

Tab 1	SPB 7062 by JU; Citizen Initiative					
Tab 2	SPB 7064 by JU; Probation Violations					
Tab 3	SB 4 by Flores; (Similar to CS/H 06501) Relief of Dontrell Stephens by the Palm Beach County Sheriff's Office					
242200	D	S	RCS	JU, Flores	Delete everything after	02/20 11:51 AM
Tab 4	CS/SB 302 by CF, Rader; (Similar to CS/H 00089) Adoption Records					
Tab 5	CS/SB 1018 by CJ, Stewart; (Similar to CS/H 00675) Exposure of Sexual Organs					
Tab 6	CS/SB 1082 by AG, Albritton; (Similar to CS/CS/H 00241) Domestic Violence Injunctions					
Tab 7	SB 1340 by Gruters; (Similar to CS/CS/H 00007) Legal Notices					
190756	A	S	FAV	JU, Gruters	Delete L.157:	02/20 11:56 AM
Tab 8	CS/SB 1416 by CJ, Perry (CO-INTRODUCERS) Rodriguez; (Compare to CS/H 00951) Assaults on Specified Persons					
336998	A	S	WD	JU, Perry	Delete L.23 - 44:	02/19 05:42 PM
Tab 9	CS/SB 1484 by IS, Diaz; (Similar to CS/H 01383) Motor Vehicle Manufacturers and Dealers					
846192	A	S	RCS	JU, Diaz	Delete L.49 - 67:	02/20 02:31 PM
Tab 10	CS/SB 1372 by EE, Brandes; Elections					
885904	A	S	RCS	JU, Brandes	Delete L.176 - 185:	02/20 02:56 PM
Tab 11	CS/SB 1738 by IS, Brandes; (Similar to CS/H 00977) Motor Vehicle Dealers					
Tab 12	SB 1754 by Book; (Similar to CS/H 01397) Limitation of Actions Against Crisis Shelters					
137820	A	S	RCS	JU, Book	Delete L.23 - 61:	02/20 11:51 AM
Tab 13	CS/SR 214 by IS, Rodriguez, Simpson (CO-INTRODUCERS) Cruz, Stewart, Benacquisto, Bradley, Hutson, Mayfield, Diaz, Wright, Perry, Harrell, Albritton, Hooper; (Compare to H 00051) Philosophies that Espouse Superiority					
488352	D	S	RS	JU, Rodriguez	Delete everything after	02/20 02:31 PM
259328	SD	S	RCS	JU, Rodriguez	Delete everything after	02/20 02:31 PM
Tab 14	CS/SB 380 by BI, Baxley; (Similar to CS/CS/H 01439) Disposition of Personal Property					
543042	A	S	RCS	JU, Baxley	Delete L.97 - 268:	02/20 02:31 PM
Tab 15	CS/SB 682 by CF, Baxley; (Compare to CS/H 00319) Florida Guide to a Healthy Marriage					
555448	D	S	RCS	JU, Baxley	Delete everything after	02/20 11:51 AM
Tab 16	SB 16 by Simmons; (Similar to CS/H 06517) Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard Maybin/Department of Highway Safety and Motor Vehicles					
640172	A	S	RCS	JU, Simmons	Delete L.141 - 164:	02/20 11:51 AM

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Simmons, Chair
Senator Rodriguez, Vice Chair

MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: Toni Jennings Committee Room, 110 Senate Building

MEMBERS: Senator Simmons, Chair; Senator Rodriguez, Vice Chair; Senators Baxley, Gibson, Hutson, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
Consideration of proposed bill:			
1	SPB 7062	Citizen Initiative; Proposing an amendment to the State Constitution to revise threshold requirements for the number of petitions signed by electors needed in order for a citizen initiative to amend or revise the State Constitution to be placed on the ballot, etc.	Submitted and Reported Favorably as Committee Bill Yeas 4 Nays 2
Consideration of proposed bill:			
2	SPB 7064	Probation Violations; Requiring a court to modify or continue a probationary term upon finding that a probationer has met all specified conditions, rather than any of the conditions, after a violation of probation, etc.	Submitted and Reported Favorably as Committee Bill Yeas 6 Nays 0
3	SB 4 Flores (Similar CS/H 6501)	Relief of Dontrell Stephens by the Palm Beach County Sheriff's Office; Providing for the relief of Dontrell Stephens through Evett L. Simmons, as guardian of his property, by the Palm Beach County Sheriff's Office; providing for an appropriation to compensate him for personal injuries and damages sustained as the result of the negligence of a deputy of the office; providing a limitation on the payment of compensation, fees, and costs, etc. JU 02/11/2020 Temporarily Postponed JU 02/19/2020 Fav/CS GO RC	Fav/CS Yeas 4 Nays 1
4	CS/SB 302 Children, Families, and Elder Affairs / Rader (Similar H 89)	Adoption Records; Providing that the name and identity of a birth parent, an adoptive parent, and an adoptee may be disclosed from adoption records without a court order under certain circumstances, etc. CF 02/04/2020 Fav/CS JU 02/19/2020 Favorable RC	Favorable Yeas 5 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Wednesday, February 19, 2020, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
5	CS/SB 1018 Criminal Justice / Stewart (Similar CS/H 675, Compare S 850)	Exposure of Sexual Organs; Increasing criminal penalties for exposure of sexual organs for a second or subsequent offense; authorizing warrantless arrests when a law enforcement officer has probable cause to believe that a person has violated s. 800.03, F.S., etc. CJ 01/28/2020 Temporarily Postponed CJ 02/04/2020 Fav/CS JU 02/19/2020 Favorable RC	Favorable Yeas 5 Nays 0
6	CS/SB 1082 Agriculture / Albritton (Similar CS/CS/H 241)	Domestic Violence Injunctions; Authorizing a court to take certain actions regarding the care, possession, or control of an animal in domestic violence injunctions, etc. AG 01/14/2020 Fav/CS JU 02/19/2020 Favorable RC	Favorable Yeas 4 Nays 0
7	SB 1340 Gruters (Similar CS/CS/H 7)	Legal Notices; Providing for the publication of legal notices on certain publicly accessible websites; allowing a governmental agency to publish legal notices on a publicly accessible website under certain circumstances; removing provisions relating to the publication of legal notices in newspapers; providing that an advertisement of a sale or disposition of property may be published on certain websites for a specified time period, etc. JU 02/11/2020 Temporarily Postponed JU 02/19/2020 Temporarily Postponed CA RC	Temporarily Postponed
8	CS/SB 1416 Criminal Justice / Perry (Compare CS/H 951)	Assaults on Specified Persons; Requiring public transit providers to post a specified sign concerning assaulting a transit operator; requiring public transit providers to create and implement a risk reduction program; authorizing public transit providers to deploy assault mitigation infrastructure; providing a specific reference to assault or battery on a public transit employee or agent, etc. CJ 01/28/2020 Temporarily Postponed CJ 02/04/2020 Fav/CS JU 02/19/2020 Favorable RC	Favorable Yeas 6 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Wednesday, February 19, 2020, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
9	CS/SB 1484 Infrastructure and Security / Diaz (Similar CS/H 1383)	Motor Vehicle Manufacturers and Dealers; Redefining the term "line-make vehicle"; revising a prohibition against certain applicants and licensees competing with franchised motor vehicle dealers in this state, etc. IS 02/10/2020 Fav/CS JU 02/19/2020 Fav/CS RC	Fav/CS Yeas 3 Nays 2
10	CS/SB 1372 Ethics and Elections / Brandes	Elections; Deleting a provision that prohibits the use of an address appearing on identification presented by an elector at the polls as a basis to confirm an elector's legal residence; revising requirements for eligibility to serve as a poll watcher; revising the timeframes for conducting public preelection testing of automatic tabulating equipment; removing the requirement that duplicate ballots be made of vote-by-mail ballots containing overvoted races; preempting counties, municipalities, and other local governmental entities from enacting or adopting any limitation or restriction involving certain contributions and expenditures, etc. EE 02/03/2020 Fav/CS JU 02/19/2020 Fav/CS RC	Fav/CS Yeas 3 Nays 2
11	CS/SB 1738 Infrastructure and Security / Brandes (Similar CS/H 977)	Motor Vehicle Dealers; Providing that certain motor vehicle dealers and their leasing or rental affiliates are immune from causes of action and are not liable for harm to persons or property under certain circumstances, etc. IS 02/10/2020 Fav/CS JU 02/19/2020 Favorable RC	Favorable Yeas 4 Nays 1
12	SB 1754 Book (Similar CS/H 1397)	Limitation of Actions Against Crisis Shelters; Citing this act as the "Florida Crisis Shelter Protection Act"; limiting civil liability for nonprofit organizations operating crisis shelters for certain persons, etc. JU 02/19/2020 Fav/CS CA RC	Fav/CS Yeas 4 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Wednesday, February 19, 2020, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
13	CS/SR's 214 & 222 Infrastructure and Security / Rodriguez / Simpson (Compare HR 51)	Philosophies that Espouse Superiority; (THIS BILL COMBINES SR's 214 & 222) Rejecting and condemning any philosophy that espouses the superiority of one group of people over another which is hateful, dangerous, or a morally corrupt expression of intolerance, and affirming that such philosophies are contradictory to the values that define the people of Florida and the United States, etc. IS 01/13/2020 Fav/CS Combined - Lead JU 01/28/2020 Temporarily Postponed JU 02/19/2020 Fav/CS RC	Fav/CS Yeas 6 Nays 0
14	CS/SB 380 Banking and Insurance / Baxley (Similar CS/CS/H 1439, Compare H 397)	Disposition of Personal Property; Specifying that a financial institution is not prohibited from disclosing specified information and providing copies of specified affidavits to certain persons relating to deceased account holders; authorizing a financial institution to pay funds on deposit in certain accounts to a specified family member of a decedent without any court proceeding, order, or judgment under certain circumstances; providing that estates of certain decedents are not subject to probate administration if certain conditions are met, etc. BI 02/11/2020 Fav/CS JU 02/19/2020 Fav/CS RC	Fav/CS Yeas 6 Nays 0
15	CS/SB 682 Children, Families, and Elder Affairs / Baxley (Compare CS/H 319)	Florida Guide to a Healthy Marriage; Creating the Marriage Education Committee within the Department of Children and Families for the purpose of creating the Florida Guide to a Healthy Marriage; authorizing the committee to obtain private funds for the costs of printing and distributing copies of the guide; requiring clerks of court to post an electronic copy of the guide on the court's website and provide printed copies to applicants for marriage licenses under certain circumstances; prohibiting the issuance of a marriage license until petitioners verify that both parties have obtained and read the Florida Guide to a Healthy Marriage or some other presentation of similar information, etc. CF 01/28/2020 Fav/CS JU 02/19/2020 Fav/CS RC	Fav/CS Yeas 4 Nays 2

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Wednesday, February 19, 2020, 1:30—3:30 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
16	SB 16 Simmons (Similar CS/H 6517)	Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard Maybin/Department of Highway Safety and Motor Vehicles; Providing for the relief of Christeia Jones, guardian of Logan Grant, Denard Maybin, Jr., and Lanard Maybin; providing an appropriation to compensate them for injuries and damages sustained as a result of the alleged negligence of Trooper Raul Umana and the Florida Highway Patrol, a division of the Department of Highway Safety and Motor Vehicles; providing a limitation on the payment of attorney fees, etc. SM JU 02/11/2020 Not Considered JU 02/19/2020 Fav/CS ATD AP	Fav/CS Yeas 5 Nays 0

Other Related Meeting Documents

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Judiciary

BILL: SPB 7062

INTRODUCER: For consideration by the Judiciary Committee

SUBJECT: Citizen Initiative

DATE: February 18, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cibula	Cibula		JU Submitted as Comm. Bill/FAV

I. Summary:

SPB 7062 is a joint resolution to amend the Florida Constitution to change the geographic distribution requirement for signatures on citizen initiative petitions. To place an initiative on the ballot, initiative proponents will be required to show that an initiative has some public support in all, instead of half, of the state's 27 congressional districts.

Proponents must demonstrate sufficient public support by collecting signatures on initiative petitions from each congressional district of the state in a number equal to 8 percent of the votes cast in each district in the last presidential election. Under the current geographic distribution requirement in the Constitution, signatures must satisfy the 8 percent threshold in at least half of the state's 27 congressional districts.

The joint resolution does not change the total number of signatures on petitions that must be obtained to place a citizen initiative amendment on the ballot.

II. Present Situation:

The Florida Constitution authorizes five methods by which proposed amendments may be submitted to the electors for approval.¹ These methods of amendment allow proposals to be submitted to the electors by the Legislature, the constitution revision commission, the taxation and budget reform commission, a constitutional convention, and a citizen initiative.

The authorization for citizen initiatives is set forth in Article XI, section 3 of the Florida Constitution, which states:

The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue,

¹ FLA. CONST. Art. XI.

shall embrace but one subject and matter directly connected therewith. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each of one half of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which presidential electors were chosen.

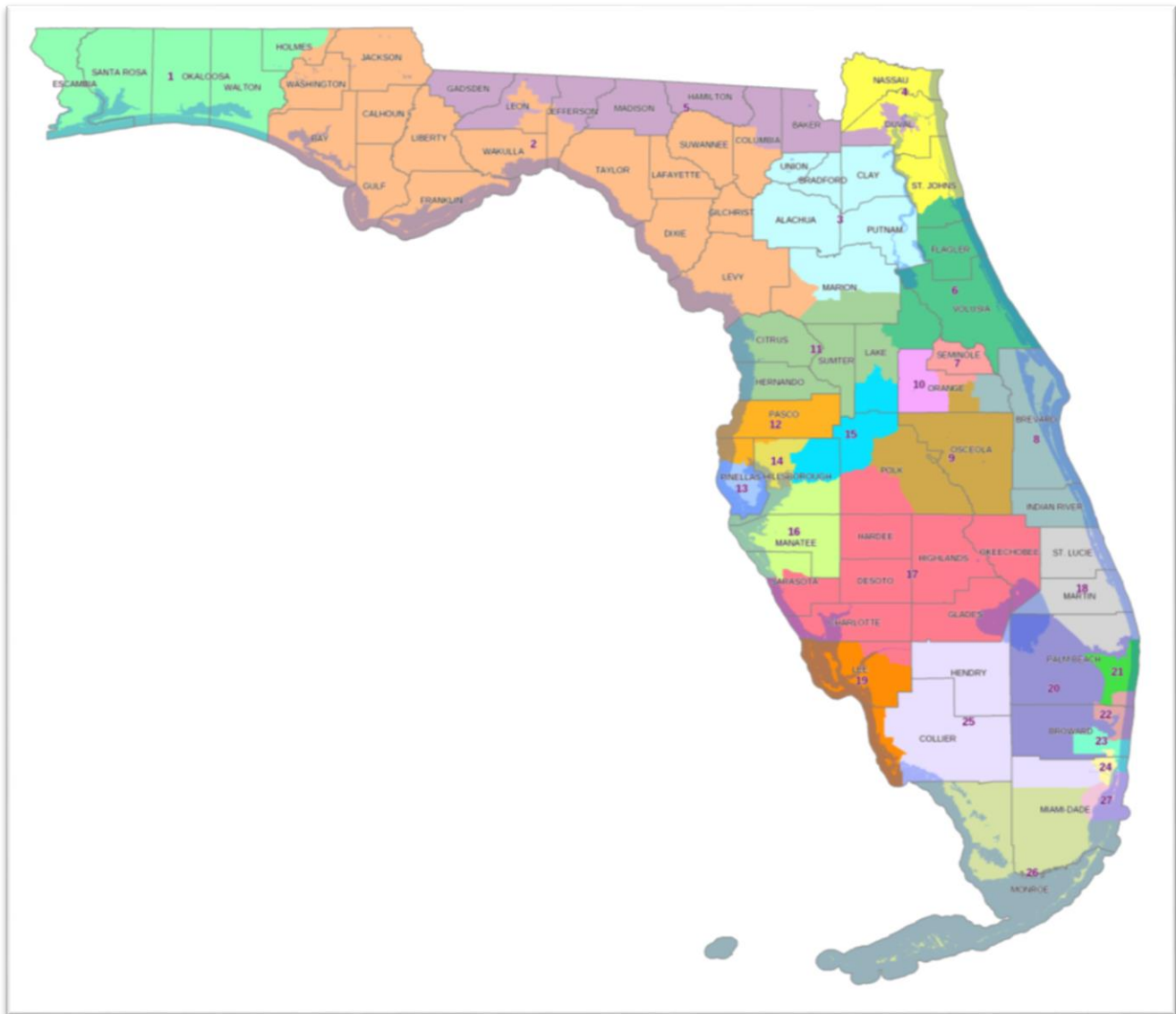
The Constitution requires the proponents of a citizen initiative amendment to demonstrate that the initiative has sufficiently broad public support. Public support is demonstrated by collecting signatures of registered voters equal to 8 percent of the voters voting in the last presidential election. This means that at least 766,200 valid signatures must be collected to place an initiative on the 2020 General Election Ballot.² Additionally, the 8 percent threshold must also be met in at least half or 14 of the state's 27 congressional districts as shown in the table below.³

Congressional District	Votes Cast in 2016 Presidential Election	8% Threshold (for Ballot Position)
First	386,504	30,921
Second	360,098	28,808
Third	356,715	28,538
Fourth	428,190	34,256
Fifth	316,115	25,290
Sixth	385,918	30,874
Seventh	370,466	29,638
Eighth	409,569	32,766
Ninth	362,593	29,008
Tenth	320,548	25,644
Eleventh	417,253	33,381
Twelfth	386,775	30,942
Thirteenth	367,818	29,426
Fourteenth	336,289	26,904
Fifteenth	340,331	27,227
Sixteenth	403,805	32,305
Seventeenth	360,061	28,805
Eighteenth	388,772	31,102
Nineteenth	389,415	31,154
Twentieth	291,984	23,359
Twenty-First	355,842	28,468
Twenty-Second	361,305	28,905
Twenty-Third	342,784	27,423
Twenty-Fourth	269,446	21,556
Twenty-Fifth	269,983	21,599
Twenty-Sixth	294,742	23,580
Twenty-Seventh	304,012	24,321
Total	9,577,333	766,200
Source: Division of Elections, 2018 Initiative Petition Handbook.		

² Division of Elections, Florida Department of State, *2018 Initiative Petition Handbook* (last updated Dec. 29, 2017) <https://dos.myflorida.com/media/697659/initiative-petition-handbook-2018-election-cycle-eng.pdf>.

³ *Id.* at Appendix B.

A map of the state's congressional districts is shown below.



Geographic distribution requirements for petition signatures reflect the view that they are important because they “force initiative proponents to demonstrate that their proposal has support statewide, not just among the citizens of the state’s most populous region.”⁴ In states lacking a geographic distribution requirement for signatures, “it is not only possible but common for initiative proponents to gather all their signatures in the state’s largest city. The voters in the largest city, therefore, may decide for the state as a whole what issues make the ballot and what issues do not.”⁵

⁴ *Angle v. Miller*, 673 F.3d 1122, 1135 (9th Cir. 2012) (quoting National Conference of State Legislatures, *Initiative Petition Signature Requirements* (Apr. 7, 1010)).

⁵ National Conference of State Legislatures, *Initiative Petition Signature Requirements* (Sept. 20 2012), <https://www.ncsl.org/research/elections-and-campaigns/signature-requirements.aspx>.

III. Effect of Proposed Changes:

This joint resolution proposes an amendment to the Florida Constitution to change the geographic distribution requirement for signatures on citizen initiative petitions. To place an initiative on the ballot, initiative proponents will be required to show that an initiative has some public support in all of the state's 27 congressional districts instead of half of the state's congressional districts.

Proponents must demonstrate sufficient public support by collecting signatures on an initiative petition from each congressional district of the state in a number equal to 8 percent of the votes cast in each district in the last presidential election. Under the current geographic distribution requirement in the Constitution, signatures must satisfy the 8 percent threshold in at least half, or 14, of the state's 27 congressional districts. The joint resolution does not change the total number of signatures on petitions that must be obtained to place a citizen initiative amendment on the ballot.

If approved by at least 60 percent of the electors voting on the measure at the 2020 general election, the joint resolution will take effect January 5, 2021.

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:

Because this joint resolution proposes an amendment to the Florida Constitution, it must be approved by a three-fifths vote of the membership of each house of the Legislature in order for the amendment to be submitted to the electors.⁶

⁶ FLA. CONST. s. 1, Art. X.

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

None.

B. Private Sector Impact:

This amendment will likely increase costs of proponents to place a citizen initiative amendment to the Florida Constitution on the ballot. It is likely more cost effective for petition circulators to collect signatures in densely populated congressional districts than it is for them to collect signatures in rural areas having lower population densities.⁷

C. Government Sector Impact:

The new geographic distribution requirements may result in supervisors of elections in rural areas overlooked in past initiative campaigns having to verify more signatures on initiatives. Conversely, supervisors of elections in densely populated areas will likely see a decrease in the number of petitions submitted for verification.

VI. Technical Deficiencies:

The ballot statement for constitutional amendments proposed by the Legislature must “consist of a ballot title, by which the measure is commonly referred to or spoken of, not exceeding 15 words in length, and a ballot summary that describes the chief purpose of the amendment or revision in clear and unambiguous language.”⁸ The ballot statement accompanying the joint resolution is shown below:

Proposing an amendment to the State Constitution to require that a specified number of petitions must be signed by the electors in each congressional district of the state in order for a citizen initiative to amend or revise the State Constitution to be placed on the ballot.

The ballot summary likely needs to be revised to include more details about the chief purpose of the amendment.

VII. Related Issues:

None.

VIII. Statutes Affected:

This joint resolution substantially amends Article XI, section 3 of the Florida Constitution.

⁷ See *Semple v. Griswold*, 934 F.3d 1134, 1142 (10th Cir. 2019) (quoting difficulties claimed by plaintiffs challenging a requirement that signatures for initiative petitions be collected in each of Colorado’s Senate districts).

⁸ Section 161.161(3)(a), F.S.

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.

FOR CONSIDERATION By the Committee on Judiciary

590-03653-20

20207062pb

Senate Joint Resolution

A joint resolution proposing an amendment to Section 3 of Article XI of the State Constitution to revise threshold requirements for the number of petitions signed by electors needed in order for a citizen initiative to amend or revise the State Constitution to be placed on the ballot.

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

That the following amendment to Section 3 of Article XI of the State Constitution is 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 XI

AMENDMENTS

SECTION 3. Initiative.—The power to propose the revision or amendment of any portion or portions of this constitution by initiative is reserved to the people, provided that, any such revision or amendment, except for those limiting the power of government to raise revenue, shall embrace but one subject and matter directly connected therewith. It may be invoked by filing with the custodian of state records a petition containing a copy of the proposed revision or amendment, signed by a number of electors in each ~~of one half~~ of the congressional districts of the state, and of the state as a whole, equal to eight percent of the votes cast in each of such districts respectively and in the state as a whole in the last preceding election in which

590-03653-20

20207062pb

30 presidential electors were chosen.

31 BE IT FURTHER RESOLVED that the following statement be
32 placed on the ballot:

33 CONSTITUTIONAL AMENDMENT

34 ARTICLE XI, SECTION 3

35 PETITION THRESHOLD REQUIREMENTS FOR CITIZEN INITIATIVES.—
36 Proposing an amendment to the State Constitution to require that
37 a specified number of petitions must be signed by the electors
38 in each congressional district of the state in order for a
39 citizen initiative to amend or revise the State Constitution to
40 be placed on the ballot.

COMMITTEE: Judiciary
ITEM: SPB 7062
FINAL ACTION: Submitted and Reported Favorably as Committee Bill
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S07062

JOINT RESOLUTION by JU;

Citizen Initiative.

02/14/20 S On Committee agenda-- Judiciary, 02/19/20, 1:30 pm, 110 Senate Building

02/19/20 S Submitted as Committee Bill and Reported Favorably by Judiciary; YEAS 4 NAYS 2

02/20/20 S Referred to Rules

APPEARANCE RECORD

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

02-19-2020

Meeting Date

7062

Bill Number (if applicable)

Topic Citizens Initiative

Amendment Barcode (if applicable)

Name Amy Datz

Job Title Retired Environmental Scientist

Address _____

Street

Tallahassee

City

State

Zip

Phone 850 322-7599

Email amalie.datz@mac.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

2-19-20

Meeting Date

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

7062

Bill Number (if applicable)

Topic Citizen Initiatives

Amendment Barcode (if applicable)

Name Rodney Statham

Job Title legislative Affairs

Address 11081 LB McLeod
Street

Phone 407-634-6439

Orlando FL 32811
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Rights Restoration 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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2-19-2020

Meeting Date

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

SPB 7062

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name David Ash

Job Title _____

Address PO Box 11201

Phone 850-251-0985

Street

Tallahassee

City

FL

State

32311

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against

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

Representing Common Cause FL

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

2-19-20
Meeting Date

7062
Bill Number (if applicable)

Topic Citizens Initiatives

Amendment Barcode (if applicable)

Name Joseph Shaffer

Job Title _____

Address 3432 Dante Dr
Street

Phone 941-586-2629

Sarasota
City

FL
State

34235
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.

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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)

2-19-20

Meeting Date

7062

Bill Number (if applicable)

Topic CITIZENS' INITIATIVES

Amendment Barcode (if applicable)

Name DAVID STOVER

Job Title

Address 386 SE THORNHILL DRIVE

Phone

Street

FORT ST. LOUIE

FL

34983

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.

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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)

2/19/2020

Meeting Date

7062

Bill Number (if applicable)

Topic Citizen Initiative

Amendment Barcode (if applicable)

Name Christopher Emmanuel

Job Title Policy Director

Address 136 S. Bonough

Phone _____

Street

TLH

City

FL

State

32301

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida 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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/19/20

Meeting Date

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

537062

Bill Number (if applicable)

Topic Citizen initiative

Amendment Barcode (if applicable)

Name Bob Glat

Job Title Teacher / Professor

Address 7152 Wainshire pl

Phone 561-707-7157

Street Lake Worth FL 33467

Email Boherian@gmail.com

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)

2-19-2020

Meeting Date

Sh-7062

Bill Number (if applicable)

Topic Citizen initiative

Amendment Barcode (if applicable)

Name James Jones

Job Title Sheet metal worker

Address 2373 Glen Gardner Dr

Street

Jacksonville

City

FL

State

32246

Zip

Phone (904) 312-0067

Email SteelersfanJPS@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.

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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)

2/19/2020
Meeting Date

SB 7062
Bill Number (if applicable)

Topic Citizen Initiative

Amendment Barcode (if applicable)

Name Ida V. Eskamani

Job Title Public Policy

Address 126 N. Mills Ave
Street

Phone 407 376 4801

Orlando FL 32801
City State Zip

Email Ida.eskamani@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Organize Florida + 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.

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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)

2/19/20

Meeting Date

SB 7062

Bill Number (if applicable)

Topic Citizen Initiative

Amendment Barcode (if applicable)

Name Donald Persson

Job Title Teacher

Address 12980 Orange Grove Blvd.

Phone (561) 719-6838

Street

West Palm Beach FL 33411

City

State

Zip

Email donaldpersson@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.

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S-001 (10/14/14)

APPEARANCE RECORD

2/19/20

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

7062

Meeting Date

Bill Number (if applicable)

Topic Citizen Initiative

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

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.

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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)

2/19/20

Meeting Date

SPB-7062

Bill Number (if applicable)

Topic CITIZENS INITIATIVES

Amendment Barcode (if applicable)

Name J.B. CLARK

Job Title LOBBYIST

Address 2071 CYNTHIA DRIVE
Street

Phone 850-536-8143

TALLAHASSEE, FL 32303
City State Zip

Email JBCCLARKS@EARTHLINK.NET

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FL ELECTRICIAN WORKERS 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.

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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)

2/19/20

Meeting Date

7062

Bill Number (if applicable)

Topic Citizen Initiative

Amendment Barcode (if applicable)

Name Jeremiah Tattersall

Job Title Field Staff

Address 230 NW 14th Ave

Phone 352-222-1991

Street

Gainesville

FL

32601

City

State

Zip

Email Jeremiah.Tattersall@sen.state.fl.us

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.

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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)

2-19-20

Meeting Date

SB 7062

Bill Number (if applicable)

Topic INITIATIVES

Amendment Barcode (if applicable)

Name DAVID GATES

Job Title RETIRED ELECTRICIAN

Address 1444 MENLO AVE.

Phone 904-322-3995

Street

JAX.

City

FL.

State

32218

Zip

Email davidgates177@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.

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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)

2/19/20

Meeting Date

SB 7062

Bill Number (if applicable)

Topic CITIZEN INITIATIVE

Amendment Barcode (if applicable)

Name Russell Harper

Job Title Retired ELECTRICIAN

Address 1785 Lilly Road East
Street

Phone 904-588-4855

JACKSONVILLE FL 32207
City State Zip

Email electric@bellsouth.net

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.

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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)

2/19/2020

Meeting Date

7062

Bill Number (if applicable)

Topic CITIZEN INITIATIVE

Amendment Barcode (if applicable)

Name JONATHAN WEBBER

Job Title Deputy Director

Address 1700 N. Monroe St. #11-286
Street

Phone 954-593-4449

City

State

Zip

Email JWEBBER@FCVOTERS.ORG

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA CONSERVATION VOTERS

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

02-19-20

Meeting Date

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

7062

Bill Number (if applicable)

Topic Citizen Initiative

Amendment Barcode (if applicable)

Name Jonathan Ellingwood

Job Title Business Agent

Address 3628 Coco Lake Dr

Phone 860 995-0169

Street

Coconut Creek FL 33073

City

State

Zip

Email jon.ellingwood@yahoo

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.

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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)

2/19/2020

Meeting Date

7062

Bill Number (if applicable)

Topic Citizen Initiative

Amendment Barcode (if applicable)

Name Karen Woodall

Job Title Exec. Director

Address 579 E. Coll St.

Street

Phone 850-321-9386

Tallahassee FL 32301

City

State

Zip

Email fcefep@yahoo.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FI 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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/19/2020

Meeting Date

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

7062

Bill Number (if applicable)

Topic

Citizen Initiative

Amendment Barcode (if applicable)

Name

Roger F. Harris

Job Title

Address

102 Padgett Place South

Phone

(407) 558-6012

Street

Lakeland

FL

33809

Email

rogerfharris123@gmail.com

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

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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)

2-19-20
Meeting Date

RB 7062
Bill Number (if applicable)

Topic Citizen Initiative

Amendment Barcode (if applicable)

Name Barbara DeBene

Job Title MS

Address 625 E. Brevard St

Phone 251-4280

Street
Tall FL 32308
City State Zip

Email barbadebene1@gmail.com

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.

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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)

02-20-2020

Meeting Date

7062

Bill Number (if applicable)

Topic CITIZEN'S INITIATIVES

Amendment Barcode (if applicable)

Name RON RICE

Job Title ACCOUNT COORDINATOR

Address 7813 WICKLOW ST

Street

Phone 727-457-8886

NEW PORT RICHEY

City

FL

State

34653

Zip

Email ronrice525@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

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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)

2/19/20

Meeting Date

7062

Bill Number (if applicable)

Topic CITIZENS INITIATIVES

Amendment Barcode (if applicable)

Name GLENDA ABICHT (ABBOTT)

Job Title SERVICES TECH.

Address 4305 SW 98 AV

Phone 786-376-1181

Street

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.

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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)

2-19-20

Meeting Date

SB 7062

Bill Number (if applicable)

Topic Citizens Initiatives

Amendment Barcode (if applicable)

Name Stephanie Clark

Job Title Hillsborough School

Address 210 Dogwood

Street

Phone 727-277-9780

Plant City

City

FL

State

33565

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.

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

02/19/2020

Meeting Date

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

SB7062

Bill Number (if applicable)

Topic Citizens Initiatives

Amendment Barcode (if applicable)

Name Jackie McColister

Job Title School Bus Driver from Hillsborough County

Address 6400 Corenet Rd

Phone 813 918 9559

Street

Lakeland FL 33811

City

State

Zip

Email clan7mac@aol.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.

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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)

2/19/20

Meeting Date

SB7062

Bill Number (if applicable)

Topic Citizen Initiatives

Amendment Barcode (if applicable)

Name Sherene Tolbert

Job Title Hillsborough County School Board (Router)

Address 3623 E Shadowlawn Ave

Phone 813.407.6060

Street

Tampa

City

FL

State

33610

Zip

Email stolbert@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.

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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)

2-19-20

Meeting Date

7062

Bill Number (if applicable)

Topic CITIZENS INITIATIVE

Amendment Barcode (if applicable)

Name ANNA CASTELLO

Job Title RETIRED

Address 9400 NW 3 St.

Phone 9542248882

Street

PENBROKE PINES, FL 33024

Email ANNA62@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.

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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)

2-19-20

Meeting Date

7062

Bill Number (if applicable)

Topic CITIZENS INITIATIVES

Amendment Barcode (if applicable)

Name BRANON COE

Job Title SERVICE TECH

Address 22811 COUNTY ROAD 137

Street

LAKE CITY

City

FL

State

32024

Zip

Phone 239-213-0786

Email COEBRA3@GMAIL

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.

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/19/2020

Meeting Date

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

7062

Bill Number (if applicable)

Topic Citizen Initiative

Amendment Barcode (if applicable)

Name Scott McCoy

Job Title Policy Director

Address 10788

Street

Phone 334-224-4309

Tallahassee, FL 32302

City

State

Zip

Email _____

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.

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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)

2/19/20

Meeting Date

SB 7062

Bill Number (if applicable)

Topic Citizen initiative

Amendment Barcode (if applicable)

Name Lester Summerrail

Job Title Technician

Address 2935 Teakwood ST

Street

Titusville

City

FL

State

32710

Zip

Phone 321 360 9056

Email Summerraillester@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.

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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)

2-19-2020

Meeting Date

SB 7062

Bill Number (if applicable)

Topic Citizen initiative

Amendment Barcode (if applicable)

Name Eric Gosnell

Job Title Digital tech

Address 442 Stonehenge Cir

Street

Rockledge

City

FL

State

32955

Zip

Phone 321-749-5845

Email president@CWA3101.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.

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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)

2/19/20

Meeting Date

SSR 7062

Bill Number (if applicable)

Topic Initiatives

Amendment Barcode (if applicable)

Name Dr. Rich Templin

Job Title _____

Address 135 S. Monroe

Street

Tallahassee

City

FL

State

32304

Zip

Phone 850-224-6926

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida AFL-CIO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2.19.20

Meeting Date

SB 7062

Bill Number (if applicable)

Topic Thwarting Citizen Initiative Petition Process

Amendment Barcode (if applicable)

Name Kara Gross

Job Title Legislative Director

Address 4343 West Flagler St.

Phone 786-363-4436

Street

Miami

FL

33134

Email kgross@aclufi.org

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing American Civil Liberties Union 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.

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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)

2/19/20
Meeting Date

2062
Bill Number (if applicable)

Topic Citizen Initiative

Amendment Barcode (if applicable)

Name Rev Dr Russell Meyer

Job Title Exec Dir

Address 3838 W CYPRESS ST

Phone 813 435 5335

Lamora FL 33647
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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)

2/19/20

Meeting Date

7062

Bill Number (if applicable)

Topic Citizen Initiative

Amendment Barcode (if applicable)

Name Bob Lovett

Job Title _____

Address 4611 Fox Hunt Dr.

Phone 813-390-5307

Street

Tampa

City

FL

State

33624

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
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 Judiciary

BILL: SPB 7064

INTRODUCER: For consideration by the Judiciary Committee

SUBJECT: Probation Violations

DATE: February 18, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Cox	Cibula		JU Submitted as Comm. Bill/FAV

I. Summary:

SPB 7064 amends s. 948.06, F.S., providing that the court must modify or continue a probationary term upon finding a probationer in violation when *all*, rather than *any*, of the following applies:

- The term of supervision is probation.
- The probationer does not qualify as a violent felony offender of special concern (VFOSC).
- The violation is a low-risk technical violation, as defined in s. 948.06(9)(b), F.S.
- The court has not previously found the probationer in violation of his or her probation pursuant to a filed violation of probation affidavit during the current term of supervision. A probationer who has successfully completed sanctions through the alternative sanctioning program is eligible for mandatory modification or continuation of his or her probation.

To the extent that this results in fewer people being continued on probation or having their probation modified, the bill may result in a negative indeterminate prison bed impact and jail bed impact due to more people having their probation revoked and sentenced to prison or jail. See Section V. Fiscal Impact Statement.

The bill is effective upon becoming law.

II. Present Situation:

Probation Supervision through the Department of Corrections

At sentencing, a judge may place an offender on probation or community control in lieu of or in addition to incarceration.¹ The Department of Corrections (DOC) supervises more than 164,000 offenders on active community supervision. This includes offenders released from prison on parole, conditional release, or conditional medical release and offenders placed on court ordered

¹ Section 948.01, F.S.

supervision including probation, drug offender probation, sex offender probation, and community control.²

Probation

Probation is a form of community supervision requiring specified contacts with probation officers and other conditions a court may impose to ensure the offender's compliance with the terms of the sentence and the safety to the community.³ Section 948.03, F.S., provides that a court must determine the terms and conditions of probation. Standard conditions of probation that are enumerated in s. 948.03, F.S., are not required to be announced on the record, but the court must orally pronounce, as well as provide in writing, any special conditions of probation imposed.

Violations of Probation

If an offender violates the terms of his or her probation or community control, the supervision can be revoked in accordance with s. 948.06, F.S.⁴ A violation of probation (VOP) can be the result of a new violation of law or a technical violation of the conditions imposed. If reasonable grounds exist to believe that an offender has violated his or her terms of supervision in a material respect, an offender may be arrested without a warrant by a:

- Law enforcement officer who is aware of the inmate's supervised community release status;
- Probation officer; or
- County or municipal law enforcement officer upon request by a probation officer.⁵

The offender must be returned to the court granting such probation.⁶ Additionally, the committing court judge may issue a warrant, upon the facts being made known to him or her by affidavit of one having knowledge of such facts, for the arrest of the offender.⁷

Upon a finding through a VOP hearing, a court may revoke, modify, or continue the supervision. If the court chooses to revoke the supervision, it may impose any sentence originally permissible before placing the offender on supervision.⁸ In addition, if an offender qualifies as a VFOSC, the court must revoke supervision, unless it makes written findings that the VFOSC does not pose a danger to the community.⁹ The VFOSC status also accrues sentence points under the Code, which affects the scoring of the lowest permissible sentence.¹⁰

² The DOC, *Probation Services*, available at <http://www.dc.state.fl.us/cc/index.html> (last visited February 17, 2020).

³ Section 948.001(8), F.S. Terms and conditions of probation are provided in s. 948.03, F.S.

⁴ Section 948.10(3), F.S.

⁵ Section 948.06(1)(a), F.S.

⁶ *Id.*

⁷ Section 948.06(1)(b), F.S. The committing trial court judge may also issue a notice to appear if the probationer or controllee has never been convicted of committing, and is not currently alleged to have committed, a qualifying offense as enumerated in s. 948.06(8)(c), F.S.

⁸ Section 948.06(2)(b), F.S.

⁹ See s. 948.06(8)(a), F.S., for all VFOSC qualifications and the enumerated list of felonies that are considered qualifying offenses. See also ch. 2007-2, L.O.F.

¹⁰ Section 921.0024, F.S.

CS/HB 7125 (2019)

Prior to October 1, 2019, the effective date for section 63 of CS/HB 7125 (2019),¹¹ the sentencing court had the complete discretion to determine whether to continue, modify, or revoke an offender's probation subsequent to a violation of probation.¹² However, in part, CS/HB 7125 (2019) amended s. 948.06, F.S., providing that the court must modify or continue a probationary term upon finding a probationer in violation when *any* of the following applies:

- The term of supervision is probation.
- The probationer does not qualify as a VFOSC.
- The violation is a low-risk technical violation, as defined in s. 948.06(9)(b), F.S.¹³
- The court has not previously found the probationer in violation of his or her probation pursuant to a filed violation of probation affidavit during the current term of supervision. A probationer who has successfully completed sanctions through the alternative sanctioning program is eligible for mandatory modification or continuation of his or her probation.

Further, if the court is required to modify or continue the probationary term, the court may include in the sentence a maximum of 90 days in county jail as a special condition of probation.¹⁴

CS/HB 7125 (2019) also provided that if a probationer has less than 90 days of supervision remaining on his or her term of probation and meets the criteria for mandatory modification or continuation, the court may revoke probation and sentence the probationer to a maximum of 90 days in county jail.¹⁵

However, the intent for this provision was to require modification or continuation of probation only when *all* of the enumerated circumstances were present.

III. Effect of Proposed Changes:

The bill amends s. 948.06(2)(f)1., F.S., clarifying that the court only is required to modify or continue an offender's probationary term if *all*, rather than *any*, of the above-mentioned enumerated factors applies.

The bill is effective upon becoming law.

¹¹ Chapter 2019-167, L.O.F.

¹² See s. 948.06, F.S. (2018).

¹³ Section 948.06(9)(b), F.S., defines a "low-risk violation" to mean any of the following: a positive drug or alcohol test result; failure to report to the probation office; failure to report a change in address or other required information; failure to attend a required class, treatment or counseling session, or meeting; failure to submit to a drug or alcohol test; a violation of curfew; failure to meet a monthly quota on any required probation condition, including, but not limited to, making restitution payments, paying court costs, or completing community service hours; leaving the county without permission; failure to report a change in employment; associating with a person engaged in criminal activity; or any other violation as determined by administrative order of the chief judge of the circuit.

¹⁴ Section 948.06(2)(f)2., F.S.

¹⁵ See s. 948.06(2)(f)3., 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 identified.

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

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill clarifies that all of the enumerated conditions must be satisfied for a court to be required to continue or modify a person on probation subsequent to certain violations of probation. To the extent that this results in less people being continued or modified on probation, the bill may result in a negative indeterminate prison bed impact and jail bed impact due to more people having their probation revoked and sentenced to prison or jail.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 948.06 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.

FOR CONSIDERATION By the Committee on Judiciary

590-03652-20

20207064pb

A bill to be entitled
An act relating to probation violations; amending s.
948.06, F.S.; requiring a court to modify or continue
a probationary term upon finding that a probationer
has met all specified conditions, rather than any of
the conditions, after a violation of probation;
providing an effective date.

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

Section 1. Paragraph (f) of subsection (2) of section
948.06, Florida Statutes, is amended to read:

948.06 Violation of probation or community control;
revocation; modification; continuance; failure to pay
restitution or cost of supervision.—

(2)

(f)1. Except as provided in subparagraph 3. or upon waiver
by the probationer, the court shall modify or continue a
probationary term upon finding a probationer in violation when
all ~~any~~ of the following apply ~~applies~~:

a. The term of supervision is probation.

b. The probationer does not qualify as a violent felony
offender of special concern, as defined in paragraph (8)(b).

c. The violation is a low-risk technical violation, as
defined in paragraph (9)(b).

d. The court has not previously found the probationer in
violation of his or her probation pursuant to a filed violation
of probation affidavit during the current term of supervision. A
probationer who has successfully completed sanctions through the

590-03652-20

20207064pb

alternative sanctioning program is eligible for mandatory modification or continuation of his or her probation.

2. Upon modifying probation under subparagraph 1., the court may include in the sentence a maximum of 90 days in county jail as a special condition of probation.

3. Notwithstanding s. 921.0024, if a probationer has less than 90 days of supervision remaining on his or her term of probation and meets the criteria for mandatory modification or continuation in subparagraph 1., the court may revoke probation and sentence the probationer to a maximum of 90 days in county jail.

4. For purposes of imposing a jail sentence under this paragraph only, the court may grant credit only for time served in the county jail since the probationer's most recent arrest for the violation. However, the court may not order the probationer to a total term of incarceration greater than the maximum provided by s. 775.082.

Section 2. This act shall take effect upon becoming a law.

COMMITTEE: Judiciary
ITEM: SPB 7064
FINAL ACTION: Submitted and Reported Favorably as Committee Bill
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S07064

GENERAL BILL by JU;

Probation Violations. EFFECTIVE DATE: Upon becoming a law.

02/19/20 S Submitted as Committee Bill and Reported Favorably by Judiciary; YEAS 6 NAYS 0

02/20/20 S Filed; Referred to Rules

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 Judiciary

BILL: CS/SB 4

INTRODUCER: Judiciary Committee and Senator Flores

SUBJECT: Relief of Dontrell Stephens by the Palm Beach County Sheriff's Office

DATE: February 20, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Cibula	Cibula	JU	Fav/CS
2.			GO	
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 4, a claim bill, alleges that Dontrell Stephens was shot four times by a Palm Beach County Duty Sheriff who mistook Mr. Stephens' cellphone for a gun. Mr. Stephens is now paralyzed. The claim bill further states that after a civil trial for damages, a judgment was entered against the sheriff's department in the amount of \$22,431,892.05 plus postjudgment interest and costs of \$260,000. Of this judgment, the sheriff's department has paid \$200,000 in accordance with the state's sovereign immunity waiver.

As compensation for Mr. Stephens' injuries, the claim bill authorizes and directs the Palm Beach County Sheriff's Office to:

appropriate from funds of the Palm Beach County Sheriff's Office not otherwise encumbered and to draw a warrant in the sum of \$4.5 million as follows: up to \$3 million payable to Evett L. Simmons, as guardian of the property of Dontrell Stephens, to purchase a life care plan for Dontrell Stephens as compensation for injuries and damages sustained; and \$1.5 million to pay attorney fees, lobbying fees, and costs relating to this claim.

The bill further waives and cancels any state medical liens on the funds provided by the claim bill.

II. Present Situation:

Doctrine of Sovereign Immunity: Overview

Sovereign immunity is defined as: “A government’s immunity from being sued in its own courts without its consent.”¹ The doctrine had its origin with the judge-made law of England. During English feudal times, the King was the sovereign. Today, for the purposes of this discussion, the term “sovereign” refers to Florida state agencies and subdivisions including local governments.

Article X, section 13 of the State Constitution authorizes the Legislature to enact laws that permit suits against the state. The Legislature has, to some extent, permitted tort suits against the state and has limited the collectability of judgments against the state to \$200,000 per person and \$300,000 per incident. A person seeking to recover amounts in excess of the limits may request that the Legislature enact a claim bill.

In medieval England “one could not sue the king in his own courts; hence the phrase ‘the king can do no wrong.’”² The basis of the existence of the doctrine of sovereign immunity in the United States was explained as follows:

A sovereign is exempt from suit, not because of any formal conception or obsolete theory, but on the logical and practical ground that there can be no legal right as against the authority that makes the law on which the right depends.³

Although one could not sue the king, one could petition the king for relief.⁴

Under s. 2.01, F.S., Florida has adopted the common law of England as it existed on July 4, 1776.⁵ This adoption of English common law included the doctrine of sovereign immunity. The doctrine of sovereign immunity was in existence centuries before the Declaration of Independence.⁶

The Legislature was first expressly authorized to waive the state’s sovereign immunity under Article IV, section 19 of the Constitution of 1868.⁷ The Legislature again was expressly authorized to waive the state’s sovereign immunity under Article X, section 13 of the Constitution of 1968. This authorization to waive sovereign immunity states:

Provision may be made by general law for bringing suit against the state as to all liabilities now existing or hereafter originating.

¹ BLACK’S LAW DICTIONARY (8th ed. 2004).

² *Cauley v. City of Jacksonville*, 403 So. 2d 379, 381 (Fla. 1981).

³ *Id.* (quoting *Kawananakoa v. Polyblank*, 205 U.S. 349, 353 (1907)).

⁴ *Id.*

⁵ English common law that is inconsistent with state or federal law is not included.

⁶ *North Carolina Dept. of Transp. v. Davenport*, 432 S.E.2d 303, 305 (N.C. 1993).

⁷ Section 19, Art. VI, State Const. (1868), states, “Provision may be made by general law for bringing suit against the State as to all liabilities now existing or hereafter originating.”

Although the first general waiver of the state's sovereign immunity was not adopted until 1969, "one . . . could always petition for legislative relief by means of a claims bill."⁸ The first claim bill was passed by the Legislative Council of the Territory of Florida in 1833.⁹ The claim bill authorized payment to a person who supplied labor and building materials for the first permanent Capitol building.¹⁰

Florida's Current Statutory Sovereign Immunity Waiver

Section 768.28(1), F.S., allows for suits in tort against the State and its agencies and subdivisions for damages resulting from the negligence of government employees acting in the scope of employment. This liability exists only where a private person would be liable for the same conduct. Section 768.28 applies only to "'injury or loss of property, personal injury, or death caused by the negligent or wrongful act or omission of any employee of the agency or subdivision while acting within the scope of the employee's office or employment.'"¹¹

Section 768.28(5), F.S., caps tort recovery from a governmental entity at \$200,000 per person and \$300,000 per accident.¹² "Although an 'excess' judgment may be entered, the statutory caps make it impossible, absent a special claim bill passed by the legislature, for a claimant to collect more than the caps provide."¹³

Individual government employees, officers, or agents are immune from suit or liability for damages caused by any action taken in the scope of employment, unless the damages result from the employee's acting in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.¹⁴ A government entity is not liable for any damages resulting for actions by an employee outside the scope of his or her employment, and is not liable for damages resulting from actions committed by the employee in bad faith, with malicious purpose, or in a manner exhibiting wanton and willful disregard for human rights, safety, or property.¹⁵

Claim Bills

A plaintiff may recover an amount in excess of the caps described in s. 768.28(5), F.S., by way of a claim bill. "A claim bill is not an action at law, but rather is a legislative measure that directs the Chief Financial Officer of Florida, or if appropriate, a unit of local government, to pay a specific sum of money to a claimant to satisfy an equitable or moral obligation."¹⁶ Such

⁸ *Cauley*, 403 So. 2d at note 5.

⁹ D. Stephen Kahn, *Legislative Claim Bills: A Practical Guide to a Potent(ial) Remedy*, THE FLORIDA BAR JOURNAL, 23 (April, 1988).

¹⁰ *Id.*

¹¹ *City of Pembroke Pines v. Corrections Corp. of America, Inc.*, 274 So. 3d 1105, 1112 (Fla. 4th DCA 2019) (quoting s. 768.28(1), F.S.).

¹² Section 768.28(5), F.S.

¹³ *Breaux v. City of Miami Beach*, 899 So. 2d 1059 (Fla.2005).

¹⁴ Section 768.28(9)(a), F.S.

¹⁵ *Id.*

¹⁶ *Wagner v. Orange Cty.*, 960 So. 2d 785, 788 (Fla. 5th DCA 2007).

obligations typically arise from the negligence of officers or employees of the State or a local governmental agency.¹⁷

Legislative claim bills are used either after procurement of a judgment in an action at law or as a mechanism to avoid an action at law altogether.¹⁸ The amount awarded is based on the Legislature's concept of fair treatment of a person who has been injured or damaged but who is without a complete judicial remedy or who is not otherwise compensable.¹⁹ "Unlike civil judgments, private relief acts are not obtainable by right upon the claimant's proof of his entitlement. Private relief acts are granted strictly as a matter of legislative grace."²⁰

The beneficiary of a claim bill recovers by virtue of its enactment, regardless of whether the governmental tortfeasor purchased liability insurance for the purpose of paying an excess judgment.²¹ However, where the governmental tortfeasor has liability insurance in excess of the statutory cap, and the claimant receives compensation in excess of that statutory cap through a claim bill, the claim bill is paid with funds of the insured, not general revenue.²²

A government entity may, without a claim bill, settle claim against it for an amount in excess of the caps in s. 768.28, F.S., if that amount is within the limits of insurance coverage.²³

III. Effect of Proposed Changes:

This claim bill alleges that Dontrell Stephens was shot four times by a Palm Beach County Duty Sherriff who mistook Mr. Stephens' cellphone for a gun. Mr. Stephens is now paralyzed. The claim bill further states that after a civil trial for damages, a judgment was entered against the sheriff's department in the amount of \$22,431,892.05 plus postjudgment interest and costs of \$260,000. Of this judgment, the sheriff's department has paid \$200,000 in accordance with the state's sovereign immunity waiver.

As compensation for Mr. Stephens' injuries, the claim bill authorizes and directs the Palm Beach County Sheriff's Office to:

appropriate from funds of the Palm Beach County Sheriff's Office not otherwise encumbered and to draw a warrant in the sum of \$4.5 million as follows: up to \$3 million payable to Evett L. Simmons, as guardian of the property of Dontrell Stephens, to purchase a life care plan for Dontrell Stephens as compensation for injuries and damages sustained; and \$1.5 million to pay attorney fees, lobbying fees, and costs relating to this claim.

The bill further waives and cancels any state medical liens on the funds provided by the claim bill.

¹⁷ *Id.*

¹⁸ *City of Miami v. Valdez*, 847 So. 2d 1005 (Fla. 3d DCA 2003).

¹⁹ *Wagner*, 960 So. 2d at 788 (citing Kahn, *Legislative Claim Bills*, Fla. B. Journal (April 1988)).

²⁰ *United Servs. Auto. Ass'n v. Phillips*, 740 So. 2d 1205, 1209 (Fla. 2d DCA 1999).

²¹ *Servs. Auto Ass'n v. Phillips*, 740 So. 2d 1205 (Fla. 2d DCA 1999).

²² *Fla. Mun. Ins. Trust v. Village of Golf*, 850 So. 2d 544 (Fla. 4th DCA 2003).

²³ *Michigan Millers Mut. Ins. Co. v. Burke*, 607 So. 2d 418, 421-22 (Fla. 1992); Section 768.28(5), F.S.

The bill takes effect upon becoming a law.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

This claim bill authorizes and directs the Palm Beach County Sheriff's Office "to appropriate from funds of the Palm Beach County Sheriff's Office not otherwise encumbered and to draw a warrant in the sum of \$22,431,892.05 plus post-judgment interest as ordered in the final judgment, along with remaining costs in the amount of \$60,000, payable to Evett L. Simmons, as guardian of the property of Dontrell Stephens."

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates an undesignated section of Florida law.

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 Judiciary on February 19, 2020:

The committee substitute reduces the amount of the claim and payment in the claim bill to \$4.5 million.

- B. **Amendments:**

None.

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



242200

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Flores) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

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

Section 2. The Palm Beach County Sheriff's Office is
authorized and directed to appropriate from funds of the Palm
Beach County Sheriff's Office not otherwise encumbered and to
draw a warrant in the sum of \$4.5 million as follows: up to \$3
million payable to Evett L. Simmons, as guardian of the property



242200

of Dontrell Stephens, to purchase a life care plan for Dontrell Stephens as compensation for injuries and damages sustained; and \$1.5 million to pay attorney fees, lobbying fees, and costs relating to this claim.

Section 3. The amount paid by the Palm Beach County Sheriff's Office 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 injuries suffered by Dontrell Stephens. 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. Excluding the federal portions of any liens, Medicaid or otherwise, which the claimant must pay, it is the intent of the Legislature that the lien interests relating to the treatment and care of Dontrell Stephens, are hereby waived and extinguished.

Section 5. This act shall take effect upon becoming a law.

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

And the title is amended as follows:

Delete everything before the enacting clause
and insert:

A bill to be entitled

An act for the relief of Dontrell Stephens through
Evelt L. Simmons, as guardian of his property, by the
Palm Beach County Sheriff's Office; providing for an
appropriation to compensate him for personal injuries
and damages sustained as the result of the negligence



242200

of a deputy of the office; providing a limitation on
the payment of compensation, fees, and costs;
providing an effective date.

WHEREAS, on September 13, 2013, Dontrell Stephens, then age
20, was shot four times by Palm Beach County Deputy Sheriff
Adams Lin during an encounter in West Palm Beach, and

WHEREAS, the last of the bullets fired at Mr. Stephens
entered his back, severing his spinal cord and rendering him
permanently paraplegic, and

WHEREAS, during testimony at trial, Deputy Sheriff Lin
stated that he mistook a cellphone for a handgun, and such
testimony was found to be not credible and was unanimously
rejected by the jury, and

WHEREAS, Mr. Stephens' testimony, corroborated by video
from Deputy Sheriff Lin's dashboard camera and physical evidence
at the scene, establishes that the only offense committed by Mr.
Stephens was a noncriminal bicycle infraction, that he was
unarmed, and that he posed no reasonable threat to Deputy
Sheriff Lin, and

WHEREAS, Mr. Stephens currently resides in a homeless
shelter and relies exclusively on public assistance and hospital
emergency room services to meet his extensive health care needs,
and

WHEREAS, Mr. Stephens will require a lifetime of medical,
therapeutic, rehabilitative, and nursing care, and his future
life expectancy exceeds 50 years, and

WHEREAS, following a trial that lasted from January 25,
2016, until February 4, 2016, the jury in the case, brought on



242200

70 behalf of Mr. Stephens against Ric Bradshaw in his capacity as
71 Sheriff of Palm Beach County, awarded Mr. Stephens compensatory
72 damages resulting in the entry of a final judgment in the amount
73 of \$22,431,892.05, plus postjudgment interest and costs, and

74 WHEREAS, in an opinion rendered on January 10, 2018, with
75 rehearing en banc denied on September 10, 2018, the United
76 States Court of Appeals for the 11th Circuit affirmed the
77 factual findings and the judgment of the trial court in the
78 case, and

79 WHEREAS, in the 5 years since being paralyzed, Mr. Stephens
80 has incurred more than \$1.4 million in unpaid expenses for his
81 care and treatment, and

82 WHEREAS, in accordance with the statutory limits of
83 liability set forth in s. 768.28, Florida Statutes, Ric
84 Bradshaw, in his capacity as Sheriff of Palm Beach County, has
85 paid \$200,000 toward the total amount of this claim, NOW,
86 THEREFORE,

By Senator Flores

39-00166-20

20204__

1 A bill to be entitled
2 An act for the relief of Dontrell Stephens through
3 Evett L. Simmons, as guardian of his property, by the
4 Palm Beach County Sheriff's Office; providing for an
5 appropriation to compensate him for personal injuries
6 and damages sustained as the result of the negligence
7 of a deputy of the office; providing a limitation on
8 the payment of compensation, fees, and costs;
9 providing an effective date.

10
11 WHEREAS, on September 13, 2013, Dontrell Stephens, then age
12 20, was shot four times by Palm Beach County Deputy Sheriff
13 Adams Lin during an encounter in West Palm Beach, and

14 WHEREAS, the last of the bullets fired at Mr. Stephens
15 entered his back, severing his spinal cord and rendering him
16 permanently paraplegic, and

17 WHEREAS, during testimony at trial, Deputy Lin stated that
18 he mistook a cell phone, which was clearly visible throughout
19 the encounter with Mr. Stephens, for a handgun, and such
20 testimony was found to be not credible and was unanimously
21 rejected by the jury, and

22 WHEREAS, Mr. Stephens' testimony, corroborated by video
23 from Deputy Lin's dashboard camera and physical evidence at the
24 scene, establishes that the only offense committed by Mr.
25 Stephens was a noncriminal bicycle infraction, that he was
26 unarmed, and that he posed no reasonable threat to Deputy Lin,
27 and

28 WHEREAS, Mr. Stephens, through no fault of his own, and
29 based solely on the wrongful conduct of an agent of the Palm

39-00166-20

20204__

30 Beach County Sheriff's Office, suffered permanent and
31 catastrophic injuries that will force him to use a wheelchair
32 for the remainder of his life, and

33 WHEREAS, Mr. Stephens currently resides in a homeless
34 shelter and relies exclusively on public assistance and hospital
35 emergency room services to meet his extensive health care needs,
36 and

37 WHEREAS, Mr. Stephens will require a lifetime of medical,
38 therapeutic, rehabilitative, and nursing care, and his future
39 life expectancy exceeds 50 years, and

40 WHEREAS, following a trial that lasted from January 25,
41 2016, until February 4, 2016, the jury in the case, brought on
42 behalf of Mr. Stephens against Ric Bradshaw in his capacity as
43 Sheriff of Palm Beach County, awarded Mr. Stephens compensatory
44 damages resulting in the entry of a final judgment in the amount
45 of \$22,431,892.05, plus postjudgment interest and costs, and

46 WHEREAS, in an opinion rendered on January 10, 2018, with
47 rehearing en banc denied on September 10, 2018, the United
48 States Court of Appeals for the Eleventh Circuit affirmed the
49 factual findings and the judgment of the trial court in the
50 case, and

51 WHEREAS, in the 5 years since being paralyzed, Mr. Stephens
52 has incurred more than \$1.4 million in unpaid expenses for his
53 care and treatment, and

54 WHEREAS, the costs incurred in the prosecution of the
55 claims on behalf of Mr. Stephens exceed \$260,000, with \$60,000
56 remaining to be paid, and

57 WHEREAS, in accordance with the statutory limits of
58 liability set forth in s. 768.28, Florida Statutes, Ric

39-00166-20

20204__

Bradshaw, in his capacity as Sheriff of Palm Beach County, has paid \$200,000 toward the total amount of this claim, 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. The Palm Beach County Sheriff's Office is authorized and directed to appropriate from funds of the Palm Beach County Sheriff's Office not otherwise encumbered and to draw a warrant in the sum of \$22,431,892.05 plus post-judgment interest as ordered in the final judgment, along with remaining costs in the amount of \$60,000, payable to Evett L. Simmons, as guardian of the property of Dontrell Stephens, as compensation for injuries and damages sustained.

Section 3. The amount paid by the Palm Beach County Sheriff's Office 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 injuries suffered by Dontrell Stephens. 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.

COMMITTEE: Judiciary
ITEM: SB 4
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S00004

CLAIM/LOCAL by Flores; (Similar CS/H 06501)

Relief of Dontrell Stephens by the Palm Beach County Sheriff's Office. CLAIM: Indeterminate. EFFECTIVE DATE: Upon becoming a law.

02/21/20 S Original reference(s) removed: Governmental Oversight and Accountability; Remaining references corrected to Rules; Now in Rules



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: November 25, 2019

I respectfully request that **Senate Bill #4**, relating to the Relief of Dontrell Stephens, be placed on the:

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

A handwritten signature in cursive script that reads "Anitere Flores".

Senator Anitere Flores
Florida Senate, District 39

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/20

Meeting Date

4

Bill Number (if applicable)

Topic

Dontrell Stephens Claim Bill

242200

Amendment Barcode (if applicable)

Name

Jason Unger

Job Title

Address

301 S. Bronagh St.

Street

Phone

577 9090

City

TLH

State

FL

Zip

Email

jungeregray-roban.com

Speaking:



For



Against



Information

Waive Speaking:



In Support



Against

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

Representing

PB 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
APPEARANCE RECORD

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

2-19-20

Meeting Date

SB 4

Bill Number (if applicable)

Topic

Dontrell Stevens

Amendment Barcode (if applicable)

Name

Pam Bergsma "Joey's grandma"

Job Title

Address

619 South K St

Phone

561-586-2094

Street

Lake Worth Beach FL 33460

Email

lovejoey@bellsouth.net

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

Palm Beach City Resident 48 yrs

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

2-19-2020

Meeting Date

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

504

Bill Number (if applicable)

Topic Dontrell Stevens

Amendment Barcode (if applicable)

Name Nancy Smithem

Job Title Retired

Address 6398 Bombadi/ Drive

Phone 850-408-7708

Street

Tallahassee Fl. 32303

City

State

Zip

Email nksmithem@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)

February 19, 2020

Meeting Date

4

Bill Number (if applicable)

Topic Dontrell Stephens claim bill

Amendment Barcode (if applicable)

Name Jason Unger

Job Title _____

Address 301 South Bronough Street #600

Phone 577-9090

Street

TLH

FL

32301

Email junger@gray-robinson.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Palm Beach 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
APPEARANCE RECORD

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

2-19-20
Meeting Date

4
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Greg Pound

Job Title Saving families

Address 9166 Sunrise Dr.

Phone _____

Street

Largo

FL

33473

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
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 Judiciary

BILL: CS/SB 302

INTRODUCER: Children, Families, and Elder Affairs and Senator Rader

SUBJECT: Adoption Records

DATE: February 18, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	Fav/CS
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 302 amends the Florida Adoption Act to bring clarity to a provision that is confusing and subject to differing interpretations. Currently, the Department of Health, Bureau of Vital Statistics, interprets s. 63.162(4), F.S., to require an adoptee 18 years of age and older to obtain his or her adoptive parents' written consent, as well as the written consent of the birth parent, before the bureau may release the names contained in the original birth certificate. In other words, each parent to the adoption must sign in writing before his or her name may be released to the adoptee, even though the adoptee is an adult.

The bill amends s. 63.162(4), F.S., to provide that the Bureau of Vital Statistics may disclose the name and identity of the birth parent, if the birth parent provides written consent for the release of his or her name and the adoptee is 18 years of age or older. Accordingly, the adoptive parent's signature is no longer required when the adoptee is an adult. If the adoptee is younger than 18 years of age, the adoptive parent's consent is still required.

The bill has no fiscal impact on government and provides an effective date of July 1, 2020.

II. Present Situation:

Birth Certificates

Florida law requires a birth record to be filed within 5 days after each live birth.¹ For example, when a birth occurs in a hospital, the hospital is responsible for entering the required information electronically and submitting that record to the Bureau of Vital Statistics in Jacksonville, where it is stored. The record contains the child's name, the parents' names and address, the attending physician's name, the name and address of the facility where the birth occurred, and additional demographic information.²

Adoptions and Birth Certificates

When an adoption is finalized in court, the clerk of court's office has 30 days to forward a certified copy of the court order to the Bureau of Vital Statistics. The order must supply sufficient information to the Bureau for it to identify the original birth certificate, and the Bureau then creates a new birth certificate.³

The new certificate must contain the same file number as the original birth certificate. On the new birth certificate, the names and identifying information of the adoptee and adoptive parents replace the names and identifying information of the birth parents and no reference is made to the adoption. All medical information on the certificate remains the same, including the date of registration and filing.⁴ When the new birth certificate is prepared, the Bureau substitutes the new birth certificate for the original certificate on file. After that point, the Bureau may only issue a certified copy of the new certificate, unless required otherwise by a court order. The original birth certificate and related documents are sealed, and cannot be reopened unless a court order or some other law directs them to be unsealed.⁵

Confidentiality of Birth and Adoption Records

All papers and records pertaining to an adoption, including the original birth certificate, are confidential and exempt from public inspection.⁶ Before an adoption becomes final, the adoptive parents must be provided with non-identifying information, including the family medical history and social history of the adoptee and the adoptee's parents, when available. Upon reaching the age of 18, an adoptee may also request the non-identifying information.⁷

Obtaining the Original Birth Certificate

Section 63.162(4), F.S., which provides the process for obtaining information on an original birth certificate, is not a model of clarity. The statute is confusing and subject to different

¹ Section 382.013, F.S.

² Telephone interview with Ken Jones, Bureau of Vital Statistics, Jacksonville, Fla. (Feb. 13, 2020).

³ Section 382.015(1)(a), F.S.

⁴ *Id.*

⁵ Section 382.015(4), F.S.

⁶ Section 63.162(2), F.S.

⁷ Section 63.162(6), F.S.

interpretations. The statute provides that a person may not disclose from the records the name and identity of a birth parent, an adoptive parent, or an adoptee unless:

- The birth parent authorizes in writing the release of his or her name;
- An adoptee, if age 18 or older, authorizes in writing the release of his or her name;
- An adoptive parent of an adoptee under age 18 provides written consent to disclose the adoptee's name;
- An adoptive parent authorizes in writing the release of his or her name; or
- A court issues an order, for good cause shown.

The Bureau of Vital Statistics interprets this language as prohibiting the release of information on the original birth certificate unless a birth parent, an adoptee, and an adoptive parent *all* authorize the release. Essentially, a person in each category must agree to release his or her name before the information may be released to a person in one of the three categories.

Several people have suggested that it is unnecessarily restrictive for an adult adoptee to be required to obtain the permission of the adoptive parent in order to gain access to the adoptee's original name, place of birth, and information of a birth parent. The sentiment is that as an adult, a person should not be required to obtain a parent's permission for any endeavor.

Florida's Adoption Reunion Registry

In 1982, the Legislature established the Florida Adoption Reunion Registry for people who are affected by adoption and provides them the opportunity to reunite. If two or more people affected by a single adoption in the state list themselves on the registry, then the Registry puts them in touch with each other. The registry is passive in nature and does not actively search registrations to unite people. Currently, 10,000 people have signed up on the registry and 6 to 8 reunions occur each month. The Department of Children and Families operates the registry, and there is no registration fee.⁸

III. Effect of Proposed Changes:

The bill amends s. 63.162(4), F.S., to provide that the Bureau of Vital Statistics may disclose the name and identity of the birth parent, if the birth parent provides written consent for the release of his or her name, and the adoptee is 18 years of age or older. Accordingly, the adoptive parent's signature is no longer required unless the adoptee is a minor. Under this provision, an adoptee who is 18 or older may obtain his or her original name and the place of birth with the other portions of the birth certificate redacted, such as the names of a birth parent. The bill retains the current law with respect to adoptees who are younger than 18 years of age; the adoptive parent's consent is still required for the adoptee to obtain the name and identity of the birth parent.

The Bureau of Vital Statistics may disclose from its records the name and identity of an adoptee, if the adoptee is 18 years of age or older and provides a written authorization for the release of his or her name. If the adoptee is younger than 18 years, the written consent to disclose must be

⁸ Section 63.165, F.S. and <http://adoptflorida.com/Reunion-Registry.htm>.

obtained from an adoptive parent. The Bureau may disclose the name and identity of the adoptive parent if the adoptive parent provides written consent for the release of his or her name.

Finally, the Bureau may disclose from the records the name and identity of a birth parent, an adoptive parent, or an adoptee upon an order of the court for good cause shown.

The bill takes effect July 1, 2020.

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:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends s. 63.162 of the Florida Statutes.

IX. Additional Information:

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

CS by Children, Families, and Elder Affairs on February 4, 2020:

- Adds the requirement that if the adoptee is under the age of 18, the adoptive parent must also provide written consent to disclose the birth parent's name.

- B. Amendments:

None.

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

586-03117-20

2020302c1

A bill to be entitled
An act relating to adoption records; amending s.
63.162, F.S.; providing that the name and identity of
a birth parent, an adoptive parent, and an adoptee may
be disclosed from adoption records without a court
order under certain circumstances; providing an
effective date.

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

Section 1. Subsection (4) of section 63.162, Florida
Statutes, is amended to read:

63.162 Hearings and records in adoption proceedings;
confidential nature.—

(4)(a) A person may ~~not~~ disclose the following from the
records without a court order ~~the name and identity of a birth
parent, an adoptive parent, or an adoptee unless:~~

1.(a) The name and identity of the birth parent, if the
birth parent authorizes in writing the release of his or her
name and the adoptee is 18 years of age or older; if the adoptee
is younger than 18 years of age, the adoptive parent must also
provide written consent to disclose the birth parent's name;

2.(b) The name and identity of the adoptee, if the adoptee
is 18 ~~or more~~ years of age or older and, authorizes in writing
the release of his or her name; or, if the adoptee is younger
~~less~~ than 18 years of age, written consent to disclose the
adoptee's name ~~is~~ obtained from an adoptive parent; or

3.(c) The name and identity of the adoptive parent, if the
adoptive parent authorizes in writing the release of his or her

586-03117-20

2020302c1

30 name.~~;~~~~or~~

31 (b)(d) A person may disclose from the records the name and
32 identity of a birth parent, an adoptive parent, or an adoptee
33 upon order of the court for good cause shown. In determining
34 whether good cause exists, the court shall give primary
35 consideration to the best interests of the adoptee, but must
36 also give due consideration to the interests of the adoptive and
37 birth parents. Factors to be considered in determining whether
38 good cause exists include, but are not limited to:

39 1. The reason the information is sought;

40 2. The existence of means available to obtain the desired
41 information without disclosing the identity of the birth
42 parents, such as by having the court, a person appointed by the
43 court, the department, or the licensed child-placing agency
44 contact the birth parents and request specific information;

45 3. The desires, to the extent known, of the adoptee, the
46 adoptive parents, and the birth parents;

47 4. The age, maturity, judgment, and expressed needs of the
48 adoptee; and

49 5. The recommendation of the department, licensed child-
50 placing agency, or professional that ~~which~~ prepared the
51 preliminary study and home investigation, or the department if
52 no such study was prepared, concerning the advisability of
53 disclosure.

54 Section 2. This act shall take effect July 1, 2020.

COMMITTEE: Judiciary
ITEM: CS/SB 302
FINAL ACTION: Favorable
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S00302

GENERAL BILL/CS by CF, Rader; (Similar CS/H 00089)

Adoption Records. EFFECTIVE DATE: 07/01/2020.

02/14/20 S On Committee agenda-- Judiciary, 02/19/20, 1:30 pm, 110 Senate Building

02/19/20 S Favorable by Judiciary; YEAS 5 NAYS 0

02/20/20 S Now in Rules



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Governmental Oversight and Accountability, *Vice Chair*
Agriculture
Appropriations Subcommittee on Health
and Human Services
Children, Families, and Elder Affairs

JOINT COMMITTEE:

Joint Legislative Auditing Committee

SENATOR KEVIN J. RADER
29th District

February 6, 2020

Chairman David Simmons
Committee on Judiciary
515 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chairman Simmons,

I respectfully request that you place CS/SB 302, relating to Adoption Records, on the agenda of the Committee on Judiciary at your earliest convenience.

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

Kindest Regards,

A handwritten signature in cursive script that reads "Kevin Rader".

Senator Kevin J. Rader
Florida Senate, District 29

cc: Tom Cibula, Staff Director
Joyce Butler, Administrative Assistant

REPLY TO:

- ☐ 5301 North Federal Hwy, Suite 135, Boca Raton, Florida 33487 (561) 443-8170
- ☐ 222 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5029

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)

2-19-20

Meeting Date

302

Bill Number (if applicable)

Topic Adoption Records

Amendment Barcode (if applicable)

Name Barbara Deane

Job Title MS

Address 1625 E. Brevard St

Phone 251-4280

Street

City

Tallahassee

State

Zip

FL 32308

Email barbad@flsen.gov

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)

2-19-20

Meeting Date

302
4

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Greg Pound

Job Title _____

Address 9166 Sunrise Dr.

Phone _____

Street

Largo

FL

33773

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Saving Families

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 Judiciary

BILL: CS/SB 1018

INTRODUCER: Criminal Justice Committee and Senator Stewart

SUBJECT: Exposure of Sexual Organs

DATE: February 18, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Stokes	Jones	CJ	Fav/CS
2.	Elsesser	Cibula	JU	Favorable
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1018 amends s. 800.03, F.S., increasing the penalty from a first degree misdemeanor to a third degree felony for a second or subsequent offense of exposing or exhibiting one's sexual organs in a vulgar or indecent manner while in public or on or in view of the private premises of another.

Additionally, this bill provides that exposing of sexual organs by a person who is merely naked at a place provided or set apart for that purpose, including but not limited to a clothing-optional beach, or an inmate in a state correctional institution or local detention facility, is not a violation of s. 800.03, F.S.

This bill amends s. 901.15, F.S., adding the crime of exposure of sexual organs to the list of misdemeanor offenses for which an officer may conduct a warrantless arrest.

The Criminal Justice Impact Conference estimates this bill will have a "positive indeterminate" prison bed impact (unquantifiable increase in prison bed impact). See Section V. Fiscal Impact Statement.

This bill is effective October 1, 2020.

II. Present Situation:

Exposure of sexual organs

At common law, indecent exposure was a public nuisance and punishable as a misdemeanor.¹ “Section 800.03, Florida Statutes [...] represents Florida’s effort at supplanting the common law offense.”²

Section 800.03, F.S., provides that it is unlawful for a person to expose or exhibit his or her sexual organs in a vulgar or indecent manner while in public or private view, or to be naked except in any place provided or set apart for that purpose. A mother who is breastfeeding does not violate this section “under any circumstances.” A violation of this section is a misdemeanor of the first degree.³

Courts have consistently held that being naked alone is not sufficient to violate s. 800.03, F.S. To trigger a violation, there must also be a “lascivious” exhibition of the sexual organs.⁴ The terms “lascivious,” “lewd,” and “indecent” have been interpreted by the Florida Supreme Court to be synonymous and mean wicked, lustful, unchaste, licentious, or sensual design by the perpetrator.⁵ To violate s. 800.03, F.S., actions must involve “an unlawful indulgence in lust, eager for sexual indulgence.”⁶ Because nudity alone is not a violation of s. 800.03, F.S., some counties have enacted county ordinances which specifically address public nudity.⁷ Similarly, the Department of Environmental Protection has enacted a rule that specifically prohibits nudity in parks.⁸ These local ordinances or rules further restrict nudity in their respective jurisdictions.

Courts have also made a distinction between conduct that occurs in public and conduct that occurs in a private place. If the exposure occurs in a private place, evidence must be provided that someone was offended by the conduct.⁹

Similar conduct, when done in the presence of a person younger than 16, is currently a felony. Section 800.04(7), F.S., provides that a person who intentionally masturbates, intentionally exposes his or her genitals in a lewd or lascivious manner, or intentionally commits any other sexual act that does not involve actual physical or sexual contact with the victim, and the victim is younger than 16 years old, commits:

- A second degree felony,¹⁰ if the person is 18 years of age or older.

¹ 3 Wharton's Criminal Law s 317 (Torcia, C., 14th ed. 1980).

² *Duvallon v. State*, 404 So. 2d 196, 196-97 (Fla. 1st DCA 1981).

³ A first degree misdemeanor is punishable by up to a year in county jail and a fine not exceeding \$1,000. Sections 775.082 and 775.083, F.S.

⁴ See *Hoffman v. Carson*, 250 So. 2d 891 (Fla. 1971); *Goodmakers v. State*, 450 So. 2d 888 (Fla. 2d DCA, 1984); *Duvallon v. State*, 404 So. 2d 196 (Fla. 1st DCA, 1981).

⁵ *Boles v. State*, 27 So. 2d 293, 294 (Fla. 1946); *Goodmakers v. State*, 450 So. 2d 888 (Fla. 2d DCA 1984).

⁶ *Duvallon*, 404 So. 2d at 197 (quoting *Chesebrough v. State*, 255 So.2d 675, at 677, 678 (Fla.1971)).

⁷ Brevard County, Florida, Municipal Code art. II., s. 74-30.

⁸ Rule 62D-2.014(7)(a), F.A.C., states that in every area of a park including bathing areas no individual shall expose the human, male or female genitals, pubic area, the entire buttocks or female breast below the top of the nipple, with less than fully opaque covering.

⁹ *State v. Kees*, 919 So. 2d 504, 506-07 (Fla. 5th DCA 2005).

¹⁰ A second degree felony is punishable by up to 15 years in state prison and a fine not exceeding \$10,000. Sections 775.082 and 775.083, F.S.

- A third degree felony,¹¹ if the person is younger than 18 years of age.

Arrest without an Arrest Warrant

Section 901.15, F.S., provides the circumstances in which a law enforcement officer may conduct a warrantless arrest. Generally, a law enforcement officer may arrest a person without an arrest warrant when:

- The person has committed a felony or misdemeanor or violated a local ordinance in the officer's presence; however, the arrest for a misdemeanor or local ordinance must be made immediately or in fresh pursuit;
- A felony has been committed and the officer reasonably believes the person committed it;
- The officer reasonably believes that a felony has been or is being committed and that the person has committed or is committing it; and
- A warrant for the arrest has been issued and is held by another officer for execution.¹²

However, there are many exceptions to these general rules. A law enforcement officer may make an arrest, where there is probable cause¹³ to believe that a person has committed one of the following offenses:

- Violations of injunctions for protection against domestic violence, dating violence, sexual violence, repeat violence, exploitation of a vulnerable adult or a foreign protection order;¹⁴
- Acts of domestic violence or dating violence;¹⁵
- Child abuse or luring or enticing a child for unlawful purposes;¹⁶
- Battery;¹⁷
- Criminal mischief or graffiti-related offenses;¹⁸
- Violation of a safety zone, security zone, regulated navigation area, or naval vessel protection zone;¹⁹
- Racing violation as described in s. 316.191(2), F.S.;²⁰
- An act that violates a condition of pretrial release when the original arrest was for an act of domestic violence or dating violence;²¹
- Trespass in a posted secure area of an airport;²²

¹¹ A third degree felony is punishable by up to five years in state prison and a fine not exceeding \$5,000. Sections 775.082 and 775.083, F.S.

¹² Section 901.15(1), (2), (3), and (4), F.S. Also, a law enforcement officer who witnesses a violation of ch. 316, F.S. (State Uniform Traffic Control), may relay that information to another officer who can then make the arrest when reasonable and proper identification of the vehicle and the violation has been communicated to the arresting officer. Section 901.15(5), F.S.

¹³ Probable cause to arrest is not to be equated with the standards of conclusiveness and probability required upon which a conviction must be based. *State v. Outten*, 206 So. 2d 392 (Fla.1968); Arrests are made upon probable cause or a reasonable ground for belief, not proof beyond a reasonable doubt. *Hall v. State*, 219 So. 2d 757 (Fla. 3d DCA 1969).

¹⁴ Section 901.15(6), F.S.

¹⁵ Section 901.15(7), F.S.

¹⁶ Section 901.15(8), F.S.

¹⁷ Section 901.15(9), F.S.

¹⁸ *Id.*

¹⁹ *Id.*

²⁰ *Id.*

²¹ Section 901.15(13), F.S.

²² Section 901.15(14), F.S.

- Assault upon a law enforcement officer, a firefighter, an emergency medical care provider, public transit employees or agents, or other officers specified in s. 784.07, F.S., who is engaged in the lawful performance of his or her duties;²³
- Assault or battery upon an employee of a receiving facility as defined in s. 394.455(39), F.S., who is engaged in the lawful performance of his or her duties;²⁴ and
- A criminal act of cyberharassment as described in s. 784.049, F.S.²⁵

III. Effect of Proposed Changes:

This bill amends s. 800.03, F.S., increasing the penalty from a first degree misdemeanor to a third degree felony for a second or subsequent offense of exposing or exhibiting one's sexual organs in a vulgar or indecent manner while in public or on or in view of the private premises of another.

This bill removes the current statutory language, "or to be naked in public except in any place provided or set apart for that purpose." The removal of this language is consistent with the Florida Supreme Court's interpretation of the statute that mere nudity is not a violation of s. 800.03, F.S.²⁶

Additionally, this bill provides that exposing of sexual organs by a person who is merely naked at a place provided or set apart for that purpose, including but not limited to a clothing-optional beach, or an inmate in a state correctional institution or local detention facility, is not a violation of s. 800.03, F.S.

This bill amends s. 901.15, F.S., adding the crime of exposure of sexual organs to the list of misdemeanor offenses for which an officer may conduct a warrantless arrest.

This bill is effective October 1, 2020

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

²³ Section 901.15(15), F.S.

²⁴ *Id.*

²⁵ Section 901.15(16), F.S.

²⁶ *Hoffman v. Carson*, 250 So. 2d 891 (Fla. 1971).

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates this bill will have a “positive indeterminate” prison bed impact (unquantifiable increase in prison bed impact).²⁷

The CJIC provides the following information relevant to its estimate:²⁸

Per [Florida Department of Law Enforcement], in FY 18-19, 720 people were arrested under s. 800.03, F.S., with 283 guilty/convicted and 76 having adjudication withheld. It is not known how many of these people were exhibiting sexual organs in a vulgar or indecent manner, nor is it known how many were naked in public.

In FY 17-18, the incarceration rate for a Level 1, 3rd degree felony was 8.7%.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

²⁷ CJIC SB 1018-Exposure of Sexual Organs (Identical HB 675), January 27, 2020, on file with the Senate Committee on Criminal Justice.

²⁸ *Id.*

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 800.03 and 901.15.

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

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

CS by Criminal Justice on February 4, 2020:

The committee substitute:

- Makes a second or subsequent violation of s. 800.03, F.S., a third degree felony.
- This bill removes the language, “or to be naked in public except in any place provided or set apart for that purpose.” The removal of this language is consistent with the Florida Supreme Court’s interpretation of the statute that mere nudity is not a violation of s. 800.03, F.S.²⁹
- Provides that exposing of sexual organs by a mother breastfeeding her baby, a person who is merely naked at a place provided or set apart for that purpose, including but not limited to a clothing-optional beach, or an inmate in a state correctional institution or local detention facility, is not a violation of s. 800.03, F.S.
- Amends s. 901.15, F.S., to add the crime of exposure of sexual organs, contrary to s. 800.03, F.S., the list of misdemeanor offenses for which an officer may conduct a warrantless arrest.

B. Amendments:

None.

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

²⁹ *Hoffman v. Carson*, 250 So. 2d 891 (Fla. 1971).

By the Committee on Criminal Justice; and Senator Stewart

591-03076-20

20201018c1

A bill to be entitled
An act relating to exposure of sexual organs; amending
s. 800.03; increasing criminal penalties for exposure
of sexual organs for a second or subsequent offense;
providing exceptions; amending s. 901.15, F.S.;
authorizing warrantless arrests when a law enforcement
officer has probable cause to believe that a person
has violated s. 800.03, F.S.; providing an effective
date.

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

Section 1. Section 800.03, Florida Statutes, is amended to
read:

800.03 Exposure of sexual organs.—

(1) It is unlawful to expose or exhibit one's sexual organs
in public or on the private premises of another, or so near
thereto as to be seen from such private premises, in a vulgar or
indecent manner, ~~or to be naked in public except in any place
provided or set apart for that purpose.~~

(2)(a) Except as provided in paragraph (b), a violation of
this section is a misdemeanor of the first degree, punishable as
provided in s. 775.082 or s. 775.083.

(b) A second or subsequent violation of this section is a
felony of the third degree, punishable as provided in s.
775.082, s. 775.083, or s. 775.084.

(3) The exposure of sexual organs by any of the following
does not violate subsection (1):

(a) A mother's breastfeeding of her baby;

591-03076-20

20201018c1

30 (b) An individual who is merely naked at any place provided
31 or set apart for that purpose, including, but not limited to, a
32 clothing-optional beach; or

33 (c) An inmate incarcerated at a state correctional
34 institution or local detention facility ~~does not under any~~
35 ~~circumstance violate this section.~~

36 Section 2. Subsection (9) of section 901.15, Florida
37 Statutes, is amended to read

38 901.15 When arrest by officer without warrant is lawful.—A
39 law enforcement officer may arrest a person without a warrant
40 when:

41 (9) There is probable cause to believe that the person has
42 committed:

43 (a) Any battery upon another person, as defined in s.
44 784.03.

45 (b) An act of criminal mischief or a graffiti-related
46 offense as described in s. 806.13.

47 (c) A violation of a safety zone, security zone, regulated
48 navigation area, or naval vessel protection zone as described in
49 s. 327.461.

50 (d) A racing violation as described in s. 316.191(2).

51 (e) An exposure of sexual organs in violation of s. 800.03.

52 Section 3. This act shall take effect October 1, 2020.

COMMITTEE: Judiciary
ITEM: CS/SB 1018
FINAL ACTION: Favorable
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S01018

GENERAL BILL/CS by CJ, Stewart; (Similar CS/H 00675, Compare S 00850)

Exposure of Sexual Organs. EFFECTIVE DATE: 10/01/2020.

02/14/20 S On Committee agenda-- Judiciary, 02/19/20, 1:30 pm, 110 Senate Building

02/19/20 S Favorable by Judiciary; YEAS 5 NAYS 0

02/20/20 S Now in Rules



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: February 10, 2020

I respectfully request that **Senate Bill #: 1018** relating to Exposure of Sexual Organs be placed on the:

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

A handwritten signature in cursive script that reads "Linda Stewart".

Senator Linda Stewart
Florida Senate, District 13

c.c. Tom Cibula, Staff Director
Joyce Butler, Committee Administrative Assistant

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-19-20
Meeting Date

1018
Bill Number (if applicable)

Topic Exposure of Sexual Organs

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title Ms

Address 625 E Brevard St
Street

Phone 251-4280

Tallahassee FL 32308
City State Zip

Email barbadevane1@gmail.com

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)

2-19-20

Meeting Date

1018

Bill Number (if applicable)

Topic EXPOSURE

Amendment Barcode (if applicable)

Name MICHAEL CRABB

Job Title LIEUTENANT

Address 2500 W. COLONIAL DR
Street

Phone 321-436-4447

OM FL 32804
City State Zip

Email MICHAEL CRABB @ OCR.INET

Speaking: ☒ For ☐ Against ☐ Information

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

Representing ORANGE COUNTY SHERIFF

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)

2-19-20

Meeting Date

1018

Bill Number (if applicable)

Topic

Saving Families, Exposure of Sex Org.

Amendment Barcode (if applicable)

Name

Greg Povod

Job Title

Address

9166 Sunrise Dr

Phone

Street

Largo

FL

33773

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
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 Judiciary

BILL: CS/SB 1082

INTRODUCER: Agriculture Committee and Senator Albritton

SUBJECT: Domestic Violence Injunctions

DATE: February 18, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Akhavein</u>	<u>Becker</u>	<u>AG</u>	Fav/CS
2.	<u>Davis</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1082 expressly authorizes a court, when granting a domestic violence injunction, to:

- Award the petitioner the exclusive care, possession, or control of an animal that is owned, possessed, harbored, kept, or held by the petitioner, the respondent, or a minor child who is residing in the residence or household of the petitioner or respondent.
- Order the respondent to have no contact with the animal.
- Prohibit the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal.

The bill does not apply to animals owned primarily for a bona fide agricultural purpose or to a service animal if the respondent is the service animal's handler.

The bill takes effect July 1, 2020.

II. Present Situation:

Domestic Violence Data

According to data compiled by the Florida Department of Law Enforcement, 104,914 incidents of domestic violence were reported in 2018. The vast majority of the crimes were considered simple assaults, accounting for 83,980 incidents, with an additional 16,000 crimes labeled as

aggravated assaults. Of the more serious crimes, there were 19 cases of manslaughter and 196 cases of criminal homicide.¹

Domestic Violence Injunctions

Temporary Injunctions

If someone believes that she or he is a victim of domestic violence² or has reasonable cause to believe that she or he is in imminent danger of becoming a victim of domestic violence, that person may petition a circuit court for an injunction for protection against domestic violence. The clerk of the court is required by statute to provide simplified forms for the petitioner to file as well as an informational brochure about the process. The petitioner may not be charged a fee for filing the petition.³ The clerk's office will take the sworn petition to a judge who rules on the petition, generally within 24 hours.

The petition form contains a list of circumstances that the petitioner may check to demonstrate that various instances or threats of domestic violence have occurred. One of these instances is whether the respondent has ever intentionally injured or killed a family pet.⁴

The judge examines the petition, *ex parte*, meaning that the judge examines only the information submitted by the petitioner. The parties are generally not present, and no additional evidence is submitted. If it appears to the court that an immediate and present danger of domestic violence exists, the court may grant a temporary injunction, pending a full hearing at a later date. In addition to the temporary injunction, the court may grant relief as it deems proper, including an injunction:

- Restraining the respondent from committing any acts of domestic violence.
- Awarding the petitioner the temporary and exclusive use of the dwelling that the parties share or excluding the respondent from the petitioner's residence.
- Providing the petitioner a temporary parenting plan in which the petitioner may receive up to 100 percent of time-sharing.⁵

Any *ex parte* temporary injunction is effective for a fixed period of time that does not exceed 15 days. A full hearing will be set for a date that is no later than the date when the temporary injunction expires, although the court may grant a continuance for good cause shown, including a

¹ Florida Department of Law Enforcement, *Domestic Violence, Victim to Offender Relationships*, <http://www.fdle.state.fl.us/FSAC/Crime-Data/DV.aspx> and Florida Department of Law Enforcement, *Florida's County and Jurisdictional Reported Domestic Violence Offenses*, 2018, http://www.fdle.state.fl.us/FSAC/Documents/PDF/DV_OFF_JUR18.aspx.

² "Domestic violence" means 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. Section 741.28(2), F.S.

"Family or household member means spouses, former spouses, persons related by blood or marriage, persons who are presently residing together as if a family or who have resided together in the past as if a family, and persons who are parents of a child in common regardless of whether they have been married. With the exception of persons who have a child in common, the family or household members must be currently residing or have in the past resided together in the same single dwelling unit." Section 741.28(3), F.S.

³ Section 741.30(1)(a) and (2)(a), F.S.

⁴ Section 741.30(3)(a), F.S.

⁵ Section 741.30(5)(a) and (b), F.S.

continuance to obtain service of process on the respondent. A temporary injunction will be extended if it is necessary to remain in full force and effect during the continuance.⁶

Injunctions

Once notice is given and a hearing is held, and the court concludes that the petitioner is a victim of domestic violence or has reasonable cause to believe that she or he is in imminent danger of becoming a victim, the court may grant an injunction, no longer a temporary injunction:

- Restraining the respondent from committing any acts of domestic violence.
- Awarding the petitioner the exclusive use of the dwelling or excluding the respondent from the petitioner's residence.
- Providing the petitioner a temporary parenting plan in which the petitioner may receive up to 100 percent of time-sharing.
- Establishing temporary support for a minor child or children of the petitioner.
- Ordering the respondent to participate in treatment, intervention, or counseling.
- Referring a petitioner to a certified domestic violence center.
- Order other relief that the court deems necessary to protect the domestic violence victim, including injunctions or directives to law enforcement agencies.⁷

The injunction remains in effect until it is modified or dissolved. The petitioner or respondent may move at any time for those actions.⁸

Domestic Violence and Animal Abuse

According to the Florida Coalition Against Domestic Violence, there is an interconnection between domestic violence and animal abuse. The Coalition states that the American Humane Association reports that 71 percent of women who enter emergency shelters report that their abuser injured, maimed, killed, or threatened harm to family pets for the purpose of revenge or to psychologically control their victims. The Coalition also states that between 25 percent and 40 percent of battered women postpone leaving abusive situations because they fear harm will be done to their animals.⁹

A 2020 Michigan State University College of Law publication notes that 35 states, the District of Columbia, and Puerto Rico have enacted legislation that includes references to pets in domestic violence protection injunctions and orders.¹⁰

Domestic Violence Injunctions and the Award of Animals

Staff has been unable to find a statute authorizing a court to order an equitable property distribution in an injunction proceeding. Although pets may be considered by some to be a

⁶ Section 741.30(5)(c), F.S.

⁷ Section 741.30(6), F.S.

⁸ Section 741.30(6)(c), F.S.

⁹ Florida Coalition Against Domestic Violence, *Darby Against Domestic Violence*, <https://www.fcadv.org/darby>.

¹⁰ Rebecca F. Wisch, Michigan State University College of Law, *Domestic Violence and Pets: List of States that Include Pets in Protection Orders* (2020), <https://www.animallaw.info/article/domestic-violence-and-pets-list-states-include-pets-protection-orders>.

member of the family, under Florida law, pets are considered personal property and subject to the equitable distribution statute.¹¹ Therefore, without a specific authorization, a court would likely be reluctant to make a determination that someone is entitled to the care of an animal in an injunction proceeding.

III. Effect of Proposed Changes:

The bill expressly authorizes a court, when granting a domestic violence injunction, to:

- Award the petitioner the exclusive care, possession, or control of an animal that is owned, possessed, harbored, kept, or held by the petitioner, the respondent, or a minor child who is residing in the residence of the petitioner or respondent. (In a temporary injunction, the petitioner's care is "temporary" but in the injunction, the care is not restricted to temporary care.)
- Order the respondent to temporarily have no contact with the animal. (Similarly, in the temporary injunction, the respondent is "temporarily" ordered to have no contact with the animal, but the injunction removes the reference to "temporarily.")
- Prohibit the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal.

This provision does not apply to an animal that is owned primarily for a bona fide agricultural purpose,¹² as defined under s. 193.461, F.S., or to a service animal,¹³ as defined under s. 413.08, F.S., if the respondent is the service animal's handler.

The bill also conforms cross-references and makes technical changes.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

¹¹ *Bennett v. Bennett*, 655 So. 2d 109 (Fla. 1st DCA 1995).

¹² The term "bona fide agricultural purposes" means a good faith commercial agricultural use of the land. In determining whether the use of the land for agricultural purposes is bona fide, the following factors may be taken into consideration: The length of time the land has been so used; whether the use has been continuous; the purchase price paid; the size, as it relates to specific agricultural use, but a minimum acreage may not be required for agricultural assessment; whether an indicated effort has been made to care sufficiently and adequately for the land in accordance with accepted commercial agricultural practices, including, without limitation, fertilizing, liming, tilling, mowing, reforesting, and other accepted agricultural practices; whether the land is under lease and, if so, the effective length, terms, and conditions of the lease; and such other factors as may become applicable. Section 193.461(3)(b), F.S.

¹³ "Service animal" means an animal that is trained to do work or perform tasks for an individual with a disability, including a physical, sensory, psychiatric, intellectual, or other mental disability. A service animal is not a pet. Section 413.08(1)(d), F.S.

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 bill amends section 741.30 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 Agriculture on January 14, 2020:

The committee substitute corrects an error that appears two places in the bill by changing the word “defendant” to the word “respondent.”

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 Agriculture; and Senator Albritton

575-02270-20

20201082c1

A bill to be entitled
An act relating to domestic violence injunctions;
amending s. 741.30, F.S.; authorizing a court to take
certain actions regarding the care, possession, or
control of an animal in domestic violence injunctions;
providing applicability; conforming a cross-reference;
making technical changes; providing an effective date.

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

Section 1. Paragraph (a) of subsection (5) and subsection
(6) of section 741.30, Florida Statutes, are amended to read:
741.30 Domestic violence; injunction; powers and duties of
court and clerk; petition; notice and hearing; temporary
injunction; issuance of injunction; statewide verification
system; enforcement; public records exemption.—

(5)(a) If it appears to the court that an immediate and
present danger of domestic violence exists, the court may grant
a temporary injunction ex parte, pending a full hearing, and may
grant such relief as the court deems proper, including an
injunction:

1. Restraining the respondent from committing any acts of
domestic violence.

2. Awarding to the petitioner the temporary exclusive use
and possession of the dwelling that the parties share or
excluding the respondent from the residence of the petitioner.

3. On the same basis as provided in s. 61.13, providing the
petitioner a temporary parenting plan, including a time-sharing
schedule, which may award the petitioner up to 100 percent of

575-02270-20

20201082c1

the time-sharing. The temporary parenting plan remains in effect until the order expires or an order is entered by a court of competent jurisdiction in a pending or subsequent civil action or proceeding affecting the placement of, access to, parental time with, adoption of, or parental rights and responsibilities for the minor child.

4. Awarding to the petitioner the temporary exclusive care, possession, or control of an animal that is owned, possessed, harbored, kept, or held by the petitioner, the respondent, or a minor child residing in the residence or household of the petitioner or respondent. The court may order the respondent to temporarily have no contact with the animal and prohibit the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal. This subparagraph does not apply to an animal owned primarily for a bona fide agricultural purpose, as defined under s. 193.461, or to a service animal, as defined under s. 413.08, if the respondent is the service animal's handler.

(6) (a) Upon notice and hearing, when it appears to the court that the petitioner is either the victim of domestic violence as defined by s. 741.28 or has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence, the court may grant such relief as the court deems proper, including an injunction:

1. Restraining the respondent from committing any acts of domestic violence.

2. Awarding to the petitioner the exclusive use and possession of the dwelling that the parties share or excluding the respondent from the residence of the petitioner.

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20201082c1

59 3. On the same basis as provided in chapter 61, providing
60 the petitioner with 100 percent of the time-sharing in a
61 temporary parenting plan that remains in effect until the order
62 expires or an order is entered by a court of competent
63 jurisdiction in a pending or subsequent civil action or
64 proceeding affecting the placement of, access to, parental time
65 with, adoption of, or parental rights and responsibilities for
66 the minor child.

67 4. On the same basis as provided in chapter 61,
68 establishing temporary support for a minor child or children or
69 the petitioner. An order of temporary support remains in effect
70 until the order expires or an order is entered by a court of
71 competent jurisdiction in a pending or subsequent civil action
72 or proceeding affecting child support.

73 5. Ordering the respondent to participate in treatment,
74 intervention, or counseling services to be paid for by the
75 respondent. When the court orders the respondent to participate
76 in a batterers' intervention program, the court, or any entity
77 designated by the court, must provide the respondent with a list
78 of batterers' intervention programs from which the respondent
79 must choose a program in which to participate.

80 6. Referring a petitioner to a certified domestic violence
81 center. The court must provide the petitioner with a list of
82 certified domestic violence centers in the circuit which the
83 petitioner may contact.

84 7. Awarding to the petitioner the exclusive care,
85 possession, or control of an animal that is owned, possessed,
86 harbored, kept, or held by the petitioner, the respondent, or a
87 minor child residing in the residence or household of the

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petitioner or respondent. The court may order the respondent to have no contact with the animal and prohibit the respondent from taking, transferring, encumbering, concealing, harming, or otherwise disposing of the animal. This subparagraph does not apply to an animal owned primarily for a bona fide agricultural purpose, as defined under s. 193.461, or to a service animal, as defined under s. 413.08, if the respondent is the service animal's handler.

~~8.7.~~ Ordering such other relief as the court deems necessary for the protection of a victim of domestic violence, including injunctions or directives to law enforcement agencies, as provided in this section.

(b) In determining whether a petitioner has reasonable cause to believe he or she is in imminent danger of becoming a victim of domestic violence, the court shall consider and evaluate all relevant factors alleged in the petition, including, but not limited to:

1. The history between the petitioner and the respondent, including threats, harassment, stalking, and physical abuse.

2. Whether the respondent has attempted to harm the petitioner or family members or individuals closely associated with the petitioner.

3. Whether the respondent has threatened to conceal, kidnap, or harm the petitioner's child or children.

4. Whether the respondent has intentionally injured or killed a family pet.

5. Whether the respondent has used, or has threatened to use, against the petitioner any weapons such as guns or knives.

6. Whether the respondent has physically restrained the

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petitioner from leaving the home or calling law enforcement.

7. Whether the respondent has a criminal history involving violence or the threat of violence.

8. The existence of a verifiable order of protection issued previously or from another jurisdiction.

9. Whether the respondent has destroyed personal property, including, but not limited to, telephones or other communications equipment, clothing, or other items belonging to the petitioner.

10. Whether the respondent engaged in any other behavior or conduct that leads the petitioner to have reasonable cause to believe that he or she is in imminent danger of becoming a victim of domestic violence.

In making its determination under this paragraph, the court is not limited to those factors enumerated in subparagraphs 1.-10.

(c) The terms of an injunction restraining the respondent under subparagraph (a)1. or ordering other relief for the protection of the victim under subparagraph (a)8. ~~(a)7.~~ shall remain in effect until modified or dissolved. Either party may move at any time to modify or dissolve the injunction. No specific allegations are required. Such relief may be granted in addition to other civil or criminal remedies.

(d) A temporary or final judgment on injunction for protection against domestic violence entered under ~~pursuant to~~ this section shall, on its face, indicate that:

1. The injunction is valid and enforceable in all counties of the State of Florida.

2. Law enforcement officers may use their arrest powers

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146 ~~under pursuant to~~ s. 901.15(6) to enforce the terms of the
147 injunction.

148 3. The court had jurisdiction over the parties and matter
149 under the laws of Florida and that reasonable notice and
150 opportunity to be heard was given to the person against whom the
151 order is sought sufficient to protect that person's right to due
152 process.

153 4. The date the respondent was served with the temporary or
154 final order, if obtainable.

155 (e) An injunction for protection against domestic violence
156 entered under ~~pursuant to~~ this section, on its face, may order
157 that the respondent attend a batterers' intervention program as
158 a condition of the injunction. Unless the court makes written
159 factual findings in its judgment or order which are based on
160 substantial evidence, stating why batterers' intervention
161 programs would be inappropriate, the court shall order the
162 respondent to attend a batterers' intervention program if:

163 1. It finds that the respondent willfully violated the ex
164 parte injunction;

165 2. The respondent, in this state or any other state, has
166 been convicted of, had adjudication withheld on, or pled nolo
167 contendere to a crime involving violence or a threat of
168 violence; or

169 3. The respondent, in this state or any other state, has
170 had at any time a prior injunction for protection entered
171 against the respondent after a hearing with notice.

172 (f) The fact that a separate order of protection is granted
173 to each opposing party is ~~shall~~ not be legally sufficient to
174 deny any remedy to either party or to prove that the parties are

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175 equally at fault or equally endangered.

176 (g) A final judgment on injunction for protection against
177 domestic violence entered under ~~pursuant to~~ this section must,
178 on its face, indicate that it is a violation of s. 790.233, and
179 a first degree misdemeanor, for the respondent to have in his or
180 her care, custody, possession, or control any firearm or
181 ammunition.

182 (h) All proceedings under this subsection shall be
183 recorded. Recording may be by electronic means as provided by
184 the Rules of Judicial Administration.

185 Section 2. This act shall take effect July 1, 2020.

COMMITTEE: Judiciary
ITEM: CS/SB 1082
FINAL ACTION: Favorable
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S01082

GENERAL BILL/CS by AG, Albritton; (Similar CS/CS/H 00241)

Domestic Violence Injunctions. EFFECTIVE DATE: 07/01/2020.

02/14/20 S On Committee agenda-- Judiciary, 02/19/20, 1:30 pm, 110 Senate Building

02/19/20 S Favorable by Judiciary; YEAS 4 NAYS 0

02/20/20 S Now in Rules



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 15, 2020

I respectfully request that **Senate Bill #1082**, relating to Domestic Violence Injunctions, be placed on the:

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

A handwritten signature in cursive script, reading "Ben Albritton".

Senator Ben Albritton
Florida Senate, District 26

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/20

Meeting/Date

SB 1082
Bill Number (if applicable)

Topic DOMESTIC VIOLENCE INJUNCTIONS

Amendment Barcode (if applicable)

Name JENNIFER BITNER

Job Title EXECUTIVE DIRECTOR

Address 5 N Q ST
Street

Phone 850 339 2149

PENSACOLA FL 32505
City State Zip

Email jennifer@pensacolahumane.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing PENSACOLA HUMANE SOCIETY & FL ASSOCIATION OF ANIMAL WELFARE ORGANIZATIONS

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)

2/19/20

Meeting Date

CS/SB 1082

Bill Number (if applicable)

Topic

DV Injunctions

Amendment Barcode (if applicable)

Name

Phil Archer

Job Title

State Attorney - 18th Cir.

Address

2725 Jamieson Way

Phone

(321) 637-5575

Street

Viera

Fl.

32940

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

18th Circuit

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)

2/19/20

Meeting Date

SB1082

Bill Number (if applicable)

Topic DOMESTIC VIOLENCE INUNCTIONS

Amendment Barcode (if applicable)

Name JENNIFER HOBGOOD

Job Title SENIOR DIRECTOR, LEGISLATION

Address P O BOX 5741

Phone 850 445 5245

TALLAHASSEE FL 32314

City

State

Zip

Email jen.hobgood@aspc.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing ASPCA - AMERICAN SOCIETY for the PREVENTION of CRUELTY to ANIMALS

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)

2-19-20

Meeting Date

1082

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Greg Pound

Job Title _____

Address 9166 Sunrise Dr.

Phone _____

Street

Largo

City

FL

State

33773

Zip

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Saving families

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 Judiciary

BILL: SB 1340

INTRODUCER: Senator Gruters

SUBJECT: Legal Notices

DATE: February 10, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Pre-meeting
2.			CA	
3.			RC	

I. Summary:

SB 1340 allows a governmental agency the option of publishing legally required advertisements and public notices on a publicly accessible website if certain conditions are met. Specifically, the bill permits a governmental agency:

- In a county that has not been designated a fiscally constrained county, to publish the advertisements and notices on a publicly accessible website if the cost of publishing advertisements and notices online is less than the cost of publishing those items in a newspaper.
- In a fiscally constrained county, to publish the advertisements and notices on a publicly accessible website after making a determination at a publicly noticed meeting that online publication:
 - Is in the public interest;
 - The cost of publishing is less expensive than newspaper publication; and
 - Will not, after taking into account the level of Internet access in the county, unreasonably restrict public access to advertisements and legal notices.

If a local government publishes legally required advertisements and public notices on a publicly accessible website, the bill requires the governmental agency to publish a notice at least once a year in a newspaper of general circulation or other publication mailed and delivered to all residents and property owners in the government's jurisdiction stating that the residents or property owners may receive legally required notices or advertisements by first-class mail or e-mail by registering their name, address, and e-mail address with the governmental agency.

II. Present Situation:

Constitutional Notice Requirements for State and Local Governments

The State Constitution requires that meetings of “any collegial public body” of the executive branch, or of a county, municipality, school district, or special district where official acts will be taken or where public business will be transacted or discussed, “shall be open and noticed to the public.”¹ Accordingly, the statutes contain several provisions that specify when notice must be given before local governments may take certain actions.

Statutory Notice Requirements

Chapter 50, F.S., contains the requirements for the publication of legal notices and official advertisements. All legal notices and publications must be made in a newspaper that:

- Is printed and published at least once a week;
- Contains at least 25 percent of its words in the English language;
- Is considered a periodical by the post office in the county where it is published;
- Is for sale to the public generally; and
- Customarily contains information of public interest to the residents or property owners in the county where it is published or is of interest or of value to the general public.²

If no newspaper is published in the county, three copies of the notice or advertisement must be posted in the county, with one being posted at the front door of the courthouse, two others posted at other locations in the county, and by publication of the notice in the nearest county where a newspaper is published.³

Newspaper Website

If the newspaper publishing the legal notice maintains a website, the legal notice must appear on the newspaper’s website the same day it appears in the newspaper. The notice must be published at no additional charge on a separate web page titled “Legal Notices,” “Legal Advertising,” or with comparable identifying language. The newspaper’s website must contain a search function to aid in searching the legal notices and the newspaper publisher may not charge a fee or require registration to view or search the legal notices. The newspaper must also place a copy of the notice on a repository website maintained by the Florida Press Association and provide the ability for members of the public to sign up for an e-mail notification to be received when new legal notices are published.⁴

¹ Article I, section 24(b) provides:

(b) All meetings of any collegial public body of the executive branch of state government or of any collegial public body of a county, municipality, school district, or special district, at which official acts are to be taken or at which public business of such body is to be transacted or discussed, shall be open and noticed to the public and meetings of the legislature shall be open and noticed as provided in Article III, Section 4(e), except with respect to meetings exempted pursuant to this section or specifically closed by this Constitution.

² Section 50.011, F.S.

³ Section 50.021, F.S.

⁴ Section 50.0211(2), F.S. The repository maintained by the Florida Press Association is available at: <http://www.floridapublicnotices.com>. See s. 50.0211(3)(a), F.S.

The publication of a legal notice may not be considered effective unless:⁵

- The notice is published for the period prescribed for such a notice;
- The newspaper has been in existence for at least 1 year at the time the notice is published; and
- The newspaper has been entered as a periodical at a post office in the county where the notice is published.

Proof of Publication

Proof of publication is established by the use of a uniform notice.⁶ The proof of publication affidavit must be on paper formatted in a specific manner or an electronic version that complies with the electronic notarization requirements of s. 117.021, F.S. The proof of publication affidavit must contain the name of the newspaper, the frequency of publication, the city and county of publication, and the signature of a notary public.⁷

Fees

The fees for a legal notice are set by statute and may not be rebated, commissioned, or refunded. The charge for publishing a legal notice is 70 cents per square inch for the first insertion and 40 cents per square inch for each subsequent insertion. Notices required to be published more than once and paid for by the government entity may not be charged greater than 85 percent of the original rate for second and successive insertions. If the regular established minimum commercial rate per square inch is greater than the rate stipulated in statute, the publisher may charge the minimum commercial rate for each insertion, except that notices required to be published more than once and paid for by the government entity may not be charged greater than 85 percent of the original rate for second and successive insertions. All notices and legal advertisements are charged on the basis of 6-point type on 6-point body, unless otherwise specified by statute.⁸

Enforcement of Self-Storage Facility Liens

The owner of a self-service storage facility or self-contained storage unit has a lien for rent, labor charges, or other charges on all personal property located in the facility for expenses related to the preservation of the property and reasonably related to its sale or other disposition for nonpayment.⁹ The owner must provide written notice in person, by e-mail, or by registered mail to the tenant's last known address and post notice on the storage unit before satisfying the lien.¹⁰ If the owner does not receive a response, return receipt, or delivery confirmation of a notice sent via e-mail, the owner must provide notice by certified mail.

The notice provided to the tenant must include:¹¹

⁵ Section 50.031, F.S.

⁶ Section 50.041, F.S.

⁷ Section 50.051, F.S.

⁸ Section 50.061, F.S.

⁹ Section 83.805, F.S.

¹⁰ Section 83.806(1), F.S.

¹¹ Section 83.806(2), F.S.

- An itemized statement of the owner's claim, showing the amount due at the time of the notice and when the amount became due;
- A description of the personal property provided in the rental agreement;
- A demand for payment within a specified time no less than 14 days after delivery of the notice;
- A conspicuous statement that the personal property will be advertised for sale or other disposition and sold or otherwise disposed of at a specified time and place if the amount due is not paid in the time stated in the notice; and
- The name, street address, and telephone number of the owner.

After the expiration of the time given in the notice, the owner must place an advertisement of the sale or other disposition at least once a week for two consecutive weeks in a newspaper of general circulation in the area where the facility is located.¹² If there is no newspaper of general circulation in the area where the facility is located, the owner must post the advertisement in at least three conspicuous places in the neighborhood where the facility is located.¹³ The advertisement must include:¹⁴

- A brief and general description of the personal property contained in the storage unit;
- The address of the facility and the name of the tenant; and
- The time, place, and manner of the sale or other disposition.¹⁵

III. Effect of Proposed Changes:

The bill allows a governmental agency¹⁶ the option to publish legally required advertisements and notices on a publicly accessible website¹⁷ if certain conditions are met. Specifically, the bill allows a governmental agency:

- In a county that has not been designated a fiscally constrained county,¹⁸ to publish the advertisements and notices on a publicly accessible website if the cost of publishing advertisements and notices online is less than the cost of publishing those items in a newspaper.
- In a fiscally constrained county, to publish the advertisements and notices on a publicly accessible website after making a determination at a public hearing that has been noticed in a newspaper, as provided by law, that online publication:
 - Is in the public interest;
 - The cost of publishing is less expensive than newspaper publication; and
 - Will not, after taking into account the level of Internet access in the county, unreasonably restrict public access to advertisements and legal notices.

¹² Section 83.806(4), F.S.

¹³ Section 83.806(4)(c), F.S.

¹⁴ Section 83.806(4)(b), F.S.

¹⁵ The sale or disposition may not occur until at least 15 days after first publication.

¹⁶ "Governmental agency" means a county, municipality, school board, or other unit of local government or political subdivision of this state.

¹⁷ A "publicly accessible website" means a governmental agency's official website or other private website designated by the governmental agency for the posting of legal notices and advertisements that is accessible via the Internet.

¹⁸ A "fiscally constrained county" means a county within a rural area of opportunity as designated by the Governor or a county for which the value of a mill will raise no more than \$5 million in revenue, based on the certified school taxable value certified pursuant to s.1011.62(4)(a)1.a., F.S., from the previous July 1. According to the Department of Revenue, there are 29 fiscally constrained counties in the state. <https://floridarevenue.com/property/Documents/fcco081210.pdf>.

All advertisements and legal notices posted on a governmental agency's website must be in a searchable format.

The bill requires each governmental agency that uses a publicly accessible website to publish legally required advertisements and public notices to publish notice at least once a year in a newspaper of general circulation, a newsletter or periodical, or other publication mailed and delivered to all residents and property owners in the government's jurisdiction, stating the resident and property owner may receive legally required notices or advertisements via first-class mail or e-mail by registration of their name, address, and e-mail address with the governmental agency. The governmental agency must maintain a registry of names, addresses, and e-mail addresses of residents and property owners who request in writing to receive legally required advertisements and notices from the governmental agency by first-class mail or e-mail.

The bill requires any legally required notices and advertisements published on the governmental agency's publicly accessible website to be placed conspicuously on the website's homepage or made accessible through a direct link on the homepage. The homepage or linked page must indicate the date on which the advertisement was first published.

The bill authorizes a governmental agency operating a governmental access channel to include a summary of all advertisements and public notices published on its website on the channel.

The bill revises the criteria a newspaper must meet to be eligible to publish advertisements and legal notices, allowing a governmental agency to publish advertisements and notices in a free newspaper.

The bill makes conforming changes to other provisions requiring a governmental agency to publish a notice to allow for the publication of the notices and advertisements on a publicly accessible website. A notice published on a local government website must be published for the same period a printed notice would have been available to the public.¹⁹

The bill allows the operator of a self-service storage facility or a self-contained storage unit to publish notice for 14 consecutive days on a public website customarily used for conducting personal property auctions in lieu of publication in a newspaper of general circulation.

The bill takes effect July 1, 2021.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

¹⁹ *E.g.*, if a printed notice must be published at least 30 days before a meeting is held, a notice available on the local government website must be posted and retained on the website for at least 30 days before the meeting is held.

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 will likely reduce revenue for newspapers due to the elimination of the print publishing requirements for legal notices and advertisements. The bill may also reduce publication costs that may be borne by members of the public to the extent that those costs would otherwise be passed on by a government agency to the member of the public.

C. Government Sector Impact:

Indeterminate. The bill may significantly reduce a governmental agency's cost to publish legal notices and advertisements in a newspaper. However, if those governmental agencies ultimately recover the costs of publishing the legal notices, for example, by passing the cost on to the person benefitting from the publication, then the governmental agency's expenses might not likely be as substantially different. For example, a governmental entity pays the initial cost of publishing a delinquent tax notice. However, when the delinquent tax is paid, the person paying those taxes is assessed the costs of advertising as well as other fees related to the taxes due on the property.

VI. Technical Deficiencies:

There is an incorrect cross-reference on line 157 of the bill. The cross-reference is currently drafted to "s. 50.11" but should be drafted to "s. 50.011".

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 50.011, 50.021, 50.0211, 50.031, 50.0311, 50.041, 50.051, 50.0711, 83.806, 11.02, 45.031, 121.0511, 121.055, 125.66, 162.12, 166.041, 189.015, 190.005, 190.046, 194.037, 197.402, 200.065, 338.223, 348.0308, 348.635, 348.7605, 373.0397, 373.146, 403.722, 712.06, 849.38, 865.09, and 932.704

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.



190756

LEGISLATIVE ACTION

Senate	.	House
Comm: FAV	.	
02/20/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Gruters) recommended the following:

Senate Amendment

Delete line 157
and insert:
under s. 50.011, the term "publicly accessible website"
means a

By Senator Gruters

23-00673A-20

20201340__

A bill to be entitled

An act relating to legal notices; amending s. 50.011, F.S.; providing for the publication of legal notices on certain publicly accessible websites; amending ss. 50.021, 50.0211, and 50.031, F.S.; conforming provisions to changes made by the act; creating s. 50.0311, F.S.; providing definitions; allowing a governmental agency to publish legal notices on a publicly accessible website under certain circumstances; providing criteria for website publication; authorizing a fiscally constrained county to use a publicly accessible website to publish legally required advertisements and public notices only if certain requirements are met; requiring a governmental agency to provide specified notice to certain residents and property owners relating to alternative methods of receiving legal notices; authorizing a governmental agency to publish certain public notices and advertisements on its governmental access channels; amending s. 50.041, F.S.; removing provisions relating to the publication of legal notices in newspapers; amending s. 50.051, F.S.; revising a form for affidavits of publication; amending s. 50.0711, F.S.; revising provisions relating to the use of court docket funds; amending s. 83.806, F.S.; providing that an advertisement of a sale or disposition of property may be published on certain websites for a specified time period; amending ss. 11.02, 45.031, 121.0511, 121.055, 125.66, 162.12,

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20201340__

166.041, 189.015, 190.005, 190.046, 194.037, 197.402,
200.065, 338.223, 348.0308, 348.635, 348.7605,
373.0397, 373.146, 403.722, 712.06, 849.38, 865.09,
and 932.704; conforming provisions to changes made by
the act; providing an effective date.

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

Section 1. Section 50.011, Florida Statutes, is amended to
read:

50.011 Publication of ~~Where and in what language~~ legal
notices ~~to be published.~~ Whenever by statute an official or
legal advertisement or a publication, or notice in a newspaper
or governmental agency website has been or is directed or
permitted in the nature of or in lieu of process, or for
constructive service, or in initiating, assuming, reviewing,
exercising or enforcing jurisdiction or power, or for any
purpose, including all legal notices and advertisements of
sheriffs and tax collectors, the contemporaneous and continuous
intent and meaning of such legislation all and singular,
existing or repealed, is and has been and is hereby declared to
be and to have been, and the rule of interpretation is and has
been the following:

(1) A publication in a newspaper printed and published
periodically at least once a week ~~or oftener~~, containing at
least 25 percent of its words in the English language, entered
or qualified to be admitted and entered as periodicals matter at
a post office in the county where published, ~~for sale to the~~
~~public generally,~~ available to the public generally for the

23-00673A-20

20201340__

publication of official or other notices and customarily containing information of a public character or of interest or of value to the residents or owners of property in the county where published, or of interest or of value to the general public; or

(2) On a publicly accessible website pursuant to s. 50.0311.

Section 2. Section 50.021, Florida Statutes, is amended to read:

50.021 Publication when no newspaper in county.—When any law, or order or decree of court, directs ~~shall direct~~ advertisements to be made in a ~~any~~ county and there is ~~be~~ no newspaper published in the ~~said~~ county, the advertisement may be posted on a publicly accessible website as provided in s. 50.0311 or made by posting three copies thereof in three different places in the ~~said~~ county, one of which shall be at the front door of the courthouse, and by publication in the nearest county in which a newspaper is published.

Section 3. Subsections (2) and (3) of section 50.0211, Florida Statutes, are amended to read:

50.0211 Internet website publication.—

(2) If a governmental agency publishes a legal notice in a newspaper, each legal notice must be posted on the newspaper's website on the same day that the printed notice appears in the newspaper, at no additional charge, in a separate web page titled "Legal Notices," "Legal Advertising," or comparable identifying language. A link to the legal notices web page shall be provided on the front page of the newspaper's website that provides access to the legal notices. If there is a specified

23-00673A-20

20201340__

size and placement required for a printed legal notice, the size and placement of the notice on the newspaper's website must optimize its online visibility in keeping with the print requirements. The newspaper's web pages that contain legal notices must present the legal notices as the dominant and leading subject matter of those pages. The newspaper's website must contain a search function to facilitate searching the legal notices. A fee may not be charged, and registration may not be required, for viewing or searching legal notices on a newspaper's website if the legal notice is published in a newspaper.

(3)(a) If a legal notice is published in a newspaper, the newspaper publishing the notice shall place the notice on the statewide website established and maintained as an initiative of the Florida Press Association as a repository for such notices located at the following address: www.floridapublicnotices.com.

(b) A legal notice placed on the statewide website created under this subsection must be:

1. Accessible and searchable by party name and case number.
2. Posted for a period of at least 90 consecutive days after the first day of posting.

(c) The statewide website created under this subsection shall maintain a searchable archive of all legal notices posted on the publicly accessible website ~~on or after October 1, 2014,~~ for 18 months after the first day of posting. Such searchable archive shall be provided and accessible to the general public without charge.

Section 4. Section 50.031, Florida Statutes, is amended to read:

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117 50.031 Newspapers in which legal notices and process may be
118 published.-If a governmental agency publishes a legal notice in
119 a newspaper, no notice or publication required to be published
120 ~~in a newspaper~~ in the nature of or in lieu of process of any
121 kind, nature, character or description provided for under any
122 law of the state, whether heretofore or hereafter enacted, and
123 whether pertaining to constructive service, or the initiating,
124 assuming, reviewing, exercising or enforcing jurisdiction or
125 power, by any court in this state, or any notice of sale of
126 property, real or personal, for taxes, state, county or
127 municipal, or sheriff's, guardian's or administrator's or any
128 sale made pursuant to any judicial order, decree or statute or
129 any other publication or notice pertaining to any affairs of the
130 state, or any county, municipality or other political
131 subdivision thereof, shall be deemed to have been published in
132 accordance with the statutes providing for such publication,
133 unless the same shall have been published for the prescribed
134 period of time required for such publication, in a newspaper
135 which at the time of such publication shall have been in
136 existence for 1 year and shall have been entered as periodicals
137 matter at a post office in the county where published, or in a
138 newspaper which is a direct successor of a newspaper which
139 together have been so published; provided, however, that nothing
140 herein contained shall apply where in any county there shall be
141 no newspaper in existence which shall have been published for
142 the length of time above prescribed. No legal publication of any
143 kind, nature or description, as herein defined, shall be valid
144 or binding or held to be in compliance with the statutes
145 providing for such publication unless the same shall have been

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published in accordance with the provisions of this section or
s. 50.0311. Proof of such publication shall be made by uniform
affidavit.

Section 5. Section 50.0311, Florida Statutes, is created to
read:

50.0311 Publication of advertisements and public notices on
a publicly accessible website and governmental access channels.-

(1) For purposes of this chapter, "governmental agency"
means a county, municipality, school board, or other unit of
local government or political subdivision in this state.

(2) For purposes of notices and advertisements required
under s. 50.11, the term "publicly accessible website" means a
governmental agency's official website or other private website
designated by the governmental agency for the posting of legal
notices and advertisements that is accessible via the Internet.
All advertisements and public notices published on a website as
provided in this chapter must be in searchable form.

(3) "Fiscally constrained county" means a county within a
rural area of opportunity as designated by the Governor pursuant
to s. 288.0656 or a county for which the value of a mill will
raise no more than \$5 million in revenue, based on the certified
school taxable value certified pursuant to s. 1011.62(4)(a)1.a.,
from the previous July 1.

(4) A governmental agency in a county that is not a
fiscally constrained county may use a publicly accessible
website to publish legally required advertisements and public
notices if the cost of publishing advertisements and public
notices on a website is less than the cost of publishing
advertisements and public notices in a newspaper.

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175 (5) A governmental agency in a fiscally constrained county
176 may use a publicly accessible website to publish legally
177 required advertisements and public notices only if the
178 governmental agency, after a public hearing that has been
179 noticed in a newspaper as provided in this chapter, makes a
180 determination of the following:

181 (a) Publishing advertisements and public notices on a
182 publicly accessible website is in the public interest.

183 (b) The cost of publishing advertisements and public
184 notices on a publicly accessible website is less than the cost
185 of publishing advertisements and public notices in a newspaper.

186 (c) The residents of the county have sufficient access to
187 the Internet by broadband service as defined in s. 364.02(2) or
188 any other means such that publishing advertisements and public
189 notices on a publicly accessible website will not unreasonably
190 restrict public access.

191 (6) A governmental agency shall provide notice at least
192 once per year in a newspaper of general circulation or another
193 publication that is mailed or delivered to all residents and
194 property owners throughout the government's jurisdiction,
195 indicating that property owners and residents may receive
196 legally required advertisements and public notices from the
197 government agency by first-class mail or e-mail upon registering
198 their name and address or e-mail address with the governmental
199 agency. The governmental agency shall maintain a registry of
200 names, addresses, and e-mail addresses of property owners and
201 residents who request in writing that they receive legally
202 required advertisements and public notices from the governmental
203 agency by first-class mail or e-mail.

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(7) A link to advertisements and public notices published on a publicly accessible website shall be conspicuously placed on the website's homepage or accessible through a direct link from the homepage. Each advertisement or public notice shall indicate the date on which the advertisement or public notice was first published on the publicly accessible website.

(8) A governmental agency that has a governmental access channel authorized under s. 610.109 may also include on its governmental access channel a summary of all advertisements and public notices that are posted on its publicly accessible website.

Section 6. Section 50.041, Florida Statutes, is amended to read:

50.041 Proof of publication; uniform affidavits required.—

(1) ~~All affidavits of publishers of newspapers (or their official representatives)~~ made for the purpose of establishing proof of publication of public notices or legal advertisements shall be uniform throughout the state.

(2) Each such affidavit shall be printed upon white paper and shall be 8 1/2 inches in width and of convenient length, not less than 5 1/2 inches. A white margin of not less than 2 1/2 inches shall be left at the right side of each affidavit form and upon or in this space shall be substantially pasted a clipping which shall be a true copy of the public notice or legal advertisement for which proof is executed. Alternatively, the affidavit may be provided in electronic rather than paper form, provided the notarization of the affidavit complies with the requirements of s. 117.021.

(3) ~~In all counties having a population in excess of~~

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~~450,000 according to the latest official decennial census, in addition to the charges which are now or may hereafter be established by law for the publication of every official notice or legal advertisement,~~ There may be a charge not to exceed \$2 levied for the preparation and execution of each such proof of publication or ~~publisher's~~ affidavit.

Section 7. Section 50.051, Florida Statutes, is amended to read:

50.051 Proof of publication; form of uniform affidavit.—The printed form upon which all such affidavits establishing proof of publication are to be executed shall be substantially as follows:

NAME OF COUNTY NEWSPAPER

~~Published (Weekly or Daily)~~

~~(Town or City) (County) FLORIDA~~

STATE OF FLORIDA

COUNTY OF

Before the undersigned authority personally appeared, who on oath says that he or she is of ~~the, a~~ newspaper published at in County, Florida; that the attached copy of advertisement, being a in the matter of in the Court, was published on the publicly accessible website of the governmental agency or in a ~~said~~ newspaper. ~~in the issues of~~

Affiant further says that the website or newspaper complies with all legal requirements for publication in chapter 50, Florida Statutes ~~said is a newspaper published at, in said County, Florida, and that the said newspaper has heretofore been continuously published in said County,~~

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Florida, each and has been entered as periodicals matter at the post office in, in said County, Florida, for a period of 1 year next preceeding the first publication of the attached copy of advertisement; and affiant further says that he or she has neither paid nor promised any person, firm or corporation any discount, rebate, commission or refund for the purpose of securing this advertisement for publication in the said newspaper.

Sworn to and subscribed before me this day of, ... (year) ..., by, who is personally known to me or who has produced (type of identification) as identification.

... (Signature of Notary Public) ...

... (Print, Type, or Stamp Commissioned Name of Notary Public) ...

... (Notary Public) ...

Section 8. Section 50.0711, Florida Statutes, is amended to read:

50.0711 Court docket fund; service charges; publications.—

(1) The clerk of the court in each county may establish a court docket fund for the purpose of paying the cost of publication of the fact of the filing of any civil case in the circuit court of the county by the style and of the calendar relating to such cases. This court docket fund shall be funded by \$1 mandatory court cost for all civil actions, suits, or proceedings filed in the circuit court of the county. The clerk shall maintain such funds separate and apart, and the proceeds from this court cost shall not be diverted to any other fund or for any purpose other than that established in this section. The clerk of the court shall dispense the fund to the designated publicly accessible website publisher or record newspaper in the

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291 county on a quarterly basis.

292 (2) If a judicial circuit publishes legal notices in a
293 newspaper, a newspaper qualified under the terms of s. 50.011
294 shall be designated as the record newspaper for such publication
295 by an order of the majority of the judges in the judicial
296 circuit in which such county is located, and such order shall be
297 filed and recorded with the clerk of the circuit court for such
298 county. The designated record newspaper may be changed at the
299 end of any fiscal year of the county by a majority vote of the
300 judges of the judicial circuit of the county ordering such
301 change 30 days prior to the end of the fiscal year, notice of
302 which order shall be given to the previously designated record
303 newspaper.

304 (3) The publicly accessible website publisher or publishers
305 of any designated record newspapers receiving payment from this
306 court docket fund shall publish, without additional charge, the
307 fact of the filing of any civil case, suit, or action filed in
308 such county in the circuit. Such publication shall be in
309 accordance with a schedule agreed upon between the website
310 publisher or record newspaper and the clerk of the court in such
311 county.

312 (4) The publicly accessible website publisher or publishers
313 of any designated record newspapers receiving revenues from the
314 court docket fund established in subsection (1) shall, without
315 charge, accept legal advertisements for the purpose of service
316 of process by publication under s. 49.011(4), (10), and (11)
317 when such publication is required of persons authorized to
318 proceed as indigent persons under s. 57.081.

319 Section 9. Subsection (4) of section 83.806, Florida

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Statutes, is amended to read:

83.806 Enforcement of lien.—An owner's lien as provided in s. 83.805 may be satisfied as follows:

(4) After the expiration of the time given in the notice, an advertisement of the sale or other disposition shall be published once a week for 2 consecutive weeks in a newspaper of general circulation in the area where the self-service storage facility or self-contained storage unit is located or published continuously for 14 consecutive days on a public website that customarily conducts personal property auctions.

(a) A lien sale may be conducted on a public website that customarily conducts personal property auctions. The facility or unit owner is not required to hold a license to post property for online sale. Inasmuch as any sale may involve property of more than one tenant, a single advertisement may be used to dispose of property at any one sale.

(b) The advertisement shall include:

1. A brief and general description of what is believed to constitute the personal property contained in the storage unit, as provided in paragraph (2)(b).

2. The address of the self-service storage facility or the address where the self-contained storage unit is located and the name of the tenant.

3. The time, place, and manner of the sale or other disposition. The sale or other disposition shall take place at least 15 days after the first publication.

(c) If there is no newspaper of general circulation in the area where the self-service storage facility or self-contained storage unit is located, the advertisement shall be posted at

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least 10 days before the date of the sale or other disposition in at least three conspicuous places in the neighborhood where the self-service storage facility or self-contained storage unit is located or published continuously for 14 consecutive days on a public website that customarily conducts personal property auctions.

Section 10. Section 11.02, Florida Statutes, is amended to read:

11.02 Notice of special or local legislation or certain relief acts.—The notice required to obtain special or local legislation or any relief act specified in s. 11.065 shall be by publishing the identical notice ~~in each county involved in some newspaper~~ as provided ~~defined~~ in chapter 50 ~~published in or~~ circulated throughout the county or counties where the matter or thing to be affected by such legislation shall be situated one time at least 30 days before introduction of the proposed law into the Legislature or, if the notice is not posted on a publicly accessible website as provided in chapter 50 and there being no newspaper circulated throughout or published in the county, by posting for at least 30 days at not less than three public places in the county or each of the counties, one of which places shall be at the courthouse in the county or counties where the matter or thing to be affected by such legislation shall be situated. Notice of special or local legislation shall state the substance of the contemplated law, as required by s. 10, Art. III of the State Constitution. Notice of any relief act specified in s. 11.065 shall state the name of the claimant, the nature of the injury or loss for which the claim is made, and the amount of the claim against the affected

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378 municipality's revenue-sharing trust fund.

379 Section 11. Subsection (2) of section 45.031, Florida
380 Statutes, is amended to read:

381 45.031 Judicial sales procedure.—In any sale of real or
382 personal property under an order or judgment, the procedures
383 provided in this section and ss. 45.0315-45.035 may be followed
384 as an alternative to any other sale procedure if so ordered by
385 the court.

386 (2) PUBLICATION OF SALE.—Notice of sale shall be published
387 on a publicly accessible website for at least 2 consecutive
388 weeks before the sale or once a week for 2 consecutive weeks in
389 a newspaper of general circulation, ~~as provided~~ defined in
390 chapter 50, published in the county where the sale is to be
391 held. The second publication by newspaper shall be at least 5
392 days before the sale. The notice shall contain:

393 (a) A description of the property to be sold.

394 (b) The time and place of sale.

395 (c) A statement that the sale will be made pursuant to the
396 order or final judgment.

397 (d) The caption of the action.

398 (e) The name of the clerk making the sale.

399 (f) A statement that any person claiming an interest in the
400 surplus from the sale, if any, other than the property owner as
401 of the date of the lis pendens must file a claim before the
402 clerk reports the surplus as unclaimed.

403
404 The court, in its discretion, may enlarge the time of the sale.
405 Notice of the changed time of sale shall be published as
406 provided herein.

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Section 12. Subsection (2) of section 121.0511, Florida Statutes, is amended to read:

121.0511 Revocation of election and alternative plan.—The governing body of any municipality or independent special district that has elected to participate in the Florida Retirement System may revoke its election in accordance with the following procedure:

(2) At least 7 days, but not more than 15 days, before the hearing, notice of intent to revoke, specifying the time and place of the hearing, must be published as provided in chapter 50 ~~in a newspaper of general circulation in the area affected, as provided by ss. 50.011-50.031~~. Proof of publication of the notice must be submitted to the Department of Management Services.

Section 13. Paragraphs (b) and (h) of subsection (1) of section 121.055, Florida Statutes, are amended to read:

121.055 Senior Management Service Class.—There is hereby established a separate class of membership within the Florida Retirement System to be known as the "Senior Management Service Class," which shall become effective February 1, 1987.

(1)

(b)1. Except as provided in subparagraph 2., effective January 1, 1990, participation in the Senior Management Service Class is compulsory for the president of each community college, the manager of each participating municipality or county, and all appointed district school superintendents. Effective January 1, 1994, additional positions may be designated for inclusion in the Senior Management Service Class if:

a. Positions to be included in the class are designated by

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the local agency employer. Notice of intent to designate positions for inclusion in the class must be published for at least 2 consecutive weeks if published on a publicly accessible website or once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected, as provided in chapter 50.

b. Up to 10 nonelective full-time positions may be designated for each local agency employer reporting to the department; for local agencies with 100 or more regularly established positions, additional nonelective full-time positions may be designated, not to exceed 1 percent of the regularly established positions within the agency.

c. Each position added to the class must be a managerial or policymaking position filled by an employee who is not subject to continuing contract and serves at the pleasure of the local agency employer without civil service protection, and who:

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. In lieu of participation in the Senior Management Service Class, members of the Senior Management Service Class, pursuant to subparagraph 1., may withdraw from the Florida Retirement System altogether. The decision to withdraw from the system is irrevocable as long as the employee holds the position. Any service creditable under the Senior Management Service Class shall be retained after the member withdraws from the system; however, additional service credit in the Senior Management Service Class may not be earned after such

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465 withdrawal. Such members are not eligible to participate in the
466 Senior Management Service Optional Annuity Program.

467 3. Effective January 1, 2006, through June 30, 2006, an
468 employee who has withdrawn from the Florida Retirement System
469 under subparagraph 2. has one opportunity to elect to
470 participate in the pension plan or the investment plan.

471 a. If the employee elects to participate in the investment
472 plan, membership shall be prospective, and the applicable
473 provisions of s. 121.4501(4) govern the election.

474 b. If the employee elects to participate in the pension
475 plan, the employee shall, upon payment to the system trust fund
476 of the amount calculated under sub-sub-subparagraph (I), receive
477 service credit for prior service based upon the time during
478 which the employee had withdrawn from the system.

479 (I) The cost for such credit shall be an amount
480 representing the actuarial accrued liability for the affected
481 period of service. The cost shall be calculated using the
482 discount rate and other relevant actuarial assumptions that were
483 used to value the pension plan liabilities in the most recent
484 actuarial valuation. The calculation must include any service
485 already maintained under the pension plan in addition to the
486 period of withdrawal. The actuarial accrued liability
487 attributable to any service already maintained under the pension
488 plan shall be applied as a credit to the total cost resulting
489 from the calculation. The division must ensure that the transfer
490 sum is prepared using a formula and methodology certified by an
491 actuary.

492 (II) The employee must transfer a sum representing the net
493 cost owed for the actuarial accrued liability in sub-sub-

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subparagraph (I) immediately following the time of such movement, determined assuming that attained service equals the sum of service in the pension plan and the period of withdrawal.

(h)1. Except as provided in subparagraph 3., effective January 1, 1994, participation in the Senior Management Service Class shall be compulsory for the State Courts Administrator and the Deputy State Courts Administrators, the Clerk of the Supreme Court, the Marshal of the Supreme Court, the Executive Director of the Justice Administrative Commission, the capital collateral regional counsel, the clerks of the district courts of appeals, the marshals of the district courts of appeals, and the trial court administrator and the Chief Deputy Court Administrator in each judicial circuit. Effective January 1, 1994, additional positions in the offices of the state attorney and public defender in each judicial circuit may be designated for inclusion in the Senior Management Service Class of the Florida Retirement System, provided that:

a. Positions to be included in the class shall be designated by the state attorney or public defender, as appropriate. Notice of intent to designate positions for inclusion in the class shall be published for at least 2 consecutive weeks if published on a publicly accessible website or once a week for 2 consecutive weeks in a newspaper of general circulation published in the county or counties affected, as provided in chapter 50.

b. One nonelective full-time position may be designated for each state attorney and public defender reporting to the Department of Management Services; for agencies with 200 or more regularly established positions under the state attorney or

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public defender, additional nonelective full-time positions may be designated, not to exceed 0.5 percent of the regularly established positions within the agency.

c. Each position added to the class must be a managerial or policymaking position filled by an employee who serves at the pleasure of the state attorney or public defender without civil service protection, and who:

(I) Heads an organizational unit; or

(II) Has responsibility to effect or recommend personnel, budget, expenditure, or policy decisions in his or her areas of responsibility.

2. Participation in this class shall be compulsory, except as provided in subparagraph 3., for any judicial employee who holds a position designated for coverage in the Senior Management Service Class, and such participation shall continue until the employee terminates employment in a covered position. Effective January 1, 2001, participation in this class is compulsory for assistant state attorneys, assistant statewide prosecutors, assistant public defenders, and assistant capital collateral regional counsel. Effective January 1, 2002, participation in this class is compulsory for assistant attorneys general.

3. In lieu of participation in the Senior Management Service Class, such members, excluding assistant state attorneys, assistant public defenders, assistant statewide prosecutors, assistant attorneys general, and assistant capital collateral regional counsel, may participate in the Senior Management Service Optional Annuity Program as established in subsection (6).

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552 Section 14. Paragraph (a) of subsection (2) and paragraph
553 (b) of subsection (4) of section 125.66, Florida Statutes, are
554 amended to read:

555 125.66 Ordinances; enactment procedure; emergency
556 ordinances; rezoning or change of land use ordinances or
557 resolutions.—

558 (2) (a) The regular enactment procedure shall be as follows:
559 The board of county commissioners at any regular or special
560 meeting may enact or amend any ordinance, except as provided in
561 subsection (4), if notice of intent to consider such ordinance
562 is given at least 10 days prior to said meeting by publication
563 as provided in chapter 50 ~~in a newspaper of general circulation~~
564 ~~in the county~~. A copy of such notice shall be kept available for
565 public inspection during the regular business hours of the
566 office of the clerk of the board of county commissioners. The
567 notice of proposed enactment shall state the date, time, and
568 place of the meeting; the title or titles of proposed
569 ordinances; and the place or places within the county where such
570 proposed ordinances may be inspected by the public. The notice
571 shall also advise that interested parties may appear at the
572 meeting and be heard with respect to the proposed ordinance.

573 (4) Ordinances or resolutions, initiated by other than the
574 county, that change the actual zoning map designation of a
575 parcel or parcels of land shall be enacted pursuant to
576 subsection (2). Ordinances or resolutions that change the actual
577 list of permitted, conditional, or prohibited uses within a
578 zoning category, or ordinances or resolutions initiated by the
579 county that change the actual zoning map designation of a parcel
580 or parcels of land shall be enacted pursuant to the following

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procedure:

(b) In cases in which the proposed ordinance or resolution changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more, the board of county commissioners shall provide for public notice and hearings as follows:

1. The board of county commissioners shall hold two advertised public hearings on the proposed ordinance or resolution. At least one hearing shall be held after 5 p.m. on a weekday, unless the board of county commissioners, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

2. If published in a newspaper, the required advertisements shall be no less than 2 columns wide by 10 inches long in a standard size or a tabloid size newspaper, and the headline in the advertisement shall be in a type no smaller than 18 point. The advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be placed in a newspaper ~~of~~ ~~general paid circulation~~ in the county and of general interest and readership in the community pursuant to chapter 50, not one of limited subject matter. It is the legislative intent that, whenever possible, the advertisement shall appear in a newspaper that is published at least weekly ~~5 days a week~~ unless the only

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newspaper in the community is published less than weekly ~~5 days~~
~~a week~~. The advertisement shall be in substantially the
following form:

NOTICE OF (TYPE OF) CHANGE

The ...(name of local governmental unit)... proposes to
adopt the following by ordinance or resolution:...(title of
ordinance or resolution)....

A public hearing on the ordinance or resolution will be
held on ...(date and time)... at ...(meeting place)....

Except for amendments which change the actual list of permitted,
conditional, or prohibited uses within a zoning category, the
advertisement shall contain a geographic location map which
clearly indicates the area within the local government covered
by the proposed ordinance or resolution. The map shall include
major street names as a means of identification of the general
area. In addition to being published on a publicly accessible
website or in the newspaper, the map must be part of the online
notice required pursuant to s. 50.0211 or s. 50.0311.

3. In lieu of publishing the advertisements set out in this
paragraph, the board of county commissioners may mail a notice
to each person owning real property within the area covered by
the ordinance or resolution. Such notice shall clearly explain
the proposed ordinance or resolution and shall notify the person
of the time, place, and location of both public hearings on the
proposed ordinance or resolution.

Section 15. Paragraph (a) of subsection (2) of section
162.12, Florida Statutes, is amended to read:

162.12 Notices.—

(2) In addition to providing notice as set forth in

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subsection (1), at the option of the code enforcement board or the local government, notice may be served by publication or posting, as follows:

(a)1. Such notice shall be published for 4 consecutive weeks on a publicly accessible website as provided in chapter 50 or once during each week for 4 consecutive weeks (four publications being sufficient) in a newspaper of general circulation in the county where the code enforcement board is located. The newspaper shall meet such requirements as are prescribed under chapter 50 for legal and official advertisements.

2. Proof of publication shall be made as provided in ss. 50.041 and 50.051.

Section 16. Paragraph (c) of subsection (3) of section 166.041, Florida Statutes, is amended to read:

166.041 Procedures for adoption of ordinances and resolutions.—

(3)

(c) Ordinances initiated by other than the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to paragraph (a). Ordinances that change the actual list of permitted, conditional, or prohibited uses within a zoning category, or ordinances initiated by the municipality that change the actual zoning map designation of a parcel or parcels of land shall be enacted pursuant to the following procedure:

1. In cases in which the proposed ordinance changes the actual zoning map designation for a parcel or parcels of land involving less than 10 contiguous acres, the governing body

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shall direct the clerk of the governing body to notify by mail each real property owner whose land the municipality will redesignate by enactment of the ordinance and whose address is known by reference to the latest ad valorem tax records. The notice shall state the substance of the proposed ordinance as it affects that property owner and shall set a time and place for one or more public hearings on such ordinance. Such notice shall be given at least 30 days prior to the date set for the public hearing, and a copy of the notice shall be kept available for public inspection during the regular business hours of the office of the clerk of the governing body. The governing body shall hold a public hearing on the proposed ordinance and may, upon the conclusion of the hearing, immediately adopt the ordinance.

2. In cases in which the proposed ordinance changes the actual list of permitted, conditional, or prohibited uses within a zoning category, or changes the actual zoning map designation of a parcel or parcels of land involving 10 contiguous acres or more, the governing body shall provide for public notice and hearings as follows:

a. The local governing body shall hold two advertised public hearings on the proposed ordinance. At least one hearing shall be held after 5 p.m. on a weekday, unless the local governing body, by a majority plus one vote, elects to conduct that hearing at another time of day. The first public hearing shall be held at least 7 days after the day that the first advertisement is published. The second hearing shall be held at least 10 days after the first hearing and shall be advertised at least 5 days prior to the public hearing.

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697 b. If published in a newspaper, the required advertisements
698 shall be no less than 2 columns wide by 10 inches long in a
699 standard size or a tabloid size newspaper, and the headline in
700 the advertisement shall be in a type no smaller than 18 point.
701 The advertisement shall not be placed in that portion of the
702 newspaper where legal notices and classified advertisements
703 appear. The advertisement shall be placed in a newspaper ~~of~~
704 ~~general paid circulation~~ in the municipality and of general
705 interest and readership in the municipality, not one of limited
706 subject matter, pursuant to chapter 50. It is the legislative
707 intent that, whenever possible, the advertisement appear in a
708 newspaper that is published at least weekly ~~5 days a week~~ unless
709 the only newspaper in the municipality is published less than
710 weekly ~~5 days a week~~. The advertisement shall be in
711 substantially the following form:

712 NOTICE OF (TYPE OF) CHANGE

713 The ...(name of local governmental unit)... proposes to
714 adopt the following ordinance:...(title of the ordinance)....

715 A public hearing on the ordinance will be held on ...(date
716 and time)... at ...(meeting place)....

717 Except for amendments which change the actual list of permitted,
718 conditional, or prohibited uses within a zoning category, the
719 advertisement shall contain a geographic location map which
720 clearly indicates the area covered by the proposed ordinance.
721 The map shall include major street names as a means of
722 identification of the general area. If ~~In addition to being~~
723 published in the newspaper, the map must also be part of the
724 online notice required pursuant to s. 50.0211 or s. 50.0311.

725 c. In lieu of publishing the advertisement set out in this

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paragraph, the municipality may mail a notice to each person owning real property within the area covered by the ordinance. Such notice shall clearly explain the proposed ordinance and shall notify the person of the time, place, and location of any public hearing on the proposed ordinance.

Section 17. Subsection (1) of section 189.015, Florida Statutes, is amended to read:

189.015 Meetings; notice; required reports.—

(1) The governing body of each special district shall file quarterly, semiannually, or annually a schedule of its regular meetings with the local governing authority or authorities. The schedule shall include the date, time, and location of each scheduled meeting. The schedule shall be published quarterly, semiannually, or annually ~~in a newspaper of general paid circulation~~ in the manner required in this subsection. The governing body of an independent special district shall advertise the day, time, place, and purpose of any meeting other than a regular meeting or any recessed and reconvened meeting of the governing body, at least 7 days before such meeting as provided in chapter 50, ~~in a newspaper of general paid circulation in the county or counties in which the special district is located~~, unless a bona fide emergency situation exists, in which case a meeting to deal with the emergency may be held as necessary, with reasonable notice, so long as it is subsequently ratified by the governing body. No approval of the annual budget shall be granted at an emergency meeting. The notice shall be posted as provided in ~~advertisement shall be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall appear~~

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755 ~~in a newspaper that is published at least 5 days a week, unless~~
756 ~~the only newspaper in the county is published fewer than 5 days~~
757 ~~a week. The newspaper selected must be one of general interest~~
758 ~~and readership in the community and not one of limited subject~~
759 ~~matter, pursuant to chapter 50. Any other provision of law to~~
760 ~~the contrary notwithstanding, and except in the case of~~
761 ~~emergency meetings, water management districts may provide~~
762 ~~reasonable notice of public meetings held to evaluate responses~~
763 ~~to solicitations issued by the water management district, by~~
764 ~~publication as provided in chapter 50 on a publicly accessible~~
765 ~~website or in a newspaper of general paid circulation in the~~
766 ~~county where the principal office of the water management~~
767 ~~district is located, or in the county or counties where the~~
768 ~~public work will be performed, no less than 7 days before such~~
769 ~~meeting.~~

770 Section 18. Paragraph (d) of subsection (1) of section
771 190.005, Florida Statutes, is amended to read:

772 190.005 Establishment of district.—

773 (1) The exclusive and uniform method for the establishment
774 of a community development district with a size of 2,500 acres
775 or more shall be pursuant to a rule, adopted under chapter 120
776 by the Florida Land and Water Adjudicatory Commission, granting
777 a petition for the establishment of a community development
778 district.

779 (d) A local public hearing on the petition shall be
780 conducted by a hearing officer in conformance with the
781 applicable requirements and procedures of the Administrative
782 Procedure Act. The hearing shall include oral and written
783 comments on the petition pertinent to the factors specified in

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paragraph (e). The hearing shall be held at an accessible location in the county in which the community development district is to be located. The petitioner shall cause a notice of the hearing to be published for 4 successive weeks on a publicly accessible website or in a newspaper at least once a week for the 4 successive weeks immediately prior to the hearing as provided in chapter 50. Such notice shall give the time and place for the hearing, a description of the area to be included in the district, which description shall include a map showing clearly the area to be covered by the district, and any other relevant information which the establishing governing bodies may require. If published in a newspaper, the advertisement shall not be placed in that portion of the newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper ~~of general paid circulation~~ in the county and of general interest and readership in the community, not one of limited subject matter, pursuant to chapter 50. Whenever possible, the advertisement shall appear in a newspaper that is published at least weekly ~~5 days a week~~, unless the only newspaper in the community is published less than weekly ~~fewer than 5 days a week~~. ~~If In addition to being~~ published in the newspaper, the map referenced above must also be part of the online advertisement required pursuant to s. 50.0211 or s. 50.0311. All affected units of general-purpose local government and the general public shall be given an opportunity to appear at the hearing and present oral or written comments on the petition.

Section 19. Paragraph (h) of subsection (1) of section 190.046, Florida Statutes, is amended to read:

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190.046 Termination, contraction, or expansion of district.—

(1) A landowner or the board may petition to contract or expand the boundaries of a community development district in the following manner:

(h) For a petition to establish a new community development district of less than 2,500 acres on land located solely in one county or one municipality, sufficiently contiguous lands located within the county or municipality which the petitioner anticipates adding to the boundaries of the district within 10 years after the effective date of the ordinance establishing the district may also be identified. If such sufficiently contiguous land is identified, the petition must include a legal description of each additional parcel within the sufficiently contiguous land, the current owner of the parcel, the acreage of the parcel, and the current land use designation of the parcel. At least 14 days before the hearing required under s. 190.005(2)(b), the petitioner must give the current owner of each such parcel notice of filing the petition to establish the district, the date and time of the public hearing on the petition, and the name and address of the petitioner. A parcel may not be included in the district without the written consent of the owner of the parcel.

1. After establishment of the district, a person may petition the county or municipality to amend the boundaries of the district to include a previously identified parcel that was a proposed addition to the district before its establishment. A filing fee may not be charged for this petition. Each such petition must include:

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842 a. A legal description by metes and bounds of the parcel to
843 be added;

844 b. A new legal description by metes and bounds of the
845 district;

846 c. Written consent of all owners of the parcel to be added;

847 d. A map of the district including the parcel to be added;

848 e. A description of the development proposed on the
849 additional parcel; and

850 f. A copy of the original petition identifying the parcel
851 to be added.

852 2. Before filing with the county or municipality, the
853 person must provide the petition to the district and to the
854 owner of the proposed additional parcel, if the owner is not the
855 petitioner.

856 3. Once the petition is determined sufficient and complete,
857 the county or municipality must process the addition of the
858 parcel to the district as an amendment to the ordinance that
859 establishes the district. The county or municipality may process
860 all petitions to amend the ordinance for parcels identified in
861 the original petition, even if, by adding such parcels, the
862 district exceeds 2,500 acres.

863 4. The petitioner shall cause to be published in a
864 newspaper of general circulation in the proposed district a
865 notice of the intent to amend the ordinance that establishes the
866 district. The notice must be in addition to any notice required
867 for adoption of the ordinance amendment. Such notice must be
868 published as provided in chapter 50 at least 10 days before the
869 scheduled hearing on the ordinance amendment ~~and may be~~
870 ~~published in the section of the newspaper reserved for legal~~

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871 ~~notices.~~ The notice must include a general description of the
872 land to be added to the district and the date and time of the
873 scheduled hearing to amend the ordinance. The petitioner shall
874 deliver, including by mail or hand delivery, the notice of the
875 hearing on the ordinance amendment to the owner of the parcel
876 and to the district at least 14 days before the scheduled
877 hearing.

878 5. The amendment of a district by the addition of a parcel
879 pursuant to this paragraph does not alter the transition from
880 landowner voting to qualified elector voting pursuant to s.
881 190.006, even if the total size of the district after the
882 addition of the parcel exceeds 5,000 acres. Upon adoption of the
883 ordinance expanding the district, the petitioner must cause to
884 be recorded a notice of boundary amendment which reflects the
885 new boundaries of the district.

886 6. This paragraph is intended to facilitate the orderly
887 addition of lands to a district under certain circumstances and
888 does not preclude the addition of lands to any district using
889 the procedures in the other provisions of this section.

890 Section 20. Subsection (1) of section 194.037, Florida
891 Statutes, is amended to read:

892 194.037 Disclosure of tax impact.—

893 (1) After hearing all petitions, complaints, appeals, and
894 disputes, the clerk shall make public notice of the findings and
895 results of the board as provided in chapter 50. If published in
896 a newspaper, the notice must be in at least a quarter-page size
897 advertisement of a standard size or tabloid size newspaper, and
898 the headline shall be in a type no smaller than 18 point. The
899 advertisement shall not be placed in that portion of the

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newspaper where legal notices and classified advertisements appear. The advertisement shall be published in a newspaper ~~of general paid circulation~~ in the county. The newspaper selected shall be one of general interest and readership in the community, and not one of limited subject matter, pursuant to chapter 50. For all advertisements published pursuant to this section, the headline shall read: TAX IMPACT OF VALUE ADJUSTMENT BOARD. The public notice shall list the members of the value adjustment board and the taxing authorities to which they are elected. The form shall show, in columnar form, for each of the property classes listed under subsection (2), the following information, with appropriate column totals:

(a) In the first column, the number of parcels for which the board granted exemptions that had been denied or that had not been acted upon by the property appraiser.

(b) In the second column, the number of parcels for which petitions were filed concerning a property tax exemption.

(c) In the third column, the number of parcels for which the board considered the petition and reduced the assessment from that made by the property appraiser on the initial assessment roll.

(d) In the fourth column, the number of parcels for which petitions were filed but not considered by the board because such petitions were withdrawn or settled prior to the board's consideration.

(e) In the fifth column, the number of parcels for which petitions were filed requesting a change in assessed value, including requested changes in assessment classification.

(f) In the sixth column, the net change in taxable value

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from the assessor's initial roll which results from board decisions.

(g) In the seventh column, the net shift in taxes to parcels not granted relief by the board. The shift shall be computed as the amount shown in column 6 multiplied by the applicable millage rates adopted by the taxing authorities in hearings held pursuant to s. 200.065(2)(d) or adopted by vote of the electors pursuant to s. 9(b) or s. 12, Art. VII of the State Constitution, but without adjustment as authorized pursuant to s. 200.065(6). If for any taxing authority the hearing has not been completed at the time the notice required herein is prepared, the millage rate used shall be that adopted in the hearing held pursuant to s. 200.065(2)(c).

Section 21. Subsection (1) of section 197.402, Florida Statutes, is amended to read:

197.402 Advertisement of real or personal property with delinquent taxes.—

(1) If advertisements are required, the board of county commissioners shall make such notice ~~select the newspaper~~ as provided in chapter 50. The tax collector shall pay all ~~newspaper~~ charges, and the proportionate cost of the advertisements shall be added to the delinquent taxes collected.

Section 22. Subsection (3) of section 200.065, Florida Statutes, is amended to read:

200.065 Method of fixing millage.—

(3) The advertisement shall be published as provided in chapter 50. If the advertisement is published by newspaper, the advertisement must be no less than one-quarter page in size of a standard size or a tabloid size newspaper, and the headline in

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the advertisement shall be in a type no smaller than 18 point.
The advertisement shall not be placed in that portion of the
newspaper where legal notices and classified advertisements
appear. The advertisement shall be published in a newspaper ~~of~~
~~general paid circulation~~ in the county or in a geographically
limited insert of such newspaper. The geographic boundaries in
which such insert is circulated shall include the geographic
boundaries of the taxing authority. It is the legislative intent
that, whenever possible, the advertisement appear in a newspaper
that is published at least weekly ~~5 days a week~~ unless the only
newspaper in the county is published less than weekly ~~5 days a~~
~~week~~, or that the advertisement appear in a geographically
limited insert of such newspaper which insert is published
throughout the taxing authority's jurisdiction at least twice
each week. It is further the legislative intent that the
newspaper selected be one of general interest and readership in
the community and not one of limited subject matter, pursuant to
chapter 50.

(a) For taxing authorities other than school districts
which have tentatively adopted a millage rate in excess of 100
percent of the rolled-back rate computed pursuant to subsection
(1), the advertisement shall be in the following form:

NOTICE OF PROPOSED TAX INCREASE

The ...(name of the taxing authority)... has tentatively
adopted a measure to increase its property tax levy.
Last year's property tax levy:

A. Initially proposed tax levy.....\$XX,XXX,XXX

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B. Less tax reductions due to Value Adjustment Board and other assessment changes.....(\$XX,XXX,XXX)

C. Actual property tax levy.....\$XX,XXX,XXX

This year's proposed tax levy.....\$XX,XXX,XXX

All concerned citizens are invited to attend a public hearing on the tax increase to be held on ...(date and time)... at ...(meeting place)....

A FINAL DECISION on the proposed tax increase and the budget will be made at this hearing.

(b) In all instances in which the provisions of paragraph (a) are inapplicable for taxing authorities other than school districts, the advertisement shall be in the following form:

NOTICE OF BUDGET HEARING

The ...(name of taxing authority)... has tentatively adopted a budget for ...(fiscal year).... A public hearing to make a FINAL DECISION on the budget AND TAXES will be held on ...(date and time)... at ...(meeting place)....

(c) For school districts which have proposed a millage rate in excess of 100 percent of the rolled-back rate computed pursuant to subsection (1) and which propose to levy nonvoted millage in excess of the minimum amount required pursuant to s. 1011.60(6), the advertisement shall be in the following form:

NOTICE OF PROPOSED TAX INCREASE

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The ...(name of school district)... will soon consider a measure to increase its property tax levy.

Last year's property tax levy:

A. Initially proposed tax levy.....\$XX,XXX,XXX

B. Less tax reductions due to Value Adjustment Board and other assessment changes..... (\$XX,XXX,XXX)

C. Actual property tax levy.....\$XX,XXX,XXX

This year's proposed tax levy.....\$XX,XXX,XXX

A portion of the tax levy is required under state law in order for the school board to receive \$...(amount A)... in state education grants. The required portion has ...(increased or decreased)... by ...(amount B)... percent and represents approximately ...(amount C)... of the total proposed taxes.

The remainder of the taxes is proposed solely at the discretion of the school board.

All concerned citizens are invited to a public hearing on the tax increase to be held on ...(date and time)... at ...(meeting place)....

A DECISION on the proposed tax increase and the budget will be made at this hearing.

1. AMOUNT A shall be an estimate, provided by the Department of Education, of the amount to be received in the current fiscal year by the district from state appropriations for the Florida Education Finance Program.

2. AMOUNT B shall be the percent increase over the rolled-back rate necessary to levy only the required local effort in the current fiscal year, computed as though in the preceding fiscal year only the required local effort was levied.

3. AMOUNT C shall be the quotient of required local-effort

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millage divided by the total proposed nonvoted millage, rounded to the nearest tenth and stated in words; however, the stated amount shall not exceed nine-tenths.

(d) For school districts which have proposed a millage rate in excess of 100 percent of the rolled-back rate computed pursuant to subsection (1) and which propose to levy as nonvoted millage only the minimum amount required pursuant to s. 1011.60(6), the advertisement shall be the same as provided in paragraph (c), except that the second and third paragraphs shall be replaced with the following paragraph:

This increase is required under state law in order for the school board to receive \$...(amount A)... in state education grants.

(e) In all instances in which the provisions of paragraphs (c) and (d) are inapplicable for school districts, the advertisement shall be in the following form:

NOTICE OF BUDGET HEARING

The ...(name of school district)... will soon consider a budget for ...(fiscal year).... A public hearing to make a DECISION on the budget AND TAXES will be held on ...(date and time)... at ...(meeting place)....

(f) In lieu of publishing the notice set out in this subsection, the taxing authority may mail a copy of the notice

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to each elector residing within the jurisdiction of the taxing authority.

(g) In the event that the mailing of the notice of proposed property taxes is delayed beyond September 3 in a county, any multicounty taxing authority which levies ad valorem taxes within that county shall advertise its intention to adopt a tentative budget and millage rate in a newspaper of paid general circulation within that county, as provided in this subsection, and shall hold the hearing required pursuant to paragraph (2)(c) not less than 2 days or more than 5 days thereafter, and not later than September 18. The advertisement shall be in the following form, unless the proposed millage rate is less than or equal to the rolled-back rate, computed pursuant to subsection (1), in which case the advertisement shall be as provided in paragraph (e):

NOTICE OF TAX INCREASE

The ...(name of the taxing authority)... proposes to increase its property tax levy by ...(percentage of increase over rolled-back rate)... percent.

All concerned citizens are invited to attend a public hearing on the proposed tax increase to be held on ...(date and time)... at ...(meeting place)....

(h) In no event shall any taxing authority add to or delete from the language of the advertisements as specified herein unless expressly authorized by law, except that, if an increase in ad valorem tax rates will affect only a portion of the

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jurisdiction of a taxing authority, advertisements may include a map or geographical description of the area to be affected and the proposed use of the tax revenues under consideration. In addition, if published in the newspaper, the map must be part of the online advertisement required by s. 50.0211 or s. 50.0311. The advertisements required herein shall not be accompanied, preceded, or followed by other advertising or notices which conflict with or modify the substantive content prescribed herein.

(i) The advertisements required pursuant to paragraphs (b) and (e) need not be one-quarter page in size or have a headline in type no smaller than 18 point.

(j) The amounts to be published as percentages of increase over the rolled-back rate pursuant to this subsection shall be based on aggregate millage rates and shall exclude voted millage levies unless expressly provided otherwise in this subsection.

(k) Any taxing authority which will levy an ad valorem tax for an upcoming budget year but does not levy an ad valorem tax currently shall, in the advertisement specified in paragraph (a), paragraph (c), paragraph (d), or paragraph (g), replace the phrase "increase its property tax levy by ...(percentage of increase over rolled-back rate)... percent" with the phrase "impose a new property tax levy of \$...(amount)... per \$1,000 value."

(l) Any advertisement required pursuant to this section shall be accompanied by an adjacent notice meeting the budget summary requirements of s. 129.03(3)(b). Except for those taxing authorities proposing to levy ad valorem taxes for the first time, the following statement shall appear in the budget summary

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in boldfaced type immediately following the heading, if the applicable percentage is greater than zero:

THE PROPOSED OPERATING BUDGET EXPENDITURES OF ...(name of taxing authority)... ARE ...(percent rounded to one decimal place)... MORE THAN LAST YEAR'S TOTAL OPERATING EXPENDITURES.

For purposes of this paragraph, "proposed operating budget expenditures" or "operating expenditures" means all moneys of the local government, including dependent special districts, that:

1. Were or could be expended during the applicable fiscal year, or

2. Were or could be retained as a balance for future spending in the fiscal year.

Provided, however, those moneys held in or used in trust, agency, or internal service funds, and expenditures of bond proceeds for capital outlay or for advanced refunded debt principal, shall be excluded.

Section 23. Paragraph (c) of subsection (1) of section 338.223, Florida Statutes, is amended to read:

338.223 Proposed turnpike projects.—

(1)

(c) Prior to requesting legislative approval of a proposed turnpike project, the environmental feasibility of the proposed project shall be reviewed by the Department of Environmental Protection. The department shall submit its Project Development and Environmental Report to the Department of Environmental

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Protection, along with a draft copy of a public notice. Within 14 days of receipt of the draft public notice, the Department of Environmental Protection shall return the draft public notice to the Department of Transportation with an approval of the language or modifications to the language. Upon receipt of the approved or modified draft, or if no comments are provided within 14 days, the Department of Transportation shall publish the notice as provided in chapter 50 ~~in a newspaper~~ to provide a 30-day public comment period. If published in a newspaper, the headline of the required notice shall be in a type no smaller than 18 point. The notice shall be placed in that portion of the newspaper where legal notices appear and. ~~The notice~~ shall be published in a newspaper of general circulation in the county or counties of general interest and readership in the community as provided in s. 50.031, not one of limited subject matter. Whenever possible, the notice shall appear in a newspaper that is published at least weekly ~~5 days a week~~. All The notices ~~notice~~ published pursuant to this section shall include, at a minimum ~~but is not limited to~~, the following information:

1. The purpose of the notice is to provide for a 30-day period for written public comments on the environmental impacts of a proposed turnpike project.

2. The name and description of the project, along with a geographic location map clearly indicating the area where the proposed project will be located.

3. The address where such comments must be sent and the date such comments are due.

After a review of the department's report and any public

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1190 comments, the Department of Environmental Protection shall
1191 submit a statement of environmental feasibility to the
1192 department within 30 days after the date on which public
1193 comments are due. The notice and the statement of environmental
1194 feasibility shall not give rise to any rights to a hearing or
1195 other rights or remedies provided pursuant to chapter 120 or
1196 chapter 403, and shall not bind the Department of Environmental
1197 Protection in any subsequent environmental permit review.

1198 Section 24. Subsection (3) of section 348.0308, Florida
1199 Statutes, is amended to read:

1200 348.0308 Public-private partnership.—The Legislature
1201 declares that there is a public need for the rapid construction
1202 of safe and efficient transportation facilities for traveling
1203 within the state and that it is in the public's interest to
1204 provide for public-private partnership agreements to effectuate
1205 the construction of additional safe, convenient, and economical
1206 transportation facilities.

1207 (3) The agency may request proposals for public-private
1208 transportation projects or, if it receives an unsolicited
1209 proposal, it must publish a notice in the Florida Administrative
1210 Register and as provided in chapter 50 ~~a newspaper of general~~
1211 ~~circulation in the county in which it is located at least once a~~
1212 ~~week~~ for 2 weeks stating that it has received the proposal and
1213 will accept, for 60 days after the initial date of publication,
1214 other proposals for the same project purpose. A copy of the
1215 notice must be mailed to each local government in the affected
1216 areas. After the public notification period has expired, the
1217 agency shall rank the proposals in order of preference. In
1218 ranking the proposals, the agency shall consider professional

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1219 qualifications, general business terms, innovative engineering
1220 or cost-reduction terms, finance plans, and the need for state
1221 funds to deliver the proposal. If the agency is not satisfied
1222 with the results of the negotiations, it may, at its sole
1223 discretion, terminate negotiations with the proposer. If these
1224 negotiations are unsuccessful, the agency may go to the second
1225 and lower-ranked firms, in order, using the same procedure. If
1226 only one proposal is received, the agency may negotiate in good
1227 faith, and if it is not satisfied with the results, it may, at
1228 its sole discretion, terminate negotiations with the proposer.
1229 The agency may, at its discretion, reject all proposals at any
1230 point in the process up to completion of a contract with the
1231 proposer.

1232 Section 25. Subsection (3) of section 348.635, Florida
1233 Statutes, is amended to read:

1234 348.635 Public-private partnership.—The Legislature
1235 declares that there is a public need for the rapid construction
1236 of safe and efficient transportation facilities for traveling
1237 within the state and that it is in the public's interest to
1238 provide for public-private partnership agreements to effectuate
1239 the construction of additional safe, convenient, and economical
1240 transportation facilities.

1241 (3) The authority may request proposals for public-private
1242 transportation projects or, if it receives an unsolicited
1243 proposal, it must publish a notice in the Florida Administrative
1244 Register as provided in chapter 50 ~~and a newspaper of general~~
1245 ~~circulation in the county in which it is located at least once a~~
1246 ~~week~~ for 2 weeks stating that it has received the proposal and
1247 will accept, for 60 days after the initial date of publication,

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other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith, and if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. The authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

Section 26. Subsection (3) of section 348.7605, Florida Statutes, is amended to read:

348.7605 Public-private partnership.—The Legislature declares that there is a public need for the rapid construction of safe and efficient transportation facilities for traveling within the state and that it is in the public's interest to provide for public-private partnership agreements to effectuate the construction of additional safe, convenient, and economical transportation facilities.

(3) The authority may request proposals for public-private transportation projects or, if it receives an unsolicited

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proposal, it must publish a notice in the Florida Administrative Register and as provided in chapter 50 ~~a newspaper of general circulation in the county in which it is located at least once a week~~ for 2 weeks stating that it has received the proposal and will accept, for 60 days after the initial date of publication, other proposals for the same project purpose. A copy of the notice must be mailed to each local government in the affected areas. After the public notification period has expired, the authority shall rank the proposals in order of preference. In ranking the proposals, the authority shall consider professional qualifications, general business terms, innovative engineering or cost-reduction terms, finance plans, and the need for state funds to deliver the proposal. If the authority is not satisfied with the results of the negotiations, it may, at its sole discretion, terminate negotiations with the proposer. If these negotiations are unsuccessful, the authority may go to the second and lower-ranked firms, in order, using the same procedure. If only one proposal is received, the authority may negotiate in good faith, and if it is not satisfied with the results, it may, at its sole discretion, terminate negotiations with the proposer. The authority may, at its discretion, reject all proposals at any point in the process up to completion of a contract with the proposer.

Section 27. Section 373.0397, Florida Statutes, is amended to read:

373.0397 Floridan and Biscayne aquifers; designation of prime groundwater recharge areas.—Upon preparation of an inventory of prime groundwater recharge areas for the Floridan or Biscayne aquifers, but prior to adoption by the governing

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board, the water management district shall publish a legal notice of public hearing on the designated areas for the Floridan and Biscayne aquifers, with a map delineating the boundaries of the areas, as provided ~~in newspapers defined in chapter 50 in each county as having general circulation~~ within the area to be affected. The notice shall be at least one-fourth page and shall read as follows:

NOTICE OF PRIME RECHARGE

AREA DESIGNATION

The ...(name of taxing authority)... proposes to designate specific land areas as areas of prime recharge to the ...(name of aquifer)... Aquifer.

All concerned citizens are invited to attend a public hearing on the proposed designation to be held on ...(date and time)... at ...(meeting place)....

A map of the affected areas follows.

The governing board of the water management district shall adopt a designation of prime groundwater recharge areas to the Floridan and Biscayne aquifers by rule within 120 days after the public hearing, subject to the provisions of chapter 120.

Section 28. Section 373.146, Florida Statutes, is amended to read:

373.146 Publication of notices, process, and papers.—

(1) Whenever in this chapter the publication of any notice, process, or paper is required or provided for, unless otherwise provided by law, the publication thereof ~~in some newspaper or newspapers~~ as provided ~~defined~~ in chapter 50 in each county ~~having general circulation~~ within the area to be affected shall be taken and considered as being sufficient.

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(2) Notwithstanding any other provision of law to the contrary, and except in the case of emergency meetings, water management districts may provide reasonable notice of public meetings held to evaluate responses to solicitations issued by the water management district, by publication as provided in chapter 50 ~~in a newspaper of general paid circulation~~ in the county where the principal office of the water management district is located, or in the county or counties where the public work will be performed, no less than 7 days before such meeting.

Section 29. Subsection (12) of section 403.722, Florida Statutes, is amended to read:

403.722 Permits; hazardous waste disposal, storage, and treatment facilities.—

(12) On the same day of filing with the department of an application for a permit for the construction modification, or operation of a hazardous waste facility, the applicant shall notify each city and county within 1 mile of the facility of the filing of the application and shall publish notice of the filing of the application. The applicant shall publish a second notice of the filing within 14 days after the date of filing. Each notice shall be published ~~in a newspaper of general circulation~~ in the county in which the facility is located or is proposed to be located as provided in chapter 50. ~~Notwithstanding the provisions of chapter 50, for purposes of this section, a "newspaper of general circulation" shall be the newspaper within the county in which the installation or facility is proposed which has the largest daily circulation in that county and has its principal office in that county. If the newspaper with the~~

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~~largest daily circulation has its principal office outside the county, the notice shall appear in both the newspaper with the largest daily circulation in that county, and a newspaper authorized to publish legal notices in that county.~~ The notice shall contain:

(a) The name of the applicant and a brief description of the project and its location.

(b) The location of the application file and when it is available for public inspection.

The notice shall be prepared by the applicant and shall comply with the following format:

Notice of Application

The Department of Environmental Protection announces receipt of an application for a permit from ...(name of applicant)... to ...(brief description of project).... This proposed project will be located at ...(location)... in ...(county)... ...(city).... This application is being processed and is available for public inspection during normal business hours, 8:00 a.m. to 5:00 p.m., Monday through Friday, except legal holidays, at ...(name and address of office)....

Section 30. Paragraph (b) of subsection (3) of section 712.06, Florida Statutes, is amended to read:

712.06 Contents of notice; recording and indexing.—

(3) The person providing the notice referred to in s. 712.05, other than a notice for preservation of a community covenant or restriction, shall:

(b) Publish the notice referred to in s. 712.05 for 2 consecutive weeks on a publicly accessible website as provided

23-00673A-20

20201340__

1393 in chapter 50 or once a week, for 2 consecutive weeks in a
1394 newspaper as defined in chapter 50, ~~the notice referred to in s.~~
1395 ~~712.05,~~ with the official record book and page number in which
1396 such notice was recorded, ~~in a newspaper as defined in chapter~~
1397 ~~50~~ in the county in which the property is located.

1398 Section 31. Subsection (5) of section 849.38, Florida
1399 Statutes, is amended to read:

1400 849.38 Proceedings for forfeiture; notice of seizure and
1401 order to show cause.—

1402 (5) If the value of the property seized is shown by the
1403 sheriff's return to have an appraised value of \$1,000 or less,
1404 the above citation shall be served by posting at three public
1405 places in the county, one of which shall be the front door of
1406 the courthouse; if the value of the property is shown by the
1407 sheriff's return to have an approximate value of more than
1408 \$1,000, the citation shall be published for at least 2
1409 consecutive weeks on a publicly accessible website as provided
1410 in chapter 50 or at least once each week for 2 consecutive weeks
1411 in some newspaper of general publication published in the
1412 county, if there be such a newspaper published in the county and
1413 if not, then said notice of such publication shall be made by
1414 certificate of the clerk if publication is made by posting, and
1415 by affidavit as provided in chapter 50, if made by publication
1416 as provided in chapter 50 ~~in a newspaper,~~ which affidavit or
1417 certificate shall be filed and become a part of the record in
1418 the cause. Failure of the record to show proof of such
1419 publication shall not affect any judgment made in the cause
1420 unless it shall affirmatively appear that no such publication
1421 was made.

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20201340__

Section 32. Paragraph (a) of subsection (3) of section 865.09, Florida Statutes, is amended to read:

865.09 Fictitious name registration.—

(3) REGISTRATION.—

(a) A person may not engage in business under a fictitious name unless the person first registers the name with the division by filing a registration listing:

1. The name to be registered.

2. The mailing address of the business.

3. The name and address of each registrant.

4. If the registrant is a business entity that was required to file incorporation or similar documents with its state of organization when it was organized, such entity must be registered with the division and in active status with the division; provide its Florida document registration number; and provide its federal employer identification number if the entity has such a number.

5. Certification by at least one registrant that the intention to register such fictitious name has been advertised as provided ~~at least once in a newspaper as defined in chapter 50 in the county in which the principal place of business of the registrant is or will be located.~~

6. Any other information the division may reasonably deem necessary to adequately inform other governmental agencies and the public as to the registrant so conducting business.

Section 33. Paragraph (a) of subsection (6) of section 932.704, Florida Statutes, is amended to read:

932.704 Forfeiture proceedings.—

(6) (a) If the property is required by law to be titled or

23-00673A-20

20201340__

1451 registered, or if the owner of the property is known in fact to
1452 the seizing agency, or if the seized property is subject to a
1453 perfected security interest in accordance with the Uniform
1454 Commercial Code, chapter 679, the attorney for the seizing
1455 agency shall serve the forfeiture complaint as an original
1456 service of process under the Florida Rules of Civil Procedure
1457 and other applicable law to each person having an ownership or
1458 security interest in the property. The seizing agency shall also
1459 publish, in accordance with chapter 50, notice of the forfeiture
1460 complaint for 2 consecutive weeks on a publicly accessible
1461 website or once each week for 2 consecutive weeks in a newspaper
1462 of general circulation, ~~as defined in s. 165.031,~~ in the county
1463 where the seizure occurred.

1464 Section 34. This act shall take effect July 1, 2021.

COMMITTEE: Judiciary
ITEM: SB 1340
FINAL ACTION:
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S01340
GENERAL BILL by Gruters; (Similar CS/CS/H 00007)
Legal Notices. EFFECTIVE DATE: 07/01/2021.
01/14/20 S Introduced -SJ 99
02/12/20 S On Committee agenda-- Judiciary, 02/11/20, 2:00 pm, 110 Senate Building --Amendment(s)
Adopted - Temporarily Postponed
02/14/20 S On Committee agenda-- Judiciary, 02/19/20, 1:30 pm, 110 Senate Building --Temporarily
Postponed



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

February 7, 2020

The Honorable David Simmons, Chair
Committee on Judiciary
515 Knott Building
404 South Monroe Street
Tallahassee, FL 32399-1100

Dear Chair Simmons:

I am writing to request that Senate Bill 1340, Legal Notice to be placed on the agenda of the next Judiciary 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,

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

Joe Gruters

cc: Tom Cibula, Staff Director
Joyce Butler, 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)

2.19.20

Meeting Date

1340

Bill Number (if applicable)

Topic PUBLIC NOTICE

Amendment Barcode (if applicable)

Name WAYNE MALANEY

Job Title _____

Address 32 VIA DEL CONGO

Street

Phone 850.933.7001

PAUM BUCH GARDENS
City

FL
State

33418
Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing AMERICAN LAWYER MEDIA & THE OBSERVER GROUP

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)

2-19-20

Meeting Date

SB 1340

Bill Number (if applicable)

Topic Public Records

Amendment Barcode (if applicable)

Name Tim Thompson

Job Title Publisher

Address 3001 W 10TH ST / 501 W 11TH

Phone 205 454 1484

Street

Panama City FL 32401

City

State

Zip

Email ttompson@pcnh.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Panama City News Herald

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/20

Meeting Date

SB 1340

Bill Number (if applicable)

Topic Florida Public Notice

Amendment Barcode (if applicable)

Name Nicole Barefield

Job Title Publisher

Address 1364 N. Railroad Ave.

Street

Phone 850-638-0212

Chepley, Fla. 32428

City

State

Zip

Email nbarefield@chipleypaper.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Washington County News & Holmes County Times-Advertiser

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

February 19, 2020

Meeting Date

1340

Bill Number (if applicable)

Topic Public Notices

Amendment Barcode (if applicable)

Name Bryan Boukari

Job Title Attorney and Publisher

Address 14804 Main Street

Phone (386) 462-7529

Street

Alachua

Florida

32615

Email Bryan@BoukariLaw.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Alachua County Today newspaper and Boukari Law, P.A.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

February 19, 2020

Meeting Date

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

1340

Bill Number (if applicable)

Topic Public Notice

Amendment Barcode (if applicable)

Name Jeff Kottkamp

Job Title _____

Address _____

Phone _____

Street

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 ALM Media

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/2020

Meeting Date

1340

Bill Number (if applicable)

Topic Public Notice

Amendment Barcode (if applicable)

Name Pamela C. Marsh

Job Title President, First Amendment Foundation

Address 317 E. Park Ave

Phone

Street

Tallahassee, FL

State

32308

Zip

Email pmarsh@floridafaf.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing First Amendment Foundation

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2-19-20

Meeting Date

1340

Bill Number (if applicable)

Topic Legal Notice

Amendment Barcode (if applicable)

Name Virginia Hamrick

Job Title _____

Address _____

Street

Phone _____

City

State

Zip

Email vhamrick@vfl.edu

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.

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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 1340
Bill Number (if applicable)

Meeting Date _____

Topic PUBLIC NOTICES

Amendment Barcode (if applicable) _____

Name WILLIAM SNOWDEN

Job Title EDITOR/GENERAL MANAGER

Address P.O. Box 307

Phone (850) 926-7102

Street

CRAWFORDVILLE FL

32327

City

State

Zip

Email EDITOR@THEWAKULLA
NEWS.NET

Speaking: ☐ For ☒ Against ☐ Information

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

Representing THE WAKULLA NEWS & GADSDEN COUNTY TIMES

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

FEB 19, 2020

Meeting Date

SB 1340

Bill Number (if applicable)

Topic Legal Notices in newspapers

Amendment Barcode (if applicable)

Name PARKS ROGETS

Gr Roup
Job Title Publisher - Ponte Vedra Recorder

Address 1102 ALA North Phone 252 406 1246

Street

Ponte Vedra FL 32082 Email parks@guilfordcastmedia.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Ponte Vedra Recorder

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/20

Meeting Date

1340

Bill Number (if applicable)

Topic Public Notice

Amendment Barcode (if applicable)

Name Bill Offill

Job Title Group Publisher, Jacksonville, Daytona Beach, St. Augustine

Address 1 Independent Dr.
Street

Phone 904-359-4349

Jacksonville
City

FL
State

32202
Zip

Email ~~Bill~~ BOffill@gatehousemedia.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Times-Union, Daytona Beach News-Journal, St. Augustine Record

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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THE FLORIDA SENATE
APPEARANCE RECORD

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

February 19

Meeting Date

SB 1340

Bill Number (if applicable)

Topic Public Notices

Amendment Barcode (if applicable)

Name Jon Cantrell

Job Title Publisher

Address 3513 HWY 17

Phone 904-710-8181

Street

Fleming Island

Florida

32003

Email jon@opcfla.com

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing

Clay Today Newspaper

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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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)

2/19/20

Meeting Date

SB 1340

Bill Number (if applicable)

Topic Public Notice

Amendment Barcode (if applicable)

Name Jim Fogler

Job Title President / Florida Press Association

Address 336 E. College Ave

Street

Phone 845-219-9400

TAIWAHASSEE

City

FL

State

32301

Zip

Email jfogler@FLPress.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

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THE FLORIDA SENATE

APPEARANCE RECORD

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

2/19/20

Meeting Date

SB 1340

Bill Number (if applicable)

Topic Public Notices

Amendment Barcode (if applicable)

Name Rynni HendersonJob Title Group PublisherAddress 2700 SW 13th StPhone 352-374-5001

Street

GainesvilleFL32608Email rhenderson@gvillesun.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☒ Against
(The Chair will read this information into the record.)Representing Florida Press AssociationAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb. 19, 2020

Meeting Date

1340

Bill Number (if applicable)

Topic Legal Notices

Amendment Barcode (if applicable)

Name Monja Slater

Job Title General manager

Address 521 Demorest St. SE

Phone 386-362-1734

Street

Live Oak

FL

32064

Email monja.slater@gafnews.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Suwannee Democrat, Jasper News, Mayo Free Press

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

Feb. 19, 2020

Meeting Date

1340

Bill Number (if applicable)

Topic Legal Notices

Amendment Barcode (if applicable)

Name Jamie Wachter

Job Title Newspaper Editor

Address 521 Demorest St. SE

Phone 386-362-1734

Street

Live Oak

FL

32064

Email jamie.wachter@gaflnews.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Suwannee Democrat, Jasper News, Mayo Free Press

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/20
Meeting Date

SB 1340
Bill Number (if applicable)

Topic Legal Notices

Amendment Barcode (if applicable)

Name Hugh Osteen

Job Title Florida Market Manager

Address 3407 Herschel St

Phone 843-858-0128

Street

Jacksonville

FL

32205

City

State

Zip

Email hugh@opcfla.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing OPC News, LLC.

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/20

Meeting Date

1340

Bill Number (if applicable)

Topic Legal Notices

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

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.

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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)

2/19/20
Meeting Date

1340
Bill Number (if applicable)

Topic Legal Notice

Amendment Barcode (if applicable)

Name Casey Cook

Job Title Legislative Advocate

Address Po Box 1757 Phone 850 701 3701
Street

TLH FL 32302 Email _____
City State Zip

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.

THE FLORIDA SENATE
APPEARANCE RECORD

02/19/2020
Meeting Date

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

SB 1340
Bill Number (if applicable)

Topic LEGAL NOTICES

Amendment Barcode (if applicable)

Name CESAR GRAJALES

Job Title COALITIONS DIRECTOR

Address 200 W. COLLEGE AVE

Phone 786.260.9283

Street

TALLAHASSEE

City

FL

State

Zip

Email Cgrajales@belibre.org

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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/20

Meeting Date

SB 1340

Bill Number (if applicable)

Topic Legal Notices

Amendment Barcode (if applicable)

Name Ron Book

Job Title _____

Address 104 West Jefferson St

Phone _____

Street

TLH

32301

Email _____

City

State

Zip

Speaking: ☐ For ☒ Against ☐ Information

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

Representing GANNET News Channel

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/20

Meeting Date

1340

Bill Number (if applicable)

Topic Legal Notice

Amendment Barcode (if applicable)

Name Michael Dobson

Job Title President CEO

Address 4005 Brandon Hill Dr
Street

Phone (850) 241-5896

Michael @ Live the Dream Foundation - org

Email Michael.Dobson@live.thedreamfoundation.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Dream Foundation

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 Judiciary

BILL: CS/SB 1416

INTRODUCER: Criminal Justice Committee and Senator Perry

SUBJECT: Assaults on Specified Persons

DATE: February 18, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Erickson</u>	<u>Jones</u>	<u>CJ</u>	Fav/CS
2.	<u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1416 creates s. 341.0611, F.S., which provides that:

- By January 1, 2021, every public transit provider operating regularly scheduled transit service for the general public must post in at least one conspicuous place at the entrance of each public transit vehicle a sign in accordance with specifications in the bill containing the following statement: “ATTENTION: ASSAULTING A TRANSIT WORKER IS A FELONY PUNISHABLE BY UP TO 5 YEARS IN PRISON.”
- By July 1, 2021, such public transit provider must create and implement a risk reduction program. Each risk reduction program must include conflict de-escalation training for transit operators, and may include the deployment of assault mitigation infrastructure and technology on public transit, including barriers to restrict the unwanted entry of individuals and objects into transit operators’ workstations.

The bill also amends s. 784.07, F.S., which reclassifies the felony or misdemeanor degree of assaults and batteries on certain officers or employees to provide that an assault against any of these officers or employees is reclassified from a second degree misdemeanor to a third degree felony. Currently, an assault is reclassified from a second degree misdemeanor to a first degree misdemeanor. The effect of this change is that an assault reclassified under this statute as amended by the bill has a maximum penalty of 5 years in state prison and fine not to exceed \$5,000; in contrast, the maximum penalty for an assault reclassified under the current statute is 1 year in county jail and a fine not to exceed \$500.

The Criminal Justice Impact Conference estimates that the bill will have a “positive significant” prison bed impact (an increase of more than 25 prison beds). The bill may also have a fiscal impact on public transit providers. See Section V. Fiscal Impact Statement.

The bill takes effect October 1, 2020.

II. Present Situation:

Section 784.07(2), F.S., reclassifies the misdemeanor or felony degree of assault,¹ aggravated assault,² battery,³ and aggravated battery⁴ when a person is charged with knowingly committing any of these offenses upon an officer or employee described as follows while that officer or employee is engaged in the lawful performance of his or her duties:

- A law enforcement officer;
- A firefighter;
- An emergency medical care provider;
- A railroad special officer;
- A traffic accident investigation officer;
- A nonsworn law enforcement agency employee who is certified as an agency inspector, a blood alcohol analyst, or a breath test operator while such employee is in uniform and engaged in processing, testing, evaluating, analyzing, or transporting a person who is detained or under arrest for DUI;
- A law enforcement explorer;
- A traffic infraction enforcement officer;
- A parking enforcement specialist;
- A person licensed as a security officer and wearing a uniform bearing at least one patch or emblem that is visible at all times and clearly identifies the person’s employing agency and that the person is a licensed security officer;
- A security officer employed by the board of trustees of a community college; or
- A public transit employee or agent.⁵

¹ Assault, which is a second degree misdemeanor, is an intentional, unlawful threat by word or act to do violence to the person of another, coupled with an apparent ability to do so, and doing some act which creates a well-founded fear in such other person that such violence is imminent. Section 784.011(1) and (2), F.S.

² Aggravated assault, which is a third degree felony, is the commission of an assault using a deadly weapon without intent to kill or the commission of an assault with the intent to commit a felony. Section 784.021(1) and (2), F.S.

³ Simple battery, which is a first degree misdemeanor, is actually and intentionally touching or striking another person against the will of that person or intentionally causing bodily harm to another person. Section 784.03(1)(a), F.S.

⁴ A person commits aggravated battery, a second degree felony, if the person, in committing a battery: intentionally or knowingly causes great bodily harm, permanent disability, or permanent disfigurement; uses a deadly weapon; or the person who was the victim of the battery was pregnant at the time of the offense and the offender knew or should have known that the victim was pregnant. Section 784.045(1) and (2), F.S.

⁵ “Public transit employees or agents” is defined in s. 784.07(1)(e), F.S., as bus operators, train operators, revenue collectors, security personnel, equipment maintenance personnel, or field supervisors, who are employees or agents of a transit agency as described in s. 812.015(1)(l), F.S. There is no specific reference in the statute to a public transit employee or agent in the list of officers and employees referenced as being subject to an assault or battery, which triggers the reclassification if the assault or battery occurs while the officer or employee is engaged in his or her lawful duties. A public transit employee or agent is only referenced in regard to a listed officer or employee engaged in performance of his or her lawful duties. Further, the Florida jury instruction for s. 784.07(2)(a), F.S. (relating to reclassification of the degree of assault) does not specifically reference a public transit employee or agent. Fla. Std. Jury Instr. (Crim.) 8.10. (See “Technical Deficiencies” section of this analysis.) However, notwithstanding the specific reference omission, it appears that the statute has been applied when the

The reclassification of the degree of the offense is as follows:

- In the case of assault, from a second degree misdemeanor to a first degree misdemeanor;
- In the case of battery, from a first degree misdemeanor to a third degree felony;
- In the case of aggravated assault, from a third degree felony to a second degree felony, and any person convicted of aggravated assault upon a law enforcement officer is subject to a mandatory three-year minimum term of imprisonment; and
- In the case of aggravated battery, from a second degree felony to a first degree felony, and any person convicted of aggravated battery of a law enforcement officer is subject to a mandatory five-year minimum term of imprisonment.

Further, if the person, during the commission of a battery subject to reclassification as a third degree felony, possessed:

- A firearm or destructive device, the person is subject to a mandatory minimum term of imprisonment of three years; or
- A semiautomatic firearm and its high-capacity detachable box magazine or a machine gun, the person is subject to a mandatory minimum term of imprisonment of eight years.⁶

Reclassifying an offense has the effect of increasing the maximum sentence that can be imposed for an offense. The maximum sentence that can be imposed for a criminal offense is generally based on the degree of the misdemeanor or felony:

- Sixty days in a county jail for a second degree misdemeanor;
- One year in a county jail for a first degree misdemeanor;
- Five years in state prison for a third degree felony;
- Fifteen years in state prison for a second degree felony; and
- Generally, 30 years in state prison for a first degree felony.⁷

III. Effect of Proposed Changes:

New Requirements Relating to Certain Public Transit Providers

The bill creates s. 341.0611, F.S., which provides that:

- By January 1, 2021, every public transit provider operating regularly scheduled transit service for the general public must post in at least one conspicuous place at the entrance of each public transit vehicle a sign in accordance with specifications in the bill containing the following statement: “ATTENTION: ASSAULTING A TRANSIT WORKER IS A FELONY PUNISHABLE BY UP TO 5 YEARS IN PRISON.”

victim is a public transit employee. *See, e.g., Walker v. State*, 193 So.3d 946, 948-949 (Fla. 4th DCA 2016), rehearing denied, 193 So.3d 990 (Fla. 4th DCA 2016) (appellate court stating that the charges against the appellant included a count relating to battery on a public transit employee in violation of ss. 784.03(1), 784.07(1)(e), and 784.07(2)(b), F.S., and the appellant was found guilty as charged on this count).

⁶ Section 784.07(3)(a) and (b), F.S. Additionally, adjudication of guilt or imposition of sentence shall not be suspended, deferred, or withheld, and the defendant is not eligible for statutory gain-time or any form of discretionary early release, other than pardon or executive clemency, or conditional medical release, prior to serving the minimum sentence. Section 784.07(3), F.S.

⁷ Section 775.082, F.S. (maximum penalties). Fines may also be imposed, and those fines escalate based on the degree of the offense. Section 775.082, F.S., provides the following maximum fines: \$500 for a second degree misdemeanor; \$1,000 for a first degree misdemeanor; \$5,000 for a third degree felony; and \$10,000 for a second degree felony and a first degree felony.

- By July 1, 2021, such public transit provider must create and implement a risk reduction program. Each risk reduction program must include conflict de-escalation training for transit operators, and may include the deployment of assault mitigation infrastructure and technology on public transit, including barriers to restrict the unwanted entry of individuals and objects into transit operator's workstations.

Declaration of Important State Interest

The bill includes a declaration of important state interest supporting the requirements that public transit providers conspicuously post signage that provides notification of the criminal penalties for assault on a public transit worker, and also create and implement a risk reduction program that includes conflict-de-escalation training.

Revision of the Offense Degree Designation for an Assault Reclassified under s. 784.07, F.S.

The bill amends s. 784.07, F.S., which reclassifies the felony or misdemeanor degree of assaults and batteries on certain officers or employees to provide that an assault against any of these officers or employees is reclassified from a second degree misdemeanor to a third degree felony. Currently, an assault is reclassified from a second degree misdemeanor to a first degree misdemeanor. The effect of this change is that an assault reclassified under this statute as amended by the bill has a maximum penalty of 5 years in state prison; in contrast, the maximum penalty for an assault reclassified under the current statute is 1 year in county jail.

The bill also amends s. 784.07, F.S., to include specific reference to a public transit employee or agent in the list of officers or employees who have been assaulted or battered (as charged).

Effective Date

The bill takes effect October 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

Article VII, s. 18(a) of the State Constitution provides that: "No county or municipality shall be bound by any general law requiring such county or municipality to spend funds...unless the legislature has determined that such law fulfills an important state interest and unless: ...the law requiring such expenditure is approved by two-thirds of the membership in each house of the legislature...."

This bill requires public transit providers to post signage (as specified in the bill), and create and implement a risk reduction program that must include conflict de-escalation training for transit operators. These requirements may cause public transit providers to spend funds.

Article VII, section 18(d) of the State Constitution, provides eight exemptions, which, if any single one is met, exempts the law from the limitations on mandates. If the bill does qualify as a mandate, and no exemption applies, in order to be binding on the counties,

the bill must include a finding of important state interest and final passage must be approved by two-thirds of the membership of each house of the Legislature.

The bill includes a declaration of an important state interest supporting the requirements that public transit providers conspicuously post signage that provides notification of the criminal penalties for assault on a public transit worker, and also create and implement a risk reduction program that includes conflict-de-escalation training (see “Effect of Proposed Changes” section of this analysis).

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The bill requires public transit providers to post signage (as specified in the bill), and create and implement a risk reduction program that must include conflict de-escalation training for transit operators. Public transit providers will likely see an increase in costs to comply with the bill’s requirements.

The Criminal Justice Impact Conference (CJIC), which provides the final, official estimate of the prison bed impact, if any, of legislation, estimates that the bill will have a “positive significant” prison bed impact (an increase of more than 25 prison beds).⁸

⁸ The CJIC meeting at which this bill estimate was made occurred during a meeting of the Criminal Justice Estimating Conference on Jan. 27, 2020. The meeting is available on video on the Florida Channel at <https://thefloridachannel.org/videos/1-27-20-criminal-justice-estimating-conference/> (last visited on Feb. 13, 2020).

The EDR provides the following information relevant to its preliminary estimate:

Per [Department of Corrections], in FY 18-19, there were 400 new commitments to prison for these offenses, though it is not known how many transit workers were victims. In FY 17-18, simple battery had an incarceration rate of 16.3% (adj.).⁹ Per [Florida Department of Law Enforcement], in FY 18-19, there were 259 guilty/convicted and 77 adjudication withheld where a 2nd degree misdemeanor was increased to a 1st degree felony under s. 784.07, F.S. While it is expected that 2nd degree assault would have a lower incarceration rate as a 3rd degree felony, the large number of those impacted would be expected to be enough to reach significance.¹⁰

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 784.07 of the Florida Statutes.

This bill creates section 341.0611 of the Florida Statutes.

IX. Additional Information:

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

CS by Criminal Justice on February 4, 2020:

The committee substitute:

- Authorizes (rather than requires) public transit providers operating regularly scheduled transit service for the general public to include the deployment of assault mitigation infrastructure and technology on public transit, including barriers to restrict the unwanted entry of individuals and objects into transit operator's workstations.
- Amends s. 784.07, F.S., to include specific reference to a public transit employee or agent in the list of officers or employees who have been assaulted or battered (as charged).

⁹ The abbreviation "adj." means "adjusted." Sentencing data from the Department of Corrections is incomplete, which means that the number the EDR receives are potentially lower than what the actual numbers are. The EDR adjusts these numbers by the percentage of scoresheets received for the applicable fiscal year.

¹⁰ The EDR's estimate is on file with the Senate Committee on Criminal Justice.

B. Amendments:

None

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



336998

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
02/19/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Perry) recommended the following:

Senate Amendment

Delete lines 23 - 44
and insert:
operating transit service for the general public shall post in
at least one conspicuous place at the entrance of each public
transit vehicle a yellow sign with black, bold type font no
smaller than 48 point containing the following statement:
"ATTENTION: ASSAULTING A TRANSIT WORKER IS A FELONY
PUNISHABLE BY UP TO 5 YEARS IN PRISON."
(2) By July 1, 2021, every public transit provider



336998

operating transit service for the general public shall create
and implement a risk reduction program. Each risk reduction
program shall include conflict de-escalation training for
transit operators. The risk reduction program may include the
deployment of assault mitigation infrastructure and technology
on public transit, including barriers to restrict the unwanted
entry of individuals and objects into transit operator's
workstations.

Section 2. The Legislature finds that public transit
workers may be subject to assault while performing their jobs.
The Legislature further finds and declares that this act
fulfills an important state interest in protecting the safety of
public transit workers by requiring any public transit providers
operating transit service to conspicuously

By the Committee on Criminal Justice; and Senator Perry

591-03092-20

20201416c1

A bill to be entitled
An act relating to assaults on specified persons;
creating s. 341.0611, F.S.; requiring public transit
providers to post a specified sign concerning
assaulting a transit operator; requiring public
transit providers to create and implement a risk
reduction program; specifying minimum requirements for
such a program; authorizing public transit providers
to deploy assault mitigation infrastructure; providing
a declaration of important state interest; amending s.
784.07, F.S.; providing a specific reference to
assault or battery on a public transit employee or
agent; revising the reclassification of the offense of
assault on specified persons; providing an effective
date.

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

Section 1. Section 341.0611, Florida Statutes, is created
to read:

341.0611 Transit worker safety.-

(1) By January 1, 2021, every public transit provider
operating regularly scheduled transit service for the general
public shall post in at least one conspicuous place at the
entrance of each public transit vehicle a yellow sign with
black, bold type font no smaller than 48 point containing the
following statement:

"ATTENTION: ASSAULTING A TRANSIT WORKER IS A FELONY
PUNISHABLE BY UP TO 5 YEARS IN PRISON."

591-03092-20

20201416c1

(2) By July 1, 2021, every public transit provider operating regularly scheduled transit service for the general public shall create and implement a risk reduction program. Each risk reduction program shall include conflict de-escalation training for transit operators. The risk reduction program may include the deployment of assault mitigation infrastructure and technology on public transit, including barriers to restrict the unwanted entry of individuals and objects into transit operator's workstations.

Section 2. The Legislature finds that public transit workers may be subject to assault while performing their jobs. The Legislature further finds and declares that this act fulfills an important state interest in protecting the safety of public transit workers by requiring any public transit providers operating regularly scheduled transit service to conspicuously post signage that provides notification of the criminal penalties for assault on a public transit worker, and to also create and implement a risk reduction program that includes conflict-de-escalation training. The Legislature further finds that these reasonable measures may reduce or prevent attacks on public transit workers.

Section 3. Subsection (2) of section 784.07, Florida Statutes, is amended to read:

784.07 Assault or battery of law enforcement officers, firefighters, emergency medical care providers, public transit employees or agents, or other specified officers; reclassification of offenses; minimum sentences.—

(2) Whenever any person is charged with knowingly committing an assault or battery upon a law enforcement officer,

591-03092-20

20201416c1

59 a firefighter, an emergency medical care provider, a railroad
60 special officer, a traffic accident investigation officer as
61 described in s. 316.640, a nonsworn law enforcement agency
62 employee who is certified as an agency inspector, a blood
63 alcohol analyst, or a breath test operator while such employee
64 is in uniform and engaged in processing, testing, evaluating,
65 analyzing, or transporting a person who is detained or under
66 arrest for DUI, a law enforcement explorer, a traffic infraction
67 enforcement officer as described in s. 316.640, a parking
68 enforcement specialist as defined in s. 316.640, a public
69 transit employee or agent, a person licensed as a security
70 officer as defined in s. 493.6101 and wearing a uniform that
71 bears at least one patch or emblem that is visible at all times
72 that clearly identifies the employing agency and that clearly
73 identifies the person as a licensed security officer, or a
74 security officer employed by the board of trustees of a
75 community college, while the officer, firefighter, emergency
76 medical care provider, railroad special officer, traffic
77 accident investigation officer, traffic infraction enforcement
78 officer, inspector, analyst, operator, law enforcement explorer,
79 parking enforcement specialist, public transit employee or
80 agent, or security officer is engaged in the lawful performance
81 of his or her duties, the offense for which the person is
82 charged shall be reclassified as follows:

83 (a) In the case of assault, from a misdemeanor of the
84 second degree to a felony ~~misdemeanor~~ of the third ~~first~~ degree.

85 (b) In the case of battery, from a misdemeanor of the first
86 degree to a felony of the third degree.

87 (c) In the case of aggravated assault, from a felony of the

591-03092-20

20201416c1

third degree to a felony of the second degree. Notwithstanding any other provision of law, any person convicted of aggravated assault upon a law enforcement officer shall be sentenced to a minimum term of imprisonment of 3 years.

(d) In the case of aggravated battery, from a felony of the second degree to a felony of the first degree. Notwithstanding any other provision of law, any person convicted of aggravated battery of a law enforcement officer shall be sentenced to a minimum term of imprisonment of 5 years.

Section 4. This act shall take effect October 1, 2020.

COMMITTEE: Judiciary
ITEM: CS/SB 1416
FINAL ACTION: Favorable
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S01416

GENERAL BILL/CS by CJ; Perry; (CO-INTRODUCERS) Rodriguez; (Compare CS/H 00951)

Assaults on Specified Persons. EFFECTIVE DATE: 10/01/2020.

02/14/20 S On Committee agenda-- Judiciary, 02/19/20, 1:30 pm, 110 Senate Building

02/19/20 S Favorable by Judiciary; YEAS 6 NAYS 0

02/20/20 S Now in Rules



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: February 5, 2020

I respectfully request that **Senate Bill #1416**, relating to Assaults on Specified Persons, be placed on the:

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

A handwritten signature in black ink that reads "W. Keith Perry". The signature is written in a cursive style with a long, sweeping underline.

Senator Keith Perry
Florida Senate, District 8

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/2020

Meeting Date

1416
Bill Number (if applicable)

336998
Amendment Barcode (if applicable)

Topic Assault on Speaker Person

Name Dwight Mattingly

Job Title Bus Operator

Address 8907 SE Pine Grove Lane
Street

Phone 561 523 0525

Hobe Sound FL 33455
City State Zip

Email dwrightandsound@bellsouth.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)

APPEARANCE RECORD

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

02-19-2020

Meeting Date

SB1416

Bill Number (if applicable)

Topic Assault on Specified Persons

Amendment Barcode (if applicable)

Name Amy Datz

Job Title Retired Transit Environmental Planner

Address

Street

Tallahassee

City

State

Zip

Phone

(850)

322-7599

Email

amaldatz@gmail.com

amc.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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

2-19-20

Meeting Date

SB1416

Bill Number (if applicable)

Topic ASSAULTS ON SPECIFIED PERSONS

Amendment Barcode (if applicable)

Name DAVID STOVER

Job Title _____

Address 386 SE THORNHILL DRIVE

Phone _____

Street

PORT ST. LUCIE FL 34983

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/19/20

Meeting Date

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

SB1416

Bill Number (if applicable)

Topic Assault on specific persons.

Name Bob Glati

Job Title Teacher/professor.

Address 7152 Dawnshire Pl.

Street

Lake Worth FL

City

State

Zip

33467

Phone 561-707-7157

Email BobGlati@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.

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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)

2-19-2020

Meeting Date

SB-1416

Bill Number (if applicable)

Topic Assult on specified persons

Amendment Barcode (if applicable)

Name James Jones

Job Title Sheetmetal Worker

Address 2373 Glen Gardner Dr
Street

Phone (904) 312-0067

Jacksonville
City

FL
State

32246
Zip

Email steelersfanjdj@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.

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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)

2/19/20

Meeting Date

5B1416

Bill Number (if applicable)

Topic Assault on specified persons

Name Donald Persson

Amendment Barcode (if applicable)

Job Title Teacher

Address 12980 Orange Grove Blvd.

Street

West Palm Beach FL 33411

City

State

Zip

Phone (561) 719-6838

Email donaldpersson@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.

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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)

2/19/2020
Meeting Date

SB 1416
Bill Number (if applicable)

Topic Assault on specified person

Amendment Barcode (if applicable)

Name Michael Williams

Job Title Bus operator

Address 2912 N.W. 195 LN
Street

Phone 305-297-3759

Miami Gardens FLA 33056
City State Zip

Email scooby5687492694@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

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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)

2/19/2020

Meeting Date

SB1416

Bill Number (if applicable)

Topic ASSAULT ON SPECIFIED PERSON

Amendment Barcode (if applicable)

Name LATONYA REDMOND

Job Title BUS-OPERATOR

Address 320 N.W. 193 Street

Phone 786-246-1348

Street

Miami

Fla.

33129

City

State

Zip

Email lredmond@wn291@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

02/19/2020

Meeting Date

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

JB 1416

Bill Number (if applicable)

Topic Assault on specified person

Amendment Barcode (if applicable)

Name James E Binkley Jr

Job Title Taxi Operator

Address 3011 N.W. 126th Ave

Phone 786-416-2119

Street

Miami Gardens

City

FL

State

33076

Zip

Email JBinkleyJr@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

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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)

2/19/2020

Meeting Date

SB 1416

Bill Number (if applicable)

Topic ASSAULT ON SPECIFIED PERSON

Amendment Barcode (if applicable)

Name JEFFREY TOWNSLEY

Job Title BUS-OPERATOR

Address 8620 SW 2ND STREET

Street

Miami

City

FLA. 33144

State

Zip

Phone 786-271-9676

Email JTPen1@aol.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

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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)

2/19/2020
Meeting Date

SB1416
Bill Number (if applicable)

Topic Assaults on Specified Persons

Amendment Barcode (if applicable)

Name Joseph D'Elia

Job Title Bus Operator

Address 19377 Ne 10 ave Miami FL
Street

Phone 786/208 2683

#501 33179
City State Zip

Email guido2845@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

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THE FLORIDA SENATE
APPEARANCE RECORD

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2/19/20

Meeting Date

1416

Bill Number (if applicable)

Topic Assult on Bus Drivers

Amendment Barcode (if applicable)

Name Jeremiah Tattersall

Job Title Field Staff

Address 230 NW 14th Ave

Street

Gainesville

City

FL

State

32601

Zip

Phone 325-222-1991

Email JeremiahTattersall@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

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APPEARANCE RECORD

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

2-19-20

Meeting Date

SB 1416

Bill Number (if applicable)

Topic ASSAULT ON SPECIFIED PERSONS

Amendment Barcode (if applicable)

Name DAVID GATES

Job Title RETIRED ELECTRICIAN

Address 1444 MENLO AVE.

Phone 904-322-3995

Street

JAX.

City

FL.

State

32218

Zip

Email davidgates177@menlo-fl.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

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THE FLORIDA SENATE
APPEARANCE RECORD

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2/19/20

Meeting Date

SB 1416

Bill Number (if applicable)

Topic ASSAULT ON SPECIFIED PERSONS

Amendment Barcode (if applicable)

Name Russell Harper

Job Title Retired ELECTRICIAN

Address 1785 Lilly Road East

Street

JACKSONVILLE

City

FL

State

Zip

Phone 904-588-4855

Email electric@belkouth.net

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

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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)

2/19/2020
Meeting Date

1416
Bill Number (if applicable)

Topic Assault on Specific Persons

Amendment Barcode (if applicable)

Name Dwight Mattingly

Job Title Bus Operator

Address 8907 SE Pine Cone Lane
Street

Phone 561 523 0525

Hobe Sound FL 33455
City State Zip

Email dwightandsharon@bellsouth.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

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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)

2/19/20

Meeting Date

1416

Bill Number (if applicable)

Topic assault on Spanish person

Amendment Barcode (if applicable)

Name Joey Acevedo

Job Title Bus operator

Address 3892 Lake Tahoe Cir

Phone (561) 424-1393

WPI
City

FL
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

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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)

2/19/20

Meeting Date

1416

Bill Number (if applicable)

Topic ASSAULT ON SPECIFIED PERSONS

Amendment Barcode (if applicable)

Name GLENDA ABICHT (ABBOTT)

Job Title SERVICES TECH

Address 4305 SW 98 AV

Phone 786-376-1181

Street

MIAMI

City

FL

State

33165

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

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THE FLORIDA SENATE
APPEARANCE RECORD

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

02-19-2020

Meeting Date

1416

Bill Number (if applicable)

Topic ASSAULTS ON SPECIFIED PERSONS

Amendment Barcode (if applicable)

Name RON RICE

Job Title ACCOUNTS COORDINATOR

Address 7813 WICKLOW ST
Street

Phone _____

NEW PORT RICHEY
City

FL
State

34653
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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2-19-2020

Meeting Date

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

SB 1416

Bill Number (if applicable)

Topic Assault on Specified Persons

Amendment Barcode (if applicable)

Name Eric Gosnell

Job Title Digital Tech

Address 442 Stonehenge Cir.

Phone 321-749-5845

Street

Rockledge

City

Fl.

State

32955

Zip

Email president@cwa3101.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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2/19/20

Meeting Date

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

SB 1416

Bill Number (if applicable)

Topic Assault on Specified persons

Amendment Barcode (if applicable)

Name Lester Summerrall

Job Title Technician

Address 2925 Teakwood ST
Street

Phone 321 360 9056

Titusville FL 32780
City State Zip

Email Summerralllester@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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

2-19-20

Meeting Date

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

1416

Bill Number (if applicable)

Topic ASSULTS ON SPECIFIED PERSONS

Amendment Barcode (if applicable)

Name BRANDON COE

Job Title SERVICE TECH

Address 22811 COUNSY ROAD 137

Street

LAKE CITY

City

FL

State

32024

Zip

Phone 239-213-8786

Email COEBRAS@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

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S-001 (10/14/14)

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2-19-20

Meeting Date

1416

Bill Number (if applicable)

Topic ASSAULTS ON SPECIFIED PERSONS

Amendment Barcode (if applicable)

Name ANAI CASTILLOJob Title RETIREDAddress 9400 NW 3 StPhone 954-224-8882

Street

VERBROKE PINES FL 33024

City

State

Zip

Email ANAI62@Bellsouth.NETSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing SelfAppearing at request of Chair: ☐ Yes ☒ NoLobbyist registered with Legislature: ☐ Yes ☒ No

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2/19/20

Meeting Date

1416

Bill Number (if applicable)

Topic Assaults on Specified Persons

Amendment Barcode (if applicable)

Name Bob Lovett

Job Title

Address 4611 Fox Hunt Dr.

Street

Tampa

City

FL

State

33624

Zip

Phone 813-390-5307

Email blovett65@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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/19/2020

Meeting Date

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

SB 1416

Bill Number (if applicable)

Topic Assault on Specified Persons

Amendment Barcode (if applicable)

Name Jackie McColister

Job Title Hillsborough County School Bus Driver

Address 6400 Coral Crest Rd

Street

Lakeland Florida 33811

City

State

Zip

Phone 813 918 9559

Email clan7mac@aol.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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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2-19-20

Meeting Date

SB 1416

Bill Number (if applicable)

Topic Assault on Specified persons

Amendment Barcode (if applicable)

Name Stephanie Clark

Job Title Hillsborough County School

Address 210 Dogwood

Street

Plant City

City

FL

State

33565

Zip

Phone 727-277-9780

Email

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

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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)

2/19/20

Meeting Date

SB1416

Bill Number (if applicable)

Topic Assault on Specific Person Support

Amendment Barcode (if applicable)

Name Sherene Tolbert

Job Title Hillsborough County School Board (Router)

Address 3623 E. Shadowlawn Ave
Street

Phone 813.407.6060

Tampa

City

FL

State

33610

Zip

Email stolberta06@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

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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 Judiciary

BILL: CS/CS/SB 1484

INTRODUCER: Judiciary Committee; Infrastructure and Security Committee; and Senator Diaz

SUBJECT: Motor Vehicle Manufacturers and Dealers

DATE: February 20, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Proctor	Miller	IS	Fav/CS
2. Stallard	Cibula	JU	Fav/CS
3. _____	_____	RC	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1484 addresses a number of issues related to contractual agreements between motor vehicle manufacturers (or distributors or importers) and franchised motor vehicle dealers.

Current law prohibits a manufacturer, importer, or distributor of a given brand of vehicle from competing with its dealers of that brand *in any activity covered in their franchise agreement*. The bill also prohibits manufacturers from competing with their dealers, but does so by listing the particular activities at which they may not compete, such as the sale and service of motor vehicles.

The bill also expressly prohibits a manufacturer that has sold a brand of vehicle through a franchised dealer from selling that brand of vehicle in any other way, regardless of whether the manufacturer “rebadges” the vehicle. However, the manufacturer may sell a rebadged vehicle in some other way if it first offers the existing dealer the opportunity.

Finally, the bill creates new legislative findings. Particularly, the bill provides that the Legislature finds that the marketing and servicing of motor vehicles in this state vitally affects the economy and welfare of this state’s residents. Additional findings relate specifically to ways that a well-regulated franchise system benefits the public interest, including by maintaining fair competition, employing tens of thousands of Floridians, and providing minorities with opportunities as motor vehicle dealers.

II. Present Situation:

Florida has substantially regulated motor vehicle manufacturers and motor vehicle dealers since before 1950.¹ Initially, the Florida Legislature approached the issue by implementing only consumer protections aimed at preventing consumer abuse by dealers.² In 1970, the Legislature passed more comprehensive legislation, embodied in ch. 320, F.S.,³ which regulates, in part, the contractual relationship between manufacturers and franchised dealers,⁴ requires the licensing of manufacturers, and regulates numerous aspects of the contracts between the manufacturers and dealers.

The current statement of intent in s. 320.605, F.S., states it is the Legislature's intent to protect the public health, safety, and welfare of the citizens of the state by regulating the licensing of motor vehicle dealers and manufacturers, maintaining competition, providing consumer protection and fair trade and providing minorities with opportunities for full participation as motor vehicle dealers.

Florida Automobile Dealers Act

A licensee is a manufacturer, factory branch, distributor, or importer, and must be licensed under s. 320.61(1), F.S., to engage in business in Florida. Sections 320.60-320.70, F.S., the "Florida Automobile Dealers Act" (act), primarily regulate the contractual business relationship between franchised dealers and licensees, and provide for the licensure of manufacturers, factory branches, distributors, or importers.⁵ The act specifies, in part:

- The conditions and situations under which the Department of Highway Safety and Motor Vehicles (DHSMV) may deny, suspend, or revoke a regulated license;
- The process, timing, and notice requirements for licensees who wish to discontinue, cancel, modify, or otherwise replace a franchise agreement with a dealer, and the conditions under which the DHSMV may deny such a request;
- The procedures a licensee must follow to add a franchised dealership in an area already served by a franchised dealer, the protest process, and the DHSMV's role in these circumstances;
- The damages that can be assessed against a licensee who is in violation of Florida Statutes; and
- The DHSMV's authority to adopt rules to implement these sections of law.

The act applies to all presently existing or future systems of distribution of motor vehicles in Florida, except to the extent that such application would impair valid contractual agreements in violation of the State Constitution or Federal Constitution. Generally, all agreements that are

¹ Chapter 9157, Laws of Fla. (1923); Chapter 20236, Laws of Fla. (1941).

² Walter E. Forehand and John W. Forehand, *Motor Vehicle Dealer and Motor Vehicle Manufacturers: Florida Reacts to Pressures in the Marketplace*, 29 Fla. St. Univ. Law Rev. 1058, 1064 (2002), <https://ir.law.fsu.edu/cgi/viewcontent.cgi?referer=&httpsredir=1&article=1632&context=lr> (last visited February 6, 2020).

³ See ch. 70-424, Laws of Fla.

⁴ See s. 320.60(11), F.S.

⁵ Walter E. Forehand, *supra* FN 3 at 1065.

renewed, amended, or entered into subsequent to October 1, 1988, are governed by the act, including amendments to the act, unless the amendment specifically provides otherwise.⁶

In 2009, the DHSMV held in an administrative proceeding that amendments to the act do not apply to dealers whose franchise agreements were signed prior to the effective date of various amendments to the act.⁷ The DHSMV has indicated that it will apply this holding to every amendment to the act. This may result in different protections accruing to dealers, depending on when they signed their franchise agreements.

Grounds for Denial, Suspension, or Revocation of a License

An application for a manufacturer license may be denied, or a license may be revoked or suspended, on various grounds. Denials, suspensions, or revocations of manufacturer licenses can be based on consumer protection; however, the grounds for acting against licensees arise principally out of their dealings with motor vehicle franchised dealers with whom the licensees have a contractual relationship allowing the dealer to sell and service the licensee's new motor vehicles.^{8,9}

Currently there are 42 different criteria that may cause DHSMV to deny, suspend, or revoke the licensee's license. The criteria cross many topics, including: contractual obligations; coercion or threats; discontinuation, canceling, nonrenewing, modifying, or replacing franchise agreements; requiring changes to a dealer's sales or service facility; reducing the supply of new vehicles or parts to a franchised dealer; audits; disclosure of confidential financial information; failure to pay the dealer; and denying a warranty repair claim.¹⁰

Specifically, 320.64(23), F.S., provides that a licensee is prohibited from competing (with respect to any activity covered by the franchise agreement) with a franchised motor vehicle dealer of the same line-make located in this state with whom the licensee has entered into a franchise agreement.

"Line-make vehicles" are motor vehicles offered for sale, lease, or distribution under a common name, trademark, service mark, or brand name of the manufacturer (such as Ford, General Motors, or Honda). However, motor vehicles sold or leased under multiple brand names or marks must constitute a single line-make when they are included in a single franchise agreement and every motor vehicle dealer in this state authorized to sell or lease any such vehicles has been offered the right to sell or lease all of the multiple brand names or marks covered by the single franchise agreement.¹¹

⁶ Section 320.6992, F.S.

⁷ See *Motorsports of Delray, LLC v. Yamaha Motor Corp., U.S.A.*, Case No. 09-0935 (Fla. DOAH Dec. 9, 2009). The DHSMV ruled that a 2006 amendment to the Florida Automobile Dealers Act does not apply to a dealer terminated in 2008 because the dealer's franchise agreement was entered into prior to the effective date of the amendment. This Final Order was initially appealed but was later voluntarily dismissed. See also, *In re Am. Suzuki Motor Corp.*, 494 B.R. 466, 480 (Bankr. C.D. Cal. 2013).

⁸ Section 320.64, F.S.

⁹ See s. 320.60(1) (defining "agreement" or "franchise agreement").

¹⁰ *Supra*, note 9.

¹¹ Section 320.60(14), F.S.

Procedure for Administrative Hearings and Adjudications

A franchised dealer who is directly and adversely affected by the action or conduct of a licensee which is alleged to be in violation of the act, may seek a declaration and adjudication of its rights by either filing a request with DHSMV for a proceeding and administrative hearing, or filing a written objection or notice of protest with DHSMV.¹²

Hearings are held no sooner than 180 days nor later than 240 days from the date a written objection or notice of protest is filed, unless extended with good cause by the administrative law judge.¹³

Civil Damages

A motor vehicle franchised dealer who can demonstrate that a violation of, or failure to comply with, any of the provisions of the act by an applicant or licensee will or can adversely and pecuniarily affect the dealer, is entitled to pursue treble damages and attorney's fees in civil court.¹⁴ The licensee has the burden to prove that such violation did not occur upon a prima facie showing by the person bringing the action.¹⁵ In addition, a motor vehicle franchised dealer may make an application to any circuit court of the state for a temporary or permanent injunction, or both, restraining any licensee from violating or continuing to violate any of the provisions of ss. 320.60-320.70, F.S., or from failing or refusing to comply with these statutory requirements.¹⁶

III. Effect of Proposed Changes:

The bill addresses a number of issues related to contractual agreements between motor vehicle manufacturers (or distributors or importers) and franchised motor vehicle dealers.

Current law prohibits a manufacturer, importer, or distributor of a given brand of vehicle from competing with its dealers of that brand *in any activity covered in their franchise agreement*. The bill also prohibits manufacturers from competing with their dealers, but does so by listing the particular activities at which they may not compete, such as the sale and service of motor vehicles.

The bill also expressly prohibits a manufacturer that has sold a brand of vehicle through a franchised dealer from selling that brand of vehicle in any other way, regardless of whether the manufacturer "rebadges" the vehicle. However, the manufacturer may sell a rebadged vehicle in some other way if it first offers the existing dealer the opportunity.

Additionally, the bill provides new legislative findings. Particularly, the bill provides that the Legislature finds that the marketing and servicing of motor vehicles in this state vitally affects the economy and welfare of this state's residents. Additional findings relate specifically to ways that a well-regulated franchise system benefits the public interest, including by maintaining fair

¹² Section 320.699(1), F.S.

¹³ Section 320.699(2), F.S.

¹⁴ See ss. 320.64, 320.694, and 320.697, F.S.

¹⁵ Section 320.697, F.S.

¹⁶ Section 320.695, F.S.

competition, employing tens of thousands of Floridians, and providing minorities with opportunities as motor vehicle dealers.

Finally, the bill creates a new definition for the term “line-make vehicle” which expands the current definition. The new definition includes all models and types of motor vehicles, regardless of the kind of engine, power plant, or drive train they have; their design; or their intended use or classification, which are offered for retail sale, lease, license, subscription, or any other method of distribution under a common name, trademark, service mark, or brand name of the manufacturer.

The bill has an effective date of July 1, 2020.

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:

The bill appears to apply only prospectively.¹⁷ Accordingly, it would apply only to contracts entered into after the bill’s effective date.¹⁸ Thus, the bill does not appear to impair existing contracts in violation of the contracts clauses of the Florida Constitution or the United States Constitution.¹⁹

¹⁷ See, e.g., *Yamaha Parts Distributors Inc. v. Ehrman*, 316 So. 2d 557, 559 (“Florida legislation is presumed to operate prospectively unless there exists a showing on the face of the law that retroactive application is intended.”); *Young v. Altenhaus*, 472 So. 2d 1152, 1153 (Fla. 1985) (stating that “in the absence of an explicit legislative expression to the contrary, a substantive law is to be construed as having prospective effect only.”); *Fla. Ins. Guar. Ass’n., Inc. v. Devon Neighborhood Ass’n., Inc.* 67 So. 3d 187, 196 (Fla. 2011) (stating that the inclusion of effective date generally rebuts intent for retroactive application of law).

¹⁸ See, e.g., *Yamaha Parts Distributors Inc. v. Ehrman*, 316 So. 2d 557, 559 (stating that a law affecting contracts which applies prospectively does not apply to contracts entered before the law’s effective date); *State Farm Mut. Auto. Ins. Co. v. Hassen*, 650 So. 2d 128, 134 (Fla. 2d DCA 1995) (inferring that prospective application of a law affecting contracts means applying it only to contracts arising after the law’s effective date).

¹⁹ See FLA. CONST. art. I s. 10; U.S. CONST. art. I s. 10.

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

None.

B. Private Sector Impact:

The bill may give motor vehicle dealers more opportunities to sell rebranded motor vehicles and parts and services. Conversely, the bill may limit the ability of manufacturers to sell motor vehicles and parts and services through new methods.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

The bill substantially amends the following sections of the Florida Statutes: 320.60, 320.605, and 320.64.

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 Judiciary on February 19, 2020:

The committee substitute revises the legislative findings set forth in the bill.

CS by Infrastructure and Security on February 10, 2020:

The committee substitute provides that a licensee is prohibited from attempting to compete with a franchised motor vehicle dealer, unless they are temporarily operating a dealership as allowed under current law. Additionally, the amendment provides that nothing prevents a common entity of an applicant or licensee from selling replacement parts, accessories, or after-market products under the common entity's brand name.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Diaz) recommended the following:

Senate Amendment

Delete lines 49 - 67
and insert:
and declares that the marketing and servicing of motor vehicles
in this state vitally affects the general economy and the public
health, safety, and welfare of its residents. The Legislature
further finds and declares that a well-regulated motor vehicle
franchise system in this state maintains fair competition;
provides consumers with an organized and localized sales and
service dealership network; provides tens of thousands of jobs



846192

12 for the residents of this state; protects consumers; provides
13 consumers with quality warranty, repair, and recall facilities;
14 allows the state to further, through licensing and regulation,
15 the public's interest in maintaining fair and harmonious
16 relations between motor vehicle manufacturers, importers,
17 distributors, and dealers; and provides

By the Committee on Infrastructure and Security; and Senator Diaz

596-03419-20

20201484c1

A bill to be entitled

An act relating to motor vehicle manufacturers and dealers; amending s. 320.60, F.S.; redefining the term "line-make vehicle"; amending s. 320.605, F.S.; replacing legislative intent with legislative findings; amending s. 320.64, F.S.; revising a prohibition against certain applicants and licensees competing with franchised motor vehicle dealers in this state; defining the term "sale"; providing an effective date.

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

Section 1. Subsection (14) of section 320.60, Florida Statutes, is amended to read:

320.60 Definitions for ss. 320.61-320.70.—Whenever used in ss. 320.61-320.70, unless the context otherwise requires, the following words and terms have the following meanings:

(14) "Line-make vehicle" includes all models and types of motor vehicles, regardless of the kind of engine, power plant, or drive train they have; their design; or their intended use or classification, which are offered for retail sale, lease, license, subscription, or any other method of distribution under a common name, trademark, service mark, or brand name of the manufacturer of such vehicle. A line-make model or type that has been the subject of a franchise with a motor vehicle dealer in this state may not be sold or otherwise distributed or marketed in any way by an applicant or licensee other than through its franchised motor vehicle dealer, and, thereafter, may not be

596-03419-20

20201484c1

30 rebadged or otherwise marketed as a new line-make unless the
31 manufacturer, importer, or distributor of such new line-make
32 offers a franchise of that new line-make to every motor vehicle
33 dealer that was franchised to sell that model or type before
34 rebadging vehicles" ~~are those motor vehicles which are offered~~
35 ~~for sale, lease, or distribution under a common name, trademark,~~
36 ~~service mark, or brand name of the manufacturer of same.~~

37 However, motor vehicles sold or leased under multiple brand
38 names or marks shall constitute a single line-make when they are
39 included in a single franchise agreement and every motor vehicle
40 dealer in this state authorized to sell or lease any such
41 vehicles has been offered the right to sell or lease all of the
42 multiple brand names or marks covered by the single franchise
43 agreement. However ~~Except~~, such multiple brand names or marks
44 are ~~shall be~~ considered individual franchises for purposes of s.
45 320.64(36).

46 Section 2. Section 320.605, Florida Statutes, is amended to
47 read:

48 320.605 Legislative findings intent.~~-The Legislature finds~~
49 and declares that the distribution, marketing, sale, leasing,
50 rental, or otherwise providing title, use, or possession to
51 consumers and other entities of motor vehicles, replacement
52 parts, accessories, and the servicing and repair thereof in this
53 state vitally affects the general economy of the state and the
54 public safety and welfare of its residents. The Legislature
55 further finds that the motor vehicle franchise system in this
56 state operates within a defined and highly regulated statutory
57 scheme; assures consumers of a well-organized distribution
58 system that supports the availability of new motor vehicles;

596-03419-20

20201484c1

59 provides tens of thousands of jobs for the residents of this
60 state; provides a network of quality warranty, repair, and
61 recall facilities; and provides a cost-effective method for the
62 state to police the system through licensing and regulation of
63 the interactions between private sector franchisors and
64 franchisees, and that such regulation is necessary to promote
65 fair and harmonious relations between motor vehicle
66 manufacturers, importers, distributors, and their dealers; to
67 protect fair competition; to protect consumers; and to provide
68 minorities with opportunities for participation as motor vehicle
69 dealers ~~It is the intent of the Legislature to protect the~~
70 ~~public health, safety, and welfare of the citizens of the state~~
71 ~~by regulating the licensing of motor vehicle dealers and~~
72 ~~manufacturers, maintaining competition, providing consumer~~
73 ~~protection and fair trade and providing minorities with~~
74 ~~opportunities for full participation as motor vehicle dealers.~~

75 Section 3. Subsection (23) of section 320.64, Florida
76 Statutes, is amended to read:

77 320.64 Denial, suspension, or revocation of license;
78 grounds.—A license of a licensee under s. 320.61 may be denied,
79 suspended, or revoked within the entire state or at any specific
80 location or locations within the state at which the applicant or
81 licensee engages or proposes to engage in business, upon proof
82 that the section was violated with sufficient frequency to
83 establish a pattern of wrongdoing, and a licensee or applicant
84 shall be liable for claims and remedies provided in ss. 320.695
85 and 320.697 for any violation of any of the following
86 provisions. A licensee is prohibited from committing the
87 following acts:

596-03419-20

20201484c1

(23) The applicant or licensee has competed, ~~or~~ is
competing, or has attempted to compete with one of its
franchised motor vehicle dealers in the sale or service of
vehicles; in the sale of replacement parts, accessories, or
after-market products; in collision repair; or in any other
motor vehicle dealer activity related to the line-make for which
the motor vehicle dealer in this state is a party to a franchise
agreement with the applicant or licensee, except as permitted in
s. 320.645. As used in this subsection, the term "sale" includes
the sale, leasing, rental, licensing, subscription, or any other
transfer to a retail consumer, a wholesaler, or a broker of
title, possession, or use of a motor vehicle, replacement parts,
or accessories that are the subject of, or covered in the
franchise agreement with, the motor vehicle dealer. Nothing
contained in the foregoing shall prevent a common entity of an
applicant or licensee from selling replacement parts,
accessories, or after-market products under the common entity's
brand name ~~with respect to any activity covered by the franchise~~
~~agreement with a motor vehicle dealer of the same line-make~~
~~located in this state with whom the applicant or licensee has~~
~~entered into a franchise agreement, except as permitted in s.~~
~~320.645.~~

A motor vehicle dealer who can demonstrate that a violation of,
or failure to comply with, any of the preceding provisions by an
applicant or licensee will or may adversely and pecuniarily
affect the complaining dealer, shall be entitled to pursue all
of the remedies, procedures, and rights of recovery available
under ss. 320.695 and 320.697.

596-03419-20

20201484c1

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Section 4. This act shall take effect July 1, 2020.

COMMITTEE: Judiciary
ITEM: CS/SB 1484
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S01484

GENERAL BILL/CS by IS, Diaz; (Similar CS/H 01383)

Motor Vehicle Manufacturers and Dealers. EFFECTIVE DATE: 07/01/2020.

02/19/20 S CS/CS by Judiciary; YEAS 3 NAYS 2

02/20/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute)

02/21/20 S Now in Rules



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: February 15, 2020

I respectfully request that **Senate Bill # 1484**, relating to Motor Vehicle Manufacturers and Dealers, be placed on the:

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

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

Senator Manny Diaz, Jr.
Florida Senate, District 36

THE FLORIDA SENATE
APPEARANCE RECORD

2/19/2020

Meeting Date

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

1484

Bill Number (if applicable)

Topic Motor Vehicle Manufacturers and Dealers

Amendment Barcode (if applicable)

Name Leslie Dughi

Job Title Director

Address 101 East College Ave

Phone 850-222-6891

Street

Tallahassee

FL

32301

Email dughil@gtlaw.com

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing LKQ 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

2/19/20

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

1484

Meeting Date

Bill Number (if applicable)

Topic Motor Vehicle Manufacturers and Dealers

Amendment Barcode (if applicable)

Name Brewster Bevis

Job Title Senior Vice President

Address 516 N Adams St

Phone 224-7173

Street

Tallahassee

FL

32301

Email bbevis@aif.com

City

State

Zip

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)

2/19/2020
Meeting Date

SB 1484
Bill Number (if applicable)

Topic MOTOR VEHICLE DEALERS + MANUFACTURERS

Amendment Barcode (if applicable)

Name DAVID LEIBOWITZ

Job Title SECRETARY + GENERAL COUNSEL

Address 2060 BISCAYNE BLVD.

Phone 305-576-1889

Street

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 BRAMAN AUTOMOTIVE GROUP

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

2/19/2020

Meeting Date

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

SB 1484

Bill Number (if applicable)

Topic Donor Finance

Amendment Barcode (if applicable)

Name JEFF PERRY

Job Title DIRECTOR, PUBLIC POLICY

Address 300 RENAISSANCE CENTER
Street

Phone 313 667 0946

DETROIT

City

MI

State

48265

Zip

Email JEFFREY.PERRY@GM.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing GENERAL MOTORS

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)

2/19
Meeting Date

1484
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Clark Smith

Job Title _____

Address 123 S. Adams

Phone 850-251-3218

Tallahassee FL 32312
City State Zip

Email CSmith@505state.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)

2/19/20
Meeting Date

1484
Bill Number (if applicable)

Topic MOTOR VEHICLE DEALER & MANUFACTURERS

Amendment Barcode (if applicable)

Name KELLY HORTON

Job Title _____

Address 420 E Jefferson St
Street
Tallahassee FL 32399
City State Zip

Phone 850 251 8400

Email kelly@heffleyassociates.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing VOLKSWAGEN GROUP OF 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

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

FEB 19, 2020
Meeting Date

Q/SB 1484
Bill Number (if applicable)

Topic Motor Vehicle Franchise

Amendment Barcode (if applicable)

Name Diaké Carr

Job Title W/ JOHNSON & BLANTON, LLC

Address 534 E PARK AVE
Street

Phone (850) 210-4024

TALL, FL
City State Zip

Email diak@teamjbl.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing ALLIANCE FOR AUTOMOTIVE INNOVATION

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)

2/19/20

Meeting Date

SB 1484

Bill Number (if applicable)

Topic Auto Franchise

Amendment Barcode (if applicable)

Name Ron Book

Job Title _____

Address 104 W. Jefferson

Phone _____

Street

TLH

City

State

32301

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Auto NATION

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 Judiciary

BILL: CS/CS/SB 1372

INTRODUCER: Judiciary Committee; Ethics and Elections Committee; and Senator Brandes

SUBJECT: Elections

DATE: February 20, 2020

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. <u>Mitchell</u>	<u>Roberts</u>	<u>EE</u>	Fav/CS
2. <u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3. _____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 1372 makes election administration changes that the Florida State Supervisors of Elections Association (FSE) recommends for the 2020 general election cycle. The bill:

- Removes a prohibition against using the address on a voter's identification presented at the polls as the basis for confirming an elector's legal residence.
- Authorizes the testing of vote-tabulating equipment as early as 25 days before early voting begins, rather than 10 days before early voting begins as under current law.
- Eliminates the duplication and substitution of vote-by-mail ballots that contain overvotes, which occurs when a voter makes too many selection in a given race.
- Authorizes the initial mail-out date for domestic ballots in an all-mail, local referendum election to conform with domestic vote-by-mail ballots in other elections.
- Allows a qualifying office with the Department of State or supervisors of elections to accept and hold qualifying papers submitted by a state or county political party executive committee person candidate 14 days before the beginning of the qualifying period.
- Requires a poll watcher to be a qualified and registered elector of the state, broadening the current requirement to be a qualified and registered elector of the county.
- Prohibits for-pay distribution or collection of vote-by-mail ballots, subject to exceptions such as the delivery of the ballot of an immediate family member or other ballot-handling that is expressly authorized in statutory vote-by-mail procedures. The bill also authorizes a warrantless arrest for a violation of this provision.
- Preempts local governmental entities from enacting or adopting any limitation or restriction involving contributions to a political committee or electioneering communications

organization or expenditures for an electioneering communication or an independent expenditure.

II. Present Situation:

“Technical” Election Administration Component of the FSE’s 2020 Legislative Package¹

Voter ID at the Polls

Section 101.043, F.S., governs voter intake at the polls on Election Day and during early voting, including such items as voter identification, signing-in the voter, signature verification, address verification, confirming the voter’s precinct, issuance of the proper ballot, etc.

The FSE’s 2020 legislative package identifies a conflict between the following two paragraphs of subsection (1) of that section.²

(b) If the (voter’s) picture identification does not contain the signature of the elector,³ an additional identification that provides the elector’s signature shall be required. The address appearing on the identification presented by the elector may not be used as the basis to confirm an elector’s legal residence or otherwise challenge an elector’s legal residence. ...

(c) When an elector presents his or her picture identification to the clerk or inspector and the elector’s address on the picture identification matches the elector’s address in the supervisor’s records, the elector may not be asked to provide additional information or to recite his or her home address.

The FSE proposes eliminating the underlined language above from paragraph (b).⁴

Logic & Accuracy Testing; Voting Tabulators

Each county election supervisor publicly tests the voting tabulating equipment for proper operation within 10 days before the start of early voting in the county.⁵ Since each supervisor has the discretion to begin early voting from the 10th to the 15th day before the election,⁶ supervisors must conduct logic and accuracy testing sometime between the 20th and 25th days before an election.

In 2019, the Legislature’s major election administration reform act moved up by one week the earliest starting date to canvass vote-by-mail ballots from the 15th to the 22nd day before the start

¹ FSE, *2020 Legislative Priorities and Issues* (on file with the Senate Committee on Ethics and Elections) [hereinafter, *FSE 2020 Legislative Package*]. Note that the change conforming the initial mail-out date for ballots in all-vote-by-mail-ballot elections is not specifically mentioned in the FSE’s written package.

² Section 101.043(1)(b) and (c), F.S.

³ The statute enumerates 12 acceptable types of voter IDs with pictures, some of which may not contain a voter’s signature. Section 101.043(1)(a), F.S.

⁴ *FSE 2020 Legislative Package*, *supra* note 1.

⁵ Section 101.5612 (1) and (2), F.S.

⁶ Section 101.657(1)(d), F.S.

of an election.⁷ The act's oversight in not conforming the overlapping logic and accuracy testing dates, however, means that supervisors who don't start early voting until the 10th, 11th, or 12th day before an election will have to delay starting their vote-by-mail canvass by a couple of days in order to complete logic and accuracy testing.

The FSE's 2020 Legislative Package recommends moving the date for the start of vote-by-mail canvassing to 25 days before the election.⁸

Defective Ballot Duplication

Current law requires poll workers to duplicate two types of defective ballots in the presence of witnesses and to substitute the duplicate ballot for the original:⁹

- Physically damaged ballots that cannot be properly counted by the tabulators; and
- Overvoted and completely undervoted ballots, including all valid votes as determined by the canvassing board based on rules adopted by the Division of Elections.

The FSE's position is that, "(T)his duplication (of overvoted ballots) is very time consuming and completely wasteful."¹⁰

All-Mail-Ballot, Local Issue Elections

While not well-known or often implemented, Florida law does authorize the conduct of local referendum elections through an all-mail-ballot process (the "Mail Ballot Election Act").¹¹ Domestic all-mail ballots may not be sent to voters before the 20th day before the election.¹²

In 2019, the Legislature adopted a major election administration reform act that moved up the authorization date to begin mailing domestic vote-by-mail ballots in candidate elections, from 35 to 40 days before the election.¹³ No corresponding change, however, was made to the initial ballot mailing date for all-mail-ballot elections.

Political Party Committeeperson Qualifying Dates

Candidates for major political party executive committeepersons may qualify at the same time as most state and local partisan candidates, from noon on the 71st day before the primary election through noon on the 67th day before the primary election.¹⁴ The FSE asserts that this qualifying period is "a very busy week for every SOE (supervisor of elections)."¹⁵

⁷ Section 101.68(2)(a), F.S.

⁸ *FSE 2020 Legislative Package*, *supra* note 1.

⁹ Section 101.5614(4)(a), F.S.

¹⁰ *FSE 2020 Legislative Package*, *supra* note 1.

¹¹ See generally §§ 101.6101-101.6107, F.S.

¹² Section 101.6103(1), F.S.

¹³ Section 101.62(4)(b), F.S.

¹⁴ Section 103.091(4), F.S.; *see s. 99.061(3)*, F.S.

¹⁵ *FSE 2020 Legislative Package*, *supra* note 1.

Other Aspects of Florida's Election Law

Poll Watchers

Section 101.131, F.S., sets forth election day requirements for watchers at polls, including:

- Limitations on the number of watchers per political party, candidate, or political committee;
- Delineations of polling place areas accessible to poll watchers; and
- Necessity for poll watchers to register with supervisors of election.

Current law requires each poll worker to be a qualified and registered elector of the county in which he or she serves.¹⁶

Preemption of Local Government Enactments or Adoptions

Limitations on contributions in elections are governed by s. 106.08, F.S. There are no current statutory preemptions of local governmental entities regarding the adoption by local governments of limitations on contributions to political committees or electioneering communications organizations or on expenditures by those entities.

On November 9, 2017, the St. Petersburg City Council adopted Ordinance No. 306-H, which became effective January 1, 2018. The ordinance amended the St. Petersburg City Code to:

- Impose limits on contributions related to municipal elections from super PACs and foreign-influenced entities; and
- Require increased disclosure of independent expenditures, expenditures for electioneering communications, and other campaign finance matters related to municipal elections.¹⁷

Constitutional Law Relating to Warrantless Arrests

Under the Fourth Amendment to the United States Constitution, a person has the right to be free from an unreasonable search or seizure, including an unreasonable arrest.¹⁸ To be “reasonable,” an arrest in a public place must be based on probable cause, though no arrest warrant is required.¹⁹ To make an arrest in a home, an officer generally also needs an arrest warrant.

However, the courts have recognized a number of exceptions to this warrant requirement, such as “exigent circumstances” or when the officer has consent to enter the home.²⁰

¹⁶ Section 101.131(1), F.S.

¹⁷ Ordinance No. 306-H, St. Petersburg City Code (2018).

¹⁸ U.S. CONST. amend. IV.

¹⁹ *State v. Ramos*, 378 So. 2d 1294 (Fla. 3d DCA 1979).

²⁰ See e.g., *U.S. v. Standridge*, 810 F.2d 1034 (11 Cir. 1987) (citing *Payton v. New York*, 445 U.S. 573 (1980)). The court set forth the factors that indicate exigent circumstances:

(1) the gravity or violent nature of the offense with which the suspect is to be charged; (2) a reasonable belief that the suspect is armed; (3) probable cause to believe that the suspect committed the crime; (4) strong reason to believe that the suspect is in the premises being entered; (5) a likelihood that delay could cause the escape of the suspect or the destruction of essential evidence, or jeopardize the safety of officers or the public.

Id. at 1037 (citing *Dorman v. United States*, 435 F.2d 385, 392–93 (D.C.Cir.1970) (en banc); *United States v. Campbell*, 581 F.2d 22, 25–27 (2d Cir.1978); *United States v. Newbern*, 731 F.2d 744, 748–49 (11th Cir.1984); *United States v. Roper*, 681 F.2d 1354, 1357 n. 1 (11th Cir.1982) (dictum), *cert. denied sub nom. Newton v. United States*, 459 U.S. 1207, 103 S.Ct. 1197, 75 L.Ed.2d 440 (1983)).

Section 901.15, F.S., is not an exception and does not supersede the constitutional requirements for a lawful arrest.²¹ Accordingly, courts have held the statute unconstitutional *as applied* in situations in which s. 901.15, F.S., was proffered as a basis for a warrantless arrest in a home.²²

III. Effect of Proposed Changes:

The bill makes election administration changes that the Florida State Supervisors of Elections Association (FSE) recommends for the 2020 general election cycle. The bill:

- Removes a prohibition against using the address on a voter's identification presented at the polls as the basis for confirming an elector's legal residence.
- Authorizes the testing of vote-tabulating equipment as early as 25 days before early voting begins, rather than 10 days before early voting begins as under current law.
- Eliminates the duplication and substitution of vote-by-mail ballots that contain overvotes, which occurs when a voter makes too many selection in a given race.
- Authorizes the initial mail-out date for domestic ballots in an all-mail, local referendum election to conform with domestic vote-by-mail ballots in other elections.
- Allows a qualifying office with the Department of State or supervisors of elections to accept and hold qualifying papers submitted by a state or county political party executive committee person candidate 14 days before the beginning of the qualifying period.
- Requires a poll watcher to be a qualified and registered elector of the state, broadening the current requirement to be a qualified and registered elector of the county.
- Prohibits for-pay distribution or collection of vote-by-mail ballots, subject to exceptions such as the delivery of the ballot of an immediate family member or other ballot-handling that is expressly authorized in statutory vote-by-mail procedures. The bill also authorizes a warrantless arrest for a violation of this provision.
- Preempts local governmental entities from enacting or adopting any limitation or restriction involving contributions to a political committee or electioneering communications organization or expenditures for an electioneering communication or an independent expenditure

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None. Laws that affect state or local elections are exempt from Article VII, section 18 of the Florida Constitution.

B. Public Records/Open Meetings Issues:

None.

²¹ See e.g., *Bratt v. Genovese*, 660 Fed Appx. 837 (11th Cir. 2016).

²² See e.g., *State v. Perez*, 277 So. 2d 778 (Fla. 1973).

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:

This bill could result in greater participation and contributions from individuals and political committees in local government elections.

C. Government Sector Impact:

Supervisors of elections may realize some cost savings with respect to mailing vote-by-mail ballots in all-mail-ballot, local referenda elections at the same time as partisan candidates. Such savings are expected to be minimal, and will not impact state revenues since such elections are paid for by the local counties and any savings will accrue thereto.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following sections of the Florida Statutes: 101.043, 101.131, 101.5612, 101.5614, 101.6103, 103.091, 104.0616, 106.08, and 901.15.

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 Judiciary on February 19, 2020:

The committee substitute prohibits for-pay distribution or collection of vote-by-mail ballots, subject to exceptions such as the delivery of the ballot of an immediate family member or other ballot-handling that is expressly authorized in statutory vote-by-mail procedures. Additionally, the committee substitute authorizes a warrantless arrest for a violation of this provision. Finally, the committee substitute expands the bill's provisions that prohibit local regulations on political contributions.

CS by Ethics and Elections on February 3, 2020:

The Committee Substitute:

- Instead of removing a prohibition against using the address on a voter's identification presented at the polls as the basis for both confirming and challenging an elector's legal residence as contained in the underlying bill, the CS just removes the prohibition against using the address to confirm an elector's legal residence.
- Requires a poll watcher to be a qualified and registered elector of the state, broadening the current statutory language which requires a poll watcher to be a qualified and registered elector of the county in which he or she serves.
- Allows a qualifying office with the Department of State or supervisors of elections to accept and hold qualifying papers submitted by a state or county political party executive committee person candidate as much as 14 days before the beginning of the qualifying period, to be processed and filed during the qualifying period, instead of language in the underlying bill which would have allowed candidates to qualify to run for office any time before the current deadline of noon on the 67th day preceding the primary election.
- Preempts local governmental entities from enacting or adopting any limitation or restriction involving contributions to a political committee or electioneering communications organization or expenditures for an electioneering communication or an independent expenditure.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Brandes) recommended the following:

Senate Amendment (with title amendment)

Delete lines 176 - 185
and insert:

Section 7. Section 104.0616, Florida Statutes, is amended
to read:

104.0616 Vote-by-mail ballots and voting; violations.—

(1) For purposes of this section, the term "immediate
family" means a person's spouse or the parent, child,
grandparent, or sibling of the person or the person's spouse.

(2) Any person who provides or offers to provide, and any



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person who accepts, a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing any ~~more than two~~ vote-by-mail ballots, except ~~per election in addition to~~ his or her own ballot, ~~or~~ a ballot belonging to an immediate family member, or ~~except~~ as provided in ss. 101.6105-101.694, commits a misdemeanor of the first degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084.

Section 8. Subsection (17) is added to section 901.15, Florida Statutes, to read:

901.15 When arrest by officer without warrant is lawful.—A law enforcement officer may arrest a person without a warrant when:

(17) There is probable cause to believe that a person has committed a violation involving a vote-by-mail ballot as provided in s. 104.0616.

Section 9. Subsection (11) is added to section 106.08, Florida Statutes, to read:

106.08 Contributions; limitations on; preemption.—

(11) (a) A county, a municipality, or any other local governmental entity is expressly preempted from enacting or adopting:

1. Contribution limits that differ from the limitations established in subsection (1);

2. Any limitation or restriction involving contributions to a political committee or an electioneering communications organization; or

3. Any limitation or restriction on expenditures for an electioneering communication or an independent expenditure.



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(b) Any existing or future limitation or restriction enacted or adopted by a county, a municipality, or any other local governmental entity which is in conflict with this subsection is void.

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

And the title is amended as follows:

Delete lines 21 - 24

and insert:

104.0616, F.S.; prohibiting a person from providing, offering to provide, or accepting a pecuniary or other benefit in exchange for distributing, ordering, requesting, collecting, delivering, or otherwise physically possessing any vote-by-mail ballot; providing exceptions; providing a penalty; amending s. 901.15, F.S.; authorizing a law enforcement officer to arrest a person without a warrant when probable cause exists that the person committed a specified violation involving a vote-by-mail ballot; amending s. 106.08, F.S.; preempting counties, municipalities, and other local governmental entities from enacting or adopting any limitation or restriction involving certain contributions and expenditures, or establishing contribution limits different than those established in the Florida Election Code; providing applicability; providing an

By the Committee on Ethics and Elections; and Senator Brandes

582-03042-20

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A bill to be entitled

An act relating to elections; amending s. 101.043, F.S.; deleting a provision that prohibits the use of an address appearing on identification presented by an elector at the polls as a basis to confirm an elector's legal residence; amending s. 101.131, F.S.; revising requirements for eligibility to serve as a poll watcher; amending s. 101.5612, F.S.; revising the timeframes for conducting public preelection testing of automatic tabulating equipment; amending s. 101.5614, F.S.; removing the requirement that duplicate ballots be made of vote-by-mail ballots containing overvoted races; amending s. 101.6103, F.S.; revising the timeframe in which the supervisor of elections must mail ballots in elections conducted under the Mail Ballot Election Act; amending s. 103.091, F.S.; authorizing a qualifying office to accept and hold qualifying papers for candidates for political party executive committees before the beginning of the qualifying period; amending s. 106.08, F.S.; preempting counties, municipalities, and other local governmental entities from enacting or adopting any limitation or restriction involving certain contributions and expenditures; providing an effective date.

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

Section 1. Paragraph (b) of subsection (1) of section

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101.043, Florida Statutes, is amended to read:

101.043 Identification required at polls.—

(1)

(b) If the picture identification does not contain the signature of the elector, an additional identification that provides the elector's signature shall be required. The address appearing on the identification presented by the elector may not be used as the basis to ~~confirm an elector's legal residence or otherwise~~ challenge an elector's legal residence. The elector shall sign his or her name in the space provided on the precinct register or on an electronic device provided for recording the elector's signature. The clerk or inspector shall compare the signature with that on the identification provided by the elector and enter his or her initials in the space provided on the precinct register or on an electronic device provided for that purpose and allow the elector to vote if the clerk or inspector is satisfied as to the identity of the elector.

Section 2. Subsection (1) of section 101.131, Florida Statutes, is amended to read:

101.131 Watchers at polls.—

(1) Each political party and each candidate may have one watcher in each polling room or early voting area at any one time during the election. A political committee formed for the specific purpose of expressly advocating the passage or defeat of an issue on the ballot may have one watcher for each polling room or early voting area at any one time during the election. A ~~No~~ watcher may not ~~shall be permitted to~~ come closer to the officials' table or the voting booths than is reasonably necessary to properly perform his or her functions, but is each

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59 ~~shall be~~ allowed within the polling room or early voting area to
60 watch and observe the conduct of electors and officials. The
61 poll watchers shall furnish their own materials and necessities
62 and may ~~shall~~ not obstruct the orderly conduct of any election.
63 The poll watchers shall pose any questions regarding polling
64 place procedures directly to the clerk for resolution. They may
65 not interact with voters. Each poll watcher must ~~shall~~ be a
66 qualified and registered elector of this state ~~the county in~~
67 ~~which he or she serves~~.

68 Section 3. Subsection (2) of section 101.5612, Florida
69 Statutes, is amended to read:

70 101.5612 Testing of tabulating equipment.—

71 (2) On any day not more than 25 ~~10~~ days before ~~prior to~~ the
72 commencement of early voting as provided in s. 101.657, the
73 supervisor of elections shall have the automatic tabulating
74 equipment publicly tested to ascertain that the equipment will
75 correctly count the votes cast for all offices and on all
76 measures. If the ballots to be used at the polling place on
77 election day are not available at the time of the testing, the
78 supervisor may conduct an additional test not more than 10 days
79 before election day. Public notice of the time and place of the
80 test shall be given at least 48 hours prior thereto by
81 publication on the supervisor of elections' website and once in
82 one or more newspapers of general circulation in the county or,
83 if there is no newspaper of general circulation in the county,
84 by posting the notice in at least four conspicuous places in the
85 county. The supervisor or the municipal elections official may,
86 at the time of qualifying, give written notice of the time and
87 location of the public preelection test to each candidate

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88 qualifying with that office and obtain a signed receipt that the
89 notice has been given. The Department of State shall give
90 written notice to each statewide candidate at the time of
91 qualifying, or immediately at the end of qualifying, that the
92 voting equipment will be tested and advise each candidate to
93 contact the county supervisor of elections as to the time and
94 location of the public preelection test. The supervisor or the
95 municipal elections official shall, at least 30 ~~45~~ days before
96 ~~prior to~~ the commencement of early voting as provided in s.
97 101.657, send written notice by certified mail to the county
98 party chair of each political party and to all candidates for
99 other than statewide office whose names appear on the ballot in
100 the county and who did not receive written notification from the
101 supervisor or municipal elections official at the time of
102 qualifying, stating the time and location of the public
103 preelection test of the automatic tabulating equipment. The
104 canvassing board shall convene, and each member of the
105 canvassing board shall certify to the accuracy of the test. For
106 the test, the canvassing board may designate one member to
107 represent it. The test shall be open to representatives of the
108 political parties, the press, and the public. Each political
109 party may designate one person with expertise in the computer
110 field who shall be allowed in the central counting room when all
111 tests are being conducted and when the official votes are being
112 counted. The designee shall not interfere with the normal
113 operation of the canvassing board.

114 Section 4. Paragraph (a) of subsection (4) of section
115 101.5614, Florida Statutes, is amended to read:

116 101.5614 Canvass of returns.—

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117 (4) (a) If any vote-by-mail ballot is physically damaged so
118 that it cannot properly be counted by the automatic tabulating
119 equipment, a true duplicate copy shall be made of the damaged
120 ballot in the presence of witnesses and substituted for the
121 damaged ballot. ~~Likewise,~~ A duplicate ballot must also ~~shall~~ be
122 made of ~~a vote-by-mail ballot containing an overvoted race or a~~
123 marked vote-by-mail ballot in which every race is undervoted,
124 including ~~which shall include~~ all valid votes as determined by
125 the canvassing board based on rules adopted by the division
126 pursuant to s. 102.166(4). Upon request, a physically present
127 candidate, a political party official, a political committee
128 official, or an authorized designee thereof, must be allowed to
129 observe the duplication of ballots. All duplicate ballots shall
130 be clearly labeled "duplicate," bear a serial number which shall
131 be recorded on the defective ballot, and be counted in lieu of
132 the defective ballot. After a ballot has been duplicated, the
133 defective ballot shall be placed in an envelope provided for
134 that purpose, and the duplicate ballot shall be tallied with the
135 other ballots for that precinct.

136 Section 5. Subsection (1) of section 101.6103, Florida
137 Statutes, is amended to read:

138 101.6103 Mail ballot election procedure.—

139 (1) Except as otherwise provided in subsection (7), the
140 supervisor of elections shall mail all official ballots with a
141 secrecy envelope, a return mailing envelope, and instructions
142 sufficient to describe the voting process to each elector
143 entitled to vote in the election not sooner than the 40th ~~20th~~
144 day before the election and not later than the 10th day before
145 the date of the election. All such ballots shall be mailed by

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146 first-class mail. Ballots shall be addressed to each elector at
147 the address appearing in the registration records and placed in
148 an envelope which is prominently marked "Do Not Forward."

149 Section 6. Subsection (4) of section 103.091, Florida
150 Statutes, is amended to read:

151 103.091 Political parties.—

152 (4) Any political party other than a minor political party
153 may by rule provide for the membership of its state or county
154 executive committee to be elected for 4-year terms at the
155 primary election in each year a presidential election is held.
156 The terms begin ~~shall commence~~ on the first day of the month
157 following each presidential general election, ~~+~~ but the names of
158 candidates for political party offices may ~~shall~~ not be placed
159 on the ballot at any other election. The results of such
160 election shall be determined by a plurality of the votes cast.
161 In such event, electors seeking to qualify for such office shall
162 do so with the Department of State or supervisor of elections no
163 ~~not~~ earlier than noon of the 71st day, or later than noon of the
164 67th day, preceding the primary election. Notwithstanding the
165 qualifying period prescribed in this subsection, a qualifying
166 office may accept and hold qualifying papers submitted no
167 earlier than 14 days before the beginning of the qualifying
168 period, to be processed and filed during the qualifying period.
169 The outgoing chair of each county executive committee shall,
170 within 30 days after the committee members take office, hold an
171 organizational meeting of all newly elected members for the
172 purpose of electing officers. The chair of each state executive
173 committee shall, within 60 days after the committee members take
174 office, hold an organizational meeting of all newly elected

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175 members for the purpose of electing officers.

176 Section 7. Subsection (11) is added to section 106.08,
177 Florida Statutes, to read:

178 106.08 Contributions; limitations on; preemption.—

179 (11) A county, a municipality, or any other local
180 governmental entity is expressly preempted from enacting or
181 adopting any limitation or restriction involving:

182 (a) Contributions to a political committee or an
183 electioneering communications organization.

184 (b) Expenditures for an electioneering communication or an
185 independent expenditure.

186 Section 8. This act shall take effect July 1, 2020.

COMMITTEE: Judiciary
ITEM: CS/SB 1372
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S01372

GENERAL BILL/CS by EE, Brandes;

Elections. EFFECTIVE DATE: 07/01/2020.

02/19/20 S CS/CS by Judiciary; YEAS 3 NAYS 2

02/20/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute)

02/21/20 S Now in Rules



The Florida Senate

Committee Agenda Request

To: Senator David Simmons
Committee on Judiciary

Subject: Committee Agenda Request

Date: February 4, 2020

I respectfully request that **Senate Bill #1372**, relating to **Elections**, be placed on the:

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

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

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)

2-19-2020

Meeting Date

CS/SB 1372

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name David Ash

Job Title _____

Address PO Box 11201

Street

Phone 850-251-0985

Tallahassee

City

FL

State

32302

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

Waive Speaking: ☐ In Support ☒ Against

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

Representing Common Cause 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)

2/19/20
Meeting Date

1372
Bill Number (if applicable)

Topic ELECTIONS

Amendment Barcode (if applicable)

Name REV DR RUSSELL MEYER

Job Title EXEC DIR

Address 3030 W CYPRESS ST

Phone 813 435 5335

Street

Tampa FL
City

33607
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)

2/19/2020
Meeting Date

1372
Bill Number (if applicable)

Topic ELECTIONS

Amendment Barcode (if applicable)

Name DAVID RAMBA

Job Title ATTORNEY

Address 120 S. MONROE ST

Phone 856 443 4444

Street

TALAHASSEE

City

FL

State

32301

Zip

Email david@ramba.law.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
APPEARANCE RECORD

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

19 Feb 2020

Meeting Date

SB 1372

Bill Number (if applicable)

Topic Elections

Amendment Barcode (if applicable)

Name ~~Elections~~ Cecile M. Scoon

Job Title 1st Vice President, League of Women Voters

Address League of Women Voters

Street

Phone 850-319-1975

Orlando Fla

City

State

Zip

Email cecile@lwvfl.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing League of Women Voters 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
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 Judiciary

BILL: CS/SB 1738

INTRODUCER: Infrastructure and Security Committee and Senator Brandes

SUBJECT: Motor Vehicle Dealers

DATE: February 18, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	Fav/CS
2.	Cibula	Cibula	JU	Favorable
3.			RC	

Please see Section IX. for Additional Information:

PLEASE MAKE SELECTION

I. Summary:

CS/SB 1738 provides:

- Legislative findings that subjecting motor vehicle dealers and their leasing and rental affiliates to vicarious liability under the dangerous instrumentality doctrine is both unfair and economically disadvantageous to motor vehicle dealers, their leasing and rental affiliates, and state consumers in that it causes dealers and their affiliates to suffer higher insurance costs, which are then passed on to consumers;
- That a motor vehicle dealer, or a motor vehicle dealer's leasing or rental affiliate, that provides a temporary replacement vehicle to a customer whose vehicle is being repaired, serviced, or adjusted by the dealer is immune from any cause of action and is not liable, vicariously or directly, under general law. The motor vehicle dealer or affiliate is granted immunity as long as there is no negligent or criminal wrongdoing on the part of the dealer or affiliate;
- The limits on liability do not apply if there is a replacement vehicle mechanical failure or defect; and
- The limits on liability do not apply unless there is a written rental or use agreement that names the drivers and the motor vehicle dealer or the motor vehicle dealer's leasing or rental affiliate obtains from the person receiving the temporary replacement vehicle a copy of the person's driver license and insurance information.

The bill takes effect July 1, 2020.

II. Present Situation:

The court-created dangerous instrumentality doctrine holds an owner strictly liable for injuries caused by another person's negligent use of the owner's property. Specifically, when the owner entrusts a dangerous instrumentality to another person, the owner is responsible for damages caused by the other person. Whether the owner was negligent or at fault is irrelevant. The rationale for holding an innocent person responsible for such damages is that the owner of an instrumentality capable of causing death or destruction should be liable for damages caused by anyone operating it with the owner's consent.¹

The dangerous instrumentality doctrine originated in English common law and was adopted by the Florida Supreme Court in 1920 in *Southern Cotton Oil Company v. Anderson*, 86 So. 629 (1920).² The Court acknowledged the doctrine was originally limited to fire, water, and poisons, but had expanded over time:

It is true that, in the early development of this very salutary doctrine, the dangerous agencies consisted largely of fire, flood, water, and poisons. In *Dixon v. Bell* . . . Lord Ellenborough extended the doctrine to include loaded firearms. With the discovery of high explosives, they were put in the same class. As conditions changed it was extended to include other objects that common knowledge and common experience proved to be as potent sources of danger as those embraced in the earlier classifications. The underlying principle was not changed, but other agencies were included in the classification. Among them are locomotives, push cars, street cars, etc., and it is now well settled that these come within the class of dangerous agencies, and the liability of the master is determined by the rule applicable to them. The reasons for putting these agencies in the class of dangerous instrumentalities apply with equal, if not greater, force to automobiles.³

In a 1990 Florida Supreme Court case, a man leased a car from a lessor and then loaned the leased car to a friend. The friend caused a motor vehicle crash in the leased car, killing another person. The victim's estate sued the lessor of the car directly. The Court held that the lessor was liable for the death of the victim under the dangerous instrumentality doctrine, even though the lessor did not cause the accident. The Court acknowledged that the dangerous instrumentality doctrine was "unique to Florida" but justified the doctrine as necessary "to provide greater financial responsibility to pay for the carnage on our roads."⁴

The Second District Court of Appeal has acknowledged that the dangerous instrumentality doctrine creates "real and perceived inequities" and "has drawn its fair share of criticism."⁵ Once a court decides that an item is a dangerous instrumentality, an owner of such instrumentality is liable for damages the instrumentality causes, even if the owner was not in control of the instrumentality at the time.

¹ *Roman v. Bogle*, 113 So. 3d 1011, 1016 (Fla. 5th DCA 2013).

² *Id.* at 1014.

³ *Southern Cotton Oil Company v. Anderson*, 86 So. 629, 631 (Fla. 1920).

⁴ *Kraemer v. General Motors Acceptance Corp.*, 572 So. 2d 1363, 1365 (Fla. 1990).

⁵ *Fischer v. Alessandrini*, 907 So. 2d 569, 570 (Fla. 2d DCA 2005).

Whether an item is a dangerous instrumentality is a question of law depending on several factors, none of which alone is dispositive, including:

- Whether the instrumentality is a motor vehicle.⁶
- Whether the instrumentality is frequently operated near the public, regardless of whether the incident at issue occurred on public property.
- The instrumentality's peculiar dangers relative to other objects that courts have found to be dangerous instrumentalities.
- The extent to which the Legislature has regulated the instrumentality.⁷

If the court decides an item is a dangerous instrumentality, the owner is liable regardless of the facts of the particular case. Over time, Florida courts have expanded the applicability of the doctrine to include automobiles,⁸ trucks, buses,⁹ tow-motors,¹⁰ golf carts, and other motorized vehicles.¹¹

The Florida Legislature has limited the dangerous instrumentality doctrine by providing that a motor vehicle dealer or rental car company that provides a temporary replacement vehicle to a customer for up to ten days acts as the operator of the vehicle and is liable for damages up to \$100,000 per person and \$300,000 per incident for bodily injury and up to \$50,000 for property damage.¹² If the driver of the vehicle is uninsured or has insurance limits of less than \$500,000 combined property damage and bodily injury liability, the motor vehicle dealer or car rental company is liable for up to an additional \$500,000 in economic damages arising out of the use of the vehicle.¹³

In 2005, Congress passed 49 U.S.C. § 30106, commonly known as the Graves Amendment, to prohibit states from imposing vicarious liability on car rental companies.¹⁴ Vicarious liability is "liability that a supervisory party (such as an employer) bears for the actionable conduct of a subordinate (such as an employee) based on the relationship between the two parties."¹⁵ To benefit from the Graves Amendment, the "owner" must be "engaged in the business of renting or leasing motor vehicles." A vehicle "owner" may be the titleholder, lessee, or bailee of the vehicle.¹⁶

⁶ A motor vehicle is a "wheeled conveyance that does not run on rails and is self-propelled, especially one powered by an internal combustion engine, a battery or fuel-cell, or a combination of these." *Newton v. Caterpillar Financial Servs. Corp.*, 253 So. 3d 1054, 1056 (Fla. 2018) (quoting Black's Law Dictionary (10th ed. 2014)).

⁷ *Newton*, 253 So. 3d at 1056.

⁸ *S. Cotton Oil*, 86 So. at 629, *supra* at FN 3.

⁹ *Meister v. Fisher*, 462 So. 2d 1071, 1072 (Fla. 1984).

¹⁰ *Eagle Stevedores, Inc. v. Thomas*, 145 So. 2d 551 (Fla. 3d DCA 1962) (where plaintiff was struck in a dock area by a "tow-motor," a small motor-operated vehicle, dangerous instrumentality doctrine applied).

¹¹ *Meister*, 462 So. 2d at 1072.

¹² Section 324.021(9)(b)2. & (c)1., F.S.

¹³ *Id*

¹⁴ Auto Rental News, The Graves Amendment: Challenges, Interpretations, Answers, <https://www.autorentalnews.com/156611/the-graves-amendment-challenges-interpretations-and-answers> (last visited February 7, 2020).

¹⁵ Black's Law Dictionary 427 (3rd pocket ed. 2006).

¹⁶ Auto Rental News, *supra* at n. 14.

The Graves Amendment, however, does not protect a rental company from its own negligence or criminal wrongdoing. If an injury is caused by a rental company's negligent or criminal act, the rental company could still be directly liable for its actions or inactions, even if an accident occurs while a renter is driving the vehicle.¹⁷ Federal law supersedes Florida's dangerous instrumentality doctrine when a rental car company rents a car to a driver who negligently injures another person.¹⁸

In 2011, the Florida Supreme Court held that as it relates to rental car companies the Graves Amendment specifically preempts Florida law¹⁹ and relieves rental car companies, while engaged in the trade or business of renting or leasing motor vehicles, from vicarious liability for harm caused by the driver.²⁰

In 2019, the Fourth District Court of Appeal, relying on the Supreme Court's analysis in *Vargas*, held that the Graves Amendment applies to a motor vehicle dealer that provides a customer with a loaner vehicle while the customer's vehicle is being serviced.²¹ In *Vargas*, it appears that the replacement vehicle was considered to be rented by the customer because the cost of renting the vehicle was built into the dealership's charges for servicing the customer's vehicle.²²

In contrast to *Vargas*, a 2008 trial court opinion from New York indicates that the Graves Amendment which generally makes lessors of motor vehicles immune from liability does not apply to loaner vehicles.²³ The court seemed to indicate that a loaner vehicle is not a rental vehicle governed by the Graves Amendment unless the customer is charged a separate fee for using the vehicle. The court's opinion seemed also to suggest that payments by a manufacturer for warranty work could not implicitly include a rental payment to provide a customer with a temporary replacement vehicle.

III. Effect of Proposed Changes:

The bill provides the following legislative findings:

The Legislature finds that absent negligence or criminal conduct by a motor vehicle dealer, or its leasing or rental affiliates, subjecting motor vehicle dealers and their leasing and rental affiliates to vicarious liability under the dangerous instrumentality doctrine when a temporary replacement vehicle is provided to a consumer is both unfair and economically disadvantageous in that it causes dealers and their leasing or rental affiliates to suffer higher insurance costs, which are then passed on to consumers. Additionally, application of the vicarious liability doctrine in such cases often serves to relieve the actual tortfeasor from liability.

¹⁷ *Id.*

¹⁸ 49 U.S.C. § 30106.

¹⁹ Section 324.021(9)(b)2., F.S.

²⁰ *Vargas v. Enterprise Leasing Co.*, 60 So.3d 1037 (Fla. 2011).

²¹ *Collins v. Auto Partners V, LLC*, 276 So.3d 817 (Fla. 4th DCA 2019).

²² *Id.* at 819 ("The dealership's service manager attested that the car driven by the employee at the time of the accident was a short-term 'rental,' with the dealership 'factor[ing] the cost of the short-term rental vehicle into the price for service on the customer's vehicle.'").

²³ *Zizersky v. Life Quality Motor Sales*, 21 Misc.3d 871, 874-76 (N.Y.Sup.Ct. 2008).

The bill provides that a motor vehicle dealer, or a motor vehicle dealer's leasing or rental affiliate, that provides a temporary replacement vehicle at no charge or at a reasonable daily charge to a service customer whose vehicle is being repaired, serviced, or adjusted by the dealer is immune from any cause of action and is not liable, vicariously or directly, under general law by reason of being the owner of the temporary replacement vehicle for harm to persons or property which arises out of the use or operation of the temporary replacement vehicle by any person named in the rental or use agreement during the period the temporary replacement vehicle has been entrusted to the motor vehicle dealer's service customer. This limitation on liability only applies if there is no negligence or criminal wrongdoing on the part of the motor vehicle owner or its leasing or rental affiliate.

The bill provides that the term "service customer" does not include an employee, an agent, or a principal of a motor vehicle dealer or a motor vehicle dealer's leasing or rental affiliate. The bill also provides the limits on liability do not apply if there is a replacement vehicle mechanical failure or defect that is a proximate cause of harm to persons or property which arises out of the use or operation of the temporary replacement vehicle.

The bill further provides the limits on liability do not apply unless there is a written rental or use agreement that names the drivers who will be given possession, control, or use of the temporary replacement vehicle; the rental or use agreement prohibits any person not listed in the agreement from using the temporary replacement vehicle; and the motor vehicle dealer or the motor vehicle dealer's leasing or rental affiliate obtains from the person receiving the temporary replacement vehicle a copy of the person's driver license and insurance information reflecting at least the minimum motor vehicle insurance coverage required in this state.

In sum, the bill essentially makes the immunity protections that apply to a motor vehicle dealer who leases or rents a motor vehicle also applicable if the motor vehicle is loaned to a service customer.

The bill provides an effective date of July 1, 2020.

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:

Motor vehicle dealers may see a reduction in insurance premiums and the cost of potential litigation.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends the following section 324.021, 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 Infrastructure and Security on February 10, 2020:

The committee substitute:

- Revises the legislative intent section of the bill to remove references to the federal Graves Amendment and to focus on why dealers should not be vicariously liable for temporary replacement vehicles;
- Removes the provision specifying that notwithstanding any other general law or case law the motor vehicle dealer cannot be held liable (civilly or criminally) if a copy of the driver license and insurance card is obtained; and
- Provides that the bill's limitation on liability only applies if:
 - There is no negligence or criminal acts by the motor vehicle dealer or its leasing or rental affiliates;
 - The customer is not an employee, agent or principal of the motor vehicle dealer or its leasing or rental affiliates;

- There are no mechanical defect or failure;
- There is a written rental or use agreement executed naming the drivers; and
- The motor vehicle dealer, or its leasing or rental affiliates, obtains copies of the driver license and insurance information showing minimum required coverage.

B. Amendments:

None.

By the Committee on Infrastructure and Security; and Senator Brandes

596-03411-20

20201738c1

A bill to be entitled

An act relating to motor vehicle dealers; providing legislative findings; amending s. 324.021, F.S.; providing that certain motor vehicle dealers and their leasing or rental affiliates are immune from causes of action and are not liable for harm to persons or property under certain circumstances; defining the term "service customer"; providing exceptions to the limits on liability; providing an effective date.

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

Section 1. The Legislature finds that absent negligence or criminal conduct by a motor vehicle dealer, or its leasing or rental affiliates, subjecting motor vehicle dealers and their leasing and rental affiliates to vicarious liability under the dangerous instrumentality doctrine when a temporary replacement vehicle is provided to a consumer is both unfair and economically disadvantageous in that it causes dealers and their leasing or rental affiliates to suffer higher insurance costs, which are then passed on to consumers. Additionally, application of the vicarious liability doctrine in such cases often serves to relieve the actual tortfeasor from liability.

Section 2. Paragraph (c) of subsection (9) of section 324.021, Florida Statutes, is amended to read:

324.021 Definitions; minimum insurance required.—The following words and phrases when used in this chapter shall, for the purpose of this chapter, have the meanings respectively ascribed to them in this section, except in those instances

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20201738c1

where the context clearly indicates a different meaning:

(9) OWNER; OWNER/LESSOR.—

(c) *Application*.—

1. The limits on liability in subparagraphs (b)2. and 3. do not apply to an owner of motor vehicles that are used for commercial activity in the owner's ordinary course of business, other than a rental company that rents or leases motor vehicles. For purposes of this paragraph, the term "rental company" includes only an entity that is engaged in the business of renting or leasing motor vehicles to the general public and that rents or leases a majority of its motor vehicles to persons with no direct or indirect affiliation with the rental company. The term also includes a motor vehicle dealer that provides temporary replacement vehicles to its customers for up to 10 days. The term "rental company" also includes:

a. A related rental or leasing company that is a subsidiary of the same parent company as that of the renting or leasing company that rented or leased the vehicle.

b. The holder of a motor vehicle title or an equity interest in a motor vehicle title if the title or equity interest is held pursuant to or to facilitate an asset-backed securitization of a fleet of motor vehicles used solely in the business of renting or leasing motor vehicles to the general public and under the dominion and control of a rental company, as described in this subparagraph, in the operation of such rental company's business.

2. Furthermore, with respect to commercial motor vehicles as defined in s. 627.732, the limits on liability in subparagraphs (b)2. and 3. do not apply if, at the time of the

596-03411-20

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59 incident, the commercial motor vehicle is being used in the
60 transportation of materials found to be hazardous for the
61 purposes of the Hazardous Materials Transportation Authorization
62 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq., and that is
63 required pursuant to such act to carry placards warning others
64 of the hazardous cargo, unless at the time of lease or rental
65 either:

66 a. The lessee indicates in writing that the vehicle will
67 not be used to transport materials found to be hazardous for the
68 purposes of the Hazardous Materials Transportation Authorization
69 Act of 1994, as amended, 49 U.S.C. ss. 5101 et seq.; or

70 b. The lessee or other operator of the commercial motor
71 vehicle has in effect insurance with limits of at least
72 \$5,000,000 combined property damage and bodily injury liability.

73 3.a. A motor vehicle dealer or a motor vehicle dealer's
74 leasing or rental affiliate that provides a temporary
75 replacement vehicle at no charge or at a reasonable daily charge
76 to a service customer whose vehicle is being held for repair,
77 service, or adjustment by the motor vehicle dealer is immune
78 from any cause of action and is not liable, vicariously or
79 directly, under general law by reason of being the owner of the
80 temporary replacement vehicle for harm to persons or property
81 which arises out of the use or operation of the temporary
82 replacement vehicle by any person named in the rental or use
83 agreement during the period the temporary replacement vehicle
84 has been entrusted to the motor vehicle dealer's service
85 customer if there is no negligence or criminal wrongdoing on the
86 part of the motor vehicle owner or its leasing or rental
87 affiliate.

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88 b. For purposes of this subparagraph, the term "service
89 customer" does not include an employee, an agent, or a principal
90 of a motor vehicle dealer or a motor vehicle dealer's leasing or
91 rental affiliate.

92 c. The limits on liability in this subparagraph do not
93 apply if there is a replacement vehicle mechanical failure or
94 defect that is a proximate cause of harm to persons or property
95 which arises out of the use or operation of the temporary
96 replacement vehicle.

97 d. The limits on liability in this subparagraph do not
98 apply unless there is a written rental or use agreement that
99 names the drivers who will be given possession, control, or use
100 of the temporary replacement vehicle; the rental or use
101 agreement prohibits any person not listed in the agreement from
102 using the temporary replacement vehicle; and the motor vehicle
103 dealer or the motor vehicle dealer's leasing or rental affiliate
104 obtains from the person receiving the temporary replacement
105 vehicle a copy of the person's driver license and insurance
106 information reflecting at least the minimum motor vehicle
107 insurance coverage required in this state.

108 Section 3. This act shall take effect July 1, 2020.

COMMITTEE: Judiciary
ITEM: CS/SB 1738
FINAL ACTION: Favorable
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S01738

GENERAL BILL/CS by IS, Brandes; (Similar CS/H 00977)

Motor Vehicle Dealers. EFFECTIVE DATE: 07/01/2020.

02/14/20 S On Committee agenda-- Judiciary, 02/19/20, 1:30 pm, 110 Senate Building

02/19/20 S Favorable by Judiciary; YEAS 4 NAYS 1

02/20/20 S Now in Rules



The Florida Senate

Committee Agenda Request

To: Senator David Simmons, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: February 13, 2020

I respectfully request that **Senate Bill #1738**, relating to **Motor Vehicle Dealers**, be placed on the:

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

A handwritten signature in black ink, appearing to read "Jeff Brandes", written over a horizontal line.

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)

2.19.2020

Meeting Date

1738

Bill Number (if applicable)

Topic nearby liability

Amendment Barcode (if applicable)

Name Ashley Kalifeh

Job Title lobbyist

Address 121 W. Jefferson St.

Phone 220-9075

Tallahassee FL 32307

City

State

Zip

Email ashley@ccfla.com

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)

2/12/2020

Meeting Date

1738

Bill Number (if applicable)

Topic Motor Vehicles Dealers

Amendment Barcode (if applicable)

Name Christopher Emmanuel

Job Title Policy Director

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 Florida 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)

2/19/20

Meeting Date

1738

Bill Number (if applicable)

Topic motor vehicle Dealers

Amendment Barcode (if applicable)

Name Bill Cotterall

Job Title _____

Address 218 S. Monroe ST

Street

Tallahassee

City

FL

State

32308

Zip

Phone _____

Email _____

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)

THE FLORIDA SENATE

APPEARANCE RECORD

2-19-20

Meeting Date

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

1738

Bill Number (if applicable)

Topic Motor Vehicle Dealers

Amendment Barcode (if applicable)

Name Ted Smith

Job Title President

Address 400 N. Meridian St
Street

Phone 850 445 0435

Tallah FL 32301
City State Zip

Email teds@flada.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FL. Automobile Dealers 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)

2/11/20

Meeting Date

1738

Bill Number (if applicable)

Topic Motor Vehicle Dealers

Amendment Barcode (if applicable)

Name David Leibowitz

Job Title Secretary and General Counsel

Address 2060 Biscayne Blvd

Phone 305-576-1889

Street

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 Braman ~~Management~~ Automotive Group

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 Judiciary

BILL: CS/SB 1754

INTRODUCER: Judiciary Committee and Senator Book

SUBJECT: Limitation of Actions Against Crisis Shelters

DATE: February 20, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
2.	<u> </u>	<u> </u>	<u>CA</u>	<u> </u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 1754 grants immunity from civil liability to “crisis shelters,” such as emergency shelters, homeless shelters, and domestic violence shelters for variety of acts or omissions in providing temporary housing or support services.

The grant of immunity will protect crisis shelters from civil liability for:

- Acts or omissions of providing or failing to provide temporary housing or support services.
- Acts or omissions of another nonprofit or third party to which a shelter makes referrals.
- Acts and omissions of an individual availing themselves to the services provided by the shelter.
- Criminal activity caused by another nonprofit or a third party.

The bill grants immunity only to nonprofit shelters that provide services without requiring payment.

II. Present Situation:

Premises Liability

“Premises liability” is a theory of negligence that establishes the duty owed to someone injured on a landowner’s premises as a result of conditions or activities on the land.¹

In Florida, “[a]ll premises owners owe a duty to their invitees to exercise reasonable care to maintain their premises in a safe condition.”² An invitee is a visitor on the premises by invitation, either express or reasonably implied, of the owner.³ An “invitation” means that “the visitor entering the premises has an objectively reasonable belief that he or she has been invited or is otherwise welcome on that portion of the real property where injury occurs.”⁴

A premises owner has a legal duty to ascertain that the premises are reasonably safe for invitees.⁵ This duty equates into a legal duty to use reasonable care to learn of (i.e., to acquire actual knowledge as to) the existence of any dangerous conditions on the premises.⁶ Secondly, the premises possessor has a second, entirely different, legal duty to use reasonable care to protect invitees from dangerous conditions of which the possessor has actual knowledge.⁷ This second duty is usually breached when the possessor fails to take reasonable care (a) to eliminate the known danger, (b) to protect invitees from the known danger by excluding them from the area of danger, (by fences, gates, walls, door, barricades, etc.), or by providing protective devices (safety glasses, ear muffs, breathing devices, hard hats, guardrails, covers on machinery, etc.), (c) to provide warnings as to the danger, or (d) to take some combination of these protective actions.⁸

Where a homeless shelter does not have the right or ability to control its residents, the shelter is not liable damages caused by the attack of one resident against another.⁹ Similarly, other states have declined to extend any specialized duty of care to a homeless shelter.¹⁰

¹ 62 Am. Jur. 2d Premises Liability § 1 (citing *Double Quick, Inc. v. Moore*, 73 So. 3d 1162 (Miss. 2011)).

² *Owens v. Publix Supermarkets, Inc.*, 802 So. 2d 315, 320 (Fla. 2001) (citing *Everett v. Restaurant & Catering Corp.*, 738 So. 2d 1015, 1016 (Fla. 2d DCA 1999)).

³ *Arp v. Waterway East Assn., Inc.*, 217 So. 3d 117, 120 (Fla. 4th DCA 2017) (citing *Wood v. Camp*, 284 So. 2d 691, 695 (Fla. 1973)).

⁴ Section 768.075(3)(a)1., F.S.

⁵ *Winn-Dixie Stores, Inc. v. Marcotte*, 553 So. 2d 213, 214 (Fla. 5th DCA 1989).

⁶ See *Springer v. Morris*, 74 So. 2d 781, 785 (Fla.1954); *Hall v. Holland*, 47 So. 2d 889 (Fla.1950).

⁷ See *Ashcroft v. Calder Race Course, Inc.*, 492 So. 2d 1309, 1311 (Fla.1986); *Burdine’s v. McConnell*, 146 Fla. 512, 1 So. 2d 462 (1941); see also Restatement (Second) of Torts § 343A (1965).

⁸ *Winn-Dixie*, 553 So. 2d at 214.

⁹ See *Metropolitan Dade Cty. v. Dubon*, 780 So. 2d 328, 330 (Fla. 3d DCA 2001) (“Here, both the plaintiff and the defendant were absolutely free to come and go as they chose. [The homeless shelter] provided valuable services to its homeless residents. It did not have a common law duty to maintain a vigil over those who sought shelter”); see also *Akinwande v. City of New York*, 260 A.D.2d 586, 688 N.Y.S.2d 651 (N.Y.App.Div.1999) (holding that City owed no special duty to plaintiff for alleged failure to provide adequate security to prevent attacks by third parties at homeless shelter where incident occurred); *Abraham v. Wayside Cross Rescue Mission*, 289 Ill.App.3d 1048, 225 (2nd Dist. 1997) (holding that defendant halfway house did not exert sufficient control over assailant so as to create a common law duty where facility “did not have disciplinary discretion, it did not have armed guards, it could not be locked down, the residents could not be restrained, and the residents could leave the facility at any time”).

¹⁰ See, e.g., *Pickens v. Tulsa Metropolitan Ministry*, 951 P.2d 1079, 1086 (Okla. 1997) (holding that a person availing themselves to the services of a homeless shelter is “[a]t most ... an invitee” and is not owed the same heightened duty of care owed to patients of a hospital or inmates of a prison or jail).

Vicarious Liability

“A person whose liability is imputed based on the tortious acts of another is liable for the entire share of comparative responsibility assigned to the other.”¹¹ “[T]he vicariously liable party is liable for the entire share of the fault assigned to the active tortfeasor.”¹² In sum, the doctrine of vicarious liability takes a party that is free of legal fault and visits upon that party the negligence of another.¹³

“The theory of vicarious liability holds ‘employers liable for the negligence of their employees for wrongful acts committed within the course and scope of their employment.’”¹⁴ An employee’s conduct is within the scope of his employment, where (1) the conduct is of the kind he was employed to perform, (2) the conduct occurs substantially within the time and space limits authorized or required by the work to be performed, and (3) the conduct is activated at least in part by a purpose to serve the master.¹⁵

Licensure of Social Workers, Therapists, and Mental Health Counselors under Chapter 491

The Department of Health issues clinical social work licenses to applicants who have received a doctoral degree in social work from an accredited school, who have 2 years’ experience in clinical social work, who have passed a theory and practice examination administered by the Department of Health, and who have demonstrated knowledge of the rules and laws governing the practice of clinical social work, marriage and family therapy, and mental health counseling.¹⁶ Similarly, the Department of Health issues marriage and family therapy licenses to applicants who have a master’s degree with a major emphasis in marriage and family therapy or a closely related field, with certain coursework requirements.¹⁷ The Department of Health also issues mental health counseling licenses to applicants who have a master’s degree in mental health counseling from an accredited school, with certain coursework requirements.¹⁸

Per s. 491.003(7), F.S., clinical social work is the utilization of “scientific and applied knowledge, theories, and methods for the purpose of describing, preventing, evaluating, and treating individual, couple, marital, family, or group behavior, based on the person-in-situation perspective of psychosocial development, normal and abnormal behavior, psychopathology, unconscious motivation, interpersonal relationships, environmental stress, differential assessment, differential planning, and data gathering.”

Similarly, s. 491.003(8), F.S., defines marriage and family therapy as:

¹¹ *American Home Assur. Co. v. Nat’l Railroad Passenger Corp.*, 908 So. 2d 459, 467 (Fla. 2005) (quoting Restatement (Third) of Torts: Apportionment of Liability § 13 (2000)).

¹² *Id.*

¹³ *Id.* (citing 38 Fla. Jur.2d *Negligence* § 101 (1998)).

¹⁴ *Payas v. Adventist Health System/Sunbelt, Inc.*, 238 So. 3d 887, 891 (Fla. 2d DCA 2018).

¹⁵ *Sussman v. Florida E. Coast Props., Inc.*, 557 So. 2d 74, 75–76 (Fla. 3d DCA 1990).

¹⁶ Section 491.005(1), F.S.

¹⁷ Section 491.005(3), F.S.

¹⁸ Section 491.005(4), F.S.

the use of scientific and applied marriage and family theories, methods, and procedures for the purpose of describing, evaluating, and modifying marital, family, and individual behavior, within the context of marital and family systems, including the context of marital formation and dissolution, and is based on marriage and family systems theory, marriage and family development, human development, normal and abnormal behavior, psychopathology, human sexuality, psychotherapeutic and marriage and family therapy theories and techniques.

Likewise, s. 491.003(9), F.S., defines mental health counseling as:

the use of scientific and applied behavioral science theories, methods, and techniques for the purpose of describing, preventing, and treating undesired behavior and enhancing mental health and human development and is based on the person-in-situation perspectives derived from research and theory in personality, family, group, and organizational dynamics and development, career planning, cultural diversity, human growth and development, human sexuality, normal and abnormal behavior, psychopathology, psychotherapy, and rehabilitation.

III. Effect of Proposed Changes:

The bill states that a nonprofit organization operating a “crisis shelter” that provides temporary housing or support services with requiring payment from users thereof is not liable for:

- Acts or omissions of providing or failing to provide temporary housing or support services.
- Acts or omissions of another nonprofit or third party to which the shelter made referrals.
- Acts and omissions of an individual availing themselves to the services provided by the shelter.
- Criminal activity caused by another nonprofit or a third party.

The bill defines a crisis shelter as a facility providing temporary housing for the homeless or those at risk of becoming homeless. These shelters include emergency shelters, hurricane evacuation shelters, homeless shelters, domestic violence shelters, and runaway shelters. A nonprofit means any organization exempt from taxation under 26 U.S.C. s. 501, and includes agents of the organization.

The bill states that shelters are not liable for acts or omissions in performing services such as assisting individuals in obtaining bedding, sustenance, clothing, mental care, financial assistance, medications, counseling, and other supports, goods, activities, services, or resources of any kind.

The bill relieves shelter operators of the duty of reasonable care to maintain premises imposed at common law. The bill also removes the common law vicarious liability of shelter operators for actions performed by their agents in the course of their work. The provision removing the liability of shelter owners for actions of user of the shelter is essentially a codification of the common law rule. Because the bill states that the immunity from liability applies to acts or omissions “of providing temporary housing or support services,” shelters likely would still be liable for torts committed outside the scope of services described in the bill.

The bill does not supersede any licensing requirements for clinical social workers, marriage and family counselors, or mental health counselors under chapter 491, F.S.

The bill takes effect July 1, 2020.

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:

Where a right to access of the courts exists at common law, the Legislature may not abolish such a right “without providing a reasonable alternative to protect the rights of the people of the State to redress for injuries, unless the Legislature can show an overpowering public necessity for the abolishment of such right, and no alternative method of meeting such public necessity can be shown.”¹⁹ But legislation that alters the duty of care of a premises owner without establishing an absolute immunity “is not prohibited by the constitution,” as “legislative action that alters standards of care need only be reasonable to be upheld.”²⁰ As the bill alters the standard of care for shelter operators but does not provide them immunity from actions performed outside the scope of the provision of shelter services, the bill likely does not violate Article I, section 21 of the Florida Constitution.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

¹⁹ *Kluger v. White*, 281 So. 2d 1, 4 (Fla. 1973).

²⁰ *Abdin v. Fischer*, 374 So. 2d 1379, 1381 (Fla. 1979).

B. Private Sector Impact:

The bill removes liability for certain nonprofit organizations providing temporary housing and support services. This may have a positive financial impact on the private sector.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates section 95.39, 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 Judiciary on February 19, 2020:**

The committee substitute changes the underlying bill by:

- Changing “traditional shelters” to “transitional shelters” in the list of entities relieved of immunity.
- Stating that a crisis shelter is not liable for the acts or omissions of third parties referred by the shelter, regardless of whether the third party provides services with or without remuneration.

B. Amendments:

None.



137820

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
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	.	

The Committee on Judiciary (Book) recommended the following:

Senate Amendment

Delete lines 23 - 61
and insert:

shelters, runaway shelters, and transitional shelters.

(b) "Nonprofit organization" means an organization that is
exempt from taxation under 26 U.S.C. s. 501 and that is
operating a crisis shelter. The term includes such
organization's subsidiaries, affiliates, and supporting
foundations, and their respective boards of directors, officers,
employees, contractors, subcontractors, volunteers, donors or



137820

12 funderson, and agents.

13 (c) "Program participant" means a person seeking or
14 obtaining temporary housing in a crisis shelter, whether or not
15 such temporary housing is actually obtained.

16 (d) "Remuneration" means the required payment of moneys by
17 a program participant to a nonprofit organization for temporary
18 housing in a crisis shelter or support services. The term does
19 not include receipt by a nonprofit organization of financial or
20 in-kind donations, charitable contributions, fundraising event
21 proceeds, reimbursements, awards, grants, or contract payments
22 from persons other than a program participant. The term also
23 does not include an entirely voluntary charitable contribution
24 by a program participant.

25 (e) "Support services" includes, but is not limited to,
26 providing or coordinating linkages, referrals, or assistance in
27 obtaining one or more of the following supports: beds, cots, or
28 mats; linens; food or drink; clothing; shoes; toiletries;
29 financial assistance; health care; mental health care;
30 medications; counseling; case management; resource coordination;
31 assistance in applying for resources, services, or benefits of
32 any kind; education; financial literacy; child care; child and
33 family therapy; after-school programs; summer camps;
34 recreational activities; job readiness training; vocational
35 training; employment assistance; transportation; legal services;
36 housing; relocation services; rental assistance, subsidies, or
37 deposits; and other supports, goods, activities, services, or
38 resources of any kind. The term includes such supports, whether
39 provided by a nonprofit organization or third party and whether
40 occurring before, during, or after placement in a crisis shelter



137820

41 or in lieu of shelter.

42 (f) "Third party" means a person other than a nonprofit

43 organization who, with or without remuneration, provides support

By Senator Book

32-01361A-20

20201754__

A bill to be entitled
An act relating to limitation of actions against
crisis shelters; providing a short title; creating s.
95.39, F.S.; defining terms; limiting civil liability
for nonprofit organizations operating crisis shelters
for certain persons; providing construction; providing
an effective date.

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

Section 1. This act may be cited as the "Florida Crisis
Shelter Protection Act."

Section 2. Section 95.39, Florida Statutes, is created to
read:

95.39 Limitation upon claims against crisis shelters.-

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

(a) "Crisis shelter" means a facility providing temporary
housing for persons experiencing homelessness or who are at risk
thereof, regardless of the reasons therefor, the length of stay,
or the extent of support services provided, if any. The term
includes, but is not limited to, emergency shelters, hurricane
evacuation shelters, homeless shelters, domestic violence
shelters, runaway shelters, and traditional shelters.

(b) "Nonprofit organization" means an organization that is
exempt from taxation under 26 U.S.C. s. 501 and that is
operating a crisis shelter. The term includes such
organization's subsidiaries, affiliates, and supporting
foundations, and their respective boards of directors, officers,
employees, contractors, subcontractors, volunteers, donors or

32-01361A-20

20201754__

30 funders, and agents.

31 (c) "Program participant" means a person seeking or
32 obtaining temporary housing in a crisis shelter, whether or not
33 such temporary housing is actually obtained.

34 (d) "Remuneration" means the required payment of moneys by
35 a program participant to a nonprofit organization for temporary
36 housing in a crisis shelter or support services. The term does
37 not include receipt by a nonprofit organization of financial or
38 in-kind donations, charitable contributions, fundraising event
39 proceeds, reimbursements, awards, grants, or contract payments
40 from persons other than a program participant. The term also
41 does not include an entirely voluntary charitable contribution
42 by a program participant.

43 (e) "Support services" includes, but is not limited to,
44 providing or coordinating linkages, referrals, or assistance in
45 obtaining one or more of the following supports: beds, cots, or
46 mats; linens; food or drink; clothing; shoes; toiletries;
47 financial assistance; health care; mental health care;
48 medications; counseling; case management; resource coordination;
49 assistance in applying for resources, services, or benefits of
50 any kind; education; financial literacy; child care; child and
51 family therapy; after-school programs; summer camps;
52 recreational activities; job readiness training; vocational
53 training; employment assistance; transportation; legal services;
54 housing; relocation services; rental assistance, subsidies, or
55 deposits; and other supports, goods, activities, services, or
56 resources of any kind. The term includes such supports, whether
57 provided by a nonprofit organization or third party and whether
58 occurring before, during, or after placement in a crisis shelter

32-01361A-20

20201754__

59 or in lieu of shelter.

60 (f) "Third party" means a person other than a nonprofit
61 organization who, without remuneration, provides support
62 services for a program participant of a crisis shelter.

63 (2) A nonprofit organization operating a crisis shelter
64 which, without remuneration, provides temporary housing in the
65 crisis shelter or support services for, or on behalf of, a
66 program participant of the crisis shelter is not liable for
67 civil liability arising from any of the following:

68 (a) Acts or omissions of providing, or failing to provide,
69 the temporary housing or support services.

70 (b) Acts and omissions of another nonprofit organization or
71 other third party to whom referrals for support services are
72 made or coordinated, whether or not the other nonprofit
73 organization or third party actually provides or fails to
74 provide the support services.

75 (c) Acts and omissions of the program participant,
76 including, but not limited to, any criminal activity, theft,
77 injury, loss, damage, or death caused directly or indirectly by
78 the program participant.

79 (d) Any criminal activity, theft, injury, loss, damage, or
80 death caused directly or indirectly by another nonprofit
81 organization or other third party.

82 (3) This section does not supersede any licensing
83 requirements of chapter 491 for social workers, marriage and
84 family therapists, or mental health counselors.

85 Section 3. This act shall take effect July 1, 2020.

COMMITTEE: Judiciary
ITEM: SB 1754
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

FINAL VOTE			2/19/2020 Amendment 137820					
Yea	Nay	SENATORS	Yea	Nay	Yea	Nay	Yea	Nay
X		Baxley						
X		Gibson						
		Hutson						
X		Stargel						
	X	Rodriguez, VICE CHAIR						
X		Simmons, CHAIR						
4	1	TOTALS	RCS	-				
Yea	Nay		Yea	Nay	Yea	Nay	Yea	Nay

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S01754

GENERAL BILL by Book; (Similar CS/H 01397)

Limitation of Actions Against Crisis Shelters. EFFECTIVE DATE: 07/01/2020.

02/19/20 S CS by Judiciary; YEAS 4 NAYS 1

02/20/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute)

02/21/20 S Now in Community Affairs



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Children, Families, and Elder Affairs, *Chair*
Appropriations
Appropriations Subcommittee on Education
Appropriations Subcommittee on Health and Human
Services
Health Policy
Rules

JOINT COMMITTEE:

Joint Legislative Budget Commission

SENATOR LAUREN BOOK
32nd District

January 17, 2020

Chair David Simmons
Committee on Judiciary
515 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Simmons:

I respectfully request that **SB 1754: Limitation of Actions Against Crisis Shelters** be placed on the agenda for the next Committee on Judiciary meeting.

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

Thank you,

A handwritten signature in cursive script that reads "Lauren Book".

Senator Lauren Book
Senate District 32

Cc: Tom Cibula, Staff Director
Joyce Butler, Administrative Assistant

REPLY TO:

- ☐ 967 Nob Hill Road, Plantation, Florida 33324 (954) 424-6674
- ☐ 202 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

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)

2/19/2020

Meeting Date

1754

Bill Number (if applicable)

Topic Florida Crisis Shelter Protection Act

Amendment Barcode (if applicable)

Name Hilde M. Fernandez

Job Title CEO, Camillus House

Address 1603 NW 7 Avenue

Phone 305/374-1065, x308

Street

Miami

City

FL

State

33136

Zip

Email hfernandez@camillus.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Camillus House, 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)

2/19/20

Meeting Date

1754

Bill Number (if applicable)

Topic Shelter Protection Act.

Amendment Barcode (if applicable)

Name Constance Collins

Job Title Exec. Director, Lotus House Women's Shelter

Address 217 NW 15th St.

Phone 305 613 1573

Street

City

Miami

State

FL

Zip

33136

Email Constance@lotushouse.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Lotus House Women's Shelter

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)

2/19/20

Meeting Date

SB1754

Bill Number (if applicable)

Topic

Limitation on After Crisis Shelter

Amendment Barcode (if applicable)

Name

Ron Book

Job Title

Address

104 W. Jefferson

Phone

Street

TLH

32301

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

Miami Dade Homeless Trust

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 Judiciary

BILL: CS/CS/SRs 214 & 222

INTRODUCER: Judiciary Committee; Infrastructure and Security Committee; and Senators Rodriguez, Simpson, and others

SUBJECT: Philosophies that Espouse Superiority

DATE: February 20, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Proctor	Miller	IS	Fav/CS Combined
2.	Stallard	Cibula	JU	Fav/CS
3.			RC	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SRs 214/SR 222 rejects and condemns any philosophy that incites one group of people against another on the basis of race, color, national origin, sex, religion, or disability.

Accordingly, the resolution rejects and condemns the philosophies embrace by white nationalists and white supremacists. Finally, the resolution affirms that these philosophies are contradictory to the values that define the people of Florida and the United States.

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

II. Present Situation:

Targeted Mass Violence

Florida has been the site of several mass shootings that include Pulse Nightclub in Orlando, Marjory Stoneman Douglas High School in Parkland, Fort Lauderdale-Hollywood International Airport, Jacksonville Landing, as well as a SunTrust Bank in Sebring.¹ Many of these acts of

¹ Press Release, Executive Office of the Governor, *Governor Ron DeSantis Directs FDLE to Prioritize Threat Assessment Strategy* (Feb. 13, 2019), available at <https://www.flgov.com/2019/02/13/governor-ron-desantis-directs-fdle-to-prioritize-threat-assessment-strategy/> (last visited Jan. 22, 2020).

targeted mass violence appear to have been motivated by violent extremism based on a variety of supremacy philosophies.

White Nationalism

White nationalist groups espouse white supremacist or white separatist ideologies.² The term “white supremacist extremism” (WSE) describes people or groups who commit criminal acts in the name of white supremacist ideology. At its core, white supremacist ideology purports that the white race ranks above all others. WSE draws on the constitutionally protected activities of a broad swath of racist hate-oriented groups active in the United States ranging from the Ku Klux Klan to racist skinheads. Some of these groups have elaborate organizational structures, dues-paying memberships, and media wings. Additionally, many individuals espouse extremist beliefs without having formal membership in any specific organization.³

A large proportion of white supremacists dualistically divide the world between whites and all other peoples who are seen as enemies.⁴ Particular animus is directed toward Jews and African Americans.⁵

Scholars indicate that white supremacists believe in racial separation and that society discriminates against them. To them, whites have lost “ground to other groups and ... extreme measures are required to reverse the trend.”⁶ All of this has been encapsulated in a slogan known as the “Fourteen Words”: “We must secure the existence of our race and a future for white children.” This was coined by David Lane, a member of a violent terrorist group active in the 1980s. The Fourteen Words have been described as “the most popular white supremacist slogan in the world.”⁷

Incel

The term ‘incel’ was originally coined by an individual who started a website in the mid/late 1990s, entitled ‘Alana’s Involuntary Celibacy Project’ in order to discuss their sexual inactivity with others. The site was intended to foster an inclusive community to help people struggling to form relationships, but has since been co-opted by the current iteration of the incel movement.⁸

² Southern Poverty Law Center, *White Nationalist*, <https://www.splcenter.org/fighting-hate/extremist-files/ideology/white-nationalist> (last visited Jan. 22, 2019).

³ Lisa N. Sacco and Jerome P. Bjelopera, Congressional Research Office, *Domestic Terrorism: An Overview*, Report R44921, Aug. 21, 2017, available at <https://crsreports.congress.gov/product/pdf/R/R44921>.

⁴ *Id.*, citing Chip Berlet and Stanislav Vysotsky, “Overview of U.S. White Supremacist Groups,” *Journal of Political and Military Sociology*, vol. 34, no. 1 (June 2006), p. 13.

⁵ *Id.*, citing Leonard Zeskind, *Blood and Politics: The History of the White Nationalist Movement from the Margins to the Mainstream* (New York: Farrar, Straus, and Giroux, 2009), p. 40.

⁶ *Id.*, citing Rory McVeigh, “Structured Ignorance and Organized Racism in the United States,” *Social Forces*, vol. 82, no. 3 (March 2004), pp. 895-936.

⁷ *Id.*, citing Anti-Defamation League, *Guidebook*, p. 16. Lane died in 2007 while serving 190 years in prison for his involvement with a terrorist group named the Order. See “Founder of Terrorist Group Dies in Prison,” *Terre Haute Tribune-Star*, May 29, 2007, <http://tribstar.com/local/x1155692948/Founder-of-terrorist-group-dies-in-prison>. Among other writings, Lane also drafted an influential racist ideological tract titled “The 88 Precepts.”

⁸ Shannon Zimmerman, Luisa Ryan and David Duriesmith, *Recognizing the Violent Extremist Ideology of ‘Incels’* (September 2018), available at <https://www.wisglobal.org/wp-content/uploads/2018/09/Policybrief-Violent-Extremists-Incels.pdf>.

Although there is little in the way of authoritative published research in this area, the current incel movement appears to be a violent political ideology based upon misogyny, social marginalization, entitlement, male and white supremacy.⁹ Incel ideology is predicated on the notion that feminism has ruined society, therefore there is a need for a ‘gender revolt’ in order to reclaim a particular type of manhood.¹⁰ Incels believe their entitled access to women’s bodies is thwarted by women’s preference for more physically desirable men, and often frame this pattern of behavior as a form of theft. These individuals are frustrated at a world they see as denying them power and sexual control over women’s bodies. In their eyes, they are victims of oppressive feminism, an ideology which must be overthrown, even if by violence.¹¹

III. Effect of Proposed Changes:

The resolution contains “Whereas” clauses stating that:

- Recent acts of domestic terror, including acts of mass violence, have shocked and saddened our nation;
- This murderous violence was perpetrated by individuals who embraced philosophies that espouse the superiority of one group of people over another on the basis of race, color, national origin, sex, or religion;
- These philosophies are embraced by groups which include white nationalists, white supremacists, “incels,” and others; and
- These philosophies are contradictory to the values, constitutional protections, and moral fiber of the United States of America and the State of Florida.

The resolution rejects and condemns any philosophy that incites one group of people against another on the basis of race, color, national origin, sex, religion, or disability.

Accordingly, the resolution rejects and condemns the philosophies embrace by white nationalists and white supremacists and the resolution affirms that these philosophies are contradictory to the values that define the people of Florida and the United States.

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.

⁹ *Id.*

¹⁰ Debbie Ging, *Alphas, betas, and incels: Theorizing the Masculinities of the Manosphere*, in *Men and Masculinities* (Dublin City University, Glasnevin, 2017).

¹¹ *Supra*, note 8.

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 approved, it will be recorded in the Journals of the Senate.

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 Judiciary on February 19, 2020:

The committee substitute rejects philosophies that “incite” (rather than “espouse the superiority of”) one group of people against another on bases such as race, color, or religion. Moreover, the committee substitute expressly rejects the philosophies embraced by white supremacists and white nationalists.

CS by Infrastructure and Security on January 13, 2020:

- Combined SR 214 and SR 222, and expanded the resolution to reject and condemn any philosophy that espouses the superiority of one group of people over another on the basis of race, color, national origin, sex, or religion; and
- Revised the whereas clauses to state:
 - Recent acts of domestic terror, including acts of mass violence, have shocked and saddened our nation;
 - This murderous violence was perpetrated by individuals who embraced philosophies that espouse the superiority of one group of people over another on the basis of race, color, national origin, sex, or religion;
 - These philosophies are embraced by groups which include white nationalists, white supremacists, “incels”, and others; and
 - These philosophies are contradictory to the values, constitutional protections, and moral fiber of the United States of America and the State of Florida.

B. Amendments:

None.



488352

LEGISLATIVE ACTION

Senate	.	House
Comm: RS	.	
02/20/2020	.	
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	.	

The Committee on Judiciary (Rodriguez) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the resolving clause
and insert:

That the Florida Senate rejects white nationalism and white supremacy as hateful, dangerous, and morally corrupt; and affirms that such philosophies are contradictory to the values that define the people of Florida.

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



488352

And the title is amended as follows:

Delete everything before the resolving clause
and insert:

Senate Resolution

A resolution rejecting white nationalism and white
supremacy as hateful, dangerous, and morally corrupt,
and affirming that such philosophies are contradictory
to the values that define the people of Florida.

WHEREAS, recent acts of domestic terror, including acts of
mass violence, have shocked and saddened our nation, and

WHEREAS, this murderous violence was perpetrated by
individuals who embraced a philosophy of white nationalism and
white supremacy, and

WHEREAS, this philosophy is contradictory to the values,
constitutional protections, and moral fiber of the United States
of America and the State of Florida, NOW, THEREFORE,



259328

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
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	.	

The Committee on Judiciary (Rodriguez) recommended the following:

Senate Substitute for Amendment (488352) (with title amendment)

Delete everything after the resolving clause and insert:

That the Florida Senate rejects and condemns any philosophy that incites one group of people against another on the basis of race, color, national origin, sex, religion, or disability, and

That, as such, the Florida Senate rejects and condemns the philosophies embraced by white nationalists and white



259328

supremacists, and

That the Florida Senate affirms that such philosophies are contradictory to the values that define the people of Florida and the United States.

===== 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 resolving clause
and insert:

Senate Resolution

A resolution rejecting and condemning any philosophy that espouses the superiority of one group of people over another which is hateful, dangerous, or a morally corrupt expression of intolerance, and affirming that such philosophies are contradictory to the values that define the people of Florida and the United States.

WHEREAS, recent acts of domestic terror, including acts of mass violence, have shocked and saddened our nation, and

WHEREAS, this murderous violence was perpetrated by individuals who embraced philosophies that espouse the superiority of one group of people over another on the basis of race, color, national origin, sex, religion, or disability and

WHEREAS, these philosophies are embraced by groups which include white nationalists, white supremacists, "incels", and others, and

WHEREAS, these philosophies are contradictory to the values, constitutional protections, and moral fiber of the United States of America and the State of Florida,



259328

40

NOW, THEREFORE,

By the Committee on Infrastructure and Security; and Senators Rodriguez, Simpson, Cruz, Stewart, Benacquisto, Bradley, Hutson, Mayfield, Diaz, Wright, Perry, Harrell, Albritton, and Hooper

596-02232-20

2020214c1

Senate Resolution

A resolution rejecting and condemning any philosophy that espouses the superiority of one group of people over another which is hateful, dangerous, or a morally corrupt expression of intolerance, and affirming that such philosophies are contradictory to the values that define the people of Florida and the United States.

WHEREAS, recent acts of domestic terror, including acts of mass violence, have shocked and saddened our nation, and

WHEREAS, this murderous violence was perpetrated by individuals who embraced philosophies that espouse the superiority of one group of people over another on the basis of race, color, national origin, sex, or religion, and

WHEREAS, these philosophies are embraced by groups which include white nationalists, white supremacists, "incels", and others, and

WHEREAS, these philosophies are contradictory to the values, constitutional protections, and moral fiber of the United States of America and the State of Florida, NOW, THEREFORE,

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

That the Florida Senate rejects and condemns any philosophy that espouses the superiority of one group of people over another on the basis of race, color, national origin, sex, or religion as hateful, dangerous, and morally corrupt expressions of intolerance; and affirms that such philosophies are

596-02232-20

2020214c1

30 contradictory to the values that define the people of Florida
31 and the United States.

COMMITTEE: Judiciary
ITEM: CS/SR's 214 & 222
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S00214

RESOLUTION/CS by IS; Rodriguez; Simpson; (CO-INTRODUCERS) Cruz; Stewart; Benacquisto; Bradley; Hutson; Mayfield; Diaz; Wright; Perry; Harrell; Albritton; Hooper; (Compare H 00051)

Philosophies that Espouse Superiority.

02/19/20 S CS/CS by Judiciary; YEAS 6 NAYS 0

02/20/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute)

02/21/20 S Now in Rules



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Judiciary, *Vice Chair*
Appropriations Subcommittee on Agriculture,
Environment and General Government
Ethics and Elections
Rules

SENATOR JOSE JAVIER RODRIGUEZ
37th District

January 22nd, 2020

Chair Simmons
Committee on Judiciary
404 S. Monroe Street
Tallahassee, FL 32399-1100
Sent via email to simmons.david@flsenate.gov

Chair Simmons,

I respectfully request that you place CS/SR 214: Philosophies that Espouse Superiority on the agenda of the Committee on Judiciary at your earliest convenience.

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

Thank you,

Senator José Javier Rodríguez
District 37

CC:

Tom Cibula, Staff Director
Joyce Butler, Administrative Assistant
Valerie Clarke, Legislative Assistant to Senator
Carolyn Grzan, Legislative Assistant to Senator
Diane Suddes, Legislative Assistant to Senator

REPLY TO:

- ☐ 2100 Coral Way, Suite 505, Miami, Florida 33145 (305) 854-0365
- ☐ 220 Senate Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5037

Senate's Website: www.flsenate.gov

BILL GALVANO
President of the Senate

DAVID SIMMONS
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

Feb 19, 2020

(Deliver BOTH copies of this form to the Senator or Senate Professional Staff conducting the meeting) SR 214

Meeting Date

Bill Number (if applicable)

Topic Philosophies that Espouse Superiority

Amendment Barcode (if applicable)

Name Seber Newsome III

Job Title Retired

Address 86110 Fieldstone Drive

Phone 904-225-5591

Street
Yulee

Fl

32097

Email seberiii@comcast.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)

2/19/2020

Meeting Date

SR 214

Bill Number (if applicable)

Topic White Nationalist

Amendment Barcode (if applicable)

Name David Calkett

Job Title VP

Address 2314 S Cypress Bend Dr.

Phone 954-4619391

Pompano Beach FL 33069
City State Zip

Email David@FLIMEN.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Floridian For Immigration Enforcement

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)

2/19/20

Meeting Date

214/222

Bill Number (if applicable)

Topic SUPERIORITY

Amendment Barcode (if applicable)

Name REV DR RUSSELL MEYER

Job Title EXEC DIR

Address 3030 W CYPRESS ST

Phone 813 435 5335

Street

Tampa

City

FL

State

33647

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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)

2-19-20

Meeting Date

2148222

Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Greg Pound

Job Title _____

Address 9166 Sunrise Dr

Phone _____

Street

Largo

City

FL

State

33723

Zip

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Saving families

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 Judiciary

BILL: CS/CS/SB 380

INTRODUCER: Judiciary Committee; Banking and Insurance Committee; and Senator Baxley

SUBJECT: Bank Property of Deceased Account Holders

DATE: February 20, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Palecki</u>	<u>Knudson</u>	<u>BI</u>	<u>Fav/CS</u>
2.	<u>Stallard</u>	<u>Cibula</u>	<u>JU</u>	<u>Fav/CS</u>
3.	<u> </u>	<u> </u>	<u>RC</u>	<u> </u>

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 380 authorizes the summary distribution of a decedent's bank account or other depository account of \$1,000 or less and provides for the informal disposition of small intestate estates.

Regarding depository accounts and certificates of deposit, the bill authorizes a financial institution to pay the family member of a decedent, without any court proceeding, order, or judgment authorizing the payment, the funds on deposit in all qualified accounts if the total amount of these funds does not exceed \$1,000. The financial institution may make the payment not earlier than 6 months after the date of the decedent's death.

The family member seeking payment of the funds from the qualified accounts must provide the financial institution with a certified copy of the decedent's death certificate and a sworn affidavit. The affidavit must state that the affiant is a family member who is entitled to the funds, that the he or she is not aware of a will or a probate proceeding for the accountholder's estate, and that he or she expressly accepts liability for the disbursement of the funds. The bill provides criminal penalties for making a false statement in the affidavit, classifying such action as theft. Accordingly, the bill releases a financial institution from liability upon its disbursement of funds to an affiant and expressly provides that the institution is not required to verify the content of the affidavit.

Regarding the distribution of small intestate estates, meaning estates consisting of exempt property and personal property valued at less than \$10,000, the bill authorizes the distribution of certain of these estates without probate administration or other “formal proceedings.” To acquire the property of these estates, an heir of a person who has been deceased for at least one year must file an affidavit with the court, which in turn provides the heir with a letter authorizing anyone holding the decedent’s property to release it to the heir. The required content of the affidavit is designed to demonstrate to the court that the rights of any creditors and other heirs are and will be protected.

II. Present Situation:

Regulation of Financial Institutions

Florida law defines the term “financial institution” broadly; the term includes “state and federal savings or thrift associations, banks, savings banks, trust companies, international bank agencies, international banking corporations, international branches, international representative offices, international administrative offices, international trust entities, international trust company representative offices, qualified limited service affiliates, credit unions, agreement corporations operating pursuant to s. 25 of the Federal Reserve Act, 12 U.S.C. ss. 601 et seq. and Edge Act corporations organized pursuant to s. 25(a) of the Federal Reserve Act, 12 U.S.C. ss. 611 et seq.”¹

However, not all financial institutions are expressly authorized to accept or hold deposits or certificates of deposits.²

Dual Regulatory System

Banks and credit unions may be either state or federally chartered. The Florida Office of Financial Regulation (OFR) is responsible for chartering and supervising state financial institutions, including state-chartered banks and state-chartered credit unions.³

National banks are chartered pursuant to the National Bank Act and supervised by the Office of the Comptroller of the Currency (OCC).⁴ National banks are required to be members of the Federal Reserve System; state banks may apply for membership.⁵ The Federal Reserve is the primary federal regulator of state member banks, and also serves as the primary regulator of bank holding companies and financial holding companies.⁶

¹ Section 655.005(1)(i), F.S.

² For instance, holding a deposit does not fall within the enumerated permissible activities of an international representative office, an international administrative office, an international trust company representative office, or a qualified limited service affiliate. *See* ss. 663.062, 663.063, 663.409, and 663.531, F.S.

³ Section 655.012(1)(a), F.S.

⁴ 12 U.S.C. s. 481.

⁵ 12 U.S.C. s. 208.3 and 222.

⁶ 12 U.S.C. s. 248.

Federally-chartered credit unions are chartered and supervised by the National Credit Union Administration (NCUA).⁷ Both state- and federally-chartered credit unions must obtain insurance of their accounts and are subject to examination by the NCUA.⁸

Transfer of Deposited Funds Incident to Death

When an accountholder dies, his or her stake in an account under more than one name will vest automatically in another surviving accountholder.⁹ However, if all named accountholders die, the account will generally pass according to any “pay-on-death designation” on the account.¹⁰ Under this arrangement, upon the death of all accountholders, the account becomes the property of any designated beneficiary or beneficiaries.¹¹ The institution may pay the balance of the account to the beneficiaries named on the account upon the presentation to the institution of proof of the death of the accountholder(s).¹²

An institution may also, upon receiving the accountholder’s death certificate, pass the funds of a “pay-on-death” account to the heirs of an accountholder if they survived all other accountholders and beneficiaries.¹³

Florida Probate Law

The Florida Probate Code provides the statutory mechanism for the transfer of property from a decedent to persons or entities named in a decedent’s will (often called beneficiaries) or to the decedent’s heirs, if there is no will. The property transferred via the probate process is called the “estate.”¹⁴ Assets subject to probate are those that were owned in the decedent’s sole name at death or that were owned by the decedent and one or more co-owners but lacked a provision for automatic succession of ownership at death.¹⁵ Accordingly, they generally do not include pay-on-death accounts and accounts under multiple names, which, as discussed above, pass automatically upon an accountholder’s death.

If the decedent had a will, the property is transferred as directed by the will. If a person dies without a will, the person is considered to have died “intestate” and the person’s property is transferred to heirs according to the laws of intestate succession.¹⁶ Section 732.102, F.S., provides that a surviving spouse takes the entire intestate estate if there is no surviving descendant of the decedent. If the decedent is survived by one or more descendants, all of whom are also descendants of the surviving spouse, and the surviving spouse has no other descendants, the surviving spouse takes the entire intestate estate.¹⁷ If there are one or more surviving descendants of the decedent who are not lineal descendants of the surviving spouse, the

⁷ See 12 U.S.C. s. 1751, et. seq.

⁸ Section 657.033, F.S.; 12 U.S.C. s. 1784.

⁹ Section 655.79, F.S.

¹⁰ Section 655.82.

¹¹ Section 655.82(3), F.S.

¹² Section 655.82(6), F.S.

¹³ Section 655.82(6)(c), F.S.

¹⁴ Section 731.201(14), F.S.

¹⁵ The Florida Bar, Consumer Pamphlet: *Probate in Florida*, <https://www.floridabar.org/public/consumer/pamphlet026/> (last visited Feb. 12, 2020).

¹⁶ Section 732.101(1), F.S.

¹⁷ See s. 732.102(2), F.S.

surviving spouse takes one-half of the intestate estate.¹⁸ If there are one or more surviving descendants of the decedent, all of whom are also descendants of the surviving spouse, and the surviving spouse has one or more descendants who are not descendants of the decedent, the surviving spouse takes one-half of the intestate estate.¹⁹ The part of the intestate estate not passing to the surviving spouse, or the entire intestate estate if there is no surviving spouse, transfers to the descendants of the decedent.²⁰ If the decedent has no descendants, the decedent's parents take the intestate estate.²¹

In order for the decedent's estate to be transferred to heirs or to the beneficiaries of the will, a petition for administration must be filed with the circuit court.²² The personal representative, a person designated by the will or the circuit court to serve in that role, must provide a notice of administration to various persons, such as family members and beneficiaries, and other entities.²³ Those persons must act to contest the will or take other actions within statutory time limits.²⁴ The personal representative must search for and provide notice, by publication in a newspaper, to creditors of the decedent.²⁵ Creditors must generally make claims against the estate within 3 months of notice.²⁶ In order for personal representatives to claim monies from bank accounts for the estate, the court must issue letters of administration granting the personal representative the authority to act on behalf of the estate. The letters give the personal representative the power to gather assets, pay creditors, and pay the heirs or beneficiaries. Even a simple probate estate can take 5 or 6 months to administer and close.²⁷

Summary Probate Administration

Summary administration is an alternative to the formal administration process and is available only if the decedent has been dead for more than 2 years or if the value of the estate subject to administration in Florida (less the value of property which is exempt from the claims of creditors²⁸) is less than \$75,000.²⁹ However, summary administration is not available if a decedent's will specifically directs formal administration.³⁰

A petition for summary administration may be filed by any beneficiary or person nominated as personal representative in the decedent's will.³¹ However, any other beneficiary must be served with formal notice of the petition.³²

¹⁸ See s. 732.102(3), F.S.

¹⁹ See s. 732.102(4), F.S.

²⁰ See s. 732.103(1), F.S.

²¹ See s. 732.103(2), F.S.

²² See s. 733.202, F.S.

²³ See s. 733.212, F.S.

²⁴ See s. 733.212, F.S.

²⁵ See s. 733.2121, F.S.

²⁶ See s. 733.702, F.S.

²⁷ See <https://www.floridabar.org/public/consumer/pamphlet026/> (last visited February 7, 2020).

²⁸ For example, homestead property that is protected from creditors' claims by Art. X, s. 4, Fla. Const.

²⁹ Section 735.201(2), F.S.

³⁰ Section 735.201(1), F.S.

³¹ Section 735.203(1), F.S.

³² *Id.*

If the decedent passed away more than 2 years before the filing of the petition for summary administration, creditors' claims do not need to be addressed in the summary administration proceeding because Florida's non-claim statute effectively bars any creditors' claims that are not brought within 2 years of the decedent's death.³³ If the decedent passed away less than 2 years before the filing of the petition for summary judgment, the petitioner is required to make a diligent search and reasonable inquiry for any known or reasonably ascertainable creditors, serve a copy of the petition on those creditors, and make provision for payment for those creditors to the extent that assets are available.³⁴ As for those creditors who are not known or reasonably ascertainable, if proof of publication of a specified notice to creditors has been filed with the court, all claims and demands of such creditors are forever barred unless their claims are filed within 3 months after the first publication of the notice.³⁵

Those who receive a distribution of estate assets generally remain liable for claims against the decedent for 2 years after the date of death.³⁶ The following parties are entitled to receive reasonable attorney's fees and costs if they prevail in an action to enforce their claim:

- Any known or reasonably ascertainable creditor who did not receive notice and for whom provision for payment was not made.³⁷
- Any heir or devisee of the decedent who was lawfully entitled to share in the estate but who was not included in the order of summary administration and distribution.³⁸

Disposition of Decedent Property Without Administration

Disposition of personal property without administration is another alternative to the formal administration process and available if the decedent's probate estate consists only of the following:³⁹

- Personal property classified as exempt under the provisions of s. 732.402, F.S., such as household furnishings up to a net value of \$20,000 and two vehicles;
- Personal property exempt from the claims of creditors under the Florida Constitution, such as personal property valued at \$1,000 or less;⁴⁰ and
- Non-exempt personal property valued at less than the sum of the amount of preferred funeral expenses and the amount of reasonable and necessary medical and hospital expenses incurred in the last 60 days of the decedent's final illness.

Any interested party may file such an informal application by affidavit, letter, or otherwise with the court.⁴¹ If the court is satisfied that the decedent's assets meet the criteria for this abbreviated process, the court may, by letter or other writing under the seal of the court, authorize the payment, transfer, or disposition of the personal property, tangible or intangible, belonging to the decedent to those persons entitled.⁴² Any person, firm, or corporation paying, delivering, or

³³ Section 733.710, F.S.

³⁴ Section 735.206(2), F.S.

³⁵ Section 735.2063, F.S.

³⁶ Section 735.206(4)(d)-(f), F.S.

³⁷ Section 735.206(4)(d), F.S.

³⁸ Section 735.206(4)(g), F.S.

³⁹ Section 735.301(1), F.S.

⁴⁰ FLA. CONST. art. X, s. 4(a)(2).

⁴¹ Section 735.301(2), F.S.

⁴² *Id.*

transferring property under the court's authorization is forever discharged from liability thereon.⁴³

Florida Unclaimed Property Law

Chapter 717, F.S., is Florida's law dealing with the disposition of unclaimed property. The most common types of unclaimed property are dormant bank accounts, unclaimed insurance proceeds, stocks, dividends, uncashed checks, deposits, credit balances and refunds. Unclaimed property assets are held by businesses for a set period of time, usually 5 years. Businesses (holders of unclaimed property) are required to try to locate the owner, but when their attempts fail, they must report the property and the owner's name, last known address and other information to the Department of Financial Services. The Department acts as custodian for the State of Florida, but never takes legal ownership of the property. The State uses various methods, including database searches, in an effort to notify owners of their property. Citizens have the right to claim their property, at no cost, any time, regardless of the amount.⁴⁴

III. Effect of Proposed Changes:

The bill provides for an informal distribution process for a decedent's bank account or other depository account of \$1,000 or less and provides for the informal disposition of small intestate estates.

Informal Distribution of a Small Bank Account of a Decedent

The bill authorizes a financial institution to pay the family member of a decedent, without any court proceeding, order, or judgment authorizing the payment, the funds on deposit in all qualified accounts if the total amount of such funds does not exceed \$1,000. The financial institution may make such payment not earlier than 6 months after the date of the decedent's death.

The family member seeking payment must provide the financial institution with a certified copy of the decedent's death certificate, and a sworn affidavit stating that:

- The family member is the surviving spouse, adult child, adult descendant, or parent of the decedent.
- The family member is the appropriate person to receive the funds. For example an adult child of the decedent must attest there is no surviving spouse. A parent of the decedent must attest there is no surviving spouse, no surviving adult children, and no surviving adult descendants.
- The date of death of the decedent and the address of the last residence of the decedent.
- The total amount of all qualified accounts held by the decedent with all financial institutions known to the affiant does not exceed \$1,000.
- A personal representative has not been appointed to administer the estate of the decedent and that no probate or summary administration procedure has been commenced with respect to the estate of the decedent.

⁴³ *Id.*

⁴⁴ See <https://www.fltreasurehunt.gov/UP-Web/sitePages/FAQs.jsp> (last visited February 14, 2020).

- The affiant has no knowledge of the existence of a will or other document or agreement relating to the distribution of the decedent's estate.
- The payment of the funds constitutes a full release and discharge of the financial institution's obligation regarding the amount paid.
- The affiant understands that he or she is personally liable to the persons rightfully entitled to the funds under the Florida Probate Code, to the extent that the amount paid exceeds the amount properly attributable to the affiant's share.
- The affiant understands that making a false statement in the affidavit may be punishable as a criminal offense.

The bill provides that making a false statement is criminal theft, and might also constitute another crime. Additionally, the bill releases a financial institution from liability upon its disbursement of funds to an affiant and expressly provides that the institution is not required to verify the content of the affidavit.

Distribution of Small Intestate Estate's without Probate Administration

The bill authorizes the distribution of certain small intestate estates without probate administration or other "formal proceedings." To acquire the property of these estates, an heir of a person who has been deceased for at least one year must file an affidavit with the court and serve notice on interested persons; in turn, the court would provide the heir with a letter authorizing anyone holding the decedent's property to release it to the heir. The required content of the affidavit is designed to demonstrate to the court that the rights of any creditors and other heirs are and will be protected.

To be eligible for this option, there must be no administration pending on the estate and it must contain only the following types of property:

- Personal property exempt under the provisions of s. 732.402, F.S., such as household furniture and appliances having a combined value of \$20,000;
- Personal property of up to \$1,000, which is exempt from the claims of creditors under the State Constitution; and
- Nonexempt personal property valued at \$10,000 or less, plus the amount of preferred funeral expenses and reasonable and necessary medical and hospital expenses of the last 60 days of the last illness.

The bill requires the affidavit to be signed and verified by any surviving spouse and any heirs at law, and to be served in the manner of formal notice upon:

- All heirs at law who have not joined in the affidavit;
- All known or reasonably ascertainable creditors of the decedent; and
- The Agency for Health Care Administration, if the decedent was over the age of 55 at the time of death.

Prior to such an application, an heir at law must make a diligent search and reasonable inquiry for any known or reasonably ascertainable creditors. Proposed distribution must make provision for payment of any creditors uncovered by the affiant's diligent search, or the creditors must consent to the proposed distribution.

If the court is satisfied that the estate in question is eligible for this type of distribution and that the affidavit is sufficient, the court must provide a letter authorizing the release of property as set forth in the affidavit. The payment, transfer, disposition, delivery, or assignment will result in the following:

- Discharge of liability for any person paying, transferring, delivering, or assigning the property under the court's authorization.
- Bona fide purchasers for value from those to whom personal property of the decedent has been paid, transferred, delivered, or assigned take the property free of claims of creditors of the decedent and all rights of the surviving spouse, other heirs at law, and all other beneficiaries at law of the decedent.
- Nonexempt personal property of the decedent remains subject to claims against the decedent until barred by the Florida Probate Code.
- Recipients of personal property that is not exempt from claims of creditors remain personally liable for a pro rata share of all lawful claims against the decedent's estate, but only to the extent of the value on the date of distribution of the personal property actually received by each recipient.
- Except as otherwise provided in s. 733.710, F.S., once 2 years have passed since the death of the decedent, neither the estate nor those to whom it may be distributed will be liable for any claim against the decedent, unless proceedings to enforce a claim have already begun.
- Any lawfully entitled heir, devisee, or reasonably ascertainable creditor of the decedent who was not included in the distribution retains the ability to enforce their rights in appropriate proceedings against the affiant(s) and those who received distributions, and, if successful, will be awarded costs including reasonable attorney fees in chancery actions.

Effective Date

The bill takes effect July 1, 2020.

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:

This bill may implicate issues of federal preemption as it applies to “financial institution[s],” a term which, as defined by current Florida law, includes federally chartered financial institutions that the State of Florida does not have authority to regulate.

The Supremacy Clause of the United States Constitution requires courts to follow federal law, not state law, if Congress, in enacting the federal statute, intended to exercise its constitutionally delegated authority to set aside, i.e., preempt, the laws of a state.⁴⁵

The analysis of preemption principles as they apply to state banking laws is complex; banking has been subject to dual [federal-state] regulatory control since the passage of the first National Bank Act in 1863.⁴⁶ Generally, federally chartered banks are subject to state laws of general application in their daily business to the extent such laws do not conflict with the letter or the general purposes of the National Bank Act (NBA), or prevent or impair a bank’s exercise of its authority, be it enumerated or incidental.⁴⁷

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

None.

B. Private Sector Impact:

The bill could reduce the costs of obtaining property from smaller estates.

C. Government Sector Impact:

The bill could decrease the burden on courts by allowing for the distribution of decedent’s bank accounts and other assets without the need for probate administration.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The bill defines a “family member,” in part, as a spouse, child, or parent of the decedent. As those terms are not defined, strict construction of this definition may preclude an adopted child, or adoptive parent from accessing the funds in a decedent’s account. Incorporating the definitions of those terms by reference to the probate code may alleviate this concern.

⁴⁵ *Barnett Bank of Marion County, N.A. v. Nelson*, 517 U.S. 25 (1996), citing U.S. Const., Art. VI, cl. 2; *California Fed. Sav. & Loan Assn. v. Guerra*, 479 U.S. 272 (1987).

⁴⁶ *Bank of America v. City and County of San Francisco*, 309 F.3d 551 (9th Cir. 2002), quoting *National State Bank v. Long*, 630 F.2d 981, 985 (3d Cir. 1980).

⁴⁷ *Watters v. Wachovia*, 550 U.S. 1 (2007), citing 12 U.S.C. s. 21 *et. seq.*

VIII. Statutes Affected:

This bill substantially amends section 655.059 of the Florida Statutes.

This bill creates the following sections of the Florida Statutes: 735.303 and 735.304.

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 Judiciary on February 19, 2020:

The committee substitute expands exceptions to a provision generally prohibiting a financial institution from disclosing certain records of a client.

CS by Banking and Insurance on February 11, 2020:

The CS contains substantial revisions to this affidavit process, including a decrease in the maximum value of eligible accounts from \$10,000 to \$1,000, a decrease in the amount of time that must pass before the institution can make a payment from 2 years to 6 months and the elimination of a requirement for family members to consent to the financial institution's payment of the funds. The CS also creates a process for the disposition of intestate property of small estates without administration or formal proceedings within the probate code.

B. Amendments:

None.



543042

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Baxley) recommended the following:

Senate Amendment

Delete lines 97 - 268
and insert:

4. A financial institution from disclosing the existence of
and amounts on deposit in any individual account of a decedent
to a petitioner that filed with the court a petition pursuant to
s. 734.1025 or s. 735.203, or to an affiant that filed with the
court an affidavit for disposition without administration
pursuant to s. 735.301 or s. 735.304.

Section 2. Section 735.303, Florida Statutes, is created to



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read:

735.303 Payment to successor without court proceedings.—

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

(a) "Family member" means:

1. The surviving spouse of the decedent;

2. An adult child of the decedent if the decedent left no surviving spouse;

3. An adult descendant of the decedent if the decedent left no surviving spouse and no surviving adult child; or

4. A parent of the decedent if the decedent left no surviving spouse, no surviving adult child, and no surviving adult descendant.

(b) "Qualified account" means a depository account or certificate of deposit held by a financial institution in the sole name of the decedent without a pay-on-death or any other survivor designation.

(2) A financial institution in this state may pay to the family member of a decedent, without any court proceeding, order, or judgment, the funds on deposit in all qualified accounts of the decedent at the financial institution if the total amount of the combined funds in the qualified accounts at the financial institution does not exceed an aggregate total of \$1,000. The financial institution may not make such payment earlier than 6 months after the date of the decedent's death.

(3) In order to receive the funds described in subsection (2), the family member must provide to the financial institution a certified copy of the decedent's death certificate and a sworn affidavit that includes all of the following:

(a) A statement attesting that the affiant is the surviving



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spouse, adult child, adult descendant, or parent of the decedent.

1. If the affiant is an adult child of the decedent, the affidavit must attest that the decedent left no surviving spouse.

2. If the affiant is an adult descendant of the decedent, the affidavit must attest that the decedent left no surviving spouse and no surviving adult child.

3. If the affiant is a parent of the decedent, the affidavit must attest that the decedent left no surviving spouse, no surviving adult child, and no surviving adult descendant.

(b) The date of death and the address of the decedent's last residence.

(c) A statement attesting that the total amount in all qualified accounts held by the decedent in all financial institutions known to the affiant does not exceed an aggregate total of \$1,000.

(d) A statement acknowledging that a personal representative has not been appointed to administer the decedent's estate and attesting that no probate proceeding or summary administration procedure has been commenced with respect to the estate.

(e) A statement acknowledging that the affiant has no knowledge of the existence of any last will and testament or other document or agreement relating to the distribution of the decedent's estate.

(f) A statement acknowledging that the payment of the funds constitutes a full release and discharge of the financial



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institution's obligation regarding the amount paid.

(g) A statement acknowledging that the affiant understands that he or she is personally liable to the creditors of the decedent and other persons rightfully entitled to the funds under the Florida Probate Code, to the extent the amount paid exceeds the amount properly attributable to the affiant's share.

(h) A statement acknowledging that the affiant understands that making a false statement in the affidavit may be punishable as a criminal offense.

(4) The family member may use an affidavit in substantially the following form to fulfill the requirements of subsection (3):

AFFIDAVIT UNDER SECTION 735.303, FLORIDA STATUTES, TO OBTAIN
BANK PROPERTY OF DECEASED ACCOUNT HOLDER: ... (Name of
decedent) ...

State of

County of

Before the undersigned authority personally appeared ... (name of affiant) ..., of ... (residential address of affiant) ..., who has been sworn and says the following statements are true:

(a) The affiant is (initial one of the following responses):

.... The surviving spouse of the decedent.

.... A surviving adult child of the decedent, and the decedent left no surviving spouse.

.... A surviving adult descendant of the decedent, and the decedent left no surviving spouse and no surviving adult child.



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99 A surviving parent of the decedent, and the decedent
100 left no surviving spouse, no surviving adult child, and no
101 surviving adult descendant.

102 (b) As shown in the certified death certificate, the date
103 of death of the decedent was ...(date of death)..., and the
104 address of the decedent's last residence was ...(address of last
105 residence)....

106 (c) The affiant is entitled to payment of the funds in the
107 decedent's depository accounts and certificates of deposit held
108 by the financial institution ...(name of financial
109 institution).... The total amount in all qualified accounts held
110 by the decedent in all financial institutions known to the
111 affiant does not exceed an aggregate total of \$1,000. The
112 affiant requests full payment from the financial institution.

113 (d) A personal representative has not been appointed to
114 administer the decedent's estate and no probate proceeding or
115 summary administration procedure has been commenced with respect
116 to the estate.

117 (e) The affiant has no knowledge of any last will and
118 testament or other document or agreement relating to the
119 distribution of the decedent's estate.

120 (f) The payment of the funds constitutes a full release and
121 discharge of the financial institution regarding the amount
122 paid.

123 (g) The affiant understands that he or she is personally
124 liable to the creditors of the decedent and other persons
125 rightfully entitled to the funds under the Florida Probate Code,
126 to the extent the amount paid exceeds the amount properly
127 attributable to the affiant's share.



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(h) The affiant understands that making a false statement
in this affidavit may be punishable as a criminal offense.

By ...(signature of Affiant)...

Sworn to and subscribed before me this day of
.... by ...(name of Affiant)..., who is personally
known to me or produced as identification, and
did take an oath.

...(Signature of Notary Public - State of Florida)...
...(Print, Type, or Stamp Commissioned Name of Notary
Public)...

My commission expires: ...(date of expiration of
commission)...

(5) The financial institution is not required to determine
whether the contents of the sworn affidavit are truthful. The
payment of the funds by the financial institution to the affiant
constitutes the financial institution's full release and
discharge regarding the amount paid. A person does not have a
right or cause of action against the financial institution for
taking an action, or for failing to take an action, in
connection with the affidavit or the payment of the funds.

(6) The family member who withdraws the funds under this
section is personally liable to the creditors of the decedent
and any other person rightfully entitled to the funds under the
Florida Probate Code to the extent the amount paid exceeds the
amount properly attributable to the family member's share.

(7) The financial institution shall maintain a copy or an



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image of the affidavit in accordance with its customary retention policies. If a surviving spouse or descendant of the decedent requests a copy of the affidavit during such time, the financial institution may provide a copy of the affidavit to the requesting surviving spouse or descendant of the decedent.

(8) In addition to any other penalty provided by law, a person who knowingly makes a false statement in a sworn affidavit given to a financial institution to receive a decedent's funds under this section commits theft, punishable as provided in s. 812.014.

Section 3. Section 735.304, Florida Statutes, is created to read:

735.304 Disposition without administration of intestate property in small estates.—

(1) No administration shall be required or formal proceedings instituted upon the estate of a decedent who has died intestate leaving only personal property exempt under the provisions of s. 732.402, personal property exempt from the claims of creditors under the State Constitution, and nonexempt personal property the value of which does not exceed the sum of \$10,000 and the amount of preferred funeral expenses and reasonable and necessary medical and hospital expenses of the last 60 days of the last illness, provided the decedent has been deceased for more than 1 year and no administration of the decedent's estate is pending in this state.

By the Committee on Banking and Insurance; and Senator Baxley

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A bill to be entitled

An act relating to the disposition of personal property; amending s. 655.059, F.S.; specifying that a financial institution is not prohibited from disclosing specified information and providing copies of specified affidavits to certain persons relating to deceased account holders; creating s. 735.303, F.S.; providing definitions; authorizing a financial institution to pay funds on deposit in certain accounts to a specified family member of a decedent without any court proceeding, order, or judgment under certain circumstances; requiring the family member to provide the financial institution a certified copy of the decedent's death certificate and a specified affidavit in order to receive the funds; providing an affidavit form that the family member may use; providing that the financial institution has no duty to make certain determinations; specifying that a person does not have a right or cause of action against a financial institution for certain actions or for failing to take certain actions; providing liability for the family member who withdraws funds; requiring a financial institution to maintain a copy or image of the affidavit for a specified time; authorizing the financial institution to provide copies of the affidavit to certain persons; providing a criminal penalty; creating s. 735.304, F.S.; providing that estates of certain decedents are not subject to probate administration if certain

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conditions are met; providing that specified persons may request distribution of a decedent's assets by affidavit filed with a court under certain circumstances; providing requirements for content of the affidavit and service of the affidavit on specified persons; requiring certain actions relating to the decedent's creditors; authorizing the court to approve the affidavit and payment of personal property under certain circumstances; providing that bona fide purchasers of personal property take the property free of certain claims and rights; providing for liability against certain personal property for a specified time; providing for liability of recipients of the decedent's personal property under certain circumstances; providing a limitation on liability of the decedent's estate and recipients of the estate under certain circumstances; providing for the award of costs and reasonable attorney fees under certain circumstances; providing an effective date.

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

Section 1. Paragraph (b) of subsection (2) of section 655.059, Florida Statutes, is amended to read:

655.059 Access to books and records; confidentiality; penalty for disclosure.—

(2)

(b) The books and records pertaining to trust accounts and the deposit accounts and loans of depositors, borrowers,

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59 members, and stockholders of any financial institution shall be
60 kept confidential by the financial institution and its
61 directors, officers, and employees and may not be released
62 except upon express authorization of the account holder as to
63 her or his own accounts, loans, or voting rights. However,
64 information relating to any loan made by a financial institution
65 may be released without the borrower's authorization in a manner
66 prescribed by the board of directors for the purpose of meeting
67 the needs of commerce and for fair and accurate credit
68 information. Information may also be released, without the
69 authorization of a member or depositor but in a manner
70 prescribed by the board of directors, to verify or corroborate
71 the existence or amount of a customer's or member's account when
72 such information is reasonably provided to meet the needs of
73 commerce and to ensure accurate credit information. In addition,
74 a financial institution, affiliate, and its subsidiaries, and
75 any holding company of the financial institution or subsidiary
76 of such holding company, may furnish to one another information
77 relating to their customers or members, subject to the
78 requirement that each corporation receiving information that is
79 confidential maintain the confidentiality of such information
80 and not provide or disclose such information to any unaffiliated
81 person or entity. Notwithstanding this paragraph, this
82 subsection does not prohibit:

83 1. A financial institution from disclosing financial
84 information as referenced in this subsection as authorized by
85 ~~Pub. L. No. 106-102 (1999), as set forth in 15 U.S.C. s. 6802~~
86 (2010) U.S.C.A. s. 6802, as amended.

87 2. The Florida office of the international banking

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corporation or international trust entity from sharing books and records under this subsection with the home-country supervisor in accordance with subsection (1).

3. A financial institution from disclosing the existence of and amounts on deposit in any qualified account of a decedent pursuant to s. 735.303 and from providing a copy of any affidavit delivered to the financial institution pursuant thereto, to a person authorized to receive such information under s. 735.303.

Section 2. Section 735.303, Florida Statutes, is created to read:

735.303 Payment to successor without court proceedings.—

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

(a) "Family member" means:

1. The surviving spouse of the decedent;

2. An adult child of the decedent if the decedent left no surviving spouse;

3. An adult descendant of the decedent if the decedent left no surviving spouse and no surviving adult child; or

4. A parent of the decedent if the decedent left no surviving spouse, no surviving adult child, and no surviving adult descendant.

(b) "Qualified account" means a depository account or certificate of deposit held by a financial institution in the sole name of the decedent without a pay-on-death or any other survivor designation.

(2) A financial institution in this state may pay to the family member of a decedent, without any court proceeding, order, or judgment, the funds on deposit in all qualified

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117 accounts of the decedent at the financial institution if the
118 total amount of the combined funds in the qualified accounts at
119 the financial institution does not exceed an aggregate total of
120 \$1,000. The financial institution may not make such payment
121 earlier than 6 months after the date of the decedent's death.

122 (3) In order to receive the funds described in subsection
123 (2), the family member must provide the financial institution
124 with a certified copy of the decedent's death certificate and a
125 sworn affidavit that includes all of the following:

126 (a) A statement attesting that the affiant is the surviving
127 spouse, adult child, adult descendant, or parent of the
128 decedent.

129 1. If the affiant is an adult child of the decedent, the
130 affidavit must attest that the decedent left no surviving
131 spouse.

132 2. If the affiant is an adult descendant of the decedent,
133 the affidavit must attest that the decedent left no surviving
134 spouse and no surviving adult child.

135 3. If the affiant is a parent of the decedent, the
136 affidavit must attest that the decedent left no surviving
137 spouse, no surviving adult child, and no surviving adult
138 descendant.

139 (b) The date of death and the address of the decedent's
140 last residence.

141 (c) A statement attesting that the total amount in all
142 qualified accounts held by the decedent in all financial
143 institutions known to the affiant does not exceed an aggregate
144 total of \$1,000.

145 (d) A statement acknowledging that a personal

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representative has not been appointed to administer the decedent's estate and attesting that no probate proceeding or summary administration procedure has been commenced with respect to the estate.

(e) A statement acknowledging that the affiant has no knowledge of the existence of any last will and testament or other document or agreement relating to the distribution of the decedent's estate.

(f) A statement acknowledging that the payment of the funds constitutes a full release and discharge of the financial institution's obligation regarding the amount paid.

(g) A statement acknowledging that the affiant understands that he or she is personally liable to the creditors of the decedent and other persons rightfully entitled to the funds under the Florida Probate Code, to the extent the amount paid exceeds the amount properly attributable to the affiant's share.

(h) A statement acknowledging that the affiant understands that making a false statement in the affidavit may be punishable as a criminal offense.

(4) The family member may use an affidavit in substantially the following form to fulfill the requirements of subsection (3):

AFFIDAVIT UNDER SECTION 735.303, FLORIDA STATUTES, TO OBTAIN
BANK PROPERTY OF DECEASED ACCOUNT HOLDER: ... (Name of
decedent) ...

State of

County of

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175 Before the undersigned authority personally appeared ... (name of
176 affiant) ..., of ... (residential address of affiant) ..., who has
177 been sworn and says the following statements are true:

178 (a) The affiant is (initial one of the following
179 responses):

180 The surviving spouse of the decedent.

181 A surviving adult child of the decedent, and the
182 decedent left no surviving spouse.

183 A surviving adult descendant of the decedent, and the
184 decedent left no surviving spouse and no surviving adult child.

185 A surviving parent of the decedent, and the decedent
186 left no surviving spouse, no surviving adult child, and no
187 surviving adult descendant.

188 (b) As shown in the certified death certificate, the date
189 of death of the decedent was ... (date of death) ..., and the
190 address of the decedent's last residence was ... (address of last
191 residence)

192 (c) The affiant is entitled to payment of the funds in the
193 decedent's depository accounts and certificates of deposit held
194 by the financial institution ... (name of financial
195 institution) The total amount in all qualified accounts held
196 by the decedent in all financial institutions known to the
197 affiant does not exceed an aggregate total of \$1,000. The
198 affiant requests full payment from the financial institution.

199 (d) A personal representative has not been appointed to
200 administer the decedent's estate and no probate proceeding or
201 summary administration procedure has been commenced with respect
202 to the estate.

203 (e) The affiant has no knowledge of any last will and

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204 testament or other document or agreement relating to the
205 distribution of the decedent's estate.

206 (f) The payment of the funds constitutes a full release and
207 discharge of the financial institution regarding the amount
208 paid.

209 (g) The affiant understands that he or she is personally
210 liable to the creditors of the decedent and other persons
211 rightfully entitled to the funds under the Florida Probate Code,
212 to the extent the amount paid exceeds the amount properly
213 attributable to the affiant's share.

214 (h) The affiant understands that making a false statement
215 in this affidavit may be punishable as a criminal offense.

217 By ...(signature of Affiant)...

219 Sworn to and subscribed before me this day of
220 by ...(name of Affiant)..., who is personally
221 known to me or produced as identification, and
222 did take an oath.

224 ...(Signature of Notary Public - State of Florida)...
225 ...(Print, Type, or Stamp Commissioned Name of Notary
226 Public)...

227 My commission expires: ...(date of expiration of
228 commission)...

229 (5) The financial institution is not required to determine
230 whether the contents of the sworn affidavit are truthful. The
231 payment of the funds by the financial institution to the affiant
232 constitutes the financial institution's full release and

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233 discharge regarding the amount paid. A person does not have a
234 right or cause of action against the financial institution for
235 taking an action, or for failing to take an action, in
236 connection with the affidavit or the payment of the funds.

237 (6) The family member who withdraws the funds under this
238 section is personally liable to the creditors of the decedent
239 and any other person rightfully entitled to the funds under the
240 Florida Probate Code to the extent the amount paid exceeds the
241 amount properly attributable to the family member's share.

242 (7) The financial institution shall maintain a copy or an
243 image of the affidavit in accordance with its customary
244 retention policies. If a surviving spouse or descendant of the
245 decedent requests a copy of the affidavit during such time, the
246 financial institution may provide a copy of the affidavit to the
247 requesting surviving spouse or descendant of the decedent.

248 (8) In addition to any other penalty provided by law, a
249 person who knowingly makes a false statement in a sworn
250 affidavit given to a financial institution to receive a
251 decedent's funds under this section commits theft, punishable as
252 provided in s. 812.014.

253 Section 3. Section 735.304, Florida Statutes, is created to
254 read:

255 735.304 Disposition without administration of intestate
256 property in small estates.—

257 (1) No administration shall be required or formal
258 proceedings instituted upon the estate of a decedent who has
259 died intestate leaving only personal property exempt under the
260 provisions of s. 732.402, personal property exempt from the
261 claims of creditors under the State Constitution, and nonexempt

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personal property the value of which does not exceed the sum of \$10,000 and the amount of preferred funeral expenses and reasonable and necessary medical and hospital expenses of the last 60 days of the last illness, provided the decedent has been deceased for more than 1 year and no administration of the decedent's estate is pending in this state or has been previously granted.

(2) Any heir at law of the decedent entitled to a share of the intestate estate pursuant to s. 732.102 or s. 732.103 may by affidavit request distribution of assets of the decedent through informal application under this section. The affidavit must be signed and verified by the surviving spouse, if any, and any heirs at law, except that joinder in the affidavit is not required of an heir who will receive a full intestate share under the proposed distribution of the personal property. Before the filing of the affidavit, the affiant must make a diligent search and reasonable inquiry for any known or reasonably ascertainable creditors, and the proposed distribution must make provision for payment of those creditors to the extent that assets are available or the creditors must consent to the proposed distribution. The affidavit must be served in the manner of formal notice upon all heirs at law who have not joined in the affidavit; upon all known or reasonably ascertainable creditors of the decedent; and, if the decedent at the time of death was over the age of 55 years of age, upon the Agency for Health Care Administration.

(3) If the court is satisfied that subsection (1) is applicable and the affidavit filed by the heir at law meets the requirements of subsection (2), the court, by letter or other

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291 writing under the seal of the court, may authorize the payment,
292 transfer, disposition, delivery, or assignment of the tangible
293 or intangible personal property to those persons entitled.

294 (a) Any individual, corporation, or other person paying,
295 transferring, delivering, or assigning personal property under
296 the authorization shall be forever discharged from liability
297 thereon.

298 (b) Bona fide purchasers for value from those to whom
299 personal property of the decedent has been paid, transferred,
300 delivered, or assigned shall take the property free of all
301 claims of creditors of the decedent and all rights of the
302 surviving spouse and all other beneficiaries or heirs at law of
303 the decedent.

304 (c) Personal property of the decedent that is not exempt
305 from claims of creditors and that remains in the possession of
306 those to whom it has been paid, delivered, transferred, or
307 assigned shall continue to be liable for claims against the
308 decedent until barred as provided in the Florida Probate Code.
309 Any known or reasonably ascertainable creditor who did not
310 consent to the proposed distribution and for whom provision for
311 payment was not made may enforce the claim and, if the creditor
312 prevails, shall be awarded costs, including reasonable attorney
313 fees, against those who joined in the affidavit.

314 (d) Recipients of the decedent's personal property under
315 this section shall be personally liable for a pro rata share of
316 all lawful claims against the estate of the decedent, but only
317 to the extent of the value on the date of distribution of the
318 personal property actually received by each recipient, exclusive
319 of the property exempt from claims of creditors under the State

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320 Constitution and Florida Statutes.

321 (e) Except as otherwise provided in s. 733.710, after 2
322 years from the death of the decedent, neither the decedent's
323 estate nor those to whom it may be distributed shall be liable
324 for any claim against the decedent, unless within that time
325 proceedings have been taken for the enforcement of the claim.

326 (f) Any heir or devisee of the decedent who was lawfully
327 entitled to share in the estate but who was not included in the
328 distribution under this section may enforce all rights in
329 appropriate proceedings against those who signed the affidavit
330 or received distribution of personal property and, if
331 successful, shall be awarded costs including reasonable attorney
332 fees as in chancery actions.

333 Section 4. This act shall take effect July 1, 2020.

COMMITTEE: Judiciary
ITEM: CS/SB 380
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S00380

GENERAL BILL/CS by BI, Baxley; (Similar CS/CS/H 01439, Compare H 00397)

Disposition of Personal Property. EFFECTIVE DATE: 07/01/2020.

02/19/20 S CS/CS by Judiciary; YEAS 6 NAYS 0

02/20/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute)

02/21/20 S Now in Rules

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

February 12, 2020

The Honorable Chairman David Simmons
404 Senate Office Building
Tallahassee, FL 32399

Dear Chairman Simmons,

I would like to request CS/SB 380 Bank Property of Deceased Account Holders be heard in your next Judiciary Committee meeting.

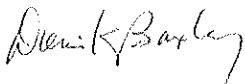
This bill authorizes a financial institution to pay to the surviving successor of a decedent, without any court proceedings, order, or judgement authorizing the payment, the funds on deposit in all qualified accounts of the decedent.

For accounts \$1,000 or less, designated surviving successors would be able to present a sworn affidavit to the financial institution 6 months or more after the decedent has passed. After one year from the passing of the decedent, an heir at law of the decedent would be able to petition a court to receive up to \$10,000 of nonexempt assets, which would include accounts at a financial institution, without a formal administration if the decedent passed without a will.

Rightful successors deserve a better process than having to wait over five years to receive these funds when they are able to demonstrate a right to receive them before they escheat to state government.

I appreciate your favorable consideration.

Onward & Upward,



Senator Dennis Baxley
Senate District 12

DKB/dd

cc: Tom Cibula, 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
APPEARANCE RECORD

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

2-19-20

Meeting Date

SB 380

Bill Number (if applicable)

Topic Disposition of Personal Property

Amendment Barcode (if applicable)

Name John Rothell

Job Title Sr. Director of Governmental Affairs

Address 3692 Coolidge Ct.
Street

Phone 850-322-1635

Tallahassee
City

FL
State

32311
Zip

Email john.rothell@lscu.coop

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FL 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)

2/19/20

Meeting Date

380

Bill Number (if applicable)

Topic Disposition of Personal Property

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

City

FL

State

32301

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)

THE FLORIDA SENATE
APPEARANCE RECORD

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

2/19/20

Meeting Date

SB 380

Bill Number (if applicable)

543042

Amendment Barcode (if applicable)

Topic Small Accounts

Name FRENCH BROWN

Job Title Lobbyist

Address 18 S. Monroe St Suite 815

Street

Tallahassee

City

FL

State

32301

Zip

Phone 800-459-0752

Email fbranco@deanmead.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing RPPTL Section of 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 Judiciary

BILL: CS/CS/SB 682

INTRODUCER: Judiciary Committee, Children, Families, and Elder Affairs Committee, and Senator Baxley

SUBJECT: Florida Guide to a Healthy Marriage

DATE: February 20, 2020

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Preston</u>	<u>Hendon</u>	<u>CF</u>	Fav/CS
2.	<u>Elsesser</u>	<u>Cibula</u>	<u>JU</u>	Fav/CS
3.	_____	_____	<u>RC</u>	_____

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/CS/SB 682 creates the Florida Healthy Marriage Handbook, which applicants for marriage licenses must read before a county judge or court clerk issues the applicants a marriage license. The bill specifies the text that the handbook must contain, including information on conflict resolution, budgeting, and child rearing.

II. Present Situation:

Section 741.0306, F.S., requires¹ the Family Law Section of The Florida Bar to create a handbook to explain Florida law as it relates to the rights and responsibilities of marital partners to each other and their children, both during marriage and after divorce. The Family Court Steering Committee and the Florida Supreme Court are required to review the handbook for accuracy. Clerks of circuit courts must make the handbook available to marriage license applicants and are permitted to make the information in the handbook available on videotape or electronic media.

The Family Law Section may update the handbook annually, and the information in the handbook may include explanations of:

- Prenuptial agreements.

¹ The statute compels the Family Law Section of the Florida Bar to act “based on their willingness to undertake this project.” Section 741.0306(1), F.S.

- Shared parental responsibility for children and the determination of a parenting plan, including a time-sharing schedule.
- Permanent relocation restrictions.
- Child support for minor children.
- Property rights, including equitable distribution, premarital property, and nonmarital property.
- Alimony, including temporary, permanent rehabilitative, and lump sum.
- Domestic violence and child abuse and neglect, including penalties and other ramifications of false reporting.
- Court processes for dissolution with or without legal assistance, including who may attend, the recording of proceedings, how to access those records, and the cost of such access.
- Parent education course requirements for divorcing parents with children.

Section 741.04(1), F.S., states that county court judge or clerk of the circuit court may not issue a license for the marriage of any person unless the county court judge or clerk of the circuit court is first presented with both of the following:

- A written statement, signed by both parties, which specifies whether the parties, individually or together, have completed a premarital preparation course.
- A written statement that verifies that both parties have obtained and read or otherwise accessed the information contained in the handbook or other electronic media presentation of the rights and responsibilities of parties to a marriage specified in s. 741.0306, F.S.

III. Effect of Proposed Changes:

The bill creates the Florida Health Marriage Handbook, which marriage license applicants must read before a county judge or court clerk issues them a marriage license. The bill provides the text which must be contained in the handbook. This includes statements encouraging:

- Mutual respect between marriage partners.
- Freely communicating ideas.
- Resolving conflicts.
- Keeping marriage “vital.”
- Discussing and sharing financial responsibilities (this section also offers budgeting advice).
- Taking responsibility in for raising children.

The bill requires the clerk of the circuit court in each judicial circuit to post an electronic copy of the guide on its website. In addition, if the Marriage Education Committee provides printed copies of the guide to the office of the clerk of the circuit court, the clerk shall make the guide available to marriage license applicants.

The bill amends s. 741.04(4)(b), F.S., to bar county judges or court clerks from issuing marriage licenses unless the applicants present the judge or clerk with a statement verifying that the applicants have read or accessed the information contained in the handbooks created by ss. 741.0306 and 741.0307, F.S.

The bill states that Florida Healthy Marriage Handbook is supplemental to the family Law Handbook created by s. 741.0306, F.S.

The bill takes effect July 1, 2020.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Department of Children and Families and the Florida Association of Court Clerks have not provided a bill analysis for the bill so any potential fiscal impact is unknown but should be insignificant.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends s. 741.04, of the Florida Statutes.

This bill creates s. 741.0307, 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 Judiciary on February 19, 2020:

The committee substitute changes the underlying bill by:

- Deleting the language creating a committee to draft the Florida Guide to Health Marriage.
- Creating the Florida Healthy Marriage Handbook and the information required to be contained in the handbook.

CS by Children, Families, and Elder Affairs on January 28, 2020:

- Changes the entities that appoint members to the committee.
- Requires that the membership of the committee is reflective of the ethnic and gender diversity of the state.
- Repeals the section of statute related to the family law handbook and removes the requirement that applicants for a marriage license read it.

B. Amendments:

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Baxley) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Section 741.0307, Florida Statutes, is created
to read:

741.0307 Florida Healthy Marriage Handbook.—

(1) There shall be created a handbook which includes
resources, information, and website links to assist in forming
and maintaining a long-term marital relationship. This handbook
is supplemental to the Family Law Handbook created under s.



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741.0306.

(2) The handbook shall read substantially as follows:

Introduction

Congratulations! You have made the decision to get married. This decision means that you and your partner agree to enter into a formal contract. This contract outlines the conditions of your new partnership. This partnership impacts the ownership of your money and possessions and the way you relate to each other. When you talk about your marriage expectations before getting married, you begin to understand the new roles and responsibilities. This mutual understanding helps to lay a foundation that can help you build a successful, enduring marriage.

The purpose of this handbook is to provide information to marriage license applicants that can help to create successful marriages. It includes topics such as learning to communicate effectively, building your team, solving problems collaboratively, and resolving conflicts. The handbook also provides general information on economic issues, raising a family, and the consequences that occur when marriages fail.

Building a Marriage

As you and your spouse begin your journey together, the first thing you will need to know is where you are going. Your shared destination is determined by your personal and shared values.



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The marriage journey will require lots of decisions from both of you. Through mutual respect, trust, honesty, and love, you will have a rewarding trip.

Understanding Your Values

Your values are the foundation for all of your thinking and decision-making. Every decision you make is an effort to align your actions to your values. When you marry, you will be sharing your life with another person. It is so important that you know your own values and the values of your intended spouse. Think about the values you consider sacred in your life and share this information with your partner.

Discuss these issues prior to making a marriage commitment.

Build upon your mutual ideals. A harmonious, lasting marriage will be built upon a foundation of shared values and the effective communication of these values.

Building Your Team

Marriage is a team effort. One of the definitions of the word team is "a group of persons pulling together." Talking to each other and sharing in decisions that affect both team members is very important. Talking, listening, and valuing your partner's ideas and contributions will make your marriage team strong and healthy.

Learning Effective Communication



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Learning to communicate effectively requires commitment from both you and your partner. It takes time and LOTS of energy, but it is worth the effort. To commune literally means "to put in common; to share." The goal of effective communication is to create a common understanding with your partner. This common understanding is the cement of a strong marriage. Honesty is an essential component of effective communication. However, honesty must be tempered with kindness. Good communication between both of you promotes mutual trust and respect.

Successful marriages depend on good communication between both partners. Learning to be a good communicator takes patience and practice.

Resolving Conflicts

Another step in building a lasting marriage is learning to examine and confront issues effectively. Couples in the healthiest marriages experience conflicts. Conflicts are normal because you and your partner have different beliefs and opinions. Conflict is simply a clash between these beliefs and opinions. The cause of conflict is that you and your partner see and approach situations and events differently. Conflict results when there are opposite points of view and each person believes that their viewpoint is right and their partner's viewpoint is wrong. The result is two different interpretations.

People in conflict are seldom upset about what they think they



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are upset about. One event may trigger an emotional outburst.
The outburst often is caused by a series of unresolved issues. A
win/lose situation will not solve the problem. Resolving
conflicts effectively strives to achieve a win/win solution for
both of you. How can you find an answer that benefits you and
your partner? The first step is for the two of you to step out
of the battle and look beyond the event that created the
conflict. The next step is to shift your focus to your common
interests, mutual values, and positive qualities.

Refocusing your own thinking helps to calm emotions. You can
redirect your thinking – and your partner’s – to what you both
really want: an activity or mutual goal, something more
satisfying than the conflict. Couples can change their conflict
experiences by changing their thoughts about the situation.

Keeping the Marriage Vital

When you first get married, usually everything is new and
exciting. But how do you keep your marriage new and exciting
year after year? You have started a lifelong journey together.
This journey will have many stops along the way. Each of your
destinations will bring maturity to your relationship and to
each of you. Your affection for each other increases through the
lessons that you learn together and the laughter and the tears
that you share. It is a good journey! Couples who can laugh
together under challenging circumstances and gain the
understanding of true friendship keep their marriage vital.



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Addressing Economic Issues

As you prepare for your new journey as a couple, you have several financial issues to discuss. What financial resources and obligations do you bring into your marriage? Do you have business debts? Will you combine your finances and have joint checking and savings accounts or maintain separate accounts? Who will pay the bills? Will you develop a budget together?

Talking to each other about how you plan to earn, spend, and save your money is easier when you agree on priorities. Your marriage benefits from forming and sticking to a spending plan that includes discussion and agreement.

Sharing Financial Responsibilities

It is wise to make major financial decisions together. You both will be responsible for those decisions. If you are uncomfortable at the thought of sharing financial responsibilities with your intended spouse, you might want to seek premarital counseling to determine underlying issues and to decide if marriage is the right decision for you at this time.

One of you may be better at balancing a checkbook, paying the bills, and developing a budget. As you take this marital journey with your partner, talk with each other about which one of you is best suited to do specific financial tasks. Then, after you are married, try out your new system! Adjust it if it doesn't work well.



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Here are some specific financial planning tips. Decide together:

If you will maintain one joint checking account or separate individual checking accounts. Who will pay the bills and maintain the checking account(s)? How often and how much personal allowance each of you should receive. What is an appropriate savings and investment plan? How you will pay for large purchases such as automobiles and major appliances.

Building a Budget

Building a budget helps you to know how much income you will have, how much money you will spend, and how much money will be left over. It helps you to control your spending. A budget helps you to save money!

What are some steps to assist you?

1. Identify your financial goals: short range (e.g., buying groceries and gasoline) and long term (e.g., buying a house, setting up a college fund for your children).

2. Look at your current financial position. What is your monthly household income? What are your debts?

3. Write out a monthly budget for 12 months. Write out monthly expenses in the different categories (e.g., \$300 car payment, \$600 rent). Estimate how much you will spend in each category.

4. Compare your budget to your financial goals. Is there money left over after meeting your monthly obligations? If so,



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how much of the leftover money can be used for your goals? If you follow the budget you set up, how long will it take you to reach your goals?

5. Compare your actual costs to the costs you budgeted. Was your budget realistic?

6. Review and revise your budget. Stay on track toward meeting your joint financial goals.

7. Decide who will work, who will provide childcare, and who will obtain further formal education.

8. How much insurance will be necessary?

It is important to make your budget realistic and flexible. Major categories of expenses are: rent or mortgage payment; utilities; food and household goods; clothing; healthcare; insurance premiums; tuition, charitable donations; transportation; household maintenance; credit card debt; hobbies and entertainment; vacation and holiday savings; and other expenses, such as cosmetics, hair care, veterinary fees (if you have pets), gifts, plants, and artwork.

Certain budget items are fundamental expenditures or "absolutes," such as housing, food, and transportation. Other budget items are less important. Other budget items are "discretionary expenditures," such as hobbies, vacations, gifts, and artwork are a lower priority than housing and food. Prioritize your budget items, starting with "absolutes."

Involve your spouse in major budget decisions. Talk together about the mutual benefit and impact of your budget decisions.



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For example, what should you do if one of you wants a new computer while the other wants new carpet, and there is money for only one of the two items?

Which of the purchases is most needed and beneficial to both of you? What is the impact on the quality of your life together if you buy the computer? The carpeting? Set your purchasing priorities together. Be a team working towards your shared financial goals.

Raising a Family

Deciding to start a family is a BIG decision! The change you experienced when your household became two triples with the addition of a child! Children bring great joy, sleepless nights, and new roles and responsibilities for both of you.

Parenthood is a lifetime commitment. It requires emotional maturity from both partners. Raising children can be the most satisfying experience when both of you are ready to make this unselfish commitment.

Taking Responsibility for Raising Children

The decision to have children needs to be mutual. Children bring an enormous change to your relationship with each other. Some of the spontaneity that you once had as a couple may change. Fatigue from early childcare demands and feelings of uncertainty in your new roles can cause temporary marital stress. Career and



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childcare decisions, economic implications and new financial demands, and new housing requirements will need to be discussed. But the joys of parenthood outweigh the tensions of change.

Raising a child is a team effort and requires both partners to be active participants. You are bringing into the world a new human being who will require your full support physically, emotionally, socially, instructionally, and economically. Both of you are responsible for your child's care. This mutual responsibility for the care of your child or children never ends. When you agreed to have a child, you signed on for life.

Coping with Family Challenges

Sometimes raising children can be very difficult. You may find that you need help. Some children have problems making friends, getting along in school, and staying out of trouble with the law. Family counseling can strengthen families by providing a safe place to explore issues and resolve problems.

Walking Rocky Roads

If sad times start to outweigh happy times with your spouse, you are walking a lonely, rocky road in your marriage. Examine your own life, your spouse's life, and your relationship with each other. If you and your spouse can renew your love and commitment to each other, together you can remove the obstructions in your marriage. Professional counselors and/or members of the clergy may help you remove some of the boulders in your marriage path.



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Depending on the type of problems you encounter, you may find specific support groups and counseling classes to help you. Also refer to the phone book or online directories for listings of counselors, support groups, religious organizations, and other community resources.

Conclusion

This free handbook is one way that the State of Florida is showing its support of your decision to marry. The information has been intended to be a basic roadmap to guide you. The State of Florida hopes that you have a happy and healthy marriage!

Again, congratulations!

(3) The clerk of the circuit court shall post an electronic copy of the handbook on its website. Additionally, if printed copies of the handbook are made available to the office of the clerk of the circuit court, the clerk shall make the handbook available to marriage license applicants. The clerk of the circuit court is encouraged to provide a list of course providers and sites where marriage and relationship skill-building classes are available.

Section 2. Paragraph (b) of subsection (4) of section 741.04, Florida Statutes, is amended to read:

741.04 Issuance of marriage license.—

(4) A county court judge or clerk of the circuit court may not issue a license for the marriage of any person unless the county court judge or clerk of the circuit court is first



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presented with both of the following:

(b) A written statement that verifies that both parties have obtained and read or otherwise accessed the information contained in the handbooks ~~handbook~~ or other electronic media presentation of the rights and responsibilities of parties to a marriage specified in ss. 741.0306 and 741.0307 ~~s. 741.0306~~.

Section 3. This act shall take effect July 1, 2020.

===== 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 the Florida Healthy Marriage Handbook; creating s. 741.0307, F.S.; creating the Florida Healthy Marriage Handbook; providing requirements for the handbook; providing for distribution of printed copies of the handbook under certain circumstances; requiring clerks of the circuit court to post electronic copies of the handbook on its website and make the handbook available to certain applicants; encouraging clerks of the circuit court to provide a list of course providers and websites where certain classes are available; amending s. 741.04, F.S.; prohibiting the issuance of a marriage license until petitioners verify that both parties have obtained and read the Florida Healthy Marriage Handbook or some other presentation of similar information; providing an effective date.

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

586-02770-20

2020682c1

A bill to be entitled

An act relating to the Florida Guide to a Healthy Marriage; creating s. 741.0307, F.S.; creating the Marriage Education Committee within the Department of Children and Families for the purpose of creating the Florida Guide to a Healthy Marriage; providing for committee operation; providing for appointment of committee members and terms of office; requiring the committee to submit the completed guide to the Governor and the Legislature; providing for committee termination; providing for periodic reconstitution of the committee to review and update the guide; providing requirements for filling vacancies; providing requirements for the guide's content; requiring the committee to oversee the design and layout of the guide and obtain private funds to cover associated costs; authorizing the committee to obtain private funds for the costs of printing and distributing copies of the guide; authorizing the committee to distribute printed copies of the guide under certain circumstances; requiring clerks of court to post an electronic copy of the guide on the court's website and provide printed copies to applicants for marriage licenses under certain circumstances; encouraging clerks of court to provide a list of certain course providers and websites where certain classes are available; providing for periodic review and revision of the guide; requiring the committee to periodically submit a report to the Governor and the

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Legislature detailing its revisions to the guide and recommendations for further updates; amending s. 741.04, F.S.; prohibiting the issuance of a marriage license until petitioners verify that both parties have obtained and read the Florida Guide to a Healthy Marriage or some other presentation of similar information; deleting a requirement related to the family law handbook to conform a provision to changes made by the act; repealing s. 741.0306, F.S., relating to the creation of a family law handbook; providing an effective date.

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

Section 1. Section 741.0307, Florida Statutes, is created to read:

741.0307 Marriage Education Committee; Florida Guide to a Healthy Marriage.—

(1) There is created within the Department of Children and Families, for administrative purposes only, the Marriage Education Committee for the sole purpose of creating the Florida Guide to a Healthy Marriage. Except as otherwise provided in this section, the committee shall operate in a manner consistent with s. 20.052. The committee shall consist of six marriage education and family advocates, one of whom shall be appointed by the Florida Chapter of the National Association of Social Workers, one of whom shall be appointed by the Florida Family Therapy Association, one of whom shall be appointed by the Florida Mental Health Counseling Association, one of whom shall

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59 be appointed by the Governor, one of whom shall be appointed by
60 the President of the Senate, and one of whom shall be appointed
61 by the Speaker of the House of Representatives. The membership
62 of the committee must reflect the ethnic and gender diversity of
63 the state. The committee shall be appointed by September 1,
64 2020, and the appointees shall each serve a 1-year term or until
65 such time as its work in creating the Florida Guide to a Healthy
66 Marriage has been completed, whichever is earlier. A vacancy on
67 the committee shall be filled for the unexpired portion of the
68 term in the same manner as the original appointment. The
69 committee shall submit the completed guide to the Governor, the
70 President of the Senate, and the Speaker of the House of
71 Representatives and terminates with the submission of the guide.
72 The committee shall subsequently be reconstituted once every 10
73 years after July 1, 2020, to review and update the contents of
74 the guide. The reconstituted committee shall consist of six
75 marriage education and family advocates, one of whom shall be
76 appointed by the Florida Chapter of the National Association of
77 Social Workers, one of whom shall be appointed by the Florida
78 Family Therapy Association, one of whom shall be appointed by
79 the Florida Mental Health Counseling Association, one of whom
80 shall be appointed by the Governor, one of whom shall be
81 appointed by the President of the Senate, and one of whom shall
82 be appointed by the Speaker of the House of Representatives.

83 (2) The Florida Guide to a Healthy Marriage must include,
84 but need not be limited to:

85 (a) Resources regarding conflict management, communication
86 skills, family expectations, financial responsibilities and
87 management, domestic violence resources, and parenting

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responsibilities.

(b) Current information from marriage education and family advocates to assist in forming and maintaining a long-term marital relationship.

(c) Information regarding premarital education, marriage enrichment education, and resources that are available to help restore a marriage that is potentially moving toward dissolution.

(d) Contact information and website links to additional resources and local professional and community services to further assist a marital relationship.

(3) The committee shall oversee the design and layout of the guide. The committee shall raise funds from private sources to cover the costs of the design and layout. The committee may raise funds from private sources to cover the costs of printing and distributing copies of the guide. If sufficient funds are not raised to cover the costs of printing and distribution, the committee is not required to print or distribute copies of the guide.

(4) The clerk of the circuit court in each judicial circuit shall post an electronic copy of the guide on its website. Additionally, if the committee provides printed copies of the guide to the office of the clerk of the circuit court, the clerk must make the guide available to marriage license applicants. The clerk of the circuit court is encouraged to provide a list of course providers and sites where marriage and relationship skill-building classes are available.

(5) The committee shall review the guide and provide a report to the Governor, the President of the Senate, and the

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117 Speaker of the House of Representatives every 10 years, or as
118 soon thereafter as practicable, detailing changes made to the
119 guide and recommending further updates.

120 Section 2. Subsection (4) of section 741.04, Florida
121 Statutes, is amended to read:

122 741.04 Issuance of marriage license.—

123 (4) A county court judge or clerk of the circuit court may
124 not issue a license for the marriage of any person unless the
125 county court judge or clerk of the circuit court is first
126 presented with both of the following:

127 (a) A written statement, signed by both parties, which
128 specifies whether the parties, individually or together, have
129 completed a premarital preparation course.

130 (b) A ~~written~~ statement that verifies that both parties
131 have obtained and read or otherwise accessed the information
132 contained in the Florida Guide to a Healthy Marriage, as created
133 under s. 741.0307, or some other presentation of information
134 regarding conflict management, communication skills, family
135 expectations, financial responsibilities and management,
136 domestic violence resources, and parenting responsibilities
137 ~~handbook or other electronic media presentation of the rights~~
138 ~~and responsibilities of parties to a marriage specified in s.~~
139 ~~741.0306.~~

140 Section 3. Section 741.0306, F.S., is repealed.

141 Section 4. This act shall take effect July 1, 2020.

COMMITTEE: Judiciary
ITEM: CS/SB 682
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S00682

GENERAL BILL/CS by CF, Baxley; (Compare CS/H 00319)

Florida Guide to a Healthy Marriage. EFFECTIVE DATE: 07/01/2020.

02/19/20 S CS/CS by Judiciary; YEAS 4 NAYS 2

02/20/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute)

02/21/20 S Now in Rules

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

January 29, 2020

The Honorable Chairman David Simmons
404 Senate Office Building
Tallahassee, Florida 32399

Dear Chairman Simmons,

I would like to request that SB 682 Florida Guide to a Healthy Marriage be heard in the next Children, Families & Elder Affairs Committee meeting.

The bill will create within the Department of Children and Families, for administrative purposes only, the Marriage Education Committee for the sole purpose of creating the Florida Guide to a Healthy Marriage. The committee would consist of six marriage education and family advocates.

This guide will include resources regarding conflict management and resolution, communication skills, family expectations, financial responsibilities and management, domestic violence resources, parenting responsibilities, how to maintain a long-term marital relationship, premarital education, marriage enrichment education and how to restore a marriage that is potentially moving towards dissolution.

Thank you for your favorable consideration.

Onward & Upward,



Senator Dennis K. Baxley
Senate District 12

DKB/dd

cc: Tom Cibula, Staff Director

320 Senate Office Building, 404 South Monroe St, Tallahassee, Florida 32399-1100 • (850) 487-5012

Email: baxley.dennis@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)

2-19-20

Meeting Date

SB682

Bill Number (if applicable)

Topic

Healthy Marriage Handbook

Amendment Barcode (if applicable)

Name

Pam Olsen

Job Title

Legislative Lead

Address

PO Box 14017

Phone

880-906-9170

Street

Tally

FL

32317

Email

City

State

Zip

Speaking:

☐

For

☐

Against

☐

Information

Waive Speaking:

☒

In Support

☐

Against

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

Representing

FL Faith-based Community based 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)

2-19-20
Meeting Date

682
Bill Number (if applicable)

Topic Healthy Marriage

Amendment Barcode (if applicable)

Name Greg Pounds

Job Title _____

Address 9166 Sunrise Dr

Phone _____

Street

Largo
City

FL
State

33773
Zip

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Saving families

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
2/6/20	SM	Report Submitted
2/10/20	JU	Fav/CS
	ATD	
	AP	

February 6, 2020

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

Re: **SB 16** – Senator Simmons
HB 6517 – Representative Williamson
Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard
Maybin by the Department of Highway Safety and Motor Vehicles

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR GENERAL REVENUE FUNDS IN THE AMOUNT OF \$17,715,000. THIS AMOUNT IS THE REMAINING BALANCE OF AN \$18,000,000 SETTLEMENT AGREEMENT REGARDING ALLEGED NEGLIGENCE OF TROOPER RAUL UMANA AND THE FLORIDA HIGHWAY PATROL, A DIVISION OF THE DEPARTMENT OF HIGHWAY SAFETY AND MOTOR VEHICLES.

FINDINGS OF FACT:

The Accident

On May 18, 2014, at approximately 9:25 p.m., Florida Highway Patrol (FHP) Trooper Raul Umana, traveling north on I-75 in a 2007 Crown Victoria patrol vehicle, attempted to turn around using a crossover gap in the median. Trooper Umana had been on the far right shoulder assisting with a disabled vehicle and then made two lane changes with a maximum speed of 45 miles per hour as he crossed to the far left northbound lane and approached the crossover gap.¹ He entered the median too quickly to properly negotiate the turn

¹ Florida Highway Patrol Vehicle/Personnel Crash Investigation Report (FHP Report), 25 (Aug. 29, 2014).

and hit the median barrier at a speed of 20 miles per hour before entering the southbound lane.²

Ms. Christeia Jones was traveling in the southbound lane with her three children in the backseat (Logan Grant, 2 years old; Lanard Maybin, 5 years old; and Denard Maybin, Jr., 7 years old).

Once entering the southbound lane at nine miles an hour, Trooper Umana's vehicle struck the 2014 Nissan Altima driven by Ms. Jones as well as a Mercedes traveling behind Ms. Jones. Ms. Jones had been traveling at 88 miles per hour, applied brakes and steered right (away from Trooper Umana's vehicle) and was traveling at 62 miles per hour at the time of impact with Trooper Umana's vehicle.³

After being struck by Trooper Umana's vehicle and applying brakes, Ms. Jones's Altima slowed to 16.94 miles an hour, and remained in the traveling lanes 179.5 feet from the initial collision.⁴ A tractor-trailer truck then collided with the Mercedes immediately behind Ms. Jones's vehicle; and then the tractor-trailer truck hit Ms. Jones's vehicle while traveling at 69 miles per hour. The collision with the tractor-trailer truck accelerated the speed of Ms. Jones's car to 58.33 miles per hour as her vehicle was pushed toward the shoulder of the highway.⁵ After both vehicles left the roadway and Ms. Jones's vehicle rotated 270 degrees, the tractor-trailer truck hit Ms. Jones's vehicle a second time and Ms. Jones's vehicle came to rest after hitting a tree. The engine compartment then caught fire.⁶

Ms. Jones was able to exit the vehicle but emergency personnel had to extract her three children who were trapped inside of the car after the rear seat was crushed by impact from the tractor-trailer truck. The FHP report describes damage to the vehicle in great detail⁷ and notes the driver of the tractor trailer did not fully apply the brakes until after

² *Id.* at 33.

³ *Id.* at 25.

⁴ *Id.* at 27.

⁵ *Id.*

⁶ *Id.* at 28.

⁷ *Id.* at 15. The report includes a description of the extensive crushing and damage to the back of the vehicle.

"The rear center and left headrest [were] crushed forward to the back of the driver's seat. The front right seat was twisted to the left by the back seat." *Id.* at 16.

colliding with the Mercedes, which was inconsistent with a statement made by the driver during the investigation.⁸

FHP Report

The FHP report noted no known distractions, adverse weather conditions, or evasive actions that would have contributed to the causation of the crash.⁹

Restraints

The FHP report provides both Lanard (5) and Denard (7) were “unrestrained at the time of the crash and suffered critical injuries,” and Logan (2) was restrained in a forward facing child seat and suffered critical injuries as a result of the incident.¹⁰

Ms. Jones confirmed Logan (2) was secured in a forward facing car seat; however, she testified both Lanard (5) and Denard (7) were wearing seatbelts when they began the ride.¹¹ Additionally, the FHP report includes information from Ms. Jones’s grandmother, Marilyn Lilly, who told the investigating officer the two older boys were wearing seatbelts when Ms. Jones left her house.¹² Ms. Jones does not have knowledge of the boys unbuckling themselves during the course of the ride.¹³

Counsel for claimants indicated there was no expert testimony presented suggesting the seatbelts would have made a difference for Lanard and Denard. Counsel noted the one child who was restrained, Logan, was the most severely injured. Counsel suggested if seatbelts were not used by the two older boys—not wearing the belts may have saved their lives.¹⁴

Speed

The posted speed limit of the highway where the incident occurred was 70 miles per hour.¹⁵ Information gathered during

⁸ *Id.* at 28.

⁹ *Id.* at 5.

¹⁰ *Id.* at 6-7. “The rear left and center seatbelts were locked in the retracted position. The rear right seat belt appeared to have been cut in two places. The child restraint seat was cracked and the metal seatbelt clip was bent.” *Id.* at 16.

¹¹ Deposition, Christeia Jones, 87 (Jan. 18, 2018); Deposition, Trooper Crocker 7:20–7:30.

¹² FHP Report at 22.

¹³ Special Master Hearing at 3:28:43-3:29:45.

¹⁴ *Id.* at 14:45-15:58.

¹⁵ FHP Report at 5.

the FHP's investigation demonstrated Ms. Jones was driving at a speed exceeding the limits and made efforts to slow down just before impact with Trooper Umana's vehicle.

FHP investigators were able to obtain information from the event data recorder in Ms. Jones's vehicle. Prior to Trooper Umana's vehicle hitting Ms. Jones's vehicle, Ms. Jones was traveling at 88 miles per hour; which counsel for the claimants noted as going with the flow of traffic.¹⁶ The FHP report indicates about 1.5-2 seconds prior to impact, speed was reduced to 86 miles per hour. By one second before impact, Ms. Jones was traveling at 79 miles per hour; .5 second before impact, she was traveling at 69 miles per hour; and, at impact, she was traveling at 62 miles per hour.¹⁷

Medical Injuries

Ms. Jones is not seeking relief for herself through the claim bill. She seeks relief only for her children. Information regarding injuries to the three children was provided at the special master hearing. The submitted information includes evaluations, for each child, by medical professionals, vocational rehabilitation, and life care planning professionals.

Logan Grant

Logan suffered from a severe traumatic brain injury, orbital fractures, lung contusions, and a left subdural hematoma in his brain. He was hospitalized at UF Health Shands Hospital for a month before going to a rehabilitation hospital for another two weeks.¹⁸

As of November 2017, Logan could walk on his own with fewer falls when wearing a brace on one foot; fatigued easily; was able to dress himself if clothing did not have fasteners; had limited strength and coordination with his left hand; and had cognitive-behavioral impairment. He was receiving occupational, physical, speech, and behavioral therapy.¹⁹ The

¹⁶ Special Master Hearing at 51:20-51:30. See also FHP Report at 13 (noting none of three witnesses, who were truck drivers, indicated Ms. Jones, the vehicle behind her, nor the tractor-trailer truck were speeding). Counsel for claimants highlighted this information in support of Ms. Jones, who, although speeding, was traveling with the flow of traffic. Special Master hearing at 52:20-53:06.

¹⁷ FHP Report at 18.

¹⁸ Special Master Hearing at 16:00-16:30; see Kornberg, MD, Paul B., Rehabilitation & Electrodiagnostics: Comprehensive Medical Evaluation, 13 -15 (Nov. 22, 2017).

¹⁹Kornberg, MD, Paul B., Rehabilitation & Electrodiagnostics: Comprehensive Medical Evaluation, 8-10 (Nov. 22, 2017).

doctor evaluating Logan found his “level of function and quality of life has markedly diminished in relation to the motor vehicle crash” and anticipated his deficits are permanent and will require continued multidisciplinary care.²⁰ The evaluating doctor believes, due to cognitive and communication impairments, Logan is not expected to be able to live alone as an adult, and will require guardianship and attendant care to assist with activities of daily living.²¹

A doctor examining Logan on behalf of the respondent came to similar conclusions with regard to Logan’s abilities and future needs. The doctor found Logan had cognitive deficits with regard to executive functioning and his ability to control behaviors, regulate emotions, and stay on task.²² This doctor also found Logan will likely need some assistance in making major life and financial decisions; and he is likely to be able to perform labor-oriented work.²³

A doctor hired by the claimants conducted a vocational rehabilitation evaluation, which included the finding that he “will not be capable of securing and maintaining competitive employment.”²⁴ The doctor found it reasonable to assume he would have previously been capable of graduating from high school and earning a college degree.²⁵ The same doctor, in coordination with others, evaluated Logan’s needs and developed a life care plan.²⁶ An economist used underlying reports from doctors evaluating the claimant to estimate economic losses and the cost of future care needs which are identified later in this report.

Lanard Maybin

Lanard, who was found in the front of the car under the dashboard, suffered facial lacerations, a left shoulder fracture, a major neurocognitive disorder and behavioral disturbance

²⁰ *Id.* at 14.

²¹ *Id.* at 15.

²² Kelderman, M.D., Jill (The Center for Pediatric Neuropsychology), Compulsory Medical Evaluation for Logan Grant, 9 (Aug. 23, 2018).

²³ *Id.* at 10.

²⁴ Shahnasarian, Ph.D., Michael, Vocational Rehabilitation Evaluation of Logan Eduardo Grant, 30 (June 25, 2018). This finding is based upon a reasonable degree of vocational rehabilitation probability. *Id.* But see Kelderman, Ph.D. ABPP, Jill, Pediatric Neuropsychological Evaluation, 10 (Aug. 23, 2018) (concluding Logan will likely need some level of supervision throughout adulthood with regard to major life and financial decisions but noting he is likely to be able to work labor-related jobs).

²⁵ *Id.* at 31.

²⁶ Shahnasarian, Ph.D., Michael, 1st Update—Life Care Plan Prepared for Logan Eduardo Grant (Aug. 2, 2018).

related to a traumatic brain injury, attention deficit disorder related to traumatic brain injury, and possible post-traumatic stress disorder.²⁷

In September 2019, a doctor providing an opinion about Lanard's functional status and needs noted his "level of function and quality of life has markedly diminished" as a result of his injuries. The doctor also noted ongoing neurocognitive and behavioral impairments that impact daily life at home and in school, which will require ongoing multidisciplinary care. The doctor believes these impairments will negatively impact Lanard's future vocational potential and his level of independence; however, the doctor is not certain if Lanard will be able to achieve gainful employment in the competitive job market or live alone as an adult.²⁸

In 2019, a doctor conducted a vocational rehabilitation evaluation of Lanard. In reviewing medical records, the doctor noted neuropsychological diagnoses of 1) a major cognitive disorder likely from traumatic brain injury with behavior disturbance; 2) post-traumatic stress disorder; and 3) nocturnal enuresis. Additionally, Lanard indicated difficulty focusing and has ongoing nightmares and accident-related thoughts. His facial scarring is described as "prominent."²⁹ The same doctor, in coordination with others, evaluated Lanard's needs and developed a life care plan.³⁰ An economist used underlying reports from doctors evaluating the claimant to estimate economic losses and the cost of future care needs, which are identified later in this report.

Denard Maybin

²⁷ Kornberg, M.D., Paul, Comprehensive Medical Evaluation of Lanard Maybin, 11 (Sept. 11, 2019); Shands at the University of Florida, Department of Pediatric Surgery Discharge Note Re: Lanard Maybin (May 23, 2014).

²⁸ Kornberg at 11.

²⁹ Shahnasarian, Ph.D., Michael, Vocational Rehabilitation Evaluation of Lanard Maybin, 26 (Aug. 14, 2019).

³⁰ Shahnasarian, Ph.D., Michael, 1st Update—Life Care Plan Prepared for Lanard Maybin (Nov. 4, 2019). During his testimony at the special master hearing, Dr. Shanasarian indicated one needed change to page 19 of his original report. He noted it should read, "to be determined" as to whether Lanard would require a live-in personal care attendant after the age of 22. See Shanasarian, Life Care Plan Prepared for Lanard Maybin (Oct. 18, 2019). The correction was at the request of Dr. Gorman, a neuropsychologist, who could not state, with probability, the ongoing need beyond age 21. Special Master Hearing at 1:29:40-1:30:06. Counsel for claimants submitted a revised life care plan and a revised economic loss analysis report regarding Lanard in November of 2019, as cited above.

Denard suffered from a traumatic brain injury, right subdural hematoma, and diffuse axonal injury.³¹ A 2015 follow-up MRI showed scarring and shrinking of the brain in some areas; and an old hemorrhage in the bilateral front lobes (which are responsible for executive functioning and emotional regulation).³²

In 2017, a doctor evaluated Denard for the purpose of providing an opinion about his functional status and future needs. The doctor found his “level of function and quality of life has markedly diminished in relation to the motor vehicle crash.”³³ The evaluation noted mild right lower extremity weakness with motor perceptual, communication, and cognitive impairments, which are anticipated to be permanent.³⁴ As a result of cognitive and functional impairments, the evaluating doctor believes Denard will require ongoing multidisciplinary care and is not expected to attain gainful employment in the competitive job market.³⁵

A doctor examining Denard on behalf of the respondent found Denard has “significant weaknesses” with regard to executive functioning, “remarkable deficits” with regard to organization, “significant difficulties with fine motor skills,” as well as visual-spatial deficits.³⁶ With regard to Denard’s abilities and future needs, the doctor found Denard is unlikely to attain a standard high school diploma and notes he will likely require some level of assistance and supervision with major life and financial decisions.³⁷ However, he is “unlikely to require a personal care attendant as he will be able to care for his personal needs.”³⁸ This doctor also believes Denard will be able to perform labor-oriented work.³⁹

³¹ Special Master Hearing at 16:32-16:58; see Kornberg, M.D., Paul B, Rehabilitation & Electrodiagnostics: Comprehensive Medical Evaluation–Denard Maybin, 2-3 (Nov. 22, 2017).

³² Kornberg at 6; see Special Master Hearing at 2:19:00-2:20:45.

³³ Kornberg at 12.

³⁴ *Id.* at 12.

³⁵ *Id.* at 12; see also Shahnasarian, Michael, Vocational Rehabilitation Evaluation for Denard Maybin, 33 (June 22, 2018).

³⁶ Kelderman, M.D., Jill (The Center for Pediatric Neuropsychology), Compulsory Medical Evaluation for Denard Maybin, Jr., 9 (Aug. 22, 2018).

³⁷ *Id.* at 10.

³⁸ *Id.* at 10. This is notable as the life care plan and costs of future life care needs includes the cost of a live-in personal care attend with a present value cost of \$4,195,226; as well as an item listed as “additional cost for live-in care,” which has a present value of \$208,692. Raffa, Frederick (Raffa Consulting Economists, Inc.), Economic Loss Analysis in the Matter of Maybin, Jr., Denard vs. Florida Highway Patrol, Table 2 (Oct. 31, 2018).

³⁹ Kelderman at 10.

In 2018, a doctor provided a vocational rehabilitation evaluation for Denard as requested by the claimants.⁴⁰ The doctor's findings included academic and medical difficulties since the accident, and multifaceted neuropsychological difficulties. These difficulties include reasoning ability, memory, processing speed, motor skills, emotional disturbance, and anxiety among other findings.⁴¹ The doctor concluded Denard is not likely to be capable of attaining competitive employment.⁴²

The same doctor, in coordination with others, evaluated Denard's needs and developed a life care plan.⁴³ An economist used underlying reports from doctors evaluating the claimant to estimate economic losses and the cost of future care needs, which are identified later in this report.

Caretaking

Ms. Jones is the primary caretaker for Logan, Lanard, and Denard and takes them to all of their appointments. She testified she takes them to speech, physical, and occupational therapy appointments two days a week (2-3 hours each of those days). In addition, she takes them to appointments with specialists and their primary care physician. Ms. Jones works as a substitute teacher 1-3 days a week (depending upon appointments), which allows her to have a schedule flexible enough to get her children to their doctors and therapists. She would like to work fulltime using her bachelor's in criminal justice and seek a master's and a law degree.⁴⁴

Estimated Economic Losses

Claimants submitted economic loss analyses⁴⁵ with regard to the children based upon medical assessments and expected needs and limitations.

⁴⁰ Shahnasarian, Ph.D., Michael, Vocational Rehabilitation Evaluation for Denard Maybin, 33 (June 22, 2018).

⁴¹ *Id.*

⁴² *Id.*

⁴³ Shahnasarian, Ph.D., Michael, Life Care Plan Prepared for Denard Maybin (July 5, 2018).

⁴⁴ Special Master Hearing at 3:15:09-3:18:10. Ms. Jones testified about her worries for her children as well as her desire to make sure they are healthy and prepare them as much as possible to live without her. *Id.* at 3:31:30-3:32:00 and 3:38:50-3:39:00.

⁴⁵ See Raffa, Frederick (Raffa Consulting Economists, Inc.), Economic Loss Analysis in the Matter of Mr. Lanard Maybin 2nd Revised Report (Nov. 7, 2019); Raffa, Frederick (Raffa Consulting Economists, Inc.), Economic Loss Analysis in the Matter of Grant, Logan vs. Florida Highway Patrol Report (Nov. 2, 2018); Raffa, Economic Loss Analysis Re: Denard.

The estimated economic losses with regard to future earning capacities in difference scenarios were as follows:

Earning Capacity: Assuming Pre-Incident Employment with No Further Degree Beyond High School	
	Present Value
Logan	\$1,543,014
Lanard	\$1,690,822
Denard	\$1,592,738

Earning Capacity: Assuming Pre-Incident Employment and Additional Schooling	
	Present Value
Logan (with a bachelor's degree)	\$2,810,754
Lanard (with technical school training)	\$1,834,473
Denard (with a bachelor's degree)	\$2,906,356

The estimated cost of future life care needs for each child is as follows:

Cost of Future Life Care Needs	
	Present Value
Logan⁴⁶	\$6,702,555 or \$6,738,094
Lanard⁴⁷	\$2,126,572
Denard⁴⁸	\$5,818,550

In summary, the estimated economic loss and cost of future care at present value⁴⁹ for each child is as follows:

- Logan \$8,245,569–\$9,548,848
- Lanard \$3,817,394–\$3,961,045
- Denard⁵⁰ \$7,411,288–\$8,724,906

⁴⁶ Two options were listed for Logan's Life Care Plan depending upon what is used to assist him with ambulating (Option 1: Walkaide and Options 2: Bioness L300).

⁴⁷ The values for Lanard include adjusting for the correction to the life care plan evaluation (indicating the need for a live-in attendant after the age of 21 is yet to be determined by professionals).

⁴⁸ If the medical opinion of the respondent's evaluating doctor is applied (that Denard will not require live-in care), the values for Denard's future life care needs would likely be reduced by the values listed for a live-in care attendant (\$4,195,226) and "additional cost for live-in care" (\$208,692). If he no longer required housekeeping, that would further reduce his future life care needs by \$70,761. See Raffa Economic Loss Analysis Re: Denard at Table 2.

⁴⁹ Raffa Economic Loss Analysis Re: Logan at Tables 3A and 3B; Raffa 2nd Revised Economic Loss Analysis Re: Lanard at Tables 3A and 3B; and Raffa Economic Loss Analysis Re: Denard at Tables 3A and 3B.

⁵⁰ See *supra* n. 48.

Combined, the estimated economic loss ranges for all three children is \$19,474,251–\$22,234,799.⁵¹

Trooper Raul Umana

During a deposition related to this matter, Trooper Umana stated he was going to pull into the median and wait until it was safe to turn around; however, he admitted he approached too quickly. He said his “lack of experience there really kicked in.”⁵² He said “there was too close of [a] range for me to get across and turn around.”⁵³ Trooper Umana agreed it was part of his training to turn around in the safest area.⁵⁴ Although he did not know the speed at which he entered the median, his opinion was it “was too fast.”⁵⁵

The FHP report indicates Trooper Umana received a traffic citation for careless driving pursuant to section 316.1935, of the Florida Statutes,⁵⁶ which he states he paid.⁵⁷ He did not receive any discipline from FHP.⁵⁸

Other Vehicles Involved in Incident

In addition to Trooper Umana’s and Ms. Jones’s vehicles, there were two other vehicles involved in this incident. There was a vehicle directly behind Ms. Jones’s vehicle involved, as well as a tractor-trailer truck.

The Vehicle Behind Ms. Jones’s Vehicle

The vehicle behind Ms. Jones, according to the FHP report, was following too closely behind her.⁵⁹ Although this vehicle did not come into contact with Ms. Jones’s vehicle, the insurer of this vehicle opted to provide \$20,000 in a settlement agreement.

The Tractor-Trailer Truck

Two possible issues arose with regard to the tractor-trailer truck. The first potential issue was with regard to speed. Although the tractor-trailer truck did not have a recording of

⁵¹ Although respondent’s doctor does not believe Denard will require live-in care after the age of 21, these amounts include such live-in care.

⁵² Trooper Raul Umana, Deposition, 22 lines 19–12 (July 17, 2017).

⁵³ *Id.* at 22 line 25–23 line 5.

⁵⁴ *Id.* at 26 lines 1–4.

⁵⁵ *Id.* at 32 lines 6–11.

⁵⁶ FHP Report at 59.

⁵⁷ Trooper Raul Umana, Deposition, 53 lines 17–20.

⁵⁸ *Id.* at 53 line 14–54 line 10 (July 17, 2017).

⁵⁹ FHP Report at 26.

data like Ms. Jones's Altima had, a responding trooper originally noted the driver of the tractor-trailer truck was following too closely because the driver had stated he did not have time to react after vehicles in front of him were involved in the initial crash.⁶⁰ The significant damage to the back of Ms. Jones's vehicle, which crushed the back seat where her children were located, was from impact of the tractor-trailer truck. The second potential issue was with regard to the driver's time on duty and whether he exceeded the limit regarding driving hours.⁶¹ Evidence was not submitted to confirm whether the driver of the tractor-trailer truck had been following too closely or driving for too many hours at the time of the crash.

Litigation History and Settlement

Two cases were filed by Ms. Jones in Orange County seeking relief as a result of this incident. One case was filed by Ms. Jones on behalf of her three children⁶²; and the other was filed regarding Ms. Jones's personal injury claims.⁶³ Prior to trial, the parties arrived at a mediated settlement agreement⁶⁴ and both cases were subsequently closed.

Settlement

Counsel for claimants believed the potential jury verdict value of this matter would be \$40-50 million.⁶⁵ The mediated settlement agreement notes claimants and respondent (FHP) acknowledged "a jury could reasonably award damages to the minor Plaintiffs in the amount of [\$18 million]."⁶⁶ Counsel for the claimants stated the settlement amount was less than the amount claimants believe is the full value because of issues relating to speed and whether the use of seatbelts would have been of concern for a jury. Counsel noted there was no information suggesting Ms. Jones could have avoided the incident, but conceded the issue of the seatbelts could have affected a jury's verdict.⁶⁷

⁶⁰ Sworn Audio Statement, Trooper Shawn Crocker, 13:30-13:59 (June 9, 2014).

⁶¹ Special Master Hearing at 1:06:20-1:07:06.

⁶² Jones on behalf of Grant, et al. v. Fla Highway Patrol, Case No. 2017-CA-000732-O (Fla. 9th Circ. Ct.).

⁶³ Jones v. Fla. Highway Patrol, Case No. 2018-CA-004258-O (Fla. 9th Circ. Ct.).

⁶⁴ Special Master Hearing at 16:59-17:25.

⁶⁵ *Id.* at 20:22-20:37.

⁶⁶ Mediation Settlement Agreement, Jones on behalf of Grant, et al. v. Fla. Highway Patrol, Case No. 2017-CA-000732-O (Fla. 9th Circ. Ct.), 2 (Nov. 30, 2018); Special Master Hearing at 4:02:30-4:03:56.

⁶⁷ Special Master hearing at 21:00-21:54.

The respondent did not admit liability or responsibility for the incident but did reach a mediated settlement agreement of \$18,000,000.⁶⁸ As part of the agreement, the respondent agreed to be silent on the claim bill, not support or oppose the bill, and did not present a case or argument at the special master hearing.⁶⁹

Funds Received by Claimants

Pursuant to settlement agreements, claimants have received funds from FHP, the insurer of the tractor-trailer truck, and the insurer of the Mercedes.

Respondent's Payment Pursuant to the Statutory Cap

The claimants received the remaining amount (\$285,000)⁷⁰ of the respondent's statutory limit (\$300,000 per incident) from the Division of Risk Management and seek the remaining balance of the settlement (\$17,715,000) through this claim bill. From payment of the limit, claimants' net proceeds were \$142,999.14, and the following disbursements were made⁷¹:

- | | |
|---|-------------|
| • Christeia Jones | \$49,999.14 |
| • Logan Grant Special Needs Trust (SNT) | \$25,000.00 |
| • Denard Maybin, Jr. SNT | \$25,000.00 |
| • Lanard Maybin SNT | \$50,000.00 |

Settlement Funds from other Insurance Policies

In addition to the respondent's payment, the children received funds from settlements with insurers of two other vehicles involved in the accident.⁷²

Each of the children recovered funds from the tractor-trailer truck's insurance company, and Ms. Jones recovered a portion of each of those amount, as well. The total recovery from the tractor-trailer truck's insurance company was \$965,984.33. After payment of attorney fees and costs and liens, the distributions were as follows:

- | | |
|-------------------|--------------|
| • Christeia Jones | \$15,000 |
| • Logan Grant SNT | \$185,031.80 |

⁶⁸ Order on Petition for Approval of Personal Injury Settlement of Minors Logan Grant, Denard Maybin, Jr., and Lanard Maybin, Case No. 2017-CA-000732-O (Fla. 9th Circ. Ct.) (June 24, 2019).

⁶⁹ Mediation Settlement Agreement at 2.

⁷⁰ The first \$15,000 of respondent's limit went to the driver of the tractor-trailer truck. Correspondence from Kenneth McKenna, Attorney for Claimants (Nov. 12, 2019).

⁷¹ Closing Statement, Recovery from FHP (June 27, 2018); see Affidavit of Attorney for Claimants Attorney (Oct. 16, 2019).

⁷² Affidavit of Attorney for Claimants at 2.

- (from total recovery of \$482,992.17)*
 - Denard Maybin, Jr. SNT \$154,191.15
- (from total recovery of \$386,393.73)*
 - Lanard Maybin SNT \$41,535.42
- (from total recovery of \$96,598.43)*

Claimants recovered \$20,000 from an insurer of the Mercedes traveling behind Ms. Jones that was involved in the incident. From this settlement, proceeds to claimants totaled \$5,644.22, which was distributed as follows:

- Logan Grant SNT \$1,881.41
- Denard Maybin, Jr. SNT \$1,881.41
- Lanard Maybin SNT \$1,881.40

Balance of Each Child's Special Needs Trust

As of fall 2019, the balance of each child's special needs trust is as follows⁷³:

- Logan Grant SNT \$205,368.83
- Denard Maybin, Jr. SNT \$170,415.51
- Lanard Maybin SNT \$80,817.50

Liens

Florida Medicaid had asserted liens on each claimant though HMS/Conduent, which have been paid in full.⁷⁴

WellCare has asserted a lien of \$49,767.42 regarding Logan Grant; \$22,869.40 on Denard Maybin, Jr.; and \$8,485.71 on Lanard Maybin.⁷⁵ Counsel for claimants indicated funds are being held in trust for payment of these liens; however, there is disagreement with regard to how much is to be paid.⁷⁶

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.

Section 768.28, Florida Statutes, waives sovereign immunity for tort liability up to \$200,000 per person and \$300,000 for all

⁷³ Information is as of September 12, 2019 for all accounts.

⁷⁴ First Updated Affidavit of Attorney for Claimants, 2 (Nov. 12, 2019).

⁷⁵ Affidavit of Attorney for Claimants at 3. Special Master Hearing at 2:50:30-2:54:30.

⁷⁶ First Updated Affidavit of Attorney for Claimants, 3 (Nov. 12, 2019).

claims or judgments arising out of the same incident. Sums exceeding this amount are payable by the State and its agencies or subdivisions by further act of the Legislature.

In this matter, the claimants allege negligence on behalf of Trooper Umana. The State is liable for a negligent act committed by an employee acting within the scope of employment. Trooper Umana was operating his patrol vehicle while on duty and was within the scope of his employment with Florida Highway Patrol (a division of the Department of Highway Safety and Motor Vehicles). Therefore, his employer, ultimately the State, is liable for negligent acts committed by him pursuant to the statutory sovereign immunity waiver.

Negligence

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.⁷⁷

Duty

Statute and case law describe the duty of care placed upon motorists. Florida's statute regarding careless driving provides:

Any person operating a vehicle upon the streets or highways within the state shall drive the same in a careful and prudent manner, having regard for the width, grade, curves, corners, traffic, and all other attendant circumstances, so as not to endanger the life, limb, or property of any person. Failure to drive in such manner shall constitute careless driving and a violation of this section.⁷⁸

Case law provides motorists have a duty to use reasonable care to avoid accidents and injury to themselves and others.⁷⁹ 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

⁷⁷ Williams v. Davis, 974 So.2d 1052, at 1056–1057 (Fla. 2007).

⁷⁸ Section 316.1925(1), Fla. Stat.

⁷⁹ Nelson v. Ziegler, 89 So.2d 780, 783 (Fla. 1956).

the exigencies of an emergency within reason and consistent with reasonable care and caution.”⁸⁰

Breach

The undersigned finds Trooper Umana breached the duties described above when he approached the median too quickly, as he admitted himself, and attempted to turn around in the center median.

Causation

Trooper Umana's breach of duty in approaching the median too quickly caused him to hit the guardrail and travel into oncoming traffic where he made impact with other vehicles, including the Jones's Altima. The collision with Trooper Umana's vehicle pushed the Jones's vehicle into the path of the tractor-trailer truck traveling in the middle lane. Impact with the tractor-trailer truck caused significant damage to the back of the vehicle and injured the children in the backseat.

Case law provides, when injury results “directly and in ordinary natural sequence from a negligent act without the intervention of any independent efficient cause,” where the sequence “should be regarded as a probable, not a mere possible, result of the negligent act, [the injured person] is entitled to recover damages as compensation.”⁸¹ The undersigned finds it probable, not merely possible, the Jones's vehicle would be hit by another vehicle after being hit by Trooper Umana's vehicle on a three-lane highway. The damages sustained by the Joneses are the natural result of the sequence of events set in motion by Trooper Umana.

Damages

As a result of the collision, doctors indicated all three children suffered traumatic brain injuries as well as the medical injuries previously described in this report. The total amount of damages provided by claimant's economic analyst is \$19,474,251–\$22,234,799.

As noted previously, the doctor examining the children for the respondent does not believe Denard will require live-in assistance. If Denard does not require live-in care after the age of 21, the economic loss for him may be significantly

⁸⁰ Nelson, 89 So.2d at 783.

⁸¹ Loftin et al. v. McCrainie, 47 So.2d 298, 301 (Fla. 1950).

reduced. However, claimants' experts provide Denard will need such care and have calculated live-in care into the economic loss analysis. Given the claimants' submissions from various experts collaborating to create the life care plan, the undersigned finds the preponderance of evidence demonstrates Denard's estimated future need of live-in care should remain in the calculation.

Respondent and claimants agreed a jury could have awarded \$18,000,000 to the children and settled for that amount—which is less than the calculations provided by the economic analyses.

Comparative Negligence

Comparative negligence “involves the apportionment of the loss among those whose fault contributed to the occurrence” and a claimant cannot recover damages for the percentage of fault for which she is liable.⁸²

Ms. Jones

In this matter, Ms. Jones was exceeding the speed limit by traveling at 88 miles per hour on a highway with a 70 mile per hour speed limit; and two of the children were unbuckled when emergency responders found them.

With regard to Ms. Jones's speed, claimants' counsel did not provide argument of negligence on behalf of Ms. Jones for which damages apportioned to the respondent should be reduced, and respondent remained silent pursuant to the settlement agreement. The data recorder clearly provides evidence Ms. Jones had breached her duty to drive the speed limit. However, information was not provided demonstrating her speed specifically contributed to the causation of the damages suffered.

With regard to seatbelts, “a claim that a plaintiff failed to wear a seat belt and that such failure was a contributing cause of plaintiff's damages should be raised as an affirmative defense of comparative negligence.”⁸³ Testimony and information (provided by Ms. Jones and her grandmother) was consistent that Ms. Jones had buckled her three children, as well as herself, before she started

⁸² Hoffman v. Jones, 280 So.2d 431, 436 (Fla. 1973).

⁸³ Ridely v. Safety Kleen Corp., 693 So.2d 934, 935 (Fla. 1996).

driving. Ms. Jones also indicated she did not have knowledge of the children unbuckling themselves; however, Lenard and Denard were both found unbuckled by first responders. Regardless of how the children were unbuckled, a comparative negligence defense would also require demonstration that the breach of a duty contributed to the damages sustained. Here, counsel for claimants argued if Lenard and Denard were unbuckled—it may have saved their lives.

Given the information she had buckled the children before driving; did not have knowledge of the children unbuckling themselves if or when they did; the argument they would have sustained greater injuries if they remained restrained to the back seat which had extensive crush damage (thereby more than likely not contributing to damages); and no argument from respondent with regard to a comparative negligence defense—no contributory⁸⁴ negligence has been demonstrated.

Driver of the Tractor-Trailer Truck

Similarly, although counsel for claimants mentioned there may have been issues explored with regard to the driver of the tractor-trailer truck (potentially exceeding hours he was allowed to work and a trooper noting the driver may have been speeding) there was no demonstration of the elements required to find comparative negligence on behalf of the tractor-trailer truck driver. The only information provided regarding hours of driving was in the FHP report, which indicated five violations in eight days but stated “these violations alone are not likely to cause a fatigue factor.”⁸⁵ General information regarding speed of the truck indicates the driver recalled traveling at 65 miles per hour at the time of the incident and that the truck was traveling between 60 and 80 miles per hour 69% of the time.

Ms. Jones’s vehicle sustained the most significant damage from impact with the tractor-trailer truck. If more information were available regarding potential comparative negligence on behalf of the truck driver, it is possible the respondent’s responsibility for damages would be reduced; however,

⁸⁴ See Section 768.81(2), Fla. Stat., describing contributory fault and its effect as “fault chargeable to the claimant [which] diminishes proportionately the amount awarded as economic and noneconomic damages for an injury attributable to the claimant’s contributory fault, but does not bar recovery.”

⁸⁵ FHP Report at 15.

further information to find comparative negligence on behalf of the tractor-trailer truck driver was not presented by claimants and the respondent remained silent but acknowledged such issues of comparative negligence had been explored.

ATTORNEY FEES:

Language in the bill states attorney fees may not exceed 25 percent of the amount awarded. Counsel for the claimants indicated attorney fees will be 20 percent, and lobbying fees will amount to 5 percent, of the total funds awarded through the claim bill.⁸⁶

RECOMMENDATIONS:

Recommended Amendment(s)

Although the settlement agreement resolved Christeia Jones claims, as well as claims on behalf of her three boys, Ms. Jones is not seeking relief in an individual capacity through this claim bill.⁸⁷

Therefore, the undersigned recommends removing references in the bill identifying Ms. Jones as a claimant, or providing relief to her; or, replacing such portions with clarifying language providing the funds to the special needs trusts of Logan Grant, Denard Maybin, Jr., and Lanard Maybin, which are handled by Ms. Ashley Gonnelli of Guardian Trust Foundation, Inc.⁸⁸

Recommendation on the Merits

The undersigned did not have the benefit of hearing argument from both parties due to the settlement agreement requiring the respondent to remain silent on the claim bill and not support or oppose the bill.⁸⁹ Therefore, the above facts, conclusions of law, and recommendations are the result of argument and information provided by counsel for the claimants.

Based upon the information provided before, during, and after the special master hearing, the undersigned finds claimants have demonstrated negligence on behalf of the

⁸⁶ Affidavit of Attorney for Claimants at 2 (noting outstanding costs of \$15,603.17 with regard to representation of the claimants).

⁸⁷ Affidavit of Attorney for Claimants, 1 (Oct. 16, 2019).

⁸⁸ E-mail Correspondence from Mr. Daniel Smith, Attorney for Claimants (Jan. 16, 2020).

⁸⁹ Special Master Hearing at 22:13-22:18.

respondent and the amount sought is reasonable when compared to analyses provided by claimants' economist.

Respectfully submitted,

Christie M. Letarte
Senate Special Master

cc: Secretary of the Senate

CS by Judiciary:

The committee substitute reduces the amount of the claim and payment authorized by the bill to \$9 million.



640172

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
02/20/2020	.	
	.	
	.	
	.	

The Committee on Judiciary (Simmons) recommended the following:

Senate Amendment (with title amendment)

Delete lines 141 - 164
and insert:

Section 2. The sum of \$9 million is appropriated from the General Revenue Fund to the Department of Highway Safety and Motor Vehicles for the relief of Christeia Jones, as natural parent and legal guardian of Logan Grant, Denard Maybin, Jr., and Lanard Maybin, to compensate Logan Grant, Denard Maybin, Jr., and Lanard Maybin for injuries and damages sustained as a result of the accident that occurred on May 18, 2014, due to the



640172

negligence of an employee of the Department of Highway Safety and Motor Vehicles.

Section 3. The Chief Financial Officer is directed to draw a warrant in favor of the special needs trusts for the exclusive use and benefit of Logan Grant, Denard Maybin, Jr., and Lanard Maybin in the sum of \$9 million upon funds of the Department of Highway Safety and Motor Vehicles in the State Treasury and to pay the same out of such funds in the State Treasury.

Section 4. The amount paid by the Division of Risk Management of the Department of Financial Services in accordance with the statutory limits of liability set forth in 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 damages sustained by Logan Grant, Denard Maybin, Jr., and Lanard Maybin. Of the amount awarded under this act, the total amount paid for attorney fees may not exceed \$1,800,000, the total amount paid for lobbying fees may not exceed \$450,000, and the total amount paid for costs or other similar expenses may not exceed \$15,603.17.

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

And the title is amended as follows:

Delete line 2

and insert:

An act for the relief of Christeia Jones, as the
natural parent and legal guardian of

By Senator Simmons

9-00219-20

202016__

A bill to be entitled
An act for the relief of Christeia Jones, guardian of Logan Grant, Denard Maybin, Jr., and Lanard Maybin; providing an appropriation to compensate them for injuries and damages sustained as a result of the alleged negligence of Trooper Raul Umana and the Florida Highway Patrol, a division of the Department of Highway Safety and Motor Vehicles; providing that certain payments and the appropriation satisfy all present and future claims related to the alleged acts; providing a limitation on the payment of attorney fees; providing an effective date.

WHEREAS, shortly before 9:25 p.m. on May 18, 2014, Florida Highway Patrol Trooper Raul Umana attempted to cross through a gap in the median onto the southbound lanes of I-75, south of Ocala, and

WHEREAS, Trooper Umana misjudged the turn and his vehicle struck the concrete barrier before shooting out into the southbound lane and striking a car driven by Christeia Jones, and

WHEREAS, Christeia Jones was transporting her minor sons, 2-year-old Logan Grant, who was secured in a forward-facing infant seat, 7-year-old Denard Maybin, Jr., and 5-year-old Lanard Maybin, in the backseat of the car, and

WHEREAS, after being struck by Trooper Umana's vehicle, Christeia Jones's car was struck in the rear by a tractor trailer, and

WHEREAS, the impact crushed the trunk and rear seating area

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202016__

of the car, and

WHEREAS, the car was propelled off the road, where it struck a tree and caught fire, and

WHEREAS, all three children were transported by helicopter to the University of Florida Health Shands Hospital in Gainesville, and

WHEREAS, at the hospital, Logan Grant was diagnosed with a severe traumatic brain injury, extensive facial fractures, pulmonary edema, and respiratory failure, and

WHEREAS, Logan Grant remained in the hospital for a month before he was discharged to Brooks Rehabilitation Hospital in Jacksonville for 2 weeks of brain injury rehabilitation, and

WHEREAS, Logan Grant continues to receive speech therapy weekly and struggles with expressive and receptive language, and

WHEREAS, Logan Grant also exhibits left-side body weakness and behavioral difficulties, and

WHEREAS, Logan Grant's past medical bills exceed \$310,000, and Medicaid has asserted a lien of \$135,161.64, and

WHEREAS, pediatric physical medicine and rehabilitation specialist Dr. Paul Kornberg has examined Logan Grant and has observed ongoing left hemiparesis with motor, perceptual, communicative, cognitive, and behavioral impairments of a permanent nature which will prevent him from achieving gainful employment, and

WHEREAS, Dr. Kornberg reported that Logan Grant is at a high risk for developing seizures in the future, requires ongoing bracing of his left ankle to improve gait, is anticipated to require a scooter for long-distance mobility by the age of 30, is likely to require invasive treatment or

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202016__

orthopedic surgery in the form of left heel-cord lengthening in the future, and is expected to be unable to live alone as an adult, necessitating guardianship and attendant care, and

WHEREAS, Dr. Michael Shahnasarian has estimated Logan Grant's future medical and palliative care needs to be \$6,702,555, and his loss of earning capacity over his lifetime to be between \$1,543,014 and \$2,810,754, and

WHEREAS, Lanard Maybin arrived at Shands Hospital with a Glasgow Coma Scale of 7, a head injury, a facial laceration, and a shoulder injury that required surgery, and

WHEREAS, a plastic surgeon repaired Lanard Maybin's facial laceration during his stay in the pediatric intensive care unit before he was discharged from the hospital on May 22, 2014, and

WHEREAS, since the accident, Lanard Maybin has experienced night terrors, changes in behavior and temperament, and has gained significant weight, and

WHEREAS, in early 2019, Dr. Patrick Gorman evaluated Lanard Maybin and diagnosed him as having posttraumatic stress disorder and significant neurocognitive difficulties secondary to traumatic brain injury, and

WHEREAS, Lanard Maybin's past medical bills amount to \$35,584.16, and Medicaid has asserted a lien in the amount of \$22,525.66, and

WHEREAS, at Shands Hospital, Denard Maybin, Jr., was intubated, was put on mechanical ventilation for a day, and was diagnosed with a severe traumatic brain injury and a subcutaneous soft tissue scalp laceration that required surgery, and

WHEREAS, Denard Maybin, Jr., remained hospitalized for 2

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88 weeks before he was transferred to Brooks Rehabilitation Center
89 in Jacksonville for acute inpatient rehabilitation, and

90 WHEREAS, the rehabilitation center noted that Denard
91 Maybin, Jr., had significant cognitive deficits as well as
92 impulsivity and behavioral changes, and

93 WHEREAS, Denard Maybin, Jr., continues to receive
94 occupational therapy, physical therapy, and speech therapy, and

95 WHEREAS, Denard Maybin, Jr.,'s past medical bills exceed
96 \$175,000, and Medicaid has asserted a lien of \$96,833.99, and

97 WHEREAS, specialist Dr. Paul Kornberg has diagnosed Denard
98 Maybin, Jr., with permanent impairment that will prevent him
99 from achieving gainful employment, and

100 WHEREAS, Dr. Kornberg reported that Denard Maybin, Jr., is
101 at a high risk for developing seizures in the future and that he
102 is expected to be unable to live alone as an adult,
103 necessitating guardianship and attendant care, and

104 WHEREAS, Dr. Michael Shahnasarian has estimated Denard
105 Maybin, Jr.,'s future medical and palliative care needs to be
106 \$5,773,129, and his loss of earning capacity over his lifetime
107 to be between \$1,568,817 and \$2,858,577, and

108 WHEREAS, Christeia Jones, as parent and natural guardian of
109 Logan Grant, Denard Maybin, Jr., and Lanard Maybin, through a
110 lawsuit filed in Orange County under case number 2017-CA-00732-
111 O, alleged that the negligence of the Florida Highway Patrol,
112 through its trooper, was the proximate cause of serious injuries
113 to her minor sons, and

114 WHEREAS, Christeia Jones, through a separate lawsuit filed
115 in Orange County under case number 2018-CA-004258-O, alleged
116 that the negligence of the Florida Highway Patrol, through its

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202016__

trooper, was the proximate cause of her injuries, and

WHEREAS, on November 30, 2018, in case number 2017-CA-00732-O, Christeia Jones and the Florida Highway Patrol entered into a settlement agreement regarding the claims of Ms. Jones and her minor sons which arose out of the accident described in this act, including the claims under case number 2018-CA-004258-O, which are to be dismissed with prejudice, and

WHEREAS, Christeia Jones and the Florida Highway Patrol acknowledged that if the case had gone to trial, a jury could reasonably have awarded damages to Ms. Jones in the amount of \$18 million, and

WHEREAS, the settlement agreement requires the Division of Risk Management of the Department of Financial Services to pay \$285,000 to Christeia Jones in accordance with the statutory limits of liability set forth in s. 768.28, Florida Statutes, and

WHEREAS, Christeia Jones seeks satisfaction of the remaining balance of the settlement agreement, which is \$17.715 million, 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. The sum of \$17.715 million is appropriated from the General Revenue Fund to the Department of Highway Safety and Motor Vehicles for the relief of Christeia Jones as compensation for injuries and damages sustained by her and her minor sons, Logan Grant, Denard Maybin, Jr., and Lanard Maybin.

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202016__

146 Section 3. The Chief Financial Officer is directed to draw
147 a warrant in favor of Christeia Jones in the sum of \$17.715
148 million, minus payments required to satisfy outstanding Medicaid
149 liens relating to the medical expenses and care of her and her
150 minor sons, Logan Grant, Denard Maybin, Jr., and Lanard Maybin,
151 upon funds of the Department of Highway Safety and Motor
152 Vehicles in the State Treasury and to pay the same out of such
153 funds in the State Treasury.

154 Section 4. The amount paid by the Division of Risk
155 Management of the Department of Financial Services in accordance
156 with the statutory limits of liability set forth in s. 768.28,
157 Florida Statutes, and the amount awarded under this act are
158 intended to provide the sole compensation for all present and
159 future claims arising out of the factual situation described in
160 this act which resulted in damages sustained by Christeia Jones
161 and her minor sons, Logan Grant, Denard Maybin, Jr., and Lanard
162 Maybin. The total amount paid for attorney fees relating to this
163 claim may not exceed 25 percent of the amount awarded under this
164 act.

165 Section 5. This act shall take effect July 1, 2020.

COMMITTEE: Judiciary
ITEM: SB 16
FINAL ACTION: Favorable with Committee Substitute
MEETING DATE: Wednesday, February 19, 2020
TIME: 1:30—3:30 p.m.
PLACE: 110 Senate Building

[illegible]

CODES: FAV=Favorable
UNF=Unfavorable
-R=Reconsidered

RCS=Replaced by Committee Substitute
RE=Replaced by Engrossed Amendment
RS=Replaced by Substitute Amendment

TP=Temporarily Postponed
VA=Vote After Roll Call
VC=Vote Change After Roll Call

WD=Withdrawn
OO=Out of Order
AV=Abstain from Voting

S00016

CLAIM/GENERAL by Simmons; (Similar CS/H 06517)

Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard Maybin/Department of Highway Safety and Motor Vehicles. CLAIM WITH APPROPRIATION: \$17,715,000. EFFECTIVE DATE: 07/01/2020.

02/20/20 S Pending reference review under Rule 4.7(2) - (Committee Substitute); On Committee agenda--
Appropriations Subcommittee on Transportation, Tourism, and Economic Development, 02/25/20,
1:00 pm, 110 Senate Building

02/21/20 S Now in Appropriations Subcommittee on Transportation, Tourism, and Economic Development

THE FLORIDA SENATE

APPEARANCE RECORD

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

2-18-2020

Meeting Date

SB 16

Bill Number (if applicable)

Topic Relief of Christ Jones

Amendment Barcode (if applicable)

Name Daniel Smith

Job Title Attorney for Plaintiff

Address 719 Vassar St
Street

Phone 407-247-3000

Olando FL 32804
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☒ Information

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

Representing Plaintiff

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)

CourtSmart Tag Report

Room: EL 110

Case No.:

Type:

Caption: Senate Judiciary Committee

Judge:

Started: 2/19/2020 1:33:03 PM

Ends: 2/19/2020 3:30:02 PM **Length:** 01:57:00

1:33:01 PM Meeting called to order by Chair Simmons
1:33:04 PM Roll call by AA Joyce Butler
1:33:10 PM Quorum present
1:33:17 PM Comments from Chair Simmons
1:33:57 PM Introduction of Tab 6 by Chair Simmons
1:34:37 PM Explanation of SB 1082, Domestic Violence Injunctions by Senator Albritton
1:35:17 PM Phil Archer, State Attorney - 18th Circuit waives in support
1:35:30 PM Jennifer Bitner, Pensacola Humane Society & FL Association of Animal Welfare Organizations waives in support
1:35:42 PM Jennifer Hobgood, ASPCA American Society for the Prevention of Cruelty to Animals waives in support
1:36:20 PM Speaker Greg Pound
1:37:29 PM Closure waived
1:37:34 PM Roll call by AA
1:37:38 PM CS/SB 1082 reported favorably
1:38:06 PM Introduction of Tab 4 by Chair Simmons
1:38:20 PM Explanation of SB 4, Relief of Dontrell Stephens by the Palm Beach County Sheriff's Office by Senator Flores
1:39:29 PM Comments from Chair Simmons
1:39:34 PM Response from Senator Flores
1:40:46 PM Explanation of Amendment Barcode No. 242200 by Senator Flores
1:41:01 PM Introduction of Amendment by Chair Simmons
1:41:12 PM Question from Senator Stargel
1:41:24 PM Response from Senator Flores
1:43:18 PM Question from Senator Gibson
1:43:25 PM Response from Senator Flores
1:44:31 PM Closure waived
1:44:35 PM Amendment adopted
1:45:10 PM Question from Senator Baxley
1:45:17 PM Response from Senator Flores
1:46:20 PM Speaker Jason Unger, Palm Beach Sheriff's Office in opposition
1:47:19 PM Question from Senator Gibson
1:47:26 PM Response from Mr. Unger
1:47:38 PM Follow-up question from Senator Gibson
1:47:44 PM Response from Mr. Unger
1:48:08 PM Question from Senator Baxley
1:48:22 PM Response from Mr. Unger
1:48:48 PM Pam Bergsma (Joey's Grandma) waives in support
1:49:04 PM Nancy Smithem waives in support
1:49:17 PM Speaker Greg Pound
1:50:32 PM Senator Flores in closure
1:52:17 PM Roll call by AA

1:53:20 PM CS/SB 4 reported favorably
1:53:36 PM Introduction of Tab 9 by Chair Simmons
1:54:11 PM Explanation of CS/SB 1484, Motor Vehicle Manufacturers and Dealers by Senator Diaz
1:56:33 PM Introduction of Amendment Barcode No. 846192 by Chair Simmons
1:56:50 PM Explanation of Amendment by Senator Diaz
1:57:39 PM Closure waived
1:57:42 PM Amendment adopted
1:58:13 PM Leslie Dughi, LKQ Corporation waives in opposition
1:58:35 PM Brewster Bevis, Associated Industries of Florida waives in opposition
1:59:02 PM Speaker David Leibowitz, Braman Automotive Group in support
2:00:01 PM Question from Senator Stargel
2:00:08 PM Response from Mr. Leibowitz
2:02:45 PM Question from Senator Gibson
2:02:51 PM Response from Mr. Leibowitz
2:04:52 PM Question from Senator Stargel
2:04:58 PM Response from Mr. Leibowitz
2:06:37 PM Question from Senator Gibson
2:06:43 PM Response from Mr. Leibowitz
2:07:32 PM Speaker Jeff Perry, General Motors in opposition
2:09:25 PM Question from Senator Gibson
2:09:30 PM Response from Mr. Perry
2:12:11 PM Clark Smith waives in opposition
2:12:23 PM Kelly Horton, Volkswagen Group of America waives in opposition
2:12:31 PM Speaker Diane Carr, Alliance for Automotive Innovation in opposition
2:14:37 PM Speaker Ron Book, Auto Nation in support
2:16:09 PM Senator Baxley in debate
2:16:58 PM Senator Stargel in debate
2:17:55 PM Roll call by AA
2:18:02 PM CS/CS/SB 1484 reported favorably
2:18:23 PM Comments from Chair Simmons
2:18:42 PM Introduction of Tab 10 by Chair Simmons
2:19:29 PM Explanation of CS/SB 1372, Elections by Senator Brandes
2:20:20 PM Introduction of Amendment Barcode No. 885904 by Chair Simmons
2:20:47 PM Explanation of Amendment by Senator Brandes
2:21:57 PM Closure waived
2:22:05 PM Amendment adopted
2:22:35 PM David Ash, Common Cause FL waives in opposition
2:22:48 PM Rev. Dr. Russell Meyer, Executive Director waives in opposition
2:23:06 PM David Ramba, Florida Supervisors of Elections waives in support
2:23:21 PM Cecile Scoon, League of Women Voters of Florida waives in opposition
2:23:56 PM Senator Brandes in closure
2:24:09 PM Roll call by AA
2:24:18 PM CS/CS/SB 1372 report favorably
2:24:33 PM Introduction of Tab 11 by Chair Simmons
2:24:52 PM Explanation of CS/SB 1738, Motor Vehicle Dealers by Senator Brandes
2:25:37 PM Ashley Kaliteh, Florida Justice Reform Institute waives in support
2:25:44 PM Christopher Emmanuel, Florida Chamber of Commerce waives in support
2:25:52 PM Speaker Bill Cotterall, Florida Justice Association in opposition
2:27:03 PM Ted Smith, FL Automobile Dealers Association waives in support
2:27:18 PM David Leibowitz waives in support
2:27:40 PM Senator Brandes in closure
2:27:45 PM Roll call by AA

2:28:00 PM CS/SB 1738 reported favorably
2:28:16 PM Introduction of Tab 4 by Chair Simmons
2:28:42 PM Explanation of CS/SB 302, Adoption Records by Senator Rader
2:29:59 PM Question from Senator Baxley
2:30:06 PM Response from Senator Rader
2:30:50 PM Barbara DeVane, FL NOW waives in support
2:31:24 PM Speaker Greg Pound
2:32:02 PM Senator Baxley in debate
2:33:05 PM Senator Rader in closure
2:33:11 PM Roll call by AA
2:33:24 PM CS/SB 302 reported favorably
2:33:39 PM Introduction of Tab 5 by Chair Simmons
2:33:50 PM Explanation of CS/SB 1018, Exposure of Sexual Organs by Senator Stewart
2:35:46 PM Barbara DeVane, FL NOW waives in support
2:36:01 PM Lt. Michael Crabb, Orange County Sheriff waives in support
2:36:15 PM Speaker Greg Pound
2:37:08 PM Closure waived
2:37:11 PM Roll call by AA
2:37:18 PM CS/SB 1018 reported favorably
2:37:51 PM Introduction of Tab 12 by Chair Simmons
2:38:16 PM Explanation of SB 1754, Limitation of Actions Against Crisis Shelters by Senator Book
2:39:11 PM Introduction of Amendment Barcode No. 137820 by Chair Simmons
2:40:11 PM Explanation of Amendment by Senator Book
2:41:11 PM Closure waived
2:41:14 PM Amendment adopted
2:41:42 PM Speaker Hilda Fernandez, Camillas House, Inc. in support
2:43:04 PM Speaker Constance Collins, Lotus House Women's Shelter in support
2:44:08 PM Ron Book, Miami Dade Homeless Trust waives in support
2:44:28 PM Closure waived
2:44:31 PM Roll call by AA
2:44:34 PM CS/SB 1754 reported favorably
2:44:51 PM Introduction of Tab 7 by Chair Simmons
2:45:13 PM Explanation of SB 1340, Legal Notices by Senator Gruters
2:46:09 PM Amendment withdrawn
2:46:38 PM Explanation of Bill by Senator Gruters
2:47:25 PM Question from Senator Gibson
2:47:29 PM Response from Senator Gruters
2:48:29 PM Follow-up question from Senator Gibson
2:48:35 PM Response from Senator Gruters
2:49:41 PM Follow-up question from Senator Gibson
2:49:49 PM Response from Senator Gruters
2:50:54 PM Comments from Chair Simmons
2:51:38 PM Bill TP'd
2:51:43 PM Introduction of Tab 13 by Chair Simmons
2:52:24 PM Explanation of CS/SR's 214 & 222, Philosophies that Espouse Superiority by Senator Rodriguez
2:55:19 PM Introduction of Late-filed Amendment 259328 by Chair Simmons
2:56:19 PM Question from Senator Baxley
2:56:23 PM Response from Senator Rodriguez
2:58:28 PM Closure waived
2:58:33 PM Amendment adopted
2:59:12 PM Speaker Seber Newsome III in opposition

3:00:33 PM Speaker David Caulkett, Floridians for Immigration Enforcement in opposition
3:01:58 PM Speaker Rev. Dr. Russell Meyer, FL Council of Churches in support
3:03:09 PM Speaker Greg Pound
3:04:18 PM Senator Stargel in debate
3:05:07 PM Senator Baxley in debate
3:05:48 PM Senator Gibson in debate
3:07:16 PM Senator Rodriguez in closure
3:08:17 PM Roll call by AA
3:08:45 PM CS/CS/SR's 214 & 222 reported favorably
3:09:03 PM Introduction of Tab 14 by Chair Simmons
3:09:37 PM Explanation of CS/SB 380, Disposition of Personal Property by Senator Baxley
3:10:02 PM Introduction of Amendment Barcode No. 543042 by Chair Simmons
3:10:15 PM Explanation of Amendment by Senator Baxley
3:10:44 PM Closure waived
3:10:51 PM Amendment adopted
3:11:06 PM John Ruthell, FL Credit Union Association waives in support
3:11:18 PM Kenneth Spratt, Florida Bankers Association waives in support
3:11:28 PM French Brown, RPPTL Section of the Florida Bar waives in support
3:11:43 PM Closure waived
3:11:45 PM Roll call by AA
3:11:49 PM CS/CS/SB 380 reported favorably
3:12:07 PM Introduction of Tab 15 by Chair Simmons
3:12:17 PM Explanation of Amendment Barcode No. 555448 and CS/SB 682, Florida Guide to a Healthy Marriage by Senator Baxley
3:14:22 PM Closure waived
3:14:24 PM Amendment adopted
3:14:35 PM Pam Olsen, FL Faith-based Community Based Advisory Council waives in support
3:15:06 PM Speaker Greg Pound
3:15:40 PM Closure waived
3:15:43 PM Roll call by AA
3:15:47 PM CS/CS/SB 682 reported favorably
3:16:04 PM Introduction of Tab 8 by Chair Simmons
3:16:22 PM Explanation of CS/SB 1416, Assaults on Specified Persons by Senator Rodriguez
3:17:29 PM Amendment withdrawn
3:17:55 PM Dwight Mattingly waives in support
3:17:58 PM Amy Datz waives in support
3:18:01 PM David Stover waives in support
3:18:08 PM Bob Glatt waives in support
3:18:12 PM James Jones waives in support
3:18:15 PM Donald Persson waives in support
3:18:38 PM All other cards will be recorded
3:18:53 PM Closure waived
3:19:13 PM Roll call
3:19:15 PM CS/CS/SB 1416 reported favorably
3:19:29 PM Chair turned over to Senator Rodriguez
3:19:54 PM Introduction of Tab 2 by Chair Rodriguez
3:20:20 PM Explanation of SPB 7064, Probation Violations by Senator Simmons
3:21:11 PM Phil Archer, FPAA - Florida Prosecuting Attorneys Association waives in support
3:21:19 PM Senator Simmons moves that SPB 7064 be submitted as a Committee Bill
3:21:29 PM Roll call by AA
3:21:31 PM SPB 7064 reported favorably
3:21:38 PM Introduction of Tab 16 by Chair Rodriguez

3:21:57 PM Explanation of SB 16, Relief of Christeia Jones, Logan Grant, Denard Maybin, Jr., and Lanard Maybin/Department of Highway Safety and Motor Vehicles by Senator Simmons

3:22:41 PM Explanation of Amendment Barcode No. 640172 by Senator Simmons

3:22:55 PM Daniel Smith waives in support

3:23:11 PM Closure waived

3:23:12 PM Amendment adopted

3:23:22 PM Closure waived

3:23:26 PM Roll call by AA

3:23:31 PM CS/SB 16 reported favorably

3:23:45 PM Introduction of Tab 1 by Chair Rodriguez

3:23:59 PM Senator Simmons moves for a time-certain vote at 3:29 pm

3:24:23 PM Objection by Senator Gibson

3:24:52 PM Motion carried for 3:29 pm vote

3:25:05 PM Explanation of SPB 7062, Citizen Initiative by Senator Simmons

3:25:56 PM Question from Senator Gibson

3:26:00 PM Response from Senator Simmons

3:27:05 PM Question from Chair Rodriguez

3:27:12 PM Response from Senator Simmons

3:27:28 PM Follow-up question from Chair Rodriguez

3:27:36 PM Response from Senator Simmons

3:28:37 PM Question from Senator Gibson

3:28:41 PM Response from Senator Simmons

3:29:17 PM Roll call by AA

3:29:25 PM SPB 7062 reported favorably

3:29:33 PM Senator Gibson would like to be shown as voting in the affirmative on Tab 6, CS/SB 1082

3:29:44 PM Senator Simmons moves to adjourn, meeting adjourned