704c2

A bill to be entitled

An act relating to the Department of Financial Services; amending s. 17.56, F.S.; requiring the Division of Treasury to maintain, rather than turn over to the Division of Accounting and Auditing, warrants drawn by the Chief Financial Officer; specifying the timeframe during which such warrants must be maintained; making a technical change; amending ss. 497.263 and 497.266, F.S.; deleting a requirement that trust companies, where certain care and maintenance trust funds may be established, must operate pursuant to ch. 660, F.S.; amending s. 497.376, F.S.; specifying required educational credentials for certain applicants for a combination license as both funeral director and embalmer; amending s. 497.377, F.S.; specifying qualifications for certain applicants for a combination funeral director and embalmer intern license; providing application requirements; specifying limitations on and authorized actions of interns; specifying the expiration of intern licenses; authorizing the licensing authority to adopt certain rules; amending s. 497.380, F.S.; revising requirements for the supervision of licensed funeral establishments by funeral directors in charge; revising establishments a funeral director may be in charge of; revising funeral director licensing requirements for certain establishments; amending s. 497.385, F.S.; revising requirements for the supervision of licensed

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

580-04151-19 20191704c2

centralized embalming facilities; amending s. 497.452, F.S.; deleting a requirement that trust companies must operate pursuant to ch. 660, F.S., to be exempt from a certain preneed licensing requirement; amending s. 497.453, F.S.; specifying annual trust reporting requirements for certain preneed licensees or certain groups of preneed licensees; defining the term "Year 1" and "Year 2"; authorizing the department to adopt certain rules; amending s. 497.458, F.S.; deleting a requirement that trust companies must operate pursuant to ch. 660, F.S., to enter into certain revocable trust instruments; amending s. 497.459, F.S.; authorizing preneed licensees, under certain circumstances, to provide certain persons with a written notice of intent to perform under the preneed contract; specifying where such notice must be sent; providing that funds held in trust must be distributed in accordance with the contract terms if certain persons fail to respond to the notice within a certain timeframe; providing construction; amending s. 497.464, F.S.; deleting a requirement that trust companies must operate pursuant to ch. 660, F.S., to act as trustees for certain preneed contract purchasers; amending s. 497.604, F.S.; revising requirements for the supervision of direct disposal establishments; amending s. 497.606, F.S.; revising requirements for the supervision of cinerator facilities; creating s. 553.7921, F.S.; requiring contractors to file a uniform fire alarm permit

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

application with local enforcement agencies under certain circumstances; requiring that such application be submitted with certain other required information; providing that the application may be submitted by certain means if signed by certain persons; specifying information required in the application; amending s. 626.022, F.S.; conforming a cross-reference; amending s. 626.025, F.S.; conforming a provision to changes made by the act; amending s. 626.175, F.S.; authorizing the department to issue nonrenewable temporary licenses authorizing the appointment of personal lines agents; deleting such authorization for industrial fire or burglary agents; revising circumstances under which the department may issue temporary licenses authorizing the appointment of life agents; specifying circumstances under which the department may issue temporary licenses authorizing the appointment of personal lines agents; prohibiting certain licensees from soliciting, negotiating, or effecting contracts of insurance; amending s. 626.207, F.S.; providing an exception from a disqualification period from licensure as an insurance representative for certain persons found guilty or pleading guilty or nolo contendere to certain felonies; authorizing the department to issue licenses on a probationary period for a certain timeframe; specifying when the probationary period ends; amending s. 626.221, F.S.; specifying that a certain exemption from an examination requirement applies to applicants for an

all-lines adjuster license; amending s. 626.2815, F.S.; revising the individuals that are subject to a certain continuing education requirement; amending s. 626.321, F.S.; deleting an examination requirement for an applicant for an industrial fire insurance or burglary insurance license; providing that, beginning on a specified date, the license and appointment may be renewed, but no new or additional licenses may be issued and the license may not be reinstated; deleting an examination requirement for crop hail and multiple peril crop insurance licenses; amending s. 626.471, F.S.; authorizing an appointing entity to provide a termination notice to the appointee by e-mail; providing that the e-mail must be addressed to the appointee's last e-mail address of record; specifying when notice by e-mail is deemed to have been given; repealing s. 626.521, F.S., relating to credit and character reports; amending s. 626.536, F.S.; deleting a requirement for insurance agencies to report certain administrative actions to the department; amending s. 626.6215, F.S.; adding certain grounds for the department's discretionary refusal, suspension, or revocation of an insurance agency license; amending s. 626.729, F.S.; revising the definition of the term "industrial fire insurance" relating to burglary insurance; repealing s. 626.7355, F.S., relating to a temporary license as a customer representative pending examination; amending ss. 626.8437 and 626.844, F.S.; revising certain grounds for the denial of, suspension

of, revocation of, or refusal to renew licenses or appointments of title insurance agents or agencies; amending s. 626.8732, F.S.; revising qualifications for the issuance of a nonresident public adjuster's license; amending s. 627.7015, F.S.; requiring mediators in certain property insurance claim mediations to provide a certain written report to certain parties at the conclusion of the mediation; amending s. 633.216, F.S.; conforming a cross-reference; amending s. 633.218, F.S.; deleting a requirement that state-owned or state-leased buildings be identified through use of the United States National Grid Coordinate System; amending s. 633.306, F.S.; specifying requirements for components and parts of installed fire extinguishers and preengineered systems; amending s. 633.312, F.S.; specifying means by which local authorities having jurisdiction may accept inspection reports by contractors inspecting fire hydrants and fire protection systems; requiring the State Fire Marshal to adopt rules implementing a uniform summary inspection report and submission procedures; providing requirements for such report and procedures; amending s. 633.520, F.S.; authorizing the Division of State Fire Marshal to adopt certain rules establishing firefighter employer cancer prevention best practices; amending s. 648.49, F.S.; specifying that reinstatement of a bail bond agent license is contingent upon filing an application with, and approval by, the department; amending s. 717.124,

F.S.; increasing the threshold amount of electronically submitted claims under which the department may use alternative identity verification methods; authorizing the department to develop and implement specified identification verification and disbursement processes for certain unclaimed property accounts; authorizing the department to develop processes for certain electronic submissions; specifying requirements for the submission of claims and recordkeeping; authorizing the department to adopt rules; providing an effective date.

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

Section 1. Section 17.56, Florida Statutes, is amended to read:

17.56 Division of Treasury to maintain ~~turn over to the Division of Accounting and Auditing~~ all warrants paid.—The Division of Treasury shall maintain ~~turn over to the Division of Accounting and Auditing~~ all warrants drawn by the Chief Financial Officer ~~or the Comptroller~~ and paid by the Division of Treasury for a period of 10 years from the date the warrant was presented for payment. ~~The warrants shall be turned over as soon as the Division of Treasury shall have recorded such warrants and charged the same against the accounts upon which such warrants are drawn.~~

Section 2. Paragraph (a) of subsection (3) of section 497.263, Florida Statutes, is amended to read:

497.263 Cemetery companies; license required; licensure

requirements and procedures.—

(3) ACTION CONCERNING APPLICATIONS.—If the licensing authority finds that the applicant meets the criteria established in subsection (2), the applicant shall be notified that a license will be issued when all of the following conditions are satisfied:

(a) The establishment of a care and maintenance trust fund containing not less than $50,000 has been certified by a trust company ~~operating pursuant to chapter 660~~, a state or national bank holding trust powers, or a savings and loan association holding trust powers as provided in s. 497.458, pursuant to a trust agreement approved by the licensing authority. The $50,000 required for the care and maintenance trust fund shall be over and above the $50,000 net worth required by subsection (2).

Section 3. Subsection (1) of section 497.266, Florida Statutes, is amended to read:

497.266 Care and maintenance trust fund; remedy of department for noncompliance.—

(1) A ~~No~~ cemetery company may not establish a cemetery, or operate a cemetery if already established, without providing for the future care and maintenance of the cemetery, for which a care and maintenance trust fund shall be established, to be known as "the care and maintenance trust fund of ....." The trust fund shall be established with a trust company ~~operating pursuant to chapter 660~~, with a state or national bank holding trust powers, or with a federal or state savings and loan association holding trust powers. Trust funds which are with a state or national bank or savings and loan association licensed in this state on October 1, 1993, shall remain in force;

however, when the amount of any such trust fund exceeds the amount that is insured by an agency of the Federal Government, the cemetery company shall transfer that trust fund to a trust company ~~operating pursuant to chapter 660~~, to a state or national bank holding trust powers, or to a federal or state savings and loan association holding trust powers.

Section 4. Section 497.376, Florida Statutes, is amended to read:

497.376 License as funeral director and embalmer permitted.—

(1) This chapter does not prohibit a person from holding a license as an embalmer and a license as a funeral director at the same time. There may be issued and renewed by the licensing authority a combination license as both funeral director and embalmer to persons meeting the separate requirements for both licenses as set forth in this chapter. The licensing authority may adopt rules providing procedures for applying for and renewing such combination license. The licensing authority may by rule establish application, renewal, and other fees for such combination license, which fees may ~~shall~~ not exceed the sum of the maximum fees for the separate funeral director and embalmer license categories as provided in this chapter. A person ~~Persons~~ holding a combination license as a funeral director and an embalmer is ~~shall be~~ subject to regulation under this chapter both as a funeral director and an embalmer.

(2) Except as provided under s. 497.377, an applicant for a combination license as both a funeral director and an embalmer must hold the educational credentials required for licensure as a funeral director as provided under s. 497.373(1)(d).

Section 5. Section 497.377, Florida Statutes, is amended to read:

497.377 Combination license as funeral director and embalmer; ~~Concurrent~~ internships.—

(1) To meet internship requirements for combined licensure as a funeral director and an embalmer, the internship requirement for funeral directors and the internship requirement for embalmers ~~and funeral directors~~ may be served concurrently pursuant to rules adopted by the licensing authority.

(2)(a) An applicant who has not completed the educational credentials required for a combination license as funeral director and embalmer is eligible for licensure as a combination funeral director and embalmer intern if the applicant:

1. Is currently enrolled in and attending a college accredited by the American Board of Funeral Service Education (ABFSE) in an ABFSE-accredited course of study in mortuary science;

2. Has completed at least 75 percent of the course of study in mortuary science, as certified by the college in which the applicant is currently enrolled; and

3. Has taken and received a passing grade in a college credit course in mortuary law or funeral service law and has taken and received a passing grade in a college credit course in ethics.

(b) An application for internship for a combination funeral director and embalmer license must include the name and address of the funeral director licensed under s. 497.373 or s. 497.374(1) and the embalmer licensed under s. 497.368 or s. 497.369 under whose supervision the intern will receive training

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

and the name of the licensed funeral establishment where the training will be conducted.

(c) A combination funeral director and embalmer intern may perform only the tasks, functions, and duties relating to funeral directing and embalming which are performed under the direct supervision of a licensed funeral director who has an active, valid license under s. 497.373 or s. 497.374(1) and an embalmer who has an active, valid license under s. 497.368 or s. 497.369. However, a combination funeral director and embalmer intern may perform those tasks, functions, and duties under the general supervision of a licensed funeral director and embalmer upon the intern's graduation from a college accredited by the ABFSE with a degree as specified in s. 497.373(1)(d) and passage of the laws and rules examination required under s. 497.373(2)(b) if, after 6 months of direct supervision, the funeral director in charge of the internship training agency certifies to the licensing agency that the intern is competent to complete the internship under general supervision.

(d)1. A combination funeral director and embalmer intern license expires 1 year after issuance and, except as provided in subparagraph 2., may not be renewed.

2. The licensing authority may adopt rules that allow a combination funeral director and embalmer intern to renew her or his funeral director and embalmer intern license for an additional 1-year period if the combination funeral director and embalmer intern demonstrates her or his failure to complete the internship before expiration of the license due to illness, personal injury, or other substantial hardship beyond her or his reasonable control or demonstrates that she or he has completed

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

the requirements for licensure as a combination funeral director and embalmer but is awaiting the results of a licensure examination.

Section 6. Subsection (7) of section 497.380, Florida Statutes, is amended to read:

497.380 Funeral establishment; licensure; display of license.—

(7) Each licensed funeral establishment shall have a ~~one full-time~~ funeral director in charge and shall have a licensed funeral director reasonably available to the public during normal business hours for the establishment. The ~~full-time~~ funeral director in charge is responsible for ensuring that the facility, its operation, and all persons employed in the facility comply with all applicable state and federal laws and rules. A funeral director in charge, with appropriate active licenses, may serve as a funeral director in charge for not more than a total of 2 funeral establishments, centralized embalming facilities, direct disposal establishments, or cinerator facilities, as long as the 2 locations are not more than 75 miles apart as measured in a straight line ~~The full-time funeral director in charge must have an active license and may not be the full-time funeral director in charge of any other funeral establishment or of any other direct disposal establishment~~. ~~Effective October 1, 2010,~~ The ~~full-time~~ funeral director in charge must hold an active, valid funeral director license and an active, valid embalmer license or combination license as a funeral director and an embalmer. However, a funeral director may serve as a funeral director in charge without an embalmer license or combination license if the establishment does not

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

have an embalming room on site, or may continue as the ~~full-time~~ funeral director in charge without an embalmer or combination license if, as of September 30, 2010:

(a) The funeral establishment and the funeral director both have active, valid licenses.

(b) The funeral director is currently the full-time funeral director in charge of the funeral establishment.

(c) The name of the funeral director was included, as required in subsection (4), in the funeral establishment's most recent application for issuance or renewal of its license or was included in the establishment's report of change provided under paragraph (12)(c).

Section 7. Paragraph (b) of subsection (2) of section 497.385, Florida Statutes, is amended to read:

497.385 Removal services; refrigeration facilities; centralized embalming facilities.—In order to ensure that the removal, refrigeration, and embalming of all dead human bodies is conducted in a manner that properly protects the public's health and safety, the licensing authority shall adopt rules to provide for the licensure of removal services, refrigeration facilities, and centralized embalming facilities operated independently of funeral establishments, direct disposal establishments, and cinerator facilities.

(2) CENTRALIZED EMBALMING FACILITIES.—In order to ensure that all funeral establishments have access to embalming facilities that comply with all applicable health and safety requirements, the licensing authority shall adopt rules to provide for the licensure and operation of centralized embalming facilities and shall require, at a minimum, the following:

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

(b) Each licensed centralized embalming facility shall have at least one ~~full-time~~ embalmer in charge. The ~~full-time~~ embalmer in charge must have an active, valid embalmer license or a combination license as a funeral director and an embalmer ~~and may not be the full-time embalmer in charge, full-time funeral director in charge, or full-time direct disposer in charge of any other establishment licensed under this chapter~~. An embalmer in charge, with appropriate active licenses, may also serve as a funeral director in charge under s. 497.380(7) or as a direct disposer in charge under s. 497.604(8). A funeral director in charge, with appropriate active licenses, may serve as a funeral director in charge for not more than a total of 2 funeral establishments, centralized embalming facilities, direct disposal establishments, or cinerator facilities, as long as the 2 locations are not more than 75 miles apart as measured in a straight line.

Section 8. Subsection (2) of section 497.452, Florida Statutes, is amended to read:

497.452 Preneed license required.—

(2)(a) No person may receive any funds for payment on a preneed contract who does not hold a valid preneed license.

(b) ~~The provisions of~~ Paragraph (a) does ~~do~~ not apply to a trust company ~~operating pursuant to chapter 660~~, to a national or state bank holding trust powers, or to a federal or state savings and loan association having trust powers which company, bank, or association receives any money in trust pursuant to the sale of a preneed contract.

Section 9. Subsection (8) of section 497.453, Florida Statutes, is amended to read:

497.453 Application for preneed license, procedures and criteria; renewal; reports.—

(8) ANNUAL TRUST REPORTS.—

(a) On or before April 1 of each year, the preneed licensee shall file in the form prescribed by rule a full and true statement as to the activities of any trust established by it pursuant to this part for the preceding calendar year.

(b) A preneed licensee that sold, or a group of preneed licensees under common control which sold in aggregate, 15,000 or more preneed contracts in this state in the preceding year shall additionally comply with this paragraph.

1. As used in this paragraph, the term:

a. "Year 1" means a year in which a preneed licensee sells, or a group of preneed licensees under common control sells in aggregate, 15,000 or more preneed contracts in this state.

b. "Year 2" means the year immediately after Year 1.

2. As to each Year 1, the licensee or licensees shall, during Year 2:

a. Prepare, with respect to each such licensee, a report of Florida preneed operations in Year 1 on a form prescribed by department rule;

b. Cause and pay for such report to be audited by an independent certified public accounting firm concerning the accuracy and fairness of the presentation of the data provided in the report; and

c. By December 31 of Year 2, provide the report to the division along with a written and signed opinion of the certified public accounting firm concerning the accuracy and fairness of the presentation of the data provided in the report.

2. The report must be prepared and submitted using forms and procedures specified by department rule. The department may adopt rules specifying the format of the report and the information to be reported.

Section 10. Paragraph (c) of subsection (1) of section 497.458, Florida Statutes, is amended to read:

497.458 Disposition of proceeds received on contracts.—

(1)

(c) Such deposits shall be made within 30 days after the end of the calendar month in which payment is received, under the terms of a revocable trust instrument entered into with a trust company ~~operating pursuant to chapter 660~~, with a national or state bank holding trust powers, or with a federal or state savings and loan association holding trust powers.

Section 11. Section 497.459, Florida Statutes, is amended to read:

497.459 Cancellation of, or default on, preneed contracts; notice of intent to perform.—

(1) CANCELLATION BY CUSTOMER WITHIN 30 DAYS.—A purchaser, by providing written notice to the preneed licensee, may cancel a preneed contract within 30 days of the date that the contract was executed provided that the burial rights, merchandise and services have not yet been used. Upon providing such notice, the purchaser shall be entitled to a complete refund of the amount paid, except for the amount allocable to any burial rights, merchandise or services that have been used, and shall be released from all obligations under the contract. This subsection shall apply to all items that are purchased as part of a preneed contract, including burial rights, regardless of

whether such burial rights are purchased as part of a preneed contract or purchased separately.

(2) CANCELLATION BY PURCHASER AFTER 30 DAYS.—

(a) A purchaser, by providing written notice to the preneed licensee, may cancel the services, facilities, and cash advance items portions of a preneed contract at any time, and shall be entitled to a full refund of the purchase price allocable to such items. Any accumulated earnings allocable to such preneed contract shall be paid to the preneed licensee upon such cancellation.

(b) Subject to subparagraphs 1. and 2., a purchaser may cancel the merchandise portion of a preneed contract by providing written notice to the preneed licensee, and shall be entitled to a full refund of the purchase price allocable to the specific item or items of merchandise that the preneed licensee cannot or does not deliver in accordance with this subsection.

1. Such refund shall be provided only if at the time that the preneed licensee is required to fulfill its obligations under the preneed contract the preneed licensee does not or cannot comply with the terms of the contract by actually delivering the merchandise, within a reasonable time, depending upon the nature of the merchandise purchased, after having been requested to do so.

2. In order to fulfill its obligations under the preneed contract, a preneed licensee may elect either or both of the following options:

a. Subcontract with a person located outside the preneed licensee’s market area to provide the merchandise; or

b. Provide other items of equal or greater quality.

(3) REQUIRED DISCLOSURE.—Each preneed licensee shall provide in conspicuous type in its contract that the contract purchaser may cancel the contract and receive a full refund within 30 days of the date of execution of the contract. The failure to make such provision shall not impair the contract purchaser's right to cancellation and refund as provided in this section.

(4) BREACH OF CONTRACT BY SELLER.—Upon breach of contract or failure of the preneed licensee to provide funeral merchandise or services under a preneed contract, the contract purchaser shall be entitled to a refund of all money paid on the contract. Such refund shall be made within 30 days after receipt by the preneed licensee of the contract purchaser's written request for refund.

(5) DEFAULT BY PURCHASER.—If a purchaser is 90 days past due in making payments on a preneed contract, the contract shall be considered to be in default, and the preneed licensee shall be entitled to cancel the contract, withdraw all funds in trust allocable to merchandise items, and retain such funds as liquidated damages. Upon making such withdrawal, the preneed licensee shall return all funds in trust allocable to services, facilities, or cash advance items to the purchaser, provided that the preneed licensee has provided the purchaser with 30 days' written notice of its intention to exercise any of its rights under this provision. The board may by rule specify the required format and content of the notice required under this subsection and the manner in which the notice shall be sent.

(6) OTHER PROVISIONS.—

(a) All preneed contracts are cancelable and revocable as

provided in this section, provided that a preneed contract does not restrict any contract purchaser who is the beneficiary of the preneed contract and who is a qualified applicant for, or a recipient of, supplemental security income, temporary cash assistance, or Medicaid from making her or his contract irrevocable. A preneed contract that is made irrevocable pursuant to this section may not be canceled during the life or after the death of the contract purchaser or beneficiary as described in this section. Any unexpended moneys paid on an irrevocable contract shall be remitted to the Agency for Health Care Administration for deposit into the Medical Care Trust Fund after final disposition of the beneficiary.

(b) The amounts required to be refunded by this section for contracts previously entered into shall be as follows:

1. For contracts entered into before October 1, 1993, the refund amounts as amended by s. 7, chapter 83-316, Laws of Florida, shall apply.

2. For contracts entered into on or after October 1, 1993, the refund amounts as amended by s. 99, chapter 93-399, Laws of Florida, shall apply.

(c) Persons who purchase merchandise or burial rights pursuant to this chapter shall have the right to sell, alienate, or otherwise transfer the merchandise or burial rights subject to and in accordance with rules adopted by the licensing authority.

(d) All refunds required to be made under this section to a purchaser who has canceled a contract must be made within 30 days after the date written notice of cancellation is received by the preneed licensee.

(7) NOTICE OF INTENT TO PERFORM.—

(a) To facilitate the performance of a preneed contract, a preneed licensee may provide to the purchaser or to the beneficiary's legally authorized person written notice of the preneed licensee's intent to perform upon the occurrence of the earliest of any of the following events:

1. Fifty years after the date of execution of the preneed contract by the purchaser.

2. The beneficiary of the preneed contract attains the age of 105 years of age or older.

3. The social security number of the beneficiary of the preneed contract, as shown on the contract, is contained within the United States Social Security Administration Death Master File.

(b) The notice in paragraph (a) must be mailed to the last known mailing address of the purchaser as provided to the preneed licensee. If the purchaser or the beneficiary's legally authorized person fails to respond to such notice within 120 days after delivery of the notice, the funds held in trust must be distributed in accordance with the terms of the preneed contract.

(c) This subsection does not affect a purchaser's rights to cancel the preneed contract and receive a refund or a licensee's obligations to refund established by this chapter.

Section 12. Subsection (2) of section 497.464, Florida Statutes, is amended to read:

497.464 Alternative preneed contracts.—

(2) The contract must require that a trust be established by the preneed licensee on behalf of, and for the use, benefit,

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

and protection of, the purchaser and that the trustee must be a trust company ~~operating pursuant to chapter 660~~, a national or state bank holding trust powers, or a federal or state savings and loan association holding trust powers.

Section 13. Subsection (8) of section 497.604, Florida Statutes, is amended to read:

497.604 Direct disposal establishments, license required; licensing procedures and criteria; license renewal; regulation; display of license.—

(8) SUPERVISION OF FACILITIES.—

(a) ~~Effective October 1, 2010,~~ Each direct disposal establishment shall have a ~~one full-time licensed~~ funeral director ~~acting as the direct disposer~~ in charge, subject to s. 497.380(7). However, a licensed direct disposer may continue acting as the direct disposer in charge, if, as of September 30, 2010:

1. The direct disposal establishment and the licensed direct disposer both have active, valid licenses.

2. The licensed direct disposer is currently acting as the direct disposer in charge of the direct disposal establishment.

3. The name of the licensed direct disposer was included, as required in paragraph (2)(c), in the direct disposal establishment's most recent application for issuance or renewal of its license or was included in the establishment's notice of change provided under subsection (7).

(b) The ~~licensed~~ funeral director in charge or ~~licensed~~ direct disposer in charge of a direct disposal establishment must be reasonably available to the public during normal business hours for the establishment ~~and may be in charge of~~

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

~~only one direct disposal establishment~~. The ~~licensed~~ funeral director in charge or ~~licensed~~ direct disposer in charge of the establishment is responsible for making sure the facility, its operations, and all persons employed in the facility comply with all applicable state and federal laws and rules. A funeral director in charge, with appropriate active licenses, may serve as a funeral director in charge for not more than a total of 2 funeral establishments, centralized embalming facilities, direct disposal establishments, or cinerator facilities, as long as the 2 locations are not more than 75 miles apart as measured in a straight line.

Section 14. Subsection (8) of section 497.606, Florida Statutes, is amended to read:

497.606 Cinerator facility, licensure required; licensing procedures and criteria; license renewal; regulation.—

(8) SUPERVISION OF FACILITIES.—Each cinerator facility shall have a ~~one full-time licensed~~ direct disposer in charge or a ~~licensed~~ funeral director in charge for that facility. ~~Such person may be in charge of only one facility.~~ Such ~~licensed~~ funeral director in charge or ~~licensed~~ direct disposer in charge shall be responsible for making sure the facility, its operations, and all persons employed in the facility comply with all applicable state and federal laws and rules. A funeral director in charge, with appropriate active licenses, may serve as a funeral director in charge for not more than a total of 2 funeral establishments, centralized embalming facilities, direct disposal establishments, or cinerator facilities, as long as the 2 locations are not more than 75 miles apart as measured in a straight line.

Section 15. Section 553.7921, Florida Statutes, is created to read:

553.7921 Uniform fire alarm permit application.—

(1) A contractor must file the uniform fire alarm permit application described in subsection (2) with the local enforcement agency before:

(a) Installing or replacing a fire alarm, if the local enforcement agency requires a plan review for the installation or replacement; or

(b) Repairing an existing alarm system that was previously permitted by the local enforcement agency, if the local enforcement agency requires a fire alarm permit for the repair.

(2) The uniform fire alarm permit application must be submitted along with any required drawings, plans, and supporting documentation for any project where a fire alarm permit is required. Such application may be submitted electronically or by facsimile if the application is signed by the owner, contractor, or authorized representative of such person. The uniform fire alarm permit application must contain the following information:

UNIFORM FIRE ALARM PERMIT APPLICATION

Tax Folio No.: .... Application No.: ....

Owner or Representative Name: ....

Property Address: ....

City: .... State: .... Zip: .... Phone: ....

Fee Simple Titleholder’s Name (if other than owner): ....

Fee Simple Titleholder’s Address (if other than owner):

....

Description of Work: .... New Install .... Replacement .... Addition .... Other ....

Construction Type: .... Proposed Use: ....

Alarm Contractor's Name: ....

Alarm Contractor's Address: ....

City: .... State: .... Zip: .... Phone: ....

Alarm Contractor's License No: ....

Application is hereby made to obtain a permit to do the work and installation as indicated. I certify that no work or installation has commenced before the filing of this permit application. I certify that all of the foregoing information is true and accurate.

...(Signature of Owner, Contractor, or Agent)...

Printed Name: ....

Section 16. Paragraph (a) of subsection (1) of section 626.022, Florida Statutes, is amended to read:

626.022 Scope of part.—

(1) This part applies as to insurance agents, service representatives, adjusters, and insurance agencies; as to any and all kinds of insurance; and as to stock insurers, mutual insurers, reciprocal insurers, and all other types of insurers, except that:

(a) It does not apply as to reinsurance, except that ss. 626.011-626.022, ss. 626.112-626.181, ss. 626.191-626.211, ss. 626.291-626.301, s. 626.331, ss. 626.342-626.511 ~~ss. 626.342-626.521~~, ss. 626.541-626.591, and ss. 626.601-626.711 shall apply as to reinsurance intermediaries as defined in s. 626.7492.

Section 17. Subsection (4) of section 626.025, Florida Statutes, is amended to read:

626.025 Consumer protections.—To transact insurance, agents shall comply with consumer protection laws, including the following, as applicable:

(4) The submission of credit and character reports~~,~~ as required by s. 626.171 ~~or s. 626.521~~.

Section 18. Subsection (1) of section 626.175, Florida Statutes, is amended to read:

626.175 Temporary licensing.—

(1) The department may issue a nonrenewable temporary license for a period not to exceed 6 months authorizing the appointment of a general lines insurance agent~~,~~ ~~or a~~ life agent, or personal lines agent ~~an industrial fire or burglary agent~~, subject to the conditions described in this section. The fees paid for a temporary license and appointment must ~~shall~~ be as specified in s. 624.501. Fees paid may ~~shall~~ not be refunded after a temporary license has been issued.

(a) An applicant for a temporary license must be:

1. A natural person at least 18 years of age.

2. A United States citizen or legal alien who possesses work authorization from the United States Bureau of Citizenship and Immigration Services.

(b)1. In the case of a general lines agent, the department may issue a temporary license to an employee, a family member, a business associate, or a personal representative of a licensed

general lines agent for the purpose of continuing or winding up the business affairs of the agent or agency in the event the licensed agent has died or become unable to perform his or her duties because of military service or illness or other physical or mental disability, subject to the following conditions:

a. No other individual connected with the agent's business may be licensed as a general lines agent.

b. The proposed temporary licensee shall be qualified for a regular general lines agent license under this code except as to residence, examination, education, or experience.

c. Application for the temporary license shall have been made by the applicant upon statements and affidavit filed with the department on forms prescribed and furnished by the department.

d. Under a temporary license and appointment, the licensee shall not represent any insurer not last represented by the agent being replaced and shall not be licensed or appointed as to any additional kind, line, or class of insurance other than those covered by the last existing agency appointments of the replaced agent. If an insurer withdraws from the agency during the temporary license period, the temporary licensee may be appointed by another similar insurer but only for the period remaining under the temporary license.

2. A regular general lines agent license may be issued to a temporary licensee upon meeting the qualifications for a general lines agent license under s. 626.731.

(c) In the case of a life agent, the department may issue a temporary license:

1. To the executor or administrator of the estate of a

deceased individual licensed and appointed as a life agent at the time of death;

2. To a surviving next of kin of the deceased individual, if no administrator or executor has been appointed and qualified; however, any license and appointment under this subparagraph shall be canceled upon issuance of a license to an executor or administrator under subparagraph 1.; or

3. To an individual otherwise qualified to be licensed as an agent who has completed the educational or training requirements prescribed in s. 626.7851 and who is appointed ~~has successfully sat for the required examination prior to termination of such 6-month period. The department may issue this temporary license only in the case of a life agent~~ to represent an insurer of the industrial or ordinary-combination class solely for the purpose of collecting premiums and servicing in-force policies. Such licensee may not directly or indirectly solicit, negotiate, or effect contracts of insurance.

(d) In the case of a personal lines ~~limited license authorizing appointment as an industrial fire or burglary~~ agent, the department may issue a temporary license:

1. To the executor or administrator of the estate of a deceased individual who was licensed and appointed as a personal lines agent at the time of his or her death;

2. To a surviving next of kin of the deceased individual if no administrator or executor has been appointed and qualified. However, a license and appointment under this subparagraph must be canceled upon issuance of a license to an executor or administrator under subparagraph 1.; or

3. To an individual otherwise qualified to be licensed as

an agent, who has completed the educational or training requirements prescribed in s. 626.732, and who is appointed to represent an insurer of the industrial or ordinary-combination class solely for the purpose of collecting premiums and servicing in-force policies. Such licensee may not directly or indirectly solicit, negotiate, or effect contracts of insurance ~~to an individual otherwise qualified to be licensed as an agent who has completed the educational or training requirements prescribed in s. 626.732 and has successfully sat for the required examination prior to termination of the 6-month period~~.

Section 19. Paragraph (b) of subsection (3) of section 626.207, Florida Statutes, is amended to read:

626.207 Disqualification of applicants and licensees; penalties against licensees; rulemaking authority.—

(3) An applicant who has been found guilty of or has pleaded guilty or nolo contendere to a crime not included in subsection (2), regardless of adjudication, is subject to:

(b) A 7-year disqualifying period for all felonies to which neither the permanent bar in subsection (2) nor the 15-year disqualifying period in paragraph (a) applies. Notwithstanding subsection (4), an applicant who served at least half of the disqualifying period may reapply for a license if, during that time, the applicant has not been found guilty of or has not pleaded guilty or nolo contendere to a crime. The department may issue the applicant a license on a probationary basis for the remainder of the disqualifying period. The applicant's probationary period ends at the end of the disqualifying period.

Section 20. Subsection (1) and paragraph (e) of subsection (2) of section 626.221, Florida Statutes, are amended to read:

626.221 Examination requirement; exemptions.—

(1) The department may ~~shall~~ not issue any license as agent or adjuster to any individual who has not qualified for, taken, and passed to the satisfaction of the department a written examination of the scope prescribed in s. 626.241.

(2) However, an examination is not necessary for any of the following:

(e) An applicant who has been licensed as an all-lines adjuster and appointed as an independent adjuster or company employee adjuster and who files ~~if~~ an application for an all-lines adjuster license ~~licensure is filed~~ with the department within 48 months after ~~following~~ the date of cancellation or expiration of the prior appointment.

Section 21. Paragraph (d) of subsection (3) of section 626.2815, Florida Statutes, is amended to read:

626.2815 Continuing education requirements.—

(3) Each licensee except a title insurance agent must complete a 5-hour update course every 2 years which is specific to the license held by the licensee. The course must be developed and offered by providers and approved by the department. The content of the course must address all lines of insurance for which examination and licensure are required and include the following subject areas: insurance law updates, ethics for insurance professionals, disciplinary trends and case studies, industry trends, premium discounts, determining suitability of products and services, and other similar insurance-related topics the department determines are relevant to legally and ethically carrying out the responsibilities of the license granted. A licensee who holds multiple insurance

licenses must complete an update course that is specific to at least one of the licenses held. Except as otherwise specified, any remaining required hours of continuing education are elective and may consist of any continuing education course approved by the department under this section.

(d) An individual who holds a license as a customer representative~~, limited customer representative, motor vehicle physical damage and mechanical breakdown insurance agent, or an industrial fire insurance or burglary insurance agent~~ and who is not a licensed life or health agent~~,~~ must also complete a minimum of 5 hours of continuing education courses every 2 years.

Section 22. Paragraphs (b) and (f) of subsection (1) of section 626.321, Florida Statutes, are amended to read:

626.321 Limited licenses.—

(1) The department shall issue to a qualified applicant a license as agent authorized to transact a limited class of business in any of the following categories of limited lines insurance:

(b) *Industrial fire insurance or burglary insurance.*— License covering only industrial fire insurance or burglary insurance. ~~The applicant for such a license must pass a written examination covering such insurance.~~ A licensee under this paragraph may not hold a license as an agent for any other or additional kind or class of insurance coverage except for life insurance and health insurance. Effective July 1, 2019, all licensees holding such limited license and appointment may renew the license and appointment, but no new or additional licenses may be issued pursuant to this paragraph and a licensee whose

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

limited license under this paragraph has been terminated, suspended, or revoked may not have such license reinstated.

(f) *Crop hail and multiple-peril crop insurance.*—License for insurance covering crops subject to unfavorable weather conditions, fire or lightning ~~lightening~~, flood, hail, insect infestation, disease, or other yield-reducing conditions or perils which is provided by the private insurance market~~,~~ or which is subsidized by the Federal Group Insurance Corporation including multi-peril crop insurance. Notwithstanding any other ~~provision of~~ law, the limited license may be issued to a bona fide salaried employee of an association chartered under the Farm Credit Act of 1971, 12 U.S.C. ss. 2001 et seq.~~, who satisfactorily completes the examination prescribed by the department pursuant to s. 626.241(5).~~ The agent must be appointed by, and his or her limited license requested by, a licensed general lines agent. All business transacted by the agent must be on behalf of, in the name of, and countersigned by the agent by whom he or she is appointed. Sections 626.561 and 626.748, relating to records, apply to all business written pursuant to this section. The licensee may be appointed by and licensed for only one general lines agent or agency.

Section 23. Subsection (1) of section 626.471, Florida Statutes, is amended to read:

626.471 Termination of appointment.—

(1) Subject to an appointee's contract rights, an appointing entity may terminate its appointment of any appointee at any time. Except when termination is upon a ground that ~~which~~ would subject the appointee to suspension or revocation of his or her license and appointment under s. 626.611 or s. 626.621,

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

and except as provided by contract between the appointing entity and the appointee, the appointing entity shall give at least 60 days' advance written notice of its intention to terminate such appointment to the appointee~~, either~~ by delivery thereof to the appointee in person, ~~or~~ by mailing it~~,~~ postage prepaid, or by e-mail. If delivery is by mail or e-mail, the notice must be addressed to the appointee at his or her last mailing or e-mail address of record with the appointing entity. Notice is ~~so mailed shall be~~ deemed to have been given when deposited in a United States Postal Service mail depository or when the e-mail is sent, as applicable.

Section 24. Section 626.521, Florida Statutes, is repealed.

Section 25. Section 626.536, Florida Statutes, is amended to read:

626.536 Reporting of administrative actions.—Within 30 days after the final disposition of an administrative action taken against a licensee ~~or insurance agency~~ by a governmental agency or other regulatory agency in this or any other state or jurisdiction relating to the business of insurance, the sale of securities, or activity involving fraud, dishonesty, trustworthiness, or breach of a fiduciary duty, the licensee ~~or insurance agency~~ must submit a copy of the order, consent to order, or other relevant legal documents to the department. The department may adopt rules to administer this section.

Section 26. Subsection (7) is added to section 626.6215, Florida Statutes, to read:

626.6215 Grounds for discretionary refusal, suspension, or revocation of insurance agency license.—The department may, in its discretion, deny, suspend, revoke, or refuse to continue the

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

license of any insurance agency if it finds, as to any insurance agency or as to any majority owner, partner, manager, director, officer, or other person who manages or controls such insurance agency, that any one or more of the following applicable grounds exist:

(7) A denial, suspension, or revocation of, or any other adverse administrative action against, a license to practice or conduct any regulated profession, business, or vocation by this state, any other state, any nation, any possession or district of the United States, any court, or any lawful agency thereof.

Section 27. Section 626.729, Florida Statutes, is amended to read:

626.729 "Industrial fire insurance" defined.—As used in ~~For the purposes of~~ this code, the term "industrial fire insurance" means: ~~is~~

(1) Insurance against loss by fire of either buildings and other structures or contents, which may include extended coverage;

(2) Windstorm insurance;

(3) Basic limits owners, landlords, or tenants liability insurance with single limits of $25,000;

(4) Comprehensive personal liability insurance with a single limit of $25,000; or

(5) Burglary insurance, under which the premiums are collected quarterly or more often and the face amount of the insurance provided by the policy on one risk is not more than $50,000, including the contents of such buildings and other structures~~, and the insurer issuing such policy is operating under a system of collecting a debit by its agents. A temporary~~

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

~~license for an industrial fire or burglary agent issued pursuant to s. 626.175 shall be solely for the purpose of collecting premiums and servicing in-force policies, and such licensee shall not directly or indirectly solicit, negotiate, or effect contracts of insurance~~.

Section 28. Section 626.7355, Florida Statutes, is repealed.

Section 29. Subsection (9) of section 626.8437, Florida Statutes, is amended to read:

626.8437 Grounds for denial, suspension, revocation, or refusal to renew license or appointment.—The department shall deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent or agency, and it shall suspend or revoke the eligibility to hold a license or appointment of such person, if it finds that as to the applicant, licensee, appointee, or any principal thereof, any one or more of the following grounds exist:

(9) Willful failure to comply with, or willful violation of, any proper order or rule of the department or willful violation of any provision of the Florida Insurance Code ~~this act~~.

Section 30. Subsection (2) of section 626.844, Florida Statutes, is amended to read:

626.844 Grounds for discretionary refusal, suspension, or revocation of license or appointment.—The department may, in its discretion, deny, suspend, revoke, or refuse to renew or continue the license or appointment of any title insurance agent or agency, and it may suspend or revoke the eligibility to hold a license or appointment of any such title insurance agent or

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

agency if it finds that as to the applicant or licensee or appointee, or any principal thereof, any one or more of the following grounds exist under circumstances for which such denial, suspension, revocation, or refusal is not mandatory under s. 626.8437:

(2) Violation of any provision of the Florida Insurance Code ~~this act~~ in the course of dealing under the license or appointment.

Section 31. Paragraph (e) of subsection (1) and paragraphs (b) and (c) of subsection (2) of section 626.8732, Florida Statutes, are amended to read:

626.8732 Nonresident public adjuster's qualifications, bond.—

(1) The department shall, upon application therefor, issue a license to an applicant for a nonresident public adjuster's license upon determining that the applicant has paid the applicable license fees required under s. 624.501 and:

(e) Has been licensed and employed as a public adjuster in the applicant's state of residence on a continual basis for the past 6 months ~~year~~, or, if the applicant's state of residence does not issue licenses to individuals who act as public adjusters, the applicant has been licensed and employed as a resident insurance company adjuster, a public adjuster, or an independent adjuster in his or her state of residence or any other state on a continual basis for the past 6 months ~~year~~.

(2) The applicant shall furnish the following with his or her application:

(b) If currently licensed as a resident public adjuster in the applicant's state of residence, a certificate or letter of

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

authorization from the licensing authority of the applicant's state of residence, stating that the applicant holds a current or comparable license to act as a public adjuster and has held the license continuously for the past 6 months ~~year~~. The certificate or letter of authorization must be signed by the insurance commissioner or his or her deputy or the appropriate licensing official and must disclose whether the adjuster has ever had any license or eligibility to hold any license declined, denied, suspended, revoked, or placed on probation or whether an administrative fine or penalty has been levied against the adjuster and, if so, the reason for the action.

(c) If the applicant's state of residence does not require licensure as a public adjuster and the applicant has been licensed as a resident insurance adjuster in his or her state of residence or any other state, a certificate or letter of authorization from the licensing authority stating that the applicant holds or has held a license to act as such an insurance adjuster and has held the license continuously for the past 6 months ~~year~~. The certificate or letter of authorization must be signed by the insurance commissioner or his or her deputy or the appropriate licensing official and must disclose whether or not the adjuster has ever had any license or eligibility to hold any license declined, denied, suspended, revoked, or placed on probation or whether an administrative fine or penalty has been levied against the adjuster and, if so, the reason for the action.

Section 32. Subsection (6) of section 627.7015, Florida Statutes, is amended to read:

627.7015 Alternative procedure for resolution of disputed

property insurance claims.—

(6)(a) Mediation is nonbinding; however, if a written settlement is reached, the policyholder has 3 business days within which the policyholder may rescind the settlement unless the policyholder has cashed or deposited any check or draft disbursed to the policyholder for the disputed matters as a result of the conference. If a settlement agreement is reached and is not rescinded, it is binding and acts as a release of all specific claims that were presented in that mediation conference.

(b) At the conclusion of the mediation, the mediator shall provide a written report of the results of mediation, including any settlement amount, to the insurer, the policyholder, and the policyholder's representative if the policyholder is represented at the mediation.

Section 33. Subsection (1) of section 633.216, Florida Statutes, is amended to read:

633.216 Inspection of buildings and equipment; orders; firesafety inspection training requirements; certification; disciplinary action.—The State Fire Marshal and her or his agents or persons authorized to enforce laws and rules of the State Fire Marshal shall, at any reasonable hour, when the State Fire Marshal has reasonable cause to believe that a violation of this chapter or s. 509.215, or a rule adopted thereunder, or a minimum firesafety code adopted by the State Fire Marshal or a local authority, may exist, inspect any and all buildings and structures which are subject to the requirements of this chapter or s. 509.215 and rules adopted thereunder. The authority to inspect shall extend to all equipment, vehicles, and chemicals

which are located on or within the premises of any such building or structure.

(1) Each county, municipality, and special district that has firesafety enforcement responsibilities shall employ or contract with a firesafety inspector. Except as provided in s. 633.312(2), ~~and~~ (3), and (4), the firesafety inspector must conduct all firesafety inspections that are required by law. The governing body of a county, municipality, or special district that has firesafety enforcement responsibilities may provide a schedule of fees to pay only the costs of inspections conducted pursuant to this subsection and related administrative expenses. Two or more counties, municipalities, or special districts that have firesafety enforcement responsibilities may jointly employ or contract with a firesafety inspector.

Section 34. Paragraph (f) of subsection (1) of section 633.218, Florida Statutes, is amended to read:

633.218 Inspections of state buildings and premises; tests of firesafety equipment; building plans to be approved.—

(1)

~~(f) A state-owned building or state-leased building or space shall be identified through use of the United States National Grid Coordinate System.~~

Section 35. Paragraph (c) of subsection (1) of section 633.306, Florida Statutes, is amended to read:

633.306 Requirements for installation, inspection, and maintenance of fire suppression equipment.—

(1) The requirements for installation of fire extinguishers and preengineered systems are as follows:

(c) Equipment must ~~shall~~ be installed in accordance with

the applicable standards of the National Fire Protection Association and the manufacturer's drawings and specifications, using only components and parts specified by the manufacturer or listed as equal parts by a nationally recognized testing laboratory, such as Underwriters Laboratories, Inc., or Factory Mutual Laboratories, Inc.

Section 36. Present subsections (4) and (5) of section 633.312, Florida Statutes, are redesignated as subsections (5) and (6), respectively, and subsection (3) of that section is amended, to read:

633.312 Inspection of fire control systems, fire hydrants, and fire protection systems.—

(3)(a) The inspecting contractor shall provide to the building owner or hydrant owner and the local authority having jurisdiction a copy of the applicable uniform summary inspection report established under this chapter. The local authority having jurisdiction may accept uniform summary inspection reports by United States mail, by hand delivery, by electronic submission, or through a third-party vendor that collects the reports on behalf of the local authority having jurisdiction.

(b) The State Fire Marshal shall adopt rules to implement a uniform summary inspection report and submission procedures to be used by all third-party vendors and local authorities having jurisdiction. For purposes of this section, a uniform summary inspection report must record the address where the fire protection system or hydrant is located, the company and person conducting the inspection and their license number, the date of the inspection, and the fire protection system or hydrant inspection status, including a brief summary of each deficiency,

critical deficiency, noncritical deficiency, or impairment found. A contractor's detailed inspection report is not required to follow the uniform summary inspection report format. The State Fire Marshal shall establish by rule a submission procedure for each means provided under paragraph (a) by which a local authority having jurisdiction may accept uniform summary inspection reports. Each of the submission procedures must allow a contractor to attach additional documents with the submission of a uniform summary inspection report, including a physical copy of the contractor's detailed inspection report. A submission procedure may not require a contractor to submit information contained within the detailed inspection report unless the information is required to be included in the uniform summary inspection report.

(4) The maintenance of fire hydrant and fire protection systems as well as corrective actions on deficient systems is the responsibility of the owner of the system or hydrant. Equipment requiring periodic testing or operation to ensure its maintenance shall be tested or operated as specified in the Fire Prevention Code, Life Safety Code, National Fire Protection Association standards, or as directed by the appropriate authority, provided that such appropriate authority may not require a sprinkler system not required by the Fire Prevention Code, Life Safety Code, or National Fire Protection Association standards to be removed regardless of its condition. This section does not prohibit governmental entities from inspecting and enforcing firesafety codes.

Section 37. Section 633.520, Florida Statutes, is amended to read:

633.520 Safety; firefighter employer responsibilities; division rules.—

(1) Every firefighter employer shall furnish and use safety devices and safeguards, adopt and use methods and processes reasonably adequate to render such an employment and place of employment safe, and do every other thing reasonably necessary to protect the lives, health, and safety of such firefighter employees. As used in this section, the terms "safe" and "safety," as applied to any employment or place of employment, mean such freedom from danger as is reasonably necessary for the protection of the lives, health, and safety of firefighter employees, including conditions and methods of sanitation and hygiene. Safety devices and safeguards required to be furnished by the firefighter employer by this section or by the division under authority of this section do not include personal apparel and protective devices that replace personal apparel normally worn by firefighter employees during regular working hours.

(2) The division shall adopt rules to establish employer cancer prevention best practices relating to personal protective equipment, decontamination, fire suppression apparatus, and fire stations.

Section 38. Subsection (1) of section 648.49, Florida Statutes, is amended to read:

648.49 Duration of suspension or revocation.—

(1) The department shall, in its order suspending a license or appointment or in its order suspending the eligibility of a person to hold or apply for such ~~a~~ license or appointment, specify the period during which the suspension is to be in effect, but such period may not exceed 2 years. The license, ~~or~~

appointment, or and eligibility to hold a license or appointment must shall remain suspended during the period so specified, subject, however, to any rescission or modification of the order by the department, or modification or reversal thereof by the court, prior to expiration of the suspension period. A license or appointment that which has been suspended may not be reinstated, nor may shall the eligibility to hold such license or appointment be reinstated, except upon the filing and approval of an application for request for such reinstatement.; but The department may not approve an application for grant such reinstatement if it finds that the circumstances for which the license or appointment was suspended still exist or are likely to recur. In each case involving suspension, the department has the discretion to require the former licensee to successfully complete a basic certification course in the criminal justice system, consisting of not less than 80 hours approved by the department.

Section 39. Present subsection (8) of section 717.124, Florida Statutes, is redesignated as subsection (11), a new subsection (8) and subsections (9) and (10) are added to that section, and subsection (7) of that section is amended, to read:

717.124 Unclaimed property claims.—

(7) The department may allow an apparent owner to electronically submit a claim for unclaimed property to the department. If a claim is submitted electronically for $5,000 $1,000 or less, the department may use a method of identity verification other than a copy of a valid driver license, other government-issued photographic identification, or a sworn notarized statement. The department may adopt rules to implement

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

this subsection.

(8) Notwithstanding any other provision of this chapter, the department may develop and implement an identification verification and disbursement process whereby accounts valued at $2,000 or less, after receipt by the department and after being added to the unclaimed property database, may be disbursed to an apparent owner after the department has verified that the apparent owner is living and has verified the apparent owner's correct, current address. The department shall include with the payment a notification and an explanation of the dollar amount, source, and property type of each account included in the disbursement. The department may adopt rules to administer this subsection.

(9) Notwithstanding any other provision of this chapter, the department may develop and implement a verification and disbursement process whereby accounts, after receipt by the department and after being added to the unclaimed property database, for which the apparent owner is a governmental agency of this state or subdivision thereof; a county government of this state or a subdivision thereof; a public school district of this state or a subdivision thereof; a municipality of this state or a subdivision thereof; or a special taxing district of this state or authority may be disbursed to the apparent owner entity or to the successor entity. The department shall include with the payment a notification and explanation of the dollar amount, source, and property type of each account included in the disbursement. The department may adopt rules to administer this subsection.

(10) Notwithstanding any other provision of this chapter,

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

the department may develop a process whereby a registered claimant's representative may electronically submit to the department electronic images of completed claims and claim-related documents pursuant to this chapter, including limited powers of attorney and purchase agreements that have been personally signed and dated by a claimant or by a seller pursuant to s. 717.135 or s. 717.1351, after the original documents provided by the claimant or by the seller to the claimant's representative are physically received and in the claimant's representative's possession for any respective claim. Each claim filed by a registered claimant's representative must include a statement by the claimant's representative or buyer accurately attesting that all documents are true copies of the original documents and that all original documents are physically in the possession of the claimant's representative or buyer. All original documents must be kept in original form, by claim number, under the secure control of the claimant's representative or buyer and must be made available for inspection by the department or other governmental agencies in accordance with s. 717.1315. The department may adopt rules to administer this subsection.

Section 40. This act shall take effect July 1, 2019.

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

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Military and Veterans Affairs and Space, *Chair*
Children, Families, and Elder Affairs
Commerce and Tourism
Environment and Natural Resources

JOINT COMMITTEE:
Joint Administrative Procedures Committee

SENATOR TOM A. WRIGHT
14th District

April 10, 2019

The Honorable Lizbeth Benacquisto
400, Senate Office Building
404 S. Monroe Street
Tallahassee, FL 32399

Re: Senate Bill 1704 – Department of Financial Services

Dear Chair Benacquisto:

Senate Bill 1704, relating to the Department of Financial Services has been referred to the Committee on Rules. I am requesting your consideration on placing SB 1704 on your next agenda. Should you need any additional information please do not hesitate to contact my office.

Thank you for your consideration.

Sincerely,

Tom A. Wright

Tom A. Wright, District 14

cc: John Phelps, Staff Director of the Committee on Rules
Cynthia Futch, Administrative Assistant of the Committee on Rules

REPLY TO:
☐ 4606 Clyde Morris Blvd., Suite 2-J, Port Orange, Florida 32129 (386) 304-7630
☐ 312 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: *www.flsenate.gov*

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

1704
Bill Number (if applicable)

Topic Dept. of Financial Services

Amendment Barcode (if applicable)

Name Beth V. (Vecchioli)

Job Title Sr. Director Gov't. Consulting

Address 215 S. Monroe St. Ste 500
Street

Tallahassee, FL 32301
City *State* *Zip*

Phone 561-425-3393

Email bvecchioli@carltonfields.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing Chantal Tuell

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

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

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

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

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2018
Meeting Date

1704
Bill Number (if applicable)

Topic CFO Bill

Amendment Barcode (if applicable)

Name Georgia McKeown

Job Title Consultant

Address 537 E Park Ave
Street

Tallahassee, FL 32102
City *State* *Zip*

Phone 904 303 1611

Email georgie@teamjb.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FCCFA Florida Cemetery, Cremation & Funeral Assoc

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 1704
Bill Number (if applicable)

Topic Funeral Director In Charge

Amendment Barcode (if applicable)

Name John Ricco

Job Title Executive Director

Address 325 John Knox Rd. L-103
Street

Phone 800.226.3332

Tallahassee FL 32303
City *State* *Zip*

Email jricco@executive other.org

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

Waive Speaking: [X] In Support [ ] Against
(The Chair will read this information into the record.)

Representing FL Cemetery Cremation & Funeral Assoc.

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

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

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

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

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

1704
Bill Number (if applicable)

Topic Dept Financial Services

Amendment Barcode (if applicable)

Name Rocco Salvatori

Job Title Firefighter

Address 343 W Madison St
Street

Phone 850-224-7333

Tallahasse FC 32301
City *State* *Zip*

Email RoccoSalvatori@icloud.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Professional Firefighters

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

1704
Bill Number (if applicable)

Topic DFS Rulemaking Firefighter Best Practices (Section 37)

Amendment Barcode (if applicable)

Name Amber Hughes

Job Title Sr. Legistive Advocate

Address PO Box 1757
Street

Phone 701-3621

Tallahassee FL 32302
City *State* *Zip*

Email a hughes@flcities.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Florida League of Cities

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

1704
Bill Number (if applicable)

Topic Dept. of Financial Services

Amendment Barcode (if applicable)

Name Corinne Mixon

Job Title Lobbyist

Address 511 N. Adams St
Street

Phone 766-5795

Tallahassee FL 32301
City *State* *Zip*

Email corinnemixon@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Independent Funeral Directors of Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

1704
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Department of Financial Services

Name Meredith Brock Stanfield

Job Title Director of Legislative & Cabinet Affairs

Address PL 11, The Capitol
Street

Tallahassee FL 32399
City *State* *Zip*

Phone (850) 413-2890

Email Meredith.Stanfield@myfloridaCFO.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Department of Financial Services

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

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:	SR 1820
INTRODUCER:	Senator Hooper
SUBJECT:	Moratorium on Drilling in the Gulf of Mexico
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Schreiber	Rogers	EN	**Favorable**
2.	Brown	Caldwell	MS	**Favorable**
3.	Schreiber	Phelps	RC	**Favorable**

I. Summary:

SR 1820 states that:

- The State of Florida must maintain a unified front in supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line;
- To allow drilling east of the Military Mission Line would mean loss of range areas and possible relocation of aircraft and bases to other unrestricted range areas; and
- The Florida Senate supports an indefinite extension of the restriction, specified in the Gulf of Mexico Security Act of 2006 (GOMESA), on oil and gas leasing in all areas east of the Military Mission Line established at 86°41' west longitude and an indefinite extension of GOMESA's ban on oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area and in a portion of the Central Planning Area.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

II. Present Situation:

Gulf of Mexico Range Complex

Florida's 20 major military installations and defense business presence provide a nearly $84.9 billion annual economic impact and account for 801,747 jobs in Florida.[1] Additionally, Florida is home to: three unified combatant commands; two of only four Navy deep water ports in the United States with adjacent airfields; the military's only east coast space launch facility; the Marine Corps' only maritime prepositioning force facility; one of only three Navy Fleet

[1] Enterprise Florida, *Florida's Military Profile*, 1 (2018), *available at* http://www.enterpriseflorida.com/wp-content/uploads/Military_Install_Map.pdf (last visited Mar. 28, 2019).

Readiness Centers; and several critical research, development, training, and evaluation centers.[2] The "military mission line" is the 86° 41' line in the Gulf of Mexico.[3] The area in the Gulf of Mexico east of the military mission line provides approximately 101,000 square miles of surface and airspace, making it the largest over-water United States Department of Defense test and training area in the continental United States.[4]

Joint basing, joint usage, and joint training areas are vital to assessing the future of a military base. Florida's military bases are dependent on access to the air and sea space provided by the Gulf of Mexico Range Complex (GOMEX Range Complex). The GOMEX Range Complex is larger than all other training ranges inside the continental United States combined and has been in use for over 60 years.[5] The GOMEX Range Complex stretches from the Florida Panhandle south to Key West and encompasses the eastern Gulf of Mexico.[6] The GOMEX Range Complex "supports NAS Pensacola, NAS Whiting Field, Hurlburt Air Force Base, Duke Field, Eglin Air Force Base, NSA Panama City, Tyndall Air Force Base, MacDill Air Force Base, and NAS Key West missions directly while also supporting Joint live fire weapons and operational testing for Air Force, Navy and Marine units from around the world."[7] The GOMEX Range Complex also contains multiple live-fire bombing ranges, including Pinecastle Range, Avon Park Air Force Range, and Eglin Bombing Range that allow for simultaneous maritime, air, and land training exercises.[8]

New technology is constantly emerging along with the need for more integrated realistic training missions in order to keep up with ever changing global threats. Consequently, Air Force and Navy ranges within the GOMEX Range Complex must keep pace to ensure they will be capable of handling the new aircraft and weapons requirements.[9] Due to its capabilities of offering joint training exercises, access to sea and land, and close proximity to Florida's bases, the GOMEX Range Complex serves as a vital part of the Department of Defense's training strategies.

Oil Production in the Gulf of Mexico

Offshore drilling and oil exploration in the Gulf of Mexico began in the 1930s. According to the U.S. Department of Energy, in 2016 Gulf of Mexico offshore production accounted for 17

---

[2] Enterprise Florida, *Florida Defense Factbook*, 5 (Sept. 2015), *available at* http://www.coj.net/departments/military-and-veterans-affairs/docs/2015-fl-defense-factbook-sept-2015.aspx (last visited Mar. 28, 2019).
[3] Enterprise Florida, Florida Defense Support Task Force White Paper, *Oil Drilling & Military Mission Compatibility*, 4 (2017), *available at* https://www.enterpriseflorida.com/wp-content/uploads/FDSTF-White-Paper-Oil-Drilling-and-Military-Mission-Compatability.pdf (last visited Mar. 28, 2019).
[4] U.S. DOD, Office of the Secretary of Defense, *Preserving Military Readiness in the Eastern Gulf of Mexico*, 2 (May 2018), *available at* http://www.iadc.org/wp-content/uploads/2018/05/DOD-Offshore-Report.pdf (last visited Mar. 28, 2019).
[5] Enterprise Florida, Florida Defense Support Task Force White Paper, *Oil Drilling & Military Mission Compatibility*, 1 (2017), *available at* https://www.enterpriseflorida.com/wp-content/uploads/FDSTF-White-Paper-Oil-Drilling-and-Military-Mission-Compatability.pdf (last visited Mar. 28, 2019).
[6] *Id.*
[7] *Id.* at 2.
[8] Enterprise Florida, *Florida Defense Factbook*, 5 (Sept. 2015), *available at* http://www.coj.net/departments/military-and-veterans-affairs/docs/2015-fl-defense-factbook-sept-2015.aspx (last visited Mar. 28, 2019).
[9] Enterprise Florida, Florida Defense Support Task Force White Paper, *Oil Drilling & Military Mission Compatibility*, 3 (2017), *available at* https://www.enterpriseflorida.com/wp-content/uploads/FDSTF-White-Paper-Oil-Drilling-and-Military-Mission-Compatability.pdf (last visited Mar. 28, 2019).

percent of total U.S. crude oil production and five percent of total U.S. dry natural gas production.[10]

In 2018, the State Constitution was amended to prohibit drilling for exploration or extraction of oil or natural gas on lands "beneath all state waters which have not been alienated and that lie between the mean high water line and the outermost boundaries of the state's territorial seas."[11] Mean high water is the average height of high waters over a 19-year period, and the "mean high water line" is where this mean high water intersects with the shore.[12] The mean high-water line generally represents the boundary between the state-owned foreshore (alternately covered and uncovered by the tide) and the dry sand above the mean high water line which may be privately owned.[13] The seaward boundaries of Florida's state waters are from shore to three nautical miles into the Atlantic Ocean, and from shore to approximately nine nautical miles into the Gulf of Mexico.[14]

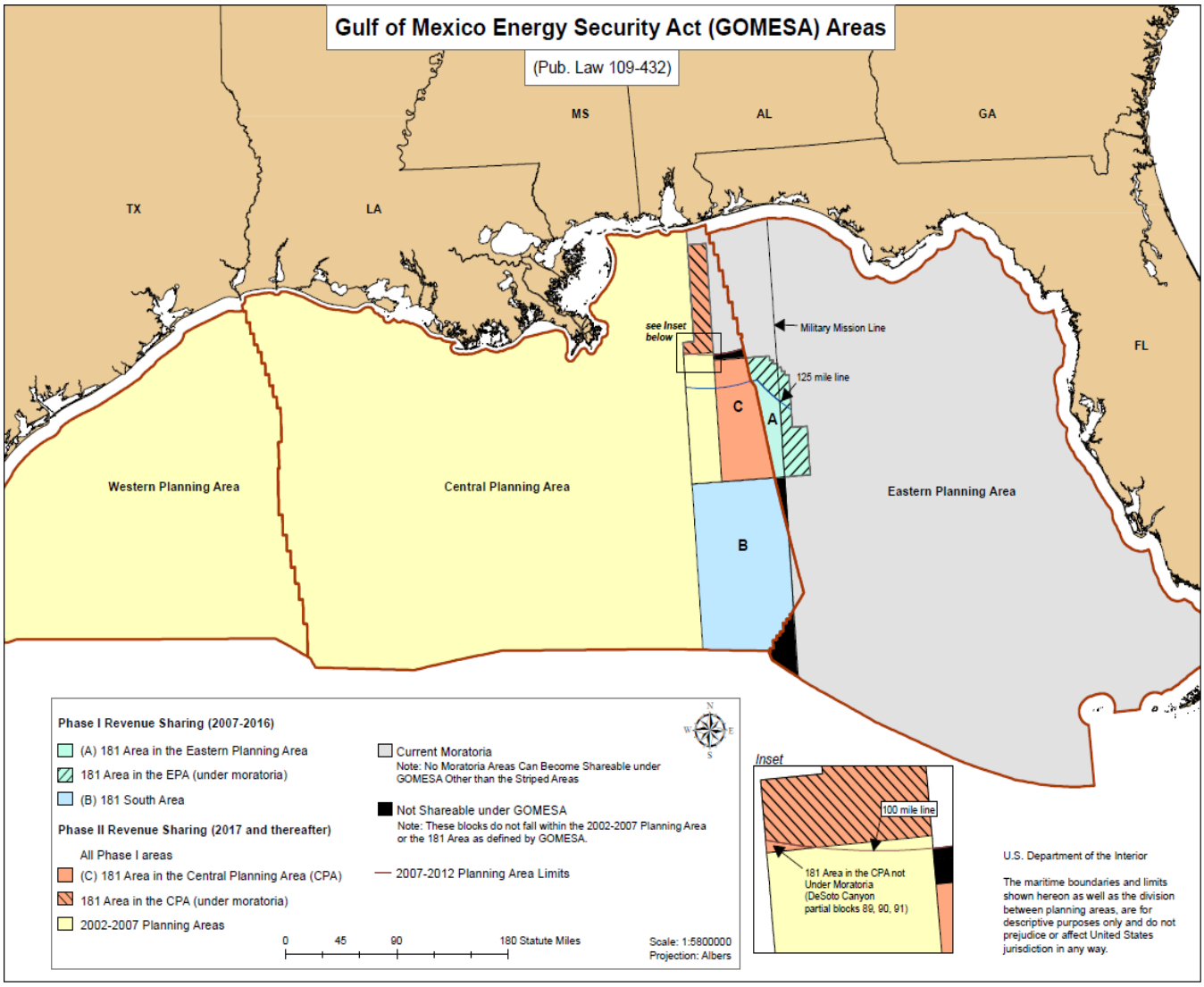
The federal government's jurisdiction over submerged lands, subsoil, and seabed extends from the seaward extent of the state's jurisdiction to the seaward limits defined under accepted principles of international law (generally 200 to 350 nautical miles from the territorial sea baseline).[15] The Department of Interior's Bureau of Ocean Energy Management is responsible for administering the National Outer Continental Shelf Oil and Gas Leasing Program for oil and gas lease sales proposed for planning areas of the U.S. Outer Continental Shelf.[16] The program specifies the size, timing, and location of potential leasing activity that the Secretary of the Interior determines will best meet national energy needs.[17]

After the OPEC crisis in the 1970s and the September 11, 2001 attacks, interest in energy production, particularly domestic oil and natural gas, grew.[18] The Department of Defense became concerned about the possibility of an unchecked expansion of oil drilling platforms in the eastern Gulf of Mexico conflicting with military training and weapons testing in the GOMEX Range Complex.[19] In 2005, the Secretary of Defense sent a memo to the United States Senate Armed Services Committee stating the concern and that the Department of Defense would work

---

[10] U.S. Energy Information Administration website, *Gulf of Mexico Fact Sheet*, https://www.eia.gov/special/gulf_of_mexico/ (last visited Mar. 28, 2019).
[11] FLA CONST. art. II, s. 7(c).
[12] Section 177.27(14), (15).
[13] Section 177.28, F.S.; Section 177.27(9), F.S. The full definition of "foreshore" is "the strip of land between the mean high-water and mean low-water lines that is alternately covered and uncovered by the flow of the tide."
[14] 42 U.S.C. § 1312; *United States v. States of La., Tex., Miss., Ala., & Fla.*, 364 U.S. 502, 503 (1960); DEP, *Florida Coastal Management Program Guide, A Guide to the Federally Approved Florida Coastal Management Program*, 7 (2017), *available at* https://floridadep.gov/sites/default/files/FCMP-Program-Guide-2017_0.pdf; FWC, *Boundary Maps and Management Zones*, https://myfwc.com/fishing/saltwater/recreational/maps/ (last visited Mar. 28, 2019).
[15] Department of the Interior Bureau of Ocean Energy Management, *Outer Continental Shelf*, https://www.boem.gov/Outer-Continental-Shelf/ (last visited Mar. 28, 2019).
[16] Department of the Interior Bureau of Ocean Energy Management, *National OCS Oil and Gas Leasing Program*, https://www.boem.gov/National-OCS-Program/ (last visited Mar 28, 2019).
[17] *Id.*
[18] Enterprise Florida, Florida Defense Support Task Force White Paper, *Oil Drilling & Military Mission Compatibility*, 2 (2017), *available at* https://www.enterpriseflorida.com/wp-content/uploads/FDSTF-White-Paper-Oil-Drilling-and-Military-Mission-Compatability.pdf (last visited Mar. 28, 2019).
[19] *Id.* at 4.

with the Department of Interior to strike a balance between the nation's energy needs and national security goals.[20]



Gulf of Mexico Energy Security Act of 2006

The Secretary of Defense's memo led to federal legislation limiting oil and gas production in the Gulf of Mexico. On December 20, 2006, the federal Gulf of Mexico Energy Security Act of 2006 (GOMESA) was signed into law.[21] GOMESA enhances Outer Continental Shelf oil and gas leasing activities and revenue sharing in the Gulf of Mexico by:

- Sharing leasing revenues with Gulf producing states and the Land & Water Conservation Fund for coastal restoration projects;

[20] *Id.*
[21] Gulf of Mexico Energy Security Act of 2006, Pub. L. No. 109-432, S. 3711, 109th Cong. (Dec. 20, 2006), *available at* https://www.congress.gov/bill/109th-congress/senate-bill/3711 (last visited Mar. 28, 2019).

- Banning oil and gas leasing within 125 miles off the Florida coastline in the Eastern Gulf of Mexico Planning Area, and a portion of the Central Planning Area until 2022; and
- Allowing companies to exchange certain existing leases in moratorium areas for bonus and royalty credits to be used on other Gulf of Mexico leases.[22]

GOMESA restricts leasing activities that include portions of the Eastern Planning Area within 125 miles of Florida, all areas in the Gulf of Mexico east of the military mission line, and the area within the Central Planning Area that is within 100 miles of Florida.[23]

Efforts to Revise the Moratorium

In 2013, the "Offshore Energy and Jobs Act" was introduced to remove limits imposed by GOMESA, including shortening the duration of the moratorium from 2022 to 2017.[24] The bill passed the House of Representatives; however, it was never taken up in the Senate.[25]

Two years later a similar bill, the "Offshore Energy and Jobs Act of 2015," was filed.[26] Among other things, the bill reduced the exclusion area east of the military mission line from 125 miles to 50 miles off shore and reduced the area subject to the moratorium in the Central Planning Area off the coastline of Florida. The bill was never heard in the Senate.[27]

On April 28, 2017, the President issued an executive order with the intent to expand offshore drilling in the Arctic and Atlantic Oceans, in addition to assessing whether energy exploration could take place in marine sanctuaries in the Pacific and Atlantic Oceans.[28] The order also directs the Secretary of the Interior, in consultation with the Secretary of Defense, to review "the schedule of proposed oil and gas lease sales…in the Western Gulf of Mexico, Central Gulf of Mexico, Chukchi Sea, Beaufort Sea, Cook Inlet, Mid-Atlanta, and the South Atlantic."[29]

Subsequently, in October, 2017, Department of the Interior Secretary Zinke announced that the department was proposing "the largest oil and gas lease sale ever held in the United States, 76,967,935 acres in federal waters of the Gulf of Mexico, offshore of Texas, Louisiana, Mississippi, Alabama, and Florida."[30] The proposed lease sale was scheduled for March 2018.[31]

---

[22] Department of the Interior Bureau of Ocean Energy Management, *Gulf of Mexico Energy Security Act*, https://www.boem.gov/Revenue-Sharing/ (last visited Mar. 28, 2019).
[23] *Id.*
[24] Offshore Energy and Jobs Act, H.R. 2231, 113th Cong. (June 4, 2013), *available at* https://www.congress.gov/bill/113th-congress/house-bill/2231 (last visited Mar. 28, 2019).
[25] *Id.*
[26] S. 1276, 114th Cong. (May 11, 2015), *available at* https://www.congress.gov/bill/114th-congress/senate-bill/1276 (last visited Mar. 28, 2019).
[27] *Id.*
[28] Executive Order 13795, *available at* https://www.federalregister.gov/documents/2017/05/03/2017-09087/implementing-an-america-first-offshore-energy-strategy (last visited Mar. 28, 2019).
[29] *Id.*
[30] Department of the Interior Press Release, October 24, 2017, *available at* https://www.doi.gov/pressreleases/secretary-zinke-announces-largest-oil-gas-lease-sale-us-history (last visited Mar. 28, 2019).
[31] *Id.*

On January 4, 2018, Secretary Zinke announced a draft proposed National Outer Continental Shelf Oil and Gas Leasing Program that would make over 90 percent of the total outer continental shelf acreage and more than 98 percent of undiscovered, technically recoverable oil and gas resources in federal offshore areas available for future exploration and development.[32] By contrast, the current oil and gas leasing program puts 94 percent of the outer continental shelf off limits. In addition to the largest number of lease sales in U.S. history, the proposed program announced in January of 2018 included two lease sales in portions of the Eastern and Central Gulf of Mexico after the expiration of the Congressional moratorium in 2022, making the majority of the Eastern Gulf of Mexico Planning Area available for leasing for the first time since 1988.[33] However, news organizations reported that on January 9, 2018, after meeting with Florida's Governor Rick Scott, Secretary Zinke said that he would not allow offshore drilling in waters near Florida through 2024.[34] A spokeswoman for the Department of Interior said that Gulf and Atlantic waters adjacent to Florida would be removed from consideration for the plan that covers drilling rights sales from 2019 to 2024.[35]

On March 12, 2019, officials from the Department of the Interior announced that the Bureau of Ocean Energy Management proposed to offer 78 million acres for a region-wide lease sale in August of 2019, known as Lease Sale 253.[36] The sale would include all available unleased areas in federal waters of the Gulf of Mexico.[37] The Department of the Interior's press release states that blocks subject to the congressional moratorium established by GOMESA would be excluded from Lease Sale 253.[38]

Expanding the Current Moratorium

Senator Bill Nelson (D-FL) filed the "Marine Oil Spill Prevention Act" in January, 2017.[39] The bill, among other things, would have extended the moratorium in GOMESA to 2027.

In May of 2017, acting Under Secretary of Defense, Anthony Kurta, sent a letter to Representative Matt Gaetz (R-FL) stating that military training and related exercises in the Eastern Gulf necessitate a continuation of the GOMESA. Kurta also stated that:

> Emerging technologies such as hypersonics, autonomous systems, and advanced sub-surface systems will require enlarged testing and training footprints and increased Department of Defense reliance on the Gulf of Mexico

[32] Department of the Interior Press Release, January 4, 2018, *Secretary Zinke Announces Plan For Unleashing America's Offshore Oil and Gas Potential*, https://www.doi.gov/pressreleases/secretary-zinke-announces-plan-unleashing-americas-offshore-oil-and-gas-potential (last visited Mar. 28, 2019).
[33] *Id.*
[34] Timothy Cama, *Zinke Removing Florida from Offshore Drilling Plan*, THE HILL (Jan. 9, 2018), *available at* http://thehill.com/homenews/administration/368208-zinke-to-take-florida-out-of-offshore-drilling-plan (last visited Mar. 28, 2019).
[35] *Id.*
[36] Department of the Interior Press Release, March 12, 2019, *Interior Proposes Region-Wide Oil and Gas Lease Sale 253 for Gulf of Mexico*, https://www.doi.gov/pressreleases/interior-proposes-region-wide-oil-and-gas-lease-sale-253-gulf-mexico (last visited Mar. 28, 2019); *see* Bureau of Ocean Energy Management, *Lease Sale 253*, https://www.boem.gov/Sale-253/ (last visited Mar. 28, 2019).
[37] *Id.*
[38] *Id.*
[39] S. 74, 115th Cong. (Jan. 9, 2017), *available at* https://www.congress.gov/bill/115th-congress/senate-bill/74?q=%7B%22search%22%3A%5B%22oil+drilling+moratorium%22%5D%7D&r=1 (last visited Mar. 28, 2019).

> Energy Security Act's moratorium beyond 2022. The moratorium is essential for developing and sustaining our nation's future combat capabilities.[40]

Additionally, county commissions, chambers of commerce, local economic development councils, and military affairs committees from counties bordering the Gulf of Mexico have provided resolutions in support of the GOMESA to the Florida Legislature.[41]

Senator Marco Rubio (R-FL) filed the "Florida Shores Protection and Fairness Act" in January of 2019.[42] The bill extends the moratorium to June 30, 2027.

III. Effect of Proposed Changes:

The resolution, through whereas clauses states the importance of the GOMEX Range Complex and concerns over efforts to allow oil and gas exploration and production in the area. The resolution states that:

- The State of Florida must maintain a unified front in supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line;
- To allow drilling east of the Military Mission Line would mean loss of range areas and possible relocation of aircraft and bases to other unrestricted range areas; and
- The Florida Senate supports an indefinite extension of the restriction, specified in the Gulf of Mexico Security Act of 2006 (GOMESA), on oil and gas leasing in all areas east of the Military Mission Line established at 86°41' west longitude and an indefinite extension of GOMESA's ban on oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area and in a portion of the Central Planning Area.

Resolutions are not subject to action by the Governor and do not have the effect of law. In addition, they are not subject to the constitutional single-subject limitation or title requirements.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

As SR 1820 is a resolution, mandate restrictions do not apply because the bill does not require counties and municipalities to spend funds, reduce the counties' or municipalities' ability to raise revenue, or reduce the percentage of state tax shared with counties or municipalities.

B. Public Records/Open Meetings Issues:

None.

---

[40] Congressional Record, Senator Bill Nelson's Remarks, *Gulf of Mexico Oil Drilling Moratorium* (May 1, 2017), *available at* https://www.congress.gov/congressional-record/2017/05/01/senate-section/article/S2654-4 (last visited Mar. 28, 2019).
[41] Enterprise Florida, Florida Defense Support Task Force White Paper, *Oil Drilling & Military Mission Compatibility*, 5, 6, and Attachment 2 (2017), *available at* https://www.enterpriseflorida.com/wp-content/uploads/FDSTF-White-Paper-Oil-Drilling-and-Military-Mission-Compatability.pdf (last visited Mar. 28, 2019).
[42] S.13, 116th Cong. (Jan. 3, 2019), *available at* https://www.congress.gov/bill/116th-congress/senate-bill/13?s=1&r=54 (Mar. 28, 2019).

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This Senate resolution does not amend the Florida Statutes. If enacted, it will become an undesignated chapter law codified in the Laws of Florida.

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 Hooper

16-02925-19 20191820__

Senate Resolution

A resolution supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line.

WHEREAS, the Florida Legislature represents the military bases and personnel that maintain, manage, and use the Gulf of Mexico (GOMEX) Range Complex, which provides for the common defense of this state and the nation, and

WHEREAS, defense is the State of Florida's fourth largest industry, accounting for more than 775,000 jobs, $80 billion in economic impact, and 65 percent of the regional economy of Northwest Florida, and

WHEREAS, testing and training activities conducted from Florida's air and sea bases are considerably dependent on unconstrained access to the Eastern Gulf of Mexico airspace and seaspace, and

WHEREAS, the GOMEX Range Complex is a unique national resource, and

WHEREAS, the range is larger than all other training ranges within the continental United States combined, stretching from the Florida Panhandle south to Key West and encompassing the Eastern Gulf of Mexico, and

WHEREAS, surrounding the GOMEX Range Complex are numerous United States Department of Defense installations, ranges, and airspaces, which make the complex unique, and

WHEREAS, originally a place to practice air-to-air engagements and air-to-surface bombing and strafing, the GOMEX Range Complex has served the nation for over 60 years, and

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

Florida Senate - 2019 **(NP) SR 1820**

16-02925-19 20191820__

WHEREAS, after World War II, the GOMEX Range Complex was used to test surface-to-air rockets against drones and, with the advent of fifth-generation aircraft at Tyndall and Eglin Air Force Bases, has been used extensively to test future weapons systems, and

WHEREAS, the military missions require day and night access to the airspace, from the surface up to 60,000 feet, for high-speed flying and maneuvering, as well as day and night access to the seaspace, from the sea surface to the subsurface areas, for use by ships and submarines, and

WHEREAS, the military uses live ammunition and missiles against remotely piloted full-scale targets and drones, resulting in large debris fields of dangerous objects, and

WHEREAS, for well over a decade and through two presidential administrations, the United States Department of Defense policy has been to keep the Eastern Gulf of Mexico free from obstruction, and

WHEREAS, oil exploration and offshore platforms placed in the Eastern Gulf of Mexico could jeopardize military missions and severely reduce the state's appeal in keeping military installations, and

WHEREAS, without access to airspace in order to test modern and emerging weapons systems and train the aircrews that support such systems, Florida would lose its primary reason for hosting the GOMEX Range Complex, and

WHEREAS, the Gulf of Mexico Energy Security Act (GOMESA) of 2006 restricts oil and gas leasing in all areas east of the Military Mission Line established at 86°41' W. longitude and bans oil and gas leasing within 125 miles of the Florida

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

coastline in the Eastern Planning Area and in a portion of the Central Planning Area until 2022, and

WHEREAS, attempts to reduce restrictions on oil and gas exploration and production arose in 2013 and 2015, when the members of the United States Senate and the United States House of Representatives developed and introduced bills to change GOMESA without addressing the military need to maintain the GOMEX Range Complex, and

WHEREAS, in 2013, the Offshore Energy and Jobs Act was introduced by United States Representative Doc Hastings of Washington to propose changes in oil and gas drilling and exploration locations, and

WHEREAS, the Offshore Energy and Jobs Act of 2015 was introduced by United States Senator Bill Cassidy of Louisiana, to increase oil and gas exploration and production, most notably through reducing the exclusion area east of the Military Mission Line from 125 miles to 50 miles offshore and through shortening the time limit of the moratorium from 2022 to 2017, but the bill ultimately did not advance past committee, and GOMESA remained intact for the time being, and

WHEREAS, the United States Secretary of Defense, the Chief of Staff of the United States Air Force, and 15 members of the United States Congress from Florida have written letters requesting an extension to the moratorium that is essential for developing and sustaining the military's future capabilities and for guaranteeing long-term capabilities for future test missions that may enable new technologies such as hypersonic fifth-generation fighters, advanced subsurface weapons systems, and other projects that require enlarged testing and training

footprints well beyond 2022, and

WHEREAS, without the certainty of an extension to the moratorium, investment in upgrades in telemetry, tracking, and other important improvements are at risk, and

WHEREAS, in March 2017, 20 local county commissions, chambers of commerce, local economic development councils, and military affairs committees drafted resolutions in support of the moratorium and submitted them to the Florida Legislature, NOW, THEREFORE,

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

That the State of Florida must maintain a united front in supporting an extension of the current moratorium on drilling in the Gulf of Mexico east of the Military Mission Line.

BE IT FURTHER RESOLVED that to allow drilling east of the Military Mission Line would mean loss of range areas and possible relocation of aircraft and bases to other unrestricted range areas.

BE IT FURTHER RESOLVED that the Florida Senate supports an indefinite extension of the restriction, specified in the Gulf of Mexico Energy Security Act of 2006, on oil and gas leasing in all areas east of the Military Mission Line established at 86°41' W. longitude and indefinite extension of the act's ban on oil and gas leasing within 125 miles of the Florida coastline in the Eastern Planning Area and in a portion of the Central Planning Area.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

SENATOR ED HOOPER
16th District

COMMITTEES:
Governmental Oversight and Accountability, Chair
Appropriations Subcommittee on Agriculture, Environment, and General Government
Appropriations Subcommittee on Health and Human Services
Health Policy
Infrastructure and Security
Joint Select Committee on Collective Bargaining, Alternating Chair
Joint Administrative Procedures Committee

April 10th, 2019

The Honorable Lizbeth Benacquisto, Chair
Rules Committee
402 Senate Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Benacquisto:

I am writing to request that Senate Resolution 1820, Moratorium on Drilling in the Gulf of Mexico, be placed on the agenda of the next Rules Committee meeting.

Should you have any questions regarding this bill, please do not hesitate to reach out to me. Thank you for your time and consideration.

Warm regards,

Ed Hooper

Cc: John B. Phelps, Staff Director
Cynthia Futch, Administrative Assistant

REPLY TO:
☐ 3450 East Lake Road, Suite 305, Palm Harbor, Florida 34685-2411 (727) 771-2102
☐ 326 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5016

Senate's Website: *www.flsenate.gov*

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

3/17
Meeting Date

SR 1820
Bill Number (if applicable)

Topic Oil & Gas Exploration

Amendment Barcode (if applicable)

Name David Mica

Job Title Director

Address 215 S Monroe St
Street

Phone 561-6300

Tallahassee FL 32301
City *State* *Zip*

Email MICAD@API.ORG

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Petroleum Council

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

1820
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 8119 Newton Ave S.
Street

Phone 727/897-9291

St Petersburg FL 33705
City *State* *Zip*

Email justice2jesus@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

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/CS/CS/SB 76
INTRODUCER:	Rules Committee; Judiciary Committee; Innovation, Industry, Technology Committee; Infrastructure and Security Committee; and Senator Simpson and others
SUBJECT:	Driving While Using a Wireless Communications Device
DATE:	April 17, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	**Fav/CS**
2.	Wiehle	Imhof	IT	**Fav/CS**
3.	Stallard	Cibula	JU	**Fav/CS**
4.	Proctor	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/CS/SB 76 amends s. 316.305, F.S., to rename the "Florida Ban on Texting While Driving Law" to the "Florida Hands-Free Driving Law," and to authorize enforcement of a ban on the use of a handheld wireless communications device while operating a motor vehicle as a primary offense punishable as a moving violation instead of the current nonmoving violation.

The bill allows for a statewide public education and awareness campaign, and provides for enforcement only by a warning from October 1, 2019, through December 31, 2019, after which a person may be issued a citation. A person who violates this law commits a noncriminal traffic infraction, punishable as a moving violation, and will have three points assessed against his or her license. However, a person cited for his or her first offense may avoid punishment and the assessment of points by completing a wireless communications device driving safety program.

The bill allows the clerk of the court to dismiss a case and assess court costs for a nonmoving traffic infraction for a person who is cited for a first time violation of the ban on the use of a handheld wireless communications device while operating a motor vehicle if the person shows the clerk proof of purchase of equipment that enables their personal wireless communications device to be used in a hands-free manner.

The bill requires that all penalties collected for a violation of the ban be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health (DOH), which will have an indeterminate fiscal impact on the General Revenue Fund, a number of state trust funds, the clerks of court, and municipalities. See Section V. Fiscal Impact Statement.

The bill takes effect July 1, 2019.

II. Present Situation:

Florida Ban on Texting While Driving Law

Section 316.305, F.S., is the "Florida Ban on Texting While Driving Law." It bans a person from operating a motor vehicle while using a wireless communications device[1] in specified ways. Enforcement is permitted only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of ch. 316, F.S., the "Florida Uniform Traffic Control Law," ch. 320, F.S., relating to motor vehicle licenses, or ch. 322, F.S., relating to driver licenses.

More specifically, the statute bans operation of a moving motor vehicle either while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on such a device for the purpose of non-voice interpersonal communication.[2] The ban does not apply to a motor vehicle operator who is:

- Performing official duties as an operator of an authorized emergency vehicle,[3] a law enforcement or fire service professional, or an emergency medical services professional.
- Reporting an emergency or criminal or suspicious activity to law enforcement authorities.
- Receiving messages that are: related to the operation or navigation of the motor vehicle; safety-related information, including emergency, traffic, or weather alerts; data used primarily by the motor vehicle; or radio broadcasts.
- Using a device or system for navigation purposes.
- Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.
- Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.
- Operating an autonomous vehicle in autonomous mode.[4]

---

[1] The statute defines the term "wireless communications device" to mean any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15, F.S., and that allows text communications.

[2] This includes but is not limited to texting, e-mailing, and instant messaging.

[3] The term "authorized emergency vehicle" is defined in s. 322.01(4), F.S., to mean a vehicle that is equipped with extraordinary audible and visual warning devices, that is authorized to display red or blue lights, and that is on call to respond to emergencies. The term includes, but is not limited to, ambulances, law enforcement vehicles, fire trucks, and other rescue vehicles; it does not include wreckers, utility trucks, or other vehicles that are used only incidentally for emergency purposes.

[4] Section 316.305(3)(b), F.S.

Any person who violates the ban commits a noncriminal traffic infraction.[5] A first violation is punishable as a nonmoving violation,[6] and a second or subsequent violation within five years after the date of a prior conviction is punishable as a moving violation.[7]

According to the Department of Highway Safety and Motor Vehicles (HSMV), there were a total of 1,671 citations from both state and local law enforcement agencies for violation of s. 316.305, F.S., in calendar year 2018.[8] Of those, 1,632 were for a first violation of the statute, and 39 were for a second or subsequent violation of the statute.[9]

Drivers convicted of unlawful use of a wireless communications device that results in a crash will have six points assessed against their driver license,[10] and drivers convicted of unlawful use of a wireless communications device within a school safety zone is assessed an additional two points.[11]

A user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages are admissible as evidence in any proceeding to determine whether a violation of the ban has been committed only in the event of a crash resulting in death or personal injury.

Distracted Driving Laws in Other States

Bans on Texting While Driving

As of April 2018, 47 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands banned text messaging for all drivers.[12] In 43 states, the District of Columbia, Guam, Puerto Rico, and the U.S. Virgin Islands texting laws are primary enforcement, and 4 states have secondary enforcement of texting for drivers.[13]

Bans on the Use of Hand Held Devices While Driving

As of April 2018, using a hand-held device while driving violations are enforced as primary offenses in 16 states, the District of Columbia, Puerto Rico, Guam, and the U.S. Virgin Islands.[14]

[5] Section 316.305(4)(a), F.S.
[6] *Id*.
[7] Section 316.305(4)(b), F.S.
[8] Florida Department of Highway Safety and Motor Vehicles, *Annual Uniform Traffic Citation Report*, available at https://services.flhsmv.gov/specialtyplates/uniformtrafficcitationreport.
[9] *Id*.
[10] Section 322.27(3)(d)3., F.S.
[11] Section 322.27(3)(d)11., F.S.
[12] Governors Highway Safety Association, *Distracted Driving Laws by State* (April 2018), available at https://www.ghsa.org/sites/default/files/2018-06/DistractedDrivingLawChart_Jun18.pdf.
[13] *Id*.
[14] Governors Highway Safety Association, *Distracted Driving Laws by State* (April 2018), available at https://www.ghsa.org/sites/default/files/2018-06/DistractedDrivingLawChart_Jun18.pdf.

Bans on Distracted Driving

Both the District of Columbia[15] and Ohio[16] have distracted driver laws that encompass more than just the use of personal electronic devices.

Distracted Driving

The National Highway Traffic Safety Administration defines distracted driving as any activity that diverts attention from the primary task of driving.[17] Besides using electronic devices, distractions can also include adjusting a radio, eating and drinking, reading, grooming, and interacting with passengers.[18]

The Insurance Institute for Highway Safety asserts that cell phone use increases the risk of a crash, but that the crash risk associated with other distractions "isn't well established."[19]

Distraction-Affected Motor Vehicle Crashes

In 2015, there were 885,000 distraction-affected motor vehicle crashes, of which 3,242 were fatal.[20] In the same year, 69,000 crashes were affected by cell phone use, and 453 of these crashes were fatal.[21]

However, the number of fatal distraction-affected crashes might be higher. If a driver fatality occurs in the crash, law enforcement agencies must rely on the crash investigation in order to report on whether driver distraction was involved, and they may not have information to indicate distraction.[22]

Traffic Infraction Civil Penalties

Section 318.18, F.S., provides for penalties for traffic infractions and establishes a penalty of $30 for a nonmoving traffic violation and $60 for a moving violation.[23]

---

[15] Sections 50-1731.02 and 50.1731.03, Code of the District of Columbia.
[16] Section 4511.051, Ohio Revised Code.
[17] U.S. Department of Transportation - National Highway Traffic Safety Administration, Distracted Driving 2016 (April 2018), available at https://www.nhtsa.gov/risky-driving/distracted-driving.
[18] *Id*.
[19] Insurance Institute for Highway Safety, Highway Loss Data Institute, available at https://www.iihs.org/iihs/topics/t/distracted-driving/topicoverview (last visited February 26, 2019).
[20] U.S. Department of Transportation, National Highway Traffic Safety Administration, *Traffic Safety Facts, Research Note, Distracted Driving 2016* (April 2018), available at https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/812517.
[21] *Id*.
[22] U.S. Department of Transportation, National Highway Traffic Safety Administration, *An Examination of Driver Distraction as Recorded in NHTSA Databases* (September 2009), available at https://crashstats.nhtsa.dot.gov/Api/Public/ViewPublication/811216.
[23] After the addition of court costs and service charges, the final amount paid could be up to $108 for a nonmoving traffic violation and up to $158 for a moving violation. See The Florida Court Clerks and Comptrollers, Distribution Schedule (July 2018), available at https://cdn.ymaws.com/www.flclerks.com/resource/resmgr/public_documents_/2018_distribution_schedule_1.pdf (last visited February 26, 2019).

Section 318.21, F.S., requires that all civil penalties for traffic infractions that are received by a county court must be paid out as follows:

- One dollar from every civil penalty shall be remitted to the Department of Revenue for deposit into the Child Welfare Training Trust Fund for child welfare training purposes.
- One dollar from every civil penalty shall be remitted to the Department of Revenue for deposit into the Juvenile Justice Training Trust Fund for juvenile justice purposes.
- Of the remainder:
  - Fifty-six and four-tenths percent: shall be divided if the violation occurred within a municipality, with 50.8 percent paid to that municipality and 5.6 percent deposited into the Fine and Forfeiture Trust Fund for use by the Clerks of the Circuit Court in performing court-related functions; shall be deposited into the Fine and Forfeiture Trust Fund for use by the Clerks of the Circuit Court in performing court-related functions if the violation occurred within the unincorporated area of a county; or shall be paid to a special improvement district of the Seminole Indian Tribe or Miccosukee Indian Tribe if the violation occurred there.
  - Twenty and six-tenths percent shall be remitted to the Department of Revenue for deposit into the General Revenue Fund of the state, except that the first $300,000 shall be deposited into the Grants and Donations Trust Fund in the Justice Administrative Commission for administrative costs, training costs, and costs associated with the implementation and maintenance of Florida foster care citizen review panels in a constitutional charter county.
  - Seven and two-tenths percent shall be remitted to the Department of Revenue for deposit in the Emergency Medical Services Trust Fund.
  - Five and one-tenth percent shall be remitted to the Department of Revenue for deposit in the Additional Court Cost Clearing Trust Fund for criminal justice purposes.
  - Eight and two-tenths percent shall be remitted to the Department of Revenue for deposit in the Brain and Spinal Cord Injury Program Trust Fund.
  - Two percent shall be remitted to the Department of Revenue and transmitted monthly to the Florida Endowment Foundation for Vocational Rehabilitation.
  - Five-tenths percent shall be paid to the Clerk of the Circuit Court for administrative costs.

Driver Improvement Schools

The Florida Department of Highway Safety and Motor Vehicles (DHSMV) has the authority to approve and regulate courses for driver improvement schools, including courses that use technology as a delivery method.[24] In determining whether to approve a course, the DHSMV considers course content designed to promote safety, driver awareness, crash avoidance techniques, and other factors or criteria to improve driver performance from a safety viewpoint, including promoting motorcyclist, bicyclist, and pedestrian safety and risk factors resulting from driver attitude and irresponsible driver behaviors, such as speeding, running red lights and stop signs, and using electronic devices while driving.[25]

In addition to regular course costs, an assessment of $2.50 is collected for the driver improvement course from each person who elects to attend a course The course provider must

[24] Section 318.1451(1), F.S.
[25] Section 318.1451(2)(a), F.S.

remit the $2.50 assessment to the DHSMV for deposit into the Highway Safety Operating Trust Fund in order to receive unique course completion certificate numbers for course participants.[26] The assessment fee is used to administer the program and to fund the general operations of the HSMV.

III. Effect of Proposed Changes:

The bill amends the "Florida Ban on Texting While Driving Law" to rename it the "Florida Hands-Free Driving Law," and to authorize enforcement of a ban on the use of a handheld wireless communications device while operating a motor vehicle as a primary offense. The bill provides for phased-in enforcement. From October 1, 2019 to December 31, 2019, law enforcement officers are authorized to provide only a verbal or written warning to a person who is using a handheld wireless communications device while operating a motor vehicle. After December 31, 2019, an officer may issue a uniform traffic citation for an infraction. A person who violates this law commits a noncriminal traffic infraction, punishable as a moving violation, and will have three points assessed against his or her license.

The bill defines "wireless communications device" to mean any handheld device that is designed or intended to allow two-way voice communication, to receive or transmit text-based or character-based messages, to record or view images, to access or store data, or to connect to the Internet or to any communications service, or that allows text communications. The term includes, but is not limited to:

- Cell phones;
- Tablets;
- Laptops;
- Two-way messaging devices; or
- Electronic games.

However, the term "wireless communications device" does not include a safety, security, or convenience feature built into a motor vehicle that does not require the use of a handheld device.

The law currently provides that only in the event of a crash involving a death or personal injury may specified forms of evidence be used to establish whether a violation of the prohibition has occurred. The bill changes the term "personal injury" to "serious bodily injury."

A person issued a citation for a first offense may elect to participate in a wireless communications device driving safety program approved by the DHSMV and have any penalties, associated costs, and points waived.

In addition, the bill allows the clerk of the court to dismiss a case and assess court costs for a nonmoving traffic infraction for a person who is cited for a first time violation of the ban on the use of a handheld wireless communications device while operating a motor vehicle if the person shows the clerk proof of purchase of equipment that enables their personal wireless communications device to be used in a hands-free manner.

[26] Section 318.1451(4), F.S.

All penalties collected for a violation of the ban on texting while driving must be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health. Currently, only 7.2 percent of the penalties is deposited in this fund.

The bill requires that when a citation for driving while using a handheld wireless communications device is issued, a law enforcement officer must indicate the type of wireless communications device in the comment section of the uniform traffic citation, and must record the race and ethnicity of the violator. All law enforcement agencies must maintain such information and must report such information to the DHSMV in a form and manner determined by the DHSMV. Beginning February 1, 2020, the DHSMV must annually report the data collected to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The data collected must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies must combine the data for the county sheriffs and the municipal law enforcement agencies.

The bill authorizes the DHSMV, in consultation with the Department of Transportation, to implement a statewide safety and public awareness campaign to prevent drivers from driving while using a handheld wireless communications device. The DHSMV is authorized to contract with county, and local law enforcement agencies, safety councils, and public schools to assist with planning and conducting the statewide campaign.

The bill takes effect July 1, 2019.

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:

Operators of motor vehicles who drive while using a handheld wireless communications device may be issued a citation and have resulting penalties. In addition, with the first violation being changed from a nonmoving to a moving traffic violation, the base fine amount doubles from $30 to $60, along with 3 points being assessed against their driver license.

C. Government Sector Impact:

The Emergency Medical Services Trust Fund of the DOH will receive 100 percent of the driving while distracted civil penalty amount instead of the current 7.2 percent associated with the texting while driving civil penalty, which will have an indeterminate positive fiscal impact. The other current recipients will no longer receive any of the texting while driving penalty revenues, resulting in an indeterminate negative fiscal impact to the following:

- Child Welfare Training Trust Fund;
- Juvenile Justice Training Trust Fund;
- Municipalities;
- Circuit Court Clerks/Fine and Forfeiture Trust Fund;
- General Revenue Fund;
- Additional Court Cost Clearing Trust Fund;
- Brain and Spinal Cord Injury Program Trust Fund;
- Florida Endowment Foundation for Vocational Rehabilitation; and
- Circuit Court Clerks for administrative costs.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 316.305 of the Florida Statutes.

This bill creates an unnumbered section 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/CS/CS by Rules on April 17, 2019:
The committee substitute:

- Expands the types of distracted driving regulated by the bill to using a handheld wireless communications device while driving. The underlying bill would have only regulated "texting";
- Defines "wireless communications device";
- Requires that when a citation for driving while using a handheld wireless communications device is issued, a law enforcement officer must indicate the type of wireless communications device in the comment section of the uniform traffic citation;
- Requires a law enforcement officer to record the race and ethnicity of each person cited for driving while using a handheld wireless communications device; and
- Allows the clerk of the court to dismiss a case and assess court costs for a nonmoving traffic infraction for a person who is cited for a first time violation of the ban on the use of a handheld wireless communications device while operating a motor vehicle under certain circumstances.

CS/CS/CS by Judiciary on March 25, 2019:
The committee substitute limits the types of distracted driving regulated by the bill to texting while driving. The underlying bill would have regulated "reading, writing, performing personal grooming, applying a beauty aid or similar products, interacting with pets or unsecured cargo, using a personal wireless communications device, or engaging in any other activity, conduct task or action that causes distraction." The bill also eliminates the requirement that law enforcement officers record the race and ethnicity of each person cited for driving while distracted.

CS/CS by Innovation, Industry, and Technology on March 6, 2019:
The committee substitute for committee substitute:

- Revises a definition and a statement of intent to clarify that the driving while distracted provisions apply when the vehicle is in motion; and
- Requires that information on the race and ethnicity of persons violating the driving while distracted prohibition be recorded, maintained, and reported, as specified.

CS by Infrastructure and Security on February 19, 2019:
The CS changes the "relating to" clause of the bill to "an act relating to driving while distracted," and adds numerous provisions to the bill. The CS:

- Expands the bill to include multiple forms of driving distracted;
- Renames a section of statute Driving while Distracted prohibition;
- Renames a statute section citation title to "Florida Driving While Distracted Law";
- Defines the term "driving while distracted";
- Defines the term "wireless communications device";

- Allows law enforcement to issue citations to distracted drivers as a primary offense after December 1, 2019;
- Changes the first offense from a nonmoving violation, to a moving violation and provides an option to avoid points and penalties through participation in a distracted driving safety program;
- Allows that an operators first citation due to use of personal wireless communications device may be dismissed if they show proof of having purchased equipment that allows their personal wireless communications device to be used in a hands-free manner;
- Allows a user's billing records for wireless communications device to be admissible as evidence in the event a crash results in "death or serious bodily injury", current law allows admissibility when a crash results in "death or personal injury";
- Allows for use of wireless communications device in hands-free or voice operated mode;
- Provides for a warning period from October 1, 2019 to December 31, 2019;
- Provides that the HSMV may implement a safety and public awareness campaign; and
- Directs all fines collected to be deposited in the Emergency Medical Services Trust Fund of the DOH.

B. Amendments:

None.

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

758640

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Simpson) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause and insert:

Section 1. Effective October 1, 2019, section 316.305, Florida Statutes, is amended to read:

316.305 Wireless communications devices; prohibition.—

(1) This section may be cited as the "Florida Hands-Free ~~Ban on Texting While~~ Driving Law."

(2) For purposes of this section, the term "wireless communications device" means any handheld device that is


758640

designed or intended to allow two-way voice communication, to receive or transmit text-based or character-based messages, to record or view images, to access or store data, or to connect to the Internet or to any communications service, as defined in s. 812.15, or that allows text communications. The term includes, but is not limited to, a cell phone, a tablet, a laptop, a two-way messaging device, or an electronic game that is used or capable of being used in a handheld manner. The term does not include a safety, security, or convenience feature built into a motor vehicle which does not require the use of a handheld device.

(3) ~~(2)~~ It is the intent of the Legislature to:

(a) Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users.

(b) Prevent crashes related to the act of driving while using a wireless communications device when operating ~~text messaging while driving~~ a motor vehicle while the vehicle is in motion.

(c) Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes.

(d) Authorize law enforcement officers to stop motor vehicles and issue citations ~~as a secondary offense~~ to persons who are ~~texting while~~ driving while using a wireless communications device as provided in subsection (4).

(4) ~~(3)~~(a)1. A person may not operate a motor vehicle while using a wireless communications device ~~while manually typing or entering multiple letters, numbers, symbols, or other characters~~


758640

~~into a wireless communications device or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging. As used in this section, the term "wireless communications device" means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15 and that allows text communications~~. For the purposes of this paragraph, a motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.

2.a. During the period from October 1, 2019, through December 31, 2019, a law enforcement officer may stop motor vehicles to issue verbal or written warnings to persons who are driving while using a wireless communications device for the purposes of informing and educating such persons of this section. This sub-subparagraph shall stand repealed on October 1, 2020.

b. Effective January 1, 2020, a law enforcement officer may stop motor vehicles and issue citations to persons who are driving while using a wireless communications device.

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.


758640

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle;

b. Safety-related information, including emergency, traffic, or weather alerts;

c. Data used primarily by the motor vehicle; or

d. Radio broadcasts.

4. Using a device or system in a hands-free manner for navigation purposes.

5. Using a wireless communications device hands-free or hands-free in voice-operated mode, including, but not limited to, a factory-installed or after-market Bluetooth device ~~Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function~~.

~~6. Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.~~

6.~~7.~~ Operating an autonomous vehicle, as defined in s. 316.003, in autonomous mode.

(c) Only in the event of a crash resulting in death or serious bodily injury, as defined in s. 316.027 ~~personal injury~~, a user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages may be admissible as evidence in any proceeding to determine whether a violation of


758640

subparagraph (a)1. ~~paragraph (a)~~ has been committed.

(d) Law enforcement officers must indicate the type of wireless communications device in the comment section of the uniform traffic citation.

(5) ~~(4)~~ (a) Any person who violates this section commits a noncriminal traffic infraction, punishable as a moving violation, as provided in chapter 318, and shall have 3 points assessed against his or her driver license as set forth in s. 322.27(3)(d)7. For a first offense under this section, in lieu of the penalty specified in s. 318.18 and the assessment of points, a person who violates this section may elect to participate in a wireless communications device driving safety program approved by the Department of Highway Safety and Motor Vehicles. Upon completion of such program, the penalty specified in s. 318.18 and associated costs may be waived by the clerk of the court and the assessment of points must be waived ~~Any person who violates paragraph (3)(a) commits a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318~~.

(b) The clerk of the court may dismiss a case and assess court costs in accordance with s. 318.18(11)(a) for a nonmoving traffic infraction for a person who is cited for a first time violation of this section if the person shows the clerk proof of purchase of equipment that enables his or her personal wireless communications device to be used in a hands-free manner ~~Any person who commits a second or subsequent violation of paragraph (3)(a) within 5 years after the date of a prior conviction for a violation of paragraph (3)(a) commits a noncriminal traffic infraction, punishable as a moving violation as provided in~~


758640

~~chapter 318~~.

(6)~~(5)~~ Notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for violations of this section must be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health ~~Enforcement of this section by state or local law enforcement agencies must be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of this chapter, chapter 320, or chapter 322~~.

(7) When a law enforcement officer issues a citation for a violation of this section, the law enforcement officer must record the race and ethnicity of the violator. All law enforcement agencies must maintain such information and must report such information to the department in a form and manner determined by the department. Beginning February 1, 2020, the department shall annually report the data collected under this subsection to the Governor, the President of the Senate, and the Speaker of the House of Representatives. The data collected must be reported at least by statewide totals for local law enforcement agencies, state law enforcement agencies, and state university law enforcement agencies. The statewide total for local law enforcement agencies must combine the data for the county sheriffs and the municipal law enforcement agencies.

Section 2. (1) The Department of Highway Safety and Motor Vehicles, in consultation with the Department of Transportation, may implement a statewide campaign to raise awareness of and encourage compliance with s. 316.305, Florida Statutes. The Department of Highway Safety and Motor Vehicles may use

758640

television messaging, radio broadcasts, print media, digital strategies, social media, and any other form of messaging deemed necessary and appropriate by the department to implement the campaign.

(2) The Department of Highway Safety and Motor Vehicles may contract with counties, local law enforcement agencies, safety councils, and public schools to assist with planning and conducting the statewide campaign.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019.

========== 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 driving while using a wireless communications device; amending s. 316.305, F.S.; revising a short title; redefining the term "wireless communications device"; revising legislative intent; prohibiting a person from operating a motor vehicle while using a wireless communications device; authorizing a law enforcement officer during a specified period to stop motor vehicles to issue warnings to persons who are driving while using a wireless communications device; providing for repeal of that authorization; authorizing a law enforcement officer, on and after a specified date, to stop motor vehicles and issue citations to persons who are



758640

driving while using a wireless communications device; revising exceptions to such prohibition; providing that a user's billing records for a wireless communications device or the testimony of or written statements from certain authorities are admissible as evidence in crashes involving serious bodily injury; requiring that law enforcement officers indicate specified information in the uniform traffic citation; providing penalties for driving while using a wireless communications device; authorizing first-time offenders to participate in a wireless communications device driving safety program, in lieu of the imposition of penalties; authorizing a clerk of the court to dismiss a case and assess court costs under certain circumstances; requiring the deposit of fines into the Emergency Medical Services Trust Fund of the Department of Health; deleting a provision requiring that enforcement be accomplished only as a secondary action; requiring law enforcement officers to record the race and ethnicity of violators when issuing a citation for a violation of this section; requiring all law enforcement agencies to maintain such information and report it to the Department of Highway Safety and Motor Vehicles in a form and manner determined by the department; beginning on a specified date, requiring the department to annually report the data to the Governor and Legislature; providing requirements for the report; authorizing the department, in consultation with the Department of


758640

Transportation, to implement a statewide campaign to raise awareness of and encourage compliance with the prohibition on operating a motor vehicle while using a wireless communications device; authorizing the department to use certain messaging to implement the campaign; authorizing the department to contract with certain entities for certain purposes; providing effective dates.

By the Committees on Judiciary; Innovation, Industry, and Technology; and Infrastructure and Security; and Senators Simpson, Passidomo, Hooper, Mayfield, Book, Rouson, Berman, Perry, Taddeo, and Cruz

590-03464-19 201976c3

A bill to be entitled

An act relating to texting while driving; amending s. 316.305, F.S.; revising legislative intent; authorizing law enforcement officers, during a specified timeframe, to stop motor vehicles to issue verbal or written warnings to persons who are texting while driving; specifying the purpose for such stops; repealing the authorization as of a specified date; authorizing law enforcement officers, after a specified date, to stop motor vehicles and issue citations to persons who are texting while driving; adding a circumstance under which a wireless communications device user's billing records or related testimony or statements may be admissible as evidence in certain proceedings; providing penalties; authorizing participation in a distracted driving safety program in lieu of the specified penalties for first-time offenders; requiring the deposit of related fines into the Emergency Medical Services Trust Fund; deleting a provision requiring that enforcement be accomplished only as a secondary action; authorizing the Department of Highway Safety and Motor Vehicles, in consultation with the Department of Transportation, to implement a statewide safety and public awareness campaign; authorizing the Department of Highway Safety and Motor Vehicles to use certain messaging to implement the campaign; authorizing the department to contract with certain entities for certain purposes; providing effective dates.

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

590-03464-19 201976c3

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

Section 1. Section 316.305, Florida Statutes, is amended to read:

316.305 Wireless communications devices; prohibition.—

(1) This section may be cited as the "Florida Ban on Texting While Driving Law."

(2) It is the intent of the Legislature to:

(a) Improve roadway safety for all vehicle operators, vehicle passengers, bicyclists, pedestrians, and other road users.

(b) Prevent crashes related to the act of driving while text messaging when operating ~~while driving~~ a motor vehicle while the vehicle is in motion.

(c) Reduce injuries, deaths, property damage, health care costs, health insurance rates, and automobile insurance rates related to motor vehicle crashes.

(d) Authorize law enforcement officers to stop motor vehicles and issue citations as a primary ~~secondary~~ offense to persons who are texting while driving as provided in subsection (3).

(3)(a)1. A person may not operate a motor vehicle while manually typing or entering multiple letters, numbers, symbols, or other characters into a wireless communications device or while sending or reading data on such a device for the purpose of nonvoice interpersonal communication, including, but not limited to, communication methods known as texting, e-mailing, and instant messaging. As used in this section, the term

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

"wireless communications device" means any handheld device used or capable of being used in a handheld manner, that is designed or intended to receive or transmit text or character-based messages, access or store data, or connect to the Internet or any communications service as defined in s. 812.15 and that allows text communications. For the purposes of this paragraph, a motor vehicle that is stationary is not being operated and is not subject to the prohibition in this paragraph.

2.a. During the period from October 1, 2019, through December 31, 2019, a law enforcement officer may stop motor vehicles to issue verbal or written warnings to persons who are texting while driving, for the purposes of informing and educating such persons. This sub-subparagraph shall stand repealed on October 1, 2020.

b. After December 31, 2019, a law enforcement officer may stop motor vehicles and issue citations to persons who are texting while driving.

(b) Paragraph (a) does not apply to a motor vehicle operator who is:

1. Performing official duties as an operator of an authorized emergency vehicle as defined in s. 322.01, a law enforcement or fire service professional, or an emergency medical services professional.

2. Reporting an emergency or criminal or suspicious activity to law enforcement authorities.

3. Receiving messages that are:

a. Related to the operation or navigation of the motor vehicle;

b. Safety-related information, including emergency,

traffic, or weather alerts;

c. Data used primarily by the motor vehicle; or

d. Radio broadcasts.

4. Using a device or system for navigation purposes.

5. Conducting wireless interpersonal communication that does not require manual entry of multiple letters, numbers, or symbols, except to activate, deactivate, or initiate a feature or function.

6. Conducting wireless interpersonal communication that does not require reading text messages, except to activate, deactivate, or initiate a feature or function.

7. Operating an autonomous vehicle, as defined in s. 316.003, in autonomous mode.

(c) Only in the event of a crash resulting in death or serious bodily injury, as defined in s. 316.027 ~~personal injury~~, a user's billing records for a wireless communications device or the testimony of or written statements from appropriate authorities receiving such messages may be admissible as evidence in any proceeding to determine whether a violation of paragraph (a) has been committed.

(4) ~~(a)~~ Any person who violates this section commits a noncriminal traffic infraction, punishable as a moving violation, as provided in chapter 318, and shall have 3 points assessed against his or her driver license as set forth in s. 322.27. For a first offense under this section, in lieu of the penalty specified in s. 318.18 and the assessment of points, a person who violates this section may elect to participate in a distracted driving safety program approved by the Department of Highway Safety and Motor Vehicles. Upon completion of such

program, the penalty specified in s. 318.18 and associated costs may be waived by the clerk of the court and the assessment of points must be waived ~~Any person who violates paragraph (3)(a) commits a noncriminal traffic infraction, punishable as a nonmoving violation as provided in chapter 318~~.

~~(b) Any person who commits a second or subsequent violation of paragraph (3)(a) within 5 years after the date of a prior conviction for a violation of paragraph (3)(a) commits a noncriminal traffic infraction, punishable as a moving violation as provided in chapter 318.~~

(5) Notwithstanding s. 318.21, all proceeds collected pursuant to s. 318.18 for violations of this section must be remitted to the Department of Revenue for deposit into the Emergency Medical Services Trust Fund of the Department of Health ~~Enforcement of this section by state or local law enforcement agencies must be accomplished only as a secondary action when an operator of a motor vehicle has been detained for a suspected violation of another provision of this chapter, chapter 320, or chapter 322~~.

Section 2. (1) The Department of Highway Safety and Motor Vehicles, in consultation with the Department of Transportation, may implement a statewide campaign to raise awareness and prevent drivers from driving while distracted. The Department of Highway Safety and Motor Vehicles may use television messaging, radio broadcasts, print media, digital strategies, social media, and any other form of messaging deemed necessary and appropriate by the department to implement the campaign.

(2) The Department of Highway Safety and Motor Vehicles may contract with counties, local law enforcement agencies, safety

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

councils, and public schools to assist with planning and conducting the statewide driving while distracted safety and public awareness campaign in a manner that encourages compliance with s. 316.305, Florida Statutes.

Section 3. Except as otherwise expressly provided in this act, this act shall take effect July 1, 2019.

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

The Florida Senate

Committee Agenda Request

To: Senator Benacquisto, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: March 27, 2019

I respectfully request that CS/CS/CS **Senate Bill #76**, relating to texting and driving, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Wilton Simpson
Florida Senate, District 10

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

76
Bill Number (if applicable)

Topic Texting While Driving

Amendment Barcode (if applicable

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St
Street

Phone 224-7173

Tallahassee FL 32301
City *State* *Zip*

Email bbevis@aif.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/1

THE FLORIDA SENATE

APPEARANCE RECORD

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

04/17/2019
Meeting Date

76
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Distracted Driving

Name Becky Afonso

Job Title Executive Director

Address 174B State St E
Street

Phone 813-748-1513

Oldsmar FL 34677
City *State* *Zip*

Email becky@floridabicycle.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Bicycle Association, Inc.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04-17-2019
Meeting Date

76
Bill Number (if applicable)

Topic Texting While Driving

Amendment Barcode (if applicable)

Name Carl Mikyska

Job Title Executive Director

Address 605 Suwannee Street - MS 28B
Street

Phone 850-414-4062

Tallahassee FL 32399
City *State* *Zip*

Email carl.mikyska@mpoac.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida MPO Advisory Council

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 76
Bill Number (if applicable)

Topic Texting While Driving

Amendment Barcode (if applicable)

Name Dr. Danielle Thomas

Job Title Legislation Chair

Address 1749 Orlando Central Pkwy
Street

Phone 407 855 7604

Orlando FL 32809
City *State* *Zip*

Email legislation@floridapta.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida PTA

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 76
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic TEXTING WHILE DRIVING

Name KEYNA CORY

Job Title LOBBYIST

Address 730 E. PARK AVE
Street
TALLAHASSEE FL 32301
City *State* *Zip*

Phone 850 681 1065

Email KeynaCory@pacorpublicaffairs.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing NATIONAL WASTE & RECYCLING ASSN / FL DRIVE TXT N DRV COALITION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

SB 76
Bill Number (if applicable)

Topic Hands Free Florida

Amendment Barcode (if applicable)

Name Debbie Wannink hof

Job Title

Address 255 W. Heathew Drive
Street

Key Biscayne FL 33149
City *State* *Zip*

Phone 305-992-7470

Email debbie.wannink hof@gmail.com

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing The Wannink hof Family

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

4/17/19 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) CS/CS/CS/SB76

Meeting Date *Bill Number (if applicable)*

Topic Texting while DRIVING *Amendment Barcode (if applicable)*

Name DRINDA MERRITT

Job Title Mayor

Address 135 Hwy 40 W Phone 352-229-0477

Street

Inglis FL 34449 Email mayorolindamerritt@gmail.com

City *State* *Zip*

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

(The Chair will read this information into the record.)

Representing Town of Inglis

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 17,2019
Meeting Date

76
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Texting While Driving

Name Gary Hester

Job Title Chief - Government Affairs

Address P.O. Box 14038
Street

Phone 850-219-3631

Tallahassee FL 32317
City *State* *Zip*

Email ghester@fpca.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Police Chiefs Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

Topic _____ Bill Number 76 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

THE FLORIDA SENATE

APPEARANCE RECORD

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

SB 76

Meeting Date | *Bill Number (if applicable)*

Topic Distracted Driving

Amendment Barcode (if applicable)

Name Demetrius Branca

Job Title President

Address 815 Voncile Ave

Street

Tallahassee FL 32303

City *State* *Zip*

Phone 850 339 9213

Email demetrius.branca@gmail.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against

(The Chair will read this information into the record.)

Representing Anthony

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SB 76
Bill Number (if applicable)

Topic Senate Rules

Amendment Barcode (if applicable)

Name Captain Matt Butler

Job Title Captain

Address 2500 W Colonial Dr
Street

Phone 407-254-7000

Orlando FL 32805
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Orange County Sherrif's Office

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-2019
Meeting Date

7le
Bill Number (if applicable)

Topic Texting while driving

Amendment Barcode (if applicable)

Name Cesar Fernandez

Job Title Goverment Affairs Advisor, Converge Goverment Affairs

Address 3250 NE 1st Ave, Ste 305
Street

Phone 305 423 4131

Miami FL 33137
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Village of Key Biscayne

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

to 76
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Texting while Driving

Name Lisa Bacot

Job Title Executive Director

Address PO Box 10168 Phone 850 414-8329
Street

Tally FL 32302 Email lisa.bacot@flpublictransit.org
City *State* *Zip*

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Public Transportation Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

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 336
INTRODUCER:	Rules Committee; Finance and Tax Committee; and Senator Brandes
SUBJECT:	Local Tax Referenda
DATE:	April 18, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Roberts	EE	**Favorable**
2.	Gross	Diez-Arguelles	FT	**Fav/CS**
3.	Fox	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 336 mandates that a referendum to adopt or amend a local government discretionary sales surtax be held *only* at a general election. The bill also requires:

- A county, school district, or petition sponsor to provide a copy of the ordinance or resolution to the Office of Program Policy Analysis and Governmental Accountability (OPPAGA) at least 180 days before the referendum.
- OPPAGA to procure, within 30 days after receiving the ordinance or resolution, the certified public accountant who will conduct the performance audit.

In addition to the requirements above, and at least 180 days before a proposed referendum, a petition sponsor of an initiative to adopt a *charter county and regional transportation system surtax* must:

- Obtain an independent legal opinion verifying that the proposed referendum complies with state law.
- File the initiative petition and its required valid signatures with the supervisor of elections.

Any referendum vote on a sales surtax is void if: 1) A county, school board, or petition sponsor (not OPPAGA) fails to comply with the above provisions; or, 2) the requisite performance audit of *any* proposed surtax is not completed at least 60 days before the referendum, and the results made available on the county or school district's official website.

The bill takes effect January 1, 2020.

II. Present Situation:

Discretionary Sales Surtaxes

In addition to the state sales and use tax, s. 212.055, F.S., authorizes counties to impose nine local discretionary sales surtaxes. A surtax applies to "all transactions occurring in the county which transactions are subject to the state tax imposed on sales, use, services, rentals, admissions, and other transactions by [ch. 212, F.S.,] and communications services as defined in ch. 202"[1] The discretionary sales surtax is based on the tax rate imposed by the county where the taxable goods or services are sold, or are delivered. Discretionary sales surtax rates currently levied vary from 0.5 percent to 2.5 percent.[2]

The Legislature has authorized the following local option discretionary sales surtaxes:

- Charter County and Regional Transportation System Surtax, for operating a transportation system in a charter county, a county which is consolidated with that of one or more municipalities, or a county that is within or under an interlocal agreement with a regional transportation or transit authority.
- Local Government Infrastructure Surtax, for financing local government infrastructure projects.
- Small County Surtax, providing additional revenue for counties having fewer than 50,000 residents as of April 1, 1992.
- Indigent Care and Trauma Center Surtax, for providing medical care for indigent persons (in non-consolidated counties having a population of at least 800,000) and funding trauma centers (in non-consolidated counties having a population less than 800,000).
- County Public Hospital Surtax, for operating, maintaining, and administering a county public general hospital in a county as defined in s. 125.011(1), F.S. (i.e., Miami-Dade County).
- School Capital Outlay Surtax, for constructing and renovating schools.
- Voter-Approved Indigent Care Surtax, for providing medical care for indigent persons in counties with a population less than 800,000.
- Emergency Fire Rescue Services and Facilities Surtax, for providing emergency fire rescue services and facilities.
- Pension Liability Surtax, for funding pension liability shortfalls.[3]

Local discretionary sales surtaxes are collected by the Department of Revenue (DOR) using the same procedures used for the administration, collection, and enforcement of the general state sales tax.[4] DOR places these funds into the Discretionary Sales Surtax Clearing Trust Fund. A separate account is established for each county imposing a discretionary surtax. The proceeds of the surtax are distributed to the county on a monthly basis, minus an administrative fee of the lesser of three percent or administrative costs solely and directly attributable to the surtax. Each

[1] Section 212.054, F.S.
[2] Florida Legislature, Office of Economic and Demographic Research, *Florida Tax Handbook*, 2019 Local Discretionary Sales Surtax Rates in Florida's Counties, 225-226 (2019), *available at:* http://edr.state.fl.us/Content/revenues/reports/tax-handbook/taxhandbook2019.pdf, (last visited April 11, 2019).
[3] See section 212.055, F.S.
[4] Section 212.054(4)(a), F.S.

county is liable for its prorated share of administrative costs, based on its prorated share of the amount collected statewide.[5]

New surtaxes and rate changes to existing surtaxes take effect on January 1, while the repeal of an existing surtax takes effect on December 31.[6] The governing body of the county or the school district must notify DOR of the imposition, termination, or rate change of a discretionary sales surtax within 10 days of final adoption by ordinance or referendum, but no later than November 16. The notification must include the duration of the surtax, the surtax rate, a copy of the ordinance and any additional information DOR requires by rule.[7] If the county or school district fails to provide timely notice, the effective date of the change is delayed by 1 year.[8] Counties and school districts are also required to notify DOR if a referendum or consideration of an ordinance to impose, terminate, or change the rate of a surtax is scheduled to occur on or after October 1.[9] If the county or school district fails to provide timely notice, the effective date of the change is delayed by 1 year.[10]

The 56 counties and 19 school districts levying one or more discretionary sales surtaxes were projected to realize $3.38 billion in revenue in Fiscal Year 2018-19.[11]

Most local discretionary sales surtaxes may only be approved by referendum, while some may be approved by an extraordinary vote of the county commission.[12] If voter approval is required, a majority of electors voting must approve the referendum.[13]

Charter County and Regional Transportation System Surtax

Any county that has adopted a home rule charter, any county government that has consolidated with one or more municipalities, and any county that is within or under an interlocal agreement with a regional transportation or transit authority created under chs. 343 or 349, F.S., may levy this surtax at a rate of up to 1 percent, subject to approval by a majority vote of the county's electorate or a charter amendment approved by a majority vote of the county's electorate.[14]

Based on these criteria, 31 counties (i.e., Alachua, Bay, Brevard, Broward, Charlotte, Citrus, Clay, Columbia, Duval, Escambia, Franklin, Gulf, Hernando, Hillsborough, Lee, Leon, Manatee, Miami-Dade, Okaloosa, Orange, Osceola, Palm Beach, Pasco, Pinellas, Polk, Santa Rosa, Sarasota, Seminole, Volusia, Wakulla, and Walton) are eligible to levy the surtax. Currently,

[5] Section 212.054(4)(b), F.S.
[6] Section 212.054(5), F.S.
[7] Section 212.054(7)(a), F.S.
[8] *Id*.
[9] Section 212.054(7)(b), F.S. The deadline for this notification is October 1.
[10] *Id*.
[11] Office of Economic and Demographic Research, *2018 Local Government Financial Information Handbook* p. 148 (Sep. 2018), *available at* http://edr.state.fl.us/Content/local-government/reports/lgfih18.pdf (last visited April 11, 2019).
[12] *See* s. 212.055, F.S.; and s. 212.055(3), F.S., small county surtax may be approved by extraordinary vote of the county commission as long as surtax revenues are not used for servicing bond indebtedness; s. 212.055(4), F.S., indigent care and trauma center surtax may be approved by extraordinary vote of the county commission; and s. 212.055(5), F.S., county public hospital surtax may be approved by extraordinary vote of the county commission.
[13] Section 212.055, F.S.
[14] Section 212.055(1), F.S. *See also supra* note 2. The timing for placing the referendum on the ballot is set at the discretion of the governing body.

only four of the 31 eligible counties levy this surtax at the following percentages: Broward (1.0), Duval (0.5), Hillsborough (1.0), and Miami-Dade (0.5).[15]

Generally, the surtax proceeds are used for the development, construction, operation, and maintenance of fixed guideway rapid transit systems; bus systems; on-demand transportation services; and roads and bridges.[16] Counties eligible to levy the surtax may also use up to 25 percent of the proceeds for nontransit purposes.[17]

Collections for the Charter County and Regional Transportation System Surtax are estimated to produce $342.4 million in Fiscal Year 2018-2019.[18]

Discretionary Sales Surtax Performance Audits

Chapter 2018-118, s. 35, L.O.F., required that for all discretionary sales surtax referendum held on or after March 23, 2018, a performance audit by an independent certified public accountant must be conducted.[19] Section 212.055(10)(a), F.S., defines this audit as:

> an examination of the program conducted according to applicable government auditing standards or auditing and evaluation standards of other appropriate authoritative bodies, including the effectiveness of the program, the structure and design of the program, alternative methods of achieving the goals of the program, performance measures that may be used to track program accomplishments, the accuracy and adequacy of public documents, and reports related to the program, and compliance of the program with applicable policies, rules, and laws.

OPPAGA must procure the certified public accountant to conduct the performance audit.[20] The results of the performance audit, including any findings, recommendations, or other accompanying documents must be made available on the website of the county or school district at least 60 days prior to the referendum and must be maintained on the website for at least 2 years.[21]

Referendum Process

The Florida Election Code provides the general requirements for a referendum.[22] The question presented to voters must contain a ballot summary with clear and unambiguous language, such that a "yes" or "no" vote on the measure indicates approval or rejection, respectively.[23] The ballot summary should explain the chief purpose of the measure and may not exceed 75 words.[24]

[15] *See supra* note 2.
[16] Section 212.055(1)(d), F.S.
[17] Section 212.055(1)(d)3., F.S.
[18] *See supra* note 2.
[19] Section 212.055(10)(a), F.S.
[20] *Id.*
[21] S. 212.055(10)(b), F.S.
[22] Section 101.161, F.S.
[23] Section 101.161(1), F.S.
[24] *Id*.

The ballot summary and title must be included in the resolution or ordinance calling for the referendum.[25] For some discretionary sales surtaxes, the form of the ballot question is specified by the statute authorizing the tax.[26]

Five types of elections exist under the Election Code: primary elections, special primary elections, special elections, general elections, and presidential preference primary elections.[27] A "general election" is held on the first Tuesday after the first Monday in November in even-numbered years to fill national, state, county, and district offices, and for voting on constitutional amendments.[28]

Initiative Petition Procedures for Placement of the Ballot

Section 100.371, F.S., governs how constitutional amendments proposed by initiative are placed on the ballot for the general election. Under s. 100.371(3), F.S., each initiative petition signature is dated and valid for a period of two years following the date.[29] The sponsor must submit dated forms to the appropriate supervisor of elections for verification and the supervisor must verify signatures within 30 days of receipt of the petition forms and payment of a required fee.[30] The supervisor can verify that a signature is valid only if it meets certain requirements. Signature forms must be retained for one year or until notified by the Division of Elections.

Written Legal Opinions

In general, a legal opinion is a document in which an official such as a state attorney general, a city solicitor, or a private attorney renders her or his understanding of the law as applied to the assumed facts.[31] It may or may not serve as protection to one acting on it, depending on the nature of it and the law governing such opinions. Legal opinions are occasionally formally addressed to clients but substantively intended to benefit (or, at least, also benefit) third parties who are explicitly permitted to rely on them.[32] Third parties commonly require these opinions as a condition precedent to closing business transactions.[33]

III. Effect of Proposed Changes:

Section 1 amends s. 212.055, F.S., to require that a referendum to adopt or amend a local government discretionary surtax must be held at a general election. This will limit the timing and frequency of these referenda to even-year November elections.

The bill also requires a petition sponsor of a charter county and regional transportation system discretionary surtax proposal to, at least 180 days before the proposed referendum:

---

[25] *Id*.
[26] *See e.g.*, s. 212.055(4)(a)2, (4)(b)1., F.S. (ballot question for discretionary sales surtax for indigent care and trauma center).
[27] Section 97.021(12), F.S.
[28] FLA. CONST. Art. VI, s. 5(a). *See also* s. 97.021(16), F.S.
[29] *See* s. 100.371(3), F.S., for the remainder of the information presented in this section of the bill analysis.
[30] *See* s. 99.097(4), F.S., regarding the fee for checking signatures and grounds for having such fees waived.
[31] *See* BLACK'S LAW DICTIONARY (6th ed. 1990).
[32] *See* Steven L. Schwarcz, *The Limits of Lawyering: Legal Opinions in Structured Finance*, Texas Law Review, vol. 84, no.1, 2005.
[33] *Id.*

- Obtain an independent written legal opinion from an attorney who is a member in good standing of The Florida Bar, verifying that the proposed referendum complies with state law, and provide the proposed referendum and legal opinion to the governing body of the county which will make both documents available on its official website.
- Provide a copy of the final resolution or ordinance of the proposed referendum to OPPAGA, which will then procure the certified public accountant for the required performance audit within 30 days after receiving notification.
- File the initiative petition and its required valid signatures with the supervisor of elections who will verify signatures and retain signature forms in the same manner as required for initiatives under s. 100.371(3), F.S.

The failure of an initiative sponsor to comply with the requirements above renders any referendum held void.

In addition, the bill requires the county or school district for which a discretionary sales surtax referendum is to be held to provide a copy of the final resolution or ordinance of the proposed referendum to OPPAGA 180 days before the proposed referendum for purposes of a performance audit. Within 30 days of receiving such notification, OPPAGA must procure the certified public accountant needed for the required performance audit.

Failure to comply with the 180-day notification of OPPAGA or a required completion of the performance audit 60 days before the referendum is held renders any such referendum to adopt a discretionary sales surtax void.

Section 2 provides an effective date of January 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(b) of the Florida Constitution provides that the Legislature, except upon approval by a two-thirds vote of the membership, may not enact a general law if the anticipated effect of doing so would be to reduce the *authority* that counties or municipalities have to raise revenues in the aggregate.

The bill requires that a referendum to adopt or amend a local government discretionary surtax must be held at a general election. While the bill limits the flexibility that counties and municipalities have for scheduling a referendum, it does not limit the authority they have to raise revenues. Therefore, the bill does not appear to be a mandate.

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:

The Revenue Estimating Conference (REC) has not reviewed this bill. However, the REC determined that Senate Bill 336, which provides that all referenda to adopt or amend a local option discretionary sales surtax must be held at a general election, would not affect state or local government revenues. Further, the Office of Program Policy Analysis and Government Accountability (OPPAGA) has determined that the tasks assigned in Senate Bill 1040, which forms the basis of the substantive amendment incorporated into this bill,[34] can be completed using existing resources.[35]

B. Private Sector Impact:

Petition sponsors of initiatives to adopt a charter county and regional transportation system surtax will incur costs related to the required legal opinion and possibly incur costs for fees to check petition signatures.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The current November 16 deadline for notifying DOR of the imposition of a pending local option discretionary sales surtax could prove challenging in some cases; county canvassing boards may not be able to formally certify sales tax referenda election results until after this deadline — depending on the speed and efficiency of the county's vote count/recount process and *what calendar day* the General Election falls on in November (first TUE after the first MON; varies from year-to-year). If the deadline is not met for any reason, imposition of the sales surtax could be delayed for a year.

[34] Amendment No. 164680 by Lee, adopted at Florida Senate Rules Committee (Apr. 17, 2019).
[35] OPPAGA, 2019 Bill Analysis, SB1040_OPP 2019-03-04 (March 4, 2019), available at http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=28224 (last accessed Apr. 18, 2019).

VIII. Statutes Affected:

This bill substantially amends section 212.055 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 April 17, 2019:
The committee substitute:

- Adds additional requirements and timelines that must be met by a petition sponsor of an initiative to adopt a *charter county and regional transportation system surtax*; failure to meet any of these requirements/timelines voids any referendum vote.
- Establishes additional timelines with respect to the mandatory *performance audit* of the program associated with the proposed local surtax, and renders any referendum vote void for failure to meet certain deadlines.
- Changes the effective date of the act from "July 1, 2019" to January 1, 2020.

CS by Finance and Tax on March 20, 2019:
The CS changes the effective date of the act from "upon becoming law" to July 1, 2019.

B. Amendments:

None.

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

164680

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Lee) recommended the following:

Senate Amendment (with directory and title amendments)

Delete lines 30 - 64

and insert:

(c)1. The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a trust fund within the county accounts shall be placed on the ballot in accordance with law and must be approved in a referendum held at a general election in accordance with subsection (10) ~~at a time to be set at the discretion of the governing body~~.

2. If the proposal to adopt a surtax is by initiative, the



petition sponsor must, at least 180 days before the proposed referendum, comply with all of the following:

a. Obtain an independent written legal opinion from an attorney who is a member in good standing of The Florida Bar which verifies that the proposed referendum complies with state law, and provide the proposed referendum and legal opinion to the governing body of the county. The county shall make the proposed referendum and legal opinion available on its official website.

b. Provide a copy of the final resolution or ordinance to the Office of Program Policy Analysis and Government Accountability. The Office of Program Policy Analysis and Government Accountability shall procure a certified public accountant in accordance with subsection (10) for the performance audit.

c. File the initiative petition and its required valid signatures with the supervisor of elections. The supervisor of elections shall verify signatures and retain signature forms in the same manner as required for initiatives under s. 100.371(3).

3. The failure of an initiative sponsor to comply with the requirements of subparagraph 2. renders any referendum held void.

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general


164680

hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

(b) If the ordinance is conditioned on a referendum, the proposal to adopt the county public hospital surtax shall be placed on the ballot in accordance with subsection (10) ~~law at a time to be set at the discretion of the governing body~~. The referendum question on the ballot shall include a brief general description of the health care services to be funded by the surtax.

(8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

(b) Upon the adoption of the ordinance, the levy of the surtax must be placed on the ballot by the governing authority of the county enacting the ordinance. The ordinance will take effect if approved by a majority of the electors of the county voting in a referendum held for such purpose. The referendum shall be placed on the ballot of a general ~~regularly scheduled~~ election. The ballot for the referendum must conform to the requirements of s. 101.161.

(10) DATES FOR REFERENDA.—A referendum to adopt or amend a local government discretionary sales surtax under this section must be held at a general election as defined in s. 97.021.

(11) ~~(10)~~ PERFORMANCE AUDIT.—

(a) ~~For any referendum held on or after March 23, 2018,~~ To adopt a discretionary sales surtax under this section, an independent certified public accountant licensed pursuant to chapter 473 shall conduct a performance audit of the program associated with the proposed surtax ~~adoption proposed by the county or school district~~.



(b)1. At least 180 days before the referendum is held, the county or school district shall provide a copy of the final resolution or ordinance to the Office of Program Policy Analysis and Government Accountability.

2. Within 30 days after receiving the final resolution or ordinance, the Office of Program Policy Analysis and Government Accountability shall procure the certified public accountant and may use carryforward funds to pay for the services of the certified public accountant.

3.~~(b)~~ At least 60 days before the referendum is held, the performance audit must ~~shall~~ be completed and the audit report, including any findings, recommendations, or other accompanying documents, must ~~shall~~ be made available on the official website of the county or school district.

4. The county or school district shall keep the information on its website for 2 years from the date it was posted.

5. The failure to comply with the requirements under subparagraph 1. or subparagraph 3. renders any referendum held to adopt a discretionary sales surtax void.

(c) For purposes of this subsection, the term "performance audit" means an examination of the program conducted according to applicable government auditing standards or auditing and evaluation standards of other appropriate authoritative bodies. At a minimum, a performance audit must include an examination of issues related to the following:

1. The economy, efficiency, or effectiveness of the program.

2. The structure or design of the program to accomplish its goals and objectives.



164680

3. Alternative methods of providing program services or products.

4. Goals, objectives, and performance measures used by the program to monitor and report program accomplishments.

5. The accuracy or adequacy of public documents, reports, and requests prepared by the county or school district which relate to the program.

6. Compliance of the program with appropriate policies, rules, and laws.

(d) This subsection does not apply to a referendum held to adopt the same discretionary surtax that was in place during the month of December immediately before the date of the referendum.

====== D I R E C T O R Y C L A U S E A M E N D M E N T ======
And the directory clause is amended as follows:

Delete lines 9 - 14
and insert:

Section 1. Present subsection (10) of section 212.055, Florida Statutes, is redesignated as subsection (11) and amended, a new subsection (10) is added to that section, and paragraph (c) of subsection (1), paragraph (b) of subsection (5), and paragraph (b) of subsection (8) are amended, to read:

================ T I T L E A M E N D M E N T ================
And the title is amended as follows:

Delete line 5
and insert:

at a general election; requiring a petition sponsor of an initiative to adopt a charter county and regional



transportation system surtax to comply with specified requirements within a specified timeframe before the proposed referendum; requiring a county to make the proposed referendum and a specified legal opinion available on its official website; requiring the Office of Program Policy Analysis and Government Accountability, upon receiving a certain notice, to procure a certified public accountant for a performance audit; requiring a supervisor of elections to verify petition signatures and retain signature forms in a specified manner; providing that an initiative sponsor’s failure to comply with the specified requirements renders any referendum held void; revising requirements and procedures for counties, school districts, and the office relating to performance audits; providing that the failure to comply with certain requirements renders any referendum held to adopt a discretionary sales surtax void; providing an effective date.

232346

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Brandes) recommended the following:

Senate Amendment

Delete line 65
and insert:
Section 2. This act shall take effect January 1, 2020.

By the Committee on Finance and Tax; and Senator Brandes

593-03283-19 2019336c1

A bill to be entitled

An act relating to local tax referenda; amending s. 212.055, F.S.; providing that a referendum to adopt or amend a local discretionary sales surtax must be held at a general election; providing an effective date.

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

Section 1. Paragraph (c) of subsection (1), paragraph (b) of subsection (5), and paragraph (b) of subsection (8) of section 212.055, Florida Statutes, are amended, present subsection (10) of that section is redesignated as subsection (11), and a new subsection (10) is added to that section, to read:

212.055 Discretionary sales surtaxes; legislative intent; authorization and use of proceeds.—It is the legislative intent that any authorization for imposition of a discretionary sales surtax shall be published in the Florida Statutes as a subsection of this section, irrespective of the duration of the levy. Each enactment shall specify the types of counties authorized to levy; the rate or rates which may be imposed; the maximum length of time the surtax may be imposed, if any; the procedure which must be followed to secure voter approval, if required; the purpose for which the proceeds may be expended; and such other requirements as the Legislature may provide. Taxable transactions and administrative procedures shall be as provided in s. 212.054.

(1) CHARTER COUNTY AND REGIONAL TRANSPORTATION SYSTEM SURTAX.—

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

593-03283-19 2019336c1

(c) The proposal to adopt a discretionary sales surtax as provided in this subsection and to create a trust fund within the county accounts shall be placed on the ballot in accordance with law and must be approved in a referendum held at a general election as set forth in subsection (10) ~~at a time to be set at the discretion of the governing body~~.

(5) COUNTY PUBLIC HOSPITAL SURTAX.—Any county as defined in s. 125.011(1) may levy the surtax authorized in this subsection pursuant to an ordinance either approved by extraordinary vote of the county commission or conditioned to take effect only upon approval by a majority vote of the electors of the county voting in a referendum. In a county as defined in s. 125.011(1), for the purposes of this subsection, "county public general hospital" means a general hospital as defined in s. 395.002 which is owned, operated, maintained, or governed by the county or its agency, authority, or public health trust.

(b) If the ordinance is conditioned on a referendum, the proposal to adopt the county public hospital surtax shall be placed on the ballot in accordance with subsection (10) ~~law at a time to be set at the discretion of the governing body~~. The referendum question on the ballot shall include a brief general description of the health care services to be funded by the surtax.

(8) EMERGENCY FIRE RESCUE SERVICES AND FACILITIES SURTAX.—

(b) Upon the adoption of the ordinance, the levy of the surtax must be placed on the ballot by the governing authority of the county enacting the ordinance. The ordinance will take effect if approved by a majority of the electors of the county voting in a referendum held for such purpose. The referendum

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

shall be placed on the ballot of a general ~~regularly scheduled~~ election. The ballot for the referendum must conform to the requirements of s. 101.161.

(10) DATES FOR REFERENDA.—A referendum to adopt or amend a local government discretionary sales surtax under this section must be held at a general election as defined in s. 97.021.

Section 2. This act shall take effect July 1, 2019.

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

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto
Committee on Rules

Subject: Committee Agenda Request

Date: March 20, 2019

I respectfully request that **Senate Bill #336**, relating to **Local Tax Referenda**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

336
Bill Number (if applicable)

Topic Local Surtax Referenda

232246
Amendment Barcode (if applicable)

Name Amber Hughes

Job Title ~~Director~~ Sr. Legislative Advocate

Address PO Box 1757
Street

Phone 701-3621

Tallahassee FL 32302
City *State* *Zip*

Email ahughes@flcities

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida League of Cities Amendment

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

336
Bill Number (if applicable)

232346
Amendment Barcode (if applicable)

Topic LOCAL GOVERNMENT SURTAX

Name LAURA YOUMANS

Job Title LEGISLATIVE COUNSEL

Address 100 N. MONROE ST.
Street

Phone 850-294-1838

TAL FL 32301
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)
OF AMENDMENT

Representing FLORIDA ASSOCIATION OF COUNTIES

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

336
Bill Number (if applicable)

Topic Local Tax Referenda

Amendment Barcode (if applicable)

Name Phillip Swaterman

Job Title Policy Director

Address _____ Phone _____
Street

_____ Email _____
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Americans for Prosperity

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4 / 17 / 2019
Meeting Date

Topic _____ Bill Number 336 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

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

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

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

S-001 (10/20/11)

The Florida Senate

BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL:	CS/SB 380
INTRODUCER:	Banking and Insurance Committee and Senator Brandes
SUBJECT:	Homeowners' Insurance Policy Disclosures
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	**Fav/CS**
2.	Peacock	Yeatman	CA	**Favorable**
3.	Matiyow	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Technical Changes

I. Summary:

CS/SB 380 requires when an insurer issues homeowners policies that excludes coverage for the peril of flood they must provide to their policyholders a disclosure informing them of the benefits of flood insurance.

The new requirements will apply to policies issued or renewed on or after July 1, 2019.

II. Present Situation:

The National Flood Insurance Program (NFIP)

The NFIP was created by the passage of the National Flood Insurance Act of 1968.[1] The NFIP is administered by the Federal Emergency Management Agency (FEMA) and provides property owners located in flood-prone areas the ability to purchase flood insurance protection from the federal government.

[1] FEMA, National Flood Insurance Act of 1968 and Flood Disaster Protection Act of 1973, *available at* http://www.fema.gov/media-library/assets/documents/7277?id=2216 (Last accessed January 29, 2019).

Private Market Flood Insurance in Florida

In 2014, the Legislature created s. 627.715, F.S., governing the sale of personal lines residential flood insurance.[2] "Flood" is defined as a general and temporary condition of partial or complete inundation of two or more acres of normally dry land area or of two or more properties from:

- Overflow of inland or tidal waters;
- Unusual and rapid accumulation or runoff of surface waters from any source;
- Mudflow; or
- Collapse or subsidence of land along the shore of a lake or similar body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels that result in a flood as defined above.[3]

The Legislature amended the law in 2015[4] and 2017.[5] Flood insurance is a separate line of insurance from homeowner's property insurance and is not included in such a policy.[6] In the case of flood damage occurring during the course of a hurricane, the windstorm portion of the homeowner's property insurance policy does not cover the flood damage.[7] If the homeowner does not separately purchase flood insurance through the NFIP or an admitted Florida flood insurer, such losses will be uninsured.

The Office of Insurance Regulation reports there are 29 admitted insurance companies currently writing private flood insurance in the state.[8]

Insurance Policy Notice Requirements

The Florida Insurance Code[9] requires that various insurance policies include specific notices to provide consumers with important information or ensure consistency and readability of insurance contracts from different insurers. The content of the notice depends on the type of coverage provided. Statutory provisions requiring notices often establish requirements regarding their content, print type or size, and appearance (e.g., bold type or all capitalized text).

In 2018, the Legislature passed a requirement that all insurers issuing homeowners policies must provide to their policyholders a disclosure in bold, 18 point font that must read:

> "FLOOD INSURANCE: YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S INSURANCE POLICY DOES

[2] Ch. 2014-80, Laws of Fla.
[3] Section 627.715(1)(b), F.S.
[4] Ch. 2015-69, Laws of Fla.
[5] Ch. 2017-142, Laws of Fla.
[6] *See* Ch. 627, Part X, F.S.
[7] Flood insurance covers rising water that sits or flows on the ground and damages property by inundation and flow. Windstorm insurance covers water falling or driven by wind that damages property by infiltration of the structure from above or laterally while carried by the wind. In short, flood insurance covers damage related to rising water and windstorm insurance covers damage related to airborne water.
[8] Presentation by OIR "Flood Facts & Florida's Flood Insurance Market" January 2019. (On file with the Senate Committee on Banking and Insurance)
[9] Section 624.01, F.S., provides that Chapters 624-632, 634, 635, 636, 641, 642, 648, and 651 constitute the "Florida Insurance Code."

NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE COVERAGE, YOU MAY HAVE UNCOVERED LOSSES CAUSED BY FLOOD. PLEASE DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH YOUR INSURANCE AGENT."[10]

III. Effect of Proposed Changes:

Section 1 amends s. 627.7011, F.S., to require when an insurer issues homeowners policies that excludes the coverage for the peril of flood they must provide to their policyholders a disclosure as to the benefit of flood insurance. When an insurer issues a homeowners policy that includes flood coverage they will no longer be required to provide such discloser to their policyholders.

Section 2 provides the bill takes effect July 1, 2019.

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.

[10] Ch. 2018-63 Laws of Fla. (amending s. 627.7011, F.S.).

B. Private Sector Impact:

When an insurer issues homeowners policies that include coverage for the peril of flood, the insurer will no longer have to print and provide to their policyholders a disclosure as to the benefits of flood insurance.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 627.7011 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.)

CS by Banking and Insurance on February 19, 2019:
The committee substitute adds "Disclosures" to the title of the bill.

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 Banking and Insurance; and Senator Brandes

597-02480-19 2019380c1

A bill to be entitled

An act relating to homeowners' insurance policy disclosures; amending s. 627.7011, F.S.; revising circumstances under which insurers issuing homeowners' insurance policies must include a specified statement relating to flood insurance with the policy documents at initial issuance and renewals; providing an effective date.

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

Section 1. Subsection (4) of section 627.7011, Florida Statutes, is amended to read:

627.7011 Homeowners' policies; offer of replacement cost coverage and law and ordinance coverage.—

(4)(a) An insurer that issues a homeowner's insurance policy must include with the policy documents at initial issuance and every renewal, in bold type no smaller than 18 points, the following statement:

"LAW AND ORDINANCE: LAW AND ORDINANCE COVERAGE IS AN IMPORTANT COVERAGE THAT YOU MAY WISH TO PURCHASE. PLEASE DISCUSS WITH YOUR INSURANCE AGENT."

(b) An insurer that issues a homeowner's insurance policy that does not provide flood insurance coverage must include with the policy documents at initial issuance and every renewal, in bold type no smaller than 18 points, the following statement:

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

597-02480-19 2019380c1

"FLOOD INSURANCE: YOU MAY ALSO NEED TO CONSIDER THE PURCHASE OF FLOOD INSURANCE. YOUR HOMEOWNER'S INSURANCE POLICY DOES NOT INCLUDE COVERAGE FOR DAMAGE RESULTING FROM FLOOD EVEN IF HURRICANE WINDS AND RAIN CAUSED THE FLOOD TO OCCUR. WITHOUT SEPARATE FLOOD INSURANCE COVERAGE, YOU MAY HAVE UNCOVERED LOSSES CAUSED BY FLOOD. PLEASE DISCUSS THE NEED TO PURCHASE SEPARATE FLOOD INSURANCE COVERAGE WITH YOUR INSURANCE AGENT."

(c) The intent of this subsection is to encourage policyholders to purchase sufficient coverage to protect them in case events excluded from the standard homeowners policy, such as law and ordinance enforcement and flood, combine with covered events to produce damage or loss to the insured property. The intent is also to encourage policyholders to discuss these issues with their insurance agent.

Section 2. This act shall take effect July 1, 2019.

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

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto
Committee on Rules

Subject: Committee Agenda Request

Date: March 21, 2019

I respectfully request that **Senate Bill #380**, relating to **Homeowners' Insurance Policies**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

390
Bill Number (if applicable)

Topic Homeowner's Insurance

Amendment Barcode (if applicable)

Name Caitlin Murray

Job Title Director of Government Affairs

Address 200 E. Gaines St
Street

Phone (850) 413-5005

Tallahassee FL 32399
City *State* *Zip*

Email Caitlin.murray@floir.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Office of Insurance Regulation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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 548
INTRODUCER:	Judiciary Committee and Senator Brandes
SUBJECT:	Electronic Legal Documents
DATE:	April 16, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Tulloch	Cibula	JU	**Fav/CS**
2.	Hackett	McVaney	GO	**Favorable**
3.	Tulloch	Phelps	RC	**Favorable**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 548 authorizes the use of remote online notarizations and recognizes the legal validity of certain electronic legal documents in Florida.

Specifically, the bill:

- Permits notaries, civil-law notaries, and commissioners of deeds to register as online notaries and provide remote online notarizations through two-way, remote audio-visual communication technology.
- Requires substantial record-keeping and security protocols for online notaries, including third-party identify verification (credentials analysis), and provides for the use of Remote Online Notarization (RON) platforms and software to facilitate online notarizations.
- Authorizes online notarization oversight, rulemaking, and training by the Department of State.
- Permits an online notary to notarize electronic signatures on wills, powers of attorney, and documents conveying real property, and requires the notary to issue a colloquy in the case of wills and powers of attorney enumerating certain powers, such as changing a beneficiary, and other documents that are either testamentary or deal with end-of-life decisions.
- Permits an online notary to notarize the electronic signature of a principle signer and witnesses to an electronic will, powers of attorney, and other similar documents through audio-visual communication technology.
- Provides that electronic wills may become self-proving if a qualified custodian is appointed to maintain custody of the will until the testator's death.

- Authorizes witnesses to appear remotely to attest to the principle's signing of a document but requires a remote witness's identity be verified through third party credential analysis.
- Provides that any document signed by a vulnerable adult is voidable when the witness appears remotely.

The bill takes effect January 1, 2020, except that the Department of State's rulemaking authority takes effect upon becoming law.

II. Present Situation:

Part 1: Notaries Public in Florida

A notary public is a public officer under the Florida Constitution,[1] and "and an impartial agent of the State."[2] "[I]n the performance of his or her duties, [a notary public] exercises a delegation of the State's sovereign power as in attesting the genuineness of any deeds or writings in order to render them available as evidence of the facts therein contained and in administering oaths and attesting to the authenticity of signatures."[3]

As a public officer, notaries public are constitutionally required to give a bond (as required by law) and swear or affirm to uphold the Constitutions of the United States and Florida.[4] Notaries public are appointed and commissioned by the Governor to four-year terms,[5] and are authorized under Florida law to perform six basic duties:[6]

- Administer oaths or affirmations.[7]
- Take acknowledgments.[8]
- Solemnize marriages.[9]
- Attest to photocopies.[10]

[1] Art. II, s. 5, FLA. CONST.
[2] 58 AM. JUR. 2D Notaries Public § 1.
[3] *Id.* (footnotes omitted). *See also* BLACK'S LAW DICTIONARY (10th ed. 2014) ("The notary public, or notary, is an official known in nearly all civilized countries. The office is of ancient origin. In Rome, during the republic, it existed, the title being *tabelliones forenses*, or *personae publicae*; and there are records of the appointment of notaries by the Frankish kings and the Popes as early as the ninth century. They were chiefly employed in drawing up legal documents; as scribes or scriveners they took minutes and made short drafts of writings, either of a public or a private nature. In modern times their more characteristic duty is to attest the genuineness of any deeds or writings, in order to render the same available as evidence of the facts therein contained.") (quoting Benjamin F. Rex, *The Notaries' Manual* § 1, at 1–2 (J.H. McMillan ed., 6th ed. 1913)).
[4] *See* n. 1, *supra*. *See* s. 117.01(3) & (7), F.S. ((3) requiring that, as part of oath, notary must swear he or she understands the English language, has read ch. 117, and understands duties, responsibilities, limitations, and powers; (7) requiring that notary give a bond in the amount of $7,500 in the event the notary breaches duties, both a physical and electronic copy of which is to be kept on file with the Department of State).
[5] Section 117.01(1), F.S.
[6] Executive Office of the Governor, State of Florida, *Governor's Reference Manual for Notaries Public*, p. 13 (Dec. 13, 2016), available at https://www.flgov.com/wp-content/uploads/Notary_Reference_Manual_12.13.16.pdf.
[7] Section 117.03, F.S.
[8] Section 117.04, F.S.
[9] Section 117.045, F.S.
[10] Section 117.05(12)(a), F.S.

- Verify vehicle identification numbers (VINs).[11]
- Certify the contents of a safe-deposit box.[12]

Importantly, a notary may only exercise the foregoing duties within the physical boundaries of the State of Florida.[13] Generally, a notary may not charge more than $10 per notarial act and may not charge a fee for notarizing a vote-by-mail ballot.[14]

A notary public may provide an electronic signature so long as it is (1) unique, (2) verifiable, (3) under the notary's sole control, and (4) attached to a document in a way revealing any subsequent alteration.[15] In other words, the electronic signature must not be easily replicated.

When a signature must be accompanied by a notary public seal, the requirement is met when the notary public includes his or her full legal name, the words "Notary Public State of Florida," the expiration date of the notary's commission, and the notary's commission number.[16] The seal may also be applied to a physical paper copy using a rubber stamp containing the foregoing information.[17]

As a public officer, a notary public is held to high standards and is subject to discipline, including suspension by the Governor and removal by the Senate, for malfeasance, misfeasance, or neglect in the performance of his or her duties.[18] A notary public is also subject to criminal penalties for certain unlawful uses of the notary commission (such as notarizing his or her own signature),[19] and liable to pay fees for certain civil infractions (such as notarizing a document when the signor is not in the notary's presence).[20]

Becoming a Notary Public in Florida

In order to be qualified to become a notary public in Florida, a person must:

- Be at least 18 years of age;
- Be a Florida resident or permanent resident alien with a recorded declaration of domicile;
- Maintain Florida residence throughout the appointment; and
- Be able to read, write, and understand the English language.[21]

To apply to become a notary public in Florida, the application form provided by the Department of State must be completed, signed, sworn, and filed along with the appropriate applications

[11] Section 319.23(3)(a)2., F.S.
[12] Section 655.94(1), F.S.
[13] *See* n. 5, *supra*.
[14] Section 117.05(2), F.S.
[15] Section 117.021(2), F.S.
[16] Section 117.021(3), F.S.
[17] Section 117.05(3), F.S.
[18] Art. IV, s. 7, FLA. CONST.; s. 117.01(4), F.S.
[19] Section 117.05(1), F.S. (providing violation is a third degree felony). *See also* s. 117.05(3)(d), (7), & (8), F.S.; s. 117.105, F.S.; s. 117.107, F.S.
[20] Section 117.107(9), F.S. (providing violation is a civil infraction punishable by a fine of up to $5,000).
[21] *See* n. 5, *supra*.

fees.[22] Because the bond must be attached, the bonding agency usually submits the application in both a paper and electronic format.[23] The oath of office and notary bond must accompany the notary's application when filed with the Department of State.[24]
Applicants must also provide or attach the following as part of the application:

- Personal identification information;
- Affidavit of good character from a reference who has known the applicant for at least one year and is not a relative;
- Ten-year history of any licenses and discipline;
- Statement regarding whether the applicant has ever been convicted of a felony or had his or her civil rights restored; and
- Any other information requested by the Governor's office to confirm eligibility.[25]

Notary's Duty to Confirm Identity and Physical Presence for Signing

One of the notaries' primary public duties is to verify the identity of the person who is signing a document. If the person is personally known to the notary public or provides "satisfactory evidence" by producing valid identification or witnesses, or both, verifying that the person is who he or she claims to be, then the notary may notarize the document.[26]

In addition, generally the person signing the document, as well as any witness, must be in the notary's physical presence at the time of presenting identification and signing.[27] It is the physical presence requirement that the proposed bill seeks to redefine.

Remote Online Notarization (RON)

Because of audio/video technologies, such as FaceTime and Skype, two or more people may be able to both see and hear one another in real time using a computer or mobile device, even though they are in different states. This means a notary public can view a person's face using audio/video technology while simultaneously reviewing the person's identification and other credentials.

One article explains how remote online notarization works:

> The process is pretty straightforward: You upload a document to an app or website and get connected with a notary by video, on a split screen; you verify your identity by showing a government-issued photo ID, and the notary witnesses you signing your name on screen using your finger or mouse. Then, the notary adds their electronic signature and a digital version of a stamp or seal. The whole

[22] Section 117.01(2), F.S. (requiring $25 application fee, $10 commission fee, and $4 educational surcharge, except that the commission fee is waived for veterans with a 50 percent disability).
[23] *See* n. 6 at p. 7, *supra.*
[24] *Id.*
[25] *Id.*
[26] Section 117.05(5), F.S.
[27] Section 117.05(4), F.S. *See also* Effect of the Bill, Part I, *infra*, amending multiple provisions in chapter 117, F.S., to clarify that "physical presence" can include an appearance by audio/video technology.

> transaction is recorded and secured on the cloud in compliance with retention rules; both the signer and the notary can get copies.
>
> Right now, even though notarization apps and sites are accessible by everyone, the participating notaries themselves are certified and based only in Virginia and Texas. Nevada will also join those states; it enacted a remote notarization law on June 9.[28]

Virginia was the first to enact a remote online notarization or RON law in 2012.[29] Since the above article was written in June 2017, multiple states have passed RON laws. In 2018, six states—Indiana, Michigan, Minnesota, Ohio, Tennessee, and Vermont—enacted RON laws. In 2019, more than 20 states introduced RON legislation,[30] including North Dakota, South Dakota, Idaho, and Kentucky, all of which have already passed and been signed into law. Nebraska and Arizona are expected to pass RON laws in 2019 as well.[31]

Commissioner of Deeds

Generally, a commissioner of deeds is similar to a notary public, except a commissioner may complete certain notarial acts outside the state of appointment (either in other states or foreign countries) that will be recognized by the state of appointment.[32]

Under Florida law, commissioners of deeds serve a more limited function, notarizing timeshare-related documents executed in foreign countries. A commissioner of deeds appointed in Florida may take acknowledgments, proofs of execution, and oaths in connection with the execution of any deed, mortgage, deed of trust, contract, power of attorney, or any other writing to be used or recorded *specifically* in connection with a timeshare estate, personal property timeshare interest, timeshare license, any property subject to a timeshare plan, or the operation of a timeshare plan located in Florida. However, the commissioner of deeds can *only* do the foregoing notarial acts related *only* to timeshares when such instruments or writings are executed *outside* the United States.[33]

A commissioner of deeds also takes acknowledgments, proofs of execution, and oaths in the same manner as notaries under ch. 117, F.S. A commissioner's certification must be endorsed

---

[28] Lauren Silverman, *Notaries are Starting to Put Down The Stamp and Pick Up a Webcam*, National Public Radio, All Tech Considered (June 12, 2017), https://www.npr.org/sections/alltechconsidered/2017/06/12/532586426/notaries-are-starting-to-put-down-the-stamp-and-pick-up-a-webcam (last visited Mar. 29, 2019).

[29] *Id. See* Office of the Secretary of the Commonwealth of Virginia, Notary Public Division, *A Handbook For Virginia Notary Publics*, https://governor.virginia.gov/media/2089/NotaryHandbook.pdf (last visited Jan. 29, 2018). *See also* https://www.notarize.com/availability, a Virginia-based online platform offering online notary services. The video on the homepage also explains how the process works. *Id.* (last visited March 29, 2019).

[30] Andrew Macdougall, *North Dakota Enacts Remote Online Notarization*, Notarize.com (March 13, 2019), available at https://www.notarize.com/blog/north-dakota-enacts-remote-online-notarization (last visited Mar. 29, 2019).

[31] Andrew Macdougall, *South Dakota Adopts Remote Online Notarization*, Notarize.com (March 21, 2019), available at https://www.notarize.com/blog/south-dakota-adopts-remote-online-notarization (last visited Mar. 29, 2019).

[32] BLACK'S LAW DICTIONARY (10th ed. 2014).

[33] Chapter 721, F.S., governs vacation and timeshare plans. *See* s. 721.96, F.S. (stating that one of the chapter's purposes is to appoint commissioners of deeds); s. 721.97(1), F.S. (Governor may appoint a commissioner of deeds to take acknowledgments, proofs of execution, or oaths in any foreign country, in international waters, or in any possession, territory, or commonwealth of the United States outside the 50 states).

on or annexed to an instrument or writing and has the same effect as if made by a Florida notary public. [34]

Like notaries publics, a commissioner of deeds is appointed by the Governor to a term of 4 years. A person seeking to be appointed as a commissioner of deeds must take an oath before a notary public in Florida or any other state, or a person authorized to take oaths in another country, to well and faithfully execute and perform the duties of a commissioner of deeds.[35] The oath must be filed with the Department of State prior to the person being commissioned.[36]

Civil-Law Notaries

A civil-law notary is an attorney who is also a notary public. Civil-law notaries are appointed by the Florida Department of State pursuant to chapter 118, F.S., to attest to and authenticate the validity of documents that may be used in foreign countries that adhere to civil law (such as Latin American countries) as opposed to common law (United States, Great Britain, etc.). As one article explains:

> What distinguishes a Chapter 118 civil-law notary is that he or she is authorized to authenticate documents not merely by witnessing a signature or taking an oath, **but also by verifying and confirming the truth of the statements contained within the documents.** When appropriate, the Florida civil-law notary also may verify and confirm the applicable law and include that verification in the authentic act. When serving this function, the civil-law notary acts as an independent third party to the transaction (if there is more than one party to the transaction). This process of verifying and confirming representations of fact and authenticity of a document can arise in an infinite variety of contexts when an individual uses a document from the United States to prove a fact in a foreign civil-law jurisdiction. A few examples reviewed here include verification of facts and law determining heirship in a real-estate context, proper execution of a power of attorney in connection with a sale of real property in a civil-law jurisdiction, and establishment of identity, maternity, paternity, or other relations in connection with litigation.[37]

To qualify for appointment as a civil-law notary, a person must (1) be a licensed Florida attorney (2) in good standing with The Florida Bar (3) who has been practicing law for at least 5 years. Those qualified may apply through the Florida Department of State.[38]

---

[34] Section 721.97(1), F.S.
[35] Section 721.97(2), F.S. *Also see* International Society of Florida Commissioners of Deeds, *Reference Manual for Commissioners of Deeds For the State of Florida* (Aug. 2009)(on file with Senate Judiciary Committee).
[36] *Id*.
[37] J. Brock McClane & Michael A. Tessitore, *The Florida Civil-Law Notary: A Practical New Tool for Doing Business with Latin America*, 32 STETSON L. REV. 727, 735 (2003) (emphasis added)(footnotes omitted) (discussing history and purpose of law creating civil-law notaries, to encourage international business particularly with civil law nations of South America). *See also* ss. 118.10, 118.12, F.S.
[38] Florida Department of State, Notary Public Access System, *Civil Law Notary Names and Locations List*, available at http://notaries.dos.state.fl.us/civil.html (last visited Mar. 29, 2019). *See also* Admin. R. 1N-6.001.

Uniform Electronic Transaction Act

Section 668.50, F.S., is known as the Uniform Electronic Transaction Act (act). The act applies to electronic records and signatures relating to a transaction.[39] The act does not apply to transactions to the extent they are governed by:[40]

- A provision of law governing the creation and execution of wills, codicils, or testamentary trusts;
- The Uniform Commercial Code (UCC);[41] or
- The Uniform Computer Information Transaction Act.

Part 2: Wills in Florida

A will is a legal document that a person (a "testator") may use to determine who gets his or her property when he or she dies. As set forth in the Florida Probate Code, as chs. 731-735, F.S., the legal definition of a will is:

> an instrument, including a codicil, executed by a person in the manner prescribed by this code, which disposes of the person's property on or after his or her death and includes an instrument which merely appoints a personal representative or revokes or revises another will.[42]

Wills do not dispose of all of a testator's property, but only his or her "estate," i.e., those assets that are subject to probate administration.[43] Probate is "a court-supervised process for identifying and gathering the assets of a deceased person (decedent), paying the decedent's debts, and distributing the decedent's assets to his or her beneficiaries."[44] Other assets are disposed of outside of probate.[45]

Without a will, a decedent's estate will be distributed pursuant to the intestacy statutes, which devise a decedent's estate according to what might be described as default rules. With a will, however, a testator may, as a general matter, devise his or her estate to whomever he or she likes. Also, with a will, a testator may designate a person known as a personal representative to carry out the terms of the will. Otherwise, a court will choose the personal representative.

Execution of a Will

A will must be "in writing" and signed at its end by either the testator or by someone else for the testator. If someone else signs for the testator, the person must do so in the testator's presence and at the testator's direction.[46] At least two persons must witness the testator sign the will or

[39] Section 668.50(3)(a), F.S.
[40] Section 668.50(3)(b), F.S.
[41] Other than s. 671.107, F.S., and chapters 672 and 680, F.S. The UCC consists of chapters 670 - 680, F.S.
[42] Section 731.201(40), F.S.
[43] *See*, s. 731.201(14), F.S.
[44] The Florida Bar, *Consumer Pamphlet: Probate in Florida*, https://www.floridabar.org/public/consumer/pamphlet026/ (last visited March 28, 2019).
[45] For example, the terms of a decedent's bank account may include a beneficiary clause, giving the account to whomever the decedent names.
[46] Section 732.502(1)(a), F.S.

must witness the testator's acknowledgement that he or she previously signed the will or that another person subscribed the testator's name to the will.[47] These witnesses must sign the will in the presence of each other and the testator.[48] For wills executed in other states, the requirements may be different.[49] The consequence of failing to strictly comply with these requirements is that the will is not valid.[50] A codicil (amendment) to a will must be executed in the same manner as a will.[51]

Though s. 732.502(1), F.S., specifies that a will must be "in writing" and that certain persons must "sign" or attach their "signature," these terms are not defined in the statutes. Moreover, there is no explicit statement in the Florida Probate Code that an electronic will is invalid, that an electronic signature is invalid, or that a will must be executed on paper.

Some have asserted that an electronically-signed will is not valid in Florida, but s. 668.004, F.S., states that, "[u]nless otherwise provided by law, an electronic signature may be used to sign a writing and shall have the same force and effect as a written signature."[52] An electronic signature, as defined in s. 668.003(4), F.S., is:

> any letters, characters, or symbols, manifested by electronic or similar means, executed or adopted by a party with an intent to authenticate a writing. A writing is electronically signed if an electronic signature is logically associated with such writing.

Storing a Will

The Florida Probate Code does not specify how a will must be stored.

Probate and Proving a Will

To acquire a court order distributing the testator's estate assets in line with the terms of a will, the will must be probated.[53] The venue for a probate proceeding is set forth in s. 731.101(1), F.S., which states:

> (1) The venue for probate of wills and granting letters shall be:
> (a) In the county in this state where the decedent was domiciled.

[47] Section 732.502(1)(b), F.S.
[48] Section 732.502(1)(c), F.S.
[49] *See*, s. 732.502(2), F.S. A will executed in another state is valid in Florida if the will is executed in accordance with the laws of this state, the laws of the state in which it was executed, or both. This does not apply to nuncupative wills (oral wills) or holographic wills (wills written in the hand of the testator, but not properly executed as set forth in s. 732.502(1), F.S.), which are not valid in Florida regardless of whether they were executed according to the laws of the state in which they were executed.
[50] *Allen v. Dalk*, 826 So.2d 245, 247 (Fla. 2002).
[51] Section 732.502(5), F.S.
[52] The Uniform Electronic Transaction Act is set forth in s. 668.50, F.S. It includes a statement that the "section" does not govern, among other things, a transaction that is governed by a law governing the creation and execution of wills. Section 668.004, F.S., which provides broad permission to electronically sign a document, is of course a different section. But even if it were not, or even if it did not exist, s. 668.50, F.S., would not appear to *prohibit* electronically signing a will.
[53] *See* s. 733.103(1), F.S.

(b) If the decedent had no domicile in this state, then in any county where the decedent's property is located
(c) If the decedent had no domicile in this state and possessed no property in this state, then in the county where any debtor of the decedent resides.

For a will to be admitted to probate in Florida, it must be "proved."[54] No statute describes what it means for a will to be proved or what it is about the will or purported will that is being proved. However, it is apparent that proving a will means proving that the will is what it purports to be, i.e., the last will and testament of the testator and that it was validly executed.

Proving a Will

A will may be proved by having one of the attesting witnesses swear or affirm an oath regarding the will before a circuit judge or any of the other persons set forth in s. 733.201(2), F.S. If it appears to the court that no attesting witness can be found, that no attesting witness still has capacity, or that the testimony of an attesting witness cannot be obtained within a reasonable time, the court must resort to another method of proving a will. The other method is through an oath of the personal representative nominated by the will or a different person who has no interest in the estate under the will. This oath must include a statement that "the person believes the writing exhibited to be the last will and testament of the decedent."[55]

Making a Will Self-Proved

A will may be made self-proved. A self-proved will may be admitted to probate without further proof, such as the testimony mentioned above.[56] For a will to be self-proved in this state, the testator must acknowledge the will before an officer authorized to administer oaths (e.g., a notary public). The attesting witnesses must make affidavits before the officer. Lastly, the officer must evidence the acknowledgement and affidavits by a certificate attached to or following the will.[57]

Even after a will is proved and admitted to probate, it may be contested.58 There are several grounds, such as fraud and undue influence, on which a self-proved will might be contested.

Custodian's Duty to File with Court

The custodian of a will must deposit the will with the court within 10 days after receiving information of the testator's death.[59] If the custodian fails to do so without just or reasonable cause, he or she is be subject to liability:

> Upon petition and notice, the custodian of any will may be compelled to produce and deposit the will. All costs, damages, and a reasonable attorney's fee shall be

[54] Section 733.201(1), F.S.
[55] Section 733.201(3), F.S.
[56] Section 733.201(1), F.S.
[57] The officer's certificate must be substantially in the form set forth at s. 732.503, F.S. The form requires that the witnesses state that they witnessed the testator *sign* the will. However, the statutory requirements for executing a will do not require witnesses to witness the testator sign the will. Section 732.502, F.S., provides that the witnesses may either witness the testator sign, or witness the testator acknowledge his or her prior signature.
[58] *See, Powell v. Eberhardt (in Re Estate of Hartman)*, 836 So.2d 1038, 1039 (Fla.2d DCA 2002).
[59] Section 732.901(1), F.S.

adjudged to the petitioner against the delinquent custodian if the court finds that the custodian had no just or reasonable cause for failing to deposit the will.60

Other States' Treatment of Electronic Wills

It appears that Nevada is the only state that, by statute, expressly permits the use of electronic wills.[61] This statute has been in effect since 2001.[62]

Although the legislative bodies in Arizona, Indiana, New Hampshire, and Virginia each brought forward an electronic wills act bill in 2017,[63] none passed. As already noted, however, Virginia allows documents to be notarized through live video and audio technology.[64]

Additionally, in Tennessee, a court held that a testator validly signed his will when he typed his name in cursive font.[65] In Ohio, a court admitted a will to probate that was written and signed with a stylus on an electronic tablet.[66]

III. Effect of Proposed Changes:

The effect of the bill will be addressed in four parts:

- Part 1 will address bill sections 1-17 relating to Remote Online Notarization (RON).
- Part 2 will address bill section 30-39 relating to electronic wills.
- Part 3 will address bill sections 18-29 making collateral changes to other statutes to fully implement Parts 1 and 2.
- Part 4 will address bill section 40, the effective date.

Part 1 of the Bill: Online Notary Publics (Sections 1– 17)

Section 1 divides ch. 117, F.S. into two parts: Part I entitled "General Provisions" (ss. 117.01-.108, F.S.) and Part II entitled "Online Notarizations" (ss. 117.201-.305, F.S.).

Sections 2 through 5 amend current provisions of chapter 117, F.S., which will become part of Part I, "General Provisions." The "General Provisions" generally govern how a person may become a notary public and set out the duties and responsibilities of a notary. *See* Present Situation, *supra*.

Safety of Electronic Signatures and Rule Promulgation—Of the substantive changes, section 3 provides that a notary must use a password- or code-protected electronic signature, and the notary cannot be required to use technology the notary has not selected (s. 117.021(2), (4), F.S.).

---

[60] Section 732.901(2), F.S.
[61] *See* Nev. Rev. Stat. s. 133.085.
[62] *See* Dan DeNicuolo, *The Future of Electronic Wills*, American Bar Association, available at https://www.americanbar.org/groups/law_aging/publications/bifocal/vol_38/issue-5--june-2017/the-future-of-electronic-wills/ (last visited Mar. 29, 2019).
[63] *Id.* (noting that Florida passed a version of the electronic wills act in 2017 but it was vetoed by Governor Scott).
[64] Va. Code Ann. S. 47.1.
[65] *Taylor v. Holt*, 134 S.W.3d 830, 833 (Tenn. Ct. App. 2003). *See also*, n. 62, *supra*.
[66] *In re Estate of Javier Castro, Deceased*, 2013-ES-00140 (Ct. Comm. Pl. Lorain Cnty., Probate Div., Ohio, June 19, 2013) (James T. Walther, Judge). *See also*, n. 62, *supra.*

Additionally, the Department of State, in collaboration with the Agency for State Technology, is required to adopt rules establishing standards for "tamper-evident" technologies that will indicate if an electronically notarized document has been altered by January 1, 2020 (s. 117.021(7), F.S.).

Use of Notary Commission, Forms, and Accommodating Disabled Persons—Section 4 clarifies that online notarizations must be done in compliance with Part II (s. 117.05(5)). The bill also provides an additional form certificate a notary must use when notarizing an attested copy of an electronic document (s. 117.05(12)(c),F.S.).

Additionally, the bill amends the various notarial form certificates in s. 117.05, F.S., to add an option for the notary to select whether an oath or affirmation or a an instrument was acknowledged "by means of [ ] physical presence or [ ] online notarization[.]"

Finally, when a notary signs at the direction and on behalf of a person who is physically unable to sign or mark a document, the notary must now maintain proof this direction and authorization for at least 10 years (s. 117.05(14)(d), F.S.).

Prohibited Acts—Section 5 provides that the prohibition in s. 117.107(2), F.S., does not apply to electronic signatures and seals necessary to perform online notarizations. Additionally, s. 117.107(9), F.S., prohibits a notary from notarizing the signature of a person who does not "appear" either in person or, as provided in Part II, by means of audio-video technology.

Other Changes—Section 2 makes technical changes to s. 117.01(1), F.S. Sections 3, 4, and 5 also contain technical changes.

Sections 6 through 19 create Part II adding new provisions to chapter 117, F.S., to govern the provision of remote online notarization (RON).

Application of "General Provision" in Part I—Sections 6, 7, 9, and 10 (ss. 117.201, 117.209, 117.225, and 117.235, F.S., respectively) clarify the application of Part I's "General Provisions" to online notary publics, which includes notary publics under chapter 117, Part 1, civil-law notaries appointed under chapter 118, and commissioners of deeds appointed under chapter 721 (s. 117.201(10), F.S.). Online notaries public:

- Must satisfy all the traditional requirements for becoming a notary public under Part I.
- Are subject to Part I in carrying out their duties.
- May perform any of the traditional notarial acts listed in Part I online, except online marriage rites.

In other words, the requirements of Part II are additional to the requirements of Part I for those wishing to become an online notary public.

Definitions and Key Concepts—Section 6 (s. 117.201, F.S.) provides definitions used throughout Part II concerning the use of audio-video technology by a notary public to verify a person's identity remotely. Some of the key definitions include:

- "Appear before," "before," or "in the presence of," mean either that the notary public and the "principal," or person seeking the performance of a notarial act, are either in the same physical location (see also "physical presence"), or are not in each other's physical presence

but are using real-time, two-way "audio-video communication technology" that permits the notary and the person to see, hear, and communicate with one another such that an "online notarization" can be performed. (s. 117.201(1), (2), (9), (11), (12), F.S.).
- "Credential analysis," "identity proofing," and "knowledge-based authentication" all relate to the third party verification of a "government issued identification," using public or proprietary data sources, which may include a set of individual questions generated by these sources or biometric verification. (s. 117.201(3), (6), (7), (8), F.S.).
- "Remote presentation" refers to the presentation of a "government issued identification" to a notary public through "audio-video technology" that is sufficiently clear to permit the notary public to engage in "credential analysis" and verify the presenter's identity. (s. 117.201(15), F.S.).
- "Remote online notarization service provider" or "RON service provider" refers to those providing "audio-video technology" and related services to directly facilitate "online notarizations," such as software and data storage, in compliance with rules promulgated by the Department of State. (s. 117.201(9), (14), F.S.).
- "Electronic," "electronic record," and "electronic signature" has the same meaning as in s. 668.50, F.S.; and a "record" means information that is either in tangible or "electronic" form which is retrievable. (s. 117.201(4), (13), F.S.).

Authorization to Perform Online Notarizations and Validity of Online Notarizations—Sections 7, 8, and 13 generally authorize and give effect to online notarizations. In compliance with Florida law and the rules promulgated by the Department of State, the bill authorizes duly registered online notaries to perform any notarial services (except marital rites) online so long as the notary is physically present in Florida at the time. However, a commissioners of deeds may perform online notaries outside of Florida so long as they are within their territorial jurisdiction. (ss. 117.209, 117.265(1), F.S.). The bill also provides that whenever a provision of law requires a notarial act, an online notarization satisfies the law's requirement. (s. 117.215, F.S.).

Registration Requirements—Section 9 (s. 117.225, F.S.) sets out the registration requirements for online notaries. Online notaries must:
- Satisfy qualification requirements of Part I;
- Provide proof of professional liability insurance (the bill adds that it must be $1 million under Part I);
- Submit a signed and sworn registration to the Department of State;
- Identify the RON provider to be used;
- Confirm that audio/video communication technology and credential analysis/identity proofing methods to be used online comply with the standards promulgated by Part II and any rules promulgated by the Department of State; and
- Provide satisfactory evidence of that a bond and errors and omissions insurance have been obtained.

Record-Keeping, Security, and Technology Requirements— Sections 11 and 12 (ss.117.245, 117.255, F.S.) require an online notary to keep extensive records of each online notarization in one or more electronic journals, which includes retaining an uninterrupted, unedited copy of the audio/video recording, the contents of which must include the following: appearances by the principle and any witnesses; whether their identities were confirmed; a description of the record

to be signed; and, importantly, a declaration by the principle that he or she is signing these records voluntarily and knowingly. Additionally, at the outset of the recording, the notary must specify the type of notarial act to be completed. Other information, such as whether a fee was charged or whether retention of records was delegate by the notary to a secure repository, must be noted in the journal. These records must be retained for 10 years, except electronic wills must be maintained by a qualified custodian in accordance with chapters 731 and 732, F.S.[67]

While an incomplete entry into a journal does not impair the validity of a notarial act, it may be introduced as evidence in certain actions, such as evidence for fraud, forgery, duress, incapacity, and the like (s. 117.245, F.S.). However, if an electronic will executed through online notarization cannot be produced by either the online notary or the qualified custodian, the electronic will shall be treated as a lost or destroyed will under s. 733.207, F.S.

Section 12 also requires that an online notary take strict security measures to keep the electronic journal as well as a back-up of the journal, the notary's electronic signature, and the notary's electronic seal under his or her exclusive possession or control, except that a RON service provider may have access to facilitate online notarizations on behalf of the notary. Additionally, the notary may provide electronic copies of pertinent portions of the electronic journal, or provide access to the audio-visual recording, when requested by: the parties; the qualified custodian; the title agents or insurers in real estate transactions that retained the online notary; the Department of State; someone asked to accept a power of attorney that was notarized online; and to other persons pursuant to a subpoena, court order, law enforcement investigation, or other lawful inspection demand. (s. 117.255, F.S.).

Procedures to Verify Identity of Principles and Witnesses and Protect Vulnerable Adults— Sections 13 and 15 (ss. 117.265, 117.285, F.S.) provide that an online notary may notarize documents or supervise the witnessing of electronic records for people in other states so long as the notary verifies the identities of the principle signer and witnesses (s. 117.285, F.S.) at the time of signing; and, if out-of-state, confirms that the principle signer consents, either verbally or in writing, to a Florida-based notary public and consents to comply with Florida law (ss. 117.265, 117.285, F.S.).

An online notary may verify the identity of a principle signer as follows:

- The notary's personal knowledge of the person; or
- The remote presentation of a government-issued identification card subjected to a credibility analysis and "identification proofing" using "knowledge-based authentication" (similar to personal questions a credit card company asks to verify identity (mother's maiden name, father's middle name, etc.).

For witnesses:

- If the witness or witnesses are with (in the physical presence of) the principle, the online notary must have the witness state his or her name and address on the record.
- If the witness or witnesses are appearing remotely (outside the physical presence of the principle), the online notary must verify the witness or witnesses identity using the same credential analysis used when verifying the identity of a principle.

[67] *See* Part II of the bill, section 35, "qualified custodians."

If the notary is not satisfied that a person's identity has been verified, the notary must decline to do the online notarization.

The bill provides that when one or more attesting witnesses are required under Florida law to witness the signing of a document, the appearance of a witness for an online notarization session, either in the physical presence of the principle or remotely, satisfies the requirements of the law.

Additionally, the bill requires a notary to ensure that the principle is knowingly and voluntarily signing any the following documents requiring witnesses:

- Wills.
- Trusts with testamentary aspects.
- Health care advance directives.
- Durable powers of attorney concurrent with a will.
- Waiver of spousal rights.

To ensure the principle is signing any of the foregoing documents of his or her own free will, a notary must ask the principle the following list of questions during the online notarization (similar to a court colloquy to determine if a decision is voluntary and knowing):

(1) What is your date of birth?
(2) Are you under the influence of any drugs or alcohol that impairs your ability to make decisions?
(3) Do you have any physical or mental condition or long-term disability that impairs your ability to perform the normal activities of daily life?
(4) Are you unable to provide for your own daily care?
(5) Did anyone assist you in accessing this video conference? If so, who?
(6) Where are you currently located?
(7) Name everyone you know who is with you.

However, the bill provides that when the principle is a vulnerable adult under s. 415.102, F.S., and the witness is appearing remotely, any document signed by the principle may be voidable, i.e., unenforceable. The bill provides that the contestant has the burden of proving the adult was vulnerable at the time of executing the document. Additionally, the RON service provider must provide a disclaimer online stating the foregoing, and stating that the signer could choose to have a physically present witness instead.

For general challenges to the validity of one of the foregoing documents, the recording of the principle's answers to the colloquy may be offered as evidence. However, an incorrect answer to a question will not invalidate and entire document. Florida law governs questions of validity.

Finally, an online notary must provide the last known address of a witness pursuant to a subpoena, court order, or other lawful investigation or inquiry.

Online Notarization Fee—Section 14 (s. 117.275, F.S.) permits an online notary to charge a fee not exceeding $25 for online notarizations.

Rulemaking Authority—Section 16 (s. 117.295, F.S.) provides that the Department of State Technology has rulemaking authority to further specify standards for online notarizations,

including technology and education requirements. This provision is effective upon becoming law.

Relation to Federal Electronic Signatures Act— Section 17 (s. 117.305, F.S.), provides that Part II supersedes 15 U.S.C. s. 7002, the federal Electronic Signatures in Global and National Commerce Act. This is expressly permitted by 15 U.S.C. s. 7002 when a state has adopted the Uniform Electronic Transactions Act,[68] which Florida did in 2000.[69] Section 117.305, F.S., also provides that the requirements in section 15 U.S.C. s. 7001(c) concerning consumer disclosures, and the requirement of 15 U.S.C. s. 7003(b) concerning the delivery of certain legal documents are not superseded or limited.

Part 2 – Electronic Wills (Sections 30-39)

Sections 30 through 39 create provisions regulating and expressly permitting the use of "electronic wills." The bill also revises several aspects of current law relating to the execution of wills.

Key Definitions and Concepts—Sections 30, 31, and 32 amend or create definitions within the probate code. Section 32 creates s. 732.521, F.S., to provide definitions and cross-references part II of ch. 117, F.S., for the definitions pertaining to online notarization (s. 732.521(1), (4), (5), F.S.).

Most importantly, section 32 (s. 732.521(3)), F.S., defines an "electronic will" as:

> an instrument, including a codicil, executed with an electronic signature by a person in the manner prescribed by this code, which disposes of the person's property on or after his or her death and includes an instrument that merely appoints a personal representative or revokes or revises another will or electronic will.

Section 30 also amends the current definition of a "will" in s. 731.201(4), F.S., to clarify that term includes an "electronic will."

Section 31 amends s. 732.506, F.S., to distinguish how an electronic will or codicil may be revoked since it cannot be destroyed in the same manner as a paper will. Nonetheless, revocation of an electronic will or codicil similarly requires an intent by the testator to revoke the electronic will or codicil accompanied an act by or at the testator's direction obliterating, deleting, cancelling, or rendering unreadable an electronic will or codicil which is sufficient to prove the revocation by clear and convincing evidence.

Section 32 also defines a "qualified custodian" as a person meeting the qualifications under newly created s. 732.524(1), F.S.; and an "electronic signature" as "an electronic mark visibly

[68] *See* Uniform Law Commission, Acts, *Electronic Transactions Act*, https://www.uniformlaws.org/committees/community-home?CommunityKey=2c04b76c-2b7d-4399-977e-d5876ba7e034 (last visited Mar. 29, 2019) ("The **Uniform Electronic Transactions Act (UETA)** establishes the legal equivalence of electronic records and signatures with paper writings and manually-signed signatures, removing barriers to electronic commerce.").
[69] Section 668.50, F.S.

manifested in a record as a signature and executed or adopted by a person with the intent to sign the record" (s. 732.521(2), (6), F.S.).

Executing and Filing an Electronic Will— Section 33 (s. 732.522, F.S.) creates the procedures for electronically executing, witnessing, and filing any document under the Florida Probate Code, including electronic wills, as follows:

- When a signature is required, an electronic signature satisfies the requirement.
- When witnesses are required, witnessing an electronic signature through the audio-visual communication technology specified for online notarization provisions (ch. 117, F.S., part II) satisfies this requirement if:
  - The signing is supervised by a notary public under s. 117.285, F.S.;
  - The witnesses' identities are authenticated while signing as part of an online notarization session in accord with s. 117.265, F.S.;
  - These witnesses hear the signer make a statement acknowledging signing; and
  - The signing and witnessing of the document complies with the colloquy and other requirements in s. 117.285, F.S.

The bill also clarifies that the validity and effect of an electronic will is to be determined in the same manner as in the case of a traditional will.

Probate, Self-Proved Wills, and Proof of Wills—Sections 34, 37, and 38 (ss. 732.523, 732.526, 733.201, F.S.) address self-proof of wills, probate, and proof of wills when they are not self-proved, respectively.

Section 34 creates s. 732.523, F.S. permitting an electronic will, like a traditional will, to be self-proved, i.e., admitted to probate without further proof that it is what it purports to be or that it was executed properly.

The bill provides that an attested electronic will is self-proved if each of the following are met:

- The acknowledgement of the electronic will by the testator and the affidavits of the witnesses are made in accordance with s. 732.503, F.S., and are part of or attached to the record containing the electronic will;
- The electronic will designates a qualified custodian (section 35, s. 352.524, F.S.);
- The electronic will is held in the custody of the qualified custodian at all times before being offered to the court for probate; and
- The qualified custodian at the time of the testator's death certifies under oath that the electronic will (1) was at all times kept in the custody of the custodian and (2) has not been altered since the date of execution.

Section 37 creates s. 732.526, F.S., concerning the probate of an electronic will and addresses when an "original copy" of the will is offered for probate:

- An electronic copy is deemed filed with the court when electronically deposited through the Florida Courts E-filing Portal.
- A paper copy is deemed filed for probate if it is certified as a true and correct copy by a notary.

Section 38 amends s. 733.201, F.S., to create an exception to the admission of self-proved electronic wills into probate without further proof when there is a substantial failure to comply with the online notarization process in s. 117.265, F.S.

Qualified Custodians, Receiverships, and Relation to Wills—Sections 35, 36, and 39 create ss. 732.524, 732.525, and 740.10.
Section 35 (s. 732.524) sets out the requirements to serve as a qualified custodian. As noted above, one of the requirements of a *self-proved* will is that is be held at all times by a qualified custodian. A qualified custodian is a person who meets all of the following requirements:

- Is domiciled in and a resident of Florida or is incorporated or organized in Florida.
- Consistently employs a system for ensuring the safekeeping of electronic records and stores electronic records containing electronic wills under the system.
- Furnishes for any court hearing involving an electronic will that is currently or was previously stored by the qualified custodian any information requested by the court pertaining to the qualified custodian's policies and procedures.

The qualified custodian of an electronic must provide access to or information concerning the electronic will, or the electronic will and the electronic record containing the electronic will, only to the testator and such other persons as directed by the written instructions of the testator, or anyone as directed by a court with jurisdiction over the matter.

The bill also provides the process by which a qualified custodian may step down and the timeframe for keeping the electronic will after a testator's death. Additionally, the bill sets out the duties owed by the qualified custodian to the testator, such as maintaining custody of an electronic will and other documents at all times and maintaining the testator's confidentiality.

Most importantly, when a qualified custodian receives information that a testator is dead, the qualified custodian must deposit the electronic will with the court pursuant to s. 732.901, F.S.

Section 36 (s. 732.525, F.S.) requires a qualified custodian to either (1) post a blanket surety bond of at least $250,000 to cover any acts or omissions; or (2) maintain a liability insurance policy to cover any losses in the aggregate of $250,000 resulting from errors or omissions.
Section 37 permits the Attorney General to petition for the appointment of a receiver if:

- A qualified custodian ceases operation;
- A qualified custodian intends to close without adequate arrangements for the delivery of electronic records;
- Conditions exist suggesting a present danger of records being lost or misappropriated; or
- The qualified custodian fails to post a bond or maintain insurance.

Section 39 creates s. 740.10, F.S. under the "Florida Fiduciary Access to Digital Assets Act." This provision provides that no action taken under the Act "is valid" to obligate someone to deposit a will as required in s. 732.901, F.S.

Part 3 – Other Significant Issues and Collateral Changes (Sections 18-29 and 40)

Sections 18-29 and 40 make conforming or necessary collateral changes to several provisions outside of chapters 117 (notaries) and 731-732 (wills and probate), F.S., most of which apply to

the recording of real estate conveyances under of chapter 695, F.S. and the power of attorney under chapter 709, F.S.

Powers Of Attorney

Sections 27-29 amend ss. 709.2119, 709.2120, and 709.2202, F.S, respectively. The bill amends ss. 709.2119 and 709.2120, F.S., to add conforming language concerning powers of attorney notarized online. Significantly, when a document purports to give a person "super" powers of attorney, meaning those powers which must be enumerated in s. 709.2202, F.S., (such as removing beneficiaries), an online notary must conduct the colloquy set out in s. 117.285, F.S.

Real Estate Transactions

Sections 21-26 amend ss. 689.01, 694.08, 695.03, 695.04, 695.25, and 695.28, F.S., respectively, to: make technical changes; make conforming changes with ch. 117's online notarization provisions; provide additional statutory short forms; clarify the applicability and validity of online notarization in signing or witnessing documents conveying real estate; and clarify that challenges to documents notarized online are not precluded.

Form of Oaths

Section 19 amends s. 92.50, F.S., to make conforming language changes to the oath requirement.

Clerks of Court

Section 18 amends s. 28.222, F.S., to permit the clerk of a circuit court to record documents "originally created and executed using an electronic signature" citing to Florida's Uniform Real Property Electronic Recording Act,[70] that are "certified to be true and correct paper printout[s] by a notary public[.]"

Statute of Limitations

Section 20 amends language in s. 95.231, F.S., concerning powers of attorney and wills conveying real property, clarifying that the 5-year limitation applies the instrument will be effective even if it suffers from a complete failure or absence of acknowledgment as opposed to just defective acknowledgement.

Part 4 – Effective Date (Section 40)

Section 40 provides that, unless otherwise specified in the bill, the bill takes effect January 1, 2020.

[70] Section 695.27, F.S.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. 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 availability of online notarial services may be more convenient for those who need the services.

The bill facilitates the creation and storage of wills using an Internet-based service. The associated costs are unknown. Further, if an electronic will can be easily created, many people who do not have a will may decide to execute one. However, some may use the services of an Internet-based service instead of, or in addition to, the services of an attorney.

C. Government Sector Impact:

The bill will likely add to the regulatory and record-keeping responsibilities of the Department of State and the Office of the Governor.

The extent to which the bill will result in an increase in probate cases and associated costs to the judicial branch is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 117.01, 117.021, 117.05, 117.107, 28.222, 92.50, 95.231, 689.01, 694.08, 695.03, 695.04, 695.25, 695.28, 709.2119, 709.2120, 709.2202, 731.201, 732.506, and 733.201.

This bill creates the following sections of the Florida Statutes: 117.201, 117.209, 117.215, 117.225, 117.235, 117.245, 117.255, 117.265, 117.275, 117.285, 117.295, 117.305, 732.521, 732.522, 732.523, 732.524, 732.525, 732.526, and 740.10.

IX. Additional Information:

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

CS by Judiciary on April 1, 2019:
The Committee Substitute:

- Revises definitions in s. 117.201, F.S., most significantly, replacing references to "physical location" with "physical presence."
- Revises an online notary's record-keeping requirement in s. 117.245, F.S., requiring the notary to retain an unedited, uninterrupted recording of an online notarization session and include certain statements on the recording, such as the notarial act to be completed.
- Expands the list of persons to whom a notary may provide access to the electronic journal and audio-visual recording in s. 117.255, F.S.
- Substantially amends s. 117.285, F.S., concerning a notary's supervision of a witness's signature, revising subsection (2) and adding subsections (4)-(7), to:
  - Clarify procedures applicable to remote witnesses, i.e., those appearing outside the physical presence of the principle and require that the identity of a remote witness be verified through credential analysis under s. 117.265(4), F.S.
  - Require that a notary conduct a colloquy with the principle to ensure the principle is knowingly and voluntarily signing certain documents, such as wills and other document authorizing testamentary or end-of-life decisions.
  - Provide rules concerning validity of the foregoing documents and use of the recorded online notarization session as evidence in validity challenges.
  - Provide that a document signed by a vulnerable adult and witnessed remotely is voidable, and that the RON service provider must post this as a disclaimer.
- Removes the colloquy requirement in ss. 709.2202, F.S., and 732.522, F.S., instead requiring compliance with the same colloquy and other requirements in s. 117.285, F.S. (above).

- Removes the amendment to s. 90.803, F.S., to provide an additional hearsay exception, section 19, and renumbers the bill sections.
- Makes technical corrections, clarifies definitions, and makes other clarifying or conforming language changes.

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 Judiciary; and Senator Brandes

590-03703-19 2019548c1

A bill to be entitled

An act relating to electronic legal documents; providing directives to the Division of Law Revision; amending s. 117.01, F.S.; revising provisions relating to use of the office of notary public; amending s. 117.021, F.S.; requiring electronic signatures to include access protection; prohibiting a person from requiring a notary public to perform a notarial act with certain technology; requiring the Department of State, in collaboration with the Agency for State Technology, to adopt rules for certain purposes; amending s. 117.05, F.S.; revising limitations on notary fees to conform to changes made by the act; providing for inclusion of certain information in a jurat or notarial certificate; providing for compliance with online notarization requirements; providing for notarial certification of a printed electronic record; revising statutory forms for jurats and notarial certificates; amending s. 117.107, F.S.; providing applicability; revising prohibited acts; creating s. 117.201, F.S.; providing definitions; creating s. 117.209, F.S.; authorizing online notarizations; providing an exception; creating s. 117.215, F.S.; specifying the application of other laws in relation to online notarizations; creating s. 117.225, F.S.; specifying registration and qualification requirements for online notaries public; creating s. 117.235, F.S.; authorizing the performance of certain notarial acts; creating s. 117.245, F.S.;

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

590-03703-19 2019548c1

requiring an online notary public to keep electronic journals of online notarizations and certain audio-video communication recordings; specifying the information that must be included for each online notarization; requiring that an online notary public retain a copy of the recording of an audio-video communication; specifying requirements for the recording; requiring an online notary public to take certain steps regarding the maintenance and security of the electronic journal; specifying that the Department of State maintains jurisdiction for a specified period of time for purposes of investigating notarial misconduct; authorizing the use of specified information for evidentiary purposes; creating s. 117.255, F.S.; specifying requirements for the use of electronic journals, signatures, and seals; requiring an online notary public to provide notification of the theft, vandalism, or loss of an electronic journal, signature, or seal; authorizing an online notary public to make copies of electronic journal entries and to provide access to related recordings under certain circumstances; authorizing an online notary public to charge a fee for making and delivering such copies; providing an exception; creating s. 117.265, F.S.; prescribing online notarization procedures; specifying the manner by which an online notary public must verify the identity of a principal or a witness; requiring an online notary public to take certain measures as to the security of technology used;

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

specifying that an electronic notarial certificate must identify the performance of an online notarization; specifying that noncompliance does not impair the validity of a notarial act or the notarized electronic record; authorizing the use of specified information for evidentiary purposes; providing for construction; creating s. 117.275, F.S.; providing fees for online notarizations; creating s. 117.285, F.S.; specifying the manner by which an online notary public may supervise the witnessing of electronic records of online notarizations; specifying circumstances under which an instrument is voidable; specifying duties of remote online notarization service providers and online notaries public; specifying applicable law and jurisdiction regarding witnessing; creating s. 117.295, F.S.; authorizing the department to adopt rules and standards for online notarizations; providing minimum standards for online notarizations until such rules are adopted; creating s. 117.305, F.S.; superseding certain provisions of federal law regulating electronic signatures; amending s. 28.222, F.S.; requiring the clerk of the circuit court to record certain instruments; amending s. 92.50, F.S.; revising requirements for oaths, affidavits, and acknowledgments; amending s. 95.231, F.S.; providing a limitation period for certain recorded instruments; amending s. 689.01, F.S.; providing for witnessing of documents in connection with real estate conveyances; providing for validation

of certain recorded documents; amending s. 694.08, F.S.; providing for validation of certain recorded documents; amending s. 695.03, F.S.; providing and revising requirements for making acknowledgments, proofs, and other documents; amending s. 695.04, F.S.; conforming provisions to changes made by the act; amending s. 695.25, F.S.; revising the statutory short form of acknowledgments to include acknowledgment by online notarization; amending s. 695.28, F.S.; providing for validity of recorded documents; conforming provisions to changes made by the act; amending s. 709.2119, F.S.; authorizing the acceptance of a power of attorney based upon an electronic journal or electronic record made by a notary public; amending s. 709.2120, F.S.; prohibiting acceptance of a power of attorney if witnessed or notarized remotely; amending s. 709.2202, F.S.; prohibiting certain authority granted through a power of attorney if witnessed or notarized remotely; amending s. 731.201, F.S.; redefining the term "will" to conform to changes made by the act; amending s. 732.506, F.S.; exempting electronic wills from provisions governing the revocation of wills and codicils; prescribing the manner by which an electronic will or codicil may be revoked; creating s. 732.521, F.S.; providing definitions; creating s. 732.522, F.S.; prescribing the manner by which an electronic will must be executed; creating s. 732.523, F.S.; specifying requirements for the self-proof of an electronic will;

creating s. 732.524, F.S.; specifying requirements necessary to serve as a qualified custodian of an electronic will; creating s. 732.525, F.S.; requiring a qualified custodian to post and maintain a blanket surety bond of a specified amount and maintain liability insurance; authorizing the Attorney General to petition a court to appoint a receiver to manage electronic records of a qualified custodian; creating s. 732.526, F.S.; specifying conditions by which an electronic will is deemed to be an original will; amending s. 733.201, F.S.; requiring that self-proved electronic wills meet certain requirements for admission to probate; creating s. 740.10, F.S.; specifying that any act taken pursuant to ch. 740, F.S., does not affect the requirement that a will be deposited within a certain timeframe; providing effective dates.

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

Section 1. The Division of Law Revision is directed to:

(1) Create part I of chapter 117, Florida Statutes, consisting of ss. 117.01-117.108, Florida Statutes, to be entitled "General Provisions."

(2) Create part II of chapter 117, Florida Statutes, consisting of ss. 117.201-117.305, Florida Statutes, to be entitled "Online Notarizations."

Section 2. Subsection (1) of section 117.01, Florida Statutes, is amended to read:

117.01 Appointment, application, suspension, revocation, application fee, bond, and oath.—

(1) The Governor may appoint as many notaries public as he or she deems necessary, each of whom must ~~shall~~ be at least 18 years of age and a legal resident of this ~~the~~ state. A permanent resident alien may apply and be appointed and shall file with his or her application a recorded Declaration of Domicile. The residence required for appointment must be maintained throughout the term of appointment. A notary public ~~Notaries public~~ shall be appointed for 4 years and may only ~~shall~~ use and exercise the office of notary public if he or she is within the boundaries of this state. An applicant must be able to read, write, and understand the English language.

Section 3. Present subsections (4) and (5) of section 117.021, Florida Statutes, are renumbered as subsections (5) and (6), respectively, new subsections (4) and (7) are added to that section, and subsection (2) of that section is amended, to read:

117.021 Electronic notarization.—

(2) In performing an electronic notarial act, a notary public shall use an electronic signature that is:

(a) Unique to the notary public;

(b) Capable of independent verification;

(c) Retained under the notary public's sole control and includes access protection through the use of passwords or codes under control of the notary public; and

(d) Attached to or logically associated with the electronic document in a manner that any subsequent alteration to the electronic document displays evidence of the alteration.

(4) A person may not require a notary public to perform a

notarial act with respect to an electronic record with a form of technology that the notary public has not selected to use.

(7) The Department of State, in collaboration with the Agency for State Technology, shall adopt rules establishing standards for tamper-evident technologies that will indicate any alteration or change to an electronic record after completion of an electronic notarial act. All electronic notarizations performed on or after January 1, 2020, must comply with the adopted standards.

Section 4. Subsection (1), paragraph (a) of subsection (2), subsections (4) and (5), paragraph (a) of subsection (12), and subsections (13) and (14) of section 117.05, Florida Statutes, are amended, and paragraph (c) is added to subsection (12) of that section, to read:

117.05 Use of notary commission; unlawful use; notary fee; seal; duties; employer liability; name change; advertising; photocopies; penalties.—

(1) A ~~No~~ person may not ~~shall~~ obtain or use a notary public commission in other than his or her legal name, and it is unlawful for a notary public to notarize his or her own signature. Any person applying for a notary public commission must submit proof of identity to the Department of State ~~if so requested~~. Any person who violates ~~the provisions of~~ this subsection commits ~~is guilty of~~ a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

(2)(a) The fee of a notary public may not exceed $10 for any one notarial act, except as provided in s. 117.045 or s. 117.275.

(4) When notarizing a signature, a notary public shall

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

complete a jurat or notarial certificate in substantially the same form as those found in subsection (13). The jurat or certificate of acknowledgment shall contain the following elements:

(a) The venue stating the location of the notary public at the time of the notarization in the format, "State of Florida, County of ....."

(b) The type of notarial act performed, an oath or an acknowledgment, evidenced by the words "sworn" or "acknowledged."

(c) Whether ~~That~~ the signer personally appeared before the notary public at the time of the notarization by physical presence or by means of audio-video communication technology as authorized under part II of this chapter.

(d) The exact date of the notarial act.

(e) The name of the person whose signature is being notarized. It is presumed, absent such specific notation by the notary public, that notarization is to all signatures.

(f) The specific type of identification the notary public is relying upon in identifying the signer, either based on personal knowledge or satisfactory evidence specified in subsection (5).

(g) The notary public's ~~notary's~~ official signature.

(h) The notary public's ~~notary's~~ name, which must be typed, printed, or stamped below the signature.

(i) The notary public's ~~notary's~~ official seal affixed below or to either side of the notary public's ~~notary's~~ signature.

(5) A notary public may not notarize a signature on a

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

document unless he or she personally knows, or has satisfactory evidence, that the person whose signature is to be notarized is the individual who is described in and who is executing the instrument. A notary public shall certify in the certificate of acknowledgment or jurat the type of identification, either based on personal knowledge or other form of identification, upon which the notary public is relying. In the case of an online notarization, the online notary public shall comply with the requirements set forth in part II of this chapter.

(a) For purposes of this subsection, the term "personally knows" means having an acquaintance, derived from association with the individual, which establishes the individual's identity with at least a reasonable certainty.

(b) For the purposes of this subsection, the term "satisfactory evidence" means the absence of any information, evidence, or other circumstances which would lead a reasonable person to believe that the person whose signature is to be notarized is not the person he or she claims to be and any one of the following:

1. The sworn written statement of one credible witness personally known to the notary public or the sworn written statement of two credible witnesses whose identities are proven to the notary public upon the presentation of satisfactory evidence that each of the following is true:

a. That the person whose signature is to be notarized is the person named in the document;

b. That the person whose signature is to be notarized is personally known to the witnesses;

c. That it is the reasonable belief of the witnesses that

the circumstances of the person whose signature is to be notarized are such that it would be very difficult or impossible for that person to obtain another acceptable form of identification;

d. That it is the reasonable belief of the witnesses that the person whose signature is to be notarized does not possess any of the identification documents specified in subparagraph 2.; and

e. That the witnesses do not have a financial interest in nor are parties to the underlying transaction; or

2. Reasonable reliance on the presentation to the notary public of any one of the following forms of identification, if the document is current or has been issued within the past 5 years and bears a serial or other identifying number:

a. A Florida identification card or driver license issued by the public agency authorized to issue driver licenses;

b. A passport issued by the Department of State of the United States;

c. A passport issued by a foreign government if the document is stamped by the United States Bureau of Citizenship and Immigration Services;

d. A driver license or an identification card issued by a public agency authorized to issue driver licenses in a state other than Florida or in~~,~~ a territory of the United States, or Canada or Mexico;

e. An identification card issued by any branch of the armed forces of the United States;

f. A veteran health identification card issued by the United States Department of Veterans Affairs;

g. An inmate identification card issued on or after January 1, 1991, by the Florida Department of Corrections for an inmate who is in the custody of the department;

h. An inmate identification card issued by the United States Department of Justice, Bureau of Prisons, for an inmate who is in the custody of the department;

i. A sworn, written statement from a sworn law enforcement officer that the forms of identification for an inmate in an institution of confinement were confiscated upon confinement and that the person named in the document is the person whose signature is to be notarized; or

j. An identification card issued by the United States Bureau of Citizenship and Immigration Services.

(12)(a) A notary public may supervise the making of a copy of a tangible or an electronic record or the printing of an electronic record ~~photocopy of an original document~~ and attest to the trueness of the copy or of the printout, provided the document is neither a vital record in this state, another state, a territory of the United States, or another country, nor a public record, if a copy can be made by the custodian of the public record.

(c) A notary public must use a certificate in substantially the following form in notarizing a copy of a tangible or an electronic record or a printout of an electronic record:

STATE OF FLORIDA
COUNTY OF .....

On this .... day of ....., ...(year)..., I attest that the

preceding or attached document is a true, exact, complete, and unaltered ...(copy of a tangible or an electronic record presented to me by the document's custodian)... or a ...(printout made by me from such record).... If a printout, I further attest that, at the time of printing, no security features, if any, present on the electronic record, indicated that the record had been altered since execution.

...(Signature of Notary Public — State of Florida)...
...(Print, Type, or Stamp Commissioned Name of Notary Public)...

(13) The following notarial certificates are sufficient for the purposes indicated, if completed with the information required by this chapter. The specification of forms under this subsection does not preclude the use of other forms.

(a) For an oath or affirmation:

STATE OF FLORIDA
COUNTY OF .....

Sworn to (or affirmed) and subscribed before me by means of [] physical presence or [] online notarization, this .... day of ....., ...(year)..., by ...(name of person making statement)....

...(Signature of Notary Public - State of Florida)...
...(Print, Type, or Stamp Commissioned Name of Notary Public)...

Personally Known ..... OR Produced Identification .....

Type of Identification Produced

(b) For an acknowledgment in an individual capacity:

STATE OF FLORIDA
COUNTY OF ....

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this .... day of ...., ...(year)..., by ...(name of person acknowledging)....

...(Signature of Notary Public - State of Florida)...
...(Print, Type, or Stamp Commissioned Name of Notary Public)...
Personally Known .... OR Produced Identification ....
Type of Identification Produced

(c) For an acknowledgment in a representative capacity:

STATE OF FLORIDA
COUNTY OF ....

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this .... day of ...., ...(year)..., by ...(name of person)... as ...(type of authority, . . . e.g. officer, trustee, attorney in fact)... for ...(name of party on behalf of whom instrument was executed)....

...(Signature of Notary Public - State of Florida)...

...(Print, Type, or Stamp Commissioned Name of Notary Public)...
Personally Known .... OR Produced Identification ....
Type of Identification Produced

(14) A notary public must make reasonable accommodations to provide notarial services to persons with disabilities.

(a) A notary public may notarize the signature of a person who is blind after the notary public has read the entire instrument to that person.

(b) A notary public may notarize the signature of a person who signs with a mark if:

1. The document signing is witnessed by two disinterested persons;

2. The notary public prints the person's first name at the beginning of the designated signature line and the person's last name at the end of the designated signature line; and

3. The notary public prints the words "his (or her) mark" below the person's signature mark.

(c) The following notarial certificates are sufficient for the purpose of notarizing for a person who signs with a mark:

1. For an oath or affirmation:

...(First Name)... ...(Last Name)...
...His (or Her) Mark...

STATE OF FLORIDA
COUNTY OF ....

Sworn to and subscribed before me by means of [] physical presence or [] online notarization, this .... day of ...., ...(year)..., by ...(name of person making statement)..., who signed with a mark in the presence of these witnesses:

...(Signature of Notary Public - State of Florida)...

...(Print, Type, or Stamp Commissioned Name of Notary Public)...

Personally Known .... OR Produced Identification ....

Type of Identification Produced.....

2. For an acknowledgment in an individual capacity:

...(First Name)... ...(Last Name)...

...His (or Her) Mark...

STATE OF FLORIDA
COUNTY OF ....

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this .... day of ...., ...(year)..., by ...(name of person acknowledging)..., who signed with a mark in the presence of these witnesses:

...(Signature of Notary Public - State of Florida)...

...(Print, Type, or Stamp Commissioned Name of Notary Public)...

Personally Known .... OR Produced Identification ....

Type of Identification Produced

(d) A notary public may sign the name of a person whose signature is to be notarized when that person is physically unable to sign or make a signature mark on a document if:

1. The person with a disability directs the notary public to sign in his or her presence by verbal, written, or other means;

2. The document signing is witnessed by two disinterested persons; and

3. The notary public writes below the signature the following statement: "Signature affixed by notary, pursuant to s. 117.05(14), Florida Statutes," and states the circumstances and the means by which the notary public was directed to sign ~~of the signing in~~ the notarial certificate.

The notary public must maintain the proof of direction and authorization to sign on behalf of the person with a disability for 10 years from the date of the notarial act.

(e) The following notarial certificates are sufficient for the purpose of notarizing for a person with a disability who directs the notary public to sign his or her name:

1. For an oath or affirmation:

STATE OF FLORIDA
COUNTY OF ....

Sworn to (or affirmed) before me by means of [] physical presence or [] online notarization, this .... day of ....,

...(year)..., by ...(name of person making statement)..., and subscribed by ...(name of notary)... at the direction of ~~and in the presence of~~ ...(name of person making statement)... by ...(written, verbal, or other means)..., and in the presence of these witnesses:

...(Signature of Notary Public - State of Florida)...
...(Print, Type, or Stamp Commissioned Name of Notary Public)...
Personally Known ..... OR Produced Identification .....

Type of Identification Produced.....

2. For an acknowledgment in an individual capacity:

STATE OF FLORIDA
COUNTY OF .....

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this .... day of ....., ...(year)..., by ...(name of person acknowledging)... and subscribed by ...(name of notary)... at the direction of ~~and in the presence of~~ ...(name of person acknowledging)..., and in the presence of these witnesses:

...(Signature of Notary Public - State of Florida)...
...(Print, Type, or Stamp Commissioned Name of Notary Public)...
Personally Known ..... OR Produced Identification .....

Type of Identification Produced

Section 5. Subsections (2) and (9) of section 117.107, Florida Statutes, are amended to read:

117.107 Prohibited acts.—

(2) A notary public may not sign notarial certificates using a facsimile signature stamp unless the notary public has a physical disability that limits or prohibits his or her ability to make a written signature and unless the notary public has first submitted written notice to the Department of State with an exemplar of the facsimile signature stamp. This subsection does not apply to or prohibit the use of an electronic signature and seal by a notary public who is registered as an online notary public to perform an electronic or online notarization in accordance with this chapter.

(9) A notary public may not notarize a signature on a document if the person whose signature is being notarized does not appear before the notary public either by means of physical presence or by means of audio-video communication technology as authorized under part II of this chapter ~~is not in the presence of the notary public~~ at the time the signature is notarized. Any notary public who violates this subsection is guilty of a civil infraction, punishable by penalty not exceeding $5,000, and such violation constitutes malfeasance and misfeasance in the conduct of official duties. It is no defense to the civil infraction specified in this subsection that the notary public acted without intent to defraud. A notary public who violates this subsection with the intent to defraud is guilty of violating s. 117.105.

Section 6. Section 117.201, Florida Statutes, is created to read:

117.201 Definitions.—As used in this part, the term:

(1) "Appear before," "before," or "in the presence of" mean:

(a) In the physical presence of another person; or

(b) Outside of the physical presence of another person, but able to see, hear, and communicate with the person by means of audio-video communication technology.

(2) "Audio-video communication technology" means technology in compliance with applicable law which enables real-time, two-way communication using electronic means in which participants are able to see, hear, and communicate with one another.

(3) "Credential analysis" means a process or service, in compliance with applicable law, in which a third party aids a public notary in affirming the validity of a government-issued identification credential and data thereon through review of public or proprietary data sources.

(4) "Electronic," "electronic record," or "electronic signature" has the same meaning as provided in s. 668.50.

(5) "Errors and omissions insurance" means a type of insurance that provides coverage for potential errors or omissions in or relating to the notarial act and is maintained, as applicable, by the online notary public or his or her employer, or a Remote Online Notarization service provider.

(6) "Government-issued identification credential" means any approved credential for verifying identity under s. 117.05(5)(b)2.

(7) "Identity proofing" means a process or service in

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

compliance with applicable law in which a third party affirms the identity of an individual through use of public or proprietary data sources, which may include by means of knowledge-based authentication or biometric verification.

(8) "Knowledge-based authentication" means a form of identity proofing based on a set of questions which pertain to an individual and are formulated from public or proprietary data sources.

(9) "Online notarization" means the performance of a notarial act using electronic means in which the principal appears before the notary public by means of audio-video communication technology.

(10) "Online notary public" means a notary public commissioned under part I of this chapter, a civil-law notary appointed under chapter 118, or a commissioner of deeds appointed under part IV of chapter 721, who has registered with the Department of State to perform online notarizations under this part.

(11) "Physical presence" means being in the same physical location as another person and close enough to see, hear, communicate with, and exchange credentials with that person.

(12) "Principal" means an individual whose electronic signature is acknowledged, witnessed, or attested to in an online notarization or who takes an oath or affirmation administered by the online notary public.

(13) "Record" means information that is inscribed on a tangible medium or that is stored in an electronic or other medium and is retrievable in perceivable form, including public records as defined in s. 119.011.

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

(14) "Remote Online Notarization service provider" or "RON service provider" means a person that provides audio-video communication technology and related processes, services, software, data storage, or other services to online notaries public for the purpose of directly facilitating their performance of online notarizations in compliance with this chapter and any rules adopted by the Department of State pursuant to s. 117.295.

(15) "Remote presentation" means transmission of an image of a government-issued identification credential that is of sufficient quality to enable the online notary public to identify the individual seeking the notary's services and to perform credential analysis through audio-video communication technology.

Section 7. Section 117.209, Florida Statutes, is created to read:

117.209 Authority to perform online notarizations.—

(1) An online notary public may perform any of the functions authorized under part I of this chapter as an online notarization by complying with the requirements of this part and any rules adopted by the Department of State pursuant to s. 117.295, excluding solemnizing the rites of matrimony.

(2) If a notarial act requires a principal to appear before or in the presence of the online notary public, the principal may appear before the online notary public by means of audio-video communication technology that meets the requirements of this part and any rules adopted by the Department of State pursuant to s. 117.295.

(3) An online notary public physically located in this

state may perform an online notarization as authorized under this part, regardless of whether the principal or any witnesses are physically located in this state at the time of the online notarization. A commissioner of deeds registered as an online notary public may perform an online notarization while physically located within or outside the state in accordance with the territorial limits of its jurisdiction and other limitations and requirements otherwise applicable to notarial acts by commissioners of deeds.

(4) The validity of an online notarization performed by an online notary public registered in this state shall be determined by applicable laws of this state regardless of the physical location of the principal or any witnesses at the time of the notarial act.

Section 8. Section 117.215, Florida Statutes, is created to read:

117.215 Relation to other laws.—

(1) If a provision of law requires a notary public or other authorized official of this state to notarize a signature or a statement, to take an acknowledgment of an instrument, or to administer an oath or affirmation so that a document may be sworn, affirmed, made under oath, or subject to penalty of perjury, an online notarization performed in accordance with the provisions of this part and any rules adopted hereunder satisfies such requirement.

(2) If a provision of law requires a signature or an act to be witnessed, compliance with the online electronic witnessing standards prescribed in s. 117.285 and any rules adopted thereunder satisfies that requirement.

Section 9. Section 117.225, Florida Statutes, is created to read:

117.225 Registration; qualifications.—A notary public, a civil-law notary appointed under chapter 118, or a commissioner of deeds appointed under part IV of chapter 721 may complete registration as an online notary public with the Department of State by:

(1) Holding a current commission as a notary public under part I of this chapter, an appointment as a civil-law notary under chapter 118, or an appointment as a commissioner of deeds under part IV of chapter 721, and submitting a copy of such commission or proof of such appointment with his or her registration.

(2) Certifying that the notary public, civil-law notary, or commissioner of deeds registering as an online notary public has completed a classroom or online course covering the duties, obligations, and technology requirements for serving as an online notary public.

(3) Paying a notary public registration fee as required by s. 113.01.

(4) Submitting a registration as an online notary public to the Department of State, signed and sworn to by the registrant.

(5) Identifying the RON service provider whose audio-video communication technology and processes for credential analysis and identity proofing technologies the registrant intends to use for online notarizations, and confirming that such technology and processes satisfy the requirements of this chapter and any rules adopted by the Department of State pursuant to s. 117.295.

(6) Providing evidence satisfactory to the Department of

State that the registrant has obtained a bond in the amount of $25,000, payable to any individual harmed as a result of a breach of duty by the registrant acting in his or her official capacity as an online notary public, conditioned for the due discharge of the office, and on such terms as are specified in rule by the Department of State as reasonably necessary to protect the public. The bond shall be approved and filed with the Department of State and executed by a surety company duly authorized to transact business in this state. Compliance by an online notary public with this requirement shall satisfy the requirement of obtaining a bond under s. 117.01(7).

(7) Providing evidence satisfactory to the Department of State that the registrant acting in his or her capacity as an online notary public is covered by an errors and omissions insurance policy from an insurer authorized to transact business in this state, in the minimum amount of $25,000 and on such terms as are specified by rule by the Department of State as reasonably necessary to protect the public.

Section 10. Section 117.235, Florida Statutes, is created to read:

117.235 Performance of notarial acts.—

(1) An online notary public is subject to part I of this chapter to the same extent as a notary public appointed and commissioned only under that part, including the provisions of s. 117.021 relating to electronic notarizations.

(2) An online notary public may perform notarial acts as provided by part I of this chapter in addition to performing online notarizations as authorized and pursuant to the provisions of this part.

Section 11. Section 117.245, Florida Statutes, is created to read:

117.245 Electronic journal of online notarizations.—

(1) An online notary public shall keep one or more secure electronic journals of online notarizations performed by the online notary public. For each online notarization, the electronic journal entry must contain all of the following:

(a) The date and time of the notarization.

(b) The type of notarial act.

(c) The type, the title, or a description of the electronic record or proceeding.

(d) The name and address of each principal involved in the transaction or proceeding.

(e) Evidence of identity of each principal involved in the transaction or proceeding in any of the following forms:

1. A statement that the person is personally known to the online notary public.

2. A notation of the type of government-issued identification credential provided to the online notary public.

(f) An indication that the principal satisfactorily passed the identity proofing.

(g) An indication that the government-issued identification credential satisfied the credential analysis.

(h) The fee, if any, charged for the notarization.

(2) The online notary public shall retain an uninterrupted and unedited copy of the recording of the audio-video communication in which an online notarization is performed. The recording must include all of the following:

(a) Appearance by the principal and any witness before the

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

online notary public.

(b) Confirmation of the identity of the principal and any witness.

(c) A general description or identification of the records to be signed.

(d) At the commencement of the recording, recitation by the online notary public of information sufficient to identify the notarial act.

(e) A declaration by the principal that his or her signature on the record is knowingly and voluntarily made.

(f) All of the actions and spoken words of the principal, notary public, and any required witness during the entire online notarization, including the signing of any records before the online notary public.

(3) The online notary public shall take reasonable steps to:

(a) Ensure the integrity, security, and authenticity of online notarizations.

(b) Maintain a backup record of the electronic journal required by subsection (1).

(c) Protect the electronic journal, the backup record, and any other records received by the online notary public from unauthorized access or use.

(4) The electronic journal required under subsection (1) and the recordings of audio-video communications required under subsection (2) shall be maintained for at least 10 years after the date of the notarial act. However, a full copy of the recording of the audio-video communication required under subsection (2) relating to an online notarization session that

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

involves the signing of an electronic will must be maintained by a qualified custodian in accordance with chapters 731 and 732. The Department of State maintains jurisdiction over the electronic journal and audio-video communication recordings to investigate notarial misconduct for a period of 10 years after the date of the notarial act. The online notary public, a guardian of an incapacitated online notary public, or the personal representative of a deceased online notary public may, by contract with a secure repository in accordance with any rules established under this chapter, delegate to the repository the online notary public's duty to retain the electronic journal and the required recordings of audio-video communications, provided that the Department of State is notified of such delegation of retention duties to the repository within 30 days thereafter, including the address and contact information for the repository. If an online notary public delegates to a secure repository under this section, the online notary public shall make an entry in his or her electronic journal identifying such repository, and provide notice to the Department of State as required in this subsection.

(5) An omitted or incomplete entry in the electronic journal does not impair the validity of the notarial act or of the electronic record which was notarized, but may be introduced as evidence to establish violations of this chapter; as evidence of possible fraud, forgery, impersonation, duress, incapacity, undue influence, minority, illegality, unconscionability; or for other evidentiary purposes. However, if the recording of the audio-video communication required under subsection (2) relating to the online notarization of the execution of an electronic

will cannot be produced by the online notary public or the qualified custodian, the electronic will shall be treated as a lost or destroyed will subject to s. 733.207.

Section 12. Section 117.255, Florida Statutes, is created to read:

117.255 Use of electronic journal, signature, and seal.—An online notary public shall:

(1) Take reasonable steps to ensure that any registered device used to create an electronic seal is current and has not been revoked or terminated by the issuing or registering authority of the device.

(2) Keep the electronic journal and electronic seal secure and under his or her sole control, which includes access protection using passwords or codes under control of the online notary public. The online notary public may not allow another person to use the online notary public's electronic journal, electronic signature, or electronic seal, other than a RON service provider or other authorized person providing services to an online notary public to facilitate performance of online notarizations.

(3) Attach or logically associate the electronic signature and seal to the electronic notarial certificate of an electronic record in a manner that is capable of independent verification using tamper-evident technology that renders any subsequent change or modification to the electronic record evident.

(4) Notify an appropriate law enforcement agency and the Department of State of any unauthorized use of or compromise to the security of the electronic journal, official electronic signature, or electronic seal within 7 days after discovery of

such unauthorized use or compromise to security.

(5) Make electronic copies, upon request, of the pertinent entries in the electronic journal and provide access to the related audio-video communication recordings to the following persons:

(a) The parties to an electronic record notarized by the online notary public;

(b) The qualified custodian of an electronic will notarized by the online notary public;

(c) The title agent, settlement agent, or title insurer who insured the electronic record or engaged the online notary public with regard to a real estate transaction;

(d) The online notary public's RON service provider whose services were used by the online notary public to notarize the electronic record;

(e) Any person who is asked to accept a power of attorney that was notarized by the online notary public;

(f) The Department of State pursuant to a notary misconduct investigation; and

(g) To other persons pursuant to a subpoena, court order, law enforcement investigation, or other lawful inspection demand.

(6) The online notary public may charge a fee not to exceed $20 per transaction record for making and delivering electronic copies of a given series of related electronic records, except if requested by:

(a) A party to the electronic record;

(b) In a real estate transaction, the title agent, settlement agent, or title insurer who insured the electronic

record or engaged the online notary public with regard to such transaction; or

(c) The Department of State pursuant to an investigation relating to the official misconduct of an online notary public.

If the online notary public does charge a fee, the online notary public shall disclose the amount of such fee to the requester before making the electronic copies.

Section 13. Section 117.265, Florida Statutes, is created to read:

117.265 Online notarization procedures.—

(1) An online notary public physically located in this state may perform an online notarization that meets the requirements of this part regardless of whether the principal or any witnesses are physically located in this state at the time of the online notarization. A commissioner of deeds registered as an online notary public may perform an online notarization while physically located within or outside of this state in accordance with the territorial limits of its jurisdiction and other limitations and requirements otherwise applicable to notarial acts by commissioners of deeds. An online notarization performed in accordance with this chapter is deemed to have been performed within this state and is governed by the applicable laws of this state.

(2) In performing an online notarization, an online notary public shall confirm the identity of a principal and any witness appearing online, at the time that the signature is taken, by using audio-video communication technology and processes that meet the requirements of this part and of any rules adopted

hereunder and record the two-way audio-video conference session between the notary public and the principal and any witnesses. A principal may not act in the capacity of a witness for his or her own signature in an online notarization.

(3) In performing an online notarization of a principal not located within this state, an online notary public must confirm, either verbally or through the principal's written consent, that the principal desires for the notarial act to be performed by a Florida notary public and under the general law of this state.

(4) An online notary public shall confirm the identity of the principal by:

(a) Personal knowledge of each principal; or

(b) All of the following, as such criteria may be modified or supplemented in rules adopted by the Department of State pursuant to s. 117.295:

1. Remote presentation of a government-issued identification credential by each principal.

2. Credential analysis of each government-issued identification credential.

3. Identity proofing of each principal in the form of knowledge-based authentication or another method of identity proofing that conforms to the standards of this chapter.

If the online notary public is unable to satisfy subparagraphs (b)1.-3., or if the databases consulted for identity proofing do not contain sufficient information to permit authentication, the online notary public may not perform the online notarization.

(5) An online notary public may change his or her RON service provider or providers from time to time, but shall

notify the Department of State of such change within 30 days thereafter.

(6) The online notary public or his or her RON service provider shall take reasonable steps to ensure that the audio-video communication technology used in an online notarization is secure from unauthorized interception.

(7) The electronic notarial certificate for an online notarization must include a notation that the notarization is an online notarization which may be satisfied by placing the term "online notary" in or adjacent to the online notary public's seal.

(8) Except where otherwise expressly provided in this part, the provisions of part I of this chapter apply to an online notarization and an online notary public.

(9) Any failure to comply with the online notarization procedures set forth in this section does not impair the validity of the notarial act or the electronic record that was notarized, but may be introduced as evidence to establish violations of this chapter or as an indication of possible fraud, forgery, impersonation, duress, incapacity, undue influence, minority, illegality, unconscionability, or for other evidentiary purposes. This subsection may not be construed to alter the duty of an online notary public to comply with this chapter and any rules adopted hereunder.

Section 14. Section 117.275, Florida Statutes, is created to read:

117.275 Fees for online notarization.—An online notary public or the employer of such online notary public may charge a fee, not to exceed $25, for performing an online notarization

under this part. Fees for services other than notarial acts are not governed by this section.

Section 15. Section 117.285, Florida Statutes, is created to read:

117.285 Supervising the witnessing of electronic records.—An online notary public may supervise the witnessing of electronic records by the same audio-video communication technology used for online notarization, as follows:

(1) The witness may be in the physical presence of the principal or remote from the principal provided the witness and principal are using audio-video communication technology.

(2) If the witness is remote from the principal and viewing and communicating with the principal by means of audio-video communication technology, the witness's identity must be verified in accordance with the procedures for identifying a principal as set forth in s. 117.265(4). If the witness is in the physical presence of the principal, the witness must confirm his or her identity by stating his or her name and current address on the audio-video recording as part of the act of witnessing.

(3) The act of witnessing an electronic signature means the witness is either in the physical presence of the principal or present through audio-video communication technology at the time the principal affixes the electronic signature and the witness hears the principal make a statement to the effect that the principal has signed the electronic record.

(4) A witness remote from the principal and appearing through audio-video communication technology must verbally confirm that he or she is a resident of and physically located

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

within the United States or a territory of the United States at the time of witnessing.

(5) Notwithstanding subsections (2) and (3), if an electronic record to be signed is a will under chapter 732, a trust with testamentary aspects under chapter 736, an advance health care directive, a durable power of attorney defined in s. 709.2104 which is being executed concurrently with a will, or a waiver of spousal rights under s. 732.701 or s. 732.702:

(a) The act of witnessing an electronic signature through the witness's presence by audio-video communication is valid only if, during the audio-video communication, the principal provides verbal answers to all of the following questions, each of which must be asked by the online notary public in substantially the following form:

1. What is your date of birth?

2. Are you under the influence of any drug or alcohol that impairs your ability to make decisions?

3. Do you have any physical or mental condition or long-term disability that impairs your ability to perform the normal activities of daily living?

4. Are you unable to provide for your own daily care?

5. Did anyone assist you in accessing this video conference or in drafting the documents you're here to sign? If so, who?

6. Where are you currently located?

7. Name everyone you know who is with you.

(b) An online notary public shall consider the responses to the questions specified in paragraph (a) in the carrying out of the notary public's existing duties as set forth in s. 117.107(5).

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

(c) A principal's responses to the questions in paragraph (a) may be offered as evidence regarding the validity of the instrument, but an incorrect answer may not serve as the sole basis to invalidate an instrument.

(d) An instrument governed by this subsection which is witnessed by a witness remote from the principal and present through audio-video communication technology is voidable if signed by a principal who is a vulnerable adult as defined in s. 415.102. The contestant of an electronic record has the burden of proving that the principal was a vulnerable adult at the time of executing the electronic record.

(e) A RON service provider shall provide written notice to the signers, in substance, that an instrument governed by this subsection which is signed by a vulnerable adult as defined in s. 415.102, and is remotely witnessed in accordance with this subsection, is voidable and that the signer can instead choose to have such instruments signed in the physical presence of any required witnesses.

(6) Pursuant to subpoena, court order, an authorized law enforcement inquiry, or other lawful request, an online notary public shall provide the last known address of any witness who witnessed the signing of an electronic record using audio-video communication technology pursuant to this section.

(7) An act of witnessing performed pursuant to this section satisfies any requirement that the witness be a subscribing or attesting witness or be in the presence of the principal at the time of signing.

The law of this state governs the validity of an act of

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

witnessing supervised by an online notary public pursuant to this section, regardless of the physical location of the witness at the time of witnessing. State courts and federal courts of this state have subject matter jurisdiction over any dispute arising out of an act of witnessing pursuant to this section, and may issue subpoenas for records or appearance in relation thereto in accordance with applicable law.

Section 16. Effective upon becoming a law, section 117.295, Florida Statutes, is created to read:

117.295 Standards for electronic and online notarization; rulemaking authority.—

(1) For purposes of this part, the Department of State may adopt rules necessary to implement the requirements of this chapter and to set standards for online notarization which include, but are not limited to:

(a) Improvements in technology and methods of assuring the identity of principals and the security of an electronic record, including tamper-evident technologies in compliance with the standards adopted pursuant to s. 117.021 which apply to online notarizations.

(b) Education requirements for online notaries public and the required terms of bonds and errors and omissions insurance, but not including the amounts of such bonds and insurance policies.

(c) Identity proofing, credential analysis, unauthorized interception, remote presentation, audio-video communication technology, and retention of electronic journals and copies of audio-video communications recordings in a secure repository.

(2) By January 1, 2020, the Department of State shall adopt

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

forms, processes, and interim or emergency rules necessary to accept applications from and register online notaries public pursuant to s. 117.225.

(3) Until such time as the Department of State adopts rules setting standards that are equally or more protective, the following minimum standards shall apply to any online notarization performed by an online notary public of this state or his or her RON service provider:

(a) Use of identity proofing by means of knowledge-based authentication which must have, at a minimum, the following security characteristics:

1. The principal must be presented with five or more questions with a minimum of five possible answer choices per question.

2. Each question must be drawn from a third-party provider of public and proprietary data sources and be identifiable to the principal's social security number or other identification information, or the principal's identity and historical events records.

3. Responses to all questions must be made within a 2-minute time constraint.

4. The principal must answer a minimum of 80 percent of the questions correctly.

5. The principal may be offered one additional attempt in the event of a failed attempt.

6. During the second attempt, the principal may not be presented with more than three questions from the prior attempt.

(b) Use of credential analysis using one or more commercially available automated software or hardware processes

that are consistent with sound commercial practices; that aid the notary public in verifying the authenticity of the credential by analyzing the integrity of visual, physical, or cryptographic security features to indicate that the credential is not fraudulent or inappropriately modified; and that use information held or published by the issuing source or authoritative source, as available, to confirm the validity of credential details. The output of the credential analysis process must be provided to the online notary public performing the notarial act.

(c) Use of audio-video communication technology in completing online notarizations that must meet the following requirements:

1. The signal transmission must be reasonably secure from interception, access, or viewing by anyone other than the participants communicating.

2. The technology must provide sufficient audio clarity and video resolution to enable the notary to communicate with the principal and any witness, and to confirm the identity of the principal and any witness, as required, using the identification methods described in s. 117.265.

(4) A RON service provider is deemed to have satisfied tamper-evident technology requirements by use of technology that renders any subsequent change or modification to the electronic record evident.

(5) In addition to any coverage it elects to provide for individual online notaries public, maintenance of errors and omissions insurance coverage by a RON service provider in a total amount of at least $250,000 in the annual aggregate with

respect to potential errors or omissions in or relating to the technology or processes provided by the RON service provider. An online notary public is not responsible for the security of the systems used by the principal or others to access the online notarization session.

(6) A 2-hour in-person or online course addressing the duties, obligations, and technology requirements for serving as an online notary public offered by the Florida Land Title Association; the Real Property, Probate and Trust Law Section of The Florida Bar; the Florida Legal Education Association; the Department of State; or a vendor approved by the Department of State shall satisfy the education requirements of s. 117.225(2). Each such provider shall make the in-person or online course generally available to all applicants, at the same cost, regardless of membership in the provider's organization.

(7) The rulemaking required under this section is exempt from s. 120.541(3).

Section 17. Section 117.305, Florida Statutes, is created to read:

117.305 Relation to federal law.—This part supersedes the Electronic Signatures in Global and National Commerce Act as authorized under 15 U.S.C. s. 7001 et seq., but does not modify, limit, or supersede s. 101(c) of that act, 15 U.S.C. s. 7001(c), or authorize the electronic delivery of the notices described in 15 U.S.C. s. 7003(b).

Section 18. Present paragraph (h) of subsection (3) of section 28.222, Florida Statutes, is redesignated as paragraph (i), and a new paragraph (h) is added to that subsection, to read:

28.222 Clerk to be county recorder.—

(3) The clerk of the circuit court shall record the following kinds of instruments presented to him or her for recording, upon payment of the service charges prescribed by law:

(h) Copies of any instruments originally created and executed using an electronic signature, as defined in s. 695.27, and certified to be a true and correct paper printout by a notary public in accordance with chapter 117, if the county recorder is not prepared to accept electronic documents for recording electronically.

Section 19. Subsections (1) and (2) of section 92.50, Florida Statutes, are amended to read:

92.50 Oaths, affidavits, and acknowledgments; who may take or administer; requirements.—

(1) IN THIS STATE.—Oaths, affidavits, and acknowledgments required or authorized under the laws of this state (except oaths to jurors and witnesses in court and such other oaths, affidavits and acknowledgments as are required by law to be taken or administered by or before particular officers) may be taken or administered by or before any judge, clerk, or deputy clerk of any court of record within this state, including federal courts, or by or before any United States commissioner or any notary public within this state. The jurat, or certificate of proof or acknowledgment, shall be authenticated by the signature and official seal of such officer or person taking or administering the same; however, when taken or administered by or before any judge, clerk, or deputy clerk of a court of record, the seal of such court may be affixed as the

seal of such officer or person.

(2) IN OTHER STATES, TERRITORIES, AND DISTRICTS OF THE UNITED STATES.—Oaths, affidavits, and acknowledgments required or authorized under the laws of this state, may be taken or administered in any other state, territory, or district of the United States, by or before any judge, clerk or deputy clerk of any court of record, within such state, territory, or district, having a seal, or by or before any notary public or justice of the peace, having a seal, in such state, territory, or district; provided, however, such officer or person is authorized under the laws of such state, territory, or district to take or administer oaths, affidavits and acknowledgments. The jurat, or certificate of proof or acknowledgment, shall be authenticated by the signature and official seal of such officer or person taking or administering the same; provided, however, when taken or administered by or before any judge, clerk, or deputy clerk of a court of record, the seal of such court may be affixed as the seal of such officer or person.

Section 20. Subsection (1) of section 95.231, Florida Statutes, is amended to read:

95.231 Limitations where deed or will on record.—

(1) Five years after the recording of an instrument required to be executed in accordance with s. 689.01; 5 years after the recording of a power of attorney accompanying and used for an instrument required to be executed in accordance with s. 689.01; or 5 years after the probate of a will purporting to convey real property, from which it appears that the person owning the property attempted to convey, affect, or devise it, the instrument, power of attorney, or will shall be held to have

its purported effect to convey, affect, or devise, the title to the real property of the person signing the instrument, as if there had been no lack of seal or seals, witness or witnesses, defect in, failure of, or absence of acknowledgment or relinquishment of dower, in the absence of fraud, adverse possession, or pending litigation. The instrument is admissible in evidence. A power of attorney validated under this subsection shall be valid only for the purpose of effectuating the instrument with which it was recorded.

Section 21. Section 689.01, Florida Statutes, is amended to read:

689.01 How real estate conveyed.—

(1) No estate or interest of freehold, or for a term of more than 1 year, or any uncertain interest of, in or out of any messuages, lands, tenements or hereditaments shall be created, made, granted, transferred or released in any other manner than by instrument in writing, signed in the presence of two subscribing witnesses by the party creating, making, granting, conveying, transferring or releasing such estate, interest, or term of more than 1 year, or by the party's lawfully authorized agent, unless by will and testament, or other testamentary appointment, duly made according to law; and no estate or interest, either of freehold, or of term of more than 1 year, or any uncertain interest of, in, to, or out of any messuages, lands, tenements or hereditaments, shall be assigned or surrendered unless it be by instrument signed in the presence of two subscribing witnesses by the party so assigning or surrendering, or by the party's lawfully authorized agent, or by the act and operation of law. No seal shall be necessary to give

validity to any instrument executed in conformity with this section. Corporations may execute any and all conveyances in accordance with the provisions of this section or ss. 692.01 and 692.02.

(2) For purposes of this chapter:

(a) Any requirement that an instrument be signed in the presence of two subscribing witnesses may be satisfied by witnesses being present and electronically signing by means of audio-video communication technology, as defined in s. 117.201.

(b) The act of witnessing an electronic signature is satisfied if a witness is in the physical presence of the principal or present through audio-video communication technology at the time the principal affixes his or her electronic signature and the witness hears the principal make a statement acknowledging that the principal has signed the electronic record.

(c) The terms used in this subsection have the same meanings as the terms defined in s. 117.201.

(3) All acts of witnessing made or taken in the manner described in subsection (2) are validated and, upon recording, may not be denied to have provided constructive notice based on any alleged failure to have strictly complied with this section or the laws governing notarization of instruments, including online notarization. This subsection does not preclude a challenge to the validity or enforceability of an instrument or electronic record based upon fraud, forgery, impersonation, duress, incapacity, undue influence, minority, illegality, unconscionability, or any other basis not related to the act of witnessing.

Section 22. Section 694.08, Florida Statutes, is amended to read:

694.08 Certain instruments validated, notwithstanding lack of seals or witnesses, or defect in acknowledgment~~, etc~~.—

(1) Whenever any power of attorney has been executed and delivered, or any conveyance has been executed and delivered to any grantee by the person owning the land therein described, or conveying the same in an official or representative capacity, and has, for a period of 7 years or more been spread upon the records of the county wherein the land therein described has been or was at the time situated, and one or more subsequent conveyances of said land or parts thereof have been made, executed, delivered and recorded by parties claiming under such instrument or instruments, and such power of attorney or conveyance, or the public record thereof, shows upon its face a clear purpose and intent of the person executing the same to authorize the conveyance of said land or to convey the said land, the same shall be taken and held by all the courts of this state, in the absence of any showing of fraud, adverse possession, or pending litigation, to have authorized the conveyance of, or to have conveyed, the fee simple title, or any interest therein, of the person signing such instruments, or the person in behalf of whom the same was conveyed by a person in an official or representative capacity, to the land therein described as effectively as if there had been no defect in, failure of, or absence of the acknowledgment or the certificate of acknowledgment, if acknowledged, or the relinquishment of dower, and as if there had been no lack of the word “as” preceding the title of the person conveying in an official or

representative capacity, of any seal or seals, or of any witness or witnesses, and shall likewise be taken and held by all the courts of this state to have been duly recorded so as to be admissible in evidence;

(2) Provided, however, that this section shall not apply to any conveyance the validity of which shall be contested or have been contested by suit commenced heretofore or within 1 year of the effective date of this law.

Section 23. Section 695.03, Florida Statutes, is amended to read:

695.03 Acknowledgment and proof; validation of certain acknowledgments; legalization or authentication before foreign officials.—To entitle any instrument concerning real property to be recorded, the execution must be acknowledged by the party executing it, proved by a subscribing witness to it, or legalized or authenticated in one of the following forms ~~by a civil-law notary or notary public who affixes her or his official seal, before the officers and in the form and manner following~~:

(1) WITHIN THIS STATE.—An acknowledgment or a proof may be taken, administered, or made within this state by or ~~may be made~~ before a judge, clerk, or deputy clerk of any court; a United States commissioner or magistrate; or any ~~a~~ notary public or civil-law notary of this state, and the certificate of acknowledgment or proof must be under the seal of the court or officer, as the case may be. ~~All affidavits and acknowledgments heretofore made or taken in this manner are hereby validated.~~

(2) OUTSIDE ~~WITHOUT~~ THIS STATE BUT WITHIN THE UNITED STATES.—An acknowledgment or a proof taken, administered, or

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

made outside ~~out~~ of this state but within the United States may be taken, administered, or made by or before a civil-law notary of this state or a commissioner of deeds appointed by the Governor of this state; a judge or clerk of any court of the United States or of any state, territory, or district; by or before a United States commissioner or magistrate; or by or before any ~~a~~ notary public, justice of the peace, master in chancery, or registrar or recorder of deeds of any state, territory, or district having a seal, and the certificate of acknowledgment or proof must be under the seal of the court or officer, as the case may be. If the acknowledgment or proof is taken, administered, or made by or before a notary public who does not affix a seal, it is sufficient for the notary public to type, print, or write by hand on the instrument, "I am a Notary Public of the State of ...(state)..., and my commission expires on ...(date)...."

(3) OUTSIDE OF THE UNITED STATES OR WITHIN FOREIGN COUNTRIES.—An ~~If the~~ acknowledgment, an affidavit, an oath, a legalization, an authentication, or a proof taken, administered, or made outside the United States or ~~is made~~ in a foreign country~~, it~~ may be taken, administered, or made by or before a commissioner of deeds appointed by the Governor of this state to act in such country; before a notary public of such foreign country or a civil-law notary of this state or of such foreign country who has an official seal; before an ambassador, envoy extraordinary, minister plenipotentiary, minister, commissioner, charge d'affaires, consul general, consul, vice consul, consular agent, or other diplomatic or consular officer of the United States appointed to reside in such country; or before a military

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

or naval officer authorized by 10 U.S.C. s. 1044a ~~the Laws or Articles of War of the United States~~ to perform the duties of notary public, and the certificate of acknowledgment, legalization, authentication, or proof must be under the seal of the officer. A certificate legalizing or authenticating the signature of a person executing an instrument concerning real property and to which a civil-law notary or notary public of that country has affixed her or his official seal is sufficient as an acknowledgment. For the purposes of this section, the term "civil-law notary" means a civil-law notary as defined in chapter 118 or an official of a foreign country who has an official seal and who is authorized to make legal or lawful the execution of any document in that jurisdiction, in which jurisdiction the affixing of her or his official seal is deemed proof of the execution of the document or deed in full compliance with the laws of that jurisdiction.

(4) COMPLIANCE AND VALIDATION.—The affixing of the official seal or the electronic equivalent thereof under s. 117.021 or other applicable law, including part II of chapter 117, conclusively establishes that the acknowledgment or proof was taken, administered, or made in full compliance with the laws of this state or, as applicable, the laws of the other state, or of the foreign country governing notarial acts. All affidavits, oaths, acknowledgments, legalizations, authentications, or proofs taken, administered, or made in any manner as set forth in subsections (1), (2), and (3) are validated and upon recording may not be denied to have provided constructive notice based on any alleged failure to have strictly complied with this section, as currently or previously in effect, or the laws

governing notarization of instruments. This subsection does not preclude a challenge to the validity or enforceability of an instrument or electronic record based upon fraud, forgery, impersonation, duress, incapacity, undue influence, minority, illegality, unconscionability, or any other basis not related to the notarial act or constructive notice provided by recording.

~~All affidavits, legalizations, authentications, and acknowledgments heretofore made or taken in the manner set forth above are hereby validated.~~

Section 24. Section 695.04, Florida Statutes, is amended to read:

695.04 Requirements of certificate.—The certificate of the officer before whom the acknowledgment or proof is taken, except for a certificate legalizing or authenticating the signature of a person executing an instrument concerning real property pursuant to s. 695.03(3), shall contain and set forth substantially the matter required to be done or proved to make such acknowledgment or proof effectual as set forth in s. 117.05.

Section 25. Section 695.25, Florida Statutes, is amended to read:

695.25 Short form of acknowledgment.—The forms of acknowledgment set forth in this section may be used, and are sufficient for their respective purposes, under any law of this state. The forms shall be known as "Statutory Short Forms of Acknowledgment" and may be referred to by that name. The authorization of the forms in this section does not preclude the use of other forms.

(1) For an individual acting in his or her own right:

STATE OF ....

COUNTY OF ....

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this ...(date)... by ...(name of person acknowledging)..., who is personally known to me or who has produced ...(type of identification)... as identification.

...(Signature of person taking acknowledgment)...

...(Name typed, printed or stamped)...

...(Title or rank)...

...(Serial number, if any)...

(2) For a corporation:

STATE OF ....

COUNTY OF ....

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this ...(date)... by ...(name of officer or agent, title of officer or agent)... of ...(name of corporation acknowledging)..., a ...(state or place of incorporation)... corporation, on behalf of the corporation. He/she is personally known to me or has produced ...(type of identification)... as identification.

...(Signature of person taking acknowledgment)...

...(Name typed, printed or stamped)...

...(Title or rank)...

...(Serial number, if any)...

(3) For a limited liability company:

STATE OF ....

COUNTY OF ....

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this ...(date)... by ...(name of member, manager, officer or agent, title of member, manager, officer or agent)..., of ...(name of company acknowledging)..., a ...(state or place of formation)... limited liability company, on behalf of the company, who is personally known to me or has produced ...(type of identification)... as identification.

...(Signature of person taking acknowledgment)...

...(Name typed, printed or stamped)...

...(Title or rank)...

...(Serial number, if any)...

(4) ~~(3)~~ For a partnership:

STATE OF ....

COUNTY OF ....

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this ...(date)... by ...(name of acknowledging partner or agent)..., partner (or agent) on behalf of ...(name of partnership)..., a partnership. He/she is personally known to me or has produced ...(type of identification)... as identification.

...(Signature of person taking acknowledgment)...

...(Name typed, printed or stamped)...

...(Title or rank)...

...(Serial number, if any)...

(5) ~~(4)~~ For an individual acting as principal by an attorney in fact:

STATE OF ....

COUNTY OF ....

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this ...(date)... by ...(name of attorney in fact)... as attorney in fact, who is personally known to me or who has produced ...(type of identification)... as identification on behalf of ...(name of principal)....

...(Signature of person taking acknowledgment)...

...(Name typed, printed or stamped)...

...(Title or rank)...

...(Serial number, if any)...

(6) ~~(5)~~ By any public officer, trustee, or personal representative:

STATE OF ....

COUNTY OF ....

The foregoing instrument was acknowledged before me by means of [] physical presence or [] online notarization, this ...(date)... by ...(name and title of position)..., who is personally known to me or who has produced ...(type of identification)... as identification.

...(Signature of person taking acknowledgment)...

...(Name typed, printed or stamped)...

...(Title or rank)...

...(Serial number, if any)....

Section 26. Section 695.28, Florida Statutes, is amended to read:

695.28 Validity of recorded electronic documents.—

(1) A document that is otherwise entitled to be recorded

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

and that was or is submitted to the clerk of the court or county recorder by electronic or other means and accepted for recordation is deemed validly recorded and provides notice to all persons notwithstanding:

(a) That the document was received and accepted for recordation before the Department of State adopted standards implementing s. 695.27; ~~or~~

(b) Any defects in, deviations from, or the inability to demonstrate strict compliance with any statute, rule, or procedure relating to electronic signatures, electronic witnesses, electronic notarization, or online notarization, or for submitting or recording ~~to submit or record~~ an electronic document in effect at the time the electronic document was executed or was submitted for recording;

(c) That the document was signed, witnessed, or notarized electronically, and that the document was notarized by an online notary public outside the physical presence of the signer through audio-video communication technology, as defined in s. 117.201, or that witnessing may have been done outside the physical presence of the notary public or principal through such audio-visual communication; or

(d) That the document recorded was a certified printout of a document to which one or more electronic signatures have been affixed.

(2) This section does not alter the duty of the clerk or recorder to comply with s. 28.222, s. 695.27, or any rules adopted pursuant to those sections ~~that section~~.

(3) This section does not preclude a challenge to the validity or enforceability of an instrument or electronic record

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

based upon fraud, forgery, impersonation, duress, incapacity, undue influence, minority, illegality, unconscionability, or any other basis not in the nature of those matters described in subsection (1).

Section 27. Subsections (3) and (4) of section 709.2119, Florida Statutes, are amended to read:

709.2119 Acceptance of and reliance upon power of attorney.—

(3) A third person who is asked to accept a power of attorney that appears to be executed in accordance with s. 709.2105 may in good faith request, and rely upon, without further investigation:

(a) A certified English translation of the power of attorney if the power of attorney contains, in whole or in part, language other than English;

(b) An opinion of counsel as to any matter of law concerning the power of attorney if the third person making the request provides in a writing or other record the reason for the request; ~~or~~

(c) The affidavit described in subsection (2); or

(d) The electronic journal or record made by the notary public pursuant to the laws of the state in which the notary public is appointed if the power of attorney is witnessed or notarized remotely through the use of online witnesses or notarization.

(4) An English translation, ~~or~~ an opinion of counsel, or an electronic journal or record requested under this section must be provided at the principal's expense unless the request is made after the time specified in s. 709.2120(1) for acceptance

or rejection of the power of attorney.

Section 28. Subsection (4) of section 709.2120, Florida Statutes, is amended to read:

709.2120 Rejecting power of attorney.—

(4) A third person is not required to accept a power of attorney if:

(a) The third person is not otherwise required to engage in a transaction with the principal in the same circumstances;

(b) The third person has knowledge of the termination or suspension of the agent's authority or of the power of attorney before exercising the power;

(c) A timely request by the third person for an affidavit, English translation, ~~or~~ opinion of counsel, or electronic journal or record under s. 709.2119 ~~s. 709.2119(4)~~ is refused by the agent;

(d) The power of attorney is witnessed or notarized remotely through the use of online witnesses or notarization, and either the agent is unable to produce the electronic journal or record, or the notary public did not maintain an electronic journal or record of the notarization;

(e) ~~(d)~~ Except as provided in paragraph (b), the third person believes in good faith that the power is not valid or that the agent does not have authority to perform the act requested; or

(f) ~~(e)~~ The third person makes, or has knowledge that another person has made, a report to the local adult protective services office stating a good faith belief that the principal may be subject to physical or financial abuse, neglect, exploitation, or abandonment by the agent or a person acting for

or with the agent.

Section 29. Present subsection (6) of section 709.2202, Florida Statutes, is renumbered as subsection (7), and a new subsection (6) is added to that section, to read:

709.2202 Authority that requires separate signed enumeration.—

(6) Notwithstanding subsection (1) and s. 709.2106(3), a power of attorney, executed by a principal domiciled in this state at the time of execution, that is witnessed remotely pursuant to s. 117.285 or other applicable law by a witness who is not in the physical presence of the principal is not effective to grant authority to an agent to take any of the actions enumerated in subsection (1).

Section 30. Subsection (40) of section 731.201, Florida Statutes, is amended to read:

731.201 General definitions.—Subject to additional definitions in subsequent chapters that are applicable to specific chapters or parts, and unless the context otherwise requires, in this code, in s. 409.9101, and in chapters 736, 738, 739, and 744, the term:

(40) "Will" means an instrument, including a codicil, executed by a person in the manner prescribed by this code, which disposes of the person's property on or after his or her death and includes an instrument which merely appoints a personal representative or revokes or revises another will. The term includes an electronic will as defined in s. 732.521.

Section 31. Section 732.506, Florida Statutes, is amended to read:

732.506 Revocation by act.—A will or codicil, other than an

electronic will, is revoked by the testator, or some other person in the testator's presence and at the testator's direction, by burning, tearing, canceling, defacing, obliterating, or destroying it with the intent, and for the purpose, of revocation. An electronic will or codicil is revoked by the testator, or some other person in the testator's presence and at the testator's direction, by deleting, canceling, rendering unreadable, or obliterating the electronic will or codicil, with the intent, and for the purpose, of revocation, as proved by clear and convincing evidence.

Section 32. Section 732.521, Florida Statutes, is created to read:

732.521 Definitions.—As used in ss. 732.521-732.525, the term:

(1) "Audio-video communication technology" has the same meaning as provided in s. 117.201.

(2) "Electronic record" has the same meaning as provided in s. 668.50.

(3) "Electronic signature" means an electronic mark visibly manifested in a record as a signature and executed or adopted by a person with the intent to sign the record.

(4) "Electronic will" means an instrument, including a codicil, executed with an electronic signature by a person in the manner prescribed by this code, which disposes of the person's property on or after his or her death and includes an instrument which merely appoints a personal representative or revokes or revises another will.

(5) "Online notarization" has the same meaning as provided in s. 117.201.

(6) "Online notary public" has the same meaning as provided in s. 117.201.

(7) "Qualified custodian" means a person who meets the requirements of s. 732.525(1).

(8) "Secure system" means a system that satisfies the requirements of a secure repository qualified to retain electronic journals of online notaries public in accordance with s. 117.245 and any rules established under part II of chapter 117.

Section 33. Effective July 1, 2020, section 732.522, Florida Statutes, is created to read:

732.522 Method and place of execution.—For purposes of the execution or filing of an electronic will, the acknowledgment of an electronic will by the testator and the affidavits of witnesses under s. 732.503, or any other instrument under the Florida Probate Code:

(1) Any requirement that an instrument be signed may be satisfied by an electronic signature.

(2) Any requirement that individuals sign an instrument in the presence of one another may be satisfied by witnesses being present and electronically signing by means of audio-video communication technology that meets the requirements of part II of chapter 117 and any rules adopted thereunder, if:

(a) The individuals are supervised by a notary public in accordance with s. 117.285;

(b) The individuals are authenticated and signing as part of an online notarization session in accordance with s. 117.265;

(c) The witness hears the signer make a statement acknowledging that the signer has signed the electronic record;

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

and

(d) The signing and witnessing of the instrument complies with the requirements of s. 117.285.

(3) Except as otherwise provided in this part, all questions as to the force, effect, validity, and interpretation of an electronic will which comply with this section must be determined in the same manner as in the case of a will executed in accordance with s. 732.502.

(4) An instrument that is signed electronically is deemed to be executed in this state if the instrument states that the person creating the instrument intends to execute and understands that he or she is executing the instrument in, and pursuant to the laws of, this state.

Section 34. Section 732.523, Florida Statutes, is created to read:

732.523 Self-proof of electronic will.—An electronic will is self-proved if:

(1) The acknowledgment of the electronic will by the testator and the affidavits of the witnesses are made in accordance with s. 732.503 and are part of the electronic record containing the electronic will, or are attached to, or are logically associated with, the electronic will;

(2) The electronic will designates a qualified custodian;

(3) The electronic record that contains the electronic will is held in the custody of a qualified custodian at all times before being offered to the court for probate; and

(4) The qualified custodian who has custody of the electronic will at the time of the testator's death certifies under oath that, to the best knowledge of the qualified

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

custodian, the electronic record that contains the electronic will was at all times before being offered to the court in the custody of a qualified custodian in compliance with s. 732.524 and that the electronic will has not been altered in any way since the date of its execution.

Section 35. Section 732.524, Florida Statutes, is created to read:

732.524 Qualified custodians.—

(1) To serve as a qualified custodian of an electronic will, a person must be:

(a) Domiciled in and a resident of this state; or

(b) Incorporated, organized, or have its principal place of business in this state.

(2) A qualified custodian shall:

(a) In the course of maintaining custody of electronic wills, regularly employ a secure system and store in such secure system electronic records containing:

1. Electronic wills;

2. Records attached to or logically associated with electronic wills; and

3. Acknowledgments of the electronic wills by testators, affidavits of the witnesses, and the records described in s. 117.245(1) and (2) which pertain to the online notarization; and

(b) Furnish for any court hearing involving an electronic will that is currently or was previously stored by the qualified custodian any information requested by the court pertaining to the qualified custodian's qualifications, policies, and practices related to the creation, sending, communication, receipt, maintenance, storage, and production of electronic

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

wills.

(c) Provide access to or information concerning the electronic will, or the electronic record containing the electronic will, only:

1. To the testator;

2. To persons authorized by the testator in the electronic will or in written instructions signed by the testator with the formalities required for the execution of a will in this state;

3. After the death of the testator, to the testator's nominated personal representative; or

4. At any time, as directed by a court of competent jurisdiction.

(3) The qualified custodian of the electronic record of an electronic will may elect to destroy such record, including any of the documentation required to be created and stored under paragraph (2)(a), at any time after the earlier of the fifth anniversary of the conclusion of the administration of the estate of the testator or 20 years after the death of the testator.

(4) A qualified custodian who at any time maintains custody of the electronic record of an electronic will may elect to cease serving in such capacity by:

(a) Delivering the electronic will or the electronic record containing the electronic will to the testator, if then living, or, after the death of the testator, by filing the will with the court in accordance with s. 732.901; and

(b) If the outgoing qualified custodian intends to designate a successor qualified custodian, by doing the following:

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

1. Providing written notice to the testator of the name, address, and qualifications of the proposed successor qualified custodian. The testator must provide written consent before the electronic record, including the electronic will, is delivered to a successor qualified custodian;

2. Delivering the electronic record containing the electronic will to the successor qualified custodian; and

3. Delivering to the successor qualified custodian an affidavit of the outgoing qualified custodian stating that:

a. The outgoing qualified custodian is eligible to act as a qualified custodian in this state;

b. The outgoing qualified custodian is the qualified custodian designated by the testator in the electronic will or appointed to act in such capacity under this paragraph;

c. The electronic will has at all times been in the custody of one or more qualified custodians in compliance with this section since the time the electronic record was created, and identifying such qualified custodians; and

d. To the best of the outgoing qualified custodian's knowledge, the electronic will has not been altered since the time it was created.

For purposes of making this affidavit, the outgoing qualified custodian may rely conclusively on any affidavits delivered by a predecessor qualified custodian in connection with its designation or appointment as qualified custodian; however, all such affidavits must be delivered to the successor qualified custodian.

(5) Upon the request of the testator which is made in a

writing signed with the formalities required for the execution of a will in this state, a qualified custodian who at any time maintains custody of the electronic record of the testator's electronic will must cease serving in such capacity and must deliver to a successor qualified custodian designated in writing by the testator the electronic record containing the electronic will and the affidavit required in subparagraph (4)(b)3.

(6) A qualified custodian may not succeed to office as a qualified custodian of an electronic will unless he or she agrees in writing to serve in such capacity.

(7) If a qualified custodian is an entity, an affidavit, or an appearance by the testator in the presence of a duly authorized officer or agent of such entity, acting in his or her own capacity as such, shall constitute an affidavit, or an appearance by the testator in the presence of the qualified custodian.

(8) A qualified custodian must provide a paper copy of an electronic will and the electronic record containing the electronic will to the testator immediately upon request. For the first request, the testator may not be charged a fee for being provided with these documents.

(9) The qualified custodian shall be liable for any damages caused by the negligent loss or destruction of the electronic record, including the electronic will, while it is in the possession of the qualified custodian. A qualified custodian may not limit liability for such damages.

(10) A qualified custodian may not terminate or suspend access to, or downloads of, the electronic will by the testator, provided that a qualified custodian may charge a fee for

providing such access and downloads.

(11) Upon receiving information that the testator is dead, a qualified custodian must deposit the electronic will with the court in accordance with s. 732.901. A qualified custodian may not charge a fee for depositing the electronic will with the clerk, provided the affidavit is made in accordance with s. 732.503, or furnishing in writing any information requested by a court under paragraph (2)(b).

(12) Except as provided in this act, a qualified custodian must at all times keep information provided by the testator confidential and may not disclose such information to any third party.

(13) A contractual venue provision between a qualified custodian and a testator is not valid or enforceable to the extent that it requires a specific jurisdiction or venue for any proceeding relating to the probate of an estate or the contest of a will.

Section 36. Section 732.525, Florida Statutes, is created to read:

732.525 Liability coverage; receivership of qualified custodians.—

(1) A qualified custodian shall:

(a) Post and maintain a blanket surety bond of at least $250,000 to secure the faithful performance of all duties and obligations required under this part. The bond must be made payable to the Governor and his or her successors in office for the benefit of all persons who store electronic records with a qualified custodian and their estates, beneficiaries, successors, and heirs, and be conditioned on the faithful

performance of all duties and obligations under this chapter. The terms of the bond must cover the acts or omissions of the qualified custodian and each agent or employee of the qualified custodian; or

(b) Maintain a liability insurance policy that covers any losses sustained by any person who stores electronic records with a qualified custodian and their estates, beneficiaries, successors, and heirs which are caused by errors or omissions by the qualified custodian and each agent or employee of the qualified custodian. The policy must cover losses of at least $250,000 in the aggregate.

(2) The Attorney General may petition a court of competent jurisdiction for the appointment of a receiver to manage the electronic records of a qualified custodian for proper delivery and safekeeping if any of the following conditions exist:

(a) The qualified custodian is ceasing operation;

(b) The qualified custodian intends to close the facility and adequate arrangements have not been made for proper delivery of the electronic records in accordance with this part;

(c) The Attorney General determines that conditions exist which present a danger that electronic records will be lost or misappropriated; or

(d) The qualified custodian fails to maintain and post a surety bond or maintain insurance as required in this section.

Section 37. Section 732.526, Florida Statutes, is created to read:

732.526 Probate.—

(1) An electronic will that is filed electronically with the clerk of the court through the Florida Courts E-Filing

Portal is deemed to have been deposited with the clerk as an original of the electronic will.

(2) A paper copy of an electronic will which is certified by a notary public to be a true and correct copy of the electronic will may be offered for and admitted to probate and shall constitute an original of the electronic will.

Section 38. Subsection (1) of section 733.201, Florida Statutes, is amended to read:

733.201 Proof of wills.—

(1) Self-proved wills executed in accordance with this code may be admitted to probate without further proof. However, a purportedly self-proved electronic will may be admitted to probate only in the manners prescribed in subsections (2) and (3) if the execution of such electronic will, or the acknowledgment by the testator and the affidavits of the witnesses, involves an online notarization in which there was a substantial failure to comply with the procedures set forth in s. 117.265.

Section 39. Section 740.10, Florida Statutes, is created to read:

740.10 Relation to wills.—No act taken pursuant to this chapter is valid to affect the obligation of a person to deposit a will of a decedent as required under s. 732.901.

Section 40. Except as otherwise expressly provided in this act, and except for this section, which shall take effect upon becoming a law, this act shall take effect January 1, 2020.

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto
Committee on Rules

Subject: Committee Agenda Request

Date: April 11, 2019

I respectfully request that **Senate Bill #548**, relating to **Electronic Legal Documents**, be placed on the:

☒ committee agenda at your earliest possible convenience.

☐ next committee agenda.

Senator Jeff Brandes
Florida Senate, District 24

THE FLORIDA SENATE

APPEARANCE RECORD

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

W

4.17.19
Meeting Date

548
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Notaries

Name Trey Goldman

Job Title Legislative Counsel

Address 200 S. Manor St
Street

TLH FL 32301
City *State* *Zip*

Phone 850/224-1400

Email treyg@floridarealtors.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Realtors

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

548
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Electronic legal documents

Name Jennifer Martin

Job Title Sr. Dir of Governmental Affairs

Address 3692 Coolidge Ct
Street

TLH FL 32311
City *State* *Zip*

Phone 850-558-1050

Email jennifer.martin@fscu.coop

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Credit Union Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

W

4/17
Meeting Date

548
Bill Number (if applicable)

Topic Electronic Legal Documents

Amendment Barcode (if applicable)

Name Greg Black

Job Title Attorney

Address 215 S. Monroe St., Ste 681
Street

Phone 850 521 1709

Tlh FL 32301
City *State* *Zip*

Email gblack@gunster.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Notarize, Inc.

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

548
Bill Number (if applicable)

Topic Electronic Legal Documents

Amendment Barcode (if applicable)

Name Kenneth Pratt

Job Title Senior VP of Governmental Affairs

Address 1001 Thomasville Rd Ste 201 Phone 850-509-8020
Street

Tallahassee FL 32301 Email kpratt@floridabankers.com
City *State* *Zip*

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Bankers Association

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

W

4/17/19
Meeting Date

548
Bill Number (if applicable)

Topic Electronic Legal Documents

Amendment Barcode (if applicable)

Name Mat Forrest

Job Title

Address 201 E. Park Ave.
Street

Phone 850-577-0444

Tallahassee FL 32301
City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Willing.com

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

W

4/17/19
Meeting Date

548
Bill Number (if applicable)

Topic ELECTRONIC LEGAL DOCUMENTS

Amendment Barcode (if applicable)

Name JEFF SHARKEY

Job Title CEO, CAO

Address 106 E College Ave # 640
Street

Phone 850 224 1660

TLH FL 32301
City *State* *Zip*

Email JeffSharkey@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing QUICKEN LOANS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

April 17, 2019
Meeting Date

SB 548
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Jogerst

Job Title _____

Address PO Box 11094
Street

Tallahassee FL 32309
City *State* *Zip*

Phone 850.222.0191

Email brian@bhandassociates.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Academy of Florida Elder Law Attorneys and Elder Law Section/Florida Bar

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

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 342
INTRODUCER:	Senator Lee
SUBJECT:	Public Records/Voters and Voter Registration
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Mitchell	Roberts	EE	**Favorable**
2.	Hackett	McVaney	GO	**Favorable**
3.	Mitchell	Phelps	RC	**Favorable**

I. Summary:

SB 342 amends s. 97.0585(1), F.S., which contains several public records exemptions for voter registration information.

Current law holds confidential and exempt all declinations to register to vote, information relating to the location a person registered to vote, and the person's social security number, driver's license number, and Florida identification number. The bill continues the confidential and exempt status of this information if the information was obtained for the purpose of voter registration.

The bill makes all information concerning 16- and 17-year-olds who preregister to vote confidential and exempt from public inspection and copying requirements until they reach the age of 18. The bill provides for repeal of the exemption on October 2, 2024, unless reviewed and saved from repeal by the Legislature. It also 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.

This bill takes effect July 1, 2019.

II. Present Situation:

Public Records Law

The State Constitution provides that the public has the right to inspect or copy records made or received in connection with official governmental business.[1] This 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]

In addition to the State Constitution, the Florida Statutes provide that the public may access legislative and executive branch records.[3] Chapter 119, F.S., constitutes the main body of public records laws, and is known as the Public Records Act.[4] The Public Records Act states that it is the policy of this state 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]

According to the Public Records Act, a public record includes virtually any document or recording, regardless of its physical form or how it may be transmitted.[6] The Florida Supreme Court has interpreted public records as being "any material prepared in connection with official agency business which is intended to perpetuate, communicate or formalize knowledge of some type."[7] A violation of the Public Records Act may result in civil or criminal liability.[8]

The Legislature may create an exemption to public records requirements.[9] An exemption must pass by a two-thirds vote of the House and the Senate.[10] In addition, an exemption must explicitly lay out the public necessity justifying the exemption, and the exemption must be no broader than necessary to accomplish the stated purpose of the exemption.[11] A statutory

[1] FLA. CONST., Art. I, s. 24(a).
[2] *Id*.
[3] The Public Records Act does not apply to legislative or judicial records. *Locke v. Hawkes*, 595 So. 2d 32 (Fla. 1992). Also, see *Times Pub. Co. v. Ake*, 660 So. 2d 255 (Fla. 1995). The Legislature's records are public pursuant to s. 11.0431, F.S. Public records exemptions for the Legislatures are primarily located in s. 11.0431(2)-(3), F.S.
[4] Public records laws are found throughout the Florida Statutes.
[5] Section 119.01(1), F.S.
[6] Section 119.011(12), F.S., defines "public record" as "all documents, papers, letters, maps, books, tapes, photographs, films, sound recordings, data processing software, or other material, regardless of the physical form, characteristics, or means of transmission, made or received pursuant to law or ordinance or in connection with the transaction of official business by any agency." Section 119.011(2), F.S., defines "agency" 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."
[7] *Shevin v. Byron, Harless, Schaffer, Reid and Assoc. Inc*., 379 So. 2d 633, 640 (Fla. 1980).
[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*.
[11] *Id*.

exemption which does not meet these criteria may be unconstitutional and may not be judicially saved.[12]

When creating a public records exemption, the Legislature may provide that a record is "confidential and exempt" or "exempt."[13] Records designated as "confidential and exempt" may be released by the records custodian only under the circumstances defined by the Legislature. Records designated as "exempt" may be released at the discretion of the records custodian.[14]

Open Government Sunset Review Act

In addition to the constitutional requirements relating to the enactment of a public records exemption, the Legislature may subject the new or broadened exemption to the Open Government Sunset Review Act (OGSRA).

The OGSRA prescribes a legislative review process for newly created or substantially amended public records.[15] The OGSRA provides that an exemption automatically repeals 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.[16] In practice, many exemptions are continued by repealing the sunset date rather than reenacting the exemption.

If the Legislature expands an exemption, then a public necessity statement and a two-thirds vote for passage are required.[17] If the exemption is reenacted without substantive changes or if the exemption is narrowed, then a public necessity statement and a two-thirds vote for passage are not required. If the Legislature allows an exemption to sunset, the previously exempt records will remain exempt unless otherwise provided for by law.[18]

---

[12] *Halifax Hosp. Medical Center v. New-Journal Corp.*, 724 So.2d 567 (Fla. 1999). In *Halifax Hospital*, the Florida Supreme Court found 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. *Id*. at 570. The Florida Supreme Court also declined to narrow the exemption in order to save it. *Id.* In *Baker County Press, Inc. v. Baker County Medical Services, Inc.*, 870 So. 2d 189 (Fla. 1st DCA 2004), the court found that the intent of a statute was to create a public records exemption. The *Baker County Press* court found that since the law did not contain a public necessity statement, it was unconstitutional. *Id*. at 196.

[13] If the Legislature designates a record as confidential, such record may not be released to anyone other than the persons or entities specifically designated in the statutory exemption. *WFTV, Inc. v. The School Board of Seminole*, 874 So.2d 48 (Fla. 5th DCA 2004).

[14] A record classified as exempt from public disclosure may be disclosed under certain circumstances. *Williams v. City of Minneola*, 575 So.2d 683 (Fla. 5th DCA 1991).

[15] Section 119.15, F.S. According to s. 119.15(4)(b), F.S., a substantially amended exemption is one that is expanded to include more information or to include meetings. The OGSRA does not apply to an exemption that is required by federal law or that applies solely to the Legislature or the State Court System pursuant to s. 119.15(2), F.S. The OGSRA process is currently being followed; however, the Legislature is not required to continue to do so. The Florida Supreme Court has found that one legislature cannot bind a future legislature. *Scott v. Williams*, 107 So. 3d 379 (Fla. 2013).

[16] Section 119.15(3), F.S.

[17] FLA. CONST., Art. I, s. 24(c).

[18] Section 119.15(7), F.S.

Public Record Exemption for Voter Registration Information

Current law provides a public record exemption for certain information held by an agency[19] for purposes of voter registration.[20] Specifically, the following information is confidential and exempt from public record requirements:

- All declinations to register to vote made pursuant to ss. 97.057 and 97.058, F.S.
- Information relating to the place where a person registered to vote or where a person updated a voter registration.
- The social security number, driver's license number, and Florida identification number of a voter registration applicant or voter.

In addition, the signature of a voter registration applicant or a voter is exempt from copying requirements.[21]

Voter Pre-Registration for Minors

An individual may register to vote in accordance with Florida law if he or she is at least 18 years old, a United States citizen, a legal resident of Florida, and a legal resident of the county in which he or she seeks to register.[22] However, individuals who are otherwise qualified to register to vote but are not yet 18 may pre-register to vote on or after the individual's 16th birthday.[23]

Publication of Voter Information

Since 1998 when the State first began compiling all 67 counties' "official" voter registration lists into a unified statewide voter registration database,[24] anyone has been able to request an electronic copy of every Florida voters' non-exempt information.[25] The rise of the Internet has enabled publication of this information for literally the entire world to see at little to no cost, thereby giving rise to serious personal privacy issues.

[19] Section 119.011(2), F.S., defines "agency" to mean "any state, county, district, authority, or municipal officer, department, division, board, bureau, commission or other separate unit of government created or established by law including, for the purposes of this chapter, the Commission on Ethics, the Public Service Commission, and the Office of Public Counsel, and any other public or private agency, person, partnership, corporation, or business entity acting on behalf of any public agency."
[20] Section 97.0585, F.S.
[21] Section 97.0585(2), F.S.
[22] Section 97.041(a)(a), F.S.
[23] Section 97.041(1)(b), F.S.
[24] Ch. 97-13, ss. 39, 56, LAWS OF FLA. (effective January 1, 1998).
[25] In 2001, the Legislature sought to adopt a much more restrictive public records scheme similar to the one proposed in the original bill, in connection with a then-newly-authorized statewide voter registration database. Ch. 2001-40, s. 70-72, LAWS OF FLA. (codified at s. 98.0979, F.S. (2002)). Three years later, a Leon County circuit court judge struck the statute down void ab initio on procedural grounds, finding that it was adopted in a general elections bill without the requisite statement of public necessity in violation of Art. I, s. 24 of the Florida Constitution —the effect being that the statute never existed or was never on the books. *See Cable News Network, et al. v. Florida Dep't of State*, Case No. 2004 CA 001259 (2nd Jud. Cir., July 1, 2004) (Final Declaratory Summary Judgment). The Legislature repealed the statute the following year. See, Ch. 2005-278, s. 55, LAWS OF FLA.; Ch. 2005-277, s. 77, LAWS OF FLA.

At least one web site[26] that contains commercial or sponsored links, provides extensive details about every registered and pre-registered voter in the State — including the voter's name, date of birth, residence address, mailing address, voter ID number, when the person registered to vote, what political party the person is affiliated with, the voter's telephone number, e-mail address, race, precinct number, as well as other information about district races in which the person is eligible to vote. This information can be accessed by voter's name, birth date, or address.

III. Effect of Proposed Changes:

The bill amends s. 97.0585(1), F.S., relating to several public records exemptions for voter registration information.

Primarily, the bill makes confidential and exempt from public inspection and copying requirements all information concerning 16- and 17-year-olds who have preregistered to vote until they reach the age of 18.

This exemption is subject to the Open Government Sunset Review Act and stands repealed on October 2, 2024, unless reviewed and saved from repeal by the Legislature.

The bill also places a qualification on the current and new exemptions from public records disclosure requirements that the information, to be confidential and exempt, must have been obtained for the purpose of voter registration.

The bill also provides a statement of public necessity as required by the State Constitution. The public necessity statement identifies that minors are more vulnerable members of society, and the widespread release of their information may be used to solicit, harass, stalk, or intimidate them. It states that the release of their information may reduce the likelihood of preregistration, which hinders the administration of a program designed to encourage greater participation in the democratic process.

This bill will take effect July 1, 2019.

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.

[26] *See* http://flvoters.com/ (last visited on March 19, 2019).

B. Public Records/Open Meetings Issues:

Vote Requirement

Section 24(c) of Article I of the State Constitution requires a two-thirds vote of the members present and voting for passage of a newly created or expanded public-records or public-meetings exemption. Therefore, this bill requires a two-thirds vote for passage.

Public Necessity Statement

Article I, s. 24(c), of the State Constitution requires a bill that creates or expands 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 exemptions.

This public necessity statement provides that disclosure of information held by an agency concerning preregistered voter registration applicants who are 16 or 17 years of age could be misused to solicit, harass, stalk, or intimidate such individuals, and without such protection, a minor may be less likely to take advantage of preregistering to vote.

Breadth of Exemption

Section 24(c) of Article I of the State Constitution requires a public record or public meeting exemption to be no broader than necessary to accomplish the stated purpose of the law.

SB 342 expands the public record exemption to include all information concerning preregistered voter registration applicants who are 16 or 17 years of age which is held by an agency and obtained for the purpose of voter registration.

Generally, the exemption does not appear to be in conflict with the constitutional requirement that the exemption be no broader than necessary to accomplish its purpose.

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 adversely impact commercial web sites and businesses that profit from sharing Florida voter registration data. However, since the bill only protects the information of minors before they become age-eligible to vote, the fiscal impact, if any, is unclear. Additionally, the private sector will be subject to the cost, to the extent imposed, associated with the agency making redactions in response to public records request.

C. Government Sector Impact:

The bill may have a fiscal impact on agencies relating to the training and redaction of the confidential and exempt information. However, the costs are likely minimal.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 97.0585 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 Lee

20-00625-19 2019342__

A bill to be entitled

An act relating to public records; amending s. 97.0585, F.S., and reenacting subsection (3), relating to a public records exemption for information regarding voters and voter registration; providing an exemption from public records requirements for information concerning preregistered voter registration applicants who are minors; providing for future legislative review and repeal; providing for retroactive application; providing a statement of public necessity; providing an effective date.

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

Section 1. Subsection (1) of section 97.0585, Florida Statutes, is amended, and subsection (3) of that section is reenacted, to read:

97.0585 Public records exemption; information regarding voters and voter registration; confidentiality.—

(1) The following information held by an agency, as defined in s. 119.011, and obtained for the purpose of voter registration is confidential and exempt from s. 119.07(1) and s. 24(a), Art. I of the State Constitution and may be used only for purposes of voter registration:

(a) All declinations to register to vote made pursuant to ss. 97.057 and 97.058.

(b) Information relating to the place where a person registered to vote or where a person updated a voter registration.

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

20-00625-19 2019342__

(c) The social security number, driver license number, and Florida identification number of a voter registration applicant or voter.

(d) All information concerning preregistered voter registration applicants who are 16 or 17 years of age. 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.

(3) This section applies to information held by an agency before, on, or after the effective date of this exemption.

Section 2. The Legislature finds that it is a public necessity that all information concerning preregistered voter registration applicants who are 16 or 17 years of age which is held by an agency and obtained for the purpose of voter registration be confidential and exempt from public records requirements and be used only for purposes related to voter registration. Information concerning preregistered 16-year-old and 17-year-old voter registration applicants could be misused if released. Minors are more vulnerable members of society, and the widespread release of information acquired through preregistration activities may be used to solicit, harass, stalk, or intimidate them. Without such protection, a minor may be less likely to take advantage of preregistering to vote, thus hindering the effective and efficient administration of a program that otherwise encourages greater participation in the democratic process.

Section 3. This act shall take effect July 1, 2019.

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

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 3, 2019

I respectfully request that **Senate Bill #342**, relating to Public Records/Voters and Voter Registration, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Tom Lee

Senator Tom Lee
Florida Senate, District 20

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/2019
Meeting Date

342
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Brian Pitts

Job Title Trustee

Address 1119 Newton Ave S.
Street

Phone 727/897-9291

St. Petersburg FL 33705
City *State* *Zip*

Email justice2jesus@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Justice-2-Jesus

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

342
Bill Number (if applicable)

Topic PUBLIC RECORDS

Amendment Barcode (if applicable)

Name DAVID RAMBA

Job Title ATTORNEY

Address 120 S. MONROE ST.
Street

TALLAHASSEE
City *State* *Zip*

Phone 850 727 7087

Email david@rambalaw.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FLORIDA SUPERVISORS OF ELECTIONS

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

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 742
INTRODUCER:	Senator Braynon
SUBJECT:	Designation of Eligible Telecommunications Carriers
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wiehle	Imhof	IT	**Favorable**
2.	Ponder	McVaney	GO	**Favorable**
3.	Wiehle	Phelps	RC	**Favorable**

I. Summary:

SB 742 amends s. 364.10, F.S., relating to Lifeline services, to authorize the Public Service Commission to designate a commercial mobile radio service provider as an eligible telecommunications carrier, upon petition, for the limited purpose of providing Lifeline service. The section conforms to federal Lifeline service guidelines by:

- Requiring a subscriber to present proof of continued eligibility upon request of the eligible telecommunications carrier or the Federal Communications Commission, or its designee; and
- Revising the income eligibility test to 135 from 150 percent or less of federal poverty income guidelines.

The bill removes obsolete language, and makes technical and conforming changes.

The bill amends s. 364.107, F.S., to clarify that the information made confidential and exempt under this section may be released to the Federal Communications Commission or its designee for purposes directly connected with eligibility for, verification related to, or auditing of a Lifeline Assistance Plan.

This bill takes effect upon becoming a law.

II. Present Situation:

In 1985, the Federal Communications Commission (FCC) created the Lifeline program to provide phone service discounts for qualifying low-income consumers as part of the federal Universal Service Program. The Lifeline program is one of four programs[1] supported by the

[1] The other three programs supported by the Universal Service Fund include: (i) the high cost support program (known also as the Connect America Fund) which allows eligible telecommunications carriers to receive support for providing discounted voice and broadband service to eligible customers; (ii) the schools and libraries support program, also known as the "E-Rate," provides telecommunication services, internet access and internal connections to eligible schools and libraries, and (iii) the

Universal Service Fund. The Lifeline program offers eligible low-income households a discount on either a wireline *or* wireless service to offset the costs of a telephone or broadband service plan. The funding is not provided directly to consumers. Instead, Lifeline providers – telecommunications companies known as "eligible telecommunications carriers" (ETCs) – receive monthly support disbursements from the Universal Service Fund, who in turn pass these discounts to the eligible consumers.

In accordance with s. 364.10, F.S., the Florida Public Service Commission (PSC) oversees the Lifeline program. The program also includes the involvement of the Department of Children and Families (DCF), Department of Education (DOE), the Office of Public Counsel (OPC), and other state agencies. In Florida, there are several ways to apply for Lifeline assistance. For example, consumers may apply directly with an ETC by providing documentation of participation in a qualifying program along with a Lifeline application.[2] Additionally, customers applying for Medicaid or Supplemental Nutrition Assistance Program (SNAP) through the DCF may use the electronic Lifeline Coordinated Enrollment Process to apply for Lifeline. Consumers may also enroll through the National School Lunch Program's free lunch program through the DOE, or via income eligibility with the OPC.

Section 214(e) of the Telecommunications Act (the Act) provides that only common carriers designated as ETCs may receive disbursements from the Universal Service Fund. The Act directs state commissions to designate common carriers[3] as ETCs.[4] However, where state commissions do not have jurisdiction over a type of common carrier, the FCC determines ETC eligibility.[5] The PSC provides ETC designation to wireline carriers, claiming jurisdiction under 47 CFR 54.201 and s. 364.10, F.S.[6] However, the PSC is without jurisdiction to determine ETC eligibility for wireless telecommunications providers - defined by federal statute as a "commercial mobile radio service"(CMRS)[7] providers - as s. 364.011, F.S., specifically exempts "wireless telecommunications" from the PSC's jurisdiction. Thus, CMRS providers submit petition the FCC for ETC designation in Florida

On April 27, 2016, the FCC released an Order (Lifeline Order) reforming many aspects of the federal Lifeline program, including revising eligibility criteria.[8] Prior to the Lifeline Order, to gain entry into the Lifeline program, a consumer was required to:

---

rural health care support program that allows rural health care providers to pay rates for telecommunications services similar to those of their urban counterparts, making telehealth services affordable, and also subsidizes internet access. https://www.fcc.gov/general/universal-service (last visited March 26, 2019).

[2] http://www.psc.state.fl.us/Files/PDF/Publications/Reports/Telecommunication/LifelineReport/2018.pdf (last visited March 26, 2019).

[3] The term "common carrier" or "carrier" means any person engaged as a common carrier for hire, in interstate or foreign communication by wire or radio or interstate or foreign radio transmission of energy, except where reference is made to common carriers not subject to this chapter; but a person engaged in radio broadcasting shall not, insofar as such person is so engaged, be deemed a common carrier. 47 C.F.R. § 153(11).

[4] 47 C.F.R. § 214(e)(1),(2).

[5] 47 C.F.R. § 214(e).

[6] *See* Order No. PSC-12-0500-PAA-TP, issued on September 28, 2012, *In re: Application for designation as an Eligible Telecommunications Carrier (ETC) pursuant to Section 214(e)(2) of the Communications Act of 1934 for the limited purpose of receiving federal Universal Service Low Income support for providing Lifeline service to qualified households in its non-rural service territory, by Cox Florida Telecom, LP.*

[7] 47.C.F.R. § 20.3 (2018).

[8] *In the Matter of Lifeline & Link Up Reform & Modernization*, 31 F.C.C. Rcd. 3962, 4021 (2016).

- Have a household at or below 135% of the Federal Poverty Guidelines; or
- Receive benefits from: Medicaid, SNAP, Supplemental Security Income; Federal Public Housing Assistance (Section 8); Low-Income Home Energy Assistance Program; National School Lunch Program's free lunch program; Temporary Assistance for Needy Families; or
- Meet additional eligibility criteria established by a state for its residents, provided that such state-specific criteria are based solely on income or other factors related to income.[9]

The Lifeline Order maintained the first method of qualification without revision – allowing consumers to qualify by demonstrating income of less than 135 percent of the federal poverty guidelines.[10] Currently, Florida law specifies that the income eligibility test is "150% or less of the federal poverty income guidelines for Lifeline customers."[11] The Lifeline Order removed the Low-Income Home Energy Assistance Program, National School Lunch Program's free lunch program, and Temporary Assistance for Needy Families from default federal assistance eligibility.[12] The Lifeline Order also removed state-specific eligibility.[13] The FCC determined that permitting states to develop tailored rules complicated the administration of Lifeline at a federal level.[14] Thus, the Lifeline Order removed states' flexibility to develop their own enrollment and eligibility processes for Lifeline.

Section 364.107, F.S., provides that "[p]ersonal identifying information of a participant in a telecommunications carrier's Lifeline Assistance Plan under s. 364.10, F.S., held by the Public Service Commission is confidential and exempt from s. 119.07(1), F.S., and s. 24(a), Art. I of the State Constitution." This information may be released to the applicable telecommunications carrier for purposes directly connected with eligibility for, verification related to, or auditing of a Lifeline Assistance Plan.

III. Effect of Proposed Changes:

Section 1 amends s. 364.10, F.S., on Lifeline services, to authorize the PSC to designate a CMRS provider as an ETC, upon petition, for the limited purpose of providing Lifeline service.

The bill further revises this section to conform to federal Lifeline program requirements by:
- Requiring a subscriber to present proof of continued eligibility upon request of the eligible telecommunications carrier or the FCC, or its designee;
- Revising the income eligibility test to 135 percent; and
- Removing the Department of Education as one of the listed entities that develops procedures to promote Lifeline participation.

The bill removes obsolete language, and makes technical and conforming changes.

[9] 47 C.F.R § 54.409(a) (2016).
[10] *In the Matter of Lifeline & Link Up Reform & Modernization,* 31 F.C.C. Rcd. 3962, 4031 (2016).
[11] Section 364.10(2)(a), F.S.
[12] *In the Matter of Lifeline & Link Up Reform & Modernization,* 31 F.C.C. Rcd. at 4029, 30.
[13] *Id.* at 4038.
[14] *Id.*

Section 2 amends s. 364.107, F.S., relating to public records exemptions, to clarify that the FCC or its designee may receive confidential and exempt information for purposes directly connected with eligibility for, verification related to, or auditing of a Lifeline Assistance Plan.

Section 3 provides that the bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Not applicable. The bill does not require counties or municipalities to take action requiring the expenditure of funds, reduce the authority that counties or municipalities have to raise revenue in the aggregate, nor reduce the percentage of state tax shared with counties or 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:

CMRS providers and Lifeline customers may benefit from the PSC having jurisdiction over CMRS ETC. The process before the PSC, as opposed to the FCC, may be more efficient and streamlined; thereby possibly allowing Lifeline customers to receive service and CMRS providers to receive subsidies more quickly.

C. Government Sector Impact:

The PSC may incur costs associated with processing applications and determining ETC eligibility for CRMS providers..

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 364.10 and 364.107.

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 Braynon

35-00780-19 2019742__

A bill to be entitled

An act relating to designation of eligible telecommunications carriers; amending s. 364.10, F.S.; including certain commercial mobile radio service providers within the definition of the term "eligible telecommunications carrier"; authorizing the Public Service Commission to designate any commercial mobile radio service provider as an eligible telecommunications carrier for the limited purpose of providing Lifeline service; deleting a provision requiring carriers to allow subscribers to demonstrate continued eligibility for Lifeline service under certain conditions; requiring subscribers to furnish proof of eligibility upon request from the carrier or the Federal Communications Commission or its designee; revising the carriers that may provide Lifeline service; revising Lifeline service eligibility; deleting obsolete provisions; revising the entities with which the commission may exchange certain information; amending s. 364.107, F.S.; revising the entities to which certain information relating to Lifeline service eligibility may be released; providing an effective date.

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

Section 1. Section 364.10, Florida Statutes, is amended to read:

364.10 Lifeline service.—

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

35-00780-19 2019742__

(1)(a) An eligible telecommunications carrier must ~~shall~~ provide a Lifeline Assistance Plan to qualified residential subscribers, as defined in the eligible telecommunications carrier's published schedules. For the purposes of this section, the term "eligible telecommunications carrier" means a telecommunications company, as defined by s. 364.02, which is designated as an eligible telecommunications carrier by the commission pursuant to 47 C.F.R. s. 54.201. Notwithstanding the provision of s. 364.011 which exempts certain commercial mobile radio service providers from commission oversight, the term "eligible telecommunications carrier" includes any commercial mobile radio service provider designated by the commission pursuant to 47 C.F.R. s. 54.201, and the commission, upon petition, may make such a designation only for the purpose of providing Lifeline service.

(b) An eligible telecommunications carrier must ~~shall~~ offer a consumer who applies for or receives Lifeline service the option of blocking all toll calls or, if technically capable, placing a limit on the number of toll calls a consumer can make. The eligible telecommunications carrier may not charge the consumer an administrative charge or other additional fee for blocking the service.

(c) An eligible telecommunications carrier may not collect a service deposit in order to initiate Lifeline service if the qualifying low-income consumer voluntarily elects toll blocking or toll limitation. If the qualifying low-income consumer elects not to place toll blocking on the line, an eligible telecommunications carrier may charge a service deposit.

(d) An eligible telecommunications carrier may not charge

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

Lifeline subscribers a monthly number-portability charge.

(e)1. An eligible telecommunications carrier must notify a Lifeline subscriber of impending termination of Lifeline service if the company has a reasonable basis for believing that the subscriber no longer qualifies for the service. Notification of pending termination must be in the form of a letter that is separate from the subscriber's bill.

2. ~~An eligible telecommunications carrier shall allow a subscriber 60 days following the date of the pending termination letter to demonstrate continued eligibility.~~ The subscriber must present proof of continued eligibility upon request of the eligible telecommunications carrier or the Federal Communications Commission or its designee. An eligible telecommunications carrier may transfer a subscriber off of Lifeline service, pursuant to its tariff, if the subscriber fails to demonstrate continued eligibility.

3. The commission shall establish procedures for such notification and termination.

(f) An eligible telecommunications carrier must ~~shall~~ timely credit a consumer's bill with the Lifeline Assistance credit as soon as practicable, but no later than 60 days following receipt of notice of eligibility from the Office of Public Counsel or proof of eligibility from the consumer.

(2)(a) ~~Each local exchange telecommunications company that has more than 1 million access lines and that is designated as~~ An eligible telecommunications carrier, including ~~shall, and~~ any commercial mobile radio service provider designated as an eligible telecommunications carrier pursuant to 47 U.S.C. s. 214(e), may~~, upon filing a notice of election to do so with the~~

~~commission,~~ provide Lifeline service to any otherwise eligible customer or potential customer who meets an income eligibility test at 135 ~~150~~ percent or less of the federal poverty income guidelines for Lifeline customers. ~~Such a test for eligibility must augment, rather than replace, the eligibility standards established by federal law and based on participation in certain low-income assistance programs. Each intrastate interexchange telecommunications company shall file or publish a schedule providing at a minimum the intrastate interexchange telecommunications company's current Lifeline benefits and exemptions to Lifeline customers who meet the income eligibility test set forth in this subsection.~~ The Office of Public Counsel shall certify and maintain claims submitted by a customer for eligibility under the income test authorized by this subsection.

(b) Each eligible telecommunications carrier subject to this subsection must ~~shall~~ provide to each state and federal agency providing benefits to persons eligible for Lifeline service applications, brochures, pamphlets, or other materials that inform the persons of their eligibility for Lifeline, and each state agency providing the benefits shall furnish the materials to affected persons at the time they apply for benefits.

(c) An eligible telecommunications carrier may not discontinue basic local telecommunications service to a subscriber who receives Lifeline service because of nonpayment by the subscriber of charges for nonbasic services billed by the telecommunications company, including, but not limited to, long-distance service. A subscriber who receives Lifeline service must ~~shall~~ pay all applicable basic local telecommunications

service fees, including the subscriber line charge, E-911, telephone relay system charges, and applicable state and federal taxes.

(d) An eligible telecommunications carrier may not refuse to connect, reconnect, or provide Lifeline service because of unpaid toll charges or nonbasic charges other than basic local telecommunications service.

(e) An eligible telecommunications carrier may require that payment arrangements be made for outstanding debt associated with basic local telecommunications service, subscriber line charges, E-911, telephone relay system charges, and applicable state and federal taxes.

(f) An eligible telecommunications carrier may block a Lifeline service subscriber's access to all long-distance service, except for toll-free numbers, and may block the ability to accept collect calls if ~~when~~ the subscriber owes an outstanding amount for long-distance service or amounts resulting from collect calls. However, the eligible telecommunications carrier may not impose a charge for blocking long-distance service. The eligible telecommunications carrier shall remove the block at the request of the subscriber without additional cost to the subscriber upon payment of the outstanding amount. An eligible telecommunications carrier may charge a service deposit before removing the block.

(g)1. ~~By December 31, 2010,~~ Each state agency that provides benefits to persons eligible for Lifeline service shall undertake, in cooperation with the Department of Children and Families, ~~the Department of Education,~~ the commission, the Office of Public Counsel, and telecommunications companies

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

designated eligible telecommunications carriers providing Lifeline services, the development of procedures to promote Lifeline participation. The department ~~departments~~, the commission, and the Office of Public Counsel may exchange sufficient information with the appropriate eligible telecommunications carriers or the Federal Communications Commission or its designee and any commercial mobile radio service provider electing to provide Lifeline service under paragraph (a), such as a person's name, date of birth, service address, and telephone number, so that eligible customers ~~the carriers~~ can be enrolled ~~identify and enroll an eligible person~~ in the Lifeline and Link-Up programs. The information remains confidential and exempt pursuant to s. 364.107 and may only be used for purposes of determining eligibility and enrollment in the Lifeline and Link-Up programs.

2. If any state agency determines that a person is eligible for Lifeline services, the agency must ~~shall~~ immediately forward the information to the commission to ensure that the person is automatically enrolled in the program with the appropriate eligible telecommunications carrier. The state agency shall include an option for an eligible customer to choose not to subscribe to the Lifeline service. The Public Service Commission and the Department of Children and Families shall~~, no later than December 31, 2007,~~ adopt rules creating procedures to automatically enroll eligible customers in Lifeline service.

3. ~~By December 31, 2010,~~ The commission, the Department of Children and Families, the Office of Public Counsel, and each eligible telecommunications carrier offering Lifeline and Link-Up services shall convene a Lifeline Workgroup to discuss how

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

the eligible subscriber information in subparagraph 1. will be shared, the obligations of each party with respect to the use of that information, and the procedures to be implemented to increase enrollment and verify eligibility in these programs.

(h) The commission shall report to the Governor, the President of the Senate, and the Speaker of the House of Representatives by December 31 each year on the number of customers who are subscribing to Lifeline service and the effectiveness of any procedures to promote participation.

(i) The commission may undertake appropriate measures to inform low-income consumers of the availability of the Lifeline and Link-Up programs.

(j) The commission shall adopt rules to administer this section.

Section 2. Subsection (2) of section 364.107, Florida Statutes, is amended to read:

364.107 Public records exemption; Lifeline Assistance Plan participants.—

(2) Information made confidential and exempt under subsection (1) may be released to the applicable telecommunications carrier <u>or to the Federal Communications Commission or its designee</u> for purposes directly connected with eligibility for, verification related to, or auditing of a Lifeline Assistance Plan.

Section 3. This act shall take effect upon becoming a law.

CODING: Words ~~stricken~~ are deletions; words <u>underlined</u> are additions.

The Florida Senate

Committee Agenda Request

To: Senator Lizbeth Benacquisto, Chair
Committee on Rules

Subject: Committee Agenda Request

Date: April 3, 2019

I respectfully request that **Senate Bill # 742**, relating to ***Designation of Eligible Telecommunications Carriers; Including certain commercial mobile radio service providers within the definition of the term "eligible telecommunications carrier"; authorizing the Public Service Commission to designate any commercial mobile radio service provider as an eligible telecommunications carrier for the limited purpose of providing Lifeline service; deleting a provision requiring carriers to allow subscribers to demonstrate continued eligibility for Lifeline service under certain conditions, etc.***, be placed on the:

☐ committee agenda at your earliest possible convenience.

☒ next committee agenda.

Senator Oscar Braynon II
Florida Senate, District 35

CC.

John B. Phelps
Cynthia Futch

File signed original with committee office

S-020 (03/2004)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

742
Bill Number (if applicable)

Topic Designation of Eligible Telecommunications Carriers

n/a
Amendment Barcode (if applicable)

Name Joanna Bonfanti (Bon-fawn-tea)

Job Title Government Affairs Consultant

Address 215 S. Monroe St., Suite 601
Street

Phone 850-443-1327

Tallahassee, FL 32301
City *State* *Zip*

Email jbonfanti@gunster.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing @ Link Wireless

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

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/CS/SB 862
INTRODUCER:	Rules Committee; Judiciary Committee; Banking and Insurance Committee; and Senator Stargel
SUBJECT:	Lessor Liability Under Special Mobile Equipment Leases
DATE:	April 18, 2019 REVISED:

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Knudson	Knudson	BI	**Fav/CS**
2.	Tulloch	Cibula	JU	**Fav/CS**
3.	Knudson	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/CS/SB 862 provides that the lessor of special mobile equipment that causes injury, death, or damage while leased under a lease agreement is not liable for the acts of the lessee or lessee's agent or employee if the lease agreement requires documented proof of insurance coverage with limits of at least $250,000/$500,000 for bodily injury liability and $100,000 for property damage liability, or at least $750,000 for combined property damage liability and bodily injury liability. The bill provides that the failure of the lessee to maintain insurance coverage required by the lease agreement does not impose liability on the lessor.

Special mobile equipment are vehicles not designed or used primarily to transport persons or property and that are only incidentally operated or moved over a highway. Examples include ditchdigging apparatus, well-boring apparatus, and road construction and maintenance machinery, draglines, self-propelled cranes and earthmoving equipment.

The bill responds to the Florida Supreme Court's decision in *Newton v. Caterpillar Financial Services Corporation,* which found that a loader is a dangerous instrumentality and thus subject to Florida's dangerous instrumentality doctrine.[1] The dangerous instrumentality doctrine imposes

[1] 253 So. 3d 1054 (Fla. 2018).

"strict vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another."[2]

II. Present Situation:

Dangerous Instrumentality Doctrine

Florida's dangerous instrumentality doctrine imposes "strict vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another."[3] Liability is applied because a motor vehicle is a potent source of danger that is dangerous in its operation.[4] "Vicarious liability is a form of indirect liability in which a party, who may not have been negligent, can be held liable for the acts of another party."[5] Courts apply the doctrine not only to motor vehicles primarily designed to be used on the roads and highways of the state, but also to certain dangerous vehicles that are frequently operated near the public, such as farm tractors and tow motors.[6]

The Legislature has prohibited application of the dangerous instrumentality doctrine to lessors of motor vehicles designed and required to be licensed to be used on the highways of this state if the lease agreement requires the lessee to obtain bodily injury liability insurance coverage with limits of at least $100,000 per person injured and $300,000 per accident.[7] State law also prohibits application of the doctrine to owners of vessels (boats) unless the owner is the operator or present in the vessel,[8] and powered shopping carts provided gratis for use on the premises of the owner.[9] Federal law preempts application of the dangerous instrumentality doctrine to rental car companies that rent or lease a motor vehicle in compliance with state financial responsibility laws.[10] Federal preemption only applies to motor vehicles that are manufactured primarily for use on public streets, roads, and highways.[11]

Newton v. Caterpillar Financial Services Corporation

In *Newton v. Caterpillar Financial Services Corporation*, the Florida Supreme Court held that loaders are dangerous instrumentalities.[12] A loader is a mobile, motorized piece of equipment with a large shovel that is used to transfer material to different areas of a job site.

According to the Florida Supreme Court's recitation of the facts in this case, Caterpillar Financial Services Corporation (Caterpillar) leased a loader to Charles Cram, an agent of C & J Bobcat and Hauling, LLC., tasked with clearing debris from a private lot in a residential area.[13]

---

[2] *Aurback v. Gallina*, 753 So. 2d 60, 62 (Fla. 2000).
[3] *Aurback*, 753 So. 2d at 62.
[4] *Rippy v. Shepard*, 80 So. 3d 305, 306-307 (Fla 2012) (quoting *Southern Cotton Oil Co. v. Anderson*, 86 So. 629, 631 (Fla. 1920)).
[5] *Pembroke Lakes Mall Ltd. V. McGruder*, 137 So. 3d 418, 431 (Fla. 4th DCA 2014).
[6] See *Rippy*, 80 So. 3d at 307-08.
[7] Section 324.021(9), F.S.
[8] Section 327.32, F.S.
[9] Section 768.093, F.S.
[10] 49 USC s. 30106.
[11] 49 USC s. 30102(a)(7).
[12] *Newton v. Caterpillar Financial Services Corp.*, 253 So. 3d 1054 (Fla. 2018).
[13] *Newton*, 253 So. 3d at 1055.

Anthony Newton, the plaintiff in the lawsuit, is an independent contractor hired by C&J Bobcat and Hauling, LLC, to assist its agent, Charles Cram in accomplishing the job. The loader was used to dump debris into a box trailer for disposal.[14] At the direction of Mr. Cram, Mr. Newton stepped into the disposal box trailer to pack down the debris, but a tree stump was released from the loader Mr. Cram was operating into the disposal trailer and severed Mr. Newton's middle finger.[15] Anthony Newton sued Caterpillar, alleging Caterpillar is liable for the injuries he sustained due to Cram's negligent operation of the loader because the loader was a dangerous instrumentality.[16] The trial court found the loader was not a dangerous instrumentality and thus granted summary judgment for Caterpillar.[17] The Second District Court of Appeals (2nd DCA) affirmed the trial court decision.[18] Mr. Newton sought review of the Second District's decision, and the Supreme Court accepted jurisdiction and reversed the lower courts.[19]

The court stated that in applying the dangerous instrumentality doctrine, Florida courts consider the following factors:

- Whether the instrumentality is a motor vehicle;
- Whether the instrumentality is frequently operated near the public, through the injury need not occur on public property;
- The instrumentality's peculiar dangers relative to other objects found to be dangerous instrumentalities; and
- How extensively the Legislature has regulated the instrumentality.[20]

The Florida Supreme Court first determined that a loader is a motor vehicle by finding that they meet the definition of a motor vehicle set forth in Black's Law Dictionary, and by analogizing loaders to farm tractors and forklifts.[21] The court then determined loaders are frequently operated near the public, finding that they are often used in construction settings and on public rights of way.[22] The court found that loaders are similar to farm tractors, another dangerous instrumentality under Florida law, and that loaders are machines that, due to their size and speed, can be dangerous to others.[23] Based on the foregoing, the court determined that a loader is a dangerous instrumentality as a matter of law, quashed the lower court's decision, and directed that summary judgment be granted in favor of Anthony Newton.[24] Three justices dissented on the basis that the Florida Supreme Court did not have jurisdiction because the 2nd DCA, in determining a loader is not a dangerous instrumentality, had not issued a decision that conflicted with a decision of another DCA or the Florida Supreme Court.[25]

[14] *Id.*
[15] *Newton*, 253 So. 3d at 1056.
[16] *Id.*
[17] *Id.*
[18] *Newton v. Caterpillar Financial Services Corp.*, 209 So. 3d 612 (Fla. 2nd DCA 2016).
[19] *Newton*, 253 So. 3d at 1057.
[20] *Newton*, 253 So. 3d at 1056 (citing *Rippy*, 80 So. 3d at 308-309; *Meister v. Fisher*, 462 So. 2d 1071, 1072-73 (Fla. 1984)).
[21] *Newton*, 253 So. 3d at 1056-57.
[22] *Id.* at 1057.
[23] *Id.*
[24] *Id.* at 1058.
[25] *Id.* at 1058-64.

III. Effect of Proposed Changes:

Section 1 creates s. 627.749, F.S., which provides that the lessor of special mobile equipment that causes injury, death, or damage while leased under a lease agreement is not liable for the acts of the lessee or lessee's agent if the lease agreement requires documented proof of insurance coverage with limits of at least $250,000 per person and $500,000 per incident for bodily injury liability and $100,000 for property damage liability, or at least $750,000 for combined property damage liability and bodily injury liability. The bill provides that the failure of the lessee to maintain insurance coverage required by the lease agreement does not impose liability on the lessor.

The bill defines the terms "lease agreement," "lessee," "lessor," and "special mobile equipment." "Special mobile equipment" has the same meaning as provided in s. 316.003(75), F.S., which is:

> Any vehicle not designed or used primarily for the transportation of persons or property and only incidentally operated or moved over a highway, including, but not limited to, ditchdigging apparatus, well-boring apparatus, and road construction and maintenance machinery, such as asphalt spreaders, bituminous mixers, bucket loaders, tractors other than truck tractors, ditchers, leveling graders, finishing machines, motor graders, road rollers, scarifiers, earthmoving carryalls and scrapers, power shovels and draglines, and self-propelled cranes and earthmoving equipment. The term does not include house trailers, dump trucks, truck-mounted transit mixers, cranes or shovels, or other vehicles designed for the transportation of persons or property to which machinery has been attached.

The bill responds to the Florida Supreme Court's decision in *Newton v. Caterpillar Financial Services Corporation*, which found that a loader is a dangerous instrumentality and thus subject to Florida's dangerous instrumentality doctrine.[26] The dangerous instrumentality doctrine imposes "strict vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another."[27]

Section 2 provides that the bill is effective July 1, 2019.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

[26] 253 So. 3d 1054 (Fla. 2018).
[27] *Aurback*, 753 So. 2d at 62.

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, if the lessee maintains insurance, the insurer of the lessee of special mobile equipment will bear the risk of losses or injuries or damages caused by the negligent operation of special mobile equipment. To the extent that damages exceed the lessee's insurance coverage, those losses will likely be borne by the lessee or other person who negligently operates the equipment. Lessors who require a lessee to provide proof of insurance will not be responsible for the negligence of others.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 627.749 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/CS by Rules on April 17, 2019:

The CS increases the proof of insurance coverage that the lessor of special mobile equipment must obtain to not be liable for the acts of the lessee or lessee's agent or employee in connection with the rental or lease of special mobile equipment. The coverage must contain limits of at least $250,000/$500,000 for bodily injury liability and $100,000 for property damage liability, or at least $750,000 for combined property damage liability and bodily injury liability. Previously the bill required proof of coverage with limits of at least $100,000/$300,000 for bodily injury and $50,000 for property damage, or at least $500,000 for combined bodily injury and property damage liability.

CS/CS by Judiciary on April 8, 2019:
The CS removes reference to obtaining insurance, now providing that a lessee's failure to maintain insurance during the lease will not impose liability on the lessor.

CS by Banking and Insurance on March 19, 2019:
The CS removes provisions of the bill stating the lessor is only liable if the lessor is grossly negligent, committed criminal wrongdoing, or the injury occurred while the lessor's employee or contractor was operating, maintaining, or using the special mobile equipment.

B. Amendments:

None.

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

661740

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 768.092, Florida Statutes, is created to read:

768.092 Special mobile equipment; liability of lessors.—

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

(a) "Lease agreement" means a written agreement for the rental or lease of special mobile equipment, regardless of whether the lease is for a fixed term or with an option to

661740

purchase.

(b) "Lessee" means a person who rents or leases special mobile equipment from the lessor pursuant to a lease agreement.

(c) "Lessor" means a person who, pursuant to a lease agreement, offers or arranges for the rental or lease of special mobile equipment by the lessee.

(d) "Special mobile equipment" has the same meaning as in s. 316.003.

(2) The lessor of any special mobile equipment that causes injury, death, or damage while leased under a lease agreement is not liable for acts of the lessee or the lessee's agent or employee in connection with the rental or lease, including any bodily injury, death, or damage resulting from the operation, maintenance, or use of the special mobile equipment, if the lease agreement requires documented proof of insurance coverage containing limits of at least $250,000 per person and up to $500,000 per incident for bodily injury liability and up to $100,000 for property damage liability, or at least $750,000 for combined property damage liability and bodily injury liability. The failure of the lessee to have in effect the insurance coverage required by the lease agreement does not impose liability on the lessor.

Section 2. This act shall take effect July 1, 2019.

================ 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

661740

An act relating to lessor liability under special mobile equipment leases; creating s. 768.092, F.S.; defining terms; providing that a lessor of special mobile equipment that causes injury, death, or damage is not liable for certain acts of the lessee or lessee’s agent if the lease agreement requires documented proof of specified insurance coverage; providing that a lessee’s failure to have in effect the required coverage does not impose liability on the lessor; providing an effective date.

492136

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment to Amendment (661740) (with title amendment)

Delete lines 27 - 33
and insert:
naming the lessor as a named insured and containing limits of at least $250,000 per person and up to $500,000 per incident for bodily injury liability and up to $100,000 for property damage liability, or at least $750,000 for combined property damage liability and bodily injury liability. This subsection applies so long as the insurance coverage meeting these requirements is

492136

in effect. The insurance coverage meeting such requirements may be obtained by the lessor or lessee and may be provided by a lessor’s blanket policy.

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

And the title is amended as follows:

Delete lines 48 - 50

and insert:

providing applicability; providing that such coverage may be obtained by the lessor or lessee and may be provided by a lessor’s blanket policy; providing an effective date.

533376

LEGISLATIVE ACTION

Senate . House

. . . . .

The Committee on Rules (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete lines 41 - 43

and insert:

This subsection applies so long as the insurance coverage meeting such requirements is in effect. The insurance coverage meeting such requirements may be obtained by the lessor or lessee and may be provided by a lessor's blanket policy.

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

And the title is amended as follows:

533376

Delete lines 9 - 11

and insert:

providing applicability; providing that such coverage may be obtained by the lessor or lessee and may be provided by a lessor’s blanket policy; providing an effective date.

By the Committees on Judiciary; and Banking and Insurance; and Senator Stargel

590-04039-19 2019862c2

A bill to be entitled

An act relating to lessor liability under special mobile equipment leases; creating s. 768.092, F.S.; defining terms; providing that a lessor of special mobile equipment that causes injury, death, or damage is not liable for certain acts of the lessee or lessee's agent if the lease agreement requires documented proof of specified insurance coverage; providing that a lessee's failure to maintain the required coverage does not impose liability on the lessor; providing an effective date.

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

Section 1. Section 768.092, Florida Statutes, is created to read:

768.092 Special mobile equipment; liability of lessors.—

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

(a) "Lease agreement" means a written agreement for the rental or lease of special mobile equipment, regardless of whether the lease is for a fixed term or with an option to purchase.

(b) "Lessee" means a person who rents or leases special mobile equipment from the lessor pursuant to a lease agreement.

(c) "Lessor" means a person who, pursuant to a lease agreement, offers or arranges for the rental or lease of special mobile equipment by the lessee.

(d) "Special mobile equipment" has the same meaning as in s. 316.003.

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

590-04039-19 2019862c2

(2) The lessor of any special mobile equipment that causes injury, death, or damage while leased under a lease agreement is not liable for acts of the lessee or the lessee's agent or employee in connection with the rental or lease, including any bodily injury, death, or damage resulting from the operation, maintenance, or use of the special mobile equipment, if the lease agreement requires documented proof of insurance coverage containing limits of at least $100,000 per person and up to $300,000 per incident for bodily injury liability and up to $50,000 for property damage liability, or at least $500,000 for combined property damage liability and bodily injury liability. The failure of the lessee to maintain insurance coverage required by the lease agreement does not impose liability on the lessor.

Section 2. This act shall take effect July 1, 2019.

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

863
Bill Number (if applicable)

492136
Amendment Barcode (if applicable)

Topic Special Mobile Equipment

Name Leslie Krueger

Job Title

Address 218 S. Monroe Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-224-9403

Email LKrueger@lohenmilstein.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

SB 7

Bill Number (if applicable)

Topic MANATEE BOYS I

Amendment Barcode (if applicable)

Name GEORGE MEROS

49236

Job Title ATTY

Address Street

Phone

City State Zip

Email

Speaking: For [X] Against Information

Waive Speaking: In Support [X] Against

(The Chair will read this information into the record.)

Representing US CHAMBER

Appearing at request of Chair: Yes [X] No

Lobbyist registered with Legislature: [X] Yes No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

862
Bill Number (if applicable)

Topic DANGEROUS INSTRUMENTALITY

661948
Amendment Barcode (if applicable)

Name GEORGE MEROS

Job Title ATTY

Address 315 S. CALHOUN
Street

Phone

TALLA, FL
City State Zip

Email

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

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing US CHAMBER

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

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

Meeting Date

247
Bill Number (if applicable)

533376
Amendment Barcode (if applicable)

Topic RANKERDS I.

Name GEORGE MERDS

Job Title ATTY

Address _____ Phone _____
Street

_____ Email _____
City State Zip

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing HOG HS CHAMBER

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

04.17.19
Meeting Date

862
Bill Number (if applicable)

Topic Lessor Liability Under Special Mobile Equipment Leases

Amendment Barcode (if applicable)

Name ~~William Large~~ Mark Delegal

Job Title ~~President~~

Address 210 South Monroe Street
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850-222-0170

Email William@fljustice.org

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Justice Reform Institute

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/19/19
Meeting Date

862
Bill Number (if applicable)

Topic Dangerous Instrumentality

Amendment Barcode (if applicable)

Name Carolyn Johnson

Job Title Policy Director

Address 130 S Bronough St
Street

Phone 521-1200

Tallahassee FL
City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FL Chamber of Commerce

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

862
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic Special Mobile Equipment

Name Leslie Kroeger

Job Title

Address 218 S. Monroe Street
Street
Tallahassee FL 32301
City *State* *Zip*

Phone 850-224-9403

Email LKroeger@cohenmilstein.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Justice Association

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

862
Bill Number (if applicable)

Topic Lessor Liability Under Special Mobile Equipment Leases

Amendment Barcode (if applicable

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N. Adams St
Street

Phone 224-7173

Tallahassee FL 32301
City *State* *Zip*

Email bbevis@aif.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Associated Industries of Florida

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/1

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 990
INTRODUCER:	Rules Committee and Senator Gibson and others
SUBJECT:	Unemployment Compensation
DATE:	April 17, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McKay	McKay	CM	**Favorable**
2.	Davis	Cibula	JU	**Favorable**
3.	McKay	Phelps	RC	**Fav/CS**

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 990 provides that an individual may not be disqualified from receiving reemployment assistance benefits if he or she voluntarily leaves work as a direct result of circumstances related to domestic violence.

The bill takes effect July 1, 2019.

II. Present Situation:

Reemployment Assistance Program

According to the United States Department of Labor, the purpose of the Federal-State Unemployment Insurance Program is to provide unemployment benefits to eligible workers who, through no fault of their own, are unemployed. Each state may determine eligibility requirements using its own criteria and laws.[1] The program is administered as a partnership between the federal government and state governments.

Florida's unemployment insurance program was created by the Legislature in 1937 during the Great Depression.[2] The Legislature noted that, after examining the widespread unemployment in

[1] United States Department of Labor, Employment and Training Administration, State Unemployment Insurance Benefits, available at http://workforcesecurity.doleta.gov/unemploy/uifactsheet.asp (last visited March 22, 2019).
[2] Ch. 18402, s. 1, Laws of Fla. (1937).

the state and nation, the problem of unemployment could better be met by the "Compulsory Unemployment Insurance Plan" which was then handled by "poor relief, assistance and voluntary contributions." The Legislature enacted a measure that required "the compulsory setting aside of financial reserves for the benefit of persons unemployed through no fault of their own."[3] The program was rebranded as the "Reemployment Assistance Program" in 2012.[4]

The Reemployment Assistance Program is described on its website as "What it is" and "What it is not." The program is:

- Temporary, partial wage replacement benefits:
  - For qualified workers;
  - Who are unemployed, but due to no fault of their own;
- A support for economic stability for employers who depend on the spending of consumers;
- Funded entirely by employers who pay state and federal payroll taxes; and
- Provided without cost to the workers who actually receive the benefits.

The Reemployment Assistance Program is not:

- Social Security.
- An automatic entitlement or loan to the unemployed worker.
- Based upon the worker's need.
- Intended as a full replacement for the worker's previous income.
- Funded through deductions from the worker's previous wages.[5]

The Department of Economic Opportunity (DEO) is responsible for administering Florida's reemployment assistance laws, primarily through its Division of Workforce Services.[6]

An unemployed individual must apply to the DEO for benefits using Florida's Online Reemployment Assistance System.[7] To receive reemployment assistance (RA) benefits, a claimant must meet certain monetary and nonmonetary eligibility requirements and provide proof of identification.[8] Key eligibility requirements involve a claimant's earnings during a certain period of time, the manner in which the claimant became unemployed, and the claimant's efforts to find new employment. A notice of claim is sent to a claimant's most recent employer and all employers whose employment records are liable for benefits.[9]

Benefits

A qualified claimant may receive RA benefits equal to 25 percent of wages, not to exceed $6,325 in a benefit year.[10] Benefits range from a minimum of $32 per week to a maximum weekly

[3] *Id*.
[4] Ch. 2012-30, s. 1, Laws of Fla.
[5] Florida Department of Economic Opportunity, *Reemployment Assistance Handbook*, 6, http://www.floridajobs.org/unemployment/bri/bri_english.pdf.
[6] Section 20.60(5)(c)3., F.S., and s. 443.171, F.S.
[7] Fla. Admin Code R. 73B-11.013 (2019).
[8] *See* s. 443.091, F.S., and Fla. Admin. Code R. 73B-11.013.
[9] Section 443.151(3)(a), F.S.
[10] Section 443.111(5)(b), F.S. The maximum amount of benefits available is calculated by multiplying an individual's weekly benefit amount by the number of available benefit weeks.

benefit amount of $275 for up to 23 weeks, depending on the claimant's length of prior employment, wages earned, and the unemployment rate.[11]

A claimant must meet certain requirements in order to be eligible for benefits for each week of unemployment. For example, each week an individual is required to contact at least five prospective employers (three prospective employers if the individual resides in a small county) or report to the one-stop career center[12] for reemployment services.[13]

Disqualification for Benefits

Section 443.101(1)(a), F.S., specifies the circumstances under which an individual is disqualified from receiving RA benefits. An individual must be disqualified for benefits for the week in which he or she has voluntarily left work without good cause attributable to his or her employing unit or has been discharged by the employing unit for misconduct connected with his or her work, based on a finding by the DEO. Disqualification for voluntarily quitting continues for the full period of unemployment next ensuing after the individual has left his or her full-time, part-time, or temporary work voluntarily without good cause and until the individual has earned income equal to or greater than 17 times his or her weekly benefit amount.

An individual is not disqualified for voluntarily leaving temporary work to immediately return when called to work by the permanent employing unit that temporarily terminated his or her work within the previous 6 calendar months, or for voluntarily leaving work to relocate as a result of his or her military-connected spouse's permanent change of station orders, activation orders, or unit deployment orders.

An individual will lose eligibility for benefits if DEO determines that he or she failed to apply for or accept suitable work when offered.[14]

Financing Reemployment Assistance

In Florida, RA benefits are financed solely through contributions by employers. Generally, a private employer is considered a contributory employer who pays a quarterly tax on the business into the Unemployment Compensation Trust Fund. In contrast, a reimbursable employer is generally a government employer such as the military, counties, and state and federal agencies. The reimbursable employer pays back the amount of benefits received by claimants. A public employer may choose to become a contributory employer, as provided by statute.[15]

---

[11] Section 443.111(3), F.S. Pursuant to s. 443.111(5), F.S., if the average unemployment rate for the 3 months in the most recent third calendar year quarter is at or below 5 percent, then the maximum weeks of benefits available is 12; for each 0.5 percent that the unemployment rate is above 5 percent, an additional week of benefits becomes available for up to 23 weeks at an unemployment rate of 10.5 percent.

[12] The one-stop delivery system is Florida's primary customer service strategy for offering access to job search, referral, and placement assistance; career counseling and educational planning; and other services. Section 445.009, F.S.

[13] Section 443.091(1), F.S.

[14] Section 443.101(2), F.S.

[15] Section 443.1313, F.S. Pursuant to s. 443.131, F.S., employers are required to submit quarterly tax and wage reports. The calculation for determining each employer's tax rate is set in statute and takes into consideration several factors. However, only the first $7,000 of an employee's wages paid in a calendar year is taxable for reemployment tax purposes. See also Florida Department of Revenue, *Florida Reemployment Tax*, http://floridarevenue.com/taxes/taxesfees/Pages/reemployment.aspx.

Domestic Violence

Section 741.28, F.S., defines domestic violence as any assault, aggravated assault, battery, aggravated battery, sexual assault, sexual battery, stalking, aggravated stalking, kidnapping, false imprisonment, or any criminal offense resulting in physical injury or death of one family or household member by another family or household member.

The Florida Department of Law Enforcement (FDLE) data indicates that there were a total of 106,979 acts of domestic violence reported in 2017, and 64,781 arrests based on those acts.[16] Currently, Florida has 42 certified domestic violence shelters.[17] In Fiscal Year 2016-2017, the Florida Department of Children and Families reported that a total of 14,412 people were admitted to domestic violence shelters for the first time, while over 37,000 people received new non-residential services from a certified shelter.[18]

III. Effect of Proposed Changes:

The bill amends s. 443.101, F.S., to provide that an individual may not be disqualified from receiving reemployment assistance if he or she voluntarily leaves work and is able to prove that the discontinuation of employment is a direct result of circumstances related to domestic violence.

An individual who leaves voluntarily work as a result of domestic violence must:

- Make reasonable efforts to preserve employment or to decrease the risk of future incidents of domestic violence, unless such remedies are likely to be futile or to increase the risk of future incidents of domestic violence. Such efforts may include seeking a protective injunction, relocating to a secure place, or seeking reasonable accommodation from the employing unit, such as a transfer or change of assignment.
- Provide evidence such as an injunction, a protective order or other documentation authorized by state law which reasonably proves that domestic violence has occurred.
- Reasonably believe that he or she is likely to be the victim of a future act of domestic violence at, in transit to, or departing from his or her place of employment.

An individual who is otherwise eligible for reemployment assistance under these criteria is ineligible for each week that he or she no longer meets these criteria or refuses a reasonable accommodation offered in good faith by his or her employing unit.

---

[16] Florida Department of Law Enforcement, *Domestic Violence, Domestic Violence Offenses in Florida 1997-2017*, http://www.fdle.state.fl.us/FSAC/Crime-Trends/Domestic-Violence The FDLE includes murder, manslaughter, rape, fondling, aggravated assault, aggravated stalking, simple assault, threat/intimidation, and stalking in this data.

[17] Florida Coalition Against Domestic Violence, *2016-2017 Annual Report to the Florida Legislature: 40th Anniversary Edition*, http://www.dcf.state.fl.us/programs/domesticviolence/publications/docs/2017AnnualReport%2021%20DEC%2017.pdf .

[18] Department of Children and Families, *Domestic Violence Annual Report, 7/1/2016 - 6/30/2017*, http://www.dcf.state.fl.us/programs/domesticviolence/publications/docs/2016-2017%20Annual%20Statistics.pdf (last visited March 22, 2019).

The bill amends sections 443.101 and 443.131, F.S., to provide that for contributory employers, the employment record of an employing unit may not be charged for the payment of benefits to an individual who has voluntarily left work pursuant to the bill's provisions.

The bill has an effective date of July 1, 2019.

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:

The bill prohibits charging the employment record of contributory employers for benefits paid pursuant to the bill's provisions.

C. Government Sector Impact:

According to the Department of Economic Opportunity's Fiscal Analysis, the changes required by this bill may increase Unemployment Benefit expenditures for direct bill governments. The Department did not have any relevant statistics for Florida at the time the analysis was published. The analysis, however, looked to Texas, a state that enacted a similar provision, and found that approximately 200 people were affected annually. If Florida experienced a similar number of claims for the full 12 weeks, the fiscal impact of the bill could be a $660,000 increase in benefits paid annually. The bill would also

require an estimated 640 hours of staff and contract time to implement. That cost would be $47,000 to implement, an amount that DEO stated it could absorb in its budget.[19]

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends sections 443.101 and 443.131 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 Rules on April 17, 2019:
The committee substitute clarifies that reasonable efforts to preserve employment are not required if such efforts are likely to be futile or to increase the risk of future incidents of domestic violence, and clarifies that the employment record of an employer may not be charged for benefits paid to an individual who has voluntarily left work pursuant to the bill's provisions.

B. Amendments:

None.

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

[19] Department of Economic Opportunity, House Bill 563 Fiscal Analysis (Feb. 14, 2019) http://abar.laspbs.state.fl.us/ABAR/Attachment.aspx?ID=28647.

203116

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
04/18/2019	.	
	.	
	.	
	.	

The Committee on Rules (Gibson) recommended the following:

Senate Amendment (with title amendment)

Delete lines 32 - 91
and insert:
disability requiring separation from his or her work. Any other disqualification may not be imposed.

2. An individual is not disqualified under this subsection for:

a. Voluntarily leaving temporary work to return immediately when called to work by the permanent employing unit that temporarily terminated his or her work within the previous 6



calendar months;

b. ~~, or for~~ Voluntarily leaving work to relocate as a result of his or her military-connected spouse's permanent change of station orders, activation orders, or unit deployment orders; or

c. Voluntarily leaving work if he or she proves that his or her discontinued employment is a direct result of circumstances related to domestic violence as defined in s. 741.28. An individual who voluntarily leaves work under this sub-subparagraph must:

(I) Make reasonable efforts to preserve employment, unless the individual establishes that such remedies are likely to be futile or to increase the risk of future incidents of domestic violence. Such efforts may include seeking a protective injunction, relocating to a secure place, or seeking reasonable accommodation from the employing unit, such as a transfer or change of assignment;

(II) Provide evidence such as an injunction, a protective order, or other documentation authorized by state law which reasonably proves that domestic violence has occurred; and

(III) Reasonably believe that he or she is likely to be the victim of a future act of domestic violence at, in transit to, or departing from his or her place of employment. An individual who is otherwise eligible for benefits under this sub-subparagraph is ineligible for each week that he or she no longer meets such criteria or refuses a reasonable accommodation offered in good faith by his or her employing unit.

3. The employment record of an employing unit may not be charged for the payment of benefits to an individual who has



voluntarily left work under sub-subparagraph 2.c.

4.~~2.~~ Disqualification for being discharged for misconduct connected with his or her work continues for the full period of unemployment next ensuing after having been discharged and until the individual is reemployed and has earned income of at least 17 times his or her weekly benefit amount and for not more than 52 weeks immediately following that week, as determined by the department in each case according to the circumstances or the seriousness of the misconduct, under the department's rules ~~adopted~~ for determining ~~determinations of~~ disqualification for benefits for misconduct.

5.~~3.~~ If an individual has provided notification to the employing unit of his or her intent to voluntarily leave work and the employing unit discharges the individual for reasons other than misconduct before the date the voluntary quit was to take effect, the individual, if otherwise entitled, shall receive benefits from the date of the employer's discharge until the effective date of his or her voluntary quit.

6.~~4.~~ If an individual is notified by the employing unit of the employer's intent to discharge the individual for reasons other than misconduct and the individual quits without good cause before the date the discharge was to take effect, the claimant is ineligible for benefits pursuant to s. 443.091(1)(d) for failing to be available for work for the week or weeks of unemployment occurring before the effective date of the discharge.

Section 2. Paragraph (a) of subsection (3) of section 443.131, Florida Statutes, is amended to read:

443.131 Contributions.—



(3) VARIATION OF CONTRIBUTION RATES BASED ON BENEFIT EXPERIENCE.—

(a) *Employment records.*—The regular and short-time compensation benefits paid to an eligible individual shall be charged to the employment record of each employer who paid the individual wages of at least $100 during the individual's base period in proportion to the total wages paid by all employers who paid the individual wages during the individual's base period. Benefits may not be charged to the employment record of an employer who furnishes part-time work to an individual who, because of loss of employment with one or more other employers, is eligible for partial benefits while being furnished part-time work by the employer on substantially the same basis and in substantially the same amount as the individual's employment during his or her base period, regardless of whether this part-time work is simultaneous or successive to the individual's lost employment. Further, as provided in s. 443.151(3), benefits may not be charged to the employment record of an employer who furnishes the Department of Economic Opportunity with notice, as prescribed in rules of the department, that any of the following apply:

1. If an individual leaves his or her work without good cause attributable to the employer or is discharged by the employer for misconduct connected with his or her work, benefits subsequently paid to the individual based on wages paid by the employer before the separation may not be charged to the employment record of the employer.

2. If an individual is discharged by the employer for unsatisfactory performance during an initial employment



probationary period, benefits subsequently paid to the individual based on wages paid during the probationary period by the employer before the separation may not be charged to the employer's employment record. As used in this subparagraph, the term "initial employment probationary period" means an established probationary plan that applies to all employees or a specific group of employees and that does not exceed 90 calendar days following the first day a new employee begins work. The employee must be informed of the probationary period within the first 7 days of work. The employer must demonstrate by conclusive evidence that the individual was separated because of unsatisfactory work performance and not because of lack of work due to temporary, seasonal, casual, or other similar employment that is not of a regular, permanent, and year-round nature.

3. Benefits subsequently paid to an individual after his or her refusal without good cause to accept suitable work from an employer may not be charged to the employment record of the employer if any part of those benefits are based on wages paid by the employer before the individual's refusal to accept suitable work. As used in this subparagraph, the term "good cause" does not include distance to employment caused by a change of residence by the individual. The department shall adopt rules prescribing for the payment of all benefits whether this subparagraph applies regardless of whether a disqualification under s. 443.101 applies to the claim.

4. If an individual is separated from work as a direct result of a natural disaster declared under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, 42 U.S.C. ss. 5121 et seq., benefits subsequently paid to the individual

203116

based on wages paid by the employer before the separation may not be charged to the employment record of the employer.

5. If an individual is separated from work as a direct result of an oil spill, terrorist attack, or other similar disaster of national significance not subject to a declaration under the Robert T. Stafford Disaster Relief and Emergency Assistance Act, benefits subsequently paid to the individual based on wages paid by the employer before the separation may not be charged to the employment record of the employer.

6. If an individual is separated from work as a direct result of domestic violence and meets all requirements in s. 443.101(1)(a)2.c., benefits subsequently paid to the individual based on wages paid by the employer before separation may not be charged to the employment record of the employer.

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

And the title is amended as follows:

Delete line 8

and insert:

circumstances; amending s. 443.131, F.S.; adding a circumstance under which the employment record of an employing unit may not be charged; providing an effective date.

By Senator Gibson

6-01404A-19 2019990__

A bill to be entitled

An act relating to unemployment compensation; amending s. 443.101, F.S.; making editorial changes; prohibiting certain victims of domestic violence from being disqualified for benefits for voluntarily leaving work; prohibiting the employment record of an employing unit from being charged in certain circumstances; providing an effective date.

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

Section 1. Paragraph (a) of subsection (1) of section 443.101, Florida Statutes, is amended to read:

443.101 Disqualification for benefits.—An individual shall be disqualified for benefits:

(1)(a) For the week in which he or she has voluntarily left work without good cause attributable to his or her employing unit or for the week in which he or she has been discharged by the employing unit for misconduct connected with his or her work, based on a finding by the Department of Economic Opportunity. As used in this paragraph, the term "work" means any work, whether full-time, part-time, or temporary.

1. Disqualification for voluntarily quitting continues for the full period of unemployment next ensuing after the individual has left his or her full-time, part-time, or temporary work voluntarily without good cause and until the individual has earned income equal to or greater than 17 times his or her weekly benefit amount. As used in this subsection, the term "good cause" includes only that cause attributable to

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

6-01404A-19 2019990__

the employing unit which would compel a reasonable employee to cease working or attributable to the individual's illness or disability requiring separation from his or her work. Additional disqualifications ~~Any other disqualification~~ may not be imposed.

2. An individual is not disqualified under this subsection for:

a. Voluntarily leaving temporary work to return immediately when called to work by the permanent employing unit that temporarily terminated his or her work within the previous 6 calendar months;

b. ~~, or for~~ Voluntarily leaving work to relocate as a result of his or her military-connected spouse's permanent change of station orders, activation orders, or unit deployment orders; or

c. Voluntarily leaving work if he or she proves that his or her discontinued employment is a direct result of circumstances related to domestic violence as defined in s. 741.28. An individual who voluntarily leaves work under this sub-subparagraph must:

(I) Make reasonable efforts to preserve employment or to decrease the risk of future incidents of domestic violence. Such efforts may include seeking a protective injunction, relocating to a secure place, or seeking reasonable accommodation from the employing unit, such as a transfer or change of assignment;

(II) Provide evidence such as an injunction, a protective order, or other documentation authorized by state law which reasonably proves that domestic violence has occurred; and

(III) Reasonably believe that he or she is likely to be the victim of a future act of domestic violence at, in transit to,

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

or departing from his or her place of employment. An individual who is otherwise eligible for benefits under this sub-subparagraph is ineligible for each week that he or she no longer meets such criteria or refuses a reasonable accommodation offered in good faith by his or her employing unit.

3. The employment record of an employing unit may not be charged for the payment of benefits to an individual who has voluntarily left work under this paragraph.

4.~~2.~~ Disqualification for being discharged for misconduct connected with his or her work continues for the full period of unemployment next ensuing after having been discharged and until the individual is reemployed and has earned income of at least 17 times his or her weekly benefit amount and for not more than 52 weeks immediately following that week, as determined by the department in each case according to the circumstances or the seriousness of the misconduct, under the department's rules ~~adopted~~ for determining ~~determinations of~~ disqualification for benefits for misconduct.

5.~~3.~~ If an individual has provided notification to the employing unit of his or her intent to voluntarily leave work and the employing unit discharges the individual for reasons other than misconduct before the date the voluntary quit was to take effect, the individual, if otherwise entitled, shall receive benefits from the date of the employer's discharge until the effective date of his or her voluntary quit.

6.~~4.~~ If an individual is notified by the employing unit of the employer's intent to discharge the individual for reasons other than misconduct and the individual quits without good cause before the date the discharge was to take effect, the

claimant is ineligible for benefits pursuant to s. 443.091(1)(d) for failing to be available for work for the week or weeks of unemployment occurring before the effective date of the discharge.

Section 2. This act shall take effect July 1, 2019.

THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Rules, *Vice Chair*
Appropriations
Innovation, Industry, and Technology
Judiciary

JOINT COMMITTEE:
Joint Legislative Budget Commission

SENATOR AUDREY GIBSON
Minority Leader
6th District

April 8, 2019

Senator Lizbeth Benacquisto, Chair
Committee on Rules
402 Senate Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Benacquisto:

I respectfully request that SB 990, relating to unemployment compensation for victims of domestic violence, be placed on the next committee agenda.

SB 990, prohibits certain victims of domestic violence from being disqualified for benefits if he or she proves that his or her discontinued employment is a direct result of circumstances related to domestic violence. The bill passed unanimously in the first and second committees of reference.

Thank you for your kind consideration.

Sincerely,

Audrey Gibson
State Senator
District 6

101 East Union Street, Suite 104, Jacksonville, Florida 32202 (904) 359-2553
200 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5006

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

4/17/2019 (Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) 990

Meeting Date *Bill Number (if applicable)*

Topic Domestic Violence *Amendment Barcode (if applicable)*

Name Thomas Kennedy

Job Title Political Director

Address 2398 Coral Way Apt. 2 Phone 786 346 0810

Street

Miami FL 33145 Email Thomas@flicvotes

City *State* *Zip*

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

(The Chair will read this information into the record.)

Representing Florida Immigrant Coalition

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

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

990
Bill Number (if applicable)

Topic Domestic Abuse

Amendment Barcode (if applicable)

Name Ammaar Habib

Job Title

Address 437 NE 29th St
Street

Phone 305 985 8478

Miami FL 33137
City *State* *Zip*

Email qhabib@gmail.com

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

990
Bill Number (if applicable)

Topic Unemployment Compensation

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title Policy

Address 126 N Mills Ave
Street

Orlando FL 32801
City *State* *Zip*

Phone 4073764801

Email ida.eskamani@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing New Florida Majority

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4-17-19
Meeting Date

990
Bill Number (if applicable)

Topic Unemployment Compensation

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title MS

Address 625 E. Bernard St
Street

Phone 251-4280

City *State* *Zip*

Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☑ In Support ☐ Against
(The Chair will read this information into the record.)

Representing FL NOW

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

990
Bill Number (if applicable)

Topic Unemployment Comp

Amendment Barcode (if applicable)

Name Charo Valero

Job Title State Policy Director

Address 1951 NW 7th Ave #1000
Street

Miami FL 33136
City *State* *Zip*

Phone (786) 442-0199

Email charo@latinainstitute.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Florida Latina Advocacy Network

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

990
Bill Number (if applicable)

Topic Unemployment Comp.

Amendment Barcode (if applicable)

Name Carolyn Siegelman

Job Title —

Address 10731 NW 16 Ct
Street

Phone 954-821-1347

Plantation FL 33322
City *State* *Zip*

Email Crsiegel@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing —

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

990
Bill Number (if applicable)

Topic Unemployment Comp.

Amendment Barcode (if applicable)

Name Jasmen Rogers-Shaw

Job Title Staff and Policy Director

Address 745 NW 54th Str
Street

Phone 9542011380

Miami FL 33127
City *State* *Zip*

Email jasmen@theworkerscenter.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Miami Workers Center

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

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 1208
INTRODUCER:	Senator Baxley
SUBJECT:	Aircraft Liens
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Matiyow	Knudson	BI	**Favorable**
2.	Davis	Cibula	JU	**Favorable**
3.	Matiyow	Phelps	RC	**Favorable**

I. Summary:

SB 1208 provides that a lien claimed for labor, services, fuel, or material supplied to an aircraft is not a possessory lien. Therefore, a person claiming a lien for those items does not need to keep the aircraft in his or her possession to enforce the lien.

The effective date of the bill is July 1, 2019.

II. Present Situation:

A lien is a legal interest that a creditor has in someone else's property to ensure payment of an obligation. Many classifications and forms of liens exist today, including: a statutory lien which exists by force of statute and not by an agreement between the parties; a judicial lien which is obtained by judgment or other legal or equitable process; and a common-law lien, which was granted by the common law and allows a person to keep possession of property that belongs to someone else until certain demands made by the party in possession of the property, are met.[1] Unlike an equitable lien in which the lienor did not have to keep possession of the property, a party claiming a common law lien must have "independent and exclusive possession of the property."[2]

Possessory Liens

A possessory lien is only enforceable as long as the lienor retains possession of the property at issue.[3] When a lienor releases property on which he or she claims a possessory lien, he or she loses the right to claim the lien. The Third District Court of Appeal addressed this issue in

[1] BLACK'S LAW DICTIONARY (10th ed. 2014). A mechanic's lien secures payment for materials or labor that were supplied in improving or repairing real or personal property.
[2] 34 FLA. JUR 2D LIENS ss. 3 and 4 (2009).
[3] *Commercial Jet, Inc. v. U.S. Bank, N.A.*, 45 So. 3d 887 (3d DCA 2010).

Commercial Jet, Inc., v. U.S. Bank, N.A. Commercial Jet provided maintenance and repair work on a Boeing 767 aircraft, then returned the airplane to its operator who put the airplane back into service. After relinquishing possession of the aircraft, Commercial Jet recorded a claim of lien for the unpaid balance pursuant to ss. 713.58 and 329.51, F.S. The trial court and the appellate court held that the type of lien authorized by the statutes was a possessory lien. As a result, Commercial Jet could not foreclose its purported lien because it did not have possession of the aircraft.[4]

Aircraft Liens

Recording, Generally

The U.S. Congress passed the Federal Aviation Act (Act) in 1958.[5] The Act requires a civil aircraft[6] lien to be recorded with the Federal Aviation Administration[7] (FAA).[8] Until an aircraft lien is recorded with the FAA, it is valid only against those with actual notice of the lien.[9] The purpose of the recording provision was to create a central clearinghouse for the recording of liens affecting civil aircraft in the United States so that a person would know where to find the information.[10] However, the Act preempted state law only as to the priority of liens, meaning a state could impose requirements affecting the enforceability and validity of liens within that state.[11] Further, in 1981, the FAA took the position that aircraft liens could only be recorded with the FAA if the state law creating the lien allows for the creation or perfection of a lien in this way.[12] Currently, the FAA records liens claimed in thirty-six states, including Florida.[13] Florida specifically provides that no lien affecting title to a civil aircraft is valid until such lien is recorded with the FAA.[14]

---

[4] In criticizing the majority opinion in *Commercial Jet*, the dissent stated:

> Section 329.51, Florida Statutes, clearly provides that a lien for repairs on an aircraft such as the one in this case is perfected simply by recording a claim of lien within ninety days of the services rendered, as the appellant did in this case. The majority holding that following that provision did not have the effect specifically provided by the legislature is in conflict with just about every canon of legislative interpretation there is . . . .

Id. at 889 (Schwartz J., dissenting).

[5] *Creston Aviation, Inc. v. Textron Financial Corp.*, 900 So. 2d 727 (Fla. 4th DCA 2005).

[6] "Aircraft" means any contrivance invented, used, or designed to navigate, or fly in, the air. 49 USC § 40102(a)(g).

[7] The Federal Aviation Administration of the Department of Transportation regulates civil aviation and U.S. commercial space transportation, maintains and operates air traffic control and navigation systems for civil and military aircrafts, and develops and administers programs relating to aviation safety and the National Airspace System. See The Federal Register, *Federal Aviation Administration*, https://www.federalregister.gov/agencies/federal-aviation-administration.

[8] *See* 49 U.S.C. § 44107; *see also Creston*, 900 So. 2d at 729.

[9] *See* 49 U.S.C. § 44108; *see also id.*

[10] *See id.* (citing *Aircraft Trading & Servs., Inc. v. Braniff, Inc.*, 819 F. 2d 1227 (2d Cir. 1987.

[11] *See id.* at 730 (citing *Philko Aviation, Inc. v. Shacket*, 103 S. Ct. 2476 (1983)).

[12] Federal Aviation Administration, *Artisan Liens on Aircraft; Recordability*, 70 FR 59800 (Oct. 13, 2005) https://www.federalregister.gov/documents/2005/10/13/05-20467/artisan-liens-on-aircraft-recordability (last visited Mar. 23, 2019).

[13] *Id.*

[14] Section 329.01, F.S.

Lien for Landing

The governing body of a publicly owned and operated airport may claim a lien upon an aircraft landing at the airport for all unpaid fees and charges for the use of the airport's facilities after demanding payment for the fees and charges from the aircraft's owner or operator.[15] A lien for landing is a possessory lien that attaches to any aircraft, at the airport, owned or operated by the person owing the charges and fees.[16]

A lien for landing is enforced in the same manner as a warehouseman's[17] lien that is by public or private sale of the aircraft after notification to all persons known to claim an interest in the aircraft.[18] The notification must be delivered by certified mail or in person and include:

- An itemized statement of the amount due;
- A description of the aircraft;
- A demand for payment within a specified time; and
- A conspicuous statement that unless the claim is paid within the specified time, the goods will be sold at a specified time and place.[19]

Following the expiration of the timeframe given for payment in the notice, the lienor must publish an advertisement for two consecutive weeks in a newspaper of general circulation where the sale is to occur.[20] The advertisement must state:

- A description of the aircraft;
- The name of the person on whose account the aircraft is held; and
- The time and place of the sale.[21]

Lien for Fuel, Labor, Services, or Material

A person who provides fuel for an aircraft may claim a lien on the aircraft for any unpaid fuel charges.[22] A person who performs labor or services on or for an aircraft may claim a lien on the aircraft for any unpaid costs for the labor or services performed and for the materials used.[23]

A lien for fuel, labor, services, or material under ss. 329.41 or 713.58, F.S., is a possessory lien.[24] To enforce the lien, a lienor must record a verified lien notice with the clerk of the circuit court in the county where the aircraft was located at the time the fuel, labor, services, or material was last provided.[25] The notice must be recorded within 90 days after the date the fuel, labor, services, or material was last furnished and must state:

- The name of the lienor;
- The name of the aircraft's owner;

[15] Section 329.40(1), F.S.
[16] Section 329.40(2), F.S.
[17] "Warehouse" means a person engaged in the business of storing the goods of others for hire. S. 677.102(1)(m), F.S.
[18] Sections. 329.40(1) and 677.210(1) and (2), F.S.
[19] Section 677.210(2), F.S.
[20] Section 677.210(2)(f), F.S.
[21] *Id.*
[22] Section 329.41, F.S.
[23] Section 713.58(1), F.S.
[24] Section 713.58(3), F.S.; *see also Commercial Jet, Inc. v. U.S. Bank, N.A.*, 45 So. 3d 887 (3d DCA 2010)..
[25] Section 329.51, F.S.

- A description of the aircraft;
- The amount for which the lien is claimed; and
- The date the expenditure was completed.[26]

III. Effect of Proposed Changes:

The bill expressly states that possession of an aircraft is not required to perfect a lien claimed under ss. 329.41 and 713.58, F.S., for labor, services, fuel, or material furnished to an aircraft. This change essentially supersedes the opinion of the Second District Court of Appeal in *Commercial Jet, Inc. v. U.S. Bank, N.A.*

The bill does not affect the possessory nature of liens for labor or services to other property claimed under s. 713.58, F.S.,[27] or liens for landing claimed under s. 329.40, F.S. These liens remain possessory liens unless categorized otherwise in statute.

The bill takes effect July 1, 2019.

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.

[26] *Id.*
[27] E.g., a lien claimed under s. 718.58, F.S., for labor or services performed on a motor vehicle.

B. Private Sector Impact:

A person enforcing a lien for fuel, labor, services, or material furnished to an aircraft would be allowed to release the aircraft to the owner or operator. This may make it easier for a lienor to recover money owed to him or her without keeping a commercial aircraft out of service and potentially disrupting commercial air travel. This may also allow the owner or operator of an aircraft on which a lien is claimed to keep using the aircraft while he or she works to satisfy the lien.

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: 329.41 and 329.51.

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 Baxley

12-01238-19 20191208__

A bill to be entitled

An act relating to aircraft liens; amending ss. 329.41 and 329.51, F.S.; specifying that a lienor is not required to possess an aircraft to perfect certain liens; providing an effective date.

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

Section 1. Section 329.41, Florida Statutes, is amended to read:

329.41 Lien for fuel furnished to aircraft.—A person who has furnished fuel to an aircraft has a lien upon the aircraft for any unpaid fuel charges and possession of the aircraft is not required in order to perfect such lien. The lien is enforceable in the same manner as provided in s. 329.51.

Section 2. Section 329.51, Florida Statutes, is amended to read:

329.51 Liens for labor, services, fuel, or material expended upon aircraft; notice.—Any lien claimed on an aircraft under s. 329.41 or s. 713.58 is enforceable when the lienor records a verified lien notice with the clerk of the circuit court in the county where the aircraft was located at the time the labor, services, fuel, or material was last furnished. The lienor is not required to possess the aircraft to perfect such lien. The lienor must record such lien notice within 90 days after the time the labor, services, fuel, or material was last furnished. The notice must state the name of the lienor; the name of the owner; a description of the aircraft upon which the lienor has expended labor, services, fuel, or material; the

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

Florida Senate - 2019 **SB 1208**

12-01238-19 20191208__

amount for which the lien is claimed; and the date the expenditure was completed. This section does not affect the priority of competing interests in any aircraft or the lienor's obligation to record the lien under s. 329.01.

Section 3. This act shall take effect July 1, 2019.

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

THE FLORIDA SENATE

COMMITTEES:
Ethics and Elections, *Chair*
Appropriations Subcommittee on Education
Education
Finance and Tax
Health Policy
Judiciary

JOINT COMMITTEE:
Joint Legislative Auditing Committee

SENATOR DENNIS BAXLEY
12th District

April 9, 2019

The Honorable Senator Lizbeth Benacquisto
400 Senate Office Building
Tallahassee, FL 32399

Dear Senator Benacquisto,

I would like to request SB 1208 Aircraft Liens be heard in your next Rules Committee meeting.

This bill allows a person who has furnished fuel or services to an aircraft to have a lien upon the aircraft for any unpaid fuel charges and the possession of the aircraft is not required in order to perfect such lien.

I appreciate your favorable consideration.

Onward & Upward,

Senator Dennis Baxley
Senate District 12

DKB/dd

cc: John Phelps, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012
Email: baxley.dennis@flsenate.gov

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:	SJR 274
INTRODUCER:	Senator Baxley
SUBJECT:	Limitation on Terms of Office for Members of a District School Board
DATE:	April 16, 2019
REVISED:	

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Fox	Roberts	EE	**Favorable**
2.	Olenick	Sikes	ED	**Favorable**
3.	Fox	Phelps	RC	**Pre-meeting**

I. Summary:

SJR 274 proposes that district school board members be subject to an 8-year consecutive service term limitation. The language mirrors the current "eight is enough" term limit that applies to Cabinet members and legislators. The provision would operate prospectively beginning with the 2020 general election. The likely earliest date that any currently serving school board member could be "termed-out" would be in November 2028.

The joint resolution, if passed by a 3/5ths vote of each House of the Legislature, will be voted on at the general election in November 2020, unless the legislature authorizes an earlier special election for that specific purpose.

II. Present Situation:

Term Limits

The Florida Constitution provides that a person holding any of the following offices may not have his or her name on the ballot for reelection if the person has served, or but for resignation would have served, in an office for eight consecutive years:

- State Senator;
- State Representative;
- Lieutenant Governor;
- Florida Cabinet member;
- U.S. Representative from Florida; or
- U.S. Senator from Florida.[1]

[1] Art. VI, s. 4(b), FLA. CONST.

The U.S. Supreme Court has held that state-imposed limits on the terms of *federal* office holders violate the U.S. Constitution, effectively rendering unenforceable Florida's term limits on its congressional members.[2]

The term limits provision was proposed by citizen initiative and passed at the 1992 general election by a greater than 3-to-1 margin (approved by over 76% of electors voting on the measure).[3] The amendment applied *prospectively*; service prior to the 1992 election did not count toward the eight-year restriction. Thus, the term limits amendment did not begin to have a direct impact until the 2000 election cycle.

Florida School Boards

There are currently 358 school board members across the 67 districts in Florida.[4] There is no provision in the Florida Constitution or Florida Statutes that limits the term of school board members.

Section 4(a) of Article IX of the Florida Constitution provides that:

> Each county shall constitute a school district … In each school district there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law.

The responsibility of each school district includes operating, controlling, and supervising all free public schools within the school district and determining the rate of school district taxes within the limits of the school district.[5]

III. Effect of Proposed Changes:

SJR 274 provides that a person may not appear on the ballot for reelection to the office of school board member if by the end of his or her current term he or she served, or but for resignation will have served, in that office for 8 consecutive years. The language mirrors the current constitutional limits that apply to Cabinet members and state legislators. The proposed amendment would operate prospectively beginning with the 2020 general election, unless the Legislature authorizes it to be voted at an earlier special election; thus, the earliest any currently serving school board member could be "termed-out" likely would be at the 2028 general election.

---

[2] *See*, *U.S. Term Limits, Inc. v. Thornton*, 115 S. Ct. 1842 (1995).
[3] See Florida Division of Elections website at http://dos.elections.myflorida.com/initiatives/ (Year=1992; Ballot proposal #9) (last visited March 6, 2019). For more information on the 1992 term-limit constitutional amendment, see http://dos.elections.myflorida.com/initiatives/initdetail.asp?account=1066&seqnum=1 (last visited March 6, 2019).
[4] The Florida School Boards Association, *State of the Association, Vol. 3* at p.1 (2017-18 Annual Report), available at: http://fsba.org/wp-content/uploads/2018/11/annual-report-201718.pdf (last visited March 6, 2019). For a list of all Florida school boards and a link to the corresponding school boards website see: http://fsba.org/membership/school-boards/ (last visited March 6, 2019).
[5] Fla. Const. Art. IX s. 4(b).

The joint resolution, if passed by a 3/5ths vote of each House of the Legislature, will be voted on at the general election in November 2020, unless the legislature authorizes an earlier special election for that purpose. The joint resolution would apply upon approval of the voters — at least 60% of those voting on the measure.

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:

The Division of Elections is required to advertise the full text of proposed constitutional amendments in English and Spanish twice in a newspaper of general circulation in each county before the election in which the amendment shall be submitted to the electors. The Division is also required to provide each Supervisor of Elections with either booklets or posters displaying the full text of proposed amendments.

The Division has not completed an agency bill analysis for this bill or for the identical House Bill. Using the Division's 2018 general election estimate of $120.31 per word, this 318-word amendment should cost just over ***$38,250***.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This joint resolution substantially amends Articles IX and XII of the Florida Constitution.

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 Baxley

12-00554-19 2019274__

Senate Joint Resolution

A joint resolution proposing an amendment to Section 4 of Article IX and the creation of a new section in Article XII of the State Constitution to limit the terms of office for a member of a district school board.

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

That the following amendment to Section 4 of Article IX and the creation of a new section in Article XII of the State Constitution are agreed to and shall be submitted to the electors of this state for approval or rejection at the next general election or at an earlier special election specifically authorized by law for that purpose:

ARTICLE IX

EDUCATION

SECTION 4. School districts; school boards.—

(a) Each county shall constitute a school district; provided, two or more contiguous counties, upon vote of the electors of each county pursuant to law, may be combined into one school district. In each school district there shall be a school board composed of five or more members chosen by vote of the electors in a nonpartisan election for appropriately staggered terms of four years, as provided by law.

(b) The school board shall operate, control and supervise all free public schools within the school district and determine the rate of school district taxes within the limits prescribed herein. Two or more school districts may operate and finance

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

12-00554-19 2019274__

joint educational programs.

(c) A person may not appear on the ballot for reelection to the office of school board member if, by the end of his or her current term of office, the person will have served, or but for resignation would have served, in that office for eight consecutive years.

ARTICLE XII

SCHEDULE

Limitation on terms of office for members of a district school board.—This section and the amendment to Section 4 of Article IX imposing limits on the terms of office for members of a district school board shall take effect on the date they are approved by the electorate, but no service in a term of office which commenced before November 3, 2020, will be counted toward the limitation imposed by this amendment.

BE IT FURTHER RESOLVED that the following statement be placed on the ballot:

CONSTITUTIONAL AMENDMENT

ARTICLE IX, SECTION 4

ARTICLE XII

LIMITATION ON TERMS OF OFFICE FOR MEMBERS OF A DISTRICT SCHOOL BOARD.—Proposing an amendment to the State Constitution to limit terms for school board members by prohibiting incumbent members who have held the office for the preceding eight years from appearing on a ballot for reelection to that office and to specify that the amendment only applies to terms of office beginning on or after November 3, 2020.

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

THE FLORIDA SENATE

APPEARANCE RECORD

Speak

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

April 17, 2019
Meeting Date

274
Bill Number (if applicable)

Topic School Board Term Limits

Amendment Barcode (if applicable)

Name Shawn Frost

Job Title Director of Advocacy

Address 1103 Hays St.
Street

Tallahassee FL 32301
City *State* *Zip*

Phone 850 329 8473

Email admin@schoolchoicemovement.org

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing School Choice Movement

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☑ Yes ☐ No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

SJR 274
Bill Number (if applicable)

Amendment Barcode (if applicable)

Topic School Board Term Limits

Name Nicolas Tomboulides

Job Title Executive Director

Address 5393 Rediana Court
Street

Phone 646-709-2466

Cocoa FL
City *State* *Zip*

Email

Speaking: ☑ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing US Term Limits

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

4/17/19
Meeting Date

274
Bill Number (if applicable)

Topic SCHOOL BOARD TERM LIMITS

Amendment Barcode (if applicable)

Name JOHN HALLMAN

Job Title LEGISLATIVE AFFAIRS

Address PO BOX 2349
Street

BUSHNELL, FL 33513
City *State* *Zip*

Phone 352-200-4630

Email JOHN@HALLMAN.ORG

Speaking: [X] For [ ] Against [ ] Information

Waive Speaking: [ ] In Support [ ] Against
(The Chair will read this information into the record.)

Representing LIBERTY FIRST NETWORK

Appearing at request of Chair: [ ] Yes [ ] No

Lobbyist registered with Legislature: [ ] Yes [ ] No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-17-19
Meeting Date

SB 274
Bill Number (if applicable)

Topic School Board Term Limits

Amendment Barcode (if applicable)

Name Shayra Lopez-Rivas

Job Title Retail Manager

Address Protected by State statue
Street

City *State* *Zip*

Phone

Email

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/17/19
Meeting Date

S.B 274
Bill Number (if applicable)

Topic Term Limits for School Boards

Amendment Barcode (if applicable)

Name Greg Gahris

Job Title Classroom Teacher

Address 907 Sherwood Ave
Street

Phone 407-952-0486

St. Cloud FL 34769
City *State* *Zip*

Email gregorygahris@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4-17-19
Meeting Date

274
Bill Number (if applicable)

Topic Term Limits School Board Members

Amendment Barcode (if applicable)

Name Chris Doolin

Job Title Consultant

Address 431 Hillcrest St
Street

Phone 850-508-5492

TLH FLA. 32308
City *State* *Zip*

Email cdoolin@nettally.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Small School District Council Consortium

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/17/19
Meeting Date

274
Bill Number (if applicable)

Topic School Board Term Limits Amendment

Amendment Barcode (if applicable)

Name Austin Sekel

Job Title Citizen

Address 9498 S Military Trail,
Street

Boynton Beach FL 33436
City *State* *Zip*

Phone 561.843.7182

Email avelinsekel@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/17/19
Meeting Date

0274
Bill Number (if applicable)

Topic School Board Limitations

Amendment Barcode (if applicable)

Name Rich Templin

Job Title Director of Politics & Public Policy

Address 135 South Monroe
Street

Phone 850-224-6926

Tallahassee FL 32301
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4.17.19
Meeting Date

#274
Bill Number (if applicable)

Topic School Board Term Limits

Amendment Barcode (if applicable)

Name Ken Williams

Job Title UPS Driver

Address 7411 Meadow Drive
Street

Phone 813-493-7685

Tampa, FL 33634
City *State* *Zip*

Email

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/17/2019
Meeting Date

274
Bill Number (if applicable)

Topic School board

Amendment Barcode (if applicable)

Name Michael Turner

Job Title Union Ironworker 397

Address 7624 Glenview Dr
Street

Phone 850-597-0824

Tampa FL 33614
City *State* *Zip*

Email turnerm245@gmail.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)

Representing Building trades of West Florida

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

W

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/17/2019
Meeting Date

SB 274
Bill Number (if applicable)

Topic Term Limits for School Board

Amendment Barcode (if applicable)

Name John Bonello

Job Title Labor

Address 1022 Plantation Dr. Apt B-6
Street

Phone 407-575-5168

Kissimmee | FL 34741
City *State* *Zip*

Email Bonello.SRJOHN@Yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☑ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/17/19
Meeting Date

SB 274
Bill Number (if applicable)

Topic School Board Term Limits

Amendment Barcode (if applicable)

Name William Lawson

Job Title Field Representative, Central FL AFL-CIO

Address 595 W Church St
Street

Phone 407-257-6081

Orlando FL 32805
City *State* *Zip*

Email wlawsh@flaflcio.org

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

04/17/19
Meeting Date

274
Bill Number (if applicable)

Topic TERM LIMITS FOR SCHOOL BOARDS

Amendment Barcode (if applicable)

Name GLENDA ABICHT (PRONOUNCED ABBOTT)

Job Title SERVICES TECHNICIAN

Address 4305 SW 98 AV
Street

Phone 786-376-1181

MIAMI FL 33165
City *State* *Zip*

Email GLENDA.ABICHT@GMAIL.COM

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

W

4/17/19
Meeting Date

SB 274
Bill Number (if applicable)

Topic Term Limits for School Board

Amendment Barcode (if applicable)

Name Serena James

Job Title Cosmetologist

Address 5237 Champagne Circle
Street

Orlando FL 32808
City *State* *Zip*

Phone 770 363 8181

Email Snikky@aol.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

W

4/17/19
Meeting Date

274
Bill Number (if applicable)

Topic Term Limits for School Board

Amendment Barcode (if applicable)

Name Barry Tillis

Job Title STAGE Technician

Address 1134 Orvell Ave
Street

Phone 407 432 4624

Orlando FL 32809
City *State* *Zip*

Email BarryTillis1@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing Barry Tillis

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

W

04/17/2019
Meeting Date

0274
Bill Number (if applicable)

Topic LIMITATION ON TERMS OF OFFICE FOR MEMBERS OF A DISTRICT SCHOOL BOARD *Amendment Barcode (if applicable)*

Name ROBERT CHAIMAN

Job Title STATE EMPLOYEE

Address 3622 WILLIAM RAY ROAD *Street* Phone 817-317-8913

PLANT CITY *City* FLORIDA *State* 33565 *Zip* Email

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)

Representing SELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/17/19
Meeting Date

274
Bill Number (if applicable)

Topic Term Limits for School Board

Amendment Barcode (if applicable)

Name Jennifer Kenny

Job Title electrician

Address 1917 Quail Ridge Ct. apt 1901 (*Street*)
Phone 321-277-9385

Cocoa (*City*) FL (*State*) 32926 (*Zip*)
Email jKen6060@yahoo.com

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing self

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/17/19
Meeting Date

SB 274
Bill Number (if applicable)

Topic TERM LIMITS for SCHOOL BOARD

Amendment Barcode (if applicable)

Name MIRIAM BAKER

Job Title RETIRED

Address 605 EAST 64th St
Street

Phone 904-382-2394

Email iambunny@bellsouth.net

City State Zip

Speaking: ☐ For ☑ Against ☐ Information

Waive Speaking: ☐ In Support ☑ Against
(The Chair will read this information into the record.)

Representing MYSELF

Appearing at request of Chair: ☐ Yes ☑ No

Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting)

4/17/2019
Meeting Date

Topic _____ Bill Number 274 *(if applicable)*

Name BRIAN PITTS Amendment Barcode _____ *(if applicable)*

Job Title TRUSTEE

Address 1119 NEWTON AVNUE SOUTH *Street* Phone 727-897-9291

SAINT PETERSBURG *City* FLORIDA *State* 33705 *Zip* E-mail JUSTICE2JESUS@YAHOO.COM

Speaking: ☐ For ☐ Against ☑ Information

Representing JUSTICE-2-JESUS

Appearing at request of Chair: ☐ Yes ☑ No Lobbyist registered with Legislature: ☐ Yes ☑ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks so that as many persons as possible can be heard.

This form is part of the public record for this meeting.

S-001 (10/20/11)

CourtSmart Tag Report

Room: EL 110 **Case No.:** **Type:**
Caption: Senate Rules Committee **Judge:**

Started: 4/17/2019 2:02:49 PM
Ends: 4/17/2019 5:57:33 PM Length: 03:54:45

2:02:48 PM Meeting called to order by Chair Benacquisto
2:02:59 PM Roll call
2:03:04 PM Quorum present
2:03:29 PM Comments from Chair Benacquisto
2:04:01 PM Introduction of Tab 15, SR 1438
2:04:46 PM Explanation of SR 1438, Taiwan by Senator Torres
2:05:23 PM Closure waived
2:05:29 PM Roll call
2:05:41 PM SR 1438 reported favorably
2:06:04 PM Introduction of Tab 6, CS/CS/SB 168
2:06:25 PM Explanation of SB CS/CS/SB 168, Federal Immigration Enforcement by Senator Gruters
2:10:16 PM Introduction of Amendment Barcode No. 330876
2:10:23 PM Explanation of Amendment by Senator Gruters
2:11:00 PM Amendment adopted
2:11:14 PM Introduction of Amendment Barcode No. 568358
2:11:19 PM Explanation of Amendment by Senator Rodriguez
2:12:39 PM Question from Senator Thurston
2:12:44 PM Response from Senator Rodriguez
2:14:11 PM Senator Gruters with comments
2:14:18 PM Amendment not adopted
2:14:50 PM Introduction of Amendment Barcode No. 457010
2:14:54 PM Explanation of Amendment by Senator Rodriguez
2:16:01 PM Comments from Senator Gruters
2:16:16 PM Amendment not adopted
2:16:34 PM Introduction of Amendment Barcode No. 158572
2:16:38 PM Explanation of Amendment by Senator Gruters
2:17:01 PM Question from Senator Braynon
2:17:07 PM Response from Senator Gruters
2:18:05 PM Question from Senator Gibson
2:18:11 PM Response from Senator Gruters
2:18:50 PM Follow-up question from Senator Gibson
2:18:56 PM Response from Senator Gruters
2:19:33 PM Roll call on Amendment
2:19:57 PM Amendment adopted
2:20:46 PM Introduction of Amendment Barcode No. 195982
2:20:53 PM Explanation of Amendment by Senator Rodriguez
2:21:34 PM Question from Senator Farmer
2:21:41 PM Response from Senator Rodriguez
2:23:04 PM Comments from Senator Gruters
2:23:11 PM Senator Farmer in debate
2:24:54 PM Senator Thurston in debate
2:26:29 PM Closure by Senator Rodriguez
2:26:51 PM Roll call
2:27:50 PM Amendment not adopted
2:28:41 PM Introduction of Amendment Barcode No. 620498
2:28:44 PM Explanation of Amendment by Senator Gruters
2:29:11 PM Question from Senator Gibson
2:29:18 PM Response from Senator Gruters
2:29:50 PM Amendment adopted
2:30:04 PM Introduction of Amendment Barcode No. 195982
2:30:08 PM Explanation of Amendment by Senator Rodriguez
2:33:03 PM Senator Thurston in debate

2:33:21 PM Senator Farmer in debate
2:35:01 PM Senator Simmons in debate
2:40:10 PM Comments from Senator Gruters
2:40:28 PM Closure by Senator Rodriguez
2:42:56 PM Amendment not adopted
2:43:57 PM Introduction of Amendment Barcode No. 413562
2:44:03 PM Explanation of Amendment by Senator Rodriguez
2:45:00 PM Comments from Senator Gruters
2:45:08 PM Amendment not adopted
2:45:39 PM Introduction of Amendment Barcode No. 456262
2:45:42 PM Explanation of Amendment by Senator Farmer
2:47:57 PM Question from Senator Braynon
2:48:02 PM Response from Senator Farmer
2:48:25 PM Follow-up question from Senator Braynon
2:48:32 PM Response from Senator Farmer
2:48:51 PM Comments from Senator Gruters
2:49:00 PM Senator Famer in closure
2:49:33 PM Amendment not adopted
2:49:55 PM Introduction of Amendment Barcode No. 695286
2:50:02 PM Explanation of Amendment by Senator Rodriguez
2:51:42 PM Comments from Senator Gruters
2:51:52 PM Amendment not adopted
2:52:02 PM Introduction of Amendment Barcode No. 969240
2:52:06 PM Explanation of Amendment by Senator Rodriguez
2:55:23 PM Comments from Senator Gruters
2:55:29 PM Amendment not adopted
2:56:22 PM Introduction of Late-filed Amendment Barcode No. 268432
2:56:33 PM Explanation of Amendment by Senator Rodriquez
2:57:38 PM Debate from Senator Farmer
2:59:02 PM Senator Bradley in debate
3:00:01 PM Comments from Senator Gruters
3:00:10 PM Amendment not adopted
3:00:58 PM Ana Castillo waives in opposition
3:01:04 PM Shayna Lopez-Rivas waives in support
3:01:09 PM Maria Guenero waives in opposition
3:01:14 PM Alicia Camaliche waives in opposition
3:01:19 PM David Sleeth waives in opposition
3:01:24 PM Ariel Ynovy waives in opposition
3:01:28 PM Pablo Velasco waives in opposition
3:01:33 PM Enith Mercado waives in opposition
3:01:36 PM Gina Romero waives in opposition
3:01:39 PM Gala Cedeno waives in opposition
3:01:45 PM Olga Bustamante waives in opposition
3:01:47 PM Claudia Toboada waives in opposition
3:01:53 PM Ana, Tampa, FL waives in opposition
3:01:55 PM Carol, Tampa, FL waives in opposition
3:01:58 PM Charo Valero waives in opposition
3:02:00 PM Adrian Boxth waives in opposition
3:02:03 PM Kara Gross waives in opposition
3:02:07 PM Benjamin Paley waives in opposition
3:02:10 PM Jose Martinez waives in opposition
3:02:13 PM Sabas Mejia waives in opposition
3:02:16 PM Carolyn Siegelman waives in opposition
3:02:21 PM Sohany Garcia waives in opposition
3:02:24 PM Rhenie Dalger waives in opposition
3:02:28 PM Eylin Garcia waives in opposition
3:02:35 PM Sagnil Taleey waives in opposition
3:02:41 PM Dami Feral waives in opposition
3:02:44 PM Barry Tillis waives in opposition
3:02:48 PM Glenda Abicht waives in opposition
3:02:51 PM Serena James waives in opposition
3:02:55 PM Jasmen Rogers-Shaw waives in opposition

3:03:00 PM Daniela Tung waives in opposition
3:03:08 PM Montserrat Arguello waives in opposition
3:03:13 PM Jacqui Carmona waives in opposition
3:03:15 PM Karen Woodall waives in opposition
3:03:19 PM Targin Carmona waives in opposition
3:03:23 PM Cirenio Cervantes waives in opposition
3:03:25 PM Ana Limas waives in opposition
3:03:30 PM Octavio Serrato waives in opposition
3:03:33 PM Karyn Morton waives in support
3:03:49 PM Faith Reagan waives in support
3:03:52 PM Ingrid Delgado waives in opposition
3:03:57 PM Madison Medina waives in opposition
3:04:00 PM Kara Gross waives in opposition
3:04:02 PM Miriam Baker waives in opposition
3:04:06 PM Jennifer Kenny waives in opposition
3:04:23 PM Speaker Yvonne Larson, Ft. Myers in support
3:04:57 PM Speaker David Caulkett in support
3:06:45 PM Speaker John Mills in support
3:06:57 PM Speaker Robert Windham in support
3:07:30 PM Speaker Amapola Hansberger in support
3:07:53 PM Speaker Lane Watkins in support
3:08:52 PM Speaker James Calkins in support
3:09:54 PM Speaker Ammaar Habib in opposition
3:10:50 PM Speaker Thomas Kinnedy in opposition
3:12:17 PM Speaker Rev. Alex Pueschel in support
3:13:59 PM Speaker Ida Eskamani in opposition
3:15:21 PM Speaker Amy Marales in opposition
3:17:11 PM Speakers Bobby and Kiyan Michael in support
3:19:43 PM Speaker Michelle Bart in opposition
3:21:09 PM Scott McCoy in opposition
3:21:27 PM Andy Vila in opposition
3:21:37 PM Speaker Paula Munoz in opposition
3:22:52 PM Speaker Deborah Katz Pueshel in support
3:23:25 PM Speaker Isaac Diaz in opposition
3:24:55 PM Speaker Jaylee Lopez in opposition
3:25:58 PM Speaker John Bonelli
3:26:21 PM Speaker Flavia Franco in opposition
3:27:07 PM Speaker Brian Pitts, Justice-2-Jesus
3:28:46 PM Speaker Margarita Romo in opposition
3:31:08 PM Speaker Pamela Gomez in opposition
3:32:21 PM Rev. Dr. Russell Meyer, in opposition
3:34:24 PM Speaker Tiffany Claire in opposition
3:35:07 PM Speaker Michael Garcel in opposition
3:36:42 PM Speaker Nataly Chalco Lopez in opposition
3:37:46 PM Speaker Jessica Cruz in opposition
3:40:32 PM Senator Rodriquez in debate
3:45:41 PM Senator Farmer in debate
3:48:55 PM Comments from Chair Benacquisto
3:49:17 PM Comments from Senator Farmer
3:49:24 PM Senator Gibson in debate
3:51:20 PM Senator Simmons in debate
3:55:36 PM Senator Gruters in closure
3:59:11 PM Roll call
3:59:17 PM CS/CS/CS/SB 168 reported favorably
3:59:59 PM Recording Paused
4:03:20 PM Recording Resumed
4:03:23 PM Meeting back to order
4:03:31 PM Introduction of Tab 1, CS/SB 42
4:03:42 PM Explanation of CS/SB 42, Relief of Dominguez by Hillsborough County by Senator Taddeo
4:05:06 PM Question from Senator Lee
4:05:10 PM Response from Senator Taddeo
4:06:00 PM Senator Flores moves to TP bill

4:06:06 PM Tab 2, SR 1808
4:06:15 PM Explanation of SR 1808, Film and Television Production by Senator Taddeo
4:07:14 PM Phillip Suderman in opposition
4:07:23 PM Chris Rannung in support
4:07:30 PM Brian Pitts waives in support
4:07:37 PM Closure waived
4:07:41 PM Roll call
4:07:49 PM SR 1808 reported favorably
4:08:21 PM Introduction of Tab 4, CS/CS/SB 122
4:08:47 PM Explanation of CS/CS/SB 122, Agreements Between Service Providers and Consumers by Senator Broxson
4:10:54 PM Introduction of Barcode Amendment No. 338298
4:11:01 PM Explanation of Amendment by Senator Broxson
4:12:35 PM Question from Senator Farmer
4:12:40 PM Response from Senator Broxson
4:13:29 PM Follow-up question from Senator Farmer
4:13:36 PM Response from Senator Broxson
4:15:23 PM Additional question from Senator Farmer
4:15:30 PM Response from Senator Broxson
4:16:23 PM Introduction of Amendment Barcode No. 273814
4:16:30 PM Amendment withdrawn
4:16:39 PM Introduction of Amendment Barcode No. 394600
4:16:43 PM Amendment withdrawn
4:16:49 PM Introduction of Amendment Barcode No. 645914
4:16:57 PM Explanation of Amendment from Senator Thurston
4:17:44 PM Speaker Richie Kidwell in support
4:18:43 PM Speaker Dave DeBlander in support
4:19:49 PM Speaker Jesus Moises in support
4:21:26 PM Foyt Ralston waives in support
4:21:35 PM Jim Appuzzo waives in support
4:21:43 PM Senator Brandes in opposition of Amendment
4:22:32 PM Senator Farmer in debate
4:24:12 PM Amendment to Amendment not adopted
4:24:27 PM Introduction of Amendment Barcode No. 838662
4:24:31 PM Explanation of Amendment by Senator Rodriquez
4:25:11 PM Amendment withdrawn per Senator Rodriguez
4:25:23 PM Introduction of Amendment Barcode No. 927034
4:25:32 PM Amendment withdrawn
4:25:37 PM Introduction of Amendment Barcode No. 504126
4:25:44 PM Explanation of Amendment by Senator Farmer
4:27:13 PM Speaker Steve Geller in opposition
4:28:12 PM Speaker Dave DeBlander in support
4:29:07 PM Foyt Ralston in support
4:29:12 PM Speaker Richie Kidwell in support
4:29:59 PM Senator Simmons in debate
4:30:11 PM Senator Farmer in closure
4:30:32 PM Amendment not adopted
4:30:44 PM Introduction of Amendment Barcode No. 668170
4:30:51 PM Amendment withdrawn
4:30:54 PM Introduction of Amendment Barcode No. 204184
4:31:00 PM Amendment withdrawn
4:31:11 PM Re -introduction of Amendment Barcode No. 204184
4:31:19 PM Explanation of Amendment by Senator Farmer
4:32:12 PM Question from Senator Lee
4:32:15 PM Response from Senator Simmons
4:34:31 PM Follow-up question from Senator Lee
4:34:37 PM Response from Senator Simmons
4:35:06 PM Amendment not adopted
4:35:19 PM Introduction of Amendment Barcode No. 922830
4:35:29 PM Explanation of Amendment by Senator Farmer
4:37:03 PM Richie Kidwell waives in support
4:37:15 PM Senator Brandes in opposition of Amendment

4:37:24 PM Tyler Chasez in support of Amendment
4:37:54 PM Senator Flores in debate
4:38:36 PM Closure waived
4:38:42 PM Amendment not adopted
4:38:47 PM Introduction of Amendment Barcode No. 973114
4:38:51 PM Amendment withdrawn
4:38:54 PM Introduction of Amendment Barcode No. 547328
4:39:01 PM Amendment withdrawn
4:39:37 PM Question from Senator Montford
4:39:51 PM Response from Senator Broxson
4:41:16 PM Cam Fentress waives in support
4:41:24 PM Trey Goldman waives in support
4:41:28 PM Christine Ashburn waives in support
4:41:33 PM Ralph Davis waives in support
4:41:36 PM Paul Huszar waives in support
4:41:43 PM Charles Snellgrove waives in support
4:41:51 PM Tyler Chasez waives in opposition
4:41:56 PM Dave DeBlander waives in opposition
4:42:01 PM Foyt Ralston waives in opposition
4:42:23 PM Senator Farmer in debate
4:44:18 PM Senator Broxson on Delete-all Amendment
4:44:47 PM Amendment is adopted
4:45:18 PM Ralph Davis waives in support
4:45:22 PM Charles Snellgrove waives in support
4:45:29 PM Judge Ana Maria Pando waives in opposition
4:45:36 PM Tyler Chasez waives in opposition
4:45:39 PM Jesus Moises waives in opposition
4:45:43 PM Sal Nuzzo waives in support
4:45:48 PM Richie Kidwell waives in opposition
4:45:50 PM Meredith Stanfield waives in support
4:45:55 PM Nirav Desai waives in opposition
4:46:01 PM Brewster Bevis waives in support
4:46:05 PM Carolyn Johnson waives in support
4:46:08 PM Jim Apuzzo waives in opposition
4:46:12 PM William Roe waives in opposition
4:46:16 PM Beth Vecchidi waives in support
4:46:22 PM Caitlin Murray waives in support
4:46:26 PM Christine Ashburn waives in support
4:46:44 PM Kenneth Pratt waives in support
4:46:54 PM Closure waived
4:46:56 PM Roll call
4:47:12 PM CS/CS/CS/SB 122 reported favorably
4:47:41 PM Introduction of Tab 1, CS/SB 42
4:48:05 PM Speaker Brian Pitts, Justice-2-Jesus
4:49:23 PM Closure by Senator Taddeo
4:49:28 PM Roll call
4:49:38 PM CS/SB 42 reported favorably
4:50:23 PM Introduction of Tab 13, SB 1136
4:50:40 PM Explanation of SB 1136, Cyberharrassment by Senator Harrell
4:51:25 PM Question from Senator Brandes
4:51:30 PM Response from Senator Harrell
4:52:12 PM Captain Matt Butler waives in support
4:52:21 PM Closure waived
4:52:24 PM Roll call
4:52:29 PM Sb 1136 reported favorably
4:52:57 PM Introduction of Tab 18, SR 1820
4:53:01 PM Explanation of SR 1820, Moratorium on Drilling in the Gulf of Mexico by Senator Hooper
4:53:30 PM Brian Pitts waives in support
4:53:36 PM David Mica waives in opposition
4:53:49 PM Closure waived
4:53:51 PM Roll call
4:54:01 PM SR 1820 reported favorably

4:54:23 PM Introduction of Tab 3, SB 94
4:54:28 PM Explanation of SB 94, Child Care Facilities by Senator Stewart
4:54:45 PM Introduction of Amendment Barcode No. 140174
4:54:51 PM Explanation of Amendment by Senator Stewart
4:55:17 PM Amendment adopted
4:55:24 PM Dr. Danielle Thomas waives in support
4:55:34 PM Closure waived
4:55:37 PM Roll call
4:55:40 PM CS/SB 94 reported favorably
4:56:09 PM Introduction of Tab 27, SB 1208
4:56:19 PM Explanation of SB 1208, Aircraft Liens by Senator Baxley
4:56:37 PM Closure waived
4:56:39 PM Roll call
4:56:53 PM SB 1208 reported favorably
4:57:09 PM Introduction of Tab 28, SJR 274
4:57:19 PM Explanation of SJR 274, Limitation on Terms of Office for Members of a District School Board by Senator Baxley
4:57:46 PM Shawn Frost waives in support
4:57:53 PM Nicolas Tomboulides waives in support
4:57:56 PM John Hallmon waives in support
4:57:58 PM Shayra Lopez-Rivas waives in support
4:58:05 PM Greg Gahris waives in opposition
4:58:11 PM Speaker Chris Doolin in opposition
4:59:22 PM Speaker Austin Sekel in support
5:00:34 PM Speaker Rich Templin in opposition
5:01:28 PM Question from Senator Lee
5:01:39 PM Response from Mr. Templin
5:02:13 PM Ken Williams waives in opposition
5:02:22 PM Speaker Michael Turner in opposition
5:03:17 PM Von Bonello waives in opposition
5:03:18 PM Speaker Brian Pitts, Justice-2-Jesus
5:03:51 PM William Lawson waives in opposition
5:04:02 PM Glenda Abicht waives in opposition
5:04:19 PM Serena James waives in opposition
5:04:24 PM Barry Tillis waives in opposition
5:04:26 PM Robert Chapman waives in opposition
5:04:31 PM Jennifer Kenny waives in opposition
5:04:34 PM Mariam Baker waives in opposition
5:04:50 PM Senator Montford in debate
5:06:59 PM Senator Book in debate
5:07:53 PM Senator Thurston in debate
5:08:54 PM Bill temporary postponed
5:09:07 PM Introduction of Tab 12, CS/SB 920
5:09:10 PM Explanation of CS/SB 920 by Senator Pizzo
5:09:41 PM Matt Puckett waives in support
5:09:45 PM Captain Matt Butler waives in support
5:09:52 PM Closure waived
5:09:55 PM Roll call
5:10:01 PM CS/SB 920 reported favorably
5:10:24 PM Introduction of Tab 17, CS/CS/SB 1704
5:10:29 PM Explanation of CS/CS/SB 1704, Department of Financial Services by Senator Wright
5:11:32 PM Question from Senator Thurston
5:11:38 PM Response from Senator Wright
5:11:52 PM Follow-up question from Senator Thurston
5:11:59 PM Response from Senator Wright
5:12:58 PM Beth Vecchioli waives in support
5:13:03 PM Georgia McKeown waives in support
5:13:08 PM John Ricco waives in support
5:13:13 PM Rocco Salvateri waives in support
5:13:17 PM Amber Hughes waives in opposition
5:13:22 PM Corinne Mixon waives in support
5:13:27 PM Meredith Brock Stanfield waives in support

5:13:36 PM Closure waived
5:13:40 PM Roll Call
5:14:05 PM CS/CS/SB 1704 reported favorably
5:14:08 PM Introduction of Tab 14, CS/SB 1418
5:14:12 PM Explanation of CS/SB 1418 by Senator Powell
5:14:32 PM Introduction of Amendment Barcode No. 923424
5:14:33 PM Explanation of Amendment by Senator Powell
5:15:34 PM Amendment adopted
5:15:44 PM Dr. Daniello Thomas waives in support
5:15:49 PM Jill Gran waives in support
5:15:57 PM Closure waived
5:15:59 PM Roll call
5:16:03 PM CS/CS/SB 1418 reported favorably
5:16:29 PM Introduction of Tab 16, CS/SB 1520
5:16:35 PM Explanation of CS/SB 1520, Direct Health Care Agreements by Senator Bean
5:16:55 PM Alexandra Abboud waives in support
5:16:58 PM Phillip Sunderman waives in support
5:17:02 PM Speaker Brian Pitts, Justice-2-Jesus
5:18:12 PM Closure waived
5:18:14 PM Roll call
5:18:19 PM CS/SB 1520 reported favorably
5:18:44 PM Introduction of Tab 11, SM 852
5:19:00 PM Explanation of SM 852, VA Mission Act of 2018 by Senator Diaz
5:19:38 PM Question from Senator Flores
5:19:42 PM Response from Senator Diaz
5:19:56 PM Bill Helmich waives in support
5:20:01 PM Speaker Brian Pitts, Justice-2-Jesus
5:20:15 PM Diego Echeverri waives in support
5:20:36 PM Closure waived
5:20:38 PM Roll call
5:20:45 PM SM 852 reported favorably
5:21:06 PM Introduction of Tab 5, SB 7054
5:21:15 PM Explanation of SB 7054, OGSR/Hurricane or Flood Loss Models by Senator Rouson
5:21:52 PM Brian Pitts waives in support
5:22:03 PM Closure waived
5:22:05 PM Roll call
5:22:10 PM SB 7054 reported favorably
5:22:36 PM Introduction of Tab 7, CS/CS/SB 200
5:22:53 PM Explanation of CS/CS/SB 200, Relief of the Estate of Herminio Padilla, Jr. by Senator Cruz
5:23:10 PM Speaker Brian Pitts, Justice-2-Jesus
5:24:04 PM Closure waived
5:24:05 PM Roll call
5:24:09 PM CS/CS/SB 200 reported favorably
5:24:35 PM Introduction of Tab 26, SB 990
5:24:52 PM Explanation of SB 990, Unemployment Compensation by Senator Gibson
5:26:01 PM Introduction of Amendment Barcode No. 20316
5:26:11 PM Explanation of Amendment by Senator Gibson
5:26:56 PM Amendment adopted
5:27:01 PM Thomas Kennedy waives in support
5:27:05 PM Anmaas Habib waives in support
5:27:09 PM Ida Eskamani waives in support
5:27:12 PM Barbara DeVane waives in support
5:27:15 PM Charo Valero waives in support
5:27:21 PM Carolyn Siegelman waives in support
5:27:24 PM Jasmen Rogers-Shaw waives in support
5:27:33 PM Senator Gibson with Comments
5:27:51 PM Roll call
5:27:58 PM CS/SB 990 reported favorably
5:28:23 PM Introduction of Tab 25, CS/CS/SB 862
5:28:31 PM Explanation of CS/CS/SB 862 by Senator Stargel
5:28:53 PM Introduction of Amendment Barcode No. 661740
5:28:58 PM Explanation of Amendment by Senator Stargel

5:29:26 PM Introduction of Amendment to Amendment Barcode No. 492136
5:29:37 PM Explanation of Amendment by Senator Rodriguez
5:30:56 PM Amendment withdrawn
5:31:04 PM George Meros waives in opposition
5:31:17 PM Delete-all adopted
5:31:28 PM Brewster Bevis waives in support
5:31:30 PM Leslie Kroeger waives in opposition
5:31:32 PM Carolyn Johnson waives in support
5:31:35 PM Mark Delegal waives in support
5:31:44 PM Closure waived
5:31:48 PM Roll call
5:31:50 PM CS/CS/CS/SB 862 reported favorably
5:32:20 PM Introduction of Tab 19, CS/CS/CS/SB 76
5:32:36 PM Explanation of CS/CS/CS/SB 76, Texting While Driving by Senator Simpson
5:32:44 PM Introduction of Amendment Barcode No. 758640
5:32:47 PM Explanation of Amendment by Senator Simpson
5:33:31 PM Question from Senator Thurston
5:33:50 PM Response from Senator Simpson
5:33:55 PM Chief Gary Hester waives in support
5:33:58 PM Lisa Hurley waives in support
5:34:08 PM Amendment adopted
5:34:21 PM Chief Gary Hester waives in support
5:34:25 PM Drinda Merritt waives in support
5:34:36 PM Speaker Debbie Wanninkhof in support
5:38:56 PM Keyna Cory waives in support
5:39:02 PM Dr. Danielle Thomas waives in support
5:39:04 PM Carl Mikyska waives in support
5:39:09 PM Becky Afonso waives in support
5:39:13 PM Brewster Bevis waives in support
5:39:16 PM Devon West waives in support
5:39:19 PM Mike McHale waives in support
5:39:23 PM H. Lee Moffitt waives in support
5:39:27 PM Beth Vecdiloli waives in support
5:39:30 PM Brian Pitts, Justice-2-Jesus
5:40:05 PM Sal Nuzzo waives in support
5:40:17 PM Tonnette Graham waives in support
5:40:34 PM Cesar Fernandez waives in support
5:40:38 PM Captain Matt Butler waives in support
5:40:43 PM Demetrius Branca waives in support
5:41:23 PM Lisa Bacat waives in support
5:43:52 PM Closure waived
5:43:56 PM Roll call
5:44:03 PM CS/CS/CS/CS/SB 76 reported favorably
5:44:21 PM Introduction of Tab 24, SB 742
5:44:35 PM Explanation of SB 742, Designation of Eligible Telecommunications Carriers by Senator Braynon
5:45:04 PM Joanna Bonfanti waives in support
5:45:10 PM Closure waived
5:45:12 PM Roll call
5:45:19 PM SB 742 reported favorably
5:45:40 PM Introduction of Tab 23, SB 342
5:45:46 PM Explanation of SB 342, Public Records/Voters and Voter Registration by Senator Lee
5:46:10 PM David Ramba waives in support
5:46:17 PM Brian Pitts waives in opposition
5:46:22 PM Closure waived
5:46:24 PM Roll call
5:46:29 PM SB 342 reported favorably
5:46:52 PM Introduction of Tab 22, CS/SB 548
5:47:03 PM Explanation of CS/SB 548, Electronic Legal Documents by Senator Brandes
5:47:13 PM Greg Black waives in support
5:47:15 PM Jennifer Martin waives in support
5:47:17 PM Trey Goldman waives in support
5:47:19 PM Kenneth Pratt waives in support

5:47:21 PM Mat Forrest waives in support
5:47:24 PM Jeff Sharkey waives in support
5:47:26 PM Brian Jogerst waives in support
5:47:34 PM Closure waived
5:47:38 PM Roll call
5:47:40 PM CS/SB 548 reported favorably
5:48:04 PM Introduction of Tab 21, CS/SB 380
5:48:11 PM Explanation of CS/SB 380, Homeowners' Insurance Policy Disclosures by Senator Brandes
5:48:20 PM Catlin Murray waives in support
5:48:26 PM Closure waived
5:48:28 PM Roll call
5:48:31 PM CS/SB 380 reported favorably
5:49:04 PM Introduction of Tab 10, CS/SB 7046
5:49:24 PM Explanation of CS/SB 7046, Critical Infrastructure Facilities and Staff by Senator Brandes
5:49:38 PM Jared Torres waives in support
5:49:41 PM Brian Pitts Waives in support
5:49:48 PM Closure waived
5:49:50 PM Roll call
5:49:52 PM CS/SB 7046 reported favorably
5:50:14 PM Introduction of Tab 8, CS/SB 620
5:50:22 PM Explanation of CS/SB 630, Nonopioid Alternatives by Senator Flores
5:50:45 PM Brian Pitts waives in support
5:50:48 PM Paul Lowell waives in support
5:50:51 PM Natalie Kato waives in support
5:50:57 PM Closure waived
5:51:01 PM Roll call
5:51:02 PM CS/SB 630 reported favorably
5:51:26 PM Introduction of Tab 9, SB 902
5:51:32 PM Explanation of SB 902, Open and Expired Building Permits by Senator Hutson
5:51:56 PM Introduction of Amendment Barcode No. 768214
5:52:03 PM Explanation of Amendment by Senator Hutson
5:52:14 PM Cam Fentriss waives in support
5:52:30 PM Trey Goldman waives in support
5:52:32 PM French Brown waives in support
5:52:41 PM Amendment adopted
5:52:54 PM Scott Jenkins waives in support
5:52:56 PM Brian Pitts, Justice-2-Jesus
5:53:07 PM Closure waived
5:53:10 PM Roll call
5:53:11 PM CS/SB 902 reported favorably
5:53:36 PM Introduction of Tab 20, CS/SB 336
5:53:39 PM Explanation of CS/SB 336, Local Tax Referenda by Senator Brandes
5:53:59 PM Introduction of Amendment Barcode No. 164680
5:54:04 PM Explanation of Amendment by Senator Lee
5:54:43 PM Amendment adopted
5:54:52 PM Introduction of Amendment Barcode No. 232346
5:54:56 PM Explanation of Amendment Barcode No. 232346 by Senator Brandes
5:55:02 PM Amber Hughes waives in support
5:55:10 PM Laura Youmans waives in support
5:55:15 PM Amendment adopted
5:55:30 PM Phillip Sunderman waives in support
5:55:33 PM Brian Pitts
5:55:40 PM Closure waived
5:55:42 PM Roll call
5:55:47 PM CS/CS/SB 336 reported favorably
5:56:18 PM Senator Gibson would like to be shown voting in the affirmative on SB 742, SB 342
5:56:48 PM Senator Book would like to be shown voting in the affirmative on CS/SB 42, SB 1136, SR 1820, CS/SB 920
5:56:57 PM Senator Farmer would like to be shown voting in the affirmative on SR 1438
5:57:05 PM Senator Gibson moves to adjourn, without objection adjourned