

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 Fiscal Policy

BILL: CS/SB 768

INTRODUCER: Health Policy Committee and Senator Stewart

SUBJECT: Duties and Prohibited Acts Associated with Death

DATE: February 13, 2024

REVISED: _____

	ANALYST	STAFF DIRECTOR	REFERENCE	ACTION
1.	Wyant	Stokes	CJ	Favorable
2.	Brown	Brown	HP	Fav/CS
3.	Wyant	Yeatman	FP	Favorable

Please see Section IX. for Additional Information:

COMMITTEE SUBSTITUTE - Substantial Changes

I. Summary:

CS/SB 768 revises current law that requires a person who becomes aware of a death under specified circumstances to report the death to the medical examiner in the district where the death occurred. The bill allows such person the option of making the report to a law enforcement agency having jurisdiction over the location.

The bill also revises current law's criminal penalties associated with a person's failure to make the report or the person's unlawful behavior after becoming aware of the death and elevates certain offenses to third degree felonies, as opposed to first degree misdemeanors as under current law.

The bill provides an effective date of July 1, 2024.

II. Present Situation:

Duty to Report

Section 406.12, F.S., requires any person in the district where a death occurs, including all municipalities and unincorporated and federal areas, who becomes aware of the death of a person due to circumstances listed under s. 406.11, F.S., to report such death and circumstances forthwith¹ to the district medical examiner.

¹ Merriam-Webster defines "forthwith" to mean "without any delay."

A person commits a first degree misdemeanor² if he or she:

- Knowingly fails or refuses to report such death and circumstances;
- Refuses to make available prior medical records or other information pertinent to the death investigation; or
- Without an order from the office of the district medical examiner, willfully touches, removes, or disturbs the body, clothing, or any article upon or near the body, with the intent to alter evidence or circumstances surrounding the death.

Section 406.11, F.S., provides the following circumstances that require the medical examiner of the district in which the death occurred or the body was found, to determine the cause of death and, for that purpose, make or perform such examinations, investigations, and autopsies as he or she deems necessary or as requested by the state attorney:

- When a person dies in this state:
 - Of criminal violence.
 - By accident.
 - By suicide.
 - Suddenly, when in apparent good health.
 - Unattended by a practicing physician or other recognized practitioner.
 - In any prison or penal institution.
 - In police custody.
 - In any suspicious or unusual circumstance.
 - By criminal abortion.
 - By poison.
 - By disease constituting a threat to public health.
 - By disease, injury, or toxic agent resulting from employment.³
- When a dead body is brought into this state without proper medical certification.⁴
- When a body is to be cremated, dissected, or buried at sea.⁵

III. Effect of Proposed Changes:

The bill amends s. 406.12, F.S., to specify that a person who becomes aware of the death of any person occurring under the circumstances described in s. 406.11, F.S., must report such death and circumstances forthwith to the district medical examiner or to a law enforcement agency having jurisdiction over the location. Current law does not provide the option of reporting to a law enforcement agency.

The bill increases, from a first degree misdemeanor to a third degree felony,⁶ the criminal penalty for any person who, with the intent to conceal such death or alter the evidence or circumstances surrounding such death, does any of the following:

- Knowingly fails or refuses to report such death and circumstances;

² A first degree misdemeanor is punishable by a term of imprisonment not exceeding one year and a fine of up to \$1,000. *See* ss. 775.082 and 775.083, F.S.

³ Section 406.12(1)(a), F.S.

⁴ Section 406.12(1)(b), F.S.

⁵ Section 406.12(1)(c), F.S.

⁶ A third degree felony is generally punishable by no more than five years in state prison and a fine not exceeding \$5,000. *See* ss. 775.082 and 775.083, F.S.

- Refuses to make available prior medical records or other information pertinent to the death investigation; or
- Without an order from the office of the district medical examiner, willfully touches, removes, or disturbs the body, clothing, or any article upon or near the body.

The bill applies current law's penalty of a first degree misdemeanor when the following offenses are committed without the intent to conceal or alter evidence or circumstances:

- The knowing failure or refusal to report such death and circumstances; or
- The refusal to make available prior medical records or other information pertinent to the death investigation.

The bill provides an effective date of July 1, 2024.

IV. Constitutional Issues:

A. Municipality/County Mandates Restrictions:

None.

B. Public Records/Open Meetings Issues:

None.

C. Trust Funds Restrictions:

None.

D. State Tax or Fee Increases:

None.

E. Other Constitutional Issues:

None identified.

V. Fiscal Impact Statement:

A. Tax/Fee Issues:

None.

B. Private Sector Impact:

None.

C. Government Sector Impact:

The Criminal Justice Estimating Conference found the impact to be positive insignificant.

Per the Florida Department of Law Enforcement, in the fiscal year 2022-23, there were nine arrests under s. 406.12, F.S., with two adjudications withheld.⁷

VI. Technical Deficiencies:

None.

VII. Related Issues:

None.

VIII. Statutes Affected:

This bill amends section 406.12 of the Florida Statutes.

IX. Additional Information:

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

CS by Health Policy on February 6, 2024:

The committee substitute:

- Creates the option for a person to report a death covered under the bill to a law enforcement agency having jurisdiction over the location where the body was found.
- Revises current law's criminal penalties associated with a person's failure to make the report or the person's unlawful behavior after becoming aware of the death and elevates certain offenses to third degree felonies, as opposed to first degree misdemeanors as under current law.

- B. **Amendments:**

None.

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

⁷ See Office of Economic and Demographic Research, *CS/SB 768 – Duties and Prohibited Acts Associated with Death (identical HB 1653)*, available at <http://edr.state.fl.us/Content/conferences/criminaljusticeimpact/adoptedimpacts.cfm>. (Last accessed February 13, 2024).