

Tab 1	SB 22 by Montford; (Identical to H 3511) Relief of Angela Sanford by Leon County					
Tab 2	SB 26 by Negron; (Identical to H 3531) Relief of L.T. by the Department of Children and Families					
Tab 3	SB 36 by Soto; (Identical to H 3523) Relief of Donald Brown by the District School Board of Sumter County					
804918	A	S	WD	JU, Brandes	Delete L.104 - 118:	01/26 05:19 PM
Tab 4	SB 44 by Garcia; (Identical to H 3509) Relief of Susana Castillo by the City of Hialeah					
Tab 5	SB 46 by Flores; (Identical to H 3525) Relief of Melvin and Alma Colindres by the City of Miami					
738286	A	S	RCS	JU, Brandes	Delete L.87 - 88:	01/26 05:19 PM
Tab 6	SB 50 by Flores; (Identical to H 3537) Relief of Altavious Carter by the Palm Beach County School Board					
Tab 7	SB 110 by Bean (CO-INTRODUCERS) Gaetz; (Identical to H 0043) Churches or Religious Organizations					
Tab 8	SB 120 by Abruzzo (CO-INTRODUCERS) Sobel, Soto, Latvala, Margolis, Hutson, Bullard, Ring, Thompson, Clemens; (Similar to H 0045) Prohibited Discrimination					
Tab 9	SB 250 by Lee; (Compare to H 0455) Family Law					
113284	D	S	RCS	JU, Stargel	Delete everything after	01/26 05:19 PM
Tab 10	SB 1212 by Flores; (Similar to H 0949) Appointed Counsel for Children					
143266	A	S	WD	JU, Brandes	Delete L.28 - 38:	01/26 05:19 PM
Tab 11	SB 1412 by Simmons; (Similar to H 0969) Conditions of Pretrial Release					
Tab 12	SB 1244 by Simmons; (Similar to H 0555) Driving Under the Influence					

The Florida Senate
COMMITTEE MEETING EXPANDED AGENDA

JUDICIARY
Senator Diaz de la Portilla, Chair
Senator Ring, Vice Chair

MEETING DATE: Tuesday, January 26, 2016

TIME: 1:00—3:00 p.m.

PLACE: *Toni Jennings Committee Room*, 110 Senate Office Building

MEMBERS: Senator Diaz de la Portilla, Chair; Senator Ring, Vice Chair; Senators Bean, Benacquisto, Brandes, Joyner, Simmons, Simpson, Soto, and Stargel

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
1	SB 22 Montford (Identical H 3511)	Relief of Angela Sanford by Leon County; Providing for the relief of Angela Sanford by Leon County; providing for an appropriation to compensate her for injuries and damages sustained as a result of the negligence of an employee of Leon County; providing that certain payments and the appropriation satisfy all present and future claims related to the negligent act; providing a limitation on the payment of compensation, fees, and costs, etc. SM JU 01/26/2016 Favorable CA FP	Favorable Yeas 9 Nays 1
2	SB 26 Negrón (Identical H 3531)	Relief of L.T. by the Department of Children and Families; Providing for the relief of L.T.; providing an appropriation to compensate L.T. for injuries and damages sustained as a result of the negligence of employees of the Department of Children and Families, formerly known as the Department of Children and Family Services; providing for a waiver of specified lien interests held by the state; providing a limitation on the payment of fees and costs, etc. SM JU 01/26/2016 Favorable AHS AP	Favorable Yeas 10 Nays 0
3	SB 36 Soto (Identical H 3523)	Relief of Donald Brown by the District School Board of Sumter County; Providing for the relief of Donald Brown by the District School Board of Sumter County; providing an appropriation to compensate Donald Brown for injuries sustained as a result of the negligence of an employee of the District School Board of Sumter County; providing a limitation on the payment of fees and costs; providing that certain payments and the appropriation satisfy all present and future claims related to the negligent act, etc. SM JU 01/26/2016 Favorable AED AP	Favorable Yeas 9 Nays 1

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, January 26, 2016, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
4	SB 44 Garcia (Identical H 3509)	Relief of Susana Castillo by the City of Hialeah; Providing for the relief of Susana Castillo, as personal representative of the Estate of Andrea Castillo; providing for an appropriation to compensate the Estate of Andrea Castillo for her death as a result of the negligence of the City of Hialeah; providing a limitation on the payment of fees and costs; providing that the amounts awarded are intended to provide the sole compensation for all present and future claims related to the wrongful death of Andrea Castillo, etc. SM JU 01/26/2016 Favorable CA FP	Favorable Yeas 9 Nays 1
5	SB 46 Flores (Identical H 3525)	Relief of Melvin and Alma Colindres by the City of Miami; Providing for the relief of Melvin and Alma Colindres by the City of Miami; providing for an appropriation to compensate them for the wrongful death of their son, Kevin Colindres, which occurred as a result of the negligence of police officers of the City of Miami; providing a limitation on the payment of fees and costs, etc. SM JU 01/26/2016 Fav/CS CA FP	Fav/CS Yeas 10 Nays 0
6	SB 50 Flores (Identical H 3537)	Relief of Altavious Carter by the Palm Beach County School Board; Providing for the relief of Altavious Carter by the Palm Beach County School Board; providing for an appropriation to compensate Mr. Carter for injuries sustained as a result of the negligence of a bus driver of the Palm Beach County School District; providing a limitation on the payment of fees and costs, etc. SM JU 01/26/2016 Temporarily Postponed AED AP	Temporarily Postponed

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, January 26, 2016, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
7	SB 110 Bean (Identical H 43)	Churches or Religious Organizations; Providing that churches or religious organizations, related organizations, or certain individuals may not be required to solemnize any marriage or provide services, accommodations, facilities, goods, or privileges for related purposes if such action would violate a sincerely held religious belief; prohibiting certain legal actions, penalties, or governmental sanctions against such individuals or entities, etc. JU 01/26/2016 Favorable CA RC	Favorable Yeas 7 Nays 3
8	SB 120 Abruzzo (Similar H 45)	Prohibited Discrimination; Creating the "Florida Competitive Workforce Act"; revising provisions to include sexual orientation and gender identity or expression and the perception of race, color, religion, sex, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status as impermissible grounds for discrimination; providing an exception for constitutionally protected free exercise of religion, etc. JU 01/26/2016 Temporarily Postponed GO AGG FP	Temporarily Postponed
9	SB 250 Lee (Compare H 455, H 553, H 967, S 668, S 972)	Family Law; Requiring a court to consider certain alimony factors and make specific written findings of fact after making specified determinations; requiring a court to make specified findings before ruling on a request for alimony; creating a presumption that approximately equal time-sharing by both parents is in the best interest of the child; providing that a party may pursue an immediate modification of alimony in certain circumstances; providing that a collaborative law process commences when the parties enter into a collaborative law participation agreement, etc. JU 01/26/2016 Fav/CS ACJ AP	Fav/CS Yeas 7 Nays 3
10	SB 1212 Flores (Similar H 949)	Appointed Counsel for Children; Revising the conditions under which an attorney must be appointed for a dependent child; requiring the Justice Administrative Commission to contract with a not-for-profit organization to establish the Quality Counsel Program, etc. JU 01/26/2016 Favorable ACJ AP	Favorable Yeas 10 Nays 0

COMMITTEE MEETING EXPANDED AGENDA

Judiciary

Tuesday, January 26, 2016, 1:00—3:00 p.m.

TAB	BILL NO. and INTRODUCER	BILL DESCRIPTION and SENATE COMMITTEE ACTIONS	COMMITTEE ACTION
11	SB 1412 Simmons (Similar H 969)	Conditions of Pretrial Release; Requiring that a defendant be notified in writing if a court issues an order of no contact rather than receive a copy of the order, etc. JU 01/26/2016 Not Considered CJ RC	Not Considered
12	SB 1244 Simmons (Similar H 555)	Driving Under the Influence; Providing penalties for a first-time refusal of a chemical or physical test of a person's breath, blood, or urine; providing that a subsequent refusal by a person who has previously had a license suspension for a prior refusal is a misdemeanor of the first degree; requiring the court to impose certain mandatory ignition interlock devices on the vehicles of convicted persons for a specified time under certain circumstances; prohibiting a court from suspending, deferring, or withholding adjudication of guilt or the imposition of a sentence or penalty for specified offenses, etc. JU 01/20/2016 Temporarily Postponed JU 01/26/2016 Temporarily Postponed ACJ AP	Temporarily Postponed
Other Related Meeting Documents			



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location

302 Senate Office Building

Mailing Address

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

DATE	COMM	ACTION
12/22/15	SM	Favorable
01/26/16	JU	Favorable
	CA	
	FP	

December 22, 2015

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 22** – Senator Bill Montford
HB 3511 – Representative Halsey Beshears
Relief of Angela Sanford by Leon County

SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED CLAIM IN THE AMOUNT OF \$1.15 MILLION AGAINST LEON COUNTY FOR INJURIES AND DAMAGES SUFFERED BY ANGELA SANFORD WHEN THE VEHICLE SHE WAS TRAVELING IN WAS STRUCK BY A LEON COUNTY AMBLUANCE ON SEPTEMBER 5, 2013.

FINDINGS OF FACT:

This matter arises out of a motor vehicle crash that occurred on September 5, 2013, in Tallahassee, Florida, at the intersection of North Martin Luther King Jr. Boulevard (MLK Blvd.) and West Tharpe Street. The intersection of North MLK Blvd. and West Tharpe Street is four way intersection controlled by an overhead traffic signal. Both North MLK Blvd. and West Tharpe Street are four-lane highways. On the southeast corner of the intersection there are several trees that could obstruct the view of westbound traffic on West Tharpe Street from the northbound traffic on North MLK Blvd. At the time of the accident there was also at least one advertisement sign hung on the fence leading up the intersection that could obstruct the view of northbound traffic on North MLK Blvd. of any westbound traffic on West Tharpe Street.

The Accident

At approximately 11:28 pm Patrick Sanford was driving north on North MLK Blvd in a 2011 Buick Enclave. Mr. Sanford's wife, Angela Sanford, was in the front passenger seat and friend, Daniel McNair, was behind Mrs. Sanford, in the rear passenger seat. The posted speed limit on North MLK Blvd. was 30 mph. At the time of the crash Mr. Sanford was traveling at 42 mph. The light at North MLK Blvd. was green for Mr. Sanford as he approached the intersection of North MLK Blvd. and West Tharpe Street, when he entered the intersection, and when the crash occurred.

Also at approximately 11:28 pm a Leon County Emergency Medical Services (LCEMS) Ambulance, owned by Leon County, was traveling westbound on West Tharpe Street. Benjamin Hunter was working for LCEMS that night and driving the ambulance. Christina Wagner was also working for LCEMS that night and was the front seat passenger. The posted speed limit on West Tharpe Street was 35 mph.

The camera on the ambulance recorded what occurred before, during, and after the crash. The ambulance was first traveling at approximately 29 mph down West Tharpe Street with only its emergency lights activated. Approximately 4 seconds before the crash, and 277 feet from entering the intersection, the ambulance's siren was activated. At this time the ambulance was traveling at approximately 40 mph. When the crash occurred the ambulance was traveling at approximately 44 mph. The video footage shows that the ambulance had a red light as it approached the intersection, when the ambulance entered the intersection and when the crash occurred.

The computer system in Mr. Sanford's Buick noted that the brake was engaged two seconds before the crash. Mr. Sanford admits that he did not hear or see the ambulance's lights or sirens before the collision. However, he recalls seeing the ambulance once he had already entered the intersection.

The ambulance hit the front right passenger side of the Buick. As a result, the Buick spun and collided with a concrete pole at on the northwest corner of the intersection.

The crash was witnessed by a number of individuals. The first witness, Ms. Nix, was traveling south on MLK Blvd., the

opposite direction of Mr. Sanford. Ms. Nix heard the sirens from the ambulance and stopped at the intersection of MLK Blvd. and West Tharpe Street because she did not know where the sirens were coming from. Ms. Nix then saw the ambulance traveling west down West Tharpe Street and the Buick traveling north on North MLK Blvd. Ms. Nix said that neither the Buick nor the ambulance stopped before entering the intersection. Ms. Nix acknowledged that she had a green light at time she reached the intersection of MLK Blvd. and West Tharpe Street but stopped because she heard the sirens.

Another witness, Mr. Fernbach, was traveling behind Mr. Sanford's Buick on North MLK Blvd. Mr. Fernbach also confirmed that the light was green as he and the Buick approached the intersection of North MLK Blvd. and West Tharpe Street. Mr. Fernbach acknowledged hearing the sirens before reaching the intersection, however he was unable to determine where the sirens were coming from.

Ms. Wagner, the passenger of the ambulance, stated that the ambulance was headed to an accident with injuries on West Tharpe Street with only its emergency lights on. Prior to reaching the intersection of North MLK Blvd. and West Tharpe Street, she and Mr. Hunter were advised to upgrade, meaning turn on both the lights and sirens, as they traveled to the accident. Mr. Hunter then turned on the sirens of the ambulance. As Ms. Wagner was attempting to look up the report of the call they were traveling to, the crash occurred.

Mrs. Sanford and Mr. McNair do not have any memory of the crash.

All occupants of both vehicles were restrained in safety belts.

Injuries

After the crash Mr. Hunter and Ms. Wagner were able to exit the ambulance and render aid to occupants of the Buick. Mr. Hunter and Ms. Wagner were not injured in the crash.

All of the occupants of the Buick, Mr. Sanford, Mrs. Sanford, and Mr. McNair were injured. Mr. Sanford sustained a bulging disc to disc # 4 in his back and disc #5 in his back was blown. Mr. Sanford underwent surgery to repair his back injuries. Mr.

McNair suffered a cut to his right hand, a broken bone in his left hand, and a bone chip in his left wrist.

Mrs. Sanford sustained the most severe injuries from the crash. When she arrived at Tallahassee Memorial Hospital, she was in a coma. The totality of her injuries include:

- A traumatic brain injury (subdural and intracranial bleeding);
- A collapsed lung;
- A ruptured bladder (requiring two surgical repairs);
- A lacerated liver;
- 13 fractured ribs;
- Four lumbar spine fractures;
- Two cervical spine fractures;
- A fractured clavicle;
- A fractured sternum;
- A fractured fibula;
- A fractured knee;
- A fractured scapula (requiring surgical hardware insertion);
- A fractured pelvis (requiring surgical hardware insertion);
- A fractured hip sockets (requiring surgical hardware insertions);
- A fractured sacroiliac joints (requiring surgical hardware insertions);
- A fracture femur (requiring surgical hardware insertion);
- Double vision from an injured cranial nerve;
- Drop foot from an injured peroneal nerve;
- Bursitis and pain from the injured hip; and
- Cognitive and problem-solving deficits due to the brain injury.

Mrs. Sanford spent 25 days in the intensive care unit, and during the first two weeks in the hospital she was kept in a medically induced coma. Afterwards, she was transferred to inpatient rehabilitation in Jacksonville, Florida where she spent 31 days. Mrs. Sanford then continued her rehabilitation back in Tallahassee.

Before the accident, Mrs. Sanford was an active stay-at-home mother of three. She was considering returning to work as a

teacher when her youngest child was old enough to attend school.

Since the accident, Mrs. Sanford has made a remarkable recovery and is now able to drive during the day. She can care for her kids and her house. However, Mrs. Sanford still has some ongoing effects from the accident. She is experiencing foot drop in her right foot and double vision when she looks down. Because of the injuries sustained in the collision, Mrs. Sanford will likely need a hip replacement in the future, have issues with posttraumatic arthritis, and possibly experience further cognitive issues as a result of her traumatic brain injury.

Before the Accident

In the 24 hour period before the crash Mr. and Mrs. Sanford and Mr. McNair, the occupants of the Buick, attended a concert at the Leon County Civic Center. The day before the crash, Mr. Sanford worked the evening of September 4, 2013, and returned home at an unknown hour on September 5, 2013. Mr. Sanford believes he had only 3 hours of sleep after coming home from work on September 5, 2013.

Before the concert, Mr. Sanford had one beer at the house with Mr. McNair. Mr. Sanford admits to bringing and finishing the beer in the car on the way to the restaurant. An empty Bud Light Lime Beer bottle was found in the Buick after the collision. Mr. Sanford also admits to having one beer at the restaurant where he also ate some appetizers while waiting for the food to arrive. The food never came and they all left the restaurant without eating dinner. Once arriving at the concert, Mr. Sanford had another beer and some food because he hadn't eaten dinner at the restaurant.

In the 24 hour period before the crash Mr. Hunter worked on the evening of September 4, 2013. Mr. Hunter got home from work in the morning of September 5, 2013, and went to sleep for approximately 8.5 hours. Mr. Hunter then ate at home before reporting to work at 5 pm on September 5, 2013.

After the Accident

After the crash Mr. Sanford went to Tallahassee Memorial Hospital to be with his injured wife. While at the hospital Deputy McCarthy from the Leon County Sheriff's Office spoke with Mr. Sanford in two different locations. He first spoke to

Mr. Sanford in the hospital garage where Deputy McCarthy smelled a slight odor of an alcoholic beverage but was unable to determine if it was coming from Mr. Sanford or some other person in the garage. Deputy McCarthy then spoke with Mr. Sanford again in a private emergency room and did not smell an odor of an alcoholic beverage. Mr. Sanford was asked to consent to a blood sample since he was driving the Buick and was involved in a collision involving serious bodily injury. Mr. Sanford refused to give a blood sample for testing.

Officer Mordica of the Tallahassee Police Department was one of the first officers on the scene of the crash and noticed that Mr. Sanford was wearing a green wrist band and she smelled the odor of an alcoholic beverage, but did not notice any other signs of impairment. Mr. Sanford stated that he was given the wrist band when he purchased the beer at the concert.

A blood sample was requested from Mr. Hunter because he was operating the ambulance that was involved in a crash involving serious bodily injury. Mr. Hunter agreed to the blood sample being taken and was transported Tallahassee Memorial Hospital for the blood draw. No drugs or alcohol were found in Mr. Hunter's blood.

The Leon County's Sheriff's Department found Mr. Hunter at fault for the crash, however the State Attorney's Office recommended that no citations should be issued. Therefore a citation was not issued against Mr. Hunter.

LCEMS disciplined Mr. Hunter and he was suspended without pay for three 12-hour shifts.

CLAIMANT'S ARGUMENTS:

Mrs. Sanford argues that Leon County is liable for the negligence of its employee, Mr. Hunter, when he failed to stop at the red light at the intersection of North MLK Blvd. and West Tharpe Street, violating s. 316.072(5)(b)2., F.S., and the LCEMS Standard Operating Guidelines.

RESPONDENT'S ARGUMENTS:

Leon County argues that the claim bill should be denied and the statutory caps enforced. Leon County believes that the statutory limits set forth in s. 768.28, F.S., serve a valuable purpose and the County is entitled to the full protections of the statute. Leon County argues that if the statutory caps are to have meaning or effect, they should be enforced.

Leon County also argues that the accident was caused by Mr. Sanford's negligence because he was speeding, tired, and had three beers before the accident.

Leon County entered into a Mediation Settlement Agreement with Mrs. Sanford for the amount of \$1.15 million. The agreement also afforded the County the right to contest any filed claim bill. A Final Judgment in favor of Mrs. Sanford for the same amount was signed and entered into the circuit court's record on April 13, 2015.

CONCLUSIONS OF LAW:

Leon County owned the ambulance driven by Mr. Hunter on September 5, 2013, and is covered by the provisions of s. 768.28, F.S. Section 768.28, F.S., generally allows injured parties to sue the state or local governments for damages caused by their negligence or the negligence of their employees by waiving the government's sovereign immunity from tort action. However, the statute limits the amount of damages that a plaintiff can collect from a judgment against or settlement with a government entity to \$200,000 per person and \$300,000 for all claims or judgments arising out of the same incident. Funds can be paid in excess of these limits only upon the approval of a claim bill by the Legislature. Thus, Mrs. Sanford will not receive the full benefit of the settlement agreement with Leon County unless the Legislature approves a claim bill authorizing the additional payment.

In a negligence action a plaintiff, bears the burden of proof to establish the four elements of negligence. These elements are duty, breach, causation, and damage. *Charron v. Birge*, 37 So.3d 292, 296 (Fla. 5th DCA 2010).

Section 768.81, F.S., Florida's comparative fault statute, allows damages in negligence cases to be apportioned against each liable party. The Florida Supreme Court has found that liability is determined by the Legislature. ~~found that liability is determined by the Legislature~~ must be apportioned among all responsible entities who contribute to an accident even though not all of them have been joined at defendants." *Nash v. Wells Fargo Guard Servs.*, 678 So.2d 1262, 1263 (Fla. 1996).

The driver of a motor vehicle has a duty to use reasonable care, in light of the attendant circumstances, to prevent injuring persons within the vehicle's path. *Gowdy v. Bell*, 993

So.2d 585, 586 (Fla. 1st DCA 2008). Reasonable care is the degree of care a reasonably careful person would have used under like circumstances. *Foster v. State*, 603 So.2d 1312, 1316 (Fla. 1st DCA 1992).

Mr. Hunter's Negligence

Section 316.072(5)(b)2., F.S., allows a driver of an ambulance, when responding to an emergency call, to proceed past a red or stop signal or stop sign, but only after slowing down as may be necessary for safe operation. Section 316.072(5)(c), F.S., reiterates that the driver of an ambulance has a duty to drive with due regard for the safety of all persons and does not protect the driver from the consequences of his or her reckless disregard for the safety of others.

Mr. Hunter beached his duty to operate the ambulance with reasonable care and violated s. 316.072(5)(b)2., F.S., when he did not slow down at the red light at the intersection of North MLK Blvd. and West Tharpe Street on September 5, 2013. Mr. Hunter's negligence and breach of duty of care was a cause of the accident and the damages suffered by Mrs. Sanford.

Leon County, as the employer of Mr. Hunter, is liable for his negligent act. The long-standing doctrine of *respondeat superior* provides that an employer is liable for an employee's acts committed within the course and scope of employment. *City of Boynton Beach v. Weiss*, 120 So.3d 606, 611 (Fla. 4th DCA 2013). Florida's dangerous instrumentality imposes "vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another." *Aurbach v. Gallina*, 753 So.2d 60, 62 (Fla. 2000). Motor vehicles have been considered dangerous instrumentalities under Florida law for over a century. See *Anderson v. S. Cotton Oil Co.*, 74 So. 975, 978 (Fla.1917).

Florida law also provides that an employer's safety rules and procedures governing the conduct of its employees is relevant evidence of the standard of care required. *Mayo v. Publix*, 686 So.2d. 801, 802 (Fla. 4th DCA 1997). LCEMS has Standard Operating Guidelines for the safe operation of its vehicles. Specifically, the guidelines require all ambulance drivers when driving to an emergency to come to

a full and complete stop at all red lights and stop signs. Once the driver determines that all other traffic has yielded to the emergency vehicle, the ambulance may proceed through the intersection with due regard for the safety of others.

Mr. Hunter violated LCEMS Standard Operating Guidelines when he did not stop at the red light at the intersection of North MLK Blvd. and West Tharpe Street.

On September 5, 2013, Mr. Hunter, an employee of LCEMS, drove an ambulance owned by Leon County during the course of his normal workday. Therefore, Leon County is liable for the negligence of Mr. Hunter and the damages caused to Mrs. Sanford.

Mr. Sanford's Negligence

As the driver of the Buick, Mr. Sanford also had a duty to use reasonable care. Section 316.126(1)(a), F.S. provides:

Upon the immediate approach of an authorized emergency vehicle, while en route to meet an existing emergency, the driver of every other vehicle shall, when such emergency vehicle is giving audible signals by siren ... or visible signals by the use of displayed blue or red lights, yield the right-of way to the emergency vehicle and shall immediately proceed to a position of parallel to, and as close as reasonable to the closest edge of the curb of the roadway, clear of any intersection and shall stop and remain in position until the authorized emergency vehicle has passed, unless otherwise directed by a law enforcement officer.

On the day of the accident, the trees and signs could have obstructed Mr. Sanford's view of the ambulance, which was traveling westbound on West Tharpe Street. The ambulance's siren was activated 4 seconds before the collision which likely did not afford Mr. Sanford adequate time react and avoid the collision. Moreover, the evidence presented was insufficient to show that the three beers Mr. Sanford consumed in the hours before the accident or his lack of sleep contributed to the accident.

However, Mr. Sanford was traveling at 42 mph down at the time of the crash, 12 mph faster than the posted speed limit of 30 mph. Mr. Sanford breached his duty to drive with

reasonable care by failing to stop for the ambulance because of his excessive speed. Despite the fact that he had a green light at the intersection, Mr. Sanford is partially at fault for the accident.

Section 316.126(5), F.S., specifies that s. 316.126, F.S., which Mr. Sanford violated, does not relieve the Mr. Hunter of the duty to drive with due regard for the safety of all persons using the highway, which he did failed to do.

Conclusion

Florida's comparative fault statute, s. 768.81, F.S., applies to this case because Mr. Hunter and Mr. Sanford were both at fault in the accident.

Mr. Hunter is at fault for:

- Failing to operate the ambulance with reasonable care;
- Violating s. 316.072(5)(b)2., F.S., when he did not slow down at the red light; and
- Violating LCEMS Standard Operating Guidelines when he did not stop at the red light at the intersection.

Mr. Sanford is at fault for:

- Violating s. 316.126(1)(a), F.S., by failing to stop for the ambulance because of his excessive speed.

While both Mr. Hunter and Mr. Sanford were partially at fault in this matter, Mr. Hunter's negligence far outweighs Mr. Sanford's negligence.

Mrs. Sanford suffered substantial injuries as a result of Mr. Hunter's negligence and has outstanding medical bills because of these injuries. Mrs. Sanford has made a remarkable recovery but still has some ongoing effects from the accident. Mrs. Sanford experiences foot drop in her right foot and double vision when she looks down. Because of the injuries sustained in the collision, Mrs. Sanford will likely need a hip replacement in the future, have issues with posttraumatic arthritis, and possibly experience further cognitive issues as a result of her traumatic brain injury. Mrs. Sanford may have a reduced future earning capacity because of her ongoing physical impairments. She will likely have future medical expenses as a direct result of the

accident. Therefore, the undersigned finds that the damages of \$1.15 million sought by Mrs. Sanford are reasonable and justly apportionable to Leon County as a result of Mr. Hunter's negligence.

The parties participated in mediation and reached a Mediation Settlement Agreement for \$1.15 million, the same amount as the claim bill. A Final Judgment in favor of Mrs. Sanford for the \$1.15 million was signed and entered into the circuit court's record on April 13, 2015. The Mediation Settlement Agreement afforded Mrs. Sanford the right to pursue a claim bill from the legislature for \$1.15 million and also allowed Leon County the right to contest any filed claim bill.

At the Special Master Hearing attorneys for both parties agreed that all evidence and arguments presented at the hearing were also taken into consideration at mediation. The attorneys also agreed that no new evidence was presented to the undersigned at the hearing.

The undersigned finds that at mediation the parties presented all of the facts and arguments described above. The parties also took into account the fault of Mr. Hunter and Mr. Sanford as well as Mrs. Sanford's recovery and her future medical needs. Therefore, the undersigned finds that the Mediation Settlement Agreement was both reasonable and responsible.

LEGISLATIVE HISTORY:

This is the first claim bill presented to the Senate in this matter.

ATTORNEYS FEES:

Mrs. Sanford's attorney has agreed to limit his fees to 25 percent of any amount awarded by the Legislature in compliance with s. 768.28(8), F.S. The bill provides that the total amount paid for lobbying fees, costs, and other similar expenses relating to the claim are included in the 25 percent limit.

FISCAL IMPACT:

Leon County is insured and has received no indication from its insurer that the entire amount of the claim bill, if passed, will not be paid.

RECOMMENDATIONS:

For the reasons set forth above, the undersigned recommends that Senate Bill 22 (2016) be reported FAVORABLY.

Respectfully submitted,

Lauren Jones
Senate Special Master

cc: Secretary of the Senate



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Agriculture, *Chair*
Appropriations Subcommittee on Education, *Vice Chair*
Appropriations
Banking and Insurance
Education Pre-K - 12
Reapportionment
Rules

SENATOR BILL MONTFORD

3rd District

January 20, 2016

Senator Miguel Diaz de La Portilla, Chair
Senate Committee on Judiciary
515 Knott Building
Tallahassee, Florida 32399-1100

Dear Chairman:

I respectfully request that the following claim bills be placed on the next agenda for the Senate Committee on Judiciary

SB 22 Relief for Angela Sanford

Your consideration in the matter would be greatly appreciated.

Sincerely,

A handwritten signature in cursive script that reads "Bill Montford".

William "Bill" Montford
State Senator, District 3

WM/md

REPLY TO:

- ☐ 214 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5003
- ☐ 20 East Washington Street, Suite D, Quincy, Florida 32351 (850) 627-9100

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location

302 Senate Office Building

Mailing Address

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

DATE	COMM	ACTION
10/26/15	SM	Favorable
01/22/16	JU	Favorable
	AHS	
	AP	

November 17, 2015

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 26** – Senator Negron
HB 3531 – Representative Mike Miller
Relief of L.T., a minor, by the Department of Children and Families

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED EQUITABLE CLAIM FOR \$800,000 FROM GENERAL REVENUE BASED ON A SETTLEMENT AGREEMENT BETWEEN THE LEGAL GUARDIAN OF L.T. AND THE DEPARTMENT OF CHILDREN AND FAMILIES FOR THE SEXUAL ABUSE SUFFERED BY L.T. WHEN SHE WAS LEFT BY THE DEPARTMENT IN THE FOSTER CARE OF A REGISTERED SEX OFFENDER

CURRENT STATUS:

On December 14, 2010, an administrative law judge from the Division of Administrative Hearings, serving as a Senate special master, held a de novo hearing on a previous version of this bill, SB 18 (2012). After the hearing, the judge issued a report containing findings of fact and conclusions of law and recommended that the bill be reported favorably with an amendment to correct an erroneous claim amount. (The 2012 bill failed to account for the \$200,000 that DCF had already paid; therefore, the proper claim amount was \$800,000 rather than \$1,000,000.) The 2012 report is attached as an addendum to this report. The amount claimed in SB 26 (2016) on the date of this report is \$800,000.

Due to the passage of time since the hearing, the Senate President reassigned the claim to me, Mary K. Kraemer. My responsibilities were to review the records relating to the claim bill, be available for questions from the members, and determine whether any changes have occurred since the hearing, which if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

The provisions of SB 26 (2016) address and update the circumstances (with additional detail) upon which the claim for relief is based. It should be noted that the prior claim bill, SB 18 (2012), evaluated by the then-Senate special master, sought relief of the claimant **as a minor**. The record reflects that the claimant is now over the age of eighteen. SB 26 now references payment to a special needs trust for the exclusive use and benefit of the claimant. (Section 3, lines 127-138). Further, administration of the trust will be handled by an institutional trustee selected by the claimant, until the trust is terminated upon the claimant's 30th birthday. In case of the claimant's death prior to termination of the trust, any remaining trust funds will belong to her heirs, beneficiaries, or estate.)

The position of the Department of Children and Families (DCF) on the settlement of the case by payment as described in the bill is unchanged. Counsel for DCF stated in a letter dated September 30, 2015 that "DCF needs to continue to have claim bills funded from General Revenue. DCF is operating at minimal trust fund reserves that are essential to meeting cash flow and Department program needs. Any appropriation from a trust fund could have an effect on DCF operations and its ability to meet future related obligations."

In an update letter dated October 14, 2015, claimant's counsel stated that the claimant:

1. Is now married and lives with her husband and daughter in Jacksonville, where her husband, a hospital corpsman, is stationed at the Naval Air Station.
2. Is in her third year of studies, majoring in Applied Psychology at Florida State College at Jacksonville. Her career goal is to become a child psychologist, specializing in the treatment of children who have suffered trauma; and
3. Continues to undergo therapy, as she still suffers from the effects of her trauma.

SB 26 (2016) includes language similar to the above (lines 97-102), and further indicates that the claimant is employed part-time.

ATTORNEYS FEES:

The bill provides that the total amount paid for attorney fees, lobbying fees, costs, and other similar expenses related to the claim may not exceed 25 percent of the award (i.e., not exceeding \$200,000 of the proposed \$800,000 payment to the special needs trust).

RECOMMENDATIONS:

That SB 26 be reported FAVORABLY, based on the conclusions on page 3 of the 2012 report (attached hereto) reached by the administrative law judge from the Division of Administrative Hearings, that:

DCF has a duty to exercise reasonable care when it places foster children and to protect them from known dangers, and that DCF knew or should have known [of the] serious risk of harm to L.T. These breaches of duty were the proximate cause of the injuries that L.T. suffered.

Respectfully submitted,

Mary K. Kraemer
Senate Special Master

cc: Secretary of the Senate



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location

402 Senate Office Building

Mailing Address

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

	COMM	ACTION
12/1/11	SM	Fav/1 amendment

December 1, 2011

The Honorable Mike Haridopolos
President, The Florida Senate Suite
409, The Capitol Tallahassee, Florida
32399-110

Re: **SB 18 (2012)** Senator Jeremy Ring
Relief of L.T., a Minor

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED EQUITABLE CLAIM FOR \$800,000 FROM GENERAL REVENUE BASED ON A SETTLEMENT AGREEMENT BETWEEN THE LEGAL GUARDIAN OF L.T. AND THE DEPARTMENT OF CHILDREN AND FAMILIES FOR THE SEXUAL ABUSE SUFFERED BY L.T. WHEN SHE WAS LEFT BY THE DEPARTMENT IN THE FOSTER CARE OF A REGISTERED SEX OFFENDER.

FINDINGS OF FACT:

In August 1995, when LT. was less than two years old, the Department of Children and Families (DCF) removed LT. and her brother from their mother and placed them in the foster care of their great uncle, Eddie Thomas, and his wife, who lived in Gadsden County. Less than a year after the placement, Thomas was charged with sexually molesting a 13-year-old girl. He plead no contest to lewd, lascivious, or indecent assault upon a child and was sentenced to five years' probation and required to receive sex abuse counseling. He was also registered as a sex offender.

Despite the fact that DCF was aware of Thomas' conviction and his registration as a sex offender, it decided

that the risk of harm to L.T. was low and did not remove L.T. from Thomas' care and custody. DCF also terminated protective supervision of L.T., meaning that a social worker no longer visited the Thomas home from time to time to see how L.T. was doing. Protective supervision is often terminated by DCF when a child is placed with a relative and DCF is satisfied that supervision is unnecessary.

In 2004, when L.T. was 10 years old, DCF placed an adolescent girl in the foster care of the Thomases. A few months after the placement, this minor girl ran away from the house in the middle of the night, claiming that Thomas had attempted to sexually molest her. DCF removed this girl from the Thomas home, but DCF did not re-evaluate the placement of L.T. with Thomas.

In March 2005, when L.T. was 11 years old (and Thomas was 44), she ran away from home and told authorities that she had been repeatedly sexually abused by Thomas. She also said that Thomas and his wife used drugs. DCF then removed L.T. from the Thomas home.

It was later revealed by L.T. that she was roughly disciplined by the Thomases and that they were verbally abusive to her, frequently calling her derogatory names and telling her that she was worthless.

L.T. is now 17 years old and in a good foster home. However, as a result of the sexual abuse she endured while living with Thomas, L.T. suffers from post traumatic stress disorder, depression, and low self esteem. She has occasionally attempted suicide and for 10 months was a resident of Tampa Bay Academy, a mental health facility. She is receiving psychological counseling and will likely need counseling for many years. A trial consultant projected her future lost earnings as \$540,000. Her projected future medical expenses are \$760,000 to \$11,580,000, depending on the degree of psychological therapy and supervision she might need, the higher figure reflecting the costs of institutionalization. A conservative estimate of her total future economic losses is around \$2 million.

LITIGATION HISTORY:

In 2009, a lawsuit against DCF was filed in the Second Judicial Circuit by L.T.'s aunt and legal guardian. The case was successfully mediated and the parties entered into a

settlement agreement pursuant to which L.T. would receive \$1,000,000. The sovereign immunity limit of \$200,000 was paid and the balance of \$800,000 is sought through this claim bill. The court order approving the settlement agreement requires that the net proceeds to L.T. be placed in a special needs trust. After deducting legal fees and costs from the \$200,000, and accounting for a Medicaid lien, \$11,084 remained to be placed in a special needs trust for L.T.

CONCLUSIONS OF LAW:

The claim bill hearing was a *de novo* proceeding for the purpose of determining, based on the evidence presented to the Special Master, whether DCF is liable in negligence for the injuries suffered by L.T., and, if so, whether the amount of the claim is reasonable.

DCF has a duty to exercise reasonable care when it places foster children and to protect them from known dangers. DCF breached that duty when it learned that Thomas had been convicted of a sexual offense on a child, but did not remove L.T. from the Thomas home. DCF acted negligently again when it did not remove L.T. following the charge of sexual abuse against Thomas made by another foster child in 2004. DCF knew or should have known that Thomas posed a serious risk of harm to L.T. These breaches of duty were the proximate cause of the injuries that L.T. suffered.

The amount of the claim is fair and reasonable.

ATTORNEY'S FEES:

In compliance with s. 768.28(8), Florida Statutes, LT.'s attorneys have agreed to limit their fees to 25 percent of any amount awarded by the Legislature.

OTHER ISSUES:

The bill erroneously states that the claim is for \$1 million, failing to account for the \$200,000 that DCF has already paid. The bill should be amended to state that the claim is for \$800,000.

SPECIAL MASTER'S FINAL REPORT – SB 18 (2012)

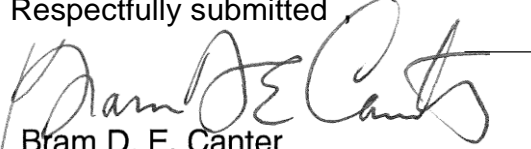
December 1, 2011

Page 4

RECOMMENDATIONS:

For the reasons set forth above, I recommend that Senate Bill 18 (2012) be reported FAVORABLY, as amended.

Respectfully submitted



Bram D. E. Canter
Senate Special Master

cc: Senator Ring
Debbie Brown, Secretary of the Senate
Counsel of Record



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations Subcommittee on Criminal and
Civil Justice, *Chair*
Appropriations
Banking and Insurance
Ethics and Elections
Higher Education
Regulated Industries
Rules

SENATOR JOE NEGRON
32nd District

January 20, 2016

Miguel Diaz de la Portilla, Chair
Committee on Judiciary
515 Knott Building
404 S Monroe Street
Tallahassee, FL 32399-1100

Re: Senate Bill 26

Dear Chairman Diaz de la Portilla:

I would like to request Senate Bill 26 relating an act of relief of L.T. be placed on the agenda for the next scheduled committee meeting.

Thank you for your consideration of this request.

Sincerely yours,

A handwritten signature in dark ink, appearing to read "Joe Negron", is written over a horizontal line.

Joe Negron
State Senator
District 32

JN/hd

c: Tom Cibula, Staff Director

REPLY TO:

- ☐ 3500 SW Corporate Parkway, Suite 204, Palm City, Florida 34990 (772) 219-1665 FAX: (772) 219-1666
- ☐ 412 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5032

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location

302 Senate Office Building

Mailing Address

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

DATE	COMM	ACTION
12/30/15	SM	Favorable
01/22/16	JU	Favorable
	AED	
	AP	

December 30, 2015

January 22, 2016 (Revised)

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 36** – Senator Darren Soto
HB 3523 – Representative Evan Jenne
Relief of Donald Brown by the District School Board of Sumter County

SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED EXCESS JUDGMENT CLAIM FOR \$1,400,000 OF LOCAL MONEY BASED ON A JURY AWARD FOR DONALD BROWN AGAINST THE SUMTER COUNTY SCHOOL BOARD TO COMPENSATE HIM FOR INJURIES HE SUFFERED IN A COLLISION WITH A SCHOOL BUS OWNED AND OPERATED BY THE SUMTER COUNTY SCHOOL BOARD.

CURRENT STATUS:

On November 3, 2011, an administrative law judge from the Division of Administrative Hearings, serving as a Senate special master, held a de novo hearing on a previous version of this bill, SB 38 (2012). After the hearing, the judge issued a report containing findings of fact and conclusions of law and recommended that the bill be reported favorably with amendments. That report is attached as an addendum to this report.

Due to the passage of time since the hearing, the Senate President reassigned the claim to me, L. Michael Billmeier, Jr. My responsibilities were to review the records relating to the claim bill, be available for questions from the members, and

determine whether any changes have occurred since the hearing, which if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

The Senate considered this claim in SB 38 in 2012. The original claim amount was \$2,651,375. The Special Master on Claim Bills recommended the amount be reduced to \$2,551,375.83. The bill was amended on the Senate floor to reduce the claim to a total of \$1,400,000. The House companion bill, CS/HB 697 (2012) passed the Legislature and was vetoed by the Governor. In the veto message, the Governor stated that bill would award Mr. Brown \$1.4 million, \$500,000 of which would be paid by the Sumter County School Board ("Board"). The Governor noted that the bill exceeded the amount recommended by the Senate Special Master. The prior bill is effectively identical to this bill.

In 2013, 2014, and 2015, claim bills were filed in the Senate and in the House that sought to award a total of \$1,400,000 to Mr. Brown. Those bills did not receive a hearing in any Senate or House committee.

According to counsel for the claimant, Mr. Brown had surgery on April 18, 2014, to deal with an "unfavorably scarred and deformed right above-knee amputation stump." The surgery was successful but Mr. Brown continued to have problems with his prosthesis, requiring multiple visits to deal with the issues. Mr. Brown had additional surgeries in February, 2015, and July, 2015. The Board continues to oppose the bill. It argues that this case is not one of the most severe and egregious cases that claim bills are intended to remedy.

This bill provides that Mr. Brown will be awarded \$1,400,000. It provides that attorney fees will be limited to \$190,000 plus taxable costs. In the original 2012 report, the Senate Special Master recommended the bill be amended to award \$832,439. The Legislature passed a bill awarding \$1,400,000. Subsequent to the passage of the bill, Mr. Brown has had additional surgeries and numerous follow-up appointments. While the Special Master is not bound by the amounts contained in prior bills, there is no compelling reason to recommend a different award beyond what the Legislature

SPECIAL MASTER'S FINAL REPORT – SB 36

December 30, 2015

January 22, 2016 (Revised)

Page 3

has previously approved. I recommend that the bill be reported favorably.

Respectfully submitted,

L. Michael Billmeier, Jr.
Senate Special Master

cc: Secretary of the Senate

SPECIAL MASTER'S FINAL REPORT – SB 38 (2012)

December 2, 2011

January 22, 2016 (Revised)

Page 4



THE FLORIDA SENATE
SPECIAL MASTER ON CLAIM BILLS

Location

402 Senate Office Building

Mailing Address

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

DATE	COMM	ACTION
12/02/11	SM	Fav/1 amendment

December 2, 2011

The Honorable Mike Haridopolos
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 38 (2012)** – Senator Rene Garcia
Relief of Donald Brown

SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED EXCESS JUDGMENT CLAIM FOR \$2,551,375.83 OF LOCAL MONEY BASED ON A JURY AWARD FOR DONALD BROWN AGAINST THE SUMTER COUNTY SCHOOL BOARD TO COMPENSATE CLAIMANT FOR PERMANENT INJURIES HE SUFFERED IN A COLLISION WITH A SCHOOL BUS OWNED AND OPERATED BY THE SUMTER COUNTY SCHOOL BOARD.

FINDINGS OF FACT:

In the early morning of October 18, 2004, Donald Brown was driving his motorcycle to work, traveling east on County Road 470. He had his headlight on, and was not speeding. Directly in front of him was a Lincoln Town Car. As they approached the intersection with County Road 475, the Lincoln Town Car turned right, onto County Road 475. Mr. Brown next saw a school bus, driven by Patsy Foxworth, pull out in front of him. Ms. Foxworth had been stopped at a stop sign on County Road 475, preparing to turn left onto County Road 470. When she pulled the bus out onto County Road 470, Mr. Brown had just enough time to lay his motorcycle down, and slide into the

front of the school bus. He suffered a traumatic, below-the-knee amputation of his right leg.

In order to save Mr. Brown's knee, tend to his injury, perform skin grafts, and treat ulcers, the doctors operated multiple times on Mr. Brown. One such procedure transplanted muscle from Mr. Brown's back to his right leg, in order to provide skin coverage for the prosthetic leg he had to learn to use.

After the jury trial, Mr. Brown underwent two more surgeries, ultimately resulting in an above-the-knee amputation. He will continue to need constant medical monitoring, as well as adjustment and replacement of his prosthesis. At the time of the trial, the jury was presented with evidence as to the cost of a prosthetic leg for a below-the-knee amputation, but his prosthetic device is now more expensive, as it involves an above the knee amputation.

At the time of the collision, Mr. Brown was 38 years old, and employed as a federal corrections officer, earning \$40,788 annually. As a result of his injury, he was awarded federal retirement disability benefits and health insurance. He received 60 percent of his income for the first year, and will receive 40 percent of his income until he reaches retirement age. Mr. Brown is currently 45 years old. Since the collision, Mr. Brown has been employed as a marketing representative, landscaper, a clerk at Wal-Mart, and a fingerprint analyst for the State of Kentucky. His current earnings, combined with his federal disability benefits, are higher than his pre-injury earnings.

All of Mr. Brown's medical bills have been paid by his federal health insurance, through Blue Cross and Blue Shield. His yearly deductible is \$5,000. He will continue to receive this health insurance benefit until he reaches retirement age, at which point he will be eligible for Medicare.

LITIGATION HISTORY:

In 2005, Mr. Brown brought a lawsuit against the Sumter County School Board. In November, 2008, after a trial, the jury found the School Board liable for Mr. Brown's injuries and awarded him damages in the amount of \$2,941,240.60. The

jury found that the School Board was 100 percent negligent in causing Mr. Brown's injuries, and awarded the following in damages:

Past medical expenses: \$421,963

Past lost earnings: \$92,690

Future medical expenses: \$972,730

Future lost earnings: \$554,000

Past pain and suffering: \$630,00

Future pain and suffering: \$270,000

The jury was unaware of Mr. Brown's health insurance, and of his federal disability benefits. The circuit judge entered a final judgment reducing the final verdict to \$2,651,375.83 (offsetting the amount of medical bills that had been paid by the time of the trial, \$229,613.77, and the federal disability benefits that had been paid at the time of trial, \$60,251.00) plus taxable costs of \$31,674.12. The School Board appealed the final judgment in March 2009. The Fifth District Court of Appeal affirmed the judgment in February 2011. In August 2011, the School Board paid Mr. Brown \$100,000.

CLAIMANT'S POSITION:

Ms. Foxworth was 100 percent negligent in failing to yield to oncoming traffic. The School Board is vicariously liable for the negligence of its employee. At the claim bill hearing, Mr. Brown's attorneys reduced the amount they are seeking through this claim bill to \$2,000,000.

SCHOOL BOARD'S POSITION:

Mr. Brown failed to exercise due care for his own safety by riding his motorcycle too closely to the rear of the Lincoln Town Car, and therefore contributed to the collision and to his injury. The School Board is opposed to this claim bill.

CONCLUSIONS OF LAW:

The claim bill hearing was a *de novo* proceeding for the purpose of determining, based on the evidence presented to the Special Master, whether the Sumter County School Board was liable in negligence for the injuries suffered by Mr. Brown, and, if so, whether the amount of the claim is reasonable.

Ms. Foxworth had a duty to operate the bus at all times with consideration for the safety of pedestrians and other drivers. Pedigo v. Smith, 395 So. 2d 615, 616 (Fla. 5th DCA 1981). Specifically, it was Ms. Foxworth's duty to observe and yield

to Mr. Brown's motorcycle as it approached the intersection. See § 316.123(2)(a), Fla. Stat. (2004) ("[E]very driver of a vehicle approaching a stop intersection indicated by a stop sign shall stop at a clearly marked stop line. After having stopped, the driver shall yield the right-of-way to any vehicle which has entered the intersection from another highway"). Ms. Foxworth breached this duty of care, and the breach was the proximate cause of Mr. Brown's injuries.

The Sumter County School Board, as Ms. Foxworth's employer, is liable for her negligent act. Hollis v. Sch. Bd. of Leon Cnty., 384 So. 2d 661, 665 (Fla. 1st DCA 1980) (holding that a school board is liable for any negligent act committed by a public school bus driver whom it employs, provided the act is within the scope of the driver's employment); see also Aurbach v. Gallina, 753 So. 2d 60, 62 (Fla. 2000) (holding that the dangerous instrumentality doctrine "imposes strict vicarious liability upon the owner of a motor vehicle who voluntarily entrusts that motor vehicle to an individual whose negligent operation causes damage to another").

The jury's allocation of 100 percent liability to the School Board is a reasonable allocation and should not be disturbed. However, the payment of a claim bill is a matter of legislative grace. Since Mr. Brown's medical bills have all been paid, and will continue to be paid through his federal health insurance, it is unreasonable for the Legislature to compensate Mr. Brown for any medical costs. The evidence also establishes Mr. Brown's employability, and his entitlement, until retirement age, to federal disability benefits. His current income is more than his pre-injury income. Accordingly, it is unreasonable for the Legislature to compensate Mr. Brown for future lost wages.

Given the traumatic nature of the injury, and the change to his lifestyle, Mr. Brown has endured significant pain and suffering. The jury's award of past and future pain and suffering is reasonable and fair. Adding the amount of past lost wages, which is \$32,439, to the amounts awarded for past and future pain and suffering, which total \$900,000, results in a figure of \$832,439. Reducing this amount by the \$100,000 already paid to Mr. Brown, would leave a balance of \$832,439. This is the amount that I recommend be paid. I also recommend that the claim bill be amended to reflect that the amount paid to

SPECIAL MASTER'S FINAL REPORT – SB 38 (2012)

December 2, 2011

January 22, 2016 (Revised)

Page 8

Mr. Brown is to compensate him only for lost wages and for pain and suffering.

LEGISLATIVE HISTORY:

This is the first claim bill presented to the Senate in this matter.

ATTORNEYS FEES AND LOBBYIST FEES:

The Claimant's attorneys have agreed to limit their fees and lobbyist fees to 25 percent of any amount awarded by the Legislature in compliance with s. 768.28(8), Florida Statutes.

SOURCE OF FUNDS:

If Senate Bill 38 is approved, the Sumter County School Board will pay the claim from local funds. Sumter County School Board is a member of Preferred Governmental Insurance Trust, a governmental self-insured trust.

SPECIAL ISSUES:

Senate Bill 38 (2012) is no longer accurate, as it states that the School Board has not paid \$100,000 pursuant to sovereign immunity limits set forth in s. 768.28, Florida Statutes. The School Board has paid that amount to Mr. Brown.

RECOMMENDATIONS:

For the reasons set forth above, the undersigned recommends that Senate Bill 38 (2012) be reported FAVORABLY, as amended.

Respectfully submitted,

Jessica Enciso Varn
Senate Special Master

cc: Senator Rene Garcia
Debbie Brown, Interim Secretary of the Senate
Counsel of Record

Attachment



101392

LEGISLATIVE ACTION

Senate

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.
.

House

The Special Master on Claim Bills recommended the following:

Senate Amendment (with title amendment)

Delete line 104

and insert:

to Donald Brown, in the amount of \$2,551,375.83, plus the

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

And the title is amended as follows:

Delete lines 33 - 41

and insert:

WHEREAS, Donald Brown seeks to recover damages for his



101392

bodily injury, including a permanent injury to the body as a whole, past and future pain and suffering of both a physical and mental nature, disability, physical impairment, disfigurement, mental anguish, inconvenience, loss of capacity for the enjoyment of life, loss of earnings, and loss of ability to lead and enjoy a normal life, and

Delete lines 91 - 95

and insert:

WHEREAS, the District School Board of Sumter County has paid \$100,000 pursuant to the statutory limits of liability set forth in s. 768.28, Florida Statutes, and WHEREAS, the \$2,551,375.83 judgment is sought through the submission of a claim bill to the Legislature, NOW, THEREFORE,



804918

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/26/2016	.	
	.	
	.	
	.	

The Committee on Judiciary (Brandes) recommended the following:

Senate Amendment

Delete lines 104 - 118
and insert:
amount of \$300,000.

Section 3. The total amount paid for attorney fees,
lobbying fees, costs, and other similar expenses relating to
this claim may not exceed 25 percent of the total amount awarded
under this act. However, taxable costs, which may not include
attorney fees and lobbying fees, related to the underlying civil
action may be collected in addition to the attorney fees and



804918

12 | lobbying fees.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Rules, *Vice Chair*
Appropriations Subcommittee on Criminal and
Civil Justice
Environmental Preservation and Conservation
Finance and Tax
Judiciary

JOINT COMMITTEE:

Joint Committee on Public Counsel Oversight

SENATOR DARREN SOTO

Minority Caucus Rules Chair
14th District

January 20, 2016

The Honorable Miguel Diaz de la Portilla
Committee on Judiciary
515 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Chair Diaz de la Portilla,

I respectfully request that Senate Bill 36, Relief of Donald Brown, be placed on the agenda as soon as possible. Senate Bill 36 requests to provide for the relief of Donald Brown by the District School Board of Sumter County and providing an appropriation to compensate Donald Brown for injuries sustained as a result of the negligence of an employee of the District School Board of Sumter County.

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

Sincerely,

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

Darren M. Soto
State Senator, District 14

Cc: Tom Cibula, Staff Director
Joyce Butler, Committee Administrative Assistant

REPLY TO:

- ☐ Kissimmee City Hall, 101 North Church Street, Suite 305, Kissimmee, Florida 34741 (407) 846-5187 FAX: (407) 846-5188
- ☐ 220 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5014

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

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

Duplicate

SB 36

Bill Number (if applicable)

Amendment Barcode (if applicable)

ing Date

Topic Relief of Donald Brown by the District School Board of Sumter

Name Jason Unger

Job Title Attorney

Address 301 South Bronough Street

Street

Tallahassee

City

FL

State

32301

Zip

Phone 850-577-9090

Email Jason.Unger@Gray-Robinson.

Speaking: ☐ For ☐ Against ☐ Information

Representing Meadowbrook Insurance

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

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at the 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

SPECIAL MASTER ON CLAIM BILLS

Location

302 Senate Office Building

Mailing Address

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

DATE	COMM	ACTION
1/08/16	SM	Favorable
01/22/16	JU	Favorable
	CA	
	FP	

January 8, 2016

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 44** – Senator Garcia
HB 3509 – Representative Nunez
Relief of Susana Castillo by the City of Hialeah

SPECIAL MASTER'S FINAL REPORT

THIS IS AN UNCONTESTED CLAIM FOR \$455,000 BASED ON A SETTLEMENT AGREEMENT WITH THE CITY OF HIALEAH FOR THE DEATH OF ANDREA CASTILLO DUE TO THE NEGLIGENT OPERATION OF A PATROL VEHICLE BY ONE OF ITS POLICE OFFICERS.

FINDINGS OF FACT:

At about 9:45 p.m. on October 19, 2012, Marco Barrios (Barrios) stopped his 2012 Jeep Compass facing north at the stop sign on E. 9th Court that intersects with E. 49th Street in Hialeah, FL, waiting to turn left to go westbound on E. 49th Street after purchasing gas. Twenty-one year old Andrea Castillo was seated in the front passenger seat of the vehicle being operated by her boyfriend, Barrios.

At the same time, Officer Raul Somarriba (Officer Somarriba), an on-duty patrolman with the Hialeah Police Department, was traveling between 20 and 22 miles an hour over the posted speed limit of 40 miles per hour eastbound on E. 49th Street, Hialeah, FL toward the intersection of E. 9th Court in an unmarked patrol car. Officer Somarriba had activated the car's emergency visor lights, but he had not activated the emergency siren.

After stopping and then proceeding into the intersection of E. 49th Street and E. 9th Court, Hialeah, FL, the Barrios vehicle was struck on the driver's side by the City of Hialeah patrol car being driven by Officer Somarriba as Barrios was crossing the eastbound lanes of E. 49th Street. There was no evidence that Officer Somarriba applied his brakes or took any evasive action prior to the impact with Barrios' vehicle.

The severe impact of the collision caused Barrios' vehicle to flip repeatedly and collide with several vehicles parked at an adjacent car dealership before coming to rest on its side.

The impact of the crash was so great that Marco Barrios was severely injured and Andrea Castillo was internally ejected from her seat and later discovered in the back hatch area of the vehicle with massive blunt trauma injuries to her head and torso. On October 21, 2012, Andrea Castillo died as a result of her injuries.

A witness confirmed that Officer Somarriba's siren was not activated prior to the crash with the Barrios vehicle.

The City of Hialeah's Traffic Homicide Investigation Report and an investigation by the Office of the State Attorney, Eleventh Judicial Circuit, established that Officer Somarriba was traveling at approximately 62 miles per hour over posted speed limit of 40 miles per hour at the time of the crash.

General Order No. 17.06 of the City of Hialeah Police Department Vehicle Pursuit Protocol (City Pursuit Protocol) establishes policy and guidelines for emergency vehicle pursuits.

The definition of the term "emergency equipment" contained in Section I (Definitions) of the City Pursuit Protocol means "siren and flashing or revolving red and/or blue lights" on vehicles.

The definition of the term "emergency response" contained in Section I (Definitions) of the City Pursuit Protocol provides, in part, that "vehicles involved in an emergency response shall have in operation all emergency equipment including emergency lights (light bar), siren, and headlights. Emergency vehicle operations and response codes are governed under General Order 22.04."

The definition of the term “vehicle pursuit” contained in Section I (Definitions) of the City Pursuit Protocol provides, in part, that the “authorized police vehicle [is] utilizing flashing emergency lights, siren, and headlights to apprehend the occupant(s) of another moving vehicle . . .”

Section II (Decision to Pursue) of the City Pursuit Protocol dictates that officers “may engage in pursuits when they have a reasonable belief that the fleeing suspect has committed or attempted to commit a forcible felony.”

Section III (Vehicle Pursuit Procedures) of the City Pursuit Protocol, dictates that the decision to initiate a pursuit must be based on the officer’s or supervisor’s conclusion that “the immediate danger to the public created by the pursuit is less than the immediate or potential danger to the public should the suspect remain at large.”

Section III (Vehicle Pursuit Procedures) of the City Pursuit Protocol, Also requires that the officer “shall be required to activate their vehicle headlights (no constant high beams) and all emergency equipment prior to beginning the pursuit.”

Section III of the City Pursuit Protocol further requires the “officer initiating a pursuit will, in all cases, immediately notify the Communications Dispatcher, via radio, that a pursuit is underway and provide the following, if possible:

- Unit number;
- Location, direction of travel, and estimated speed;
- Description of vehicle being pursued, including tag number, and number of occupants, if known;
- Number and description of occupants, if identifiable; and
- Specific reason(s) for the pursuit.

There was no evidence from witnesses that Officer Somarriba was in pursuit of a fleeing suspect engaged in a felony. Officer Somarriba did not recall being in hot pursuit of any suspect or vehicle at the time of the collision with the Barrios vehicle, and records and dispatch communications do not indicate otherwise. No call was ever placed to dispatch by Officer Somarriba indicating that he was initiating a pursuit, nor did Officer Somarriba run a vehicle tag in the minutes before the crash.

Officer Somarriba violated Section III of the City Pursuit Protocol by:

- Failing to activate all of the vehicle's emergency equipment before the pursuit was initiated. The officer did not activate the siren before or during the pursuit. Only the emergency lights were activated; and
- Failing to immediately contact the Communications Dispatcher that a pursuit was underway and provide his location, direction of travel, estimated speed, description of vehicle being pursued, including tag number, number and description of occupants, and the specific reason for the pursuit. There was no evidence that Officer Somarriba contacted dispatch communications prior to the crash.

Additionally, General Order No. 22.04 of the City of Hialeah Police Department Emergency Vehicle Operation and Response Code Protocol (City Emergency Vehicle Operation Protocol) requires that an officer in pursuit must:

- Notify the Communications Dispatcher, as soon as possible, of having responded in an emergency mode and that a pursuit is underway;
- Activate all emergency equipment, including both siren and flashing or revolving red and blue lights;
- Refrain from exceeding the posted speed limit by more than 10 miles per hour for a code "2" call (situations involving felonies in progress, potential dangers to citizens, and conditions which indicates there probably are individuals injured or will be injured);
- Refrain from exceeding the posted speed limit by more than 20 miles per hour for a code "3" call (situations involving imminent loss of life or physical suffering requiring immediate response); and
- Terminate the pursuit if it is determined to be solely for a traffic infraction (like speeding).

Officer Somarriba violated the City Emergency Vehicle Operations Protocol by:

- Failing to notify the Communications Dispatcher that a pursuit was underway;
- Failing to activate all of the vehicle's emergency equipment before the pursuit was initiated. The officer

did not activate the siren before or during the pursuit. Only the emergency lights were activated;

- Exceeding the posted speed limit of 40 miles per hour by more than 10 miles an hour for a code “2” call. Officer Somarriba was traveling at 62 miles per hour at the time of impact with Barrios’ vehicle, and he exceeded the speed limit by 22 miles per hour; and
- Exceeding the posted speed limit of 40 miles per hour by more than 20 miles an hour for a code “3” call; Officer Somarriba was traveling at 62 miles per hour at the time of impact with Barrios’ vehicle, and he exceeded the speed limit by 22 miles per hour.

Even if there was some evidence that Officer Somarriba was engaged in an emergency pursuit of either a code 2 or code 3 emergency call, he violated the City Pursuit Protocol and the City Emergency Vehicle Operations Protocol as to how to initiate and safely conduct such a pursuit.

At the conclusion of the traffic homicide investigation into the death of Andrea Castillo conducted by the City of Hialeah Police Department and a companion investigation conducted by the Office of the State Attorney, Eleventh Judicial Circuit, the Hialeah Police Department and Office of the State Attorney concluded that Marco Barrios duly observed the stop sign at the intersection of E. 49th Street and E. 49th Court and that Officer Somarriba’s speed was a contributing factor in the fatal crash.

A toxicology test conducted during the course of the investigation determined that Marco Barrios was not impaired by alcohol or any other substance at the time of the crash. There was no evidence of toxicology for Officer Somarriba.

Andrea Castillo is survived by her mother, Susana Castillo, with whom she lived. She is also survived by her younger twenty-year-old brother Kevin Castillo. At the time of her death, Andrea Castillo was enrolled in college to obtain a degree in education to follow in the footsteps of her grandmother who was a teacher and her mother who serves on the Miami-Dade County School Board.

In 2013, the Claimant, Susana Castillo, as the Personal Representative of the Estate of Andrea Castillo, deceased,

filed a wrongful death claim in the 11th Judicial Circuit in and for Miami-Dade County, Florida against the City of Hialeah and Raul Somarriba, individually. In a related case, Marco Barrios, individually, filed suit against the City of Hialeah for injuries sustained in the October 19, 2012 accident.

On June 9, 2015, Susana Castillo, as the Personal Representative of the Estate of Andrea Castillo, and Marco Barrios entered into a settlement agreement that was approved by the Hialeah City Council. The settlement agreement required the parties to dismiss their cases with prejudice and provide a full release of liability to the City of Hialeah and its employees, in exchange for payments by the City of Hialeah, totaling \$750,000.

The City of Hialeah has already paid \$295,000 for this incident (\$150,000 of which was paid to Marco Barrios for his injuries and \$145,000 to the Estate of Andrea Castillo), leaving an unpaid balance of \$455,000. Claimant's attorneys received \$37,500 in attorney fees, and the Estate of Andrea Castillo was charged \$48,879.29 for costs and expenses.

As part of the settlement agreement, the City of Hialeah agreed to support the passage of a claim bill and to pay the remaining balance of \$455,000 in annual installments of \$150,000 in 2016, \$150,000 in 2017, and \$155,000 in 2018. As noted in the Settlement Agreement and General Release, along with the incorporated Terms of Settlement, the Estate of Andrea Castillo and Marco Barrios entered into a separate agreement regarding the allotment of the \$750,000 to be paid by the City of Hialeah. The remaining balance of the \$455,000 settlement from the City of Hialeah will be paid to the Estate of Andrea Castillo as outlined herein upon passage of the instant claim bill.

CONCLUSIONS OF LAW:

The claim bill hearing was a *de novo* proceeding to determine whether the City of Hialeah is liable in negligence for damages suffered by the Claimant and, if so, whether the amount of the claim is reasonable. This report is based on the evidence presented to the Special Master prior to and during the hearing.

Officer Somarriba had a duty to operate his vehicle at all times with consideration for the safety of other drivers. See City of

Pinellas Park v. Brown, 604 So. 2d 1222, 1226 (Fla. 1992) (holding officers conducting a high-speed chase of a man who ran a red light had a duty to reasonably safeguard surrounding motorists); Brown v. Miami-Dade Cnty., 837 So. 2d 414, 417 (Fla. 3d DCA 2001) ("Florida courts have found that police officers do owe a duty to exercise reasonable care to protect innocent bystanders . . . when their law enforcement activities create a foreseeable zone of risk").

General Order No. 17.06 of the City of Hialeah Police Department (City Pursuit Protocol) and General Order No. 22.04 (City Emergency Vehicle Operations Protocol) require officers to activate all emergency equipment (siren and flashing or revolving red and/or blue lights) before initiating a pursuit, to contact the Communications Dispatcher that a pursuit was underway and provide specified information, and to refrain from exceeding the posted speed limit by more than 10 or 20 miles per hour in accordance with applicable response codes. These protocols established the standard of care for police officers of the City of Hialeah.

Officer Somarriba had a duty to operate his vehicle with consideration for the safety of other drivers and in compliance with the City Pursuit Protocol and the City Emergency Vehicle Operations Protocol. It was entirely foreseeable that injuries to motorists, such as Andrea Castillo, resulting in death could occur when Officer Somarriba violating these duties by entering an intersection at a high rate of speed over the posted speed limit, without slowing, and without his siren activated. Officer Somarriba breached his duty of care, and the breach was the proximate cause of the death of Andrea Castillo.

Officer Somarriba was acting within the course and scope of his employment with the City of Hialeah at the time of the crash. The City of Hialeah, as Officer Somarriba's employer, is liable for his negligent act. Mercury Motors Express v. Smith, 393 So. 2d 545, 549 (Fla. 1981) (holding that an employer is vicariously liable for compensatory damages resulting from the negligent acts of employees committed within the scope of their employment);

After considering all of the factors in this case, I conclude that the amount of this claims bill is appropriate.

SPECIAL MASTER'S FINAL REPORT – SB 44

January 8, 2016

Page 8

ATTORNEYS FEES:

The Claimant's attorneys have agreed to limit their fees to 25 percent of any amount awarded by the Legislature in compliance with s. 768.28(8), Florida Statutes. No lobbyist fees will be paid.

RECOMMENDATIONS:

For the reasons set forth above, I recommend that Senate Bill 44 (2016) be reported FAVORABLY.

Respectfully submitted,

John Ashley Peacock
Senate Special Master

cc: Debbie Brown, Secretary of the Senate

The Florida Senate
State Senator René García
38th District

District Office:
1490 West 68 Street
Suite # 201
Hialeah, FL. 33014
Phone# (305) 364-3100

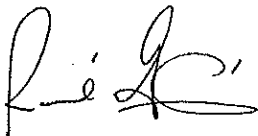
January 20, 2016

The Honorable Miguel Diaz de la Portilla
Chairman, Judiciary
515 Knott Building
404 S. Monroe Street
Tallahassee, FL 32399-1100

Dear Senator Diaz de la Portilla:

Please have this letter serve as my formal request to have **SB 44: Relief of Susan Castillo by the City of Hialeah**, be heard in the next possible Judiciary Committee Meeting. Should you have any questions or concerns, please do not hesitate to contact my office.

Sincerely,



State Senator René García
District 38
RG:AD

CC: Tom Cibula, Joyce Butler



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location

302 Senate Office Building

Mailing Address

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

DATE	COMM	ACTION
1/7/16	SM	Fav/1 amendment
01/27/16	JU	Fav/CS
	CA	
	FP	

January 7, 2016

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **CS/SB 46** – Judiciary Committee and Senator Flores
HB 3525 – Representative Frank Artiles
Relief of Melvin and Alma Colindres by the City of Miami

SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED CLAIM FOR \$2,550,000 BASED ON A FINAL JUDGMENT, ENTERED FOLLOWING A NON-BINDING ARBITRATION, FOR MELVIN AND ALMA COLINDRES AND THE ESTATE OF THEIR SON, KEVIN COLINDRES, AGAINST THE CITY OF MIAMI TO COMPENSATE CLAIMANTS FOR THE DEATH OF KEVIN COLINDRES, WHICH OCCURRED WHILE IN POLICE CUSTODY.

CURRENT STATUS:

On December 7, 2010, an administrative law judge from the Division of Administrative Hearings, serving as a Senate special master, held a de novo hearing on a previous version of this bill, SB 54 (2011). After the hearing, the judge issued a report containing findings of fact and conclusions of law and recommended that the bill be reported favorably with amendments. That report is attached as an addendum to this report.

Due to the passage of time since the hearing, the Senate President reassigned the claim to me as Special Master. My responsibilities were to review the records relating to the claim bill, be available for questions from the members, and

determine whether any changes have occurred since the hearing, which if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

Review of correspondence and documents submitted by counsel for the claimants indicate that no changes have occurred since the hearing which might have altered the findings and recommendations in the report.

The prior claim bill, SB 54 (2011), as filed, is effectively identical to the claim bill filed for the 2015 Legislative Session. Therefore, the previous Special Master report is applicable to the current claim bill. However, the current claim bill does not include amendments that were made to SB 54 (2011). One amendment was made in committee to adopt the Special Master's recommendations for revision of factual statements in the bill. This amendment was based on the Special Master's factual findings, and I recommend the same amendment to the current bill. SB 54 (2011) was also amended on the floor to reduce the amount of the claim from \$2,550,000 to \$550,000.

One difference between the current claim bill and SB 54 (2011) is that the current bill states that the police officers who arrived at the Colindreses' home "were required, according to the City of Miami's policies and procedures, to have been trained on interaction with and restraint of persons with intellectual disabilities." SB 54 (2011) stated that the officers "were supposed to have been trained on interaction with and restraint of the mentally ill." While the previous Special Master and I found evidence to support the original statement, I did not find evidence in the record to support the more specific statement in the current claim bill. Therefore, I recommend that this Finding of Fact be amended accordingly.

Respectfully submitted,

Scott Clodfelter
Senate Special Master

cc: Secretary of the Senate

CS by Judiciary:

The committee substitute reduces the amount of the claim in the underlying bill to \$550,000 from \$2.55 million.



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location

402 Senate Office Building

Mailing Address

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

DATE	COMM	ACTION
2/1/11	SM	Fav/1 amendment

February 1, 2011

The Honorable Mike Haridopolos
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 54 (2011)** – Senator Ronda Storms
Relief of Melvin and Alma Colindres

SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED CLAIM FOR \$2,550,000 BASED ON A FINAL JUDGMENT, ENTERED FOLLOWING A NON-BINDING ARBITRATION, FOR MELVIN AND ALMA CONLINDRES AND THE ESTATE OF THEIR SON, KEVIN COLINDRES, AGAINST THE CITY OF MIAMI TO COMPENSATE CLAIMANTS FOR THE DEATH OF KEVIN COLINDRES, WHICH OCCURRED WHILE IN POLICE CUSTODY.

FINDINGS OF FACT:

Background

This matter arises out of the death of Kevin Colindres, a mentally retarded and severely autistic 18-year-old. Due to his disabilities, Kevin's mental capacity was comparable with that of a four-year-old child. Similar to many four-year-olds, Kevin would occasionally throw temper tantrums. However, as Kevin stood 5'9 and weighed approximately 210 pounds, the family members with whom he resided (his mother, father, and three siblings) sometimes required the assistance of law enforcement to control his behavior.

Evening of December 12, 2006

On December 12, 2006, Mrs. Alma Colindres, Kevin's mother, asked Kevin to get dressed. When Kevin would not comply, Alma told Kevin that she would take him to school, which he hated, unless he cooperated with her. In response to Alma's mention of school, Kevin became violent and struck Alma in the face, put his hands around her neck, and threw a chair at her. These actions prompted Nerania Colindres, Kevin's sister, to call 911 at approximately 6:45 p.m. While waiting for police assistance, Abner Colindres, Kevin's younger brother, held Kevin in a bear hug for approximately 15 minutes.

Kimberly Pile was the first law enforcement officer to respond to the 911 call. Upon Officer Pile's arrival at the Colindres residence, Kevin had calmed down and was no longer engaged in violent behavior. Officer Pile attempted to further calm Kevin by telling him that she was there to help. These efforts were successful, and Kevin sat down on the couch next to Alma.

Although Alma suggested that Officer Pile could leave, Nerania asked her to stay because Kevin had not seen a doctor in over a year. Officer Pile remained on scene and several backup officers arrived at the home a short time later. Although Kevin initially remained calm, he again became agitated when Nerania mentioned that he should be taken to the hospital to treat his ear, which was infected. At that point, Kevin stood up and began to run in the direction of his bedroom. As he did so, Kevin tripped and fell to the floor, which resulted in a laceration to his head. Due to Kevin's injury, Officer Pile radioed for medical assistance at 7:15 p.m. However, due to a miscommunication between the police department and fire rescue dispatchers, "cut to the head" was misinterpreted as "cut to the hand," which resulted in the call being assigned an "Alpha response," the slowest response level with the least priority.

While Kevin was still on the floor, the backup officers immediately handcuffed Kevin's wrists behind his back and removed him from the residence. Unfortunately, Kevin was flailing his arms and otherwise struggling against the officers' efforts, which resulted in the officers placing Kevin face-down on the asphalt. Several officers then proceeded to attach a hobble restraint device to Kevin's ankles.

The undersigned finds that up to this point, the actions of the City of Miami Police Officers were appropriate. However, as detailed below, the events of December 12, 2006, took a tragic turn for the worse after multiple officers held Kevin face-down for a prolonged period of time.

Continued Restraint in Prone Position

With his wrists handcuffed behind his back and his ankles hobbled, Kevin remained face-down in a prone position while being held in place by Officers Hernandez, Rodriguez, and Sanchez. This was contrary to the procedures of the Miami Police Department, which provide that handcuffed and hobbled subjects should be moved to a sitting position as quickly as possible to avoid the risk of asphyxiation. Although positional asphyxiation and the procedures regarding the proper use of a hobble device are subjects that the Miami Police Department includes as part of officer training, the policy was not learned by Officers Hernandez, Rodriguez, and Sanchez. Indeed, later deposition testimony of the three officers reveals that they were completely unaware of the relevant procedures regarding the hobble device and the positioning of subjects in custody.

Unfortunately, as Kevin attempted to reposition himself so he could breathe, his behavior was misinterpreted by the officers as resistance. As such, the three officers improperly continued to hold Kevin in a prone position. To make matters worse, at least one of the three officers holding Kevin, Officer Rodriguez, made breathing even more difficult by applying pressure to Kevin's back.

After being improperly held in the prone position for 10 to 12 minutes, Kevin stopped breathing. The officers did not notice, however, as they again violated department procedures by neglecting to adequately monitor Kevin. Concerned, Kevin's mother advised the officers that she did not believe that Kevin was breathing. In response, one of the officers placed an ammonia tube in Kevin's nose, with no effect.

Notwithstanding the obvious fact that Kevin was no longer moving and in distress, the officers did not update fire rescue concerning his condition. Instead, contrary to department procedures, the officers kept Kevin in the prone position until the arrival of the paramedics at 7:30 p.m. By that time, Kevin

had been face-down for a total of 15 minutes, and had not been breathing for approximately three to five minutes.

Jose Siut, one of the responding paramedics, instructed the officers to remove Kevin from the prone position. Paramedic Siut quickly examined Kevin and discovered that his pupils were fixed, his facial complexion was blue, and he was not breathing. Although Kevin initially exhibited an idioventricular rhythm of 30 beats per minute, he went "flatline" moments later. CPR was then administered for the first time, and Kevin was transported to the hospital. Tragically, the prolonged period of respiratory arrest resulted in anoxic encephalopathy (brain death), and Kevin subsequently passed away at Coral Gables Hospital on January 5, 2007.

Cause of Death

In a report dated February 27, 2007, the Miami-Dade County Medical Examiner concluded that the use of the prone restraint position contributed to Kevin's cardiorespiratory arrest, which in turn caused Kevin's brain death. Specifically, the Medical Examiner found that the "prone restraint position, and any position that restricts abdominal excursion, will interfere with breathing." The report identified Kevin's agitated emotional state as an additional factor contributing to his death.

Notwithstanding the plain language of the Medical Examiner's report, the Respondent argues that Kevin's cardiorespiratory arrest resulted not from positional asphyxia (i.e., suffocation caused by the prone position), but rather from "excited delirium." However, the undersigned is not persuaded by the opinions of Respondent's expert witnesses, Drs. Dimaio and Mash, and instead credits the conclusions of Dr. Werner Spitz, the Claimant's expert. Dr. Spitz opined that Kevin's brain death was the result of cardiac arrest initiated by compression of the chest, which in turn was caused by the use of the prone position and the application of force to Kevin's back.

Kevin is survived by his mother, father, and three siblings.

LITIGATION HISTORY:

On May 7, 2007, Alma and Melvin Colindres, as the personal representatives of Kevin's estate, filed a wrongful death action against the City of Miami. Count one of the complaint alleged, in relevant part, that the City of Miami: negligently failed to monitor Kevin's vital signs while he was restrained; negligently

failed to timely call paramedics; and negligently failed to provide CPR. Count two of the complaint asserted that the City of Miami negligently trained its officers with respect to the proper use of the hobble device and the monitoring of vital signs.

Following extensive discovery, non-binding arbitration was held on March 25, 2010, before Murray Greenberg, a former city attorney for the City of Miami. In his April 28, 2010, Arbitration Award, Mr. Greenberg found that if "the City of Miami Police Officers had been more attentive to Kevin Colindres after they restrained him, there is a strong likelihood that he would be alive today." Based upon this finding, Mr. Greenberg concluded that the City of Miami was negligent in its treatment of Kevin. Acknowledging that it was difficult to assess the appropriate amount of damages to compensate parents for the pain and suffering associated with the loss of a child, Mr. Greenberg determined that a judgment of \$2.75 million was warranted. Mr. Greenberg also rejected the City of Miami's various legal defenses, which included an argument that Kevin's estate was barred from recovery by section 776.085, Florida Statutes.

The City of Miami was not bound by Mr. Greenberg's findings, and could have proceeded with a de novo jury trial. Instead, the City of Miami decided to limit further litigation costs by agreeing to the entry of a final judgment for \$2.75 million, with the intention of vigorously opposing a claim bill.

The Respondent has paid \$200,000 against the final judgment, leaving a balance of \$2,550,000, which is the amount sought through this claim bill.

CLAIMANTS' ARGUMENTS:

- City of Miami Police Officers negligently restrained Kevin for 15 minutes in a prone position while handcuffed and hobbled, which was the proximate cause of his death.
- The City of Miami's policies regarding the use of the hobble device and the monitoring of vital signs, while adequate, were negligently imparted to the officers who responded to the Colindres residence.

RESPONDENT'S ARGUMENTS:

- The Respondent objects to any payment to the Claimants through a claim bill.

- The Claimants are barred from recovery by section 776.085, Florida Statutes, which provides that it is a defense to a personal injury or wrongful death action that the plaintiff's injury was sustained during the commission or attempted commission of a forcible felony.
- Kevin's death was the result of "excited delirium," and not from any negligence of the City of Miami or its police officers.
- The police officers were under no duty to perform CPR.
- Sovereign immunity bars the Claimant's negligent training claim.

CONCLUSIONS OF LAW:

It is well-settled that individuals in the custody or control of the police are owed a duty of care that arises under the common law of Florida. Kaisner v. Kolb, 543 So. 2d 732, 734 (Fla. 1989) ("[W]e find that petitioner was owed a duty of care by the police officers when he was directed to stop and thus was deprived of his normal opportunity for protection. Under our case law, our courts have found liability or entertained suits after law enforcement officers took persons into custody, otherwise detained them, deprived them of liberty or placed them in danger So long as petitioner was placed in some sort of 'custody' or detention, he is owed a common law duty of care"); Moore v. Fla. Fish & Wildlife Conservation Comm'n, 861 So. 2d 1251, 1253 (Fla. 1st DCA 2003) ("Thus, once appellant had been restrained of his liberty, he was in the 'forseeable zone of risk' Therefore a duty of care was owed to the appellant"). The City of Miami police officers who responded to the Colindres residence breached their duty of care, as it should have been obvious to any reasonable person that restraining Kevin for 15 minutes while he was face-down, handcuffed, and hobbled, was dangerously and needlessly interfering with his ability to breathe. The officers further breached their duty of care when they failed to adequately monitor Kevin's breathing and update fire and rescue regarding the change in his condition. Consistent with the arbitrator's conclusion, the undersigned is convinced by the greater weight of the evidence that Kevin would be alive today had the officers not committed these breaches of duty.

Accordingly, the Claimants have demonstrated that the negligence of the officers was the proximate cause of Kevin's death.

Alternatively, liability in this matter was established by the failure of the City of Miami to adequately train its officers regarding the use of the hobble device. Contrary to the Respondent's contention, the Claimants are not challenging the content of the program, which was adequate. Indeed, the Miami Police Training Center materials concerning the hobble device expressly provide that officers should "never allow the subject to lie on their side, stomach or chest," must "allow [the] subject to lean back against a firm fixed object . . . to relieve stress on the diaphragm," and must "make certain that the subject is under constant supervision." Instead, the Claimants argue that the Respondent was negligent in the operation of its training (i.e., by failing to successfully impart the training content to the officers). See Mercado v. City of Orlando, 407 F.3d 1152, 1162 (11th Cir. 2005) (noting that to state a claim for negligent training, plaintiff must show that the government was negligent in the implementation or operation of the training program). In light of the fact that the three officers holding Kevin in place were completely unaware that it was dangerous or improper to do so, the undersigned concludes that Respondent was negligent in the operation of its hobble device training program. This negligence was the proximate cause of Kevin's asphyxiation and subsequent death.

The City of Miami, as the officers' employer, is liable for their negligence. Mercury Motors Express v. Smith, 393 So. 2d 545, 549 (Fla. 1981) (holding that an employer is vicariously liable for compensatory damages resulting from the negligent acts of employees committed within the scope of their employment).

The undersigned has considered the Respondent's argument that the Claimants are barred from recovery by section 776.085(1), Florida Statutes, which provides that it "shall be a defense to any action for damages for personal injury or wrongful death . . . that such action arose from injury sustained by a participant during the commission or attempted commission of a forcible felony." Although Kevin arguably committed a forcible felony, resisting arrest with violence, by flailing his arms and legs while he was being removed from

the residence, see Wright v. State, 681 So. 2d 852, 853 (Fla. 5th DCA 1996), any criminal conduct on Kevin's part ceased once he was handcuffed and hobbled. Any subsequent wiggling or movement on Kevin's part was merely an attempt to breathe, and did not constitute a criminal act. As such, his injuries were not sustained "during the commission" of a crime, which is required by the plain language of the statute for the defense to apply. See Copeland v. Albertson's, Inc., 947 So. 2d 664, 667 (Fla. 2d DCA 2007) (holding that although the plaintiff committed an aggravated assault against a grocery store clerk, the assault did not bar a civil action against store employees for injuries inflicted upon the plaintiff after he fled the store, since the "section 776.085 defense is applicable only to injuries the plaintiff sustains during the commission or attempted commission of a forcible felony") (emphasis added). Accordingly, the undersigned concludes, as did the arbitrator, that the Claimants are not barred from recovery by section 776.085(1).

The undersigned does agree with the Respondent's contention that the officers were under no legal duty to perform CPR. See L.A. Fitness Int'l, LLC v. Mayer, 980 So. 2d 550, 559 (Fla. 4th DCA 2008) (holding that CPR is more than mere first aid, and that non-medical personnel certified in CPR remain laymen and "should have discretion in deciding when to utilize the procedure"). Nevertheless, the Respondent is liable for Kevin's death based upon the other grounds discussed above.

Finally, the undersigned concludes that \$2,550,000, the amount sought through this bill, is reasonable and appropriate, particularly in light of the fact that the Claimants watched helplessly as their disabled child suffocated and lapsed into unconsciousness.

LEGISLATIVE HISTORY:

This is the first claim bill presented to the Senate in this matter.

ATTORNEYS FEES:

The Claimants' attorneys have agreed to limit their fees to 25 percent of any amount awarded by the Legislature in compliance with section 768.28(8), Florida Statutes. Lobbyist's fees are included with the attorney's fees.

FISCAL IMPACT:

Should this claim bill be approved, the first \$225,000 (the amount remaining on the Self Insured Retention for this claim) would be paid by Respondent from its Self Insurance Trust

Fund. The remaining \$2,325,000 necessary to satisfy the claim bill would be provided by Respondent's excess insurance coverage through State National Insurance Company.

As the City of Miami's annual budget is well in excess of \$400 million, the undersigned is not persuaded by the Respondent's argument that city operations would be adversely affected by an outlay of \$225,000.

SPECIAL ISSUES:

As it is presently drafted, Senate Bill 54 provides that the backup officers "violated their training and the city of Miami's policies by aggressively approaching Kevin Colindres, causing Kevin Colindres to attempt to leave the room." In light of the above factual findings, this sentence should be deleted from the bill.

In addition, while it is true that the officers did not perform CPR, they were under no legal obligation to do so. Accordingly, Senate Bill 54 should also be amended to remove the reference that officers "failed" to administer CPR.

RECOMMENDATIONS:

For the reasons set forth above, the undersigned recommends that Senate Bill 54 be reported FAVORABLY, as amended.

Respectfully submitted,

Edward T. Bauer
Senate Special Master

cc: Senator Ronda Storms
R. Philip Twogood, Secretary of the Senate
Counsel of Record



738286

LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2016	.	
	.	
	.	
	.	

The Committee on Judiciary (Brandes) recommended the following:

Senate Amendment

Delete lines 87 - 88
and insert:
as well as insurance, and to draw a warrant in the sum of
\$550,000 payable to Melvin and Alma Colindres, as personal



The Florida Senate

Committee Agenda Request

To: Senator Miguel Diaz de la Portilla, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 20, 2016

I respectfully request that **Senate Bill # 46**, relating to Relief of Melvin and Alma Colindres by City of Miami, 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 37

THE FLORIDA SENATE

APPEARANCE RECORD

1/26/16

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

SB 46

*Meeting Date**Bill Number (if applicable)*Topic Relief of Melvin and Alma Colindres by the City of Miami*Amendment Barcode (if applicable)*Name Jason UngerJob Title AttorneyAddress 301 S. Bronough STPhone 850-577-9090*Street*TallahasseeFL32301*City**State**Zip*Email Jason.Unger@Gray-Robinson.Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing Meadowbrook InsuranceAppearing 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.*



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location

302 Capitol

Mailing Address

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

DATE	COMM	ACTION
12/17/15	SM	Favorable
01/22/16	JU	Pre-meeting
	AED	
	AP	

December 17, 2015

The Honorable Andy Gardiner
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 50** – Senator Flores
HB 3537 – Representative Jose Felix Diaz
Relief of Altavious Carter by the Palm Beach County School Board

SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED CLAIM FOR \$944,034.30 BASED ON A JURY AWARD FOR ALTAVIOUS CARTER (CLAIMANT) AGAINST THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA, TO COMPENSATE CLAIMANT FOR DAMAGES HE SUSTAINED WHEN A SCHOOL BUS CRASHED INTO THE REAR END OF A VAN IN WHICH HE WAS A PASSENGER.

CURRENT STATUS:

On February 3, 2011, an administrative law judge from the Division of Administrative Hearings, serving as a Senate special master, held a de novo hearing on a previous version of this bill, SB 26 (2012). After the hearing, the judge issued a report containing findings of fact and conclusions of law and recommended that the bill be reported favorably with an amendment. That report is attached as an addendum to this report.

Due to the passage of time since the hearing, the Senate President reassigned the claim to me, Jason Hand. My responsibilities were to review the records relating to the claim bill, be available for questions from the members, and determine whether any changes have occurred since the

hearing, which if known at the hearing, might have significantly altered the findings or recommendation in the previous report.

According to counsel for the parties, there have been no substantial changes in the facts and circumstances for the underlying claim. Accordingly, I find no cause to alter the findings and recommendations of the original report, including the recommendation in the “Other Issues” section of the original report, which recommended that the claim bill be amended to add the August 4, 2010, Final Cost Judgment costs of \$50,394.52 (in response to Plaintiff’s Motion to Tax Costs). This addition would raise the total amount of the claim bill from \$994,034.30 to \$1,044,428.82. However, given that this recommendation has not been included in the claim bills for this issue (such bills are identified below), I recommend SB 50 favorably.

Additionally, the prior claim bills, SB 26 (2012)(died in Special Master on Claims Bills), SB 30 (2013)(died in Judiciary Committee), SB 38 (2014)(withdrawn), and SB 72 (2015)(died in Appropriations Committee) are effectively identical to claim bill filed for the 2016 Legislative Session.

Respectfully submitted,

Jason Hand
Senate Special Master

cc: Debbie Brown, Secretary of the Senate



THE FLORIDA SENATE

SPECIAL MASTER ON CLAIM BILLS

Location
402 Senate Office Building

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

DATE	COMM	ACTION
12/02/11	SM	Fav/1 amendment

December 2, 2011

The Honorable Mike Haridopolos
President, The Florida Senate
Suite 409, The Capitol
Tallahassee, Florida 32399-1100

Re: **SB 26 (2012)** – Senator Ellyn Setnor Bogdanoff
Relief of Altavious Carter

SPECIAL MASTER'S FINAL REPORT

THIS IS A CONTESTED CLAIM FOR \$944,034.30 BASED ON A JURY AWARD FOR ALTAVIOUS CARTER (CLAIMANT) AGAINST THE SCHOOL BOARD OF PALM BEACH COUNTY, FLORIDA, TO COMPENSATE CLAIMANT FOR DAMAGES HE SUSTAINED WHEN A SCHOOL BUS CRASHED INTO THE REAR END OF A VAN IN WHICH HE WAS A PASSENGER.

FINDINGS OF FACT:

Following a four-day trial in the Palm Beach County Circuit Court a jury found that Claimant had sustained a permanent injury in an accident that occurred December 15, 2005, and awarded him the following damages with the amount of the award in parentheses: past medical expenses (\$96,475.64); future medical expenses (\$175,892.00); past pain and suffering (\$478,333.33); and future pain and suffering (\$343,333.33). The award of damages totaled \$1,094,034.30. The verdict was dated February 12, 2010.

On February 25, 2010, Judge Thomas H. Barkdull entered final judgment for Claimant as follows: "Pursuant to the Jury Verdict rendered in this action, IT IS ADJUDGED: That [Claimant] recover from [the School Board] the sum of [\$1,094,034.30] that shall bear interest annually at the

statutory rate and for which let execution issue for the first One Hundred Thousand Dollars (\$100,000.00) of this judgment and that portion of the judgment that exceeds [\$100,000] may be reported to the legislature, but may not be paid in part or in whole except by further act of the legislature further [sic] to 768.28."

The court retained jurisdiction to determine taxable costs as well as to determine set offs, if any. On August 4, 2010, Judge Barkdull entered a "Final Cost Judgment" in the amount of \$50,394.52 with interest at the statutory rate with the following provision: "but for which execution shall not issue, but this judgment may be reported to the legislature, but may not be paid in part or in whole except by further act of the legislature pursuant to 768.28."

On April 14, 2010, the School Board paid to Claimant the sum of \$100,000.00 in partial satisfaction of the Final Judgment.

At the trial and in this claims proceeding, the School Board stipulated that it is liable for Claimant's damages.

In this claims proceeding, the School Board does not contest the award for Claimant's past medical expenses or the award for Claimant's past pain and suffering. The School Board asserts that the awards for future medical expenses and future pain and suffering are excessive.

Claimant, a male, born September 7, 1991, is a basketball player who currently plays for Santa Fe College. On December 15, 2005, Claimant was being transported from basketball practice to his home in a van being driven by Vincent Merriweather, a volunteer coach for Claimant's team. Mr. Merriweather served as a mentor to Claimant.

On that date Mr. Merriweather's van was stopped at a red light in a westbound lane at the intersection of Forest Hills Boulevard and Olympia Boulevard in Palm Beach County when a school bus owned and operated by the Palm Beach County School District rear-ended the van. It was estimated that the bus was traveling in excess of 45 MPH when it hit the van, and there was no credible evidence that the driver applied his brakes at any point before the accident.

The negligence of the school bus driver was the cause of the accident and was the proximate cause of the damages suffered by Claimant.

Mr. Merriweather was also injured in the accident and suffered damages in excess of \$100,000.00. Mr. Merriweather was granted compensation for his excess damages by Chapter 2009-247, Laws of Florida.

Claimant was wearing a seat belt at the time of the crash. Claimant's seat failed as a result to the force of the impact, and he was thrown into the back of the van and briefly lost consciousness. When he regained consciousness, he began yelling for Mr. Merriweather, who was unable to respond. Claimant was able to exit the van, but he immediately experienced pain in his neck. An unidentified person assisted Claimant by helping him to lie down on the pavement. A person identified as a school nurse told Claimant to be still until emergency services arrived and advised him to stay still.

Emergency responders arrived on the scene in a timely fashion, stabilized Claimant's head and neck, and transported him to Wellington Regional Hospital.

Diagnostic testing at Wellington Regional Hospital reflected that Claimant had suffered a cervical fracture in the region of the neck referred to as C6-C7. The cervical area of the neck, consisting of seven vertebrae, is immediately above the thoracic region. The designation C6-7 (or C6-C7) indicates the area where the sixth cervical vertebrae and the seventh cervical vertebrae are located. Between the two vertebrae is a disc, which serves several purposes, including acting as a shock absorber between the two vertebrae. The spinal cord runs through the vertebrae of the cervical and thoracic regions.

Due to the severity of the injury, which included a risk of paralysis, Wellington Regional Hospital transferred Claimant to the trauma center at St. Mary's Hospital.

At St. Mary's, Claimant was placed in cervical traction consisting of immobilizing hardware being screwed into his skull and being strapped to a bed where he was unable to move.

Dr. Bret Baynham, a certified pediatric orthopedic surgeon, performed the following procedures on Claimant: Open Reduction C6-7 Fracture-Dislocation; Anterior Cervical Discectomy C6-7; Anterior Cervical Decompression, C6-7; Anterior Cervical Interbody Fusion Device C6-7; and Anterior Cervical Fusion C6-7.

In layman's terms, Dr. Baynham fused Claimant's C6-C7 vertebrae. He removed the disc between C6-C7. In the area from which the disc had been removed, he inserted a hollowed metallic dowel, referred to as a cage, filled with particles of bones that were designed to allow the two vertebrae to eventually grow together. He then affixed a metal plate to stabilize C6-C7 using special bone screws. The metal plate is intended to be permanent.

Dr. Baynham provided Claimant excellent care.

Post-surgery, Claimant underwent a grueling rehabilitation. Claimant worked hard during rehabilitation and cooperated fully with his therapists and other treatment providers.

Dr. Baynham continued to follow Claimant's recovery post-surgery. On July 27, 2006, Dr. Baynham found Claimant to be pain free and gradually returning to normal activities. Dr. Baynham's office notes reflect the following recommendation: "At this point we are going to allow [Claimant] to return to full activity. Based on his clinical and radiographic findings he is found to have a stable healed injury without any evidence of any residual instability or neurologic compromise. If he should have any problems as we move forward he is to refrain from activity and contact us immediately. This would include pain recurrence or any signs or symptoms associated with spinal cord or nerve root irritation. Otherwise if he remains well we would like to have him follow up in six months for re-evaluation including radiographs if indicated."

After July 27, 2006, Claimant resumed playing basketball and became a star high school player and a full-scholarship player at Santa Fe College in Gainesville. Claimant has been cleared to play basketball without any medical restrictions attributable to the injuries he received in the 2005 accident.

At present, Claimant experiences periodic neck pain.

Adjacent disc disease (also referred to in the record as "adjacent segment disease") can be a consequence of fusing two vertebrae. When two discs are fused, greater mechanical loading or stress is placed on the vertebrae above or below the fused discs, which may or may not cause disc degeneration and require further intervention. While adjacent disc disease may be discernable by a MRI relatively soon after the fusion, symptoms from the disease typically come later in life, but may not come at all.

Claimant was seen by Dr. Baynham on follow-up on November 27, 2007. His impression was that Claimant was stable with no residual neurologic impairment, no pain in the neck, and no functional loss of motion. His recommendation was that "Based on the clinical and radiographic findings [Claimant] is found to have a stable healed injury without evidence of any residual instability or neurologic compromise. No further treatment is indicated at this time. No restrictions to athletic participation. Follow up prn."

Claimant experienced neck and back pain in 2009 and returned to Dr. Baynham in January and June of that year. In June 2009, Dr. Baynham ordered an MRI for Claimant. Dr. Baynham observed changes in C7-T1 (T1 is the first thoracic vertebrae). Dr. Baynham testified that the changes could be the delayed manifestation of injuries from the initial injury. He also testified that the changes could be the result of adjacent segment disease phenomenon. Dr. Baynham testified that the changes "are certainly consistent with not only the zone of initial injury, but also some additional changes that are probably the result of this adjacent segment disease phenomenon, as best we know."

Dr. Baynham further testified that "based on his young age and his life expectancy and based on the current state of understanding of this phenomenon of the adjacent level disc disease, I think it is probable, most probable that he will continue to experience changes there. And it will, in time, probably rise to the level of becoming clinically significant, meaning a source of pain and potentially a source requiring additional treatment."

Dr. Craig H. Lichtblau is a physiatrist who specializes in physical medicine, rehabilitation, and evaluation. Dr. Lichtblau was retained by Claimant to conduct a Comprehensive Rehabilitation Evaluation of Claimant, give an impairment rating of Claimant, and provide a Continuation of Care plan for Claimant.

Dr. Lichtblau assigned Claimant a 4 percent permanent partial impairment of the whole person.

Dr. Lichtblau's Continuation of Care plan included the services that Dr. Lichtblau believed Claimant would or may need in the future. Dr. Lichtblau's plan included future epidural steroid injections and surgical intervention. Dr. Baynham testified that including epidural steroid injections is reasonable. Dr. Baynham also testified that Claimant is at an increased risk of future surgical intervention.

Bernard E. Pettingill, Jr., Ph.D. is a consulting economist who, on February 12, 2009, prepared an analysis entitled "The Present Value Analysis of the Future Medical Care Costs of [Claimant]". At the time of the analysis, Claimant's life expectancy was projected to be 53.6 years beyond the date of the report.

Claimant represented in his "Summary of Case" that the parties stipulated that Claimant's past medical expenses for purposes of trial were \$96,475.64.

Dr. Pettingill used Dr. Lichtblau's Continuation of Care plan to compute the present value of Claimant's "Total Economic Loss, Period II, Future Loss, After Trial Date". Claimant presented evidence to the jury that the correct total economic loss for the post-trial period, as computed by Dr. Pettingill, was \$363,487.00.

Claimant was examined by Dr. Jordan Grabel, a neurological surgeon, on July 17, 2008, at the request of the School Board. Dr. Grabel reviewed Claimant's medical records and took histories from Claimant and Claimant's mother. Dr. Grabel found that Claimant's surgery had healed and that there were no other abnormalities that could be associated with the accident. Dr. Grabel opined that there was a 50-50

chance that the onset of adjacent segment disease will be discernable by X-ray in future years. He further opined that there is no way to determine whether Claimant will become symptomatic or need future surgical treatment. Dr. Grabel was of the opinion that the Continuation of Care plan prepared by Dr. Lichtblau included non-invasive follow-up treatment that was unnecessary.

The School Board did not have a consulting economist estimate the present value of Claimant's future economic loss based on the services Dr. Grabel believed Claimant would need.

Dr. Mark Rubenstein conducted a compulsory medical examination of Claimant on August 11, 2008. Dr. Rubenstein's evaluation included a physical examination and a review of Claimant's medical records. Dr. Rubenstein's report reflects his opinion that Claimant's future medical care will be limited to physician visits on an as-needed basis and that Claimant will require future MRI studies and X-rays. Although he acknowledged the possibility of adjacent disc disease, he did not believe that intervention was medically probable. Dr. Rubenstein's report reflects the opinion that Claimant's future pain management will be limited to the use of anti-inflammatory medications.

In its position statement, the School Board represents that Dr. Rubenstein is a physiatrist retained by the School Board and that he believed that Claimant's future care not including surgery for adjacent segment disease would be approximately \$25,000.00. The undersigned did not find that figure in Dr. Rubenstein's report.

CLAIMANT'S POSITION:

1. The negligence of the school bus driver was the sole and proximate cause of the injuries and damages sustained by Claimant.
2. Claimant's future damages are not speculative, and the jury's verdict is supported by the evidence.

SCHOOL BOARD'S POSITION:

1. School Board stipulated that it is liable for Claimant's damages.
2. School Board does not dispute the jury award for past medical expenses or for past pain and suffering.

3. School Board asserts that Claimant has healed and has become a star basketball player.
4. School Board contends that awards for future medical expenses and future pain and suffering are excessive and speculative.
5. School Board argues that \$25,000.00 would suffice for future medical expenses and that \$50,000.00 would suffice for future pain and suffering.
6. School Board is self-insured and is experiencing a bleak fiscal year with expected shortfalls of over \$54,000,000.00.

CONCLUSIONS OF LAW:

The bus driver had a duty to exercise reasonable care in the operation of the bus. See generally s. 316.183(1), Fla. Stat. He breached this duty by crashing into the back of Mr. Merriweather's stopped van. See Eppler v. Tarmac America, Inc., 752 So. 2d 592 (Fla. 2000) (rear driver is presumed to be negligent in rear-end collision case absent evidence of a sudden and unexpected stop by the front driver).

The school bus driver was an employee of the School Board acting within the course and scope of his employment at the time of the accident. As a result, the driver's negligence is attributable to the School Board.

Consistent with the School Board's stipulation as to its liability, it is concluded that the bus driver's negligence was the sole and proximate cause of the injuries and damages sustained by Claimant, and that the driver's negligence is attributable to the School Board.

The jury based its verdict on competent, substantial evidence.

LEGISLATIVE HISTORY:

This is the second year that this claim has been presented to the Legislature.

ATTORNEYS FEES:

Claimant's attorney filed an affidavit stating that attorney's fees will be capped at 25 percent in accordance with s. 768.28(8), Florida Statutes. Lobbyist fees are incorporated into the attorney's fees cap.

The Legislature is free to limit those amounts as it sees fit. See Gamble v. Wells, 450 So. 2d 850 (Fla. 1984); Noel v. Schlesinger, 984 So. 2d 1265 (Fla. 4th DCA 2008). The bill provides that the total amount paid for attorney's fees, lobbying fees, costs, and other similar expenses relating to this claim may not exceed 25 percent of the total amount awarded under this act.

FISCAL IMPACT:

The School Board is self-insured and has no liability insurance applicable to this claim. The School Board expects to face a substantial budgetary shortfall and the passage of this claim bill will add to its budgetary difficulties.

OTHER ISSUES:

The bill, as filed, does not include the sum of \$50,394.52, which is the amount of the "Final Cost Judgment" entered by Judge Barkdull on August 4, 2010. The bill should be amended to add costs in the sum of \$50,394.52, so that the total amount of the award will be increased from the sum of \$994,034.30 to the sum of \$1,044,428.82.

RECOMMENDATIONS:

Based upon the foregoing, I recommend that Senate Bill 26 be reported FAVORABLY, as amended.

Respectfully submitted,



Claude B. Arrington
Senate Special Master

cc: Senator Ellyn Setnor Bogdanoff
Debbie Brown, Interim Secretary of the Senate
Counsel of Record



The Florida Senate

Committee Agenda Request

To: Senator Miguel Diaz de la Portilla, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 20, 2016

I respectfully request that **Senate Bill # 50**, relating to Relief of Altavious Carter by the Palm Beach County Public School Board, be placed on the:

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

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

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 110

INTRODUCER: Senator Bean

SUBJECT: Churches or Religious Organizations

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Davis	Cibula	JU	Favorable
2.			CA	
3.			RC	

I. Summary:

SB 110 provides that clergy, churches and religious organizations, and their employees may not be required to solemnize¹ a marriage or provide certain services or accommodations for a marriage if the action would cause them to violate a sincerely held religious belief. A refusal to solemnize a marriage or provide certain services or accommodations may not become the basis for a civil or criminal cause of action by the state or its political subdivisions. Additionally, the refusal may not become the basis for the state or its subdivisions to penalize or withhold benefits or privileges, including tax exemptions or government contracts, grants, or licenses from the refusing individuals or entities.

II. Present Situation:

Conscience Protection Laws

History

A conscience protection law is an assurance that a person will not be required to participate in an activity that violates his or her religious beliefs, morals, or conscience. Some of the earliest American conscience protection laws were exemptions from military service, commonly referred to as conscientious objector exemptions.² These exemptions have been recognized by the legislative branch of government and enforced by the judicial branch since the Continental Congress announced in 1775 that it would respect the beliefs of people who could not bear arms

¹ "Solemnize" is defined in Black's Law Dictionary to mean to enter into a marriage or contract by a formal act, usually before witnesses. 7th Edition, page 1398.

² James M. Newton, *Constitutional Law – Conscientious Objectors – The End of the Selective Conscientious Objector*, 21 DEPAUL L. REV. 1051, 1052 (1972), available at <http://www.bing.com/search?q=james+m.+newton+constitutional+law+21+de+paul+law+review&src=IE-TopResult&FORM=IETR02&conversationid.>

because of the conflict it presented with their religious principles.³ As American jurisprudence has evolved, so have additional categories of conscience protection laws.

Additional Categories of Conscience Protection Laws

Healthcare

In response to the U.S. Supreme Court's 1973 *Roe v. Wade* decision,⁴ Congress,⁵ the District of Columbia, and 47 state legislatures passed conscience protection laws to assure that health care workers would not be required to participate against their will in performing abortions.⁶ Florida law similarly provides conscience protection clauses for those who refuse to participate in abortions⁷ or refuse to furnish contraceptives, family planning services, supplies, or similar information due to medical or religious reasons. The refusing physician or other personnel may not be held liable for their refusal to participate.⁸

Federal Prosecutions, Executions, and Euthanasia

Federal laws also ensure that employees are not required to participate in the prosecution of capital crimes, executions,⁹ or euthanasia if doing so is contrary to the moral or religious convictions of the employee.¹⁰

Education and Adoption Services

Conscience protection laws have also emerged in the field of education to guarantee that students do not have to participate in academic assignments that violate their religious beliefs.¹¹ In the area of adoption services, several states have enacted varying degrees of conscience protection laws to prevent child placement agencies from being required to place children in situations that would violate their written religious or moral convictions.¹²

The Solemnization of Same-Sex Marriage Ceremonies

Most recently, conscience protection laws have been enacted to protect clergy members from being required to solemnize or perform same-sex marriage ceremonies. These laws have ranged

³ *Id.*

⁴ *Roe v. Wade*, 410 U.S. 113 (1973).

⁵ The Church Amendment, passed by congress in 1973, provides that the receipt of federal monies does not authorize an official to require someone to perform or assist in any sterilization procedure or abortion or make facilities available for those procedures if doing so would be contrary to his or her religious beliefs or moral convictions. 42 U.S.C. s. 300a-7.

⁶ Claire Marshall, *The Spread of Conscience Clause Legislation*, American Bar Association.org, http://www.americanbar.org/publications/human_rights_magazine_home/2013_vol_39/january_2013_no_2/religious_freedom/the_spread_of_conscience_clause_legislation.html.

⁷ Section 390.0111(8), F.S.

⁸ Section 381.0051(5), F.S.

⁹ 18 U.S.C. s. 3597.

¹⁰ 42 U.S. C. s. 18113.

¹¹ Mo. Const. Article 1 s. 5. While Missouri amended its constitution to establish this protection, a majority of other states have adopted legislation permitting parents to opt out of an education curriculum that conflicts with their religious beliefs. Marshall, *supra* note 6.

¹² Comm. on Judiciary, The Florida Senate, *CS/HB 7111 (2014) Staff Analysis*, p. 2, (1st Eng. April 17, 2015) (on file with the Senate Committee on Judiciary).

from protection for clergy members and other religious officiants, to protections for not providing accommodations for ceremonies that would violate their convictions, to permitting state officials to opt-out of performing same-sex marriage ceremonies.

State Legislation Authorizing Same-Sex Marriage and Conscience Protection Laws

Before the U.S. Supreme Court ruled on the legality of same-sex marriage in 2015,¹³ 13 jurisdictions had enacted legislation authorizing same-sex marriage. Between 2009 and 2014, same-sex marriage was statutorily recognized in Connecticut, Delaware, Washington, D.C., Hawaii, Illinois, Maryland, Maine, Minnesota, New Hampshire, New York, Rhode Island, Vermont, and Washington.¹⁴

As each of those 13 jurisdictions amended its constitution or statutes to guarantee the rights of same-sex couples to marry, each jurisdiction simultaneously enacted conscience protection laws to provide religious exemptions for clergy members who believed that conducting or solemnizing same-sex marriages violated their religious beliefs.¹⁵ These laws have become known as pastor protection laws. Ten of the states and the District of Columbia crafted specific provisions that exempted religious organizations from being required to provide services, accommodations, or facilities when doing so was contrary to their religious beliefs. Several of the statutes further stated that a refusal to solemnize a same-sex marriage ceremony or provide accommodations did not create a civil cause of action and the refusing person or entity could not be penalized or punished for those choices.

According to information supplied by the National Conference of State Legislatures,¹⁶ a number of states considered legislation in 2015 to provide conscience protection laws in one form or another. Some of the legislation passed, some proposals failed, and occasionally the session adjourned before a vote was taken. Two states, Kansas and Louisiana, enacted pastor protection laws through executive orders. Currently, at least 17 states have legislation pending to amend their marriage solemnization statutes.¹⁷ Several of these proposals would provide clergy or state employees with conscience protection laws for the solemnization of a marriage based upon the officiant's or government employee's religious objections.

2015 Conscience Protection Laws In States Without Same-Sex Marriage Laws

In 2015, at least three states that had not previously enacted same-sex marriage statutes enacted conscience protection laws for religious officials. Oklahoma, Texas, and Utah enacted

¹³ *Obergefell v. Hodges, et al.*, 135 S. Ct. 2584 (2015).

¹⁴ Same-sex marriage was declared constitutional in other states through litigation in the courts, not legislation.

¹⁵ Email from Rochelle Finzel, Group Director, National Conference of State Legislatures, (Oct. 30, 2015) (on file with the Senate Committee on Judiciary).

¹⁶ Email from Rochelle Finzel, Group Director, National Conference of State Legislatures, (Sept. 9, 2015) (on file with the Senate Committee on Judiciary).

¹⁷ Emails from Kyle Ramirez, Research Analyst, National Conference of State Legislatures, (Jan. 22, 2016) (on file with the Senate Committee on Judiciary).

conscience protection laws for religious officials and provided immunity from civil suits or protection from government retaliation.¹⁸

North Carolina¹⁹ passed legislation during this past session to establish procedures under which a magistrate could be recused from performing marriages and an assistant or deputy register of deeds could be recused from issuing marriage licenses based upon a sincerely held religious objection. The bill was vetoed by the governor but the veto was overridden by the legislature.²⁰ In contrast to other legislation, North Carolina conscience protection law does not apply to religious officials but to government employees.

Religious Freedom Protections

Religious Freedom in the U.S. Constitution and State Constitution

The constitutional guarantee of religious freedom is found in two clauses in the First Amendment to the U.S. Constitution.²¹ The First Amendment provides, in part, that:

Congress shall make no law *respecting an establishment of religion*,
or prohibiting the *free exercise thereof*; . . .

The first clause, which is referred to as the Establishment Clause, prohibits government from enacting laws that advance religion or prefer one particular religion over another religion. The second clause, which is referred to as the Free Exercise Clause, ensures that the government will not burden or interfere with an individual's right to practice his or her religion. The two clauses, acting together, were designed to keep government in a balanced, neutral position so that religion was not advanced or restricted.

The Florida Constitution similarly establishes an almost identical guarantee. Article I, section 3 provides that:

There shall be no law respecting the establishment of religion or prohibiting or penalizing the free exercise thereof. Religious freedom shall not justify practices inconsistent with public morals, peace or safety.....

Legal Tests to Determine Whether a Law Affecting Religion Is Unconstitutional

The U.S. Supreme Court recently recounted the tests it has used over time to determine whether a challenged government action violated the Free Exercise Clause of the First Amendment.²² In

¹⁸ Oklahoma House Bill No. 1007 (2015), Texas Committee Substitute for S.B. 2065 (2015), and Utah S.B. 297 (2015). The Utah bill also provided that a county clerk or a willing designee, be available during business hours to solemnize a marriage.

¹⁹ North Carolina Senate Bill 2 (2015).

²⁰ See North Carolina Ch. SL 2015-75.

²¹ U.S. CONST. amend. I.

²² *Burwell v. Hobby Lobby Stores, Inc.*, 134 S. Ct. 2751 (2014). In this decision, the U.S. Supreme Court held that the contraceptive mandate of the Patient Protection and Affordable Care Act of 2010 violated the Religious Freedom Restoration Act of 1993 as applied to three businesses. The Court determined that requiring the three closely held businesses to provide insurance coverage for certain contraceptives that could be determined to induce abortions, violated their sincere religious

decisions rendered before 1990, the Court used a balancing test to decide whether a challenged government action imposed a “substantial burden” on someone’s religious practice, and if it did, whether the action in question was necessary to serve a “compelling government interest.”²³ Applying that test, the Court held that an employee who was fired because she refused to work on the Sabbath could not be denied her unemployment benefits.²⁴ Similarly, the Court decided that Amish children could not be required to comply with state law requiring them to remain in school until they were 16 years old when their beliefs required them to focus on Amish values during the adolescent years.²⁵

In a 1990 case, however, the Court rejected the higher balancing test it had established earlier and adopted a new standard. The Court lowered the constitutional test and required simply that the governmental action not intentionally infringe upon someone’s religious exercise. The case of *Employment Div., Dept. of Human Resources of Ore. v. Smith*²⁶ involved two members of the Native American Church in Oregon who were fired from their jobs with a private drug rehabilitation organization because they ingested peyote for sacramental purposes at a ceremony at their church. Peyote was a controlled substance and its possession was a felony. Their unemployment compensation applications were rejected because they were discharged for work-related misconduct. The Oregon Supreme Court held that the denial of benefits was a violation of the Free Exercise Clause. The U.S. Supreme Court reversed and observed that the use of the balancing test when someone raised religious objections to the enforcement of a general law “would open the prospect of constitutionally required religious exemptions from civic obligations of almost every conceivable kind.”²⁷

Religious Freedom Restoration Act of 1993

Congress responded to the *Smith* Court’s decision in 1993 by enacting the Religious Freedom Restoration Act (RFRA).²⁸ Congress noted in its “Findings” to the act that the Supreme Court “virtually eliminated the requirement that the government justify burdens on religious exercise imposed by laws neutral toward religion” and that the compelling interest test used in previous Federal decisions was a workable test that struck a balance between religious liberty and governmental interests.²⁹ Congress further stated in the act that its purposes are:

- (1) to restore the compelling interest tests set forth in *Sherbert* and *Yoder* and guarantee its application in all cases where free exercise of religion is substantially burdened; and
- (2) provide a claim or defense to persons whose religious exercise is substantially burdened by government.

The Religious Freedom Restoration Act provides that the “Government shall not substantially burden a person’s exercise of religion even if the burden results from a rule of general

beliefs and substantially burdened their free exercise of religion. The RFRA only applies to federal government actions, not state or local actions, which may burden someone’s religious exercise.

²³ *Id.* at 2760.

²⁴ *Sherbert v. Verner*, 374 U.S. 398 (1963).

²⁵ *Wisconsin v. Yoder*, 406 U.S. 205 (1972).

²⁶ 494 U.S. 872 (1990).

²⁷ *Burwell*, 134 S. Ct. at 2760-61 (quoting *Smith*, 494 U.S., at 888).

²⁸ 42 U.S.C. 2000bb et seq.

²⁹ 42 U.S.C. 2000bb(a)(4) and (5).

applicability” unless the Government is able to demonstrate that the burden on the person furthers a compelling governmental interest and is the least restrictive means of furthering that compelling government interest.³⁰ The act was amended in 2000 to cover “any act of religion, whether or not compelled by, or central to, a system of religious belief.”³¹ The act originally applied to federal, state, and local actions but its application was limited to federal government actions in 1997.³² In response to this limitation, the Florida Legislature enacted the “Religious Freedom Restoration Act of 1998.”

Florida’s Religious Freedom Restoration Act of 1998

The Religious Freedom Restoration Act³³ provides that the government shall not substantially burden a person’s exercise of religion, even if the burden results from a rule of general applicability, except that government may substantially burden a person’s exercise of religion only if it demonstrates that the application of the burden to the person is in furtherance of a compelling governmental interest and is the least restrictive means of furthering that interest.³⁴ The Florida Supreme Court has held that a “substantial burden” on the free exercise of religion is a burden that either compels the religious adherent to engage in conduct that his religion forbids or forbids him to engage in conduct that his religion requires.³⁵

Federal Recognition of the Legal Right to Same-Sex Marriage

The U.S. Supreme Court issued the landmark decision, *Obergefell v. Hodges, et al.*,³⁶ on June 26, 2015, which held that couples of the same sex could not be deprived of the constitutional right to marry. Among the issues not addressed in the decision is the question of whether a religious official may be required to perform a same-sex marriage ceremony to which he or she has religious objections.³⁷

Before the *Obergefell* decision was rendered, Florida³⁸ and 39 other states adopted laws defining marriage as exclusively existing between one man and one woman.³⁹ As state and federal courts began overturning traditional marriage laws, judicial jurisdictions across the country were split on the legality of same-sex marriage.

³⁰ 42 U.S.C. 200bb-1(a) and (b).

³¹ 42 U.S.C. 2000cc-5(7)(A). Religious Land Use and Institutionalized Persons Act of 2000.

³² See *City of Boerne v. Flores*, 521 U.S. 507 (1997).

³³ Section 761.01-761.05, F.S.

³⁴ Section 761.03, F.S.

³⁵ *Warner v. City of Boca Raton*, 887 So. 2d 1023, 1033 (2004).

³⁶ *Obergefell v. Hodges, et al.*, 135 S. Ct. 2584 (2015).

³⁷ Cynthia Brown and Erika K. Lunder, Congressional Research Service, *Recognition of Same-Sex Marriage: Implications for Religious Objections*, (Oct. 23, 2015) available at <https://fas.org/sgp/crs/misc/R44244.pdf>. The issue has also been raised as to whether a church or other religious organization could be denied tax-exempt status if it acted in opposition to same-sex marriage. Additional issues involve the civil rights of same-sex couples, the protections of civil servants who object to participation in same-sex ceremonies, whether providers of public accommodations may be required to accommodate same-sex couples, and protections for religious social service providers in programs receiving federal funds.

³⁸ Fla. Const. art. I, s. 27.

³⁹ Email from Rochelle Finzel, Group Director, National Conference of State Legislatures, (October 19, 2015) (on file with the Senate Committee on Judiciary).

At the federal level, the Fourth, Seventh, Ninth, and Tenth U.S. Circuit Court of Appeals held that state prohibitions against same-sex marriage were unconstitutional. The U.S. Court of Appeals for the Sixth Circuit,⁴⁰ however, disagreed with those conclusions in 2014 and held that there was no constitutional obligation to license same-sex marriages or recognize those marriages performed in other states.⁴¹ That decision, which created a split of authority among the federal circuit courts, provided an opportunity for the U.S. Supreme Court to grant certiorari, a petition for appellate review, and settle the issue conclusively.

The Supreme Court granted review of the Sixth Circuit decision and limited the issues on appeal to two questions:

- Are states required by the Fourteenth Amendment to grant marriage licenses to two people of the same sex?
- Are states required by the Fourteenth Amendment to recognize a marriage of two people of the same sex when the marriage is lawfully licensed and performed in a state that grants that right?

The Court issued a 5-4 decision and answered both questions in the affirmative. This decision has raised concerns among religious groups as to whether certain ministers and members of the clergy may be compelled to perform same-sex marriage ceremonies if doing so is a violation of their sincerely held religious beliefs.

The Authority to Solemnize or Perform Marriage Ceremonies in Florida

Under Florida law, marriages may be solemnized by certain members of the clergy, specified state officials, and notaries public. The statute specifically provides that marriages may be solemnized by “regularly ordained ministers of the gospel or elders in communion with some church, or other ordained clergy, and all judicial officers, including retired judicial officers, clerks of the circuit courts, and notaries public of this state” and by certain Quakers.⁴²

III. Effect of Proposed Changes:

This bill establishes a conscience protection law for certain religious officials and organizations and provides that they may not be required to solemnize any marriage or provide certain services or items if the action would cause them to violate a sincerely held religious belief. The bill is closely modeled after a Texas law that was passed in 2015.⁴³

The bill creates s. 761.061, F.S., which provides that:

- A church or religious organization;
- An organization supervised or controlled by or in connection with a church or religious organization;

⁴⁰ The Sixth Circuit is comprised of Michigan, Kentucky, Ohio, and Tennessee. Those states all defined marriage as a union of one man and one woman. *Obergefell* at 2593.

⁴¹ *DeBoer v. Snyder*, 772 F.3d 388 (C.A.6 2014).

⁴² Section 741.07, F.S.

⁴³ Committee Substitute for S.B. No. 2065, now codified at TEX Family Code s. 2.601-2.602 (2015).

- An individual employed by a church or religious organization while acting in the scope of that employment; or
- A clergy member or minister

may not be required to solemnize any marriage, or provide services, accommodations, facilities, goods, or privileges for a purpose related to the solemnization, formation, or celebration of any marriage if that action would cause the church, organization, or individual to violate a sincerely held religious belief.

If any of those individuals or entities refuses to solemnize a marriage or provide any of the enumerated items for the solemnization of the marriage, that refusal may not serve as the basis for a civil or criminal cause of action or any other action by the state or a political subdivision of the state to penalize or withhold benefits or privileges, including tax exemptions or governmental contracts, grants, or licenses.

The bill takes effect July 1, 2016.

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.

VI. Technical Deficiencies:

It is not abundantly clear from the wording of subsection (2) whether all civil causes of action are precluded against an individual or entity that refuses to participate in the marriage or if the civil cause of action may not be initiated by the state or its political subdivisions.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill creates s. 761.061, of the Florida Statutes.

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

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

None.

B. Amendments:

None.

By Senator Bean

4-00072-16

2016110__

1 A bill to be entitled
2 An act relating to churches or religious
3 organizations; creating s. 761.061, F.S.; providing
4 that churches or religious organizations, related
5 organizations, or certain individuals may not be
6 required to solemnize any marriage or provide
7 services, accommodations, facilities, goods, or
8 privileges for related purposes if such action would
9 violate a sincerely held religious belief; prohibiting
10 certain legal actions, penalties, or governmental
11 sanctions against such individuals or entities;
12 providing an effective date.

13
14 Be It Enacted by the Legislature of the State of Florida:

15
16 Section 1. Section 761.061, Florida Statutes, is created to
17 read:

18 761.061 Rights of certain churches or religious
19 organizations or individuals.-

20 (1) A church or religious organization, an organization
21 supervised or controlled by or in connection with a church or
22 religious organization, an individual employed by a church or
23 religious organization while acting in the scope of that
24 employment, or a clergy member or minister may not be required
25 to solemnize any marriage or provide services, accommodations,
26 facilities, goods, or privileges for a purpose related to the
27 solemnization, formation, or celebration of any marriage if such
28 an action would cause the church, organization, or individual to
29 violate a sincerely held religious belief of the entity or

Page 1 of 2

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

4-00072-16

2016110__

30 individual.
31 (2) A refusal to solemnize any marriage or provide
32 services, accommodations, facilities, goods, or privileges under
33 subsection (1) may not serve as the basis for a civil or
34 criminal cause of action or any other action by this state or a
35 political subdivision of this state to penalize or withhold
36 benefits or privileges, including tax exemptions or governmental
37 contracts, grants, or licenses, from any entity or individual
38 protected under subsection (1).

39 Section 2. This act shall take effect July 1, 2016.

Page 2 of 2

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



The Florida Senate

Committee Agenda Request

To: Senator Miguel Diaz de la Portilla, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: September 3, 2015

I respectfully request that **Senate Bill # 110**, relating to Churches or Religious Organizations, be placed on the:

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

A handwritten signature in cursive script that reads "Aaron Bean".

Senator Aaron Bean
Florida Senate, District 4

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-26-16
Meeting Date

110
Bill Number (if applicable)

Topic CHURCHES RELIGIOUS ORGANIZATIONS

Amendment Barcode (if applicable)

Name BILL BUNKLEY

Job Title PRESIDENT

Address PO BOX 341644

Phone 813-264-2977

Street

TAMPA
City

FL
State

33694
Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA ETHICS AND RELIGIOUS LIBERTY COMMISSION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

110
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name BETZUIDA RONDA

Job Title _____

Address 1505 LEDGESTONE DRIVE
Street

Phone (781) 233-4434
(781) 955-4008

Tampa FL 33511
City State Zip

Email BPSDELW22@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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THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16

Meeting Date

110

Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name Edgar Gomez

Job Title Pastor

Address 15541 FLORIDA BREEZE LOOP

Street

Phone 813 701 4379

Winnapa FL

City

State

33598

Zip

Email edgomezfl@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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THE FLORIDA SENATE
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01-26-16

Meeting Date

110

Bill Number (if applicable)

Topic SB 110 Act

Amendment Barcode (if applicable)

Name Dr. Armando REYES

Job Title Pastor & Clinical Counselor

Address 2901 Dartmouth Ave North

Street

Phone 727-686-2877

St Petersburg Florida 33713

City

State

Zip

Email armando_mercy@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Pineellas County Hispanic Pastors Assoc.

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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1/27/16
Meeting Date

SB 110
Bill Number (if applicable)

Topic SB 110 Pastor Protection Act

Amendment Barcode (if applicable)

Name Charlene E. Cottrill

Job Title Pastor - Zion Baptist Church

Address 19 Parkview DR Phone 386 585 5484
Street
Palm Coast FL 32164 City State Zip
Email: zionbaptistpc@yahoo.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Christian Family Coalition

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)

1/24/14
Meeting Date

SB 110
Bill Number (if applicable)

Topic Pastoral

Amendment Barcode (if applicable)

Name Debbie Frazier

Job Title _____

Address 12495 Quercus Lane
Street

Phone _____

Wellington FL 33414
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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APPEARANCE RECORD

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1-27-16
Meeting Date

SB 110
Bill Number (if applicable)

Topic SB 110 Pastor Protection Act

Amendment Barcode (if applicable)

Name Denise F. Achuko

Job Title Retired

Address POB 353408
Street

Phone 904-379-8578

Palm Coast FL 32135
City State Zip

Email myneesh@att.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Christian Family Coalition

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)

1/26/16
Meeting Date

110
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name Anthony Verdes

Job Title _____

Address 6850 Coral Way
Street
Miami Fla 33155
City State Zip

Phone 786-447-6431

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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APPEARANCE RECORD

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1/26/16
Meeting Date

110
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name Susan Migueltorena

Job Title Business Owner / Community Educator

Address 3019 W Crest Ave
Street

Phone 813 850-3852

Tampa FL 33614
City State Zip

Email smigueltorena@yahoo.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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1/26/16
Meeting Date

110
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name Anthony Swain

Job Title Elder - Retired Engineer

Address 1914 NW 43 Street
Street

Phone 786-975-7470

Miami FLA 33142
City State Zip

Email swainanthony78@yahoo.com

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

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APPEARANCE RECORD

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1/26/16
Meeting Date

110
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name Rev. Pablo David Fonseca

Job Title Pastor

Address 3567 Ohio Ave
Street

Phone 407-265-9744

Camden FL 32773
City State Zip

Email thefonseca@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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THE FLORIDA SENATE
APPEARANCE RECORD

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

1/26/16
Meeting Date

170
Bill Number (if applicable)

Topic Roof Protection

Amendment Barcode (if applicable)

Name Jean Mims

Job Title Assistant Manager

Address 21150 NW 14th Pl #102

Phone 954 806 0563

Street

Miam Gardens

City

FL

State

33189

Zip

Email jeanmims@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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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

110
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name Rodriguez, Gilberto

Job Title Pastor

Address 21021 STATE Road 54
Street

Phone 813-701-8903

Lutz Fl. 33558
City State Zip

Email templeelias@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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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1-26-16

Meeting Date

110

Bill Number (if applicable)

Topic Pastors Protection Act

Amendment Barcode (if applicable)

Name CHRIS WALKER

Job Title PASTOR

Address P.O. Box 126337

Phone 352-321-2930

Street

Clermont FL 34712

City

State

Zip

Email CGROWWALKER@M

Speaking: ☒ For ☐ Against ☐ Information

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

Representing South/MR Pastors Association / Pastors Petition

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1/26/16
Meeting Date

110
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name ELDER. DEMETRIUS BRINSON

Job Title SELF / EMP.

Address 8259 NW 12 CT
Street

Phone 786-317-7136

MIAMI FL 33147
City State Zip

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

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

Meeting Date

1/26/16

Bill Number (if applicable)

120

Topic

Pastor Protection

Amendment Barcode (if applicable)

Name

Pastor Olden Reese

Job Title

Address

17610 NW 4th St AVE

Phone

Street

Miami

City

State

FLA 33055

Zip

Email

OldenReese@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

1/26/16
Meeting Date

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

170
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name NATHANIEL J. WILCOX

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing 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)

1/26/16
Meeting Date

170
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name Xosha Bustin

Job Title Calling Pastor

Address 5200 S-E 145th St

Phone 352-245-2560

Street
City Summerfield, FL State Zip 34491

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)

1/26/16
Meeting Date

110
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name GERALD BUSTIN

Job Title PASTOR

Address 6200 SE 145th St

Phone 352-397-3284

Summerville FL 34492
City State Zip

Email gtbi1@prodigy.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

Meeting Date

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name

Job Title

Address

Street

City

State

Zip

Phone

Email

Speaking:

☒ For

☐ Against

☐ Information

Waive Speaking:

☒ In Support

☐ Against

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

Representing

Appearing at request of Chair:

☐ Yes

☒ No

Lobbyist registered with Legislature:

☐ Yes

☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

Meeting Date _____

5015/10
Bill Number (if applicable)

Topic so-called Pastor Protection

Amendment Barcode (if applicable) _____

Name Carol M Dunn

Job Title chapter president, Central Florida chapter, Reconciling Works

Address 2401 Sunset Pt Rd #201

Phone _____

Street

Clearwater

FL

33765

City

State

Zip

Email cjdunnfl@hotmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Reconciling Works - a Lutheran organization for Full Inclusion

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

110
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name Carlos Guillermo Smith

Job Title Government Affairs Manager

Address 2237 Stonington Ave
Street

Phone 404-934-9944

Orlando FL 32817
City State Zip

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing EQUALITY 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)

1/26/15
Meeting Date

SB 110
Bill Number (if applicable)

Topic Pastor Protection Act

Amendment Barcode (if applicable)

Name Nathan KLARfeld

Job Title EQUACITY FLORIDA

Address 2841 N. Ocean Blvd #701

Phone 954 547 1964

Street

FORT LAUDERDALE, FL 33308

City

State

Zip

Email nateklarfeld@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)

1/26/16

Meeting Date

SB 110

Bill Number (if applicable)

Topic Pastor Protection Act

Amendment Barcode (if applicable)

Name Raphael Klarfeld, M.D.

Job Title psychiatrist

Address 2841 N. Ocean Blvd # 701
Street

Phone 954-547-2882

Fort Lauderdale, FL 33308
City State Zip

Email gklarfeld@jmail.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)

1/26/16

Meeting Date

SB 110

Bill Number (if applicable)

Topic PASTOR PROTECTION Bill

Amendment Barcode (if applicable)

Name SCOTT BENNETT

Job Title _____

Address 3100 N OCEAN BLVD

Street

FT LAUDERDALE FL 33308

City

State

Zip

Phone _____

Email scottbennett@cox.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.

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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)

1-26-16
Meeting Date

110
Bill Number (if applicable)

Topic Churches / Pastor Protection

Amendment Barcode (if applicable)

Name Barbara DeBore

Job Title Ms

Address 625 E. Bernard St

Phone 222-3969

Tallahassee FL 32308
City State Zip

Email barbadebore1@yahoo

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

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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)

1-26-16
Meeting Date

110
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name Rev. Amy Kindred

Job Title Minister

Address 3808 Bordeaux Dr.

Phone 941-916-0957

Punta Gorda FL 33950
City State Zip

Email minister@unifacore.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Univision Universal 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.

THE FLORIDA SENATE
APPEARANCE RECORD

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

Jan 26, 2016
Meeting Date

110
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name Rev Elder Diane Fisher

Job Title Rev Elder

Address 149 Villas St SE
Street

Phone 617-448-2396

Tallahassee.
City State Zip

Email revdiane@shore@gmail.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Metropolitan Community 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.

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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)

110
~~2016~~
Bill Number (if applicable)

1/26/16
Meeting Date

Topic Pastor Protection

Amendment Barcode (if applicable)

Name Paul Gibson

Job Title Lutheran Pastor

Address 785 19 Ave N Apt 2
Street

Phone 813-924-3966

St Petersburg FL 33704
City State Zip

Email pastor@trinitylutheranstpete.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Evangelical Lutheran Church in 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.

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THE FLORIDA SENATE
APPEARANCE RECORD

1/26/16
Meeting Date

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

SB 110
Bill Number (if applicable)

Topic SB 110

Amendment Barcode (if applicable)

Name Gabriel Garcia-Vera

Job Title FL Field Coordinator

Address 8330 Biscayne Blvd

Phone 786 664 8310

Miami FL 33138
City State Zip

Email gaby@latinainstitute.org

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Nat. Latina Institute for Repro. Health

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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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)

1/26/16
Meeting Date

110
Bill Number (if applicable)

Topic Pastor Protection

Amendment Barcode (if applicable)

Name ANGE DIAZ

Job Title Pastor

Address 3000 W Prospekt Rd
Street

Phone 954-486-7378

TAMARAC FL 33309
City State Zip

Email adiaz277Cbell@south.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

The Florida Senate
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 120

INTRODUCER: Senator Abruzzo

SUBJECT: Prohibited Discrimination

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Cibula	JU	Pre-meeting
2.			GO	
3.			AGG	
4.			FP	

I. Summary:

SB 120 amends the Florida Civil Rights Act (FCRA) by expressly prohibiting discrimination based on actual or perceived sexual orientation and gender identity or expression. The FCRA currently prohibits discrimination based on race, creed, color, pregnancy, sex, pregnancy, physical disability, or national origin. Discrimination is prohibited in the FCRA under current law in the areas of education, employment, housing, and public accommodations. Individuals protected by the FCRA are commonly known as members of a protected class.

Under current law and the bill, the provisions of FCRA governing employment discrimination do not apply to religious organizations. With respect to public accommodations, employment, and public lodging and food service establishments, the bill further states that it does not “limit the free exercise of religion guaranteed by the United States Constitution and the State Constitution.” What specific individuals or activities are protected by the statement, however, are not specified.

Current law prohibits and penalizes discrimination against a person who actually has a protected status. This bill additionally prohibits and penalizes discrimination based on the *perception* that a person belongs to a class protected under the FCRA. This change may significantly expand the population of persons authorized to bring claims of discrimination under the FCRA. However, a claim based on a perception, rather than an actual status, may be more difficult to prove.

II. Present Situation:

Title VII of the Civil Rights Act of 1964¹ and Federal Action

Title VII of the Civil Rights Act of 1964 (Title VII) prohibits discrimination based on race, color, religion, national origin, or sex. Title VII applies to employers having 15 or more employees and outlines a number of unlawful employment practices. Title VII makes it unlawful for employers to refuse to hire, discharge, or otherwise discriminate against an individual with respect to compensation, terms, conditions, or privileges of employment, based on race, color, religion, national origin, or sex.² The status of pregnancy is subsumed as a protected class in the category of sex discrimination. Title VII does not grant sexual orientation or gender identity protected status. Although the Equal Employment Opportunity Commission (EEOC) has produced guidelines stating that Title VII covers sexual orientation, many federal courts decline to interpret sexual orientation as protected under Title VII.³

Employment Non-Discrimination Act (EDNA)

Proposed federal legislation establishing the federal Employment Non-Discrimination Act (ENDA) would prohibit discrimination in hiring and employment on the basis of sexual orientation or gender identity. The Act would have applied to employers who have at least 15 employees. Although the Act was filed in Congress many times since 1994 (with transgender language added in 2009), the bill never passed both houses of Congress.⁴ The Act passed the U.S. Senate in 2013,⁵ but the Act was defeated in a House committee.⁶ The Act would have exempted religious organizations from its provisions regulating employment.⁷

Case Law on Title VII and Sexual Orientation

Despite the lack of the inclusion of sexual orientation and gender identity under Title VII, some courts have interpreted Title VII to provide some protection on other grounds. Still, this interpretation has been infrequent. In 1998, the United States Supreme Court interpreted Title VII as applying to same-sex, sexual harassment. In *Oncale v. Sundowner Offshore Services, Inc.*, the Court determined that Title VII's inclusion of sex as a protected status protects men as well as women.⁸ Where the plaintiff was repeatedly targeted by fellow employees for sex-related, humiliating actions, threatened with rape, and called a name suggesting homosexuality, the Court concluded that the plaintiff was discriminated against based on sex.⁹ The Court then remanded

¹ 42 U.S.C. 2000e et. seq.

² 42 U.S.C. 2000e-2.

³ Katherine McAnallen, NCSL Legisbrief, *Sexual Orientation in Employment Discrimination Laws*, Vol. 23, No. 34 (Sept. 2015).

⁴ Alex Reed, *Redressing LGBT Employment Discrimination Via Executive Order*, 29 NOTRE DAME J.L. ETHICS & PUB. POL'Y 133, 133-135.

⁵ 159 CONG. REC. S10, 129-39 (daily ed. Nov. 7, 2013).

⁶ s. 815 (Nov. 12, 2013)

⁷ Sec. 6(a) of the Act provided "This Act shall not apply to a corporation, association, educational institution or institution of learning, or society that is exempt from the religious discrimination provisions of title VII of the Civil Rights Act of 1964"

⁸ *Oncale v. Sundowner Offshore Services, Inc.*, 523 U.S. 75, 78 (1988).

⁹ *Id.* at 81.

the case back to the district court of appeals for further proceedings “[B]ecause we conclude that sex discrimination consisting of same-sex sexual harassment is actionable under Title VII”¹⁰

In 2002, the United States Court of Appeals for the Ninth Circuit heard a case in which a plaintiff alleged that he was sexually harassed and assaulted by fellow colleagues based on his sexual orientation.¹¹ Although the plaintiff sought relief under the theory that Title VII includes sexual orientation, the court ruled instead that his case was actionable based on a sexual harassment claim.¹² “The court noted that Title VII prohibits offensive sexual conduct when the conduct is sufficiently severe or pervasive. As such, the court ruled that sexual orientation of the victim was irrelevant.”¹³

In 2014, President Barack Obama signed an Executive Order adding sexual orientation and gender identity protections for federal employees. The Executive Order:

- Prohibits a federal contractor from firing or harassing an employee on the basis of sexual orientation or gender identity; and
- Explicitly bans discrimination against transgender employees of the federal government.¹⁴

Florida Civil Rights Act

The 1992 Florida Legislature enacted the Florida Civil Rights Act (FCRA) to protect persons from discrimination in education, employment, housing, and public accommodations. In addition to the classes of race, color, religion, sex, and national origin protected in federal law, the FCRA includes age, handicap, and marital status as protected classes.¹⁵ The Florida Legislature added pregnancy as a protected status under the FCRA in 2015.¹⁶

Similar to Title VII, the FCRA specifically provides a number of actions that, if undertaken by an employer, are considered unlawful employment practices.¹⁷ Courts interpreting the FCRA typically follow federal precedent because the FCRA is generally patterned after Title VII. Still, differences between the state and federal law persist. As noted above, the FCRA includes age, handicap, and marital status as protected categories. Although Title VII does not include these statuses, other federal laws address age and disability, albeit in a different manner.¹⁸

Procedure for Filing Claims of Discrimination

A person who believes that he or she has been the target of unlawful discrimination may file a complaint with the FCHR. The person must file the complaint within 365 days of the alleged violation.¹⁹ After a person files a claim of discrimination with the Florida Commission on

¹⁰ *Id.* at 82.

¹¹ *Rene v. MGM Grand Hotel, Inc.*, 305 F.3d 1061, 1064 (2002).

¹² *Id.* at 1066.

¹³ *Id.* at 1065-1067.

¹⁴ Executive Order 13672 (July 21, 2014).

¹⁵ Section 760.10(1)(a), F.S.

¹⁶ SB 982 (Ch. 2015-68, L.O.F.)

¹⁷ Section 760.10(2) through (8), F.S.

¹⁸ Kendra D. Presswood, *Interpreting the Florida Civil Rights Act of 1992*, 87 FLA. B.J. 36, 36 (Dec. 2013).

¹⁹ Section 760.11(1), F.S.

Human Rights (FCHR), the FCHR investigates the complaint.²⁰ The FCHR then must make a reasonable cause determination within 180 days after the filing of the complaint.²¹ If the FCHR finds reasonable cause, the plaintiff may bring either a civil action or request an administrative hearing.²² A plaintiff is required to file a state claim in civil court under the Florida Civil Rights Act within 1 year of the determination of reasonable cause by the FCHR.²³

If the FCHR returns a finding of no reasonable cause, the complainant may request an administrative hearing with the Division of Administrative Hearings (DOAH) within 35 days of the finding.²⁴ DOAH will issue a recommended order, which the FCHR may reject, adopt, or modify by issuing a final order.²⁵

Remedies

Administrative Remedies If the Commission Pursues Administrative Action

Affirmative relief includes prohibition of the practice and back pay. The FCHR may also award reasonable attorney's fees to the prevailing party.²⁶

Civil Remedies If the Person Pursues a Legal Action

State law authorizes awards of back pay, compensatory damages, and punitive damages.²⁷ Compensatory damages include damages for mental anguish, loss of dignity, and any other intangible injuries.²⁸ Punitive damages are capped at \$100,000 regardless of the size of the employer.²⁹ The state and its agencies and subdivisions of the state are not liable for punitive damages³⁰ or recovery amounts in excess of the limited waiver of sovereign immunity.³¹

Religious Exemption for an Unlawful Employment Practice

An employer commits an unlawful employment practice if based on a person's protected status, he or she:

- Discharges or refuses to hire a person or discriminates in the area of terms or conditions of employment; or
- Limits, segregates, or classifies an employee or applicant in such a way as to deprive him or her of an opportunity.³²

²⁰ Section 760.11(3), F.S.

²¹ Section 760.11(3), F.S.

²² Section 760.11(4), F.S.

²³ Section 760.11(5), F.S.

²⁴ Section 760.11(7), F.S.

²⁵ *Id.*

²⁶ Section 760.11(6), F.S.

²⁷ Section 760.11(5), F.S.

²⁸ *Id.*

²⁹ *Id.*

³⁰ Section 760.11(5), F.S.

³¹ *Id.* Section 768.28(5), F.S., provides that damages against a state, its agencies, or subdivisions are capped at \$200,000 per claim or \$300,000 per incident. A plaintiff may pursue a claim bill to recover in excess of these caps, but claim bills are subject to the prerogative of the Legislature.

³² Section 760.10(1), F.S.

Entities prohibited from engaging in unlawful employment practices include labor organizations and employment agencies.³³

Certain entities are exempt from the provisions on unlawful employment practices. These are religious corporations, associations, educational institutions, and societies which condition opportunities to members who subscribe to their tenets or beliefs.³⁴

Anti-Discrimination Provisions in Local Government or Other States Based on Gender Identity or Sexual Orientation

Ordinances in Local Government in the State

A number of counties in Florida prohibit discrimination based on gender identity or sexual orientation. These counties include Alachua, Broward, Hillsborough, Leon, Miami-Dade, Monroe, Orange, Palm Beach, Pinellas, and Volusia Counties. Numerous municipalities also prohibit discrimination on this basis.³⁵

Anti-Discrimination Laws in Other States

Nineteen other states, the District of Columbia and Puerto Rico provide protections against discrimination in employment and housing in state law based on sexual orientation and gender identity.³⁶ In addition to having a state law prohibiting discrimination based on sexual orientation, New York prohibits gender identity discrimination by public employers through executive order.³⁷

III. Effect of Proposed Changes:

SB 120 amends the Florida Civil Rights Act (FCRA) by expressly prohibiting discrimination based on sexual orientation and gender identity or expression. The FCRA currently prohibits discrimination based on race, creed, color, sex, pregnancy, physical disability, or national origin in the areas of education, employment, housing, and public accommodations.

The bill defines the term “gender identity or expression” as gender-related identity, appearance, or behavior, regardless of whether it is different from that traditionally associated with the person’s physiology or assigned sex at birth, and which can be shown by:

- Medical history, care, or treatment of the gender identity;
- Consistent and uniform assertion of the gender-related identity; or
- Evidence that the gender-related identity is a sincerely held part of a person’s core identity and is not being asserted for an improper purpose.

³³ Section 760.10(2) though (8), F.S.

³⁴ Section 760.10(9), F.S.

³⁵ Municipalities include Atlantic Beach, Dunedin, Gainesville, Gulfport, Juno Beach, Key West, Lake Worth, Largo, Miami, Miami Beach, Oakland Park, Orlando, Tampa, Venice, West Palm Beach and Wilton Manors. Equality Florida, <http://www.eqfl.org/Discrimination> (last visited Jan. 23, 2016).

³⁶ These states are California, Colorado, Connecticut, Delaware, Hawaii, Illinois, Iowa, Maine, Maryland, Massachusetts, Minnesota, Nevada, New Jersey, New Mexico, Oregon, Rhode Island, Utah, Vermont, and Washington. McAnallen, *supra* note 3. Human Rights Campaign, *Statewide Housing Laws & Policies*, http://www.hrc.org/state_maps (last viewed Jan. 23, 2016).

³⁷ McAnallen, *supra* note 3.

The term “sexual orientation” is defined as a person’s actual or perceived heterosexuality, homosexuality, or bisexuality. The person asserting this status does not appear to have to provide an indicia of proof of sexual orientation. The way in which gender identity or expression is defined appears to require some indicia of proof on the part of the person asserting this status. How a person could provide proof under a claim that he or she was discriminated against based on a perception of that status is unknown.

The bills states with respect to public accommodations, employment, and public lodging and food service establishment that the bill does not “limit the free exercise of religion guaranteed by the United States Constitution and the State Constitution.” What specific individuals or activities are protected by the statement, however, are not specified.

Under the bill, sexual orientation and gender identity or expression are afforded the same protection as other statuses or classes identified in the FCRA. Based on the status of sexual orientation and gender identity or expression, a person may not be discriminated against:

- By public lodging and food service establishments;
- With respect to education, housing, or public accommodation; or
- With respect to employment, provided that any discriminatory act constitutes an unlawful employment practice.³⁸

Current law prohibits and penalizes discrimination against a person who actually has a protected status. This bill additionally prohibits and penalizes discrimination based on the *perception* that a person belongs to any of the protected classes included in the FCRA. This change may significantly expand the population of persons authorized to bring claims based on discrimination under the FCRA. Still, proving discrimination based on a perception, rather than an actual protected status, may be more difficult for a plaintiff to demonstrate.

The bill takes effect July 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

³⁸ Unlawful employment practices include discharging or failing to or refusing to hire a person, or discriminating in compensation, benefits, terms, conditions, or privileges of employment; and limiting or classifying an employee or applicant in such a way as to deprive the person of employment opportunities. The prohibition on unlawful employment practices applies also to employment agencies and labor organizations. *See* s. 760.10, F.S.

D. Other Constitutional Issues:

Current law provides an exemption from the prohibition on unlawful employment practices. The exemption is afforded to religious organizations or other entities which provide opportunities to members who subscribe to the same tenets or beliefs. In addition to the current exemption afforded to organizations, this bill appears to provide another exemption. This exemption is provided to persons who are exercising their constitutional free exercise of religion in the areas of employment and public accommodations. Whether this bill better enables a person to assert the free exercise of religion as a defense to an action based on a civil rights discrimination is unknown.

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

None.

B. Private Sector Impact:

Current law prohibits and penalizes discrimination against a person who actually has a protected status. This bill additionally prohibits and penalizes discrimination based on the perception that a person belongs to a protected class. This change may significantly expand the population of persons authorized to bring claims based on discrimination under the FCRA, which could increase costs in litigation for employers and owners of public accommodations. Still, proving discrimination based on a perception, rather than an actual protected status, would be more difficult to prove.

C. Government Sector Impact:**Florida Commission on Human Relations (FCHR)**

This bill expands the types of classes receiving protected status under the FCRA. The Florida Commission on Human Relations anticipates that this expansion would result in an increased caseload of about 100 to 110 cases. The FCHR requests an additional 3 FTE positions (1 attorney, 1 investigator, and 1 support staff) to support the increase in workload. The total amount requested on a recurring basis is as follows:

Job Title	Amount/FTE	Expenses
Senior Attorney	\$72, 278	\$10,367
Investigation Specialist	\$56, 776	\$10,367
Secretary Specialist	\$29, 029	\$9,042
	Total: \$158,083	\$29,776

The total amount requested for FTE and Expenses on a recurring basis is \$187,859. The total amount requested on non-recurring basis is \$17,434. The FCRA indicates that these

amounts would need to be funded through General Revenue funds because the federal government will not fund these types of cases.³⁹

State Agencies

Some of the expected increase in cases brought to the FCRA is due to the addition of gender identity or expression and sexual orientation as a protected class. Expanding claims beyond discrimination based on an actual protected status to one that is perceived may also significantly expand the population of claimants. This change could increase costs in litigation for state agency employers. Still, proving discrimination based on a perception, rather than an actual protected status, would be more difficult to prove.

VI. Technical Deficiencies:

None.

VII. Related Issues:

This bill prohibits discrimination for all types of protected classes in the areas of employment and public accommodation based on a perception of a person belonging to a protected class. This represents a significant expansion from current law, which prohibits discrimination based on actual status only. How perception would be demonstrated is unknown.

VIII. Statutes Affected:

This bill amends the following sections of the Florida Statutes: 419.001, 509.092, 760.01, 760.02, 760.05, 760.07, 760.08, 760.10, 509.092, 760.22, 760.23, 760.24, 760.25, 760.26, 760.29, and 760.60.

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.

³⁹ Florida Commission on Human Relations, *Fiscal Impact Analysis on SB 120*.

By Senator Abruzzo

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1 A bill to be entitled
 2 An act relating to prohibited discrimination; creating
 3 the "Florida Competitive Workforce Act"; amending s.
 4 760.01, F.S.; revising provisions to include sexual
 5 orientation and gender identity or expression and the
 6 perception of race, color, religion, sex, national
 7 origin, age, sexual orientation, gender identity or
 8 expression, handicap, or marital status as
 9 impermissible grounds for discrimination; amending s.
 10 760.02, F.S.; adding definitions; amending ss. 760.05,
 11 760.07, and 760.08, F.S.; adding sexual orientation
 12 and gender identity or expression as impermissible
 13 grounds for discrimination; conforming terminology;
 14 amending s. 760.10, F.S.; adding sexual orientation
 15 and gender identity or expression as impermissible
 16 grounds for discrimination; providing an exception for
 17 constitutionally protected free exercise of religion;
 18 amending s. 509.092, F.S.; adding sexual orientation
 19 and gender identity or expression as impermissible
 20 grounds for discrimination in public lodging
 21 establishments and public food service establishments;
 22 providing an exception for constitutionally protected
 23 free exercise of religion; amending s. 760.22, F.S.;
 24 adding definitions; amending ss. 760.23, 760.24,
 25 760.25, 760.26, 760.29, and 760.60, F.S.; adding
 26 sexual orientation and gender identity or expression
 27 as impermissible grounds for discrimination; amending
 28 s. 419.001, F.S.; conforming a cross-reference;
 29 providing an effective date.

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30
 31 Be It Enacted by the Legislature of the State of Florida:
 32
 33 Section 1. This act may be cited as the "Florida
 34 Competitive Workforce Act."
 35 Section 2. Subsection (1) of section 760.01, Florida
 36 Statutes, is republished, and subsection (2) of that section is
 37 amended, to read:
 38 760.01 Purposes; construction; title.—
 39 (1) Sections 760.01-760.11 and 509.092 shall be cited as
 40 the "Florida Civil Rights Act of 1992."
 41 (2) The general purposes of the Florida Civil Rights Act of
 42 1992 are to secure for all individuals within the state freedom
 43 from discrimination because of, or based on the perception of,
 44 race, color, religion, sex, pregnancy, national origin, age,
 45 sexual orientation, gender identity or expression, handicap, or
 46 marital status and thereby to protect their interest in personal
 47 dignity, to make available to the state their full productive
 48 capacities, to secure the state against domestic strife and
 49 unrest, to preserve the public safety, health, and general
 50 welfare, and to promote the interests, rights, and privileges of
 51 individuals within the state.
 52 Section 3. Section 760.02, Florida Statutes, is reordered
 53 and amended to read:
 54 760.02 Definitions.—For the purposes of ss. 760.01-760.11
 55 and 509.092, the term:
 56 (7) ~~(1)~~ "Florida Civil Rights Act of 1992" means ss. 760.01-
 57 760.11 and 509.092.
 58 (2) "Commission" means the Florida Commission on Human

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Relations created by s. 760.03.

(3) "Commissioner" or "member" means a member of the commission.

(4) "Discriminatory practice" means any practice made unlawful by the Florida Civil Rights Act of 1992.

(10)~~(5)~~ "National origin" includes ancestry.

(11)~~(6)~~ "Person" includes an individual, association, corporation, joint apprenticeship committee, joint-stock company, labor union, legal representative, mutual company, partnership, receiver, trust, trustee in bankruptcy, or unincorporated organization; any other legal or commercial entity; the state; or any governmental entity or agency.

(5)~~(7)~~ "Employer" means any person employing 15 or more employees for each working day in each of 20 or more calendar weeks in the current or preceding calendar year, and any agent of such a person.

(6)~~(8)~~ "Employment agency" means any person regularly undertaking, with or without compensation, to procure employees for an employer or to procure for employees opportunities to work for an employer, and includes an agent of such a person.

(8) "Gender identity or expression" means gender-related identity, appearance, or behavior, regardless of whether such gender-related identity, appearance, or behavior is different from that traditionally associated with the person's physiology or assigned sex at birth, and which gender-related identity can be shown by the person providing evidence, including, but not limited to:

(a) Medical history, care, or treatment of the gender-related identity;

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(b) Consistent and uniform assertion of the gender-related identity; or

(c) Other evidence that the gender-related identity is a sincerely held part of a person's core identity and is not being asserted for an improper purpose.

(9) "Labor organization" means any organization which exists for the purpose, in whole or in part, of collective bargaining or of dealing with employers concerning grievances, terms or conditions of employment, or other mutual aid or protection in connection with employment.

(1)~~(10)~~ "Aggrieved person" means any person who files a complaint with the Florida Commission on Human Relations Commission.

(12)~~(11)~~ "Public accommodations" means places of public accommodation, lodgings, facilities principally engaged in selling food for consumption on the premises, gasoline stations, places of exhibition or entertainment, and other covered establishments. Each of the following establishments which serves the public is a place of public accommodation within the meaning of this section:

(a) Any inn, hotel, motel, or other establishment that ~~which~~ provides lodging to transient guests, other than an establishment located within a building that ~~which~~ contains not more than four rooms for rent or hire and that ~~which~~ is actually occupied by the proprietor of such establishment as his or her residence.

(b) Any restaurant, cafeteria, lunchroom, lunch counter, soda fountain, or other facility principally engaged in selling food for consumption on the premises, including, but not limited

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to, any such facility located on the premises of any retail establishment, or any gasoline station.

(c) Any motion picture theater, theater, concert hall, sports arena, stadium, or other place of exhibition or entertainment.

(d) Any establishment ~~that which~~ is physically located within the premises of any establishment otherwise covered by this subsection, or within the premises of which is physically located any such covered establishment, and ~~that which~~ holds itself out as serving patrons of such covered establishment.

(13) "Sexual orientation" means an individual's actual or perceived heterosexuality, homosexuality, or bisexuality.

Section 4. Section 760.05, Florida Statutes, is amended to read:

760.05 Functions of the commission.—The commission shall promote and encourage fair treatment and equal opportunity for all persons regardless of race, color, religion, sex, pregnancy, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status and mutual understanding and respect among all members of society. ~~The commission all economic, social, racial, religious, and ethnic groups, and shall endeavor to eliminate discrimination against, and antagonism between, persons on the basis of, or based on the perception of, race, color, religion, sex, pregnancy, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status religious, racial, and ethnic groups and their members.~~

Section 5. Section 760.07, Florida Statutes, is amended to read:

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760.07 Remedies for unlawful discrimination.—Any violation of any Florida statute making unlawful discrimination because of, or based on the perception of, race, color, religion, gender, pregnancy, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status in the areas of education, employment, housing, or public accommodations gives rise to a cause of action for all relief and damages described in s. 760.11(5), unless greater damages are expressly provided for. If the statute prohibiting unlawful discrimination provides an administrative remedy, the action for equitable relief and damages provided for in this section may be initiated only after the plaintiff has exhausted his or her administrative remedy. The term "public accommodations" does not include lodge halls or other similar facilities of private organizations which are made available for public use occasionally or periodically. The right to trial by jury is preserved in any case in which the plaintiff is seeking actual or punitive damages.

Section 6. Section 760.08, Florida Statutes, is amended to read:

760.08 Discrimination in places of public accommodation.—All persons are entitled to the full and equal enjoyment of the goods, services, facilities, privileges, advantages, and accommodations of any place of public accommodation without discrimination or segregation on the ground of, or based on the perception of, race, color, national origin, sex, sexual orientation, gender identity or expression, pregnancy, handicap, familial status, or religion.

Section 7. Subsections (1) and (2), paragraphs (a) and (b)

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of subsection (3), subsections (4), (5), and (6), paragraph (a) of subsection (8), and subsection (9) of section 760.10, Florida Statutes, are amended, and subsection (10) of that section is republished, to read:

760.10 Unlawful employment practices.—

(1) It is an unlawful employment practice for an employer:

(a) To discharge or to fail or refuse to hire any individual, or otherwise to discriminate against any individual with respect to compensation, terms, conditions, or privileges of employment, because of, or based on the perception of, such individual's race, color, religion, sex, pregnancy, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status.

(b) To limit, segregate, or classify employees or applicants for employment in any way that ~~which~~ would deprive or tend to deprive any individual of employment opportunities, or adversely affect any individual's status as an employee, because of, or based on the perception of, such individual's race, color, religion, sex, pregnancy, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status.

(2) It is an unlawful employment practice for an employment agency to fail or refuse to refer for employment, or otherwise to discriminate against, any individual because of, or based on the perception of, race, color, religion, sex, pregnancy, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status or to classify or refer for employment any individual on the basis of, or based on the perception of, race, color, religion, sex, pregnancy, national

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origin, age, sexual orientation, gender identity or expression, handicap, or marital status.

(3) It is an unlawful employment practice for a labor organization:

(a) To exclude or to expel from its membership, or otherwise to discriminate against, any individual because of, or based on the perception of, race, color, religion, sex, pregnancy, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status.

(b) To limit, segregate, or classify its membership or applicants for membership, or to classify or fail or refuse to refer for employment any individual, in any way that would deprive or tend to deprive any individual of employment opportunities, or adversely affect any individual's status as an employee or as an applicant for employment, because of, or based on the perception of, such individual's race, color, religion, sex, pregnancy, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status.

(4) It is an unlawful employment practice for any employer, labor organization, or joint labor-management committee controlling apprenticeship or other training or retraining, including on-the-job training programs, to discriminate against any individual because of, or based on the perception of, race, color, religion, sex, pregnancy, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status in admission to, or employment in, any program established to provide apprenticeship or other training.

(5) Whenever, in order to engage in a profession, occupation, or trade, it is required that a person receive a

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license, certification, or other credential; ~~it~~ become a member or an associate of any club, association, or other organization; ~~it~~ or pass any examination, it is an unlawful employment practice for any person to discriminate against any other person seeking such license, certification, or other credential; ~~it~~ seeking to become a member or associate of such club, association, or other organization; ~~it~~ or seeking to take or pass such examination, because of, or based on the perception of, such other person's race, color, religion, sex, pregnancy, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status.

(6) It is an unlawful employment practice for an employer, a labor organization, an employment agency, or a joint labor-management committee to print, or cause to be printed or published, any notice or advertisement relating to employment, membership, classification, referral for employment, or apprenticeship or other training which indicates, ~~indicating~~ any preference, limitation, specification, or discrimination, ~~based on a person's actual or perceived~~ race, color, religion, sex, pregnancy, national origin, age, sexual orientation, gender identity or expression, absence of handicap, or marital status.

(8) Notwithstanding any other provision of this section, it is not an unlawful employment practice under ss. 760.01-760.10 for an employer, employment agency, labor organization, or joint labor-management committee to:

(a) Take or fail to take any action on the basis of a person's actual or perceived religion, sex, pregnancy, national origin, age, sexual orientation, gender identity or expression, handicap, or marital status in those certain instances in which

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religion, sex, condition of pregnancy, national origin, age, sexual orientation, gender identity or expression, absence of a particular handicap, or marital status is a bona fide occupational qualification reasonably necessary for the performance of the particular employment to which such action or inaction is related.

(9) (a) This section does ~~shall~~ not apply to any religious corporation, association, educational institution, or society which conditions opportunities in the area of employment or public accommodation to members of that religious corporation, association, educational institution, or society or to persons who subscribe to its tenets or beliefs.

(b) This section does ~~shall~~ not prohibit a religious corporation, association, educational institution, or society from giving preference in employment to individuals of a particular religion to perform work connected with the carrying on by such corporations, associations, educational institutions, or societies of its various activities.

(c) This section and s. 760.08 do not limit the free exercise of religion guaranteed by the United States Constitution and the State Constitution.

(10) Each employer, employment agency, and labor organization shall post and keep posted in conspicuous places upon its premises a notice provided by the commission setting forth such information as the commission deems appropriate to effectuate the purposes of ss. 760.01-760.10.

Section 8. Section 509.092, Florida Statutes, is amended to read:

509.092 Public lodging establishments and public food

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service establishments; rights as private enterprises.-

(1) Public lodging establishments and public food service establishments are private enterprises, and the operator has the right to refuse accommodations or service to any person who is objectionable or undesirable to the operator, but such refusal may not be based upon the person's actual or perceived race, creed, color, sex, pregnancy, physical disability, sexual orientation, gender identity or expression, or national origin.

(2) A person aggrieved by a violation of this section or a violation of a rule adopted under this section has a right of action pursuant to s. 760.11.

(3) This section does not limit the free exercise of religion guaranteed by the United States Constitution and the State Constitution.

Section 9. Section 760.22, Florida Statutes, is amended to read:

760.22 Definitions.-As used in this part ~~ss. 760.20-760.37~~, the term:

(1) "Commission" means the Florida Commission on Human Relations.

(2) "Covered multifamily dwelling" means:

(a) A building ~~that which~~ consists of four or more units and has an elevator; or

(b) The ground floor units of a building ~~that which~~ consists of four or more units and does not have an elevator.

(3) "Discriminatory housing practice" means an act that is unlawful under the terms of this part ~~ss. 760.20-760.37~~.

(4) "Dwelling" means any building or structure, or portion thereof, which is occupied as, or designed or intended for

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occupancy as, a residence by one or more families, and any vacant land ~~that which~~ is offered for sale or lease for the construction or location on the land of any such building or structure, or portion thereof.

(5) "Familial status" is established when an individual who has not attained the age of 18 years is domiciled with:

(a) A parent or other person having legal custody of such individual; or

(b) A designee of a parent or other person having legal custody, with the written permission of such parent or other person.

(6) "Family" includes a single individual.

(7) "Gender identity or expression" has the same meaning as provided in s. 760.02.

~~(8)~~(7) "Handicap" means:

(a) ~~A person has a~~ physical or mental impairment ~~that which~~ substantially limits one or more major life activities for a person who has, or he or she has a record of having, or is regarded as having ~~that, such~~ physical or mental impairment; or

(b) ~~A person has a~~ developmental disability as defined in s. 393.063.

~~(9)~~(8) "Person" includes one or more individuals, corporations, partnerships, associations, labor organizations, legal representatives, mutual companies, joint-stock companies, trusts, unincorporated organizations, trustees, trustees in bankruptcy, receivers, and fiduciaries.

(10) "Sexual orientation" has the same meaning as provided in s. 760.02.

~~(11)~~(9) "Substantially equivalent" means an administrative

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subdivision of the State of Florida meeting the requirements of
24 C.F.R. part 115, s. 115.6.

~~(12)-(10)~~ "To rent" includes to lease, to sublease, to let,
and otherwise to grant for a consideration the right to occupy
premises not owned by the occupant.

Section 10. Subsections (1) - (5) of section 760.23,
Florida Statutes, are amended to read:

760.23 Discrimination in the sale or rental of housing and
other prohibited practices.—

(1) It is unlawful to refuse to sell or rent after the
making of a bona fide offer, to refuse to negotiate for the sale
or rental of, or otherwise to make unavailable or deny a
dwelling to any person because of, or based on the perception
of, race, color, national origin, sex, sexual orientation,
gender identity or expression, handicap, familial status, or
religion.

(2) It is unlawful to discriminate against any person in
the terms, conditions, or privileges of sale or rental of a
dwelling, or in the provision of services or facilities in
connection therewith, because of, or based on the perception of,
race, color, national origin, sex, sexual orientation, gender
identity or expression, handicap, familial status, or religion.

(3) It is unlawful to make, print, or publish, or cause to
be made, printed, or published, any notice, statement, or
advertisement with respect to the sale or rental of a dwelling
that indicates any preference, limitation, or discrimination
based on a person's actual or perceived race, color, national
origin, sex, sexual orientation, gender identity or expression,
handicap, familial status, or religion or an intention to make

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any such preference, limitation, or discrimination.

(4) It is unlawful to represent to any person because of,
or based on the perception of, the person's race, color,
national origin, sex, sexual orientation, gender identity or
expression, handicap, familial status, or religion that any
dwelling is not available for inspection, sale, or rental when
such dwelling is in fact so available.

(5) It is unlawful, for profit, to induce or attempt to
induce any person to sell or rent any dwelling by a
representation regarding the entry or prospective entry into the
neighborhood of a person or persons of, or perceived to be of, a
particular race, color, national origin, sex, sexual
orientation, gender identity or expression, handicap, familial
status, or religion.

Section 11. Section 760.24, Florida Statutes, is amended to
read:

760.24 Discrimination in the provision of brokerage
services.—It is unlawful to deny any person access to, or
membership or participation in, any multiple-listing service,
real estate brokers' organization, or other service,
organization, or facility relating to the business of selling or
renting dwellings, or to discriminate against him or her in the
terms or conditions of such access, membership, or
participation, because on account of, or based on the perception
of, race, color, national origin, sex, sexual orientation,
gender identity or expression, handicap, familial status, or
religion.

Section 12. Subsection (1) and paragraph (a) of subsection
(2) of section 760.25, Florida Statutes, are amended to read:

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407 760.25 Discrimination in the financing of housing or in
 408 residential real estate transactions.—
 409 (1) It is unlawful for any bank, building and loan
 410 association, insurance company, or other corporation,
 411 association, firm, or enterprise the business of which consists
 412 in whole or in part of the making of commercial real estate
 413 loans to deny a loan or other financial assistance to a person
 414 applying for the loan for the purpose of purchasing,
 415 constructing, improving, repairing, or maintaining a dwelling,
 416 or to discriminate against him or her in the fixing of the
 417 amount, interest rate, duration, or other term or condition of
 418 such loan or other financial assistance, because of, or based on
 419 the perception of, the race, color, national origin, sex, sexual
 420 orientation, gender identity or expression, handicap, familial
 421 status, or religion of such person or of any person associated
 422 with him or her in connection with such loan or other financial
 423 assistance or the purposes of such loan or other financial
 424 assistance, or because of, or based on the perception of, the
 425 race, color, national origin, sex, sexual orientation, gender
 426 identity or expression, handicap, familial status, or religion
 427 of the present or prospective owners, lessees, tenants, or
 428 occupants of the dwelling or dwellings in relation to which such
 429 loan or other financial assistance is to be made or given.
 430 (2)(a) It is unlawful for any person or entity whose
 431 business includes engaging in residential real estate
 432 transactions to discriminate against any person in making
 433 available such a transaction, or in the terms or conditions of
 434 such a transaction, because of, or based on the perception of,
 435 race, color, national origin, sex, sexual orientation, gender

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436 identity or expression, handicap, familial status, or religion.
 437 Section 13. Section 760.26, Florida Statutes, is amended to
 438 read:
 439 760.26 Prohibited discrimination in land use decisions and
 440 in permitting of development.—It is unlawful to discriminate in
 441 land use decisions or in the permitting of development based on
 442 a person's actual or perceived race, color, national origin,
 443 sex, sexual orientation, gender identity or expression,
 444 disability, familial status, religion, or, except as otherwise
 445 provided by law, the source of financing of a development or
 446 proposed development.
 447 Section 14. Paragraph (a) of subsection (5) of section
 448 760.29, Florida Statutes, is amended to read:
 449 760.29 Exemptions.—
 450 (5) Nothing in ss. 760.20-760.37:
 451 (a) Prohibits a person engaged in the business of
 452 furnishing appraisals of real property from taking into
 453 consideration factors other than race, color, national origin,
 454 sex, sexual orientation, gender identity or expression,
 455 handicap, familial status, or religion.
 456 Section 15. Subsection (1) of section 760.60, Florida
 457 Statutes, is amended to read:
 458 760.60 Discriminatory practices of certain clubs
 459 prohibited; remedies.—
 460 (1) It is unlawful for a person to discriminate against any
 461 individual because of, or based on the perception of, race,
 462 color, religion, gender, national origin, handicap, age above
 463 the age of 21, sexual orientation, gender identity or
 464 expression, or marital status in evaluating an application for

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membership in a club that has more than 400 members, that provides regular meal service, and that regularly receives payment for dues, fees, use of space, facilities, services, meals, or beverages directly or indirectly from nonmembers for business purposes. It is unlawful for a person, on behalf of such a club, to publish, circulate, issue, display, post, or mail any advertisement, notice, or solicitation that contains a statement to the effect that the accommodations, advantages, facilities, membership, or privileges of the club are denied to any individual because of, or based on the perception of, race, color, religion, gender, national origin, handicap, age above the age of 21, sexual orientation, gender identity or expression, or marital status. This subsection does not apply to fraternal or benevolent organizations, ethnic clubs, or religious organizations where business activity is not prevalent.

Section 16. Paragraph (e) of subsection (1) of section 419.001, Florida Statutes, is amended to read:

419.001 Site selection of community residential homes.—

(1) For the purposes of this section, the term:

(e) "Resident" means any of the following: a frail elder as defined in s. 429.65; a person who has a handicap as defined in s. 760.22(8)(a) ~~s. 760.22(7)(a)~~; a person who has a developmental disability as defined in s. 393.063; a nondangerous person who has a mental illness as defined in s. 394.455; or a child who is found to be dependent as defined in s. 39.01 or s. 984.03, or a child in need of services as defined in s. 984.03 or s. 985.03.

Section 17. This act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:

Finance and Tax, *Vice Chair*
Appropriations Subcommittee on Health and Human
Services
Communications, Energy, and Public Utilities
Fiscal Policy
Regulated Industries
Community Affairs

JOINT COMMITTEE:

Joint Legislative Auditing Committee, *Chair*

SENATOR JOSEPH ABRUZZO

Minority Whip
25th District

September 3rd, 2015

The Honorable Miguel Diaz de la Portilla
406 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Diaz de la Portilla:

I respectfully request that Senate Bill 120, Prohibited Discrimination, be considered for placement on the Judiciary Committee agenda. This piece of legislation prohibits discrimination of an employee based on their sexual orientation and gender identity or expression within the workplace.

Thank you in advance for your consideration. Please let me know if I can provide you with any further information moving forward.

Sincerely,

A handwritten signature in black ink, appearing to be "JA" or "Joseph Abruzzo", written in a cursive style.

Joseph Abruzzo

Cc: Tom Cibula, Judiciary Staff Director

REPLY TO:

- ☐ 12300 Forest Hill Boulevard, Suite 200, Wellington, Florida 33414-5785 (561) 791-4774 FAX: (888) 284-6495
- ☐ 110 Dr. Martin Luther King, Jr. Boulevard, Belle Glade, Florida 33430-3900 (561) 829-1410
- ☐ 222 Senate Office Building, 404 South Monroe Street, Tallahassee, Florida 32399-1100 (850) 487-5025

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE
APPEARANCE RECORD

January 26, 2016

Meeting Date

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

SB 120

*Bill Number (if applicable)*Topic Florida Competitive Workforce Act*Amendment Barcode (if applicable)*Name Juan Carlos FloresJob Title Regional Vice President of Governmental AffairsAddress 150 S. Monroe St., Ste 400*Street*Phone 850.577.5500TallahasseeFL32301*City**State**Zip*

Email _____

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing AT&TAppearing 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)

APPEARANCE RECORD

January 26, 2016

Meeting Date

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

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce ActName Adam Babington

Amendment Barcode (if applicable)

Job Title Director, Govt & Industry RelationsAddress PO Box 10,000

Street

Lake Buena Vista

City

FL

State

32830-1000

Zip

Phone 407.828.1360

Email _____

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

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THE FLORIDA SENATE
APPEARANCE RECORD

January 26, 2016

Meeting Date

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

SB 120

*Bill Number (if applicable)*Topic Florida Competitive Workforce Act*Amendment Barcode (if applicable)*Name Bob O'MalleyJob Title Resident VP FloridaAddress 283 Cranes Roost Blvd., Ste 111*Street*Phone 407.215.0457Altamonte SpringsFL32701*City**State**Zip*

Email _____

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing CSX TransportationAppearing 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

January 26, 2016

Meeting Date

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

SB 120

*Bill Number (if applicable)*Topic Florida Competitive Workforce Act*Amendment Barcode (if applicable)*Name John FaithJob Title Executive Director, Global Operations & Client Services, DTCC TampaAddress 18301 Bermuda Green DrPhone (813) 470-1810*Street*TampaFlorida33647*City**State**Zip*

Email _____

Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing DTCC TampaAppearing 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

January 26, 2016

Meeting Date

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

SB 120

*Bill Number (if applicable)*Topic Florida Competitive Workforce Act*Amendment Barcode (if applicable)*Name Christopher GassettJob Title SVP and Assistant General Counsel, HSN, Inc.Address 1 HSN Drive*Street*St. Petersburg*City*Florida*State*33729*Zip*Phone (727) 872-1000Email Chris.Gassett@hsn.netSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing HSN, Inc.Appearing 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

January 26, 2016

Meeting Date

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

SB 120

*Bill Number (if applicable)*Topic Florida Competitive Workforce Act*Amendment Barcode (if applicable)*Name Richard TurnerJob Title General CounselAddress 230 S. Adams St*Street*Tallahassee*City*FL*State*32301*Zip*Phone 850-224-2250Email Speaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing The Florida Restaurant and Lodging AssociationAppearing 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

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

January 26, 2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Vani Ungapen

Job Title Director of Global Business and Legislative Research, Florida Realtors

Address 200 S. Monroe St

Street

Tallahassee

City

Florida

State

32301

Zip

Phone (850) 224-1400

Email vaniu@floridarealtors.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Realtors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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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)

January 26, 2016

SB 120

Meeting DateBill Number (if applicable)Topic Florida Competitive Workforce ActAmendment Barcode (if applicable)Name Jonathan KislakJob Title General Partner, Antares Capital CorporationAddress P.O. Box 330309Phone (305) 894-2888StreetMiamiFlorida33233CityStateZipEmail jkislak@antarescapital.comSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing Antares Capital CorporationAppearing 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)

1/26/16
Meeting Date

5B120
Bill Number (if applicable)

Topic Prohibited discrimination

Amendment Barcode (if applicable)

Name Danielle Thomas

Job Title _____

Address 4301 Crenighton Rd
Street
Pensacola FL 32504
City State Zip

Phone 320-0884

Email daniellethom831@yahoo

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)

APPEARANCE RECORD

Meeting Date

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

Bill Number (if applicable)

Topic Florida Wipeout the Wreckard NC

Name Michael Kaner

Job Title _____

Address PJ GPO 2133

City

State

Zip

Phone 959 566-0199

Email Merajner@mac.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)

01-26-

Meeting Date

5120
Bill Number (if applicable)

Topic Florida Competition Workforce Act

Name Brandi Blanson

Job Title retired

Address 1000 Burlington Ave No Apt 902
Street

St. Petersburg FL 33705
City State Zip

Phone 863-370-2008

Email brandi.4961@earthlink.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic Competitive Workforce Act

Name Cindy Sullivan

Job Title System Architect

Address 127 Celebration Blvd
Street

Celebration FL 34747
City State Zip

Phone 813-440-3329

Email cindy@cb9cindy.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

1-26-2016

Meeting Date

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

120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Name Thomas N. Gibson

Amendment Barcode (if applicable)

Job Title "retired"

Address 7782 Melvin Road

Street

Phone 904 236-0358

Jacksonville

City

FL

State

32210

Zip

Email twathn.gibson@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

1/26/2016
Meeting Date

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

SB 120
Bill Number (if applicable)

Topic Competitive Workforce Act

Amendment Barcode (if applicable)

Name Tom Minette

Job Title Consultant

Address 1206 N Laura St

Phone 904 874 7585

Jacksonville FL 32206
City State Zip

Email tomminette@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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THE FLORIDA SENATE
APPEARANCE RECORD

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

01/26/16
Meeting Date

SB-120
Bill Number (if applicable)

Topic SB 120

Name Noah Davis

Job Title Bus Teacher

Address 1200 N Laura St.
Street

Seckerville FL 32206
City State Zip

Phone (904) 624-1637

Email 1411220007@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Eau Claire Florida

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)

26 Jan 2016
Meeting Date

SB 120
Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Name Liana Summer

Amendment Barcode (if applicable)

Job Title _____

Address 401 Mira Vista Drive
Street

Phone 727-385-6380

Dunedin FL 34698
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

1/26/16
Meeting Date

HB 45
SB 120
Bill Number (if applicable)

Topic Comp. Workforce Act

Amendment Barcode (if applicable)

Name Gina Duncan

Job Title Transgender Inclusion Director

Address 1365 Eastin Ave
Street

Phone 407-222-2069

Orlando FL 32804
City State Zip

Email Gina@egfl.org

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Equality Florida

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)

01/26/2016

Meeting Date

SB 1120

Bill Number (if applicable)

Topic Competitive Workforce Act

Amendment Barcode (if applicable)

Name Cheryl McGuirk

Job Title Retired

Address 3150 Windsong Dr Apt 4108

Street

Phone 405 370 4377

Tallahassee FL 32308

City

State

Zip

Email mcguirken@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Person of

Representing Self, Vietnam Era Veteran, faith, lesbian, retired

Concerned about housing issues not guaranteed to LGBT in
Appearing at request of Chair: ☐ Yes ☐ No Lobbyist registered with Legislature: ☐ Yes ☐ No
Chapter 760, this bill would provide that protection.

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1-26-16

Meeting Date

SB 0120

Bill Number (if applicable)

Topic Prohibited Discrimination

Amendment Barcode (if applicable)

Name Alan HARRIS

Job Title Bus driver

Address 5827 22nd street west
Street

Phone 941-518-6894

BRADENTON FL 34207
City State Zip

Email ALANSONH@VERIZON.NET

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Myself

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

Jan 26, 2018
Meeting Date

120
Bill Number (if applicable)

Topic Competitive Work Place Act.

Amendment Barcode (if applicable)

Name Rev. Elder Diane Fisher

Job Title Reverend Elder.

Address 149 B Villas Ct.
Street

Phone 617 448 2396

Tallahassee.
City State Zip

Email revdiane@shaw@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Metropolitan Community Churches

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)

1-26-16

Meeting Date

120

Bill Number (if applicable)

Topic

Constitutional Amendment Act

Amendment Barcode (if applicable)

Name

Rev. Amy Kindred

Job Title

MINISTER

Address

3868 Bordeaux Dr.

Phone 941-916-0957

Street

Porter Gorda FL 33950

Email

minister@unifec.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing

~~Porter Gorda~~ Unitarian Universalist Assoc.

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)

1-26-16
Meeting Date

120
Bill Number (if applicable)

Topic Prohibited Discrimination

Amendment Barcode (if applicable)

Name Barbara DeVane

Job Title Ms

Address 1625 E. Brevard St

Phone 222-3969

Tallahassee FL 32308
City State Zip

Email barbaradevane@yahoo.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

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S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

1/26/18
Meeting Date

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

SB 1120
Bill Number (if applicable)

Topic COMPETITIVE WORKFORCE ACT Amendment Barcode (if applicable)

Name SCOTT BENNETT

Job Title _____

Address 3100 N OCEAN BLVD
FT LAUDERDALE FL 33308
Street City State Zip

Phone _____
Email SCOTT1001@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

1-26-15
Meeting Date

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

HB 45
SB 1120
Bill Number (if applicable)

Topic FLORIDA COMPETITIVE WORKFORCE ACT

Amendment Barcode (if applicable)

Name Nathan KLARFELD

Job Title EQUALITY FLORIDA

Address 2841 N. Ocean Blvd #701

Phone 954-547-1964

Fort Lauderdale, FL 33308
City State Zip

Email nateklarfeld@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing EQUALITY 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)

1/26/2016

Meeting Date

SB 120

HB 45

Bill Number (if applicable)

Topic FL Comp. Workforce Act

Amendment Barcode (if applicable)

Name SCOTT WALL-DeSousa

Job Title Realtor

Address 518 HATCHER ST SE

Phone 321 506 0353

Street

PAUM BAY

City

FL

State

32909

Zip

Email SCOTT WALL @ outlook.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Equality 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)

1-26-2016

Meeting Date

HB 45
SB 120

Bill Number (if applicable)

Topic FLORIDA COMPETITIVE WORKFORCE ACT

Amendment Barcode (if applicable)

Name MAGGIE HUNTER

Job Title MASSAGE THERAPIST

Address 340 RICHARDS RD
Street

Phone 321-265-0771

MELBOURNE BEACH FL 32951
City State Zip

Email HUNTERSMassage@
YAHOO.COM

Speaking: ☐ For ☐ Against ☐ Information

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

Representing EQUALITY FLORIDA

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)

1/26/16
Meeting Date

0120
Bill Number (if applicable)

Topic Prohibited Discrimination

Amendment Barcode (if applicable)

Name DAVIN Vucic

Job Title Bus operator

Address 4256 Houston Ln
Street

Phone 941-888-2555

North Port FL 34287
City State Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing SELF

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1/26/16

Meeting Date

SB 120

Bill Number (if applicable)

Topic Prohibited Discrimination

Amendment Barcode (if applicable)

Name Adam Babington

Job Title Director, Industry + Gov't Relations

Address _____
Street

Phone 407 828 5072

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Walt Disney Parks + Resorts, US

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)

1/26/16

Meeting Date

SB120

Bill Number (if applicable)

Topic PROHIBITED DISCRIMINATION

Amendment Barcode (if applicable)

Name GLENN ABICENT

Job Title SERVICES TECHNICIAN

Address 4305 SW 98th Av

Phone 786-376-1181

Street

MIAMI,

City

FL

State

33165

Zip

Email GLENN.ABICENT@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)

January 26, 2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Jonathan Kislak

Job Title General Partner, Antares Capital Corporation

Address P.O. Box 330309

Phone (305) 894-2888

Street

Miami

Florida

33233

City

State

Zip

Email jkislak@antarescapital.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Antares Capital 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.

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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)

January 26, 2016

SB 120

Meeting Date

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Vani Ungapen

Job Title Director of Global Business and Legislative Research, Florida Realtors

Address 200 S. Monroe St

Phone (850) 224-1400

Street

Tallahassee

Florida

32301

Email vaniu@floridarealtors.org

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Realtors

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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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)

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic SB 120

Amendment Barcode (if applicable)

Name Michael Farmer

Job Title

Address 6051 Twin Lakes Drive

Phone 407 462 9692

Street
City Oviedo State FL Zip 32768

Email Michael.Cox@fl.senate.gov

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)

January 26, 2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Richard Turner

Job Title General Counsel

Address 230 S. Adams St

Phone 850-224-2250

Street

Tallahassee

FL

32301

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing The Florida Restaurant and Lodging 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.

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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)

January 26, 2016

SB 120

Meeting Date

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Christopher Gassett

Job Title SVP and Assistant General Counsel, HSN, Inc.

Address 1 HSN Drive

Phone (727) 872-1000

Street

St. Petersburg

Florida

33729

City

State

Zip

Email Chris.Gassett@hsn.net

Speaking: ☐ For ☐ Against ☐ Information

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

Representing HSN, 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.

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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)

January 26, 2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name John Faith

Job Title Executive Director, Global Operations & Client Services, DTCC Tampa

Address 18301 Bermuda Green Dr

Phone (813) 470-1810

Street

Tampa

Florida

33647

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing DTCC Tampa

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)

January 26, 2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Bob O'Malley

Job Title Resident VP Florida

Address 283 Cranes Roost Blvd., Ste 111

Phone 407.215.0457

Street

Altamonte Springs

FL

32701

Email

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing CSX Transportation

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)

January 26, 2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Adam Babington

Job Title Director, Govt & Industry Relations

Address PO Box 10,000

Phone 407.828.1360

Street

Lake Buena Vista

FL

32830-1000

City

State

Zip

Email

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Walt Disney World

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)

January 26, 2016

SB 120

Meeting Date

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Juan Carlos Flores

Job Title Regional Vice President of Governmental Affairs

Address 150 S. Monroe St., Ste 400

Phone 850.577.5500

Street

Tallahassee

FL

32301

Email _____

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing AT&T

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)

1-26-16

Meeting Date

SB 120

Bill Number (if applicable)

Topic Competitive Workforce

Amendment Barcode (if applicable)

Name Sean Stanley

Job Title Consultant

Address 3067 Hawks Landing Dr
Street

Phone _____

City

State

Zip

Email _____

Speaking: ☐ For ☐ Against ☐ Information

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

Representing _____

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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

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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)

1/26/16
Meeting Date

SB 120
Bill Number (if applicable)

Topic FL COMPETITIVE WORKFORCE ACT

Amendment Barcode (if applicable)

Name FRANCES EPSTEIN

Job Title RETIRED TEACHER / BUS. MGR.

Address 3400 GALT OCEAN DR #11065
Street

Phone 954-537-4131

FORT LAUD. FL. 33308
City State Zip

Email faetchr@aol.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing ~~EQUITY FLORIDA~~ 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)

1/26/16
Meeting Date

SB 120
Bill Number (if applicable)

Topic Competitive Workforce Act

Amendment Barcode (if applicable)

Name Barbara Signer

Job Title Retired

Address 3400 Galt Ocean Dr. #1106-S Phone 954.537-4131
Street

Fort Lauderdale FL
City State

33308
Zip

Email signerbo@stjohns.edu

Speaking: ☒ For ☐ Against ☐ Information

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

Representing ~~Equality for Women~~ 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)

1/26/14

Meeting Date

120

Bill Number (if applicable)

Topic Florida Workforce Act

Amendment Barcode (if applicable)

Name Phyllis McCall

Job Title Paralegal

Address 3649 Kingsbury Dr.

Phone 727-848-0866

Street

Holiday

FL

34691

City

State

Zip

Email NoraePhyllis@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Equality 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)

1/26/16

Meeting Date

120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Victoria Galvan

Job Title _____

Address 628 Ashberry Ln.
Street

Phone 407-949-1334

Altamonte Springs
City

FL
State

32714
Zip

Email victoria.m.galvan@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)

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Nathan Hall

Job Title _____

Address 4309 Kimmer Rowe Dr
Street
Tallahassee FL 32309
City State Zip

Phone (787) 424-975

Email nathanihall@outlook.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Equality 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)

01/26/2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic FLORIDA COMPETITIVE WORKFORCE ACT

Amendment Barcode (if applicable)

Name SAMIRA OREID

Job Title NEW MEDIA MANAGER

Address 927 EAST 11TH AVE

Phone 313-212-5788

Street

TAMPA

City

FL

State

33605

Zip

Email SAM@ERFL.ORG

Speaking: ☒ For ☐ Against ☐ Information

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

Representing EQUALITY 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)

01/26/16

Meeting Date

1120

Bill Number (if applicable)

Topic Florida Work Force Protection Act (Competitive Workforce) Amendment Barcode (if applicable)

Name CAROL M DUNN

Job Title chapter president, Central Florida Chapter, Reconciling Works

Address 2101 Sunset Blvd #201
Street

Phone _____

Altamonte
City

FL
State

33765
Zip

Email cjdunnfl@hotmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Reconciling Works (for Full Inclusion) a Lutheran organization

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1/26/16

Meeting Date

SB 120

Bill Number (if applicable)

Topic FLORIDA COMPETITIVE WORKFORCE ACT

Amendment Barcode (if applicable)

Name Alex Daubert

Job Title _____

Address 1729 GUATLER CT
Street

Phone (717) 965-2808

ORLANDO FL 32804
City State Zip

Email adaubert56@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)

1/26/16

Meeting Date

SB120/

Bill Number (if applicable)

Topic ~~Anthony Sandonato~~ FL Competitive Workforce Act Amendment Barcode (if applicable)

Name Anthony Sandonato

Job Title HR Executive

Address 150 E. Robinson St.
Street

Phone (954) 937-9290

Orlando FL 32801
City State Zip

Email thsandonato@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Equality Florida & Human Rights Campaign (HRC)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1/26/2016
Meeting Date

SB 1120
Bill Number (if applicable)

Topic Competitive Workforce Act

Amendment Barcode (if applicable)

Name Rev. Stephanie Burns

Job Title Pastor, New Day Metropolitan Community Church Naples

Address 3297 Duchess Drive

Phone _____

Street

Naples
City

FL
State

34112
Zip

Email revsburns@msn.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Metropolitan Community 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.

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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)

1/26/16

Meeting Date

SB 120

Bill Number (if applicable)

Topic

Discrimination

Amendment Barcode (if applicable)

Name

Rich Templin

Job Title

Address

135 S. Monroe

Phone

229-6926

Street

Tallahassee

FL

32301

City

State

Zip

Email

Speaking:

☒

For

☐

Against

☐

Information

Waive Speaking:

☐

In Support

☐

Against

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

Representing

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)

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name XIOMARA DIAZ

Job Title Pastora

Address 3000 W PROSPECT RD
Street
JANAPAC FL 33309
City State Zip

Phone 954-486-7378

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

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1/26/16

Meeting Date

120

Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name ANGEL DIAZ

Job Title Pastor

Address 3000 W PROSPECT RD

Street

TAMARAC

City

FL

State

33309

Zip

Phone 954-486-7378

Email adiaz77@bellsouth.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing MYSELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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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)

1/26/16

Meeting Date

HB 45

SB 1120

Bill Number (if applicable)

Topic Florida Competitive
Workforce Act

Amendment Barcode (if applicable)

Name Raphael Klarfeld M.D.

Job Title psychiatrist

Address 2841 N. Ocean Blvd. #701

Street

Ft. Lauderdale, FL 33308

City

State

Zip

Phone 954-547-2882

Email glawlis005@gmail.com

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Equality Florida

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

1/26/16
Meeting Date

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

SB120
Bill Number (if applicable)

Topic _____

Amendment Barcode (if applicable)

Name Gabriel Garcia-Vera

Job Title FL Field Coordinator

Address 8330 Biscayne Blvd

Phone _____

Street

Miami

FL

33138

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Nat. Latina Institute for Repro. Health

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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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)

1/26/15

Meeting Date

SB 120

Bill Number (if applicable)

Topic Competitive Workforce Act

Amendment Barcode (if applicable)

Name Ayana Powell

Job Title Minister & Capital Equality Chair

Address 907 Chestwood Ave.

Phone 407-230-7269

Street

Tall.

City

FL

State

32303

Zip

Email powell.ayana@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Equality Florida & AYRO on the GO

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

Jan 26, 2016
Meeting Date

#120
Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Terry Dudley

Job Title _____

Address 6988 Greenville Rd

Phone 850-545-1221

Street
Call, FL
City State Zip

Email trclwd@embarrmail.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)

Jan. 26, 2016

Meeting Date

#120

Bill Number (if applicable)

Topic Florida's Competitive Workforce Act

Amendment Barcode (if applicable)

Name Hue Min Yang

Job Title Homemaker

Address 600 Plantation Rd.

Phone 850-386-5196

Street

Tallahassee FL

32303

City

State

Zip

Email Mindan600@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)

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic SB 120

Amendment Barcode (if applicable)

Name Tiffany Webster

Job Title _____

Address 350 Milestone Drive
Street
Tallahassee FL 32312
City State Zip

Phone 850-591-9878

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)

1/26/16

Meeting Date

120

Bill Number (if applicable)

Topic SB 120

Amendment Barcode (if applicable)

Name Barry Webster

Job Title

Address 350 Milestone Drive

Phone 850-591-9877

Street

Tallahassee FL 32312

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)

1-26-16

Meeting Date

SB 120

Bill Number (if applicable)

Topic FLORIDA COMPETITIVE WORKFORCE

Amendment Barcode (if applicable)

Name BILL BUNKLEY

Job Title PRESIDENT

Address PO BOX 341644

Phone 813-264-2977

Street

TAMPA

City

FL

State

33694

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing FLORIDA ETHICS AND RELIGIOUS LIBERTY COMMISSION

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1/26/16

Meeting Date

120

Bill Number (if applicable)

Topic SB-0120

Amendment Barcode (if applicable)

Name Amir Fayad

Job Title Missionary and Salesman

Address 7115 Chatom Light Run
Street

Phone (813) 447-2735

Bradenton Florida 34212
City State Zip

Email Pioneros de Pentecostes @ 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)

APPEARANCE RECORD

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

1/26/16
Meeting Date120
Bill Number (if applicable)Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name BEYAZA PEDROZA SEMMUD

Job Title _____

Address 1505 LEDGESTONE DRIVEPhone (781) 955-11008 (781) 233-4434

Street

Palm Beach
CityFL
State33511
ZipEmail BPS.PEDROZA@gmail.comSpeaking: ☐ For ☒ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing MYSELFAppearing 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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THE FLORIDA SENATE
APPEARANCE RECORD

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

11/26/16

Meeting Date

120

Bill Number (if applicable)

Topic SB-0120

Amendment Barcode (if applicable)

Name Imas Fayad

Job Title Misionary and Salesman

Address 7115 Chatum Light Run

Street

Bradenton FL

City

State

34212

Zip

Phone (813) 447-2735

Email Pioneros de Pentecostas @ 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)

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name NATHANIEL J. WILCOX

Job Title _____

Address _____
Street

Phone _____

City _____ State _____ Zip _____

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing 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)

1/26/16

Meeting Date

120

Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name Kimberly Brinson

Job Title

Address 8059 NW 12th Ct.

Phone 305-494-8963

Street

Miami

FL

33147

City

State

Zip

Email kimberlybrinson154@yahoo.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

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

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name PASTOR Olden Reese

Job Title _____

Address 17610 NW 41st AVE
Street

Phone 786-357-0600

MIAMI GRANDS Fla 33055
City State Zip

Email OldenReese@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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S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

120

Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name Cornelia Swain

Job Title Retired Educator

Address 1914 NW 43rd St

Phone 786 281-9100

Street

Miami

City

FL

State

33142

Zip

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)

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name GERALD BASTIN

Job Title PASTOR

Address 5200 SE 145th Street
Street

Phone 352-342-3284

Summerfield FL 34491
City State Zip

Email gtbii@prodegy.net

Speaking: ☐ For ☒ Against ☐ Information

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

Representing MYSELF

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

1/26/16

Meeting Date

120

Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name Joana Bustin

Job Title Pastor of visitation

Address 5200 S.E. 145th St

Phone 352-245-2567

Street

Summerfield, FL

City

State

34691

Zip

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

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1/26/14

Meeting Date

120

Bill Number (if applicable)

Topic DISCRIMINATION
Name ELDER DEMETRIUS BRINSON

Amendment Barcode (if applicable)

Job Title SELF/EMPLOYED

Address 8259 N.W. 12CT

Phone 786-317-7136

Street

MIAMI, FL 33147

City

State

Zip

Email BRINSONHANDYMAN@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

1-26-16

Meeting Date

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

0720

Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name CHRIS WALKER

Job Title PASTOR

Address P.O. Box 120337

Phone 352-321-2930

Chermon FL 34712

Email CGRUVALKER@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Small Lake Pastors 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)

1/26/16

Meeting Date

120

Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name Rodriguez, Gilberto

Job Title Pastor

Address 21021 STATE Road 54

Phone 813-701-8903

Street

Lutz

City

FL. 33558

State

Zip

Email templekela@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)

1/26/16

Meeting Date

120

Bill Number (if applicable)

Topic

Amendment Barcode (if applicable)

Name Michael Sheedy

Job Title Executive Director

Address 201 W. Park Ave.

Phone 850-222-3803

Street

201 Tall.

FL

32301

City

State

Zip

Email

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Florida Conference of Catholic Bishops

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

S-001 (10/14/14)

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16

Meeting Date

220

Bill Number (if applicable)

Topic Disg/Intention

Amendment Barcode (if applicable)

Name Jean Mins

Job Title Asst. 2nd Manager

Address 21150 NW 14th Pl #102

Phone 954 806 0523

Street

Miami Gardens

FL

33164

City

State

Zip

Email jeanmins@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)

1-26-16

Meeting Date

2620

Bill Number (if applicable)

Topic Discrimination

Amendment Barcode (if applicable)

Name Rev. Pablo David Fonseca

Job Title Pastor

Address 3565 Ohio Ave

Phone (407) 965-9744

Street

Sanford

City

FL

State

32773

Zip

Email thepastor@sanfordfl.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)

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name Anthony Verduz

Job Title _____

Address 6850 Cord Way
Street

Phone 786-447-6431

Miami FL 33155
City State Zip

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

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1/26/16

Meeting Date

120

Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name Anthony Swain

Job Title Elder. Retired Engineer

Address 1914 NW 43 Street

Phone 786-975-7470

Miami

City

FLA

State

33142

Zip

Email swain Anthony 78@yaho

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)

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic Discrimination

Amendment Barcode (if applicable)

Name Susan Migueltorena

Job Title Business Owner/Community Educator

Address 3019 W Crest Ave
Street

Phone 813 850-5852

Tampa FL 33614
City State Zip

Email smigueltorena@yahoo.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)

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name Edgar Gomez

Job Title Pastor

Address 15541 FLORIDA Breeze Loop
Street
Winanna FL 33598
City State Zip

Phone 813-701-4379

Email edgomezfl@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)

01-26-16

Meeting Date

120

Bill Number (if applicable)

Topic SB 0120

Amendment Barcode (if applicable)

Name Dr. Armando Reyes

Job Title Pastor & Clinical Counselor

Address 2901 Dartmouth Ave N.
Street

Phone _____

St. Petersburg FL 33713
City State Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Pineellas County Hispanic Pastors 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)

January 26, 2016

SB 120

Meeting Date

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Patrick Slevin

Job Title Campaign Manager, Florida Businesses for a Competitive Workforce

Address 200 West College Avenue, Suite 210

Phone (850) 391-5040

Street

Tallahassee

Florida

32301

Email P.SL7@patricksslevin.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Businesses for a Competitive Workforce

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

January 26, 2016

Meeting Date

SB 120

*Bill Number (if applicable)*Topic Florida Competitive Workforce Act*Amendment Barcode (if applicable)*Name Tony LimaJob Title Executive DirectorAddress 4500 Biscayne Blvd, Ste 340Phone (305) 751-7283*Street*MiamiFL33137Email *City**State**Zip*Speaking: ☒ For ☐ Against ☐ InformationWaive Speaking: ☐ In Support ☐ Against
(The Chair will read this information into the record.)Representing SAVEAppearing 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)

January 26, 2016

Meeting Date

SB 120

*Bill Number (if applicable)*Topic Florida Competitive Workforce Act*Amendment Barcode (if applicable)*Name Nadine SmithJob Title CEO/Executive DirectorAddress P.O. Box 13184Phone 727.499.6925*Street*St. PetersburgFL33733Email *City**State**Zip*

Speaking:



For



Against



Information

Waive Speaking:



In Support



Against

*(The Chair will read this information into the record.)*Representing Equality FloridaAppearing 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)

January 26, 2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name John Tonnison

Job Title Executive VP and CIO, Tech Data Corporation

Address 5350 Tech Data Drive

Phone (727) 539-7429

Street

Clearwater

Florida

33760

Email John.Tonnison@techdata.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Tech Data 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.

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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)

January 26, 2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Jason Altmire

Job Title SVP, Public Policy & Community Engagement, Florida Blue

Address 4800 Deerwood Campus Parkway

Phone _____

Street

Jacksonville

Florida

32246

Email jason.altmire@bcbsfl.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Blue

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic DISCRIMINATION

Amendment Barcode (if applicable)

Name GAIL MARIE PERRY

Job Title CHAIR

Address PO BOX 1766

Phone 954 850 4053

POMPANO BEACH FLA 33061
City State Zip

Email worshipofthe@hotmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing COMMUNICATIONS WORKERS of AMERICA COUNCIL 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)

1-26-16

Meeting Date

SB 120

Bill Number (if applicable)

Topic FL Competitive WorkForce Act

Amendment Barcode (if applicable)

Name Bob O'Malley

Job Title RVP

Address 283 Cranes Roost Blvd. Suite 111

Phone 407-803-3969

Street

Altamonte Springs

City

FL

State

32701

Zip

Email Bob-OMalley@CSX.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing CSX Transportation

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

120
~~1120~~

Bill Number (if applicable)

Amendment Barcode (if applicable)

1/26/16
Meeting Date

Topic Competitive Work Force

Name Paul Gibson

Job Title Lutheran Pastor

Address 785 19 Ave N Apt 2
Street

Phone 813-924-3966

St Petersburg FL 33704
City State Zip

Email pastor@trinitylutheranstpete.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Evangelical Lutheran Church in America

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)

January 26, 2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Jason Altmire

Job Title SVP, Public Policy & Community Engagement, Florida Blue

Address 4800 Deerwood Campus Parkway

Phone _____

Street

Jacksonville

Florida

32246

Email jason.altmire@bcbsfl.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Blue

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)

January 26, 2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name John Tonnison

Job Title Executive VP and CIO, Tech Data Corporation

Address 5350 Tech Data Drive

Phone (727) 539-7429

Street

Clearwater

Florida

33760

City

State

Zip

Email John.Tonnison@techdata.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Tech Data Corporation

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)

January 26, 2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Nadine Smith

Job Title CEO/Executive Director

Address P.O. Box 13184

Phone 727.499.6925

Street

St. Petersburg

FL

33733

City

State

Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Equality Florida

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)

January 26, 2016

Meeting Date

SB 120

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Tony Lima

Job Title Executive Director

Address 4500 Biscayne Blvd, Ste 340

Phone (305) 751-7283

Street

Miami

FL

33137

Email

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing SAVE

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)

January 26, 2016

SB 120

Meeting Date

Bill Number (if applicable)

Topic Florida Competitive Workforce Act

Amendment Barcode (if applicable)

Name Patrick Slevin

Job Title Campaign Manager, Florida Businesses for a Competitive Workforce

Address 200 West College Avenue, Suite 210

Phone (850) 391-5040

Street

Tallahassee

Florida

32301

Email P.SL7@patricksslevin.com

City

State

Zip

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Businesses for a Competitive Workforce

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)

Jan 26 2016
Meeting Date

120
Bill Number (if applicable)

Topic FLORIDA Competitive Workforce Act

Amendment Barcode (if applicable)

Name Jean-David Parlier

Job Title Founder - Consulting Firm

Address 4934 78th St. East
Street

Phone 941-718-3972

Bradenton FL 34203
City State Zip

Email jeandavidparlier@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Small Business

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)

1/26/16
Meeting Date

120
Bill Number (if applicable)

Topic Prohibited Discrimination

Amendment Barcode (if applicable)

Name Carlos Guillermo Smith

Job Title Government Affairs Manager

Address 2237 Stonington Ave
Street

Phone 404-934-4944

Orlando FL 32817
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing EQUALITY 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

120
45

1/26/2018
Meeting Date

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

Bill Number (if applicable)

Topic Competitive Workforce Act

Amendment Barcode (if applicable)

Name John Stemberger

Job Title President & General Counsel

Address 4853 S Orange Ave
Street

Phone 8 407-418-0250

Orlando FL 32806
City State Zip

Email _____

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Family Action, Legislative Arm of the Florida

Appearing at request of Chair: ☐ Yes ☒ No

Family Policy Council
Lobbyist registered with Legislature: ☒ Yes ☐ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

01/20/16

Meeting Date

120

Bill Number (if applicable)

Topic FL COMPETITIVE WORKFORCE ACT

Amendment Barcode (if applicable)

Name ROXANNE MANZONE

Job Title _____

Address 1910 SW 29TH TER
Street

Phone 352-208-4925

OCALA FL 34474
City State Zip

Email OCALAROXANNE@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)

1/26/16
Meeting Date

SB120
Bill Number (if applicable)

Topic Florida Competitive Workplace act

Amendment Barcode (if applicable)

Name Debbie Frazier

Job Title _____

Address 12495 Quercus Lane
Street
Wellington FL 33414
City State Zip

Phone 561-707-5529

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)



COMMITTEE/SUBCOMMITTEE APPEARANCE RECORD

Please fill out the entire form and submit two copies to the committee/subcommittee administrative assistant at the meeting.

Type or Print Clearly

Bill Number: SB120 Meeting Date: 01/26/2016

Fill in appropriate information:

PCB/PCS/Amendment # or

Presentation/Workshop Topic:

Prohibited Discrimination

Committee/Subcommittee: Judiciary

Name: Tammi King

Title: Bus Operator

Address: 4369 Creekside Boulevard

City: Kissimmee State/Zip: Florida 34746

Phone Number: (407) 283-5542

Representing: Myself

Registered Lobbyist: YES ☐ NO ☒

State Employee: YES ☐ NO ☒

I Wish To Speak: YES ☐ NO ☒

I Have Been Requested to Speak: YES ☐ NO ☒

Bill		Amendment	
Proponent <input checked="" type="checkbox"/>	Opponent <input type="checkbox"/>	Proponent <input checked="" type="checkbox"/>	Opponent <input type="checkbox"/>
Info Only <input type="checkbox"/>		Info Only <input type="checkbox"/>	

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 250

INTRODUCER: Judiciary Committee and Senator Lee

SUBJECT: Family Law

DATE: January 27, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Brown	Cibula	JU	Fav/CS
2.			ACJ	
3.			AP	

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 250 revises the law on parental time-sharing with minor children.

Current law provides that the public policy of the state is for each minor to have frequent and continuing contact with both parents after the parents separate or divorce. Consistent with existing legislative intent, the bill establishes a presumption that approximately equal timesharing with a child by both parents is in the child's best interest.

Current law provides a list of factors for the court to apply in determining or modifying time-sharing, based on the best interests of the child. This bill instead, provides that these factors are to be used in determining whether a party has overcome the statutory presumption of equal timesharing.

The bill adds two factors to the list for the court to consider in determining whether a party has overcome the presumption favoring equal time-sharing, which are:

- The amount of time-sharing requested by each parent; and
- The frequency with which a parent would likely leave the child in the care of a nonrelative on evenings and weekends when the other parent would otherwise provide care.

The bill requires a court to support an order that provides for unequal timesharing with written findings of fact.

II. Present Situation:

Parenting and Time-sharing

Florida Law

The public policy of the state is for each minor child to have “frequent and continuing contact with both parents.”¹ Additionally, a court must order shared parental responsibility for a minor child unless the court finds that shared responsibility would be detrimental to the child.² In determining timesharing with each parent, a court must consider the best interests of the child based on a specific list of factors.

Factors for the court to consider in determining the best interest of the child include:

- The demonstrated capacity of each parent to have a close and continuing parent-child relationship, honor the time-sharing schedule, and be reasonable when changes are required.
- The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child, including developmental needs.
- The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.
- The geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to effectuate the parenting plan.
- The moral fitness and the mental and physical health of the parents.
- The reasonable preference of the child, if the child is of sufficient intelligence, understanding, and experience to express a preference.
- The demonstrated capacity and disposition of each parent to provide a consistent routine for the child, such as discipline, and daily schedules for homework, meals, and bedtime, and to be involved in the child’s school and extracurricular activities.
- The demonstrated capacity of each parent to keep the other parent informed about the minor child, and the willingness of each parent to adopt a unified front on major issues.
- Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, or that either parent has knowingly provided false information about these issues. If the court accepts evidence of prior or pending actions on these issues, the court must acknowledge in writing that the evidence was considered in evaluating best interests.
- The particular parenting tasks customarily performed by each parent and the division of parental responsibilities before and during litigation, including the extent to which parenting responsibilities were undertaken by third parties.
- The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.³

A final factor provides the court with flexibility to consider any other factor relevant in establishing a parenting plan, including a time-sharing schedule.⁴

¹ Section 61.13(2)(c)1., F.S.

² Section 61.13 (2)(c)2., F.S.

³ Section 61.13(3), F.S.

⁴ Section 61.13(3)(t), F.S.

Equal Time-sharing in other States

No state has required the court to order equal time-sharing or joint custody of minor children. A number of states, in addition to Florida, provide in law a presumption that joint custody is in the best interest of the child. These states are the District of Columbia, Idaho, Minnesota, New Mexico, South Dakota, Texas, Utah, Virginia, West Virginia, and Wisconsin. Other states provide the presumption only if the parents agree. These states are Alabama, California, Connecticut, Maine, Michigan, Mississippi, Nevada, New Hampshire, and Vermont.⁵

Several state legislatures recently amended laws on child custody to encourage equal time-sharing. Arkansas codified a preference for joint custody.⁶ The South Dakota Legislature passed a law that permits the court to order joint physical custody when the court has awarded joint legal custody if it is in the best interest of the child.⁷ The Utah Legislature enacted a rebuttable presumption for joint legal custody. Grounds for rebutting the presumption include domestic violence and physical or mental needs of a parent or child.⁸

Presumption in Law

A presumption in law is a type of a rule of evidence calling for a certain result in a case. A presumption may be rebuttable or irrebuttable. A rebuttable presumption is an “inference drawn from certain facts that establish a prima facie case, which may be overcome by the introduction of contrary evidence.”⁹ An irrebuttable presumption may not be overcome.

III. Effect of Proposed Changes:

The bill provides additional guidelines for the court to use in determining a time-sharing schedule of a minor child.

Current law provides that the public policy of the state is for each minor to have frequent and continuing contact with both parents after the parents separate or divorce. Consistent with existing legislative intent, this bill creates a rebuttable presumption that approximately equal timesharing with a minor child by both parents is in the best interest of the child. A party may overcome the presumption by providing evidence based on factors that affect the welfare and interests of the child and the circumstance of the family.

Current law provides a list of factors for the court to consider in establishing or modifying a time-sharing schedule, based on the best interests of the child. In addition to the factors presently provided in law, this bill adds the following:

- The amount of timesharing requested by each parent; and
- The frequency that a parent would likely leave the child in the care of a nonrelative on evenings and weekends when the other parent would be available and willing to provide care.

⁵ National Conference of State Legislatures, *Shared/Joint Custody Enactments 2012* (Feb. 2015).

⁶ AR s. 901.

⁷ South Dakota House Bill 1055 (Chapter 141).

⁸ Utah HB 88 (Chapter 269); HB 107 (Chapter 271).

⁹ BLACK'S LAW DICTIONARY, (10th ed. 2014).

The bill also makes some revisions to the existing factors. Under existing law, a court must consider the demonstrated capacity of a parent undertaking various activities. The bill allows a court to consider the disposition of a parent to perform different parenting roles after a divorce.

Under the bill, if the initial permanent timesharing schedule does not provide for approximately equal time-sharing, the court order must include written findings of fact justifying its order for unequal timesharing.

The bill takes effect October 1, 2016.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

The bill does not affect cities or counties.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill creates a presumption that equal time-sharing is presumed to be in the best interest of a child. Assuming that placing a presumption in law simplifies time-sharing actions, parties to a time-sharing action may spend less on litigation costs.

C. Government Sector Impact:

None.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 61.13 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 January 26, 2016:

The CS:

- Removes all provisions relating to alimony and the collaborative law process;
- Leaves intact all provisions on time-sharing, including language providing that approximately equal time-sharing is presumed to be in the best interest of the child; and
- Provides a later effective date of October 1, 2016.

- B. **Amendments:**

None.



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LEGISLATIVE ACTION

Senate	.	House
Comm: RCS	.	
01/26/2016	.	
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	.	
	.	

The Committee on Judiciary (Stargel) recommended the following:

Senate Amendment (with title amendment)

Delete everything after the enacting clause
and insert:

Section 1. Subsection (3) of section 61.13, Florida
Statutes, is amended to read:

61.13 Support of children; parenting and time-sharing;
powers of court.—

(3) For purposes of establishing or modifying parental
responsibility and creating, developing, approving, or modifying
a parenting plan, including a time-sharing schedule, which



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governs each parent's relationship with his or her minor child and the relationship between each parent with regard to his or her minor child, the best interest of the child shall be the primary consideration.

(a) Approximately equal time-sharing with a minor child by both parents is presumed to be in the best interest of the child. In determining whether the presumption is overcome, the court shall evaluate the evidence based on ~~A determination of parental responsibility, a parenting plan, or a time-sharing schedule may not be modified without a showing of a substantial, material, and unanticipated change in circumstances and a determination that the modification is in the best interests of the child. Determination of the best interests of the child shall be made by evaluating~~ all of the factors affecting the welfare and interests of the particular minor child and the circumstances of that family, including, ~~but not limited to:~~

1.(a) The demonstrated capacity or ~~and~~ disposition of each parent to facilitate and encourage a close and continuing parent-child relationship, to honor the time-sharing schedule, and to be reasonable when changes are required.

2.(b) The anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.

3.(c) The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child as opposed to the needs or desires of the parent.

4.(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.



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41 5.~~(e)~~ The geographic viability of the parenting plan, with
42 special attention paid to the needs of school-age children and
43 the amount of time to be spent traveling to carry out ~~effectuate~~
44 the parenting plan. This factor does not create a presumption
45 for or against relocation of either parent with a child.

46 6.~~(f)~~ The moral fitness of the parents.

47 7.~~(g)~~ The mental and physical health of the parents.

48 8.~~(h)~~ The home, school, and community record of the child.

49 9.~~(i)~~ The reasonable preference of the child~~7~~, if the court
50 deems the child to be of sufficient intelligence, understanding,
51 and experience to express a preference.

52 10.~~(j)~~ The demonstrated knowledge, capacity, or ~~and~~
53 disposition of each parent to be informed of the circumstances
54 of the minor child, including, but not limited to, the child's
55 friends, teachers, medical care providers, daily activities, and
56 favorite things.

57 11.~~(k)~~ The demonstrated capacity or ~~and~~ disposition of each
58 parent to provide a consistent routine for the child, such as
59 discipline~~7~~ and daily schedules for homework, meals, and
60 bedtime.

61 12.~~(l)~~ The demonstrated capacity of each parent to
62 communicate with the other parent and keep the other parent
63 informed of issues and activities regarding the minor child, and
64 the willingness of each parent to adopt a unified front on all
65 major issues when dealing with the child.

66 13.~~(m)~~ Evidence of domestic violence, sexual violence,
67 child abuse, child abandonment, or child neglect, regardless of
68 whether a prior or pending action relating to those issues has
69 been brought. If the court accepts evidence of prior or pending



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actions regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect, the court must specifically acknowledge in writing that such evidence was considered when evaluating the best interests of the child.

14.~~(n)~~ Evidence that either parent has knowingly provided false information to the court regarding any prior or pending action regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect.

15.~~(o)~~ The demonstrated capacity or disposition of each parent to perform or ensure the performance of particular parenting tasks customarily performed by the other ~~each~~ parent and the division of parental responsibilities before the institution of litigation and during the pending litigation, including the extent to which parenting responsibilities were undertaken by third parties.

16.~~(p)~~ The demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.

17.~~(q)~~ The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.

18.~~(r)~~ The capacity and disposition of each parent to protect the child from the ongoing litigation as demonstrated by not discussing the litigation with the child, not sharing documents or electronic media related to the litigation with the child, and refraining from disparaging comments about the other parent to the child.

19.~~(s)~~ The developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet



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the child's developmental needs.

20. The amount of time-sharing requested by each parent.

21. The frequency that a parent would likely leave the child in the care of a nonrelative on evenings and weekends when the other parent would be available and willing to provide care.

22.~~(t)~~ Any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.

(b) A court order must be supported by written findings of fact if the order establishes an initial permanent time-sharing schedule that does not provide for approximately equal time-sharing.

(c) A determination of parental responsibility, a parenting plan, or a time-sharing schedule may not be modified without a determination that such modification is in the best interest of the child and upon a showing of a substantial, material, and unanticipated change in circumstances.

Section 2. This act shall take effect October, 1, 2016.

===== 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 parenting and time-sharing;
amending s. 61.13, F.S.; creating a presumption that
approximately equal time-sharing by both parents is in
the best interest of the child; revising a finite list
of factors that a court must evaluate when determining



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128 whether the presumption of approximately equal time-
129 sharing is overcome; requiring a court order to be
130 supported by written findings of fact under certain
131 circumstances; prohibiting the modification of a
132 determination of parental responsibility, a parenting
133 plan, or a time-sharing schedule unless certain
134 determinations are made; providing an effective date.

By Senator Lee

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1 A bill to be entitled
 2 An act relating to family law; amending s. 61.071,
 3 F.S.; requiring a court to consider certain alimony
 4 factors and make specific written findings of fact
 5 after making specified determinations; prohibiting a
 6 court from using certain presumptive alimony
 7 guidelines in calculating alimony pendente lite;
 8 amending s. 61.08, F.S.; defining terms; requiring a
 9 court to make specified initial written findings in a
 10 dissolution of marriage proceeding where a party has
 11 requested alimony; requiring a court to make specified
 12 findings before ruling on a request for alimony;
 13 providing for determinations of presumptive alimony
 14 amount range and duration range; providing
 15 presumptions concerning alimony awards depending on
 16 the duration of marriages; providing for imputation of
 17 income in certain circumstances; providing for awards
 18 of nominal alimony in certain circumstances; providing
 19 for taxability and deductibility of alimony awards;
 20 prohibiting a combined award of alimony and child
 21 support from constituting more than a specified
 22 percentage of a payor's net income; authorizing the
 23 court to order a party to protect an alimony award by
 24 specified means; providing for termination of an
 25 alimony award; authorizing a court to modify or
 26 terminate the amount of an initial alimony award;
 27 prohibiting a court from modifying the duration of an
 28 alimony award; providing for payment of awards;
 29 amending s. 61.13, F.S.; creating a presumption that

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30 approximately equal time-sharing by both parents is in
 31 the best interest of the child; revising a finite list
 32 of factors that a court must evaluate when determining
 33 whether the presumption of approximately equal time-
 34 sharing is overcome; requiring a court order to be
 35 supported by written findings of fact under certain
 36 circumstances; prohibiting a determination of parental
 37 responsibility, a parenting plan, or a time-sharing
 38 schedule unless certain determinations are made;
 39 reenacting and amending s. 61.14, F.S.; providing that
 40 a party may pursue an immediate modification of
 41 alimony in certain circumstances; revising factors to
 42 be considered in determining whether an existing award
 43 of alimony should be reduced or terminated because of
 44 an alleged supportive relationship; providing for
 45 burden of proof for claims concerning the existence of
 46 supportive relationships; providing for the effective
 47 date of a reduction or termination of an alimony
 48 award; providing that the remarriage of an alimony
 49 obligor is not a substantial change in circumstance;
 50 providing that the financial information of a spouse
 51 of a party paying or receiving alimony is inadmissible
 52 and undiscoverable; providing an exception; providing
 53 for modification or termination of an award based on a
 54 party's retirement; providing a presumption upon a
 55 finding of a substantial change in circumstance;
 56 specifying factors to be considered in determining
 57 whether to modify or terminate an award based on a
 58 substantial change in circumstance; providing for a

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59 temporary suspension of an obligor's payment of
 60 alimony while his or her petition for modification or
 61 termination is pending; providing for an award of
 62 attorney fees and costs to the prevailing party when a
 63 party unreasonably pursues or defends modification of
 64 an alimony award; providing for an effective date of a
 65 modification or termination of an award; creating s.
 66 61.192, F.S.; providing for motions to advance the
 67 trial of certain actions if a specified period has
 68 passed since the initial service on the respondent;
 69 amending s. 61.30, F.S.; providing that whenever a
 70 combined alimony and child support award constitutes
 71 more than a specified percentage of a payor's net
 72 income, the child support award be adjusted to reduce
 73 the combined total; providing applicability; providing
 74 a directive to the Division of Law Revision and
 75 Information; providing legislative findings; creating
 76 s. 61.55, F.S.; providing a purpose; creating s.
 77 61.56, F.S.; defining terms; creating s. 61.57, F.S.;
 78 providing that a collaborative law process commences
 79 when the parties enter into a collaborative law
 80 participation agreement; prohibiting a tribunal from
 81 ordering a party to participate in a collaborative law
 82 process over the party's objection; providing the
 83 conditions under which a collaborative law process
 84 concludes, terminates, or continues; creating s.
 85 61.58, F.S.; providing for confidentiality of
 86 communications made during the collaborative law
 87 process; providing exceptions; reenacting s.

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88 61.052(1)(b), F.S., relating to dissolution of
 89 marriage, to incorporate the amendment made to s.
 90 61.08, F.S., in a reference thereto; reenacting ss.
 91 409.2563(10)(c) and 742.031(4)(b), F.S., relating to
 92 administrative establishments of child support
 93 obligations, and hearings and court orders for
 94 support, respectively, to incorporate the amendment
 95 made to s. 61.14, F.S., in references thereto;
 96 providing that specified provisions do not take effect
 97 until 30 days after the Florida Supreme Court adopts
 98 rules of procedure and professional responsibility;
 99 providing effective dates.

100
 101 Be It Enacted by the Legislature of the State of Florida:

102
 103 Section 1. Effective October 1, 2016, section 61.071,
 104 Florida Statutes, is amended to read:

105 61.071 Alimony pendente lite; suit money.—In every
 106 proceeding for dissolution of the marriage, a party may claim
 107 alimony and suit money in the petition or by motion, and if the
 108 petition is well founded, the court shall allow a reasonable sum
 109 therefor. If a party in any proceeding for dissolution of
 110 marriage claims alimony or suit money in his or her answer or by
 111 motion, and the answer or motion is well founded, the court
 112 shall allow a reasonable sum therefor. After determining that
 113 there is a need for alimony and that there is an ability to pay
 114 alimony, the court shall consider the alimony factors in s.
 115 61.08(4)(b)1.-14. and make specific written findings of fact
 116 regarding the relevant factors that justify an award of alimony

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under this section. The court may not use the presumptive alimony guidelines in s. 61.08 to calculate alimony under this section.

Section 2. Effective October 1, 2016, section 61.08, Florida Statutes, is amended to read:

(Substantial rewording of section. See

s. 61.08, F.S., for present text.)

61.08 Alimony.—

(1) DEFINITIONS.—As used in this section, unless the context otherwise requires, the term:

(a)1. "Gross income" means recurring income from any source and includes, but is not limited to:

a. Income from salaries.

b. Wages, including tips declared by the individual for purposes of reporting to the Internal Revenue Service or tips imputed to bring the employee's gross earnings to the minimum wage for the number of hours worked, whichever is greater.

c. Commissions.

d. Payments received as an independent contractor for labor or services, which payments must be considered income from self-employment.

e. Bonuses.

f. Dividends.

g. Severance pay.

h. Pension payments and retirement benefits actually received.

i. Royalties.

j. Rental income, which is gross receipts minus ordinary and necessary expenses required to produce the income.

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k. Interest.

l. Trust income and distributions regularly received, relied upon, or readily available to the beneficiary.

m. Annuity payments.

n. Capital gains.

o. Any money drawn by a self-employed individual for personal use that is deducted as a business expense, which moneys must be considered income from self-employment.

p. Social security benefits, including social security benefits actually received by a party as a result of the disability of that party.

q. Workers' compensation benefits.

r. Unemployment insurance benefits.

s. Disability insurance benefits.

t. Funds payable from any health, accident, disability, or casualty insurance to the extent that such insurance replaces wages or provides income in lieu of wages.

u. Continuing monetary gifts.

v. Income from general partnerships, limited partnerships, closely held corporations, or limited liability companies; except that if a party is a passive investor, has a minority interest in the company, and does not have any managerial duties or input, the income to be recognized may be limited to actual cash distributions received.

w. Expense reimbursements or in-kind payments or benefits received by a party in the course of employment, self-employment, or operation of a business which reduce personal living expenses.

x. Overtime pay.

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175 y. Income from royalties, trusts, or estates.
 176 z. Spousal support received from a previous marriage.
 177 aa. Gains derived from dealings in property, unless the
 178 gain is nonrecurring.
 179 2. "Gross income" does not include:
 180 a. Child support payments received.
 181 b. Benefits received from public assistance programs.
 182 c. Social security benefits received by a parent on behalf
 183 of a minor child as a result of the death or disability of a
 184 parent or stepparent.
 185 d. Earnings or gains on retirement accounts, including
 186 individual retirement accounts; except that such earnings or
 187 gains shall be included as income if a party takes a
 188 distribution from the account. If a party is able to take a
 189 distribution from the account without being subject to a federal
 190 tax penalty for early distribution and the party chooses not to
 191 take such a distribution, the court may consider the
 192 distribution that could have been taken in determining the
 193 party's gross income.
 194 3.a. For income from self-employment, rent, royalties,
 195 proprietorship of a business, or joint ownership of a
 196 partnership or closely held corporation, the term "gross income"
 197 equals gross receipts minus ordinary and necessary expenses, as
 198 defined in sub-subparagraph b., which are required to produce
 199 such income.
 200 b. "Ordinary and necessary expenses," as used in sub-
 201 paragraph a., does not include amounts allowable by the
 202 Internal Revenue Service for the accelerated component of
 203 depreciation expenses or investment tax credits or any other

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204 business expenses determined by the court to be inappropriate
 205 for determining gross income for purposes of calculating
 206 alimony.
 207 (b) "Potential income" means income which could be earned
 208 by a party using his or her best efforts and includes potential
 209 income from employment and potential income from the investment
 210 of assets or use of property. Potential income from employment
 211 is the income which a party could reasonably expect to earn by
 212 working at a locally available, full-time job commensurate with
 213 his or her education, training, and experience. Potential income
 214 from the investment of assets or use of property is the income a
 215 party could reasonably expect to earn from the investment of his
 216 or her assets or the use of his or her property in a financially
 217 prudent manner.
 218 (c)1. "Underemployed" means a party is not working full-
 219 time in a position which is appropriate, based upon his or her
 220 educational training and experience, and available in the
 221 geographical area of his or her residence.
 222 2. A party is not considered "underemployed" if he or she
 223 is enrolled in an educational program that can be reasonably
 224 expected to result in a degree or certification within a
 225 reasonable period, so long as the educational program is:
 226 a. Expected to result in higher income within the
 227 foreseeable future.
 228 b. A good faith educational choice based upon the previous
 229 education, training, skills, and experience of the party and the
 230 availability of immediate employment based upon the educational
 231 program being pursued.
 232 (d) "Years of marriage" means the number of whole years,

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beginning from the date of the parties' marriage until the date of the filing of the action for dissolution of marriage.

(2) INITIAL FINDINGS.—When a party has requested alimony in a dissolution of marriage proceeding, before granting or denying an award of alimony, the court shall make initial written findings as to:

(a) The amount of each party's monthly gross income, including, but not limited to, the actual or potential income, and also including actual or potential income from nonmarital or marital property distributed to each party.

(b) The years of marriage as determined from the date of marriage through the date of the filing of the action for dissolution of marriage.

(3) ALIMONY GUIDELINES.—After making the initial findings described in subsection (2), the court shall calculate the presumptive alimony amount range and the presumptive alimony duration range. The court shall make written findings as to the presumptive alimony amount range and presumptive alimony duration range.

(a) Presumptive alimony amount range.—The low end of the presumptive alimony amount range shall be calculated by using the following formula:

$(0.015 \times \text{the years of marriage}) \times \text{the difference between the monthly gross incomes of the parties}$

The high end of the presumptive alimony amount range shall be calculated by using the following formula:

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$(0.020 \times \text{the years of marriage}) \times \text{the difference between the monthly gross incomes of the parties}$

For purposes of calculating the presumptive alimony amount range, 20 years of marriage shall be used in calculating the low end and high end for marriages of 20 years or more. In calculating the difference between the parties' monthly gross income, the income of the party seeking alimony shall be subtracted from the income of the other party. If the application of the formulas to establish a guideline range results in a negative number, the presumptive alimony amount shall be \$0. If a court establishes the duration of the alimony award at 50 percent or less of the length of the marriage, the court shall use the actual years of the marriage, up to a maximum of 25 years, to calculate the high end of the presumptive alimony amount range.

(b) Presumptive alimony duration range.—The low end of the presumptive alimony duration range shall be calculated by using the following formula:

$0.25 \times \text{the years of marriage}$

The high end of the presumptive alimony duration range shall be calculated by using the following formula:

$0.75 \times \text{the years of marriage.}$

(4) ALIMONY AWARD.—

(a) Marriages of 2 years or less.—For marriages of 2 years

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or less, there is a rebuttable presumption that no alimony shall be awarded. The court may award alimony for a marriage with a duration of 2 years or less only if the court makes written findings that there is a clear and convincing need for alimony, there is an ability to pay alimony, and that the failure to award alimony would be inequitable. The court shall then establish the alimony award in accordance with paragraph (b).

(b) Marriages of more than 2 years.—Absent an agreement of the parties, alimony shall presumptively be awarded in an amount within the alimony amount range calculated in paragraph (3)(a). Absent an agreement of the parties, alimony shall presumptively be awarded for a duration within the alimony duration range calculated in paragraph (3)(b). In determining the amount and duration of the alimony award, the court shall consider all of the following factors upon which evidence was presented:

1. The financial resources of the recipient spouse, including the actual or potential income from nonmarital or marital property or any other source and the ability of the recipient spouse to meet his or her reasonable needs independently.

2. The financial resources of the payor spouse, including the actual or potential income from nonmarital or marital property or any other source and the ability of the payor spouse to meet his or her reasonable needs while paying alimony.

3. The standard of living of the parties during the marriage with consideration that there will be two households to maintain after the dissolution of the marriage and that neither party may be able to maintain the same standard of living after the dissolution of the marriage.

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4. The equitable distribution of marital property, including whether an unequal distribution of marital property was made to reduce or alleviate the need for alimony.

5. Both parties' income, employment, and employability, obtainable through reasonable diligence and additional training or education, if necessary, and any necessary reduction in employment due to the needs of an unemancipated child of the marriage or the circumstances of the parties.

6. Whether a party could become better able to support himself or herself and reduce the need for ongoing alimony by pursuing additional educational or vocational training along with all of the details of such educational or vocational plan, including, but not limited to, the length of time required and the anticipated costs of such educational or vocational training.

7. Whether one party has historically earned higher or lower income than the income reflected at the time of trial and the duration and consistency of income from overtime or secondary employment.

8. Whether either party has foregone or postponed economic, educational, or employment opportunities during the course of the marriage.

9. Whether either party has caused the unreasonable depletion or dissipation of marital assets.

10. The amount of temporary alimony and the number of months that temporary alimony was paid to the recipient spouse.

11. The age, health, and physical and mental condition of the parties, including consideration of significant health care needs or uninsured or unreimbursed health care expenses.

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349 12. Significant economic or noneconomic contributions to
 350 the marriage or to the economic, educational, or occupational
 351 advancement of a party, including, but not limited to, services
 352 rendered in homemaking, child care, education, and career
 353 building of the other party, payment by one spouse of the other
 354 spouse's separate debts, or enhancement of the other spouse's
 355 personal or real property.

356 13. The tax consequence of the alimony award.

357 14. Any other factor necessary to do equity and justice
 358 between the parties.

359 (c) Deviation from guidelines.—The court may establish an
 360 award of alimony that is outside the presumptive alimony amount
 361 or alimony duration ranges only if the court considers all of
 362 the factors in paragraph (b) and makes specific written findings
 363 concerning the relevant factors justifying that the application
 364 of the presumptive alimony amount or alimony duration ranges, as
 365 applicable, is inappropriate or inequitable.

366 (d) Order establishing alimony award.—After consideration
 367 of the presumptive alimony amount and duration ranges in
 368 accordance with paragraphs (3) (a) and (3) (b) and the factors
 369 upon which evidence was presented in accordance with paragraph
 370 (b), the court may establish an alimony award. An order
 371 establishing an alimony award must clearly set forth both the
 372 amount and the duration of the award. The court shall also make
 373 a written finding that the payor has the financial ability to
 374 pay the award.

375 (5) IMPUTATION OF INCOME.—If a party is voluntarily
 376 unemployed or underemployed, alimony shall be calculated based
 377 on a determination of potential income unless the court makes

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378 specific written findings regarding the circumstances that make
 379 it inequitable to impute income.

380 (6) NOMINAL ALIMONY.—Notwithstanding subsections (1), (3),
 381 and (4), the court may make an award of nominal alimony in the
 382 amount of \$1 per year if, at the time of trial, a party who has
 383 traditionally provided the primary source of financial support
 384 to the family temporarily lacks the ability to pay support but
 385 is reasonably anticipated to have the ability to pay support in
 386 the future. The court may also award nominal alimony for an
 387 alimony recipient who is presently able to work but for whom a
 388 medical condition with a reasonable degree of medical certainty
 389 may inhibit or prevent his or her ability to work during the
 390 duration of the alimony period. The duration of the nominal
 391 alimony shall be established within the presumptive durational
 392 range based upon the length of the marriage subject to the
 393 alimony factors in paragraph (4) (b). Before the expiration of
 394 the durational period, nominal alimony may be modified in
 395 accordance with s. 61.14 as to amount to a full alimony award
 396 using the alimony guidelines and factors in accordance with this
 397 section.

398 (7) TAXABILITY AND DEDUCTIBILITY OF ALIMONY.—

399 (a) Unless otherwise stated in the judgment or order for
 400 alimony or in an agreement incorporated thereby, alimony shall
 401 be deductible from income by the payor under s. 215 of the
 402 Internal Revenue Code and includable in the income of the payee
 403 under s. 71 of the Internal Revenue Code.

404 (b) When making a judgment or order for alimony, the court
 405 may, in its discretion after weighing the equities and tax
 406 efficiencies, order alimony be nondeductible from income by the

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payor and nonincludable in the income of the payee.

(c) The parties may, in a marital settlement agreement, separation agreement, or related agreement, specifically agree in writing that alimony be nondeductible from income by the payor and nonincludable in the income of the payee.

(8) MAXIMUM COMBINED AWARD.—A combined award of alimony and child support may not constitute more than 55 percent of the payor's net income, calculated without any consideration of alimony or child support obligations.

(9) SECURITY OF AWARD.—To the extent necessary to protect an award of alimony, the court may order any party who is ordered to pay alimony to purchase or maintain a decreasing term life insurance policy or a bond, or to otherwise secure such alimony award with any other assets that may be suitable for that purpose, in an amount adequate to secure the alimony award. Any such security may be awarded only upon a showing of special circumstances. If the court finds special circumstances and awards such security, the court must make specific evidentiary findings regarding the availability, cost, and financial impact on the obligated party. Any security may be modifiable in the event the underlying alimony award is modified and shall be reduced in an amount commensurate with any reduction in the alimony award.

(10) TERMINATION OF AWARD.—An alimony award shall terminate upon the death of either party or the remarriage of the obligee.

(11) MODIFICATION OF AWARD.—A court may subsequently modify or terminate the amount of an award of alimony initially established under this section in accordance with s. 61.14. However, a court may not modify the duration of an award of

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alimony initially established under this section.

(12) PAYMENT OF AWARD.—

(a) With respect to an order requiring the payment of alimony entered on or after January 1, 1985, unless paragraph (c) or paragraph (d) applies, the court shall direct in the order that the payments of alimony be made through the appropriate depository as provided in s. 61.181.

(b) With respect to an order requiring the payment of alimony entered before January 1, 1985, upon the subsequent appearance, on or after that date, of one or both parties before the court having jurisdiction for the purpose of modifying or enforcing the order or in any other proceeding related to the order, or upon the application of either party, unless paragraph (c) or paragraph (d) applies, the court shall modify the terms of the order as necessary to direct that payments of alimony be made through the appropriate depository as provided in s. 61.181.

(c) If there is no minor child, alimony payments do not need to be directed through the depository.

(d)1. If there is a minor child of the parties and both parties so request, the court may order that alimony payments do not need to be directed through the depository. In this case, the order of support shall provide, or be deemed to provide, that either party may subsequently apply to the depository to require that payments be made through the depository. The court shall provide a copy of the order to the depository.

2. If subparagraph 1. applies, either party may subsequently file with the clerk of the court a verified motion alleging a default or arrearages in payment stating that the

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party wishes to initiate participation in the depository program. The moving party shall copy the other party with the motion. No later than 15 days after filing the motion, the court shall conduct an evidentiary hearing establishing the default and arrearages, if any, and issue an order directing the clerk of the circuit court to establish, or amend an existing, family law case history account, and further advising the parties that future payments must thereafter be directed through the depository.

3. In IV-D cases, the Title IV-D agency shall have the same rights as the obligee in requesting that payments be made through the depository.

Section 3. Effective October 1, 2016, subsection (3) of section 61.13, Florida Statutes, is amended to read:

61.13 Support of children; parenting and time-sharing; powers of court.—

(3) For purposes of establishing or modifying parental responsibility and creating, developing, approving, or modifying a parenting plan, including a time-sharing schedule, which governs each parent's relationship with his or her minor child and the relationship between each parent with regard to his or her minor child, the best interest of the child shall be the primary consideration.

(a) Approximately equal time-sharing with a minor child by both parents is presumed to be in the best interest of the child. In determining whether the presumption is overcome, the court shall evaluate the evidence based on A determination of parental responsibility, a parenting plan, or a time sharing schedule may not be modified without a showing of a substantial,

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~~material, and unanticipated change in circumstances and a determination that the modification is in the best interests of the child. Determination of the best interests of the child shall be made by evaluating~~ all of the factors affecting the welfare and interests of the particular minor child and the circumstances of that family, including, ~~but not limited to:~~

1.(a) The demonstrated capacity ~~or~~ and disposition of each parent to facilitate and encourage a close and continuing parent-child relationship, to honor the time-sharing schedule, and to be reasonable when changes are required.

2.(b) The anticipated division of parental responsibilities after the litigation, including the extent to which parental responsibilities will be delegated to third parties.

3.(c) The demonstrated capacity and disposition of each parent to determine, consider, and act upon the needs of the child as opposed to the needs or desires of the parent.

4.(d) The length of time the child has lived in a stable, satisfactory environment and the desirability of maintaining continuity.

5.(e) The geographic viability of the parenting plan, with special attention paid to the needs of school-age children and the amount of time to be spent traveling to carry out ~~effectuate~~ the parenting plan. This factor does not create a presumption for or against relocation of either parent with a child.

6.(f) The moral fitness of the parents.

7.(g) The mental and physical health of the parents.

8.(h) The home, school, and community record of the child.

9.(i) The reasonable preference of the child, if the court deems the child to be of sufficient intelligence, understanding,

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and experience to express a preference.

~~10.(f)~~ The demonstrated knowledge, capacity, ~~or~~ and disposition of each parent to be informed of the circumstances of the minor child, including, but not limited to, the child's friends, teachers, medical care providers, daily activities, and favorite things.

~~11.(k)~~ The demonstrated capacity ~~or~~ and disposition of each parent to provide a consistent routine for the child, such as discipline, and daily schedules for homework, meals, and bedtime.

~~12.(i)~~ The demonstrated capacity of each parent to communicate with the other parent and keep the other parent informed of issues and activities regarding the minor child, and the willingness of each parent to adopt a unified front on all major issues when dealing with the child.

~~13.(m)~~ Evidence of domestic violence, sexual violence, child abuse, child abandonment, or child neglect, regardless of whether a prior or pending action relating to those issues has been brought. If the court accepts evidence of prior or pending actions regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect, the court must specifically acknowledge in writing that such evidence was considered when evaluating the best interests of the child.

~~14.(n)~~ Evidence that either parent has knowingly provided false information to the court regarding any prior or pending action regarding domestic violence, sexual violence, child abuse, child abandonment, or child neglect.

~~15.(o)~~ The demonstrated capacity or disposition of each parent to perform or ensure the performance of particular

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parenting tasks customarily performed by the other ~~each~~ parent and the division of parental responsibilities before the institution of litigation and during the pending litigation, including the extent to which parenting responsibilities were undertaken by third parties.

~~16.(p)~~ The demonstrated capacity and disposition of each parent to participate and be involved in the child's school and extracurricular activities.

~~17.(q)~~ The demonstrated capacity and disposition of each parent to maintain an environment for the child which is free from substance abuse.

~~18.(r)~~ The capacity and disposition of each parent to protect the child from the ongoing litigation as demonstrated by not discussing the litigation with the child, not sharing documents or electronic media related to the litigation with the child, and refraining from disparaging comments about the other parent to the child.

~~19.(s)~~ The developmental stages and needs of the child and the demonstrated capacity and disposition of each parent to meet the child's developmental needs.

20. The amount of time-sharing requested by each parent.

21. The frequency that a parent would likely leave the child in the care of a nonrelative on evenings and weekends when the other parent would be available and willing to provide care.

~~22.(t)~~ Any other factor that is relevant to the determination of a specific parenting plan, including the time-sharing schedule.

(b) A court order must be supported by written findings of fact if the order establishes an initial permanent time-sharing

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581 schedule that does not provide for approximately equal time-
 582 sharing.

583 (c) A determination of parental responsibility, a parenting
 584 plan, or a time-sharing schedule may not be modified without a
 585 determination that such modification is in the best interest of
 586 the child and upon a showing of a substantial, material, and
 587 unanticipated change in circumstances.

588 Section 4. Effective October 1, 2016, subsection (1) of
 589 section 61.14, Florida Statutes, is amended, and paragraph (a)
 590 of subsection (5) is reenacted, to read:

591 61.14 Enforcement and modification of support, maintenance,
 592 or alimony agreements or orders.—

593 (1)(a) When the parties enter into an agreement for
 594 payments for, or instead of, support, maintenance, or alimony,
 595 whether in connection with a proceeding for dissolution or
 596 separate maintenance or with any voluntary property settlement,
 597 or when a party is required by court order to make any payments,
 598 and the circumstances or the financial ability of either party
 599 changes or the child who is a beneficiary of an agreement or
 600 court order as described herein reaches majority after the
 601 execution of the agreement or the rendition of the order, either
 602 party may apply to the circuit court of the circuit in which the
 603 parties, or either of them, resided at the date of the execution
 604 of the agreement or reside at the date of the application, or in
 605 which the agreement was executed or in which the order was
 606 rendered, for an order decreasing or increasing the amount of
 607 support, maintenance, or alimony, and the court has jurisdiction
 608 to make orders as equity requires, with due regard to the
 609 changed circumstances or the financial ability of the parties or

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610 the child, decreasing, increasing, or confirming the amount of
 611 separate support, maintenance, or alimony provided for in the
 612 agreement or order. However, a court may not decrease or
 613 increase the duration of alimony provided for in the agreement
 614 or order. A party is entitled to pursue an immediate
 615 modification of alimony if the actual income earned by the other
 616 party exceeds by at least 10 percent the amount imputed to that
 617 party at the time the existing alimony award was determined and
 618 such circumstance shall constitute a substantial change in
 619 circumstance sufficient to support a modification of alimony.
 620 However, an increase in an alimony obligor's income alone does
 621 not constitute a basis for a modification to increase alimony
 622 unless at the time the alimony award was established it was
 623 determined that the obligor was underemployed or unemployed and
 624 the court did not impute income to that party at his or her
 625 maximum potential income. If an alimony obligor becomes
 626 involuntarily underemployed or unemployed for 6 months after the
 627 entry of the last order requiring the payment of alimony, the
 628 obligor is entitled to pursue an immediate modification of his
 629 or her existing alimony obligations and such circumstance shall
 630 constitute a substantial change in circumstance sufficient to
 631 support a modification of alimony. A finding that medical
 632 insurance is reasonably available or the child support
 633 guidelines schedule in s. 61.30 may constitute changed
 634 circumstances. Except as otherwise provided in s. 61.30(11)(c),
 635 the court may modify an order of support, maintenance, or
 636 alimony by increasing or decreasing the support, maintenance, or
 637 alimony retroactively to the date of the filing of the action or
 638 supplemental action for modification as equity requires, giving

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due regard to the changed circumstances or the financial ability of the parties or the child.

(b)1. The court may reduce or terminate an award of alimony upon specific written findings by the court that since the granting of a divorce and the award of alimony a supportive relationship exists or has existed within the previous year before the date of the filing of the petition for modification or termination between the obligee and another a person ~~with whom the obligee resides. On the issue of whether alimony should be reduced or terminated under this paragraph, the burden is on the obligor to prove by a preponderance of the evidence that a supportive relationship exists.~~

2. In determining whether an existing award of alimony should be reduced or terminated because of an alleged supportive relationship between an obligee and a person who is not related by consanguinity or affinity ~~and with whom the obligee resides~~, the court shall elicit the nature and extent of the relationship in question. The court shall give consideration, without limitation, to circumstances, including, but not limited to, the following, in determining the relationship of an obligee to another person:

a. The extent to which the obligee and the other person have held themselves out as a married couple by engaging in conduct such as using the same last name, using a common mailing address, referring to each other ~~in terms such as "my spouse" "my husband" or "my wife,"~~ or otherwise conducting themselves in a manner that evidences a permanent supportive relationship.

b. The period of time that the obligee has resided with the other person in a permanent place of abode.

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c. The extent to which the obligee and the other person have pooled their assets or income or otherwise exhibited financial interdependence.

d. The extent to which the obligee or the other person has supported the other, in whole or in part.

e. The extent to which the obligee or the other person has performed valuable services for the other.

f. The extent to which the obligee or the other person has performed valuable services for the other's company or employer.

g. Whether the obligee and the other person have worked together to create or enhance anything of value.

h. Whether the obligee and the other person have jointly contributed to the purchase of any real or personal property.

i. Evidence in support of a claim that the obligee and the other person have an express agreement regarding property sharing or support.

j. Evidence in support of a claim that the obligee and the other person have an implied agreement regarding property sharing or support.

k. Whether the obligee and the other person have provided support to the children of one another, regardless of any legal duty to do so.

1. Whether the obligor's failure, in whole or in part, to comply with all court-ordered financial obligations to the obligee constituted a significant factor in the establishment of the supportive relationship.

3. In any proceeding to modify an alimony award based upon a supportive relationship, the obligor has the burden of proof to establish, by a preponderance of the evidence, that a

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697 supportive relationship exists or has existed within the
 698 previous year before the date of the filing of the petition for
 699 modification or termination. The obligor is not required to
 700 prove cohabitation of the obligee and the third party.

701 4. Notwithstanding paragraph (f), if a reduction or
 702 termination is granted under this paragraph, the reduction or
 703 termination is retroactive to the date of filing of the petition
 704 for reduction or termination.

705 5.3- This paragraph does not abrogate the requirement that
 706 every marriage in this state be solemnized under a license, does
 707 not recognize a common law marriage as valid, and does not
 708 recognize a de facto marriage. This paragraph recognizes only
 709 that relationships do exist that provide economic support
 710 equivalent to a marriage and that alimony terminable on
 711 remarriage may be reduced or terminated upon the establishment
 712 of equivalent equitable circumstances as described in this
 713 paragraph. The existence of a conjugal relationship, though it
 714 may be relevant to the nature and extent of the relationship, is
 715 not necessary for the application of the provisions of this
 716 paragraph.

717 (c)1. For purposes of this section, the remarriage of an
 718 alimony obligor does not constitute a substantial change in
 719 circumstance or a basis for a modification of alimony.

720 2. The financial information, including, but not limited
 721 to, information related to assets and income, of a subsequent
 722 spouse of a party paying or receiving alimony is inadmissible
 723 and may not be considered as a part of any modification action
 724 unless a party is claiming that his or her income has decreased
 725 since the marriage. If a party makes such a claim, the financial

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726 information of the subsequent spouse is discoverable and
 727 admissible only to the extent necessary to establish whether the
 728 party claiming that his or her income has decreased is diverting
 729 income or assets to the subsequent spouse that might otherwise
 730 be available for the payment of alimony. However, this
 731 subparagraph may not be used to prevent the discovery of or
 732 admissibility in evidence of the income or assets of a party
 733 when those assets are held jointly with a subsequent spouse.
 734 This subparagraph is not intended to prohibit the discovery or
 735 admissibility of a joint tax return filed by a party and his or
 736 her subsequent spouse in connection with a modification of
 737 alimony.

738 (d)1. An obligor may file a petition for modification or
 739 termination of an alimony award based upon his or her actual
 740 retirement.

741 a. A substantial change in circumstance is deemed to exist
 742 if:

743 (I) The obligor has reached the age for eligibility to
 744 receive full retirement benefits under s. 216 of the Social
 745 Security Act, 42 U.S.C. s. 416, and has retired; or

746 (II) The obligor has reached the customary retirement age
 747 for his or her occupation and has retired from that occupation.
 748 An obligor may file an action within 1 year of his or her
 749 anticipated retirement date and the court shall determine the
 750 customary retirement date for the obligor's profession. However,
 751 a determination of the customary retirement age is not an
 752 adjudication of a petition for a modification of an alimony
 753 award.

754 b. If an obligor voluntarily retires before reaching any of

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the ages described in sub-subparagraph a., the court shall determine whether the obligor's retirement is reasonable upon consideration of the obligor's age, health, and motivation for retirement and the financial impact on the obligee. A finding of reasonableness by the court shall constitute a substantial change in circumstance.

2. Upon a finding of a substantial change in circumstance, there is a rebuttable presumption that an obligor's existing alimony obligation shall be modified or terminated. The court shall modify or terminate the alimony obligation, or make a determination regarding whether the rebuttable presumption has been overcome, based upon the following factors applied to the current circumstances of the obligor and obligee:

a. The age of the parties.

b. The health of the parties.

c. The assets and liabilities of the parties.

d. The earned or imputed income of the parties as provided in s. 61.08(1)(a) and (5).

e. The ability of the parties to maintain part-time or full-time employment.

f. Any other factor deemed relevant by the court.

3. The court may temporarily reduce or suspend the obligor's payment of alimony while his or her petition for modification or termination under this paragraph is pending.

(e) A party who unreasonably pursues or defends an action for modification of alimony shall be required to pay the reasonable attorney fees and costs of the prevailing party. Further, a party obligated to pay prevailing party attorney fees and costs in connection with unreasonably pursuing or defending

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an action for modification is not entitled to an award of attorney fees and cost in accordance with s. 61.16.

(f) There is a rebuttable presumption that a modification or termination of an alimony award is retroactive to the date of the filing of the petition, unless the obligee demonstrates that the result is inequitable.

(g)(e) For each support order reviewed by the department as required by s. 409.2564(11), if the amount of the child support award under the order differs by at least 10 percent but not less than \$25 from the amount that would be awarded under s. 61.30, the department shall seek to have the order modified and any modification shall be made without a requirement for proof or showing of a change in circumstances.

(h)(d) The department may ~~shall have authority to~~ adopt rules to implement this section.

(5) (a) When a court of competent jurisdiction enters an order for the payment of alimony or child support or both, the court shall make a finding of the obligor's imputed or actual present ability to comply with the order. If the obligor subsequently fails to pay alimony or support and a contempt hearing is held, the original order of the court creates a presumption that the obligor has the present ability to pay the alimony or support and to purge himself or herself from the contempt. At the contempt hearing, the obligor shall have the burden of proof to show that he or she lacks the ability to purge himself or herself from the contempt. This presumption is adopted as a presumption under s. 90.302(2) to implement the public policy of this state that children shall be maintained from the resources of their parents and as provided for in s.

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813 409.2551, and that spouses be maintained as provided for in s.
814 61.08. The court shall state in its order the reasons for
815 granting or denying the contempt.

816 Section 5. Effective October 1, 2016, section 61.192,
817 Florida Statutes, is created to read:

818 61.192 Advancing trial.—In an action brought pursuant to
819 this chapter, if more than 2 years have passed since the initial
820 petition was served on the respondent, either party may move the
821 court to advance the trial of their action on the docket. This
822 motion may be made at any time after 2 years have passed since
823 the petition was served, and once made the court must give the
824 case priority on the court's calendar.

825 Section 6. Effective October 1, 2016, paragraph (d) is
826 added to subsection (11) of section 61.30, Florida Statutes, to
827 read:

828 61.30 Child support guidelines; retroactive child support.—

829 (11)

830 (d) Whenever a combined alimony and child support award
831 constitutes more than 55 percent of the payor's net income,
832 calculated without any consideration of alimony or child support
833 obligations, the court shall adjust the award of child support
834 to ensure that the 55 percent cap is not exceeded.

835 Section 7. The amendments made by this act to sections
836 61.071, 61.08, 61.13, 61.14, 61.192, and 61.30, Florida
837 Statutes, apply to all initial determinations of alimony and all
838 alimony modification actions that are pending on October 1,
839 2016, and to all initial determinations of alimony and all
840 alimony modification actions brought on or after October 1,
841 2016. The enacting of this act may not serve as the sole basis

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842 for a party to seek a modification of an alimony award existing
843 before October 1, 2016.

844 Section 8. The Division of Law Revision and Information is
845 directed to create part III of chapter 61, Florida Statutes,
846 consisting of ss. 61.55-61.58, Florida Statutes, to be entitled
847 the "Collaborative Law Process Act."

848 Section 9. The Legislature finds and declares that the
849 purpose of part III of chapter 61, Florida Statutes, is to:

850 (1) Create a uniform system of practice for a collaborative
851 law process for proceedings under chapters 61 and 742, Florida
852 Statutes.

853 (2) Encourage the peaceful resolution of disputes and the
854 early settlement of pending litigation through voluntary
855 settlement procedures.

856 (3) Preserve the working relationship between parties to a
857 dispute through a nonadversarial method that reduces the
858 emotional and financial toll of litigation.

859 Section 10. Section 61.55, Florida Statutes, is created to
860 read:

861 61.55 Purpose.—The purpose of this part is to create a
862 uniform system of practice for the collaborative law process in
863 this state. It is the policy of this state to encourage the
864 peaceful resolution of disputes and the early resolution of
865 pending litigation through a voluntary settlement process. The
866 collaborative law process is a unique nonadversarial process
867 that preserves a working relationship between the parties and
868 reduces the emotional and financial toll of litigation.

869 Section 11. Section 61.56, Florida Statutes, is created to
870 read:

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871 61.56 Definitions.—As used in this part, the term:

872 (1) "Collaborative attorney" means an attorney who
 873 represents a party in a collaborative law process.

874 (2) "Collaborative law communication" means an oral or
 875 written statement, including a statement made in a record, or
 876 nonverbal conduct that:

877 (a) Is made in the conduct of or in the course of
 878 participating in, continuing, or reconvening for a collaborative
 879 law process; and

880 (b) Occurs after the parties sign a collaborative law
 881 participation agreement and before the collaborative law process
 882 is concluded or terminated.

883 (3) "Collaborative law participation agreement" means an
 884 agreement between persons to participate in a collaborative law
 885 process.

886 (4) "Collaborative law process" means a process intended to
 887 resolve a collaborative matter without intervention by a
 888 tribunal and in which persons sign a collaborative law
 889 participation agreement and are represented by collaborative
 890 attorneys.

891 (5) "Collaborative matter" means a dispute, a transaction,
 892 a claim, a problem, or an issue for resolution, including a
 893 dispute, a claim, or an issue in a proceeding which is described
 894 in a collaborative law participation agreement and arises under
 895 chapter 61 or chapter 742, including, but not limited to:

896 (a) Marriage, divorce, dissolution, annulment, and marital
 897 property distribution.

898 (b) Child custody, visitation, parenting plan, and
 899 parenting time.

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900 (c) Alimony, maintenance, and child support.

901 (d) Parental relocation with a child.

902 (e) Parentage and paternity.

903 (f) Premarital, marital, and postmarital agreements.

904 (6) "Law firm" means:

905 (a) One or more attorneys who practice law in a
 906 partnership, professional corporation, sole proprietorship,
 907 limited liability company, or association; or

908 (b) One or more attorneys employed in a legal services
 909 organization, the legal department of a corporation or other
 910 organization, or the legal department of a governmental entity,
 911 subdivision, agency, or instrumentality.

912 (7) "Nonparty participant" means a person, other than a
 913 party and the party's collaborative attorney, who participates
 914 in a collaborative law process.

915 (8) "Party" means a person who signs a collaborative law
 916 participation agreement and whose consent is necessary to
 917 resolve a collaborative matter.

918 (9) "Person" means an individual; a corporation; a business
 919 trust; an estate; a trust; a partnership; a limited liability
 920 company; an association; a joint venture; a public corporation;
 921 a government or governmental subdivision, agency, or
 922 instrumentality; or any other legal or commercial entity.

923 (10) "Proceeding" means a judicial, administrative,
 924 arbitral, or other adjudicative process before a tribunal,
 925 including related prehearing and posthearing motions,
 926 conferences, and discovery.

927 (11) "Prospective party" means a person who discusses with
 928 a prospective collaborative attorney the possibility of signing

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929 a collaborative law participation agreement.

930 (12) "Record" means information that is inscribed on a

931 tangible medium or that is stored in an electronic or other

932 medium and is retrievable in perceivable form.

933 (13) "Related to a collaborative matter" means involving

934 the same parties, transaction or occurrence, nucleus of

935 operative fact, dispute, claim, or issue as the collaborative

936 matter.

937 (14) "Sign" means, with present intent to authenticate or

938 adopt a record, to:

939 (a) Execute or adopt a tangible symbol; or

940 (b) Attach to or logically associate with the record an

941 electronic symbol, sound, or process.

942 (15) "Tribunal" means a court, an arbitrator, an

943 administrative agency, or other body acting in an adjudicative

944 capacity which, after presentation of evidence or legal

945 argument, has jurisdiction to render a decision affecting a

946 party's interests in a matter.

947 Section 12. Section 61.57, Florida Statutes, is created to

948 read:

949 61.57 Beginning, concluding, and terminating a

950 collaborative law process.-

951 (1) The collaborative law process commences, regardless of

952 whether a legal proceeding is pending, when the parties enter

953 into a collaborative law participation agreement.

954 (2) A tribunal may not order a party to participate in a

955 collaborative law process over that party's objection.

956 (3) A collaborative law process is concluded by any of the

957 following:

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958 (a) Resolution of a collaborative matter as evidenced by a

959 signed record;

960 (b) Resolution of a part of the collaborative matter,

961 evidenced by a signed record, in which the parties agree that

962 the remaining parts of the collaborative matter will not be

963 resolved in the collaborative law process; or

964 (c) Termination of the collaborative law process.

965 (4) A collaborative law process terminates when a party:

966 (a) Gives notice to the other parties in a record that the

967 collaborative law process is concluded;

968 (b) Begins a proceeding related to a collaborative matter

969 without the consent of all parties;

970 (c) Initiates a pleading, a motion, an order to show cause,

971 or a request for a conference with a tribunal in a pending

972 proceeding related to a collaborative matter;

973 (d) Requests that the proceeding be put on the tribunal's

974 active calendar in a pending proceeding related to a

975 collaborative matter;

976 (e) Takes similar action requiring notice to be sent to the

977 parties in a pending proceeding related to a collaborative

978 matter; or

979 (f) Discharges a collaborative attorney or a collaborative

980 attorney withdraws from further representation of a party,

981 except as otherwise provided in subsection (7).

982 (5) A party's collaborative attorney shall give prompt

983 notice to all other parties in a record of a discharge or

984 withdrawal.

985 (6) A party may terminate a collaborative law process with

986 or without cause.

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987 (7) Notwithstanding the discharge or withdrawal of a
 988 collaborative attorney, the collaborative law process continues
 989 if, not later than 30 days after the date that the notice of the
 990 discharge or withdrawal of a collaborative attorney required by
 991 subsection (5) is sent to the parties:

992 (a) The unrepresented party engages a successor
 993 collaborative attorney;

994 (b) The parties consent to continue the collaborative law
 995 process by reaffirming the collaborative law participation
 996 agreement in a signed record;

997 (c) The collaborative law participation agreement is
 998 amended to identify the successor collaborative attorney in a
 999 signed record; and

1000 (d) The successor collaborative attorney confirms his or
 1001 her representation of a party in the collaborative law
 1002 participation agreement in a signed record.

1003 (8) A collaborative law process does not conclude if, with
 1004 the consent of the parties, a party requests a tribunal to
 1005 approve a resolution of a collaborative matter or any part
 1006 thereof as evidenced by a signed record.

1007 (9) A collaborative law participation agreement may provide
 1008 additional methods for concluding a collaborative law process.

1009 Section 13. Section 61.58, Florida Statutes, is created to
 1010 read:

1011 61.58 Confidentiality of a collaborative law
 1012 communication.—Except as provided in this section, a
 1013 collaborative law communication is confidential to the extent
 1014 agreed by the parties in a signed record or as otherwise
 1015 provided by law.

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1016 (1) PRIVILEGE AGAINST DISCLOSURE FOR COLLABORATIVE LAW
 1017 COMMUNICATION; ADMISSIBILITY; DISCOVERY.—

1018 (a) Subject to subsections (2) and (3), a collaborative law
 1019 communication is privileged as provided under paragraph (b), is
 1020 not subject to discovery, and is not admissible into evidence.

1021 (b) In a proceeding, the following privileges apply:

1022 1. A party may refuse to disclose, and may prevent another
 1023 person from disclosing, a collaborative law communication.

1024 2. A nonparty participant may refuse to disclose, and may
 1025 prevent another person from disclosing, a collaborative law
 1026 communication of a nonparty participant.

1027 (c) Evidence or information that is otherwise admissible or
 1028 subject to discovery does not become inadmissible or protected
 1029 from discovery solely because of its disclosure or use in a
 1030 collaborative law process.

1031 (2) WAIVER AND PRECLUSION OF PRIVILEGE.—

1032 (a) A privilege under subsection (1) may be waived orally
 1033 or in a record during a proceeding if it is expressly waived by
 1034 all parties and, in the case of the privilege of a nonparty
 1035 participant, if it is expressly waived by the nonparty
 1036 participant.

1037 (b) A person who makes a disclosure or representation about
 1038 a collaborative law communication that prejudices another person
 1039 in a proceeding may not assert a privilege under subsection (1).
 1040 This preclusion applies only to the extent necessary for the
 1041 person prejudiced to respond to the disclosure or
 1042 representation.

1043 (3) LIMITS OF PRIVILEGE.—

1044 (a) A privilege under subsection (1) does not apply to a

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collaborative law communication that is:

1. Available to the public under chapter 119 or made during a session of a collaborative law process that is open, or is required by law to be open, to the public;

2. A threat, or statement of a plan, to inflict bodily injury or commit a crime of violence;

3. Intentionally used to plan a crime, commit or attempt to commit a crime, or conceal an ongoing crime or ongoing criminal activity; or

4. In an agreement resulting from the collaborative law process, as evidenced by a record signed by all parties to the agreement.

(b) The privilege under subsection (1) for a collaborative law communication does not apply to the extent that such collaborative law communication is:

1. Sought or offered to prove or disprove a claim or complaint of professional misconduct or malpractice arising from or relating to a collaborative law process; or

2. Sought or offered to prove or disprove abuse, neglect, abandonment, or exploitation of a child or adult unless the Department of Children and Families is a party to or otherwise participates in the process.

(c) A privilege under subsection (1) does not apply if a tribunal finds, after a hearing in camera, that the party seeking discovery or the proponent of the evidence has shown that the evidence is not otherwise available, the need for the evidence substantially outweighs the interest in protecting confidentiality, and the collaborative law communication is sought or offered in:

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1. A court proceeding involving a felony; or

2. A proceeding seeking rescission or reformation of a contract arising out of the collaborative law process or in which a defense is asserted to avoid liability on the contract.

(d) If a collaborative law communication is subject to an exception under paragraph (b) or paragraph (c), only the part of the collaborative law communication necessary for the application of the exception may be disclosed or admitted.

(e) Disclosure or admission of evidence excepted from the privilege under paragraph (b) or paragraph (c) does not make the evidence or any other collaborative law communication discoverable or admissible for any other purpose.

(f) The privilege under subsection (1) does not apply if the parties agree in advance in a signed record, or if a record of a proceeding reflects agreement by the parties, that all or part of a collaborative law process is not privileged. This paragraph does not apply to a collaborative law communication made by a person who did not receive actual notice of the collaborative law participation agreement before the communication was made.

Section 14. For the purpose of incorporating the amendment made by this act to section 61.08, Florida Statutes, in a reference thereto, paragraph (b) of subsection (1) of section 61.052, Florida Statutes, is reenacted to read:

61.052 Dissolution of marriage.—

(1) No judgment of dissolution of marriage shall be granted unless one of the following facts appears, which shall be pleaded generally:

(b) Mental incapacity of one of the parties. However, no

Page 38 of 41

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

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dissolution shall be allowed unless the party alleged to be incapacitated shall have been adjudged incapacitated according to the provisions of s. 744.331 for a preceding period of at least 3 years. Notice of the proceeding for dissolution shall be served upon one of the nearest blood relatives or guardian of the incapacitated person, and the relative or guardian shall be entitled to appear and to be heard upon the issues. If the incapacitated party has a general guardian other than the party bringing the proceeding, the petition and summons shall be served upon the incapacitated party and the guardian; and the guardian shall defend and protect the interests of the incapacitated party. If the incapacitated party has no guardian other than the party bringing the proceeding, the court shall appoint a guardian ad litem to defend and protect the interests of the incapacitated party. However, in all dissolutions of marriage granted on the basis of incapacity, the court may require the petitioner to pay alimony pursuant to the provisions of s. 61.08.

Section 15. For the purpose of incorporating the amendment made by this act to section 61.14, Florida Statutes, in a reference thereto, paragraph (c) of subsection (10) of section 409.2563, Florida Statutes, is reenacted to read:

409.2563 Administrative establishment of child support obligations.—

(10) JUDICIAL REVIEW, ENFORCEMENT, OR COURT ORDER
SUPERSEDING ADMINISTRATIVE SUPPORT ORDER.—

(c) A circuit court of this state, where venue is proper and the court has jurisdiction of the parties, may enter an order prospectively changing the support obligations established

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in an administrative support order, in which case the administrative support order is superseded and the court's order shall govern future proceedings in the case. Any unpaid support owed under the superseded administrative support order may not be retroactively modified by the circuit court, except as provided by s. 61.14(1)(a), and remains enforceable by the department, by the obligee, or by the court. In all cases in which an administrative support order is superseded, the court shall determine the amount of any unpaid support owed under the administrative support order and shall include the amount as arrearage in its superseding order.

Section 16. For the purpose of incorporating the amendment made by this act to section 61.14, Florida Statutes, in a reference thereto, paragraph (b) of subsection (4) of section 742.031, Florida Statutes, is reenacted to read:

742.031 Hearings; court orders for support, hospital expenses, and attorney's fee.—

(4)

(b) The modification of the temporary support order may be retroactive to the date of the initial entry of the temporary support order; to the date of filing of the initial petition for dissolution of marriage, petition for support, petition determining paternity, or supplemental petition for modification; or to a date prescribed in s. 61.14(1)(a) or s. 61.30(11)(c) or (17), as applicable.

Section 17. Sections 61.55-61.58, Florida Statutes, as created by this act, shall not take effect until 30 days after the Florida Supreme Court adopts rules of procedure and professional responsibility consistent with this act.

24-00319-16

2016250__

1161 Section 18. Except as otherwise expressly provided in this
1162 act, this act shall take effect July 1, 2016.



THE FLORIDA SENATE

Tallahassee, Florida 32399-1100

COMMITTEES:
Appropriations, *Chair*
Appropriations Subcommittee on General
Government
Banking and Insurance
Reapportionment
Rules

JOINT COMMITTEE:
Joint Legislative Budget Commission,
Alternating Chair

SENATOR TOM LEE
24th District

September 17, 2015

The Honorable Miguel Diaz de la Portilla
Senate Committee on Judiciary, Chair
406 Senate Office Building
404 South Monroe Street
Tallahassee, FL 32399

Dear Chairman Diaz de la Portilla,

I respectfully request that SB 250 related to *Family Law*, be placed on the Senate Committee on Judiciary agenda at your earliest convenience.

Thank you for your consideration.

Sincerely,

A handwritten signature in black ink that reads "Tom Lee". The signature is written in a cursive style with a large, stylized "T" and "L".

Tom Lee
Senator, District 24

Cc: Tom Cibula, Staff Director

REPLY TO:

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

Senate's Website: www.flsenate.gov

ANDY GARDINER
President of the Senate

GARRETT RICHTER
President Pro Tempore

THE FLORIDA SENATE

APPEARANCE RECORD

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

SB 250

Bill Number (if applicable)

1/26/16
Meeting Date

Topic Family Law

Amendment Barcode (if applicable)

Name TERRANCE Power

Job Title _____

Address 1608 SHADY OAKS DR
Street
OLDSMAR FL 34677
City State Zip

Phone 813-281-0707

Email tpower@annwyperson.net

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Family Law Reform

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/2016

Meeting Date

SB 250

Bill Number (if applicable)

Topic Alimony Reform

Amendment Barcode (if applicable)

Name ALAN FRISHER

Job Title PRESIDENT, FAMILY LAW REFORM

Address 6550 N. WICKHAM RD

Phone 321-242-7526

Street

MELBOURNE

City

FL

State

32940

Zip

Email ALAN.FRISHER@gmail.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing FAMILY LAW REFORM

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)

1/26/2018
Meeting Date

SB250
Bill Number (if applicable)

Topic Family Law

Amendment Barcode (if applicable)

Name Mark Rabinowitz

Job Title Shareholder Greenspoon Marder PA

Address 201 E Pine St, Suite 500
Street
Orlando, FL 32801
City State Zip

Phone 407-425-6559

Email mark.rabinowitz@qmlaw.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

1/26/2016

Meeting Date

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

SB 250

Bill Number (if applicable)

Topic Alimony

Amendment Barcode (if applicable)

Name Karen Librizzi

Job Title N/A

Address 551 Fore Drive

Phone 941-726-8559

Street

Bradenton FL

34208

City

State

Zip

Email KarenLibrizzi@yahoo.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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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)

Meeting Date _____

250
Bill Number (if applicable)

Topic Family Law

Amendment Barcode (if applicable) _____

Name Shelly Moxon Lehman

Job Title For past 22 years / Now trying to re enter work-force
Full time mom of 3 - Retired United Airlines Flight Attendant

Address 921 S.E. 5th Ct.
Street
Ft. Lauderdale FL 33301
City State Zip

Phone (954) 599 0515

Email Shellymlehman@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)

1-26-16
Meeting Date

250
Bill Number (if applicable)

Topic Family

Amendment Barcode (if applicable)

Name Jan Killilea

Job Title Legal Assistant

Address 18036 Mambo Drive

Phone _____

Street

Boca Raton FL 33496

City

State

Zip

Email _____

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Protect Alimony Laws

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)

1-26-16
Meeting Date

250
Bill Number (if applicable)

Topic Family Law

Amendment Barcode (if applicable)

Name Barbara Deane

Job Title Ms

Address 625 E. Brevard St
Street

Phone 222-3969

Tallahassee FL 32308
City State Zip

Email barbaradeane1@
telus.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

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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)

1/26/16

Meeting Date

SB 250

Bill Number (if applicable)

Topic FAMILY LAW

Amendment Barcode (if applicable)

Name SEYMOUR BENSON

Job Title ATTORNEY

Address 450 SO. DR ANGE AVE STE 500

Phone 407-849-0300

ORLANDO FLA 32801

Email SBENSON@CARLTON
FIELDS.COM

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Se/f

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard 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)

1/26/16
Meeting Date

SB 250

Bill Number (if applicable)

113284

Amendment Barcode (if applicable)

Topic Family Law Reform

Name Jessica Gordon, PhD, ARNP

Job Title President

Address 210 Lookout Place

Street

Manitland FL 32751

City

State

Zip

Phone _____

Email office@flbreastfeeding.org

Speaking: For ☒ Against Information

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

Representing Florida Breastfeeding 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

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

1-26-16
Meeting Date

250
Bill Number (if applicable)

Topic Family law

Amendment Barcode (if applicable)

Name Cynthia Wheeler

Job Title Registered nurse

Address P.O. BOX 82

Phone 561-667-9954

South Bay 33493
City State Zip

Email cgymalika@aol.com

Speaking: ☐ For ☒ Against ☐ Information

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

Representing Self

Appearing at request of Chair: ☐ Yes ☐ No

Lobbyist registered with Legislature: ☐ Yes ☐ No

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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)

1/26/15
Meeting Date

SB 250
Bill Number (if applicable)

Topic Family Law

Amendment Barcode (if applicable)

Name Lydia Burton

Job Title _____

Address 4440 SW Archer Rd. Apt 1021
Street

Phone 727-674-8345

Gainesville
City

FL
State

32608
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: SB 1212

INTRODUCER: Senator Flores

SUBJECT: Appointed Counsel for Children

DATE: January 25, 2015

REVISED: _____

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. Maida	Cibula	JU	Favorable
2. _____	_____	ACJ	_____
3. _____	_____	AP	_____

I. Summary:

SB 1212 expands the authority of a court to appoint an attorney for a dependent child. It operates by creating a “catch-all” provision in section 39.01305(3), F.S., whereby a court-appointed attorney is provided if the dependent child “[h]as been identified by the court as having need for legal representation.” The bill also provides for appointment of substitute counsel in the event of an attorney’s withdrawal or discharge.

Further, the bill requires the Justice Administrative Commission to contract with a not-for-profit organization to create the Quality Counsel Program. This program must 1) require all compensated counsel to keep contemporaneous time records for billing purposes, 2) incentivize legal service providers to use teams that include individuals who are not attorneys to provide broader representation, and 3) establish a performance evaluation system.

II. Present Situation:

Dependent Children

A court-determined “dependent child” is considered dependent on the state for care and protection.¹ By statute, a “dependent” child is found:

- To have been abandoned, abused, or neglected by parents or legal custodians;
- To have been surrendered to the Department of Children & Family Services (DCF) or a licensed child-placing agency for adoption;
- To have been voluntarily placed with a licensed child-placing agency for adoption;

¹ See *In re M.F.*, 770 So. 2d 1189, 1193 (Fla. 2000) (stating that the “purpose of a dependency proceeding is not to punish the offending parent but to protect and care for a child who has been neglected, abandoned, or abused”).

- To have been voluntarily placed with a licensed child-caring agency, a licensed child-placing agency, an adult relative, or the DCF, and after being placed a case plan expired and the parents or legal custodian failed to substantially comply with the plan;
- To have been voluntarily placed with a licensed child-placing agency for adoption and a parent or parents have signed a consent;
- To have no parent or legal custodian capable of providing supervision and care;
- To be at substantial risk of imminent abuse, abandonment or neglect by the parents or legal custodians; or
- To have been sexually exploited and to have no parent, legal custodian, or responsible adult relative currently known and capable of providing necessary and appropriate supervision and care.²

The dependency process in Florida begins with a call to the Florida Abuse Hotline (hotline).³ If accepted by the hotline, the call is referred to a child protective investigator who conducts an on-site investigation of the allegations of abuse, neglect, or abandonment.⁴ If warranted, a dependency petition is filed with the court by DCF.⁵ A child may be taken into custody and placed in a shelter without a prior hearing if there is probable cause of imminent danger or injury to the child, the parent or legal custodian, responsible adult relative has materially violated a condition of placement, or the child has no parent, legal custodian, or responsible adult relative immediately known and able to provide supervision and care.⁶ In that instance, a judicial hearing must be held within 24 hours after removal of the child from the home.⁷ A Guardian ad Litem must be appointed at the time of the shelter hearing.⁸ If needed, an Attorney ad Litem may be appointed at this time as well.⁹

If a petition for dependency is filed, whether or not the child is taken into custody, the circuit court assigned to hear dependency cases (dependency court) will schedule an adjudicatory hearing to determine whether the child is dependent, based on a preponderance of the evidence.¹⁰ If a court finds a child dependent, a disposition hearing is held to determine appropriate services and placement settings for the child.¹¹ At this hearing, the court also reviews and approves a case plan outlining services and desired goals for the child.¹²

The dependency court holds periodic judicial reviews to determine the child's status, progress in following the case plan, and the status of the goals and objectives of the case plan. These reviews

² Section 39.01(15), F.S.

³ Section 39.201(2)(a), F.S.

⁴ Section 39.301(1), F.S.

⁵ Section 39.501(1) and (3)(c), F.S.

⁶ Section 39.402(1), F.S.

⁷ Section 39.402(8)(a), F.S.

⁸ Section 39.822(1), F.S.

⁹ The term "ad Litem" means literally "for the suit." In practice, it means a representative, either lay (guardian) or lawyer (attorney) appointed for the limited purposes of a particular lawsuit.

¹⁰ Section 39.507(1)(a) and (b), F.S.

¹¹ Section 39.521(1), F.S.

¹² Section 39.521(1)(a), F.S.

will generally occur every 6 months.¹³ If after 12 months, case plan goals have not been met, the court holds a permanency hearing to determine the child's permanent placement goal.¹⁴

Lawyers for Children in the Dependency System

In general, the federal and state approach to safeguarding the legal needs of children in the dependency system relies upon the appointment of guardians ad litem or attorneys ad litem. The Federal Child Abuse Prevention and Treatment Act (CAPTA) requires states to document in their case plans provisions for appointing guardian ad litem to represent the child's best interest in every case of child abuse or neglect which results in a judicial proceeding.¹⁵ The funds of the Florida guardian ad litem program support both lay volunteers who assist children in dependency proceedings and attorneys ad litem. The guardian ad litem program has succeeded in recruiting attorneys who wish to satisfy their pro bono expectations by representing children with various legal needs in dependency court.¹⁶ When there are insufficient pro bono lawyers available and there are sufficient resources to do so, the guardian ad litem program may contract with legal aid, other programs, or private attorneys for the provision of these services.¹⁷

Florida law requires the appointment of a guardian ad litem for every child who is the subject of a dependency proceeding.¹⁸ While the guardian ad litem program has requested funds to allow it to meet this mandate, the Statewide Guardian Ad Litem Office indicates it has not been fully funded. As of November 2015, there were 31,399 dependent children under court supervision, of whom 25,157 (80 percent) had been appointed a guardian ad litem.¹⁹ The guardian ad litem program also funds the current attorney ad litem program. The guardian ad litem attorney is required by program standards to request the appointment of an attorney ad litem in any case where doing so would further the best interests of the child. In addition, the court on its own motion or upon motion of any party, including the child, can appoint an attorney ad litem at any point in the dependency process.²⁰ Common reasons for seeking appointment of an attorney ad litem in dependency court include cases in which a child needs legal guardianship or where special expertise is needed in areas such as immigration law, disability law, or administrative forums. No statewide tracking mechanism exists for the appointment of attorneys ad litem for dependent children, because attorneys are appointed at the court circuit level.

Unlike parents, children have been found to have no constitutional right to representation by counsel in dependency court.²¹ By statute,²² however, an attorney is appointed for a dependent child who:

¹³ Section 39.521(1)(d), F.S.

¹⁴ Section 39.621(1), F.S.

¹⁵ 42 U.S.C. ss. 5101 *et seq.*

¹⁶ The Florida Bar has an expectation that its members perform *pro bono* services. This term literally means "for good," and is applied to services performed without compensation by lawyers.

¹⁷ Office of the Florida Guardian ad Litem, email, (March 13, 2014).

¹⁸ Sections 39.402(8)(c)1, 39.807(2), and 39.822(1), F.S.

¹⁹ Florida Statewide Guardian ad Litem Office, Bill Analysis for Senate Bill 1212 (Dec. 30, 2015) (on file with the Senate Committee on Judiciary).

²⁰ Fla. R. Juv. P. 8.217(a).

²¹ *In the Interest of D.B. and D.S.*, 385 So. 2d. 83, 90-91 (Fla. 1980), *In the Interest of C.T.*, 503 So. 2d 972, 973 (Fla. 4th DCA 1987).

²² Section 39.01305(3)(a)-(e), F.S.

- Resides in a skilled nursing facility or is being considered for placement in a skilled nursing home;
- Is prescribed psychotropic medication but declines assent to the psychotropic medication;
- Has a diagnosis of a developmental disability as defined in s. 393.063, F.S.;²³
- Is being placed in a residential treatment center or being considered for placement in a residential treatment center; or
- Is a victim of human trafficking as defined in s. 787.06(2)(d), F.S.²⁴

In FY 2014/2015, the legislature provided \$1,500,000, from recurring general revenue funds and \$2,700,000, from nonrecurring general revenue funds for the Justice Administration Commission (“JAC”) to contract with lawyers to represent the children pursuant to the provisions of s. 27.40 and 27.5304, F.S.²⁵ Pursuant to the statute, the lawyers’ compensation must include both fees and costs.²⁶ Attorney fees may not exceed \$1,000 per child per year.²⁷ The Legislature directed the JAC to consult with the GAL to develop a registry of attorneys as compensated counsel for children with the identified special needs and to provide the registry to each judicial circuit’s chief judge for inclusion that judicial circuit’s registry.²⁸ The GAL was also required to develop the minimum criteria for education, experience and training for attorney’s inclusion in the registry.²⁹ Lastly, the Department of Children and Families was given the responsibility to develop procedures to identify the children with the special needs who require appointment of an attorney.³⁰

In addition to the services of the attorneys ad litem through the guardian ad litem program, other options exist for legal services for children. The Florida Bar Foundation provides grants to legal service providers, several law schools have clinics which serve children, and several Children’s Councils³¹ fund lawyers for children.

Dependent Children in Nursing Homes

The state is currently party to a lawsuit related to the placement of medically complex children in more restrictive settings such as nursing homes. The United States Department of Justice joined the lawsuit which alleges the state violated the Americans with Disabilities Act (ADA).³² The

²³ Under Section 393.063, F.S., a “developmental disability” means a disorder or syndrome that is attributable to intellectual disability, cerebral palsy, autism, spina bifida, or Prader-Willi syndrome, that: 1) manifests before the age of 18, and 2) the constitutes a substantial handicap that can reasonably be expected to continue indefinitely.

²⁴ Under Section 787.06(2)(d), F.S., “human trafficking” means transporting soliciting, recruiting, harboring, providing, enticing, maintaining, or obtaining other person for the purpose of exploitation of that person.

²⁵ Section 794, conference report on HB5001 (2014 Reg. Session).

²⁶ Section 39.01305(5), F.S.

²⁷ *Id.*

²⁸ Section 794, conference report on HB5001 (2014 Reg. Session).

²⁹ *Id.*

³⁰ Section 39.01305(6), F.S.

³¹ Florida Children’s Councils, or Children’s Services Councils, are locally established special taxing districts designed to provide services to children and families. Chapter 125, F.S., governs their creation and operation. The first Council was approved in 1946 in Pinellas County. There are currently Councils (with slight variances in names) in Broward, Duval, Martin, Miami-Dade, Palm Beach, and St. Lucie counties. <http://flchildrenscouncil.org/about-the-council/overview/> and <http://flchildrenscouncil.org/about-cscs/member-cscs/> (last visited January 24, 2016).

³² *A.R. et al. v. Dudek et al, United States V. Florida*, Consolidated Case No. 0:12-cv-60460-RSR, U.S. District Court for the Southern District of Florida.

Agency for Health Care Administration (AHCA) has worked with the families of over 200 children in nursing homes under the Medicaid program to ensure they are aware of and are provided in home health services. In addition, the DCF and the Agency for Persons (APD) with Disabilities have worked with medically complex children and their families to ensure the least restrictive placement.

Dependent Children and Psychotropic Drugs

Florida law requires the DCF to obtain consent from parents or a court order before administering psychotropic drugs to a child, barring an emergency.³³ The statute directs, unless parental rights have been terminated, parents should be involved in decision-making regarding administration of these drugs. By rule, when a child of sufficient age, understanding, and maturity refuses psychotropic medication, the dependency case manager or child protective investigator must request Children's Legal Services to request an attorney for the child.³⁴

Dependent Children and Residential Treatment Facilities

No information is available about the number of children being considered for placement in a residential treatment facility. Placement of a dependent child in a residential treatment facility is governed by the provisions of s. 39.407(6), F.S. This section provides placement must be the least restrictive alternative for the child and requires an immediate appointment of a guardian ad litem for the child if a guardian ad litem is not already provided. In addition, the Florida Rules of Juvenile Procedure requires if a child does not agree with placement in a residential treatment facility, the court appoints an attorney for the child, if one has not already been appointed.³⁵

III. Effect of Proposed Changes:

SB 1212 primarily accomplishes two things. By creating the broad catch-all subsection (f) in s. 39.01305, F.S., it grants a court greater autonomy in assigning an attorney to a dependent child. As current law provides for mandatory attorney assignment in five specific situations, the bill dramatically expands that scope. As s. 39.01305, F.S., does not limit the authority of the court to appoint an attorney, this expansion may correspondingly result in a significant increase in court-appointed attorneys, increasing costs.³⁶ The bill further requires a court to appoint a substitute counsel if a dependent child's attorney withdraws or is discharged from the representation.

Finally, the bill establishes a quality-control mechanism whereby the JAC contracts with a not-for-profit organization to establish the Quality Counsel Program. The program will:

- Require all compensated counsel to keep contemporaneous time records and submit an itemized hourly statement with each billing submission;
- Issue payment for legal services;

³³ Section 39.407(3)(a)1., F.S.

³⁴ Rule 65C-35.005(3)(b), F.A.C.

³⁵ Fla. R. Juv. P. 8.350(6).

³⁶ Under current law, a court *shall* appoint an attorney for a dependent child under certain circumstances, while already granting courts autonomy to appoint attorneys in the absence of such circumstances. This bill would require—not allow—a court to appoint an attorney under a new “catch-all” provision.

- Incentivize organizational legal service providers to use teams that utilize non-attorneys; and
- Create an improvement program to include attorney performance evaluations.

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.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

The bill requires registry attorneys to submit contemporaneous time records and submit hourly itemized statements that comply with the Quality Counsel Program's requirements. Additional impacts on the private sector are speculative, but an increase in the appointment of attorneys for dependent children may occur. This increase may result in additional attorneys joining the registry, existing attorneys encountering an increased workload, or both.

C. Government Sector Impact:

If the bill results in an increase in appointed attorneys, government costs could rise correspondingly. The exact impact is unknown.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends section 39.01305 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.



143266

LEGISLATIVE ACTION

Senate	.	House
Comm: WD	.	
01/26/2016	.	
	.	
	.	
	.	

The Committee on Judiciary (Brandes) recommended the following:

Senate Amendment

Delete lines 28 - 38
and insert:

(b) Is under 8 years of age and is prescribed a
psychotropic medication but declines to assent to the
psychotropic medication;

(c) Has a diagnosis of a developmental disability as
defined in s. 393.063;

(d) Is being placed in a residential treatment center or
being considered for placement in a residential treatment



143266

12 center; ~~or~~

13 (e) Is a victim of human trafficking as defined in s.

14 787.06(2) (d); or

15 (f) The guardian ad litem program determines it has a
16 conflict with that precludes the program from providing the
17 child with a guardian ad litem.

By Senator Flores

37-00764A-16

20161212__

A bill to be entitled

An act relating to appointed counsel for children; amending s. 39.01305, F.S.; revising the conditions under which an attorney must be appointed for a dependent child; requiring the court to appoint substitute counsel under certain circumstances; requiring the Justice Administrative Commission to contract with a not-for-profit organization to establish the Quality Counsel Program; requiring all compensated counsel to keep contemporaneous time records and submit an itemized hourly statement to the commission; specifying a date by which the program must be completed and operational; specifying minimum program requirements; providing an effective date.

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

Section 1. Subsection (3), paragraph (b) of subsection (4), and subsection (5) of section 39.01305, Florida Statutes, are amended, and subsection (6) of that section is republished, to read:

39.01305 Appointment of an attorney for a dependent child with certain special needs.—

(3) An attorney shall be appointed for a dependent child who:

(a) Resides in a skilled nursing facility or is being considered for placement in a skilled nursing home;

(b) Is prescribed a psychotropic medication but declines assent to the psychotropic medication;

(c) Has a diagnosis of a developmental disability as defined in s. 393.063;

(d) Is being placed in a residential treatment center or

37-00764A-16

20161212__

being considered for placement in a residential treatment center; ~~or~~

(e) Is a victim of human trafficking as defined in s. 787.06(2)(d); or

(f) Has been identified by the court as having need for legal representation.

(4)

(b) After an attorney is appointed, the appointment continues in effect until the attorney is allowed to withdraw or is discharged by the court or until the case is dismissed. If an attorney withdraws or is discharged, the court shall appoint substitute counsel. An attorney who is appointed under this section to represent the child shall provide the complete range of legal services, from the removal from home or from the initial appointment through all available appellate proceedings. With the permission of the court, the attorney for the dependent child may arrange for supplemental or separate counsel to represent the child in appellate proceedings. A court order appointing an attorney under this section must be in writing.

(5) Except if the attorney has agreed to provide pro bono services, an appointed attorney or organization must be adequately compensated. All appointed attorneys or organizations must be and provided with access to funding for expert witnesses, depositions, and other costs of litigation. In order to ensure that children receive quality representation, the Justice Administrative Commission shall contract with a not-for-profit organization to establish the Quality Counsel Program. Payment to an attorney is subject to appropriations and subject to review by the Justice Administrative Commission for

37-00764A-16

20161212__

reasonableness. The ~~commission~~ Justice Administrative Commission shall contract with attorneys appointed by the court. Attorney fees may not exceed \$1,000 per child per year. All compensated counsel must keep contemporaneous time records and must submit an itemized hourly statement that complies with the commission policies and provisions with each billing submission.

(6) The department shall develop procedures to identify a dependent child who has a special need specified under subsection (3) and to request that a court appoint an attorney for the child.

Section 2. The establishment of the Quality Counsel Program in s. 39.01305(5), Florida Statutes, may begin upon the effective date of this act and must be completed and operational by June 30, 2018. The Quality Counsel Program must, at a minimum:

(1) Require all compensated counsel to keep contemporaneous time records and submit an itemized hourly statement with each billing submission. This requirement applies to all new appointments made after June 30, 2016.

(2) Issue payment for services for the legal work performed.

(3) Incentivize organizational legal service providers to use teams that include individuals who are not attorneys to provide holistic high-quality representation.

(4) Create a Quality Counsel Improvement Program that includes attorney performance evaluation with individual file review and courtroom observation.

Section 3. This act shall take effect upon becoming a law.



The Florida Senate

Committee Agenda Request

To: Senator Miguel Diaz de la Portilla, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 11, 2016

I respectfully request that **Senate Bill #1212**, relating to Appointed Counsel for Children, be placed on the:

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

Anitere Flores

Senator Anitere Flores
Florida Senate, District 37

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/24
Meeting Date

SB 1212
Bill Number (if applicable)

Topic Counsel for children

Name NIKKI FRIED

Job Title Attorney

Address 3980 W. Broward Blvd
Street

Fort Lauderdale FL
City State Zip

Phone 954-734-3799

Email nfried@wodytill.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida's Children First

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☒ Yes ☐ No

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

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

THE FLORIDA SENATE

APPEARANCE RECORD

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

1/26/16
Meeting Date

SB 1212
Bill Number (if applicable)

Topic Appointed Counsel for Children

Amendment Barcode (if applicable)

Name Amea Diaz Lyon

Job Title _____

Address 119 South Monroe Street
Street

Phone 850-205-9000

Tallahassee FL 32301
City State Zip

Email amea.diazlyon@metzlaw.com

Speaking: ☒ For ☐ Against ☐ Information

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

Representing The 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: SB 1412

INTRODUCER: Senator Simmons

SUBJECT: Conditions of Pretrial Release

DATE: January 25, 2016

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	McAloon	Cibula	JU	Pre-meeting
2.			CJ	
3.			RC	

I. Summary:

SB 1412 clarifies that courts have the discretion to issue an order of no contact to a person on pretrial release. An order of no contact generally prohibits a defendant from being near or communicating with a victim. Existing law could be read to require a court to issue an order of no contact to every person who is released on pretrial release if there is a victim.

II. Present Situation:

Conditions of Pretrial Release

Section 903.047, Florida Statutes governs the conditions of pretrial release. The conditions include refraining from criminal activity, refraining from contact with the victim, and complying with any other condition imposed.¹ The requirement that a defendant refrain from contact with the victim is implemented through a no contact order. This order includes prohibitions on communicating with the victim, having physical or violent contact with the victim or other named person or his or her property, being within 500 feet of the victim's residence, or being within 500 feet of the victim's place of employment.²

A person who fails to comply with the conditions of pretrial release, if the original arrest was for an act of domestic violence, commits a first degree misdemeanor.³ The statute currently requires that provides the defendant receive a copy of the order of no contact before he or she is released from custody on pretrial release. The order is effective immediately upon issuance and enforceable for the duration of the pretrial release or until modified by the court.

¹ Section 903.047, F.S.

² Section 903.047(1)(b), F.S.

³ Section 741.29(6), F.S.

Statutory Ambiguity

Section 903.047(1)(b), F.S. currently states that “an order of no contact is effective immediately and enforceable for the duration of the pretrial release or until it is modified by the court. The defendant shall receive a copy of the order . . . before the defendant is released.”⁴ One reading of the statute requires a court to enter an order of no contact for all cases for which there is a victim and to serve the defendant with the order before release from jail. Alternatively, the statutory requirement to provide a copy of the no contact order might be read to apply only “if” an order of no contact is issued in a particular case.

2015 No Contact Legislation

The current language of s. 903.047(1)(b), F.S. was enacted through the passage of SB 342 during the 2015 Legislative Session. The bill analysis stated that the intent of SB 342 was to define the basic restrictions imposed on a defendant through a no contact order.⁵ The analysis also states the requirement that order be “effective immediately” was intended to prevent a detainee from making harassing phone calls to a victim while in jail awaiting a pretrial release.

No Contact Condition Case Law

In *Pilgore v. State*, the District Court of Appeal held that evidence was insufficient to establish that defendant was informed of the no contact condition of his pretrial release.⁶ Pilgore had been arrested for beating his wife and was released on bond with the condition of having no contact with the victim pursuant to s. 903.047, F.S.⁷ Subsequently, Pilgore made contact with the victim and was charged with violation of a condition of pretrial release pursuant to s. 741.29, F.S.⁸

The *Pilgore* court found the statute requires the imposition of the no contact condition to be proven by substantial competent evidence in order to convict of the person of the crime.⁹ The statute requires the court to impose the no contact condition on a person charged with domestic violence, but it does not create a presumption the defendant knows that he or she is to have no contact.¹⁰

In 2008, the Fifth DCA again held the state had the burden to prove the defendant received adequate notice of his pretrial no contact condition. In *Sheppard v. State*, the court stated “the state has the burden of proving, by substantial, competent evidence, that the condition was imposed on a defendant charged with domestic violence.”¹¹ The court went on to quote its decision in *Pilgore* to state there is no presumption that the defendant knows that he or she is to have no contact.¹²

⁴ *Id.*

⁵ Staff of S. Comm. on Rules, CS/CS/CS/SB 342, Bill Analysis and Fiscal Impact Statement on No Contact Orders (2015).

⁶ *Pilgore v. State*, 876 So. 2d 591 (Fla. 5th DCA 2004).

⁷ *Id.* at 591-92.

⁸ *Id.* at 592.

⁹ *Id.*

¹⁰ *Id.*

¹¹ *Sheppard v. State*, 974 So. 2d 529, 530 (Fla. 5th DCA 2008).

¹² *Id.* at 530.

Therefore, in order to be convicted of violating a no contact order by a person who was arrested for domestic violence, the state must prove by substantial competent evidence the defendant received constructive notice of the no contact condition laid out in s. 903.047, F.S. It cannot be presumed the defendant is on notice of the no contact condition.

III. Effect of Proposed Changes:

This bill clarifies that courts have the discretion to issue an order of no contact to a person on pretrial release. An order of no contact generally prohibits a defendant from being near or communicating with a victim. Existing law could be read to require a court to issue an order of no contact to every person who is released on pretrial release if there is a victim.

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:

This bill may result in a reduction in judicial workloads if it reduces the number of no contact orders issued.

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill substantially amends 903.047 of the Florida Statutes.

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

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

None.

B. Amendments:

None.

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

By Senator Simmons

10-01560-16

20161412__

A bill to be entitled

An act relating to conditions of pretrial release; amending s. 903.047, F.S.; requiring that a defendant be notified in writing if a court issues an order of no contact rather than receive a copy of the order; providing an effective date.

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

Section 1. Subsection (1) of section 903.047, Florida Statutes, is amended to read:

903.047 Conditions of pretrial release.—

(1) As a condition of pretrial release, whether such release is by surety bail bond or recognizance bond or in some other form, the defendant must:

(a) Refrain from criminal activity of any kind.

(b) Refrain from any contact of any type with the victim, except through pretrial discovery pursuant to the Florida Rules of Criminal Procedure. If a court issues an order of no contact, the order is effective immediately and enforceable for the duration of the pretrial release or until it is modified by the court. The defendant shall be notified in writing before he or she is released from custody on pretrial release ~~receive a copy~~ of the order of no contact, which notification must specify ~~specifies~~ the applicable prohibited acts ~~before the defendant is released from custody on pretrial release~~. As used in this section, unless otherwise specified by the court, the term "no contact" includes the following prohibited acts:

1. Communicating orally or in any written form, either in person, telephonically, electronically, or in any other manner, either directly or indirectly through a third person, with the victim or any other person named in the order. If the victim and

10-01560-16

20161412__

the defendant have children in common, at the request of the defendant, the court may designate an appropriate third person to contact the victim for the sole purpose of facilitating the defendant's contact with the children. However, this subparagraph does not prohibit an attorney for the defendant, consistent with rules regulating The Florida Bar, from communicating with any person protected by the no contact order for lawful purposes.

2. Having physical or violent contact with the victim or other named person or his or her property.

3. Being within 500 feet of the victim's or other named person's residence, even if the defendant and the victim or other named person share the residence.

4. Being within 500 feet of the victim's or other named person's vehicle, place of employment, or a specified place frequented regularly by such person.

(c) Comply with all conditions of pretrial release.

Section 2. This act shall take effect July 1, 2016.



The Florida Senate

Committee Agenda Request

To: Senator Miguel Diaz de la Portilla, Chair
Committee on Judiciary

Subject: Committee Agenda Request

Date: January 20, 2016

I respectfully request that **Senate Bill 1412**, relating to Conditions of Pretrial Release, be placed on the:

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

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

Senator David Simmons
Florida Senate, District 10

THE FLORIDA SENATE
APPEARANCE RECORD

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

01-26-16
Meeting Date

SB 1412
Bill Number (if applicable)

Topic Conditions of Pre-trial Release

Amendment Barcode (if applicable)

Name Charles Brown

Job Title Captain - Volusia County Sheriff's Office / FSA,

Address 123 W. Indian Ave
Street

Phone 386-423-3301

Deland FL 32720
City State Zip

Email cbrown@ucso.us

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Florida Sheriff's Assoc. / Volusia 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)

APPEARANCE RECORD

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

1/26/2016

Meeting Date

1412
Bill Number (if applicable)

Topic Pre-trial Release

Amendment Barcode (if applicable)

Name Jim Purdy

Job Title Public Defender, 7th Circuit

Address 251 North Ridgewood Ave

Phone 386.239.7730

Street

Daytona Beach

Florida

32114

Email PURDY.JAMES@PD7/ORG

City

State

Zip

Speaking: ☐ For ☐ Against ☐ Information

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

Representing Florida Public Defender Association, Inc.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

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

S-001 (10/14/14)

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 1244

INTRODUCER: Senator Simmons

SUBJECT: Driving Under the Influence

DATE: January 15, 2016

REVISED: 1/25/16

ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1. McAloon	Cibula	JU	Pre-meeting
2.		ACJ	
3.		AP	

I. Summary:

SB 1244 increases the penalties on a person who refuses to submit to an alcohol test, incidental to lawful detention, while operating a motor vehicle. The penalties include a fine, probation, and points assessed against an individual's license. The increased penalties for first refusal closer resemble the penalties for a first-time DUI conviction under Florida law.

The bill also increases penalties on a person who refuses to submit to an alcohol test, incidental to lawful detention, and whose driving privileges were suspended for a prior refusal to submit to testing. In addition to the potential fines and jail time under current law, the person must have an ignition interlock device placed on his or her vehicle for a period of at least 1 year. Furthermore, a court may not withhold adjudication of guilt, or the imposition of a sentence or penalty, on a person who has had a prior license suspension for refusing testing.

II. Present Situation:

Refusal to Submit to Alcohol Testing

Any person who accepts the privilege of operating a motor vehicle within this state is deemed to have given his or her consent to submit to an approved test of the alcohol content of his or her blood, breath, or urine.¹ The test must be incidental to a lawful arrest, and administered at the request of a law enforcement officer who has a reasonable belief such person was driving a motor vehicle while under the influence of alcoholic beverages.²

The Department of Motor Vehicles will administratively suspend a person's driving privileges for 1 year after the first refusal of alcohol testing.³ The second refusal to consent to a test will

¹ Section 316.1932(1)(a)1.a., F.S.

² *Id.*

³ Section 322.2615(1)(b)1.a., F.S.

result in an administrative suspension as well as criminal charges. A second refusal occurs when a person's driving privileges were suspended for a prior refusal, and he or she refuses to submit to an alcohol test for a second time. A person's motor vehicle license is suspended by the Department of Motor Vehicles for 18 months if found liable for a second refusal.⁴ A person who refuses to submit to a alcohol test for a second time faces criminal liability for a first degree misdemeanor, punishable by up to 1 year in jail and \$1,000 fine.⁵

Florida's DUI Laws

Florida's current DUI laws provide for both administrative and criminal sanctions. A first conviction results in a fine of not less than \$500 or more than \$1,000.⁶ If the individual's blood or breath-alcohol level is 0.15 or higher, or if he or she has a minor in the vehicle, the fine is not less than \$1,000 or more than \$2,000.⁷ There is a community service requirement of 50 hours.⁸ A first-time conviction can also lead to imprisonment for a period of no more than 6 months and up to 1 year of probation.⁹

Breath Test Refusal Rates

In 2014, the U.S. Department of Transportation National Highway Traffic Safety Administration released a study regarding breath test refusal rates.¹⁰ The study found Florida had a breath test refusal rate of 82 percent in 2011, as compared to a rate of 40 percent in 2005. The National Highway Traffic Safety Administration also found the average refusal rate for the country as a whole ranged from 19 to 25 percent. State authorities reported to the authors of the study that refusal rates will remain high if the sanctions for failing a breath-alcohol concentration test are more severe than those for refusing to submit to the test. State authorities recommended the license suspension periods for first and repeat refusals be at least as severe as those penalties for driving under the influence.

Ignition Interlock Device

The Florida Legislature's Office of Program Policy Analysis & Government Accountability conducted a study researching ignition interlock devices and DUI recidivism rates.¹¹ An ignition interlock device prevents the start of a vehicle with a breath sample above .025, collects data, and records and stores visual evidence of device use.¹² Research shows that ignition interlock devices, while installed, were more effective at reducing re-arrest rates for alcohol-impaired driving when compared to other sanctions, such as license suspensions.¹³ The study found the six

⁴ Section 316.1939(1)(c), F.S.

⁵ Sections 316.1939(1)(e), 322.2615, F.S.

⁶ Section 316.193(2)(a)-(b), F.S.

⁷ Section 316.193(4), F.S.

⁸ Section 316.193 (6)(a), F.S.

⁹ Sections 316.193 (2)(a), 316.193 (5)(6), F.S.

¹⁰ Esther S. Namuswe, Heidi L. Coleman, Amy Beming, *Breath Test Refusal Rates in the United States – 2011 Update*, U.S. Dept. of Transportation National Highway Traffic Safety Administration (March 2014).

¹¹ Office of Program Policy Analysis & Government Accountability, *Ignition Interlock Devices and DUI Recidivism Rates*, (December 2014).

¹² *Ignition Interlock Program* at www.flhsmv.gov.

¹³ Office of Program Policy Analysis & Government Accountability, *supra* note 11 at 1.

month recidivism rate for first-time DUI offenders that were not required to install an ignition interlock device was 1.74 percent. When compared, the recidivism rate for first-time offenders required to use the ignition interlock device was less with a rate of 0.34 percent.¹⁴ However, the study also found that only 49 percent of Florida DUI offenders installed an ignition interlock device, as required, after completing their period of license revocation.¹⁵

Florida Refusal to Consent Case Law

In *Williams v. State*, an opinion issued by the Fifth District Court of Appeal in June 2015, the defendant was convicted of a first degree misdemeanor under Florida's refusal to submit statute for a second refusal to submit to a breath test. In a challenge to the constitutionality of the statute, the defendant argued that the statute violated the Fourth Amendment, which prohibits unreasonable searches and seizures. Specifically, he argued it violated the unconstitutional conditions doctrine as set forth in the 2013 opinion of the United States Supreme Court in *Missouri v. McNeely*.¹⁶ Thus, the issue presented in *Williams* was whether it is constitutional to punish a person criminally for refusing to submit to a breath-alcohol test when the officer conducting the test does not have a warrant.

The unconstitutional conditions doctrine prohibits the government from denying a benefit to a person because he or she exercises a constitutional right.¹⁷ However, the Constitution does not prohibit every government imposed choice in the criminal process that has the effect of discouraging the exercise of constitutional rights.¹⁸ Generally, warrantless searches are presumptively unreasonable unless they fall within a recognized exception to the warrant requirement.¹⁹ The warrant requirement ensures that inferences to support the search are drawn by a neutral and detached magistrate instead of being judged by the officer engaged in the task of solving the crime.²⁰

In *McNeely*, the Court was asked to determine whether the natural metabolization of alcohol in the bloodstream presents an inherent necessity that justifies an exception to the Fourth Amendment's warrant requirement for nonconsensual blood testing in drunk-driving cases.²¹ It concluded that an inherent necessity for nonconsensual blood testing did not automatically exist in all drunk-driving cases.²² The Court held that the review of a warrantless, nonconsensual blood test must always be examined on a case-by-case basis and founded on the totality of the circumstances.²³

The Fifth DCA, in *Williams*, found that the state's implied consent statute was not an unconstitutional condition or a violation of a person's Fourth Amendment rights. Instead, the

¹⁴ *Id.* at 8.

¹⁵ *Id.* at 4-5.

¹⁶ *Williams v. State*, 167 So. 3d 483, 493 (Fla. 5th DCA 2015), *reh'g denied* (July 1, 2015), *review granted*, No. SC15-1417, 2015 WL 9594290 (Fla. Dec. 30, 2015).

¹⁷ *Williams*, 167 So. 3d at 486 (quoting *Koontz v. St Johns river Water Mgmt. Dist.*, 133 S. Ct. 2586, 2594 (2013)).

¹⁸ *Id.* at 486 (quoting *Jenkins v. Anderson*, 447 U.S. 231, 236 (1980)).

¹⁹ *See, e.g., Missouri v. McNeely*, 133 S. Ct. 1552, 1558 (2013).

²⁰ *Williams*, 167 So. 3d at 487 (quoting *Schmerber v. California*, 384 U.S. 757, 770 (1966)).

²¹ *McNeely*, 133 S. Ct. at 1556.

²² *Id.*

²³ *Id.*

Williams court followed the majority of courts in holding that statutory implied consent does not constitute an automatic exception to the warrant requirement.²⁴ The defendant did not necessarily consent to a breath test when he got behind the wheel of his car that night.²⁵ However, the *Williams* court found the statute, as applied, is constitutional under a general reasonableness test.²⁶

The *Williams* court found that many other courts have dealt with a criminal refusal to submit statute have not struck it down as unconstitutional.²⁷ The court balanced the state's legitimate interest against the degree to which the breath test would have intruded upon the defendant's privacy.²⁸ The state, according to the court, has legitimate interest in decreasing and prosecuting drunk driving. The state also has a compelling interest in protecting lives, securing the safety of public roads, and deterring drivers from operating vehicles while intoxicated.²⁹ Additionally, the court found a breath test is minimally intrusive, compared to the blood draw in *McNeely*, which heavily favors finding it reasonable.³⁰ The *Williams* court held the refusal to submit statute as constitutional because the state's compelling interest outweighed the degree of intrusiveness on defendant's privacy.

The Florida Supreme Court has accepted review the Fifth DCA opinion in *Williams v. State*.³¹ According to the deadlines set by the Court, the parties should be in the process of writing and filing their briefs.³²

Hawaii Refusal to Consent Case Law

The court in *Williams v. State*, cited to a Hawaii appellate court opinion in support of its position that no state has struck down a refusal to consent law as unconstitutional. Since the rendering of the decision, the Hawaii Supreme Court overruled the appellate court. In *State v. Won*, the Hawaii Supreme Court found the Hawaii Constitution does not determine whether bodily intrusions are lawful under a balancing test for reasonableness.³³ Instead, a warrantless search is only allowed when there is a rooted exception in law present.³⁴ The Hawaii Supreme Court further stated a balancing approach to determine reasonableness has not been adopted in the state and does not comport with an individual's rights against warrantless searches guaranteed by the Hawaii Constitution.³⁵

²⁴ *Williams*, 167 So. 3d at 491.

²⁵ *Id.* at 491.

²⁶ *Id.* at 492.

²⁷ *Id.*; see also *State v. Bernard*, 859 N.W.2d 762 (Minn. 2015); *North Dakota v. Birchfield*, 858 N.W. 2d 302 (N.D. 2015).

²⁸ *Williams*, 167 So. 3d at 493.

²⁹ *Id.*; see also *Mich. Dep't of State Police v. Sitz*, 496 U.S. 444, 451, 110 S.Ct. 2481, 110 L.Ed.2d 412 (1990) ("No one can seriously dispute the magnitude of the drunken driving problem or the States' interest in eradicating it."); *State v. Birchfield*, 858 N.W. 2d 302, 309 (N.D. 2015).

³⁰ *Williams*, 167 So. 3d at 493-494.

³¹ *Williams v. State*, No. SC15-1417, 2015 WL 9594290 (Fla. 2015).

³² *Id.*

³³ *State v. Won*, 361 P.3d 1195 (2015).

³⁴ *Id.* at 1215.

³⁵ *Id.* at 1216.

III. Effect of Proposed Changes:

SB 1244 amends section 316.1939, F.S., to require stricter penalties for all first time and subsequent alcohol test refusals. The heightened penalties reduce the incentive for a person to refuse submission to testing for the first time in order to receive an advantage of a lesser penalty. Under the proposed law, a person who refuses to submit to testing for the first time faces the following additional penalties:

- A fine of at least \$500 but not more than \$1,000;
- Probation for 6 months; and
- 4 points assessed against his or her driver license.

The bill also increases penalties on a person whose driving privilege was suspended for a prior refusal and he or she subsequently refuses to comply with requirements for testing. In addition to the potential for fines and jail time under current law the bill requires the court to order the placement of an ignition interlock device upon all vehicles that are owned and routinely operated by an individual convicted of a second refusal. The ignition interlock device must remain on the vehicle for at least 1 year at the convicted individual's sole expense. Furthermore, the court may not suspend, defer, or withhold adjudication of guilt or the imposition of a sentence or penalty for an individual who fails to comply with the informed consent statute for a second time.

The bill takes effect October 1, 2016.

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:

The Department of Highway Safety and Motor Vehicles estimated that it costs \$420,000 to administer the ignition interlock device program in Fiscal Year 2013-2014.³⁶ These costs include salaries and benefits for department staff who work directly with ignition interlock device vendors, the DUI programs, and indirect costs. The department receives a \$12 interlock fee for each installation.³⁷ This fee is collected by the vendors and in Fiscal Year 2013-2014, the department received \$187,596 in interlock fees. The figures will rise due to the fact the bill requires mandatory placement of an ignition interlock device for a second refusal to submit to an alcohol test.

VI. Technical Deficiencies:

None.

VII. Related Issues:

The proposed changes do not interfere with a person's ability to refuse alcohol testing as is presently recognized. The proposed changes enhance the penalties for refusing to comply.

VIII. Statutes Affected:

The bill creates section 316.1939 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.

³⁶ Office of Program Policy Analysis & Government Accountability, *supra* note 11 at 4.

³⁷ Section 322.2715(5), F.S. requires vendors to collect and remit \$12 for each installation to the department, which is deposited into the Highway Safety Operating Trust Fund to administer the ignition interlock device program.

By Senator Simmons

10-00909-16

20161244__

A bill to be entitled

An act relating to driving under the influence; amending s. 316.1939, F.S.; providing penalties for a first-time refusal of a chemical or physical test of a person's breath, blood, or urine; providing that a subsequent refusal by a person who has previously had a license suspension for a prior refusal is a misdemeanor of the first degree; requiring the court to impose certain mandatory ignition interlock devices on the vehicles of convicted persons for a specified time under certain circumstances; prohibiting a court from suspending, deferring, or withholding adjudication of guilt or the imposition of a sentence or penalty for specified offenses; providing an effective date.

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

Section 1. Section 316.1939, Florida Statutes, is amended to read:

316.1939 Refusal to submit to testing; penalties.—

(1) Any person who has refused to submit to a chemical or physical test of his or her breath, blood, or urine, as described in s. 316.1932, ~~and whose driving privilege was previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood,~~ and:

(a) Who the arresting law enforcement officer had probable cause to believe was driving or in actual physical control of a motor vehicle in this state while under the influence of alcoholic beverages, chemical substances, or controlled substances;

(b) Who was placed under lawful arrest for a violation of

10-00909-16

20161244__

s. 316.193 unless such test was requested pursuant to s. 316.1932(1) (c);

(c) Who was informed that, if he or she refused to submit to such test, his or her privilege to operate a motor vehicle would be suspended for a period of 1 year or, in the case of a second or subsequent refusal, for a period of 18 months;

(d) Who was informed that a refusal to submit to a lawful test of his or her breath, urine, or blood, ~~if his or her driving privilege has been previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood,~~ is subject to penalties a misdemeanor; and

(e) Who, after having been so informed, refused to submit to any such test when requested to do so by a law enforcement officer or correctional officer shall be punished:

1. By a fine of at least \$500 but not more than \$1,000;

2. By probation for 6 months; and

3. By having 4 points assessed against his or her driver license.

(2) (a) A person who has refused to submit to a chemical or physical test of his or her breath, blood, or urine, as described in s. 316.1932, and whose driving privilege was previously suspended for a prior refusal to submit to a lawful test of his or her breath, urine, or blood, commits a misdemeanor of the first degree and is subject to punishment as provided in s. 775.082 or s. 775.083.

(b) The court shall impose mandatory placement, for a period of at least 1 year at the convicted person's sole expense, of an ignition interlock device approved by the department in accordance with s. 316.1938 upon all vehicles that

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are individually or jointly leased or owned and routinely
operated by the convicted person, when the convicted person
qualifies for a permanent or restricted license.

(c) A court may not suspend, defer, or withhold
adjudication of guilt or the imposition of a sentence or penalty
for an offense under paragraph (a).

~~(3)(2)~~ The disposition of any administrative proceeding
that relates to the suspension of a person's driving privilege
does not affect an offense ~~a criminal action~~ under this section.

~~(4)(3)~~ The disposition of an offense ~~a criminal action~~
under this section does not affect any administrative proceeding
that relates to the suspension of a person's driving privilege.
The department's records showing that a person's license has
been previously suspended for a prior refusal to submit to a
lawful test of his or her breath, urine, or blood shall be
admissible and shall create a rebuttable presumption of such
suspension.

Section 2. This act shall take effect October 1, 2016.

APPEARANCE RECORD

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

Jan 26, 2016

Meeting Date

1244

Bill Number (if applicable)

Topic Driving Under Influence

Amendment Barcode (if applicable)

Name H Lee MoffittJob Title Legislative Counsel AAA Auto Club FloridaAddress 3327 NW Perimeter Road

Street

Phone 813 760-5712Palm City

City

FL

State

34990

Zip

Email MrSpeaker@aol.comSpeaking: ☐ For ☐ Against ☐ InformationWaive Speaking: ☒ In Support ☐ Against
(The Chair will read this information into the record.)Representing AAA Auto Clubs of FloridaAppearing 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.

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

S-001 (10/14/14)

THE FLORIDA SENATE
APPEARANCE RECORD

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

1-26-16

Meeting Date

SB 1244

Bill Number (if applicable)

Topic Driving Under the Influence

Amendment Barcode (if applicable)

Name Kristen Allen

Job Title State Victim Services Manager

Address 1018 Thomasville Rd, #101

Street

Phone 850-681-0061

Tallahassee, FL

City

State

32303

Zip

Email Kristen.allen@madd.org

Speaking: ☒ For ☐ Against ☐ Information

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

Representing Mothers Against Drunk Driving (MADD)

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

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

01/26/16
Meeting Date

SB 1244
Bill Number (if applicable)

Topic DRIVING UNDER THE INFLUENCE

Amendment Barcode (if applicable)

Name LOU MARINO

Job Title LIEUTENANT - VOLUSIA COUNTY SHERIFFS' OFFICE (FSA)

Address 123 W. INDIANA AVENUE
Street

Phone (386) 2481777

DELAND, FL 32720
City State Zip

Email lmarino@vcsd.us

Speaking: ☐ For ☐ Against ☐ Information

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

Representing FLORIDA SHERIFFS' ASSOC. / VOLUSIA COUNTY SHERIFFS' OFC.

Appearing at request of Chair: ☐ Yes ☒ No

Lobbyist registered with Legislature: ☐ Yes ☒ No

While it is a Senate tradition to encourage public testimony, time may not permit all persons wishing to speak to be heard at this meeting. Those who do speak may be asked to limit their remarks 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: 1/26/2016 1:08:51 PM

Ends: 1/26/2016 3:00:36 PM Length: 01:51:46

1:08:49 PM Meeting called to order by Chair Diaz de la Portilla
1:08:52 PM Roll call by Administrative Assistant, Joyce Butler
1:09:01 PM Quorum present
1:09:06 PM Comments from Chair Diaz de la Portilla
1:09:19 PM Tab 6, SB 50 and Tab 12, SB 1244 temporarily postponed per Chair Diaz de la Portilla
1:09:39 PM Tab 1, SB 22 introduced by Chair Diaz de la Portilla
1:09:49 PM Explanation of Tab 1, SB 22, Relief of Angela Sanford by Leon County by Senator Montford
1:12:23 PM Comments from Chair Diaz de la Portilla
1:12:33 PM Senator Montford waives closure
1:12:35 PM Roll call on SB 22 by Administrative Assistant, Joyce Butler
1:12:42 PM SB 22 reported favorably
1:13:04 PM Tab 2, SB 26 introduced by Chair Diaz de la Portilla
1:13:08 PM Explanation of Tab 2, SB 26, Relief of L.T. by the Department of Children and Families by Senator Negrón
1:13:51 PM Comments from Chair Diaz de la Portilla
1:14:17 PM Closure by Senator Negrón
1:14:22 PM Roll call on SB 26 by Administrative Assistant, Joyce Butler
1:14:31 PM SB 26 reported favorably
1:14:52 PM Tab 5, SB 46 introduced by Chair Diaz de la Portilla
1:14:57 PM Explanation of Tab 5, SB 46, Relief of Melvin and Alma Colindress by the City of Miami by Senator Flores
1:15:23 PM Comments from Chair Diaz de la Portilla
1:15:31 PM Question from Senator Joyner
1:15:43 PM Response from Senator Flores
1:16:09 PM Follow-up question from Senator Joyner
1:16:18 PM Response from Senator Flores
1:17:02 PM Comments and introduction of Amendment Barcode #738286
1:17:17 PM Explanation of Amendment Barcode #738286 by Senator Flores
1:17:23 PM Comments from Chair Diaz de la Portilla
1:17:42 PM Amendment Barcode #738286 adopted without objection
1:17:48 PM Comments from Chair Diaz de la Portilla
1:17:57 PM Jason Unger, Attorney Meadowbrook Insurance waives in support
1:18:18 PM Senator Flores waives closure
1:18:21 PM Roll call on CS/SB 46 by Administrative Assistant, Joyce Butler
1:18:34 PM CS/SB 46 reported favorably
1:18:45 PM Tab 10, SB 1212 introduced by Chair Diaz de la Portilla
1:18:56 PM Explanation of SB 1212, Appointed Counsel for Children by Senator Flores
1:19:13 PM Comments from Chair Diaz de la Portilla
1:19:23 PM Late-filed Amendment Barcode # 143266 introduced by Chair Diaz de la Portilla
1:19:28 PM Late-filed Amendment Barcode #143266 withdrawn by Senator Flores
1:19:37 PM Comments from Chair Diaz de la Portilla

1:19:49 PM Nikki Fried, Attorney, Florida Children First waives in support
1:19:58 PM Aimee Diaz Lyon, The Florida Bar waives in support
1:20:10 PM Comments from Chair Diaz de la Portilla
1:20:12 PM Senator Flores waives closure
1:20:15 PM Roll call by Administrative Assistant, Joyce Butler
1:20:23 PM SB 1212 reported favorably
1:20:39 PM Tab 3, SB 36 introduced by Chair Diaz de la Portilla
1:20:54 PM Explanation of SB 36, Relief of Donald Brown by the District School Board of Sumter County by Senator Soto
1:22:20 PM Comments from Chair Diaz de la Portilla
1:22:24 PM Amendment Barcode #804918 introduced by Chair Diaz de la Portilla
1:22:42 PM Explanation of Amendment 804918 by Senator Soto
1:23:05 PM Senator Brandes withdraws Amendment
1:23:13 PM Speaker, Jason Unger, Attorney, Meadowbrook Insurance
1:23:38 PM Comments from Chair Diaz de la Portilla
1:23:44 PM Closure by Senator Soto
1:24:16 PM Comments from Chair Diaz de la Portilla
1:24:19 PM Roll call on SB 36 by Administrative Assistant, Joyce Butler
1:24:31 PM SB 36 reported favorably
1:24:50 PM Tab 4, SB 44 introduced by Chair Diaz de la Portilla
1:25:02 PM Explanation of Tab 4, SB 44 Relief of Susana Castillo by the City of Hialeah by Miguel Abad, Senator Garcia's Aide
1:28:25 PM Comments from Chair Diaz de la Portilla
1:29:27 PM Mr. Abad waives closure
1:29:34 PM Roll call on SB 44 by Administrative Assistant, Joyce Butler
1:29:44 PM SB 44 reported favorably
1:30:01 PM Tab 7, SB 110 introduced by Chair Diaz de la Portilla
1:30:15 PM Explanation of SB 110, Churches or Religious Organizations by Senator Bean
1:30:45 PM Comments from Chair Diaz de la Portilla
1:30:53 PM Question from Senator Brandes
1:30:57 PM Response from Senator Bean
1:32:09 PM Question from Senator Brandes
1:32:16 PM Response from Senator Bean
1:32:40 PM Question from Senator Bradley
1:32:48 PM Response from Senator Bean
1:33:22 PM Question from Senator Soto
1:33:26 PM Response from Senator Bean
1:35:06 PM Comments from Chair Diaz de la Portilla
1:35:18 PM Question from Senator Joyner
1:35:25 PM Response from Senator Bean
1:35:50 PM Comments from Chair Diaz de la Portilla
1:36:02 PM Bill Bunkley, President, Florida Ethics and Religious Liberty Commission waives in support
1:36:25 PM Bezaida Peoria waives in support
1:36:42 PM Edgar Gomez waives in support
1:36:48 PM Dr. Armando Reyes waives in support
1:36:54 PM Speaker, Charlene Cothran, Pastor Zion Baptist Church in support
1:40:08 PM Debbie Frazier waives in opposition
1:40:19 PM Denise Achuko waives in support
1:40:30 PM Speaker, Anthony Verdugo in support
1:42:59 PM Question from Senator Brandes
1:43:08 PM Response from Mr. Verdugo

1:46:04 PM Follow-up question from Senator Brandes
1:46:14 PM Response from Mr. Verdugo
1:46:40 PM Additional question from Senator Brandes
1:46:49 PM Response from Mr. Verdugo
1:47:09 PM Follow-up from Senator Brandes
1:47:15 PM Response from Mr. Verdugo
1:47:38 PM Question from Senator Soto
1:47:43 PM Response from Mr. Verdugo
1:48:57 PM Comments from Chair Diaz de la Portilla
1:49:09 PM Speaker, Susan Migueltoarena in support
1:50:11 PM Speaker, Elder Anthony Swain in support
1:51:27 PM Speaker Rev. Pablo David Fonseca in support
1:53:10 PM Speaker, Jean Mims in support
1:54:13 PM Speaker, Pastor Gilberto Rodriguez in support
1:57:04 PM Speaker, Pastor Chris Walker, Southlake Pastors Association in support
2:00:18 PM Question from Senator Brandes
2:00:23 PM Response from Pastor Walker
2:01:38 PM Speaker, Elder Demetrius Brinson in support
2:04:11 PM Question from Senator Brandes
2:04:17 PM Response from Elder Brinson
2:04:52 PM Follow-up question from Senator Brandes
2:05:23 PM Response from Elder Brinson
2:05:39 PM Speaker, Pastor Olden Reese in support
2:08:14 PM Speaker, Nathaniel Wilcox in support
2:09:40 PM Speaker, Roana Bustin in support
2:10:44 PM Speaker, Gerald Bustin in support
2:14:43 PM Xiomara Diaz waives in support
2:14:52 PM Carol Dunn waives in opposition
2:15:08 PM Speaker, Carlos Guillermo Smith, Government Affairs Manager, Equality Florida in opposition
2:18:37 PM Question from Senator Stargel
2:18:50 PM Response from Mr. Smith
2:19:47 PM Follow-up question from Senator Stargel
2:19:55 PM Response from Mr. Smith
2:20:41 PM Comments from Chair Diaz de la Portilla
2:21:08 PM Motion from Senator Soto of time certain vote
2:21:37 PM Roll call vote on time certain vote
2:22:00 PM Motion fails on time certain vote
2:22:12 PM Comments from Chair Diaz de la Portilla
2:22:18 PM Question from Senator Brandes
2:22:30 PM Response from Mr. Smith
2:23:20 PM Follow-up from Senator Brandes
2:23:28 PM Response from Mr. Smith
2:24:07 PM Nathan Klarfeld waives in opposition
2:24:12 PM Raphael Klansfield waives in opposition
2:24:16 PM Scott Bennett waives in opposition
2:24:20 PM Barbara DeVane waives in opposition
2:24:29 PM Rev. Amy Kindred waives in opposition
2:24:36 PM Elder Diane Fisher waives in opposition
2:24:40 PM Pastor Paul Gibson waives in opposition
2:24:47 PM Gabriel Garcia-Vera waives in opposition
2:24:57 PM Angel Diez waives in support

2:25:14 PM Senator Stargel in debate
2:26:21 PM Senator Brandes in debate
2:28:42 PM Senator Simmons in debate
2:35:02 PM Roll call on SB 110 by Administrative Assistant, Joyce Butler
2:36:04 PM SB 110 reported favorably
2:36:13 PM Tab 9, SB 250 introduced by Chair Diaz de la Portilla
2:36:21 PM Explanation of SB 250, Family law by Senator Lee
2:37:03 PM Amendment Barcode #113284 introduced by Chair Diaz de la Portilla
2:37:12 PM Explanation of Amendment Barcode #113284 by Senator Lee
2:38:11 PM Comments from Chair Diaz de la Portilla
2:38:49 PM Terrance Power waives in support
2:38:53 PM Speaker, Alan Frisher waives in support
2:40:03 PM Speaker, Mark Rabinowitz in opposition
2:41:03 PM Speaker, Karen Librizzi in opposition
2:42:33 PM Speaker, Shelly Moxon Lehman in opposition
2:43:10 PM Speaker, Jan Killilea, Legal Assistant in opposition
2:45:02 PM Barbara DeVane waives in opposition
2:45:09 PM Seymour Benson, Attorney waives in opposition
2:45:20 PM Speaker, Jessica Gordon, Florida Breastfeeding Coalition in opposition
2:47:28 PM Speaker, Cynthia Wheeler in opposition
2:48:59 PM Speaker, Lydia Burton in opposition
2:51:28 PM Comments from Chair Diaz de la Portilla
2:51:38 PM Closure by Senator Lee
2:52:18 PM Roll call on CS/SB 250 by Administrative Assistant, Joyce Butler
2:53:19 PM CS/SB 250 reported favorably
2:53:41 PM Tab 8, SB 120 introduced by Chair Diaz de la Portilla
2:53:49 PM Explanation of SB 120, Prohibited Discrimination, by Senator Abruzzo
2:54:47 PM Comments from Chair Diaz de la Portilla
2:54:53 PM Senator Soto ask for a time certain
2:55:02 PM Roll call on time certain
2:55:42 PM Motion fails
2:56:16 PM Question from Senator Simmons
2:56:33 PM Response from Senator Abruzzo
2:57:07 PM Question from Senator Simpson
2:57:19 PM Response from Senator Abruzzo
2:57:36 PM Question from Senator Stargel
2:57:47 PM Response from Senator Abruzzo
2:58:20 PM Question from Senator Simpson
2:58:33 PM Response from Senator Soto
2:59:03 PM Comments from Chair Diaz de la Portilla regarding bringing bill back next week
3:00:09 PM Comments from Senator Abruzzo
3:00:20 PM Senator Simmons moves we adjourn without objection