

The Florida Senate
BILL ANALYSIS AND FISCAL IMPACT STATEMENT

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

Prepared By: The Professional Staff of the Committee on Rules

BILL: SCR 920

INTRODUCER: Senator Farmer

SUBJECT: Groveland Four

DATE: April 11, 2017

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	<u>Sumner</u>	<u>Hrdlicka</u>	<u>CJ</u>	Favorable
2.	<u>Brown</u>	<u>Cibula</u>	<u>JU</u>	Favorable
3.	<u>Sumner</u>	<u>Phelps</u>	<u>RC</u>	Pre-meeting

I. Summary:

SCR 920 acknowledges the grave injustice perpetrated against Charles Greenlee, Walter Irvin, Samuel Shepherd, and Ernest Thomas, the men who came to be known as the “Groveland Four.”

Despite a lack of evidence or credible witnesses, the four men were charged with rape. Ernest Thomas escaped while under arrest, and law enforcement officers shot and killed him. Amidst an environment of inaccurately-obtained eyewitness identification, forced confessions, and indicting news reports, Mr. Greenlee, Mr. Irvin, and Mr. Shepherd were convicted of rape. Mr. Greenlee, just 16 years old at the time of the incident, received a sentence of life imprisonment. Juries sentenced Mr. Irvin and Mr. Shepherd to the death penalty.

The concurrent resolution:

- Deems the four men exonerated;
- Offers a formal and heartfelt apology to the men and their families; and
- Urges the Governor and Cabinet to pardon Walter Irvin and Charles Greenlee.

II. Present Situation:

The Groveland Four

On July 17, 1949, a 17-year-old white married woman Norma Padgett, and Willie Padgett, her estranged husband, went to the police and reported that Norma Padgett had been raped. They told police that on the night before, July 16, 1949, their car had broken down just outside of Groveland, Florida. Norma Padgett stated that four black men drove up to them, stopped and got out of their car and then raped her.¹

¹ Gilbert King, *Devil in the Grove*, pg. 37-38 (2012).

Shortly thereafter, Sheriff Willis McCall arrested Walter Irvin (a World War II Veteran), Samuel Shepherd (also a World War II veteran), Charles Greenlee (16 years old at the time), and Ernest Thomas, the men who came to be known as the “Groveland Four.” Law enforcement officers transported the four men to the city jail. A few days after Ernest Thomas’ arrest, he escaped, and over a number of days, ran 25 miles through swamp land. On July 26, 1949, a law enforcement officer and a deputized officer found Ernest Thomas and shot and killed him.² Law enforcement officers subjected the remaining men to lengthy interrogations and violent beatings. The police extracted coerced confessions from Charles Greenlee and Samuel Shepherd.³

Of the men, Walter Irvin and Samuel Shepherd were the only ones who stated that they had encountered the Padgetts that night. Driving back from Altamonte Springs late at night, Mr. Irving and Mr. Shepherd were just a few miles north of Groveland when they saw the Padgetts standing on the side of the road next to a car. They stopped to offer help. Willie Padgett asked the two men to help push the car as the battery had died and the car could be jump started if pushed. Mr. Irvin and Mr. Shepherd alleged that they found Willie Padgett to be drunk and argumentative, despite their attempts to offer help. After the two men attempted to push the car for a while, Samuel said that he told the Padgetts that they could not make the car operable that night due to the dead battery. Tensions escalated again, and Samuel Shepherd admitted to initiating a physical altercation with Willie.⁴ Both Mr. Irvin and Mr. Shepherd insisted that they did not rape Norma Padgett.

Charles Greenlee admitted to knowing Ernest Thomas, but denied ever meeting the Padgetts.⁵

Walter Irvin, Samuel Shepherd, and Charles Greenlee were tried for the crime of rape. Amidst an environment of inaccurately-obtained eyewitness identification, forced confessions, and inciting news reports, Mr. Greenlee, Mr. Irvin, and Mr. Shepherd were convicted of rape. Juries recommended the death penalty for Mr. Irvin and Mr. Shepherd, and a sentence of life imprisonment for Mr. Greenlee.⁶

Concurrent Resolutions

A concurrent resolution is a resolution that is adopted by both houses. Concurrent resolutions are limited to procedural legislative matters and the ratification of federal constitutional amendments.⁷

Exoneration and Pardon

One of the legal definitions of “exoneration” is the absolving of a charge or imputation of guilt.⁸ The Florida Constitution grants the power to pardon to the Governor, with the consent of at least

² *Id.* at 117.

³ *Id.* at 61-67, 72-75, 126-129.

⁴ Gilbert King, *supra* note 1, at 37-39.

⁵ *Id.* at 66.

⁶ *Id.* at 167-183.

⁷ The Florida Senate, *Glossary, Bills: Resolution: Concurrent Resolution (SCR, HCR)*, available at <http://www.flsenate.gov/Reference/Glossary#concurrent> (last visited March 19, 2017).

⁸ BALLENTINE’S LAW DICTIONARY (3rd ed. 2010).

two Cabinet members.⁹ Except in cases of treason and in which impeachment results in conviction, the Governor may, by executive order filed with the Secretary of State, suspend collection of fines and forfeitures, grant reprieves not exceeding 60 days, and with the approval of two members of the Cabinet, grant full or conditional pardons, restore civil rights, commute punishment, and remit fines and forfeitures for offenses.¹⁰

III. Effect of Proposed Changes:

The Senate Concurrent Resolution provides in whereas clauses additional factual statements relating to the Groveland Four, following their trials and conviction:

- After the court convicted Mr. Irvin, Mr. Shepherd, and Mr. Greenlee, Thurgood Marshall, then executive director of the NAACP Legal Defense and Educational Fund, appealed the convictions of Walter Irvin and Samuel Shepherd to the United States Supreme Court. The court unanimously overturned the judgments on April 9, 1951, and ordered a retrial.¹¹
- Seven months later, in November 1951, while transporting Walter Irvin and Samuel Shepherd from Florida State Prison in Raiford to Tavares State Prison for a pretrial hearing, Sheriff Willis McCall and Deputy Sheriff James L. Yates shot both men, claiming self-defense. The men were handcuffed at the time.
- Samuel Shepherd died at the scene, but Walter Irvin, pretending to be dead, survived and accused the sheriff and his deputy of attempted murder. Prosecutors never brought charges against the officers.
- The trial court retried Walter Irvin and the jury convicted him a second time. The court resentenced Walter Irvin to death. The Florida Supreme Court subsequently affirmed the conviction, finding without merit Mr. Irvin's argument that he was deprived of a fair and impartial trial.¹² Mr. Irvin then filed a writ of habeas corpus¹³ to the Florida Supreme Court, which was also denied.¹⁴
- In 1955, Governor LeRoy Collins commuted Mr. Irvin's sentence to life in prison. In 1970, while visiting Lake County, Mr. Irvin, who had been paroled 2 years earlier by then Governor Claude Kirk, was found dead in his car. While Mr. Irvin's death was officially attributed to natural causes, Thurgood Marshall doubted the circumstances surrounding Mr. Irvin's death.
- Charles Greenlee, released on parole in 1962 after serving 12 years in prison, died in April 2012 at the age of 78.
- On March 15, 2016, the Lake County Commission approved Proclamation 2016-26 and presented it to the families of the Groveland Four. The proclamation reportedly apologizes to

⁹ Art. IV, s. 8(a), FLA. CONST.

¹⁰ Section 940.01, F.S.

¹¹ *Shepherd v. Florida*, 341 U.S. 50 (1951). In the concurring opinion, Justices Jackson and Frankfurter noted, "But prejudicial influences outside the courtroom, becoming all too typical of a highly publicized trial, were brought to bear on this jury with such force that the conclusion is inescapable that these defendants were prejudged as guilty and the trial was but a legal gesture to register a verdict already dictated by the press and the public opinion which it generated." *Id.* at 51.

¹² *Irvin v. State*, 66 So. 2d 288, 296-297 (Fla. 1953).

¹³ A writ of habeas corpus is an appeal filed by an incarcerated defendant on the basis that the defendant is being unlawfully deprived of his or her liberty. BLACK'S LAW DICTIONARY (6th ed. 1990).

¹⁴ *Irvin v. Chapman*, 75 So. 2d 591, 593 (Fla. 1954).

the families for the injustices against Mr. Irvin, Mr. Shepherd, Mr. Greenlee, and Mr. Thomas, and urges the Governor to exonerate the men.¹⁵

- NAACP leader Harry T. Moore and his wife, Harriette, advocated on behalf of the four men. The Moores died when their home in Mims was bombed on December 25, 1951.

The resolution acknowledges that Charles Greenlee, Walter Irvin, Samuel Shepherd, and Ernest Thomas were the victims of gross injustices and that the Legislature apologizes to the families of the Groveland Four and deems the four men formally exonerated.

The resolution also urges the Governor and Cabinet to review the cases of Walter Irvin and Charles Greenlee grant them pardons.

SCR 920 requests that copies be provided to the Governor, the Attorney General, the Chief Financial Officer, the Commissioner of Agriculture, and the families of the Groveland Four.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

None.

¹⁵ Lake County Commission, Minutes of a Regular Meeting of the Board of County Commissioners (March 15, 2016), available at http://www.lakecountyclerk.org/forms/board_minutes/2016/03/2016-03-15_Regular_Meeting.htm (last visited March 19, 2017). Christal Hayes, *Groveland Four families thankful for Lake apology, still seek exoneration*, Orlando Sentinel (March 15, 2016), available at <http://www.orlandosentinel.com/news/lake/os-groveland-four-families-lake-county-20160315-story.html> (last visited March 19, 2017).

VI. Technical Deficiencies:

None.

VII. Related Issues:

On lines 97 through 98 of the bill, the bill calls for the Legislature to “deem the four men formally exonerated.”

A person has been exonerated if he or she was convicted of a crime and later found to be innocent or relieved of all consequences of the conviction by a government official or body with the authority to take that action.¹⁶ “The official action may be taken by:

- A governor providing a complete pardon, whether or not the governor issues the pardon based on the innocence of the defendant;
- A court ordering an acquittal of all charges factually related to the crime for which the person was originally convicted; or
- A court granting a motion to dismiss or a prosecutor, in limited circumstances, dismissing the case.”¹⁷

As the Legislature cannot issue an exoneration, the sponsor of the bill may wish to remove the reference to exoneration or state that the four men are worthy of exoneration.

VIII. Statutes Affected:

None.

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

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

None.

B. Amendments:

None.

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

¹⁶ The National Registry of Exonerations, *Glossary*, available at <https://www.law.umich.edu/special/exoneration/Pages/glossary.aspx> (last visited March 19, 2017). The National Registry of Exonerations is a joint project of the Newkirk Center for Science & Society at University of California Irvine, the University of Michigan Law School, and Michigan State University College of Law.

¹⁷ *Id.*